

# Final LCCP

March 3, 2020

Updated December 23, 2021



## Land Conservation and Conveyance Plan

Lands for Donation to CAL FIRE (BYLT) at  
Bear River Planning Unit

## **Executive Summary**

### **Subject**

Land Conservation and Conveyance Plan (LCCP) Bear River Planning Unit (Lands Donated to CAL FIRE/Bear Yuba Land Trust)  
Land Conservation Plan Identification Numbers (Parcels) 836-839 as shown on the map attached as Exhibit 1.

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

- The California Department of Forestry and Fire Protection (CAL FIRE) to hold fee simple title to approximately 267 acres within Parcels 836-839 of the Bear River planning unit.
- Bear Yuba Land Trust (BYLT) to hold the conservation easement on the approximately 267 acres of Parcels 836-839 donated to CAL FIRE.

### **Summary**

Approximately 267 acres within four parcels (Parcels 836-839) will be donated to CAL FIRE and, consistent with the conditions in the Settlement Agreement, the Property will be subject to a perpetual conservation easement granted to BYLT. Pending California Public Utilities Commission (CPUC) approval, and immediately following PG&E's conveyance of 267 acres within Parcels 836-839 to CAL FIRE, BYLT will encumber the property with the conservation easement. An additional 1,142 acres within Parcels 836-839 are addressed in separate LCCPs for property to be retained by PG&E or sold to Nevada Irrigation District.

The 267 acres in Parcels 836-839 to be donated to CAL FIRE are outside the Drum-Spaulding FERC Project boundary (FERC #2310) 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 267 acres in Nevada and Placer Counties near Bear Valley Meadow.

### **Economic Uses and Agreements**

There are recorded encumbrances on the acreage for donation to CAL FIRE in the Bear River planning unit for a highway, roads, use of existing roads, communication facilities, public utilities, transmission lines, and a bicycle, equestrian and pedestrian trail. There are no agreements for economic uses on the lands to be donated to CAL FIRE.

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 CAL FIRE includes a recital that CAL FIRE and PG&E acknowledge that the conveyance, together with the conservation easement transaction being entered into with BYLT, 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 836-839 within the Bear River planning unit lists the following Beneficial Public Values (BPVs) that are to be protected:

- Plant and Animal Habitat. The Bear River provides coldwater stream habitat for several species of trout, and the associated riparian, meadow, and wetlands provide potentially suitable habitat for several special status species. The upland areas consist mostly of sierra mixed conifer forest stands and provide migration corridor and winter range for regional deer populations, and potentially suitable habitat for the California spotted owl and several other special status plant and wildlife species.
- Sustainable Forestry. The Property is dominated by dense stands of Sierran mixed conifer forest transitioning to riparian species along the major watercourses. The ability to alter, manage and study the forest, including for forest health and wildfire resilience, is specifically included in the Conservation Values.
- Open Space The Property provides open space and scenic view shed values characteristic of the Sierra Nevada enjoyed by the public along two major highways in the region, Interstate 80 and State Route 20.
- Historic and Cultural Resources. The Maidu, Washoe, and Nisenan-Southern Maidu groups are historic inhabitants of the area. Petroglyphs and lithic scatter are some of the cultural resources that have been identified in the region. Historical activities have included pioneering and mining, including large scale hydraulic mining operations. Identified historical and cultural values will be protected in accordance with state and federal laws.

- Outdoor Recreation. The Property provides opportunities for outdoor recreation and education, such as fishing, hiking, picnicking, hunting, rock climbing, sightseeing, birdwatching, and the enjoyment and study of nature.

### **Tax Neutrality**

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 these counties, and other "non-county" recipients in these counties via a lump sum payment to Placer and Nevada Counties.

### **Hazardous Waste Disclosure**

PG&E has provided the Bear River Environmental Site Assessment Report dated October 25, 2011, and the Bear River Environmental Site Assessment Refresh, prepared by AMEC Foster Wheeler, dated April 7, 2017, to CAL FIRE and BYLT, fulfilling the disclosure requirements of the Land Conservation Commitment.

### **Consideration of Parcel Split**

To effectuate transfer of a portion of the property, parcel splits will be 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 future conveyances of parcels within this planning unit. PG&E determined that operational needs would be met sufficiently through the reservation of rights for ongoing hydroelectric operations on the remaining acreage within these parcels.

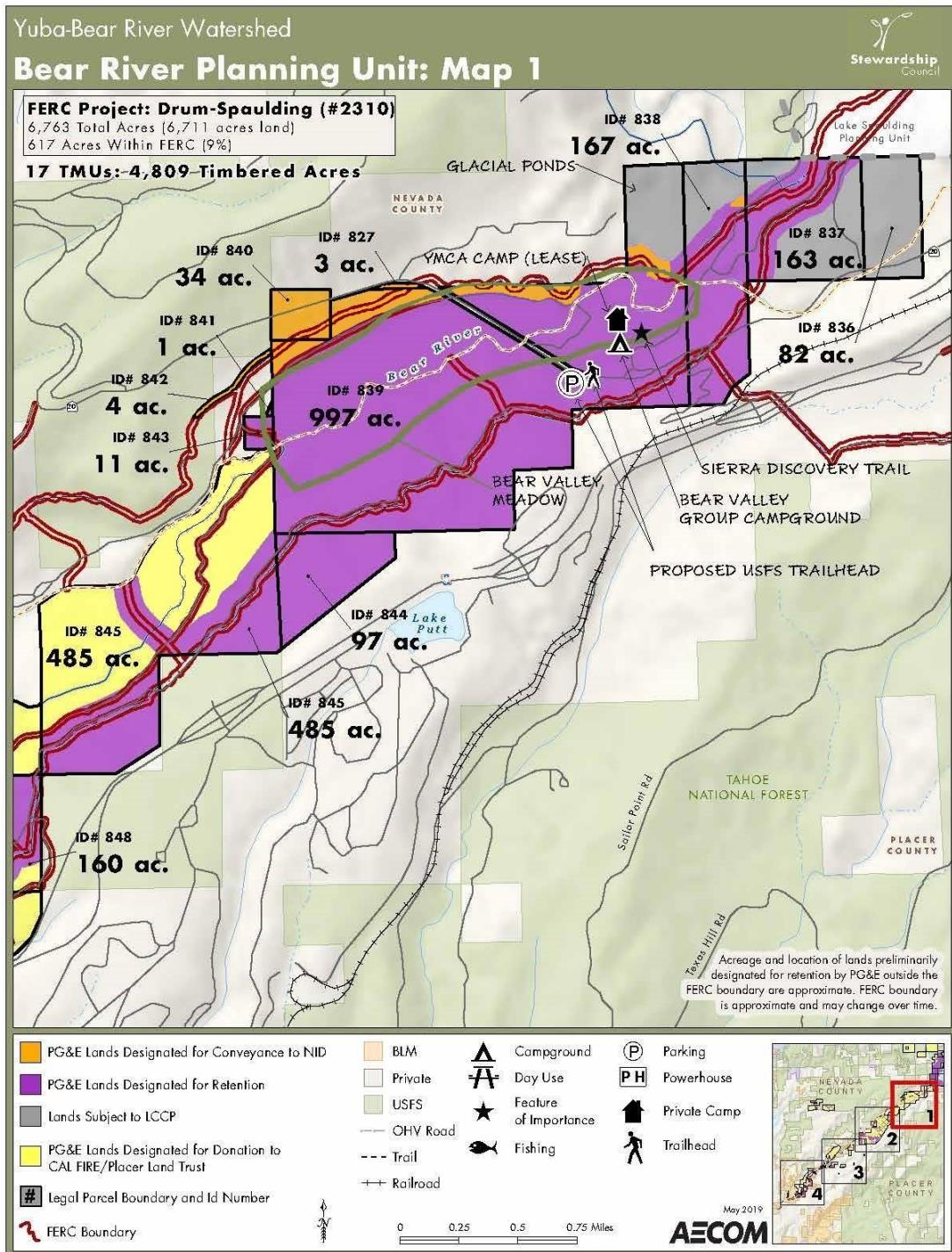
### **Applicable CEQA Exemption(s) or Reason Why Transaction is not a "Project Under CEQA"**

The Bear River transaction will not result in a direct physical change or a reasonably foreseeable indirect physical change in the environment; therefore, the Stewardship Council does not believe that the transaction is a project under CEQA. In addition, the transfer of land to preserve open space, habitat, or historical resources is categorically exempt under Section 15325 of the CEQA Guidelines (CFR Title 14, Chapter 3) and Public Resources Code 21080.28 clarifies that CEQA review is not required before a public agency transfers an interest in property, provided the purpose of the transfer is to conserve the land for habitat, open space, agricultural, or historic preservation, among other purposes.

The establishment of a conservation easement is also categorically exempt under Section 15325 of the CEQA Guidelines (CFR Title 14, Chapter 3). While the principal effect of the conservation easement will be to significantly restrict development on the site in

perpetuity, the conservation easement reserves to CAL FIRE the right to develop no more than a total of ten acres within designated Building Envelopes for uses including recreation, research, or forest management subject to the limitations in the conservation easement. However, CAL FIRE is not proposing to carry out any development or change in use at this time. Instead, at least for the time being, CAL FIRE intends to manage the Property as PG&E does presently. If, in the future, CAL FIRE decides to pursue new development or uses that are allowed by the conservation easement, it must first obtain all necessary permits and conduct any necessary CEQA review at that time. Public Resources Code 21080.28 states that CEQA review is not required even when physical changes to the property are reasonably foreseeable as a result of the transfer, provided that environmental review occurs before those changes occur.

## Exhibit 1. Map of the Property



## Table of Contents

<b>Executive Summary.....</b>	<b>1</b>
<b>Introduction.....</b>	<b>7</b>
<b>1. Acreage, Existing Economic Uses and Agreements.....</b>	<b>11</b>
<b>2. Objectives to Preserve and/or Enhance the BPVs.....</b>	<b>13</b>
<b>3. Recommendations for Conservation Easement and Fee Simple Donation.....</b>	<b>15</b>
<b>4. Finding of Donee Funding and Other Capacity to Maintain Lands to Preserve and/or Enhance the BPVs.....</b>	<b>18</b>
<b>5. Analysis of Tax and Other Economic and Physical Impacts.....</b>	<b>20</b>
<b>6. Hazardous Waste Disclosure.....</b>	<b>23</b>
<b>7. Consideration of Parcel Split.....</b>	<b>24</b>
<b>8. Strategy for Physical Measures to Enhance the BPVs.....</b>	<b>25</b>
<b>9. Monitoring Plan for the Economic and Physical Impacts of Disposition and Implementation of Enhancement Measures.....</b>	<b>26</b>
<b>10. Implementation Schedule for Transactions and Measures.....</b>	<b>27</b>

## Appendices

Appendix 1. Summary of Public Outreach.....	28
Appendix 2. Grant Deed.....	34
Appendix 3. Conservation Easement.....	43
Appendix 4. Stewardship Council Funding Agreement.....	85
Appendix 5. Property Tax Neutrality Methodology.....	93
Appendix 6. Settlement Agreement, Appendix E.....	97

## 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, Native American tribes and groups, 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. The Stewardship Council also made a concerted effort to extend the benefits of PG&E's Land Conservation Commitment to Native American tribes and groups, including meeting in person with representatives of Native American entities and conducting special outreach to best ensure Native American entities were aware of, and provided full access to participate in the opportunities presented by PG&E's Land Conservation Commitment.

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 Bear River 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 California Department of Forestry and Fire Protection (CAL FIRE) receive 267 acres within five parcels (836-839) of the Bear River planning unit in fee and that the Bear Yuba Land Trust (BYLT) hold a conservation easement over the lands recommended for donation to CAL FIRE in these parcels (836-839) of the Bear River 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>
“Reasonably exact estimates of acreage, by parcel, within or outside licensed project boundaries, and existing economic uses (including all related agreements);”
<b>(2) Objectives to Preserve and/or Enhance</b>
“Objectives to preserve and/or enhance the BPVs, as defined in the Settlement Agreement, Appendix E, of each individual parcel;”
<b>(3) Recommendations for Conservation Easement and Fee Simple Donation</b>
“A recommendation for grant of a conservation easement or fee simple donation for each such parcel;”
<b>(4) Finding of Donee Funding and Other Capacity to Maintain Lands to Preserve and/or Enhance BPVs</b>
“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;”
<b>(5) Analysis of Tax and Other Economic and Physical Impacts</b>
“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;”
<b>(6) Hazardous Waste Disclosure</b>
“A disclosure of all known hazardous waste or substance contamination or other such environmental liabilities associated with each parcel;”
<b>(7) Consideration of Parcel Split</b>
“Appropriate consideration whether to split any parcel which is partly used or useful for operation of PG&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&E property, the decision to accept or reject such conditions will be at PG&E’s sole discretion;”
<b>(8) Strategy for Physical Measures to Enhance BPVs</b>
“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;”
<b>(9) Monitoring Plan for the Economic and Physical Impacts of Disposition and Implementation of Enhancement Measures</b>
“A plan to monitor the economic and physical impacts of disposition and implementation of enhancement measures on the applicable management objectives;”
<b>(10) Implementation Schedule for Transactions and Measures</b>
“A schedule for the implementing transactions and measures.”

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

### **Acreage and Property Description**

Approximately 267 acres in Parcels 836-839 will be donated to CAL FIRE and, consistent with the conditions in the Settlement Agreement, the Property will be subject to a perpetual conservation easement granted to BYLT. The remaining 1,142 acres within Parcels 836-839 are addressed in separate LCCPs for property to be retained by PG&E or sold to Nevada Irrigation District.

The Bear River planning unit parallels the Interstate 80 corridor, crossing a montane meadow, densely forested canyons, and a landscape transformed by historic hydraulic gold mining. With an elevation range of 2,400 to 5,200 feet mean sea level (msl), the Bear River planning unit is located 20 miles north of the historic mining city of Auburn.

The property offers a diversity of habitat for flora and fauna with a variety of forested slopes, granite outcroppings, and is bordered by the Bear River. North of Bear Valley, there are four scenic and biologically important glacial ponds surrounded by old-growth ponderosa pines. Wildlife observed at these ponds include western pond turtle, night hawk, and mountain lion. The Bear River provides coldwater stream habitat for both rainbow and brown trout in the Bear Canyon. Much of the land within the Bear River planning unit serves as a migratory corridor and winter range for regional deer populations. Additionally, the forestlands of the planning unit offer potential habitat for California spotted owl. A number of special status plant and wildlife species have been recorded in the planning unit, including Sheldon's sedge, simple androsace, Button's Sierra sideband snail, and coast horned lizard.

There are limited recreation facilities on the property but bolts for rock climbing routes and numerous access roads indicate informal uses such as fishing, hiking, picnicking, hunting, rock climbing, sightseeing, birdwatching, and the enjoyment and study of nature.

There are two PG&E Timber Management Units (TMUs) totaling 727 timbered acres that encompass the lands recommended for donation to CAL FIRE. Both TMUs are currently managed under a Multiple-Use prescription, meaning that protection and uses of other resources and facilities may preclude sustained timber management as the highest and best use of portions of the TMU.

No agricultural (farming or grazing) activities occur within the planning unit.

The property lies within the ancestral territory of the Maidu, Washoe, and Nisenan-Southern Maidu groups. Cultural resources found in the planning unit include petroglyphs and lithic scatters as well as historic sites related to California's pioneer past and historic mining activities.

### **Adjacent and Nearby Landowners**

The parcels subject to donation to CAL FIRE are surrounded by National Forest System lands managed by the Tahoe National Forest, Nevada Irrigation District, and private property. The parcels are accessible via State Highway 20, Bowman Lake Road, and various utility maintenance roads.

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 are recorded encumbrances on the acreage for donation to CAL FIRE in the Bear River planning unit for a highway, roads, use of existing roads, communication facilities, public utilities, transmission lines, and a bicycle, equestrian and pedestrian trail. There are no agreements for economic uses on the lands to be donated to CAL FIRE.

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 Bear River 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 planning unit offers diverse and high value habitat within its sierra mixed conifer forest stands in upland areas, thickly forested canyons, montane meadows, reservoirs, glacial ponds and riparian corridors. Habitat value includes migratory corridors and winter range for deer and potential presence of avian and/or terrestrial special status species such as the California spotted owl. The Bear River provides coldwater stream habitat for several trout fisheries and potential habitat for several special status riparian species. The conservation easement (Appendix 3) will permanently protect habitat by preventing any use of the Property that will significantly impair the Conservation Values, and restricting development and the landowner’s uses to those that are consistent with the protection of the BPVs on the property. In addition, the land will be managed in accordance with a Demonstration State Forest Management Plan that will be developed subsequent to fee title transfer.

*2. Objective: Preserve open space in order to protect natural and cultural resources, the wilderness character of the region, and continued low-intensity recreation experiences.*

The property includes open space and scenic Sierra Nevadan viewsheds, accessible via two major highways, and within the tribal range of the Maidu, Washoe, and Nisenan-Southern Maidu groups. The conservation easement will ensure that no further

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

development will occur unless specifically authorized by the conservation easement, and consistent with State and Federal laws protecting historic and cultural resources.

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

The conservation easement recognizes that access to the Property is inherent or may be inherent in the enjoyment of the Conservation Values and the Informal Uses. Therefore, CAL FIRE will allow public access to the Property that is substantially consistent with the public access existing on the date the conservation easement is recorded, subject to reasonable rules and regulations. CAL FIRE has a goal to implement educational and recreational activities such as primitive camping, public tours and hikes, displays, self-guided tours and/or science camps as part of the Demonstration State Forest. Recreation and education opportunities include fishing, hiking, picnicking, hunting, rock climbing, sightseeing, birdwatching, and the enjoyment and study of nature.

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

CAL FIRE proposes to conduct timber harvest activities on the Property in accordance with a Demonstration State Forest Management Plan that incorporates the following Forest Management Goals: maintain healthy and vigorous forest stands; protect important riparian resources; manage for sustainable stands of native tree species historically present on the landscape; improve resistance to drought and pests; address any infestation of insects or disease that threatens the viability of the forest; address any build-up of fuel to reduce risks of catastrophic fire; enhance climate benefits through carbon sequestration and storage; establish and maintain a full and balanced range of stand ages and characteristics, allowed to move across the landscape over time, including early-seral, mid-seral and late-seral forest conditions; provide adequate amounts of snags and cavity trees; provide adequate amounts of downed woody debris; manage for edge effects; and maintain and enhance vegetation types and structural elements across the landscape that support fish and wildlife habitats for native species historically present on the landscape. The ability to alter, manage and study the forest, including for forest health and wildfire resilience is specifically included in the conservation easement.

*5. Objective: Identify and manage cultural resources in order to ensure their protection, as well as to support opportunities for public education.*

The donated lands are within the tribal range of the Maidu, Washoe, and Nisenan-Southern Maidu groups with known presence of petroglyphs and lithic scatter. The conservation easement will protect identified historical and cultural values on the Property consistent with state and federal law.

### **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. Bear Yuba Land Trust (BYLT) will hold the conservation easement over the lands to be donated to CAL FIRE in the Bear River planning unit that are the subject of this LCCP. The qualifications of BYLT are described in Chapter 4.

Accordingly, immediately prior to PG&E's conveyance of the lands to be donated to CAL FIRE in the Bear River planning unit, a conservation easement on the Property will be conveyed to BYLT and recorded.

#### **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 Bear River 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. 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), Tsi-Akim Maidu Tribe, University of California – Center for Forestry, and Bear Yuba Land Trust. The property was 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. Bear Yuba Land Trust withdrew fee title interest and the US Forest Service is not eligible for property with the Bear River planning unit. Based on review of the LSPs, follow-up discussions with the interested organizations, and site visits the board recommended CAL FIRE as the fee title donee at the November 15, 2018 meeting.
- 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.

### **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 267 acres proposed for donation to CAL FIRE in Parcels 836-839 were identified as available for donation, subject to PG&E's reserved rights.

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

267 acres within four parcels (836-839) will be donated to CAL FIRE 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 CAL FIRE to manage the Bear River property recommended for donation are described in Chapter 4.

The map provided in Exhibit 1 shows all of the land within Parcels 836-839 in the Bear River 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**

Approximately 1,142 acres within Parcels 836-839 are addressed in separate LCCPs for property to be retained by PG&E or sold to Nevada Irrigation District.

#### **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 above, the following organizations were endorsed by the Stewardship Council board on November 15, 2018 and January 22, 2015, respectively:

- The California Department of Forestry and Fire Protection (CAL FIRE) to hold fee simple title to 267 acres within Parcels 836-839.
- The Bear Yuba Land Trust (BYLT) to hold a conservation easement over the 267 acres to be donated to CAL FIRE in Parcels 836-839.

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

The Stewardship Council board finds that CAL FIRE and BYLT 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. CAL FIRE:**

- CAL FIRE manages approximately 70,000 acres of Demonstration State Forests across California. The eight Demonstration State Forests are managed and used to support research and demonstration projects on forest management, public recreation opportunities, fish and wildlife habitat, and watershed protection.
- 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.

###### **B. BYLT:**

- Established in 1990, BYLT exists to protect and defend the working and natural lands of the Bear and Yuba River Watersheds and empower healthy, resilient communities through Nature access and education.
- BYLT's geographic focus region is Western Nevada County and Eastern Nevada County, encompassing the watersheds of the Bear and Yuba Rivers.
- BYLT currently holds 30 conservation easements over approximately 11,600 acres, and owns approximately 4,000 acres in fee.
- BYLT has eight staff including two co-executive directors, bookkeeper,

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

stewardship manager, land access manager, community engagement coordinator, membership coordinator and trail coordinators. BYLT has ten board members with expertise in wildlife biology, land use planning, recreation, fundraising, financial management and real estate.

- BYLT is an accredited Land Trust with the Land Trust Alliance.

## **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 Placer and Nevada Counties, the counties in which the Property is located. The final LCCP submitted for all PG&E Watershed Lands located in Placer and Nevada Counties will address tax neutrality for the totality of all fee title transfers within the counties, 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).

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.

As of November 15, 2017, the Stewardship Council board approved further revisions to the property tax neutrality methodology. The revisions established that the County will receive a one-time lump sum payment allocated based upon the applicable Tax Rate Area at the time of the payment. Counties and special districts would then 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.

### **Achieving Property Tax Neutrality**

267 acres in Parcels 836-839 in the Bear River planning unit are being donated to CAL FIRE. Section 4654 of the California Public Resources Code states:

*"There shall be paid to each county in which lands acquired for state forest purposes are situated, out of funds hereafter made available for such purpose, an amount equivalent to taxes levied by the county on similar land similarly situated in the county in the same manner as provided in the Revenue and Taxation Code for secured property tax payments as long as the state continues to own the land. Such payments shall be based only upon the value of the forest lands used for purposes of continuous commercial forest production and not upon value of such forest land used for any other purposes, including any improvements on such lands. Determination of what constitutes similar land similarly situated shall be made by a committee consisting of the county assessor of the county in which the land is located, a representative of the State Board of Equalization and a representative of the department."<sup>3</sup>*

Subsequent to the transfer of lands, the committee referenced in the paragraph above will determine the annual payments due from CAL FIRE in lieu of property taxes. If the new amount is less than PG&E's current tax payments, the Stewardship Council will pay the difference to Placer and Nevada Counties.

If funding from the Stewardship Council is necessary to ensure property tax neutrality, the Stewardship Council would make a one-time lump sum payment to the Counties. Placer and/or Nevada 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.

### **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 267 acres within

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<sup>3</sup> California Public Resources Code Section 4654

the Bear River planning unit have not mandated any changes to the physical or economic uses of the lands. No new activities are proposed that will result in physical impacts.

While the principal effect of the conservation easement will be to significantly restrict development on the site in perpetuity, the conservation easement reserves to CAL FIRE the right to develop no more than a total of ten acres within designated Building Envelopes for uses including recreation, research, or forest management subject to the limitations in the conservation easement. However, CAL FIRE is not proposing to carry out any development or change in use at this time. Instead, at least for the time being, CAL FIRE intends to manage the Property as PG&E does presently. If, in the future, CAL FIRE decides to pursue new development or uses that are allowed by the conservation easement, it must first obtain all necessary permits and conduct any necessary CEQA review at that time. Public Resources Code 21080.28 states that CEQA review is not required even when physical changes to the property are reasonably foreseeable as a result of the transfer, provided that environmental review occurs before those changes occur.

## **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 Bear River Environmental Site Assessment Report dated October 25, 2011, and the Bear River Environmental Site Assessment Refresh, prepared by AMEC Foster Wheeler, dated April 7, 2017, to CAL FIRE and BYLT, fulfilling the disclosure requirements of the Land Conservation Commitment.

### **Environmental Agreement**

Pending CPUC approval of the transaction, PG&E will execute Environmental Agreements with CAL FIRE and BYLT, satisfying the requirements of Section 12(f) of the Stipulation.

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

PG&E determined that operational needs would be met sufficiently through the reservation of rights for ongoing hydroelectric operations on the remaining acreage within these parcels. To effectuate transfer of a portion of the property, parcel splits will be 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 future conveyances of parcels within this planning unit.

Within Parcels 836-839, approximately 1,142 acres are addressed in separate LCCPs for property to be retained by PG&E or sold to Nevada Irrigation District.

## **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>4</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 that will fund selected enhancements on the Watershed Lands. It is anticipated that grant funding will be available to accomplish future projects that enhance one or more of the six Beneficial Public Values. Projects may include habitat restoration or physical measures such as developing trails, day use areas, and other public access improvements.

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<sup>4</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 (2022)
- Public Works Board review and approval (2022)
- Close of escrow (2022)
- Stewardship Council release of funds to BYLT per conservation easement funding agreement (2022)

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

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

### **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.

- 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.

### **BEAR RIVER 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 Bear River 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.

During public review of Volumes I and II of the LCP, letters were submitted that indicated support for restoring and enhancing the Bear River fishery, protecting the open space qualities of the meadow including restricting forestry activities that would impair the viewshed from the meadow, interest in the preservation of a wood-crib style dam in Bear Valley, as well as support for public access along existing trails.

#### **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 Bear River planning unit to a Public Information Meeting that was held in Markleeville, California on October 8, 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 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 the Bear River, Chili Bar, Fordyce Lake, Lake Spaulding, Lower Drum and Narrows planning units was hosted by the Stewardship Council on April 14, 2011 in Auburn, California. Attendees at the workshop included a total of 58 individuals representing a wide variety of interests including local, state, federal, and tribal governments; and community organizations. 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 Bear River planning unit.

The purpose of the workshop was to: (1) provide an overview of the land conservation process; and, (2) solicit additional public input on future stewardship of the six planning units.

Below is a summary of the notes that were recorded on the easels and provided on comment cards.

#### **General Comments**

- Mineral resources should be included as a beneficial public value
- Lands available for donation should be transferred to an entity that will preserve and enhance public access
- Provide adequate time for the public to review and provide comments on the land stewardship proposals, proposed donee recommendations, and conservation easements
- Understand that all of the parcels have a history of land use and are no longer pristine
- Provide parcel-specific goals to promote public understanding and comment

#### **Bear River**

- The Bear Valley Meadow area in Parcel 839 provides many public recreation opportunities year round, making it the “crown jewel” of the area
- Protect archaeological/cultural sites and provide interpretation of these sites if appropriate
- Develop a trail and trailhead off Hwy 20 (with parking and restrooms) to Rollins Lake Reservoir
- Prohibit OHV use in the meadow area and provide enforcement
- Support PG&E partnerships with conservation organizations to restore, preserve, and enhance recreation opportunities
- Ensure consistent land ownership and management to protect the integrity of the ecosystem
- Prevent the upstream migration of *Didymosphenia G*, an invasive algae that adversely affects fisheries
- Provide trail easements to support the development of a trail along the Bear River, as proposed to FERC in the “Integrated Bear River Concept”
- Develop a trailhead and loop trails in the area north of Drum Forebay up to Bear Valley and the Sierra Discovery Trail
- Install hitching posts at the Sierra Discovery Trail
- Maintain vehicle access to all parcels for hunting, fishing, recreation, firewood collecting, etc.

## Appendix 1: Summary of Public Outreach

- The conservation easement should be flexible to adapt over time
- For each of the beneficial public values, define the level of sustainability that will occur by parcel, planning unit, and watershed

### **IV. 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

## Appendix 1: Summary of Public Outreach

were received on the revised capitalization rate. The revised methodology was adopted by the board at its June 27, 2012 meeting.

### **V. 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 recommendation at the Bear River planning unit were provided to the board for consideration at the relevant public board meeting.

### **VI. 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.

Prior to release of the LCCP for public review anticipated in late 2019, and after public review of LCC Volumes I and II, some public correspondence was received regarding the Bear River planning unit. One comment relates to the proposed project, from Gene Whitehouse, Chairman of the United Auburn Indian Community of the Auburn Rancheria dated July 29, 2014. The letter expressed positive support for the Bear Yuba Land Trust based on their history of working with the Tribal Preservation Department on projects that align with protection of areas of cultural significance. No other comments were substantive relative to the project and no concerns were expressed about the proposed conservation and/or conveyance.

### **VII. 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.

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 conservation easement donee is 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:

STATE OF CALIFORNIA  
 Department of General Services  
 Real Property Services Division, Acquisition Unit  
 707 Third Street, 5<sup>th</sup> Floor, MS 505  
 West Sacramento, CA 95605

OFFICIAL STATE BUSINESS – EXEMPT FROM RECORDING FEES  
 PURSUANT TO GOVERNMENT CODE SECTION 27383 AND  
 DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND  
 TAXATION CODE SECTION 11922

(SPACE ABOVE FOR RECORDER'S USE ONLY)

LD # 2117-12-10008

DEED

APN Nos.

Nevada County: 064-320-008-000, portion 064-320-010, portion 64-320-040-000

Placer County: portion 066-010-004-000, portion 066-010-005-000, portion 066-010-085-000

### GRANT DEED AND RESERVATION OF RIGHTS

#### I. CONVEYANCE OF FEE

PACIFIC GAS AND ELECTRIC COMPANY, a California corporation ("Grantor"), does hereby grant to the STATE OF CALIFORNIA ("STATE"), all of its right, title, and interest in and to the real property situated in the unincorporated areas of Placer County and Nevada County, State of California ("Property"), described in Exhibit A attached hereto and by this reference incorporated herein, and shown on Exhibit A-1 attached hereto and by this reference incorporated herein.

#### 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 to 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 purpose of generating and transmitting hydroelectric energy, managing and monitoring the flow of water over the 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**"). Additionally, Grantor has used and continues to use the Property to erect, construct, reconstruct, replace, remove, operate, inspect, maintain and use facilities of the type hereinafter specified for the transformation, transmission and distribution of electric energy and for communication purposes (collectively "**Electric Activities**").

F. To facilitate the Hydro Project Activities and Electric Activities following the conveyance effected by this Grant Deed and Reservation of Rights (this "**Grant Deed**"), and the continued use, maintenance, repair and replacement of 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 and/or the Electric Activities, STATE, as grantor, and Grantor, as grantee, are executing and delivering that certain Utility Facility Access, Operation and Maintenance Easement of even date with this Grant Deed (the "**Utility Facility Access, Operation and Maintenance Easement**").

G. Consistent with the terms of the Governing Documents, Grantor and STATE acknowledge this conveyance, together with Utility Facility Access, Operation and Maintenance Easement and the Conservation Easement ("**Conservation Easement**") being entered into by STATE and Bear Yuba Land Trust ("**BYLT**")concurrently with this conveyance, 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 while allowing the ongoing use of the Property by Grantor for hydroelectric operations, water delivery, and related activities, and acknowledging and honoring the existing third party uses.

### III. STATE ACCESS; RESERVATION OF RIGHTS; EASEMENT AGREEMENT

STATE shall have a non-exclusive right of surface access, ingress and egress to and from the Property (the "**Access Rights**") over and across the existing road, the location of which is approximately shown as a heavy dashed line on **Exhibit X** attached hereto and made a part hereof

(the "Existing Road"), being a 30-foot wide easement lying 15 feet on each side of the centerline of the Existing Road, providing access to the public road identified as Bowman Lake Road on said **Exhibit X**, together with the right to repair and maintain the Existing Road.

STATE may allow BYLT and any successor to BYLT under the Conservation Easement to utilize the Access Rights over the Existing Road, but only for purposes of ingress and egress to and from the Property.

Except in the case of emergencies, STATE must submit to Grantor, for review and approval, plans at least 90 days in advance of any proposed construction, repair, or maintenance work related to the exercise of the Access Rights, which review and approval will not be unreasonably withheld or delayed. In the event of an emergency, STATE shall provide notice of such emergency work to Grantor within two (2) weeks of initiating such emergency work.

STATE shall be solely responsible for the repair of any damage caused by its exercise of the Access Rights, excluding fair wear and tear from normal usage (commercial use for logging shall not be considered normal usage). For so long as the Existing Road shall exist in private ownership, Grantor and STATE and their respective successors and assigns, shall bear the expenses of the reasonable maintenance of the Existing Road in proportion to their respective use. Reasonable maintenance shall include such work as is necessary to maintain the Existing Road in their existing condition but shall not include the enlargement of or betterment of the Access Rights. STATE further agrees that any erosion or drainage problems caused by the exercise of the Access Rights by STATE shall be corrected by STATE without cost to Grantor and to the reasonable satisfaction of Grantor.

Notwithstanding the above, nothing herein shall impair or otherwise impede Grantor's right for continued use of the lands owned by Grantor that are contiguous to the Property (the "**Adjacent Lands**"), including those Adjacent Lands containing the Existing Road, in all ways and for all purposes Grantor deems necessary to fulfill its obligations as licensee under FERC projects.

Grantor expressly reserves 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.

Grantor and STATE acknowledge that the Utility Facility Access, Operation and Maintenance Easement shall be effective immediately upon the execution, delivery and effectiveness of this Grant Deed with the same force and effect as if the easement rights set forth in the Utility Facility Access, Operation and Maintenance Easement were expressly reserved by Grantor in this Grant Deed.

#### IV. TERMS OF GRANT

The conveyance by Grantor to STATE pursuant to this Grant Deed is subject to: (a) a lien securing payment of real estate taxes and assessments; (b) all matters that would be disclosed by

a physical inspection or survey of the Property or that are actually known to STATE; and (c) all contracts, leases, licenses, covenants, conditions, easements, restrictions, liens, encumbrances and other exceptions of record or unrecorded.

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 12b(4) of the Stipulation, STATE, 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 Native American tribe without the prior written consent of the Grantor, which consent shall be in Grantor's sole discretion exercised in good faith.

## V. MISCELLANEOUS

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.

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

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

*[SIGNATURES FOLLOW ON NEXT PAGES]*

Appendix 2: Grant Deed

*Exhibit Version*

12/6/21

IN WITNESS WHEREOF, the undersigned has executed this Grant Deed dated as of

\_\_\_\_\_, \_\_\_\_.

Grantor:

PACIFIC GAS AND ELECTRIC COMPANY,  
a California corporation

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

Name: \_\_\_\_\_

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

**CERTIFICATE OF ACCEPTANCE**

This is to certify that, pursuant to Sections 15853 and 27281 of the California Government Code, the interest in real property conveyed by the Grant Deed dated \_\_\_\_\_, \_\_\_ from PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, to the STATE OF CALIFORNIA is hereby accepted by the undersigned officer on behalf of the State Public Works Board pursuant to the approval action by said Board and duly adopted on \_\_\_\_\_. The STATE consents to the recordation thereof by its duly authorized officer.

**ACCEPTED:**

STATE OF CALIFORNIA  
State Public Works Board

**By:** \_\_\_\_\_  
Michael McGinness, Deputy Director

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

**ACKNOWLEDGED:**

STATE OF CALIFORNIA  
Director, Department of General Services

**By:** \_\_\_\_\_  
Michael P. Butler, Chief  
Real Property Services Section

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

**Exhibit A**

Legal Description of Property  
(Attached behind this Page)

**Exhibit A-1**

Property Maps  
(Attached behind this Page)

**Exhibit X**

Existing Roads  
(Attached behind this Page)

**RECORDING REQUESTED BY:**

State of California—Official Business  
Department of General Services

Exempt from recording fees as per  
Gov't. Code Sec. 27388.1

**WHEN RECORDED MAIL TO:**

**STATE OF CALIFORNIA**  
Department of General Services  
Real Property Services Division,  
707 Third Street, 5<sup>th</sup> Floor, MS 505  
West Sacramento, CA 95605  
Attn: Acquisition Unit

**WITH A COPY TO:**

Bear Yuba Land Trust  
PO Box 1004  
Grass Valley, CA 95945  
Attn: Executive Director

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(Space above this line for Recorder's Use)

**CONSERVATION EASEMENT**

(Bear River Demonstration State Forest, Placer and Nevada Counties)

Between

The STATE OF CALIFORNIA (“STATE”), acting by and through the DEPARTMENT OF GENERAL SERVICES (“DGS”), on behalf of the DEPARTMENT OF FORESTRY AND FIRE PROTECTION (“CALFIRE”), as Grantor

And

BEAR YUBA LAND TRUST, a California nonprofit public benefit corporation, as Grantee

Note to County Recorders: This is a conservation easement within the meaning given to such term in California Government Code §27255 and is to be included in the index developed and maintained pursuant to such section. This conservation easement is being recorded concurrently in the official records of both Placer County and Nevada County as of the date first above written.

## CONSERVATION EASEMENT

(Bear River Demonstration State Forest, Placer and Nevada Counties)

THIS CONSERVATION EASEMENT (“**Conservation Easement**”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (“**Effective Date**”), by and between the STATE OF CALIFORNIA (“**STATE**”), acting by and through the DEPARTMENT OF GENERAL SERVICES (“**DGS**”), on behalf of the DEPARTMENT OF FORESTRY AND FIRE PROTECTION (“**CALFIRE**”), and BEAR YUBA LAND TRUST, a California nonprofit public benefit corporation (“**Grantee**”), with reference to the following facts:

### **RECITALS**

A. STATE is the owner of approximately 267 acres of real property located in the County of Placer and the County of Nevada (“**Counties**”) in the State of California, as more particularly described in **Exhibit A** attached hereto and incorporated herein by reference, together with all improvements and appurtenances thereto (“**Property**”). A map of the Property identifying the improvements existing on the Property as of the date of this Conservation Easement and various other natural features of the Property is attached hereto as **Exhibit B** and incorporated herein by reference (“**Property Maps**”).

B. Pacific Gas and Electric Company, a California corporation (“**PG&E**”), transferred fee title to the Property to the STATE by Grant Deed, recorded in the Official Records of the Counties before recordation of this Conservation Easement (the “**Grant Deed**”), the form of which is attached hereto as **Exhibit C** and incorporated herein by reference. PG&E transferred fee title to the Property to the STATE 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**”). The Stipulation provides, among other things, that conservation easements will preserve or enhance reasonable public access.

C. 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**”), 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 (collectively, “**Beneficial Public Values**” or “**BPVs**”). The Property is included in these Watershed Lands.

D. 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, recommended objectives to preserve and/or enhance the Beneficial Public Values identified on each parcel of Watershed Lands, including the Property.

E. The Beneficial Public Values present at the Property are referred to herein as “**Conservation Values**” as more specifically provided herein. The “**Land Conservation Commitment**” constitutes the obligations of PG&E to convey fee title and conservation easements to Watershed Lands, and to protect the Conservation Values of the Watershed Lands, as well as certain other obligations related thereto, as set forth in detail in the Governing Documents.

F. The Property possesses forested, recreational, historical, scenic and open space characteristics, valuable to the people of the Counties, the State of California, and the public in general.

G. The Governing Documents also include a requirement that conservation easements encumbering Watershed Lands honor existing agreements for economic uses, including consumptive water deliveries.

H. The Stewardship Council has defined the “sustainable forestry” BPV as “the practice of managing dynamic forest ecosystems to provide ecological, economic, social and cultural benefits for present and future generations.”

I. The Conservation Values of the Property are:

- a. Plant and Animal Habitat. The Bear River provides coldwater stream habitat for several species of trout, and the associated riparian, meadow, and wetlands provide potentially suitable habitat for several special status species. The upland areas consist mostly of sierra mixed conifer forest stands and provide migration corridor and winter range for regional deer populations, and potentially suitable habitat for the California spotted owl and several other special status plant and wildlife species.
- b. Sustainable Forestry. The Property is dominated by dense stands of Sierran mixed conifer forest transitioning to riparian species along the major watercourses. The ability to alter, manage and study the forest, including for forest health and wildfire resilience, is specifically included in the Conservation Values.
- c. Open Space The Property provides open space and scenic view shed values characteristic of the Sierra Nevada enjoyed by the public along two major highways in the region, Interstate 80 and State Route 20.

- d. **Historic and Cultural Resources.** The Maidu, Washoe, and Nisenan-Southern Maidu groups are historic inhabitants of the area. Petroglyphs and lithic scatter are some of the cultural resources that have been identified in the region. Historical activities have included pioneering and mining, including large scale hydraulic mining operations. Identified historical and cultural values will be protected in accordance with state and federal laws.
- e. **Outdoor Recreation.** The Property provides opportunities for outdoor recreation and education, such as fishing, hiking, picnicking, hunting, rock climbing, sightseeing, birdwatching, and the enjoyment and study of nature.

J. All rights of STATE and Grantee hereunder are subject to: (i) PG&E's reservation of certain rights in and to the Property, as set forth in the Grant Deed ("PG&E Reserved Rights"), (ii) that certain Utility Facility Access, Operation and Maintenance Easement ("Utility Facility Access, Operation and Maintenance Easement") in favor of PG&E with respect to the Property, recorded in the Official Records of the Counties before recordation of this Conservation Easement, the form of which is attached hereto as **Exhibit D** and incorporated herein by reference ("PG&E Easement Reserved Rights"), and (iii) the third-party rights to use the Property in effect as of the Effective Date, as included on **Exhibit E** attached hereto and incorporated herein by reference ("Express Third Party Uses").

K. The Legislature of the State of California, as set forth in California Civil Code section 815 et seq., has found and declared it to be the public policy and in the public interest of this state to encourage the preservation of land predominantly in its natural, scenic, agricultural, historical, forested, or open-space condition. Grantee is a California nonprofit organization within the meaning of California Civil Code Section 815.3 and is a tax exempt and "qualified conservation organization" within the meaning of Sections 501(c)(3) and 170(b)(1)(A)(vi) of the United States Internal Revenue Code, and is authorized to hold conservation easements in accordance with California Civil Code §815 et seq. In furtherance of the Land Conservation Commitment and the above-described public policy purposes, STATE desires to grant to Grantee, and Grantee desires to accept from STATE, a conservation easement over and upon the Property.

L. STATE and Grantee each desires through this Conservation Easement to ensure the permanent protection of the Conservation Values on the Property. Specifically, the parties desire to assure that the Conservation Values on the Property will be protected in perpetuity as provided herein, and that uses of the Property that significantly impair the Conservation Values will be prevented or corrected.

## **COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS**

NOW THEREFORE, in consideration of the recitals and including the exhibits herein, all of which are expressly incorporated into this Conservation Easement, including the Exhibits, and in consideration of the mutual promises and covenants contained in this Conservation Easement, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, STATE hereby voluntarily grants and conveys to Grantee, and to Grantee's successors and assigns, and Grantee hereby accepts from STATE, a perpetual

conservation easement as defined by Section 815.1 of the Conservation Easement Act of 1979 (California Civil Code section 815 et seq.), of the nature and character described in this Conservation Easement, in, on, over and across the Property on the following terms and conditions as hereinafter set forth.

**1. Conservation Purpose.** The purpose of this Conservation Easement is as follows (“Conservation Purpose”): to protect the Conservation Values in perpetuity by preventing any use of the Property that will significantly impair the Conservation Values. Subject to the following terms and conditions, STATE and Grantee intend that this Conservation Easement will confine the uses of the Property to such activities that do not significantly impair the Conservation Values. As used in this Conservation Easement, the terms “significantly impair” and “significant impairment” mean a material adverse change in Conservation Values. Any consideration as to whether an actual or potential impact of a particular activity or use has or may significantly impair Conservation Values shall take into account the actual and potential impacts of the activity or use in question as well as the cumulative impacts of other uses and activities on the Property excepting therefrom the cumulative impacts of STATE’s Reserved Rights (as defined below), PG&E Reserved Rights, PG&E Easement Reserved Rights and the Express Third Party Uses. In every evaluation of whether significant impairment of Conservation Values has occurred or is threatened, Grantee shall evaluate the magnitude (including, without limitation, consideration of the rarity and fragility of the natural resource affected and the area of land, wildlife habitat or vegetation community involved both locally and in relation to total acreage of that type of land, wildlife habitat or vegetation community in the Property) and the duration of the actual or potential change(s).

STATE and Grantee acknowledge that the Governing Documents reflect the intention of the parties thereto to honor Express Third-Party Uses and continue to permit beneficial uses of the Property that preserve and/or enhance the Conservation Values. It is intended that this Conservation Easement shall allow uses on the Property that are consistent with the protection and preservation of each 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, STATE and Grantee understand that achieving the Conservation Purpose requires the preservation and protection, on balance, of all of the Conservation Values actually existing on the Property, to the extent possible. It is recognized that in protecting and/or enhancing one or more of the Conservation Values, another Conservation Value may be impaired, 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 Property whenever possible. This Conservation Easement prohibits use of the Property for any purpose that would significantly impair the Conservation Values on a collective, not individual basis, taking into account the relative condition and quality of each of the Conservation Values on the Property as of the Effective Date.

**2. PG&E Reserved Rights.** All rights and obligations of STATE and Grantee under this Conservation Easement are subject to the PG&E Reserved Rights. In the event of a conflict between the PG&E Reserved Rights and the Conservation Purpose, this Conservation Easement shall be construed to unconditionally permit the exercise of the PG&E Reserved Rights.

**3. Utility Facility Access, Operation and Maintenance Easement.** All rights and obligations of STATE and Grantee under this Conservation Easement are subject to the PG&E Easement Reserved Rights. In the event of a conflict between the PG&E Easement Reserved Rights and the Conservation Purpose, this Conservation Easement shall be construed to unconditionally permit the exercise of the PG&E Easement Reserved Rights.

**4. Baseline Documentation Report.** The parties hereto acknowledge that a baseline documentation report (“**Report**”) has been prepared, a copy of which is on file with STATE and Grantee at their respective addresses for notices set forth below. The Report contains representations of the physical condition of the Property existing as of the Effective Date. The Report is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this Conservation Easement. Notwithstanding the foregoing, if a controversy arises with respect to the nature and extent of the physical or biological condition of the Property or the historical uses of the Property or the permitted uses of the Property under this Conservation Easement, the parties shall not be foreclosed from utilizing any and all other relevant documents, surveys or other evidence or information to assist in the resolution of the controversy.

**5. Rights Conveyed To Grantee.** In order to accomplish the Conservation Purpose, STATE transfers and conveys to Grantee the following rights and interests:

(a) **Preserve and Protect.** Subject to the exceptions listed in **Section 7(a)** below and elsewhere in this Conservation Easement, Grantee has the right to identify, preserve and protect in perpetuity the Conservation Values of the Property.

(b) **Entry and Access Rights.** Grantee and Grantee’s directors, officers, employees, contractors, subcontractors, consultants, representatives, and agents, including entities authorized by Grantee to conduct monitoring activities on Grantee’s behalf (“**Grantee’s Representatives**”) are hereby granted rights of access to enter upon the Property, including entry and access by motorized vehicle, and may enter upon the Property after giving notice to STATE, as required below, in order to monitor compliance with and otherwise enforce the terms of this Conservation Easement, to study and make scientific observations of the Conservation Values, to determine whether STATE’s activities are in compliance with the terms of this Conservation Easement and to take all actions deemed necessary by Grantee to identify, preserve, protect, and monitor in perpetuity the Conservation Values, all in compliance with the provisions of **Section 12**. Except in cases where Grantee determines that immediate entry is required to prevent, terminate, or mitigate a violation of this Conservation Easement, Grantee shall give STATE fourteen (14) days prior written notice of such entry. Grantee’s Representatives may enter the Property immediately, where such entry is necessary to prevent, terminate, or mitigate damage to, or the destruction of any of the Conservation Values, or to prevent, terminate or mitigate a violation of the terms of this Conservation Easement. STATE’s representatives shall have the right to accompany Grantee’s Representatives during monitoring visits or on any other visit permitted by this **Section 5(b)**. All access and entry allowed under this **Section 5(b)** shall be made in a manner that will not unreasonably interfere with the permitted use(s) or enjoyment of the Property by STATE, its successors in interest, and any legally-recognized user(s) of the Property, including without limitation, PG&E with regards to the exercise of any PG&E

Reserved Rights or PG&E Easement Reserved Rights, and third-parties with regards to the exercise of any Express Third Party Uses.

(c) **Enforcement.** Subject to and in accordance with the provisions of **Section 12**, Grantee has the right to enforce the terms of this Conservation Easement, to enjoin any activity on the Property or other use of the Property which is in violation of the terms of this Conservation Easement, and to enforce the restoration of such areas or features of the Property as may hereafter be damaged as a result of activity or use that is determined to be in violation of the Conservation Easement. Any requirement of STATE to expend monies to act and/or restore the Property under this Conservation Easement shall be subject to **Section 12(d)** of this Conservation Easement.

**6. Demonstration State Forest Management Plan.** As long as the Property is owned in fee by STATE or another party that is qualified to own and manage a Demonstration State Forest, the STATE and/or other qualified party may conduct timber harvest activities on the Property as a “Demonstration State Forest” in accordance with a Demonstration State Forest Management Plan that incorporates the Forest Management Goals (as defined in **Section 9(a)** below) and has been approved by the State Board of Forestry and Fire Protection (or successor agency or department of the State of California having jurisdiction over timber harvest activities in the State of California) (“**State Board of Forestry**”) that satisfies the following requirements (“**Demonstration State Forest Management Plan**”): (1) permits activities that do not significantly impair the Conservation Values of the Property; (2) complies with legislative mandates and State Board of Forestry policy for Demonstration State Forests and meets the requirements of the California Forest Practice Act and Rules; (3) has been approved by the State Board of Forestry in an open public process that provides an opportunity for public input and is subject to the State Board of Forestry’s periodic review as defined in policy adopted by the State Board of Forestry for Demonstration State Forests; (4) shall be publicly available; and (5) shall be subject to Grantee’s review and comment, but not subject to Grantee approval, in conjunction with the State Board of Forestry’s initial and subsequent periodic review.

(a) **Timber Harvest.** Any Demonstration State Forest Management Plan shall describe the timber harvest and related activities that STATE intends to undertake on the Property, including without limitation, a comprehensive summary of STATE’s forest management objectives, forest stand descriptions and locations including site classes, stand volumes, growth rates, relevant inventory information and maps, locations of soils, estimates of slope and erosion potential, locations of known wildlife habitats, especially species listed as threatened or endangered at the federal or state level, known rare plants, wetlands, description of management history, silvicultural and harvest methods, projections of harvest yields, reforestation and management activities (collectively, the “**Management Plan Components**”).

(b) **Research.** Grantee understands that research and demonstration into sustainable forestry practices, best management practices, potential new forest practice rules, and other forestry-related research is an important component of STATE’s management of the Property as a Demonstration State Forest. The Demonstration State Forest Management Plan will describe the range of research and demonstration forest activities and projects that may be conducted on the Property.

(c) **Non-Native Plants.** STATE reserves the right to introduce and manage non-native or invasive plants, provided that the measures taken to manage the non-native or invasive plants, including controlled burning, comply with Applicable Laws (as defined in Section 10 below) and regulations, and do not significantly impair the Conservation Values of the Property.

(d) **Alternative Forest Management Plan.** If the Property is not owned in fee by the State of California or another party that is qualified to own and manage a Demonstration State Forest, such successor Property owner and/or the STATE may continue to conduct sustainable timber harvest activities on the Property in accordance with a management plan that satisfies the following requirements (“**Forest Management Plan**”): (1) incorporates the Forest Management Goals; (2) describes all of the Management Plan Components; (3) permits only activities that do not significantly impair the Conservation Values of the Property; (4) complies with legislative mandates and State Board of Forestry policy and meets the requirements of the California Forest Practice Act and Rules and all other Applicable Laws; and (5) has been approved in advance by Grantee. Any modifications or amendments to an approved Forest Management Plan shall be subject to Grantee’s prior written approval.

## **7. Prohibited Uses, Change in Use, Unauthorized Use, Acts of God, Emergencies, Acts of Unrelated Third Parties.**

(a) **Prohibited Uses.** Any activity on or use of the Property that significantly impairs Conservation Values is prohibited. Without limiting the generality of the foregoing, STATE will not actively engage in, or knowingly permit others to actively engage in, the following prohibited uses (collectively, “**Prohibited Uses**”) which could significantly impair Conservation Values and are in violation of the terms of this Conservation Easement and therefore prohibited on the Property, in each case (1) except as required or permitted pursuant to the PG&E Reserved Rights or the PG&E Easement Reserved Rights (as defined in **Sections 2 and 3** above); (2) except as permitted under, and performed in accordance with, Express Third Party Uses; (3) except as required or permitted as part of a Demonstration State Forest Management Plan (as described in **Section 6** above); (4) except as expressly permitted under **Sections 7 and 9** below and elsewhere in this Conservation Easement; and (5) except as required to be undertaken under any Applicable Law (as defined below):

(i) Construction and Development. There shall be no construction, or development on the Property outside of the Building Envelopes (as defined below). STATE reserves the right to develop structures and improvements for Authorized Uses within four (4) or fewer building envelopes that together total no more than (10) acres combined (“**Building Envelopes**”). The Building Envelopes must be: (a) located fully within the Potential Building Envelope Area as defined below and identified on the Property Maps; and (b) selected in accordance with this section. Prior to selecting the Building Envelope locations, STATE shall send a written request to consult with Grantee and the parties shall seek to meet in person within thirty (30) days of the receipt of the consultation request. For purposes of this Conservation Easement, consultation means the meaningful and timely process of meeting in good faith to exchange adequate information and discuss, understand, and consider the views of the other Party and to seek, wherever feasible, to reach agreement. If no response to the request to consult is received from Grantee within thirty (30) days of its receipt, the STATE shall have no

obligation to consult. Development within the Building Envelopes shall be limited to any one of the Authorized Uses of the State Forests, which are recreation, research or forest management<sup>1</sup>, and associated parking (“**Authorized Uses**”). Examples of such development include, but are not limited to, a fire station, forest headquarters, barracks, lookout, observatory, and/or research/education facilities. Before constructing any improvement(s) within the Building Envelopes, (i) STATE and Grantee shall designate the exact location of the Building Envelopes by professional land survey or other reasonably precise method at STATE’s cost, and (ii) State shall record in the Official Records of the Counties a map and addendum to this Conservation Easement which identifies the designated location of the Building Envelopes. Prior to construction, with prior written approval from Grantee, Building Envelopes may be relocated within a Potential Building Envelope Area if unforeseen circumstances prevent and/or unreasonably limit construction within previously selected Building Envelopes. Under no circumstances shall the aggregate acreage of the selected Building Envelopes exceed ten (10) acres in total size.

The Property Maps attached hereto as Exhibit B identifies the potential building area portions of the Property (the “**Potential Building Envelope Areas**”) within which STATE may select four or fewer Building Envelopes that do not exceed ten (10) acres in total size. STATE shall not be required to select the total ten (10) acres, and up to four (4) total, Building Envelope(s) at one time, but instead, may make selections from time to time in accordance with this section until such time that a total of ten (10) acres, and up to four (4) total, Building Envelope(s) within the Potential Building Envelope Area have been selected. Following the final selection and surveyed delineation of a total of ten (10) acres, and up to four (4) total, Building Envelopes in accordance with this section, all remaining portions of the Potential Building Envelope Area that are not included in Building Envelopes shall no longer serve as Potential Building Envelope Area under this Conservation Easement.

In accordance with **Sections 9(g) and 9(j)**, development, installation, protection, and use of utilities and underground water resources on the Property to serve the permitted structures, may extend outside of the Building Envelopes. Such development may include, without limitation, access roads, wells, pump houses, underground pipelines, electricity facilities, and any additional infrastructure required, not including parking. Any existing structures (detailed in Report) and utilities may be maintained and repaired/replaced as necessary.

(ii) Use or Transfer of Development Rights. Other than those development rights specifically allowed in this Conservation Easement, all development rights that are now or hereafter allocated to, implied, reserved, or inherent in or to the Property are terminated and extinguished and may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded or described, or to any other property (whether adjacent or otherwise).

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<sup>1</sup> California Public Resources Code, Section 4631.5, 4651.

(iii) Subdivision. The Property is already comprised of several legal parcels owned by the STATE. There shall be no legal or *de facto* sale or gift of less than all of the parcels within the Property, nor any further division, subdivision or partitioning of the Property. The Property may not be sold, conveyed or otherwise transferred in separate parcels or lots, and STATE shall continue to maintain the parcels comprising the Property, and all interests therein, under common ownership, as though a single legal parcel.

(iv) Motorized Vehicles. Off-road use of motorized vehicles is allowed: (a) in conjunction with STATE's forest management activities in **Sections 9(a) and 9(e)**, or (b) in conjunction with Grantee's entry and access for purposes of monitoring or defending this Conservation Easement, or (c) as otherwise authorized in this Conservation Easement. This provision is not intended to otherwise limit the use of motorized vehicles on roads or driveways permitted under this Conservation Easement or in conjunction with construction and maintenance of permitted buildings, structures, roads, trails and other improvements.

(v) Dumping or Salvage. There shall be no dumping, storage or other disposal on the Property of soil, trash or garbage except for (a) refuse generated on the Property which may be stored on the Property on a temporary basis prior to its removal from the Property in areas where the Conservation Values of the Property are not significantly impaired, or (b) compostable refuse generated on the Property which may be disposed of on the Property in a responsible manner which does not significantly impair the Conservation Values of the Property. There shall be no dumping, storage or other disposal on the Property of ashes, sludge, Hazardous Substances (as defined below), or other unsightly or dangerous materials. This restriction does not apply to ashes from wildfire or other fire conducted for resource management or research purposes. There shall be no storage or disassembly on the Property of inoperable automobiles, trucks, or other vehicles or equipment for purposes of sale, or rental of space for that purpose. Pursuant to **Section 7(c)** below, STATE shall make a reasonable effort to prevent unauthorized dumping by the public.

(vi) Roads. Except with prior written approval of Grantee or pursuant to one of the exceptions listed in **Section 7(a)** or as otherwise expressly authorized herein, there shall be no oiling of existing roads. There shall be no creation of new roads that are not incorporated in the Demonstration State Forest Management Plan or a Forest Management Plan. Dust abatement treatments shall be acceptable.

(vii) Alteration of Land or Excavation. Except with prior written approval of Grantee and pursuant to one of the exceptions listed in **Section 7(a)** or for permitted research purposes upon Grantee's prior written approval or as otherwise expressly authorized herein, there shall be no filling, excavating, grading, draining or dredging on the Property, nor any change in the general topography of the Property, outside of the Building Envelopes.

(viii) Mining and Drilling. There shall be no mining, dredging, drilling, removing, or exploring for or extracting of minerals, oil, gas, coal, or other hydrocarbons,

soils, sands, gravel, loam, rocks or any other material on, under, or at the Property; provided, however, in no event shall the foregoing restriction be deemed to prohibit testing, drilling or operating groundwater wells on the Property as reasonably necessary in connection with STATE's exercise of any permitted rights. Recreational gold panning that does not significantly impair the Conservation Values is allowed. No more than two rock pits, not to exceed one acre each, may be developed in compliance with the Surface Mining and Reclamation Act of 1975 for the purpose of obtaining materials for roadbed construction conducted in connection with timber operation or forest management on land owned by the STATE, as long as such activity does not significantly impair the Conservation Values.

(ix) **Historical and Cultural Resource Identification.** There shall be no activities, actions or uses that disturb or impair any identified historical or cultural resources on the Property in violation of state or federal law.

(x) **Water Resources.** There shall be no development of any waters on the Property for fish farming or any other commercial or industrial purpose. Except with prior written approval of Grantee and pursuant to one of the exceptions listed in **Section 7(a)** or as otherwise expressly authorized herein, there shall be no manipulation or alteration of natural water courses, wetland, meadow, stream bank, shorelines or bodies of water or activities or uses that significantly impair water quality. Groundwater wells may be installed for local use on the Property as reasonably necessary to support the permitted uses of the Property under **Section 9** below.

(xi) **Water Rights.** There shall be no severance, conveyance, impairment or encumbrance of water or water rights appurtenant to the Property, separately from the underlying fee title to the Property, or other action which diminishes or extinguishes such water rights, and this Conservation Easement shall not sever or impair any riparian water rights appurtenant to the Property.

(xii) **Water Quality Degradation.** There shall be no uses permitted under this Conservation Easement whereby runoff from such uses results in a violation of applicable federal, state, and local water quality laws.

(b) **Changes in Use.** STATE understands that the Prohibited Uses may be more economically valuable than permitted uses under this Conservation Easement and that neighboring properties may in the future be put entirely to such Prohibited Uses. It is the intent of both STATE and Grantee that any such changes shall not be deemed to be circumstances justifying the termination, extinguishment or modification of this Conservation Easement. In addition, the inability of STATE, or STATE's successors, or assigns, to conduct or implement any or all of the uses permitted under the terms of this Conservation Easement, or the unprofitability of doing so, shall not impair the validity of the Conservation Easement or be considered grounds for the termination, extinguishment or modification of same.

(c) **Unauthorized Third Party Uses and STATE's Obligations.** If Grantee discovers any unauthorized third-party use or activity on the Property that violates the terms of this Conservation Easement, and Grantee gives STATE written notice thereof, STATE shall use

reasonable efforts to stop or prevent any such unauthorized use of the Property, subject to the provisions of **Section 12(d)** below.

(d) **Acts of God; Emergencies; Acts of Unrelated Third Parties; Pre-Existing Conditions.** Nothing in this Conservation Easement shall require STATE to take any action to restore the condition of the Property (i) after any Act of God, which includes, without limitation, fire, climatic change, flood, storm, earth movement, or natural evolutionary changes in the condition of the Property from that described in the Report; (ii) after any action taken by STATE under emergency conditions to prevent, abate, or mitigate unreasonable impairment to the Conservation Values, or to any person resulting from such causes; (iii) after any acts of unrelated third parties, so long as STATE has satisfied its obligations under **Section 7(c)**, above, and **Section 8(d)**, below; or (iv) if such condition existed prior to the Effective Date of this Conservation Easement.

## **8. Public Access:**

(a) **Informal Uses and Public Access.** STATE and Grantee recognize that the 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 (the “**Informal Uses**”). STATE and Grantee further recognize that access to the Property is inherent or may be inherent in the enjoyment of the Conservation Values and the Informal Uses. Consistent with the objectives articulated in the Governing Documents to provide continued reasonable access by the public to the Watershed Lands, STATE shall allow public access to the Property that is substantially consistent with the public access existing on the Effective Date of the Conservation Easement. STATE reserves the right to make reasonable rules and regulations to control, limit, or, as necessary, exclude Informal Uses and public access, including without limitation, (i) by posting and other means; and (ii) by restricting access to areas of the Property under active cultivation, grazing, study, temporarily to prevent vandalism and dumping, seasonally to prevent erosion/sedimentation concerns, or for safety purposes during timber harvesting or other permitted management activities that may pose a hazard. STATE shall make reasonable efforts to prevent Informal Uses that significantly impair the Conservation Values.

(b) **New or Increased Public Access.** STATE may allow new public access or Informal Uses or expansion of public access or Informal Uses on the Property, provided such new or expanded use does not significantly impair the Conservation Values.

(c) **Limitations and Conditions. Sections 8(a) and 8(b) above are subject to the following:**

(i) **Liability Limitation.** STATE and Grantee claim all of the rights and immunities against liability for injury to the public to the fullest extent allowable by law, including without limitation, under the California Tort Claims Act, California Government Code section 810 et seq., as amended and any successor provisions thereof.

(ii) **Periodic Review of Informal Uses.** As part of Grantee’s annual compliance monitoring, (i) STATE and Grantee shall consult on the known Informal Uses and public access on the Property conducted under **Sections 8(a)**

**and 8(b)** above during the preceding monitoring period for the purpose of Grantee's assessment of STATE's compliance with the requirements set forth in those sections; and (ii) with respect to Informal Uses allowed by the STATE on the Property in accordance with **Section 8(a)** above, STATE and Grantee will consult, and include recommendations, if any, regarding the necessity of controlling, limiting, or excluding Informal Uses to ensure the protection of the Conservation Values from significant impairment.

(d) **Unauthorized Public Access.** If STATE or Grantee discovers any unauthorized public access use or activity that violates the terms of this Conservation Easement, STATE shall use reasonable efforts, in consultation with Grantee, to stop or prevent any such unauthorized use of the Property, subject to the provisions of **Section 12(d)** below. The Parties acknowledge and agree that any form of legal action by STATE shall be subject to authorization by the California Attorney General.

**9. STATE's Reserved Rights:** Notwithstanding anything to the contrary in this Conservation Easement, STATE expressly reserves all rights accruing from the ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited by this Conservation Easement and are not in conflict with the Conservation Purpose ("STATE's Reserved Rights"). Pursuant to California Civil Code section 815.4, all interests in the Property not expressly transferred and conveyed to Grantee by this Conservation Easement or reserved to PG&E as the PG&E Reserved Rights or the PG&E Easement Reserved Rights (as described in **Sections 2 and 3 above**), shall remain with STATE. In exercising STATE's Reserved Rights, STATE will (i) use reasonable efforts to consult with Grantee, and (ii) use reasonable efforts to employ methods and practices that will not significantly impair the Conservation Values.

The following uses and practices, though not necessarily an exhaustive recital of consistent uses and practices, are expressly permitted under this Conservation Easement:

(a) **Forest Management.** STATE reserves the right to conduct forestry activities on the Property, in accordance with **Section 6** above, and the following **Forest Management Goals**:

It is the intent of STATE and Grantee that any timber harvesting activities conducted on the Property in accordance with this Conservation Easement maintain healthy and vigorous forest stands, protect important riparian resources, manage for sustainable stands of native tree species historically present on the landscape, encourage regeneration of oak trees where applicable, improve resistance to drought and pests, address any infestation of insects or disease which threatens the viability of the forest, address any build-up of fuel to reduce risks of catastrophic fire, enhance climate benefits through carbon sequestration and storage, establish and maintain a full and balanced range of stand ages and characteristics, allowed to move across the landscape over time, including early-seral, mid-seral and late-seral forest conditions, provide adequate amounts of snags and cavity trees, provide adequate amounts of downed woody debris, manage for edge effects, and maintain and enhance vegetation types and structural elements across the landscape that support fish and wildlife habitats (collectively, the "**Forest**

**Management Goals"). The Forest Management Goals shall be accomplished by complying with the Forest Practice Act and Rules and the provisions set forth in this section.**

(b) **Residential Use.** Subject to **Section 7(a)**, any and all residential development on the Property shall be restricted to the Building Envelopes, and shall meet all Applicable Laws for dwellings in Timber Production Zones.

(c) **Recreational Use.** Recreational use by STATE and the general public is permitted in accordance with **Section 8**.

(d) **Roads.** STATE reserves the right, but shall have no obligation, to maintain the existing network of roads on the Property as shown in **Exhibit B**. Paving or placing rock on the road network is permitted, however oiling of roads not traditionally treated in this manner, is not allowed. New roads are permitted to the extent incorporated in the Demonstration State Forest Management Plan or a Forest Management Plan, provided such roads do not significantly impair Conservation Values. Subject to **Section 7(a)**, new roads or the resurfacing of existing roads are permitted within the Building Envelopes. In addition, STATE may, after providing written notice to Grantee, improve roads outside the Building Envelopes in conjunction with permitted maintenance, repair, replacement and construction of improvements under this Conservation Easement. STATE will take reasonable actions to ensure abandoned roads that were originally constructed by STATE blend with the surrounding landscape subject to the provisions of **Section 12(d)** below.

(e) **Motorized Vehicles.** STATE reserves the right to use motorized vehicles on the Property, including off-road vehicles (such as motorcycles and all-terrain vehicles) for non-recreational purposes, specifically for ingress and egress purposes, for practices permitted under this Conservation Easement, and for patrolling purposes, provided that such uses do not significantly impair the Conservation Values.

(f) Intentionally Omitted

(g) **Water and Irrigation.** STATE reserves the right to conduct the following:

(i) develop groundwater wells where necessary. Such wells and their associated infrastructure must be in accordance with **Section 9(j)-Utilities**;

(ii) subject to Grantee's prior written approval, develop wildlife enhancement ponds and/or guzzlers in a manner that does not significantly impair the Conservation Values; and

(iii) develop water drafting sites that minimize impacts to water quality, riparian species, and the Conservation Values. Water drafting sites may be used for water collection for dust abatement, fire suppression purposes or other activities associated with the Property, and must be sited, constructed and maintained in order to not significantly impair the Conservation Values of the Property.

(h) **Fences.** Any new fencing shall be sited and designed not to significantly impair the Conservation Values of the Property, must allow for the free movement of wildlife to

the extent practicable and compatible with any livestock exclusion fences in **Section 9(o)**, and shall be constructed according to standards established by the current best management practices recommended by the California Department of Fish and Wildlife. Fences to protect research, monitoring and other sensitive installations may be designed to exclude wildlife.

(i) **Waste and Hazardous Substances.** The dumping, release, burning, permanent storage or disposal of waste, refuse, debris, motorized vehicles or hazardous materials is prohibited; provided, however, that vehicles, building materials, machinery or supplies, including, without limitation, petroleum products and pesticides, required for permitted and legal uses may be temporarily stored on roads, landings, and other clearings outside of riparian zones in compliance with all Applicable Laws; and provided that organic debris from forest management activities permitted in this Conservation Easement may be piled, burned or otherwise treated in a manner that is consistent with applicable regulations and the Forest Management Plan.

(j) **Utilities.** STATE reserves the right to grant utility easements on and over the Property to serve the allowed improvements and uses within the Building Envelopes in accordance with **Section 7(a)**, provided the uses under such easements do not significantly impair the Conservation Values. Right-of-way widths shall comply with the requirements of the California Forest Practice Act and Rules and any other applicable state or federal laws. All new utility infrastructure on the Property shall serve only the improvements permitted on the Property, except that any electricity generated from permitted utility infrastructure facilities in excess of requirements of the permitted improvements and uses on the Property may be sold to public utilities. Notwithstanding the foregoing, commercial power generation, collection or transmission facilities are prohibited.

The construction, operation and maintenance of power lines and pipelines are permitted, provided that, without limiting the PG&E Reserved Rights and PG&E Easement Reserved Rights, STATE shall use reasonable efforts to bury transmission or power lines or pipelines related to such activity or to align such lines along roadways, and the construction of new power lines and pipelines hereunder shall be limited to the support of STATE's permitted activities hereunder must be unobtrusively sited and shall not significantly impair the Conservation Values.

(k) **Renewable Energy Sources.** STATE reserves the right, subject to prior written approval from Grantee, to construct renewable energy structures such as photovoltaic cells, solar arrays, and windmills, for generation of power for use on the Property, including generation of power for research equipment, provided, however, that: (i) all such renewable energy structures shall be located within **Building Envelopes**, with the limited exception of solar energy structures used to power research equipment allowed to be used elsewhere on the Property; and (ii) no construction of renewable energy structures shall significantly impair the Conservation Values. Grantee's approval shall not be unreasonably delayed or withheld. STATE and Grantee agree that the provisions of this **Subsection 9(k)** restricting the locations of the installation of renewable energy systems and prohibiting the construction of renewable energy structures that would significantly impair the Conservation Values are "reasonable restrictions" within the meaning of California Civil Code § 714."

**(l) Future Easements, Leases, Licenses, Permits, and Contracts.**

Excepting the Express Third Party Uses which are subject to **Section 11** below, STATE reserves the right to grant subsequent easements, leases, licenses, permits and contracts on or relating to the Property, provided that any such subsequent easement, lease, license, permit, or contract is for a permitted use and is subordinate, subject to, and consistent with the terms of this Conservation Easement, and is documented in a separate written agreement subject to Grantee's approval, which approval shall not be unreasonably withheld, conditioned or delayed. If STATE wishes to grant subsequent easements, leases, licenses, permits and contracts on or relating to the Property, STATE shall so notify Grantee at least sixty (60) days in advance of any such proposed grant, shall provide to Grantee a copy of any proposed easement grant document together with any such additional information relating to the proposed grant as Grantee may reasonably request. STATE shall request Grantee's approval of such grant. Grantee will review the proposal and may, in its reasonable discretion, (a) approve the proposal as being consistent with the Conservation Purpose or (b) approve the proposal on conditions intended to ensure its consistency with the Conservation Purpose or (c) disapprove the proposal as being actually or potentially inconsistent with the Conservation Purpose. Failure of Grantee to respond in writing within sixty (60) days shall be deemed approval of the proposal as being consistent with the Conservation Purpose.

**(m) Trails.** STATE reserves the right to build multi-use recreation trails on the Property provided all new trails are approved by Grantee and are sited, constructed, and used in a manner that does not significantly impair the Conservation Values and does not significantly damage soil, vegetation, or water quality in any riparian areas identified in the Report. Any trails built by the STATE and later abandoned promptly shall be restored to a condition consistent with the surrounding landscape subject to the provisions of **Section 12(d)** below.

**(n) Wildfire Suppression and Property Restoration.** In instances of active wildfires on or in immediate vicinity of the Property, STATE reserves the right to suppress the wildfire by any means necessary, at full discretion of STATE. All wildfire suppression activities will be carried out, to the extent practicable, in a manner that minimizes negative impacts to the Conservation Values. The STATE shall ensure installation of erosion control on all constructed firelines, if needed. Within the riparian zones, an organic surface cover shall be applied to areas of exposed soil caused by fireline construction.

**(o) Animal Grazing.** STATE shall not be required herein to exclude livestock owned by third parties from the Property provided, however, that STATE, in its sole and absolute discretion, may, but shall not be obligated to, construct, maintain, repair, and replace fences for the purpose of excluding livestock from all or any portion of the Property. The STATE reserves the right to allow livestock grazing on the Property.

**(p) Plant Gathering.** STATE reserves the right to allow collection of native plants, historically collected by Native Americans and other ethnic groups, for traditional purposes, provided such collection, individually or cumulatively, does not significantly impair the Conservation Values.

**10. Responsibility for Operations.** Nothing in this Conservation Easement shall be

construed as giving any right or ability to Grantee to exercise physical or managerial control of the day-to-day operations of the Property or of STATE's activities on the Property. STATE shall have and retain all responsibility for, the ownership of the Property, and, in connection with STATE's use or occupancy of the Property, compliance with any present and future applicable laws, ordinances, rules, regulations, permits, authorizations, orders and requirements, whether or not in the current contemplation of the parties, which may affect or be applicable to the Property or any part of the Property (including, without limitation, any subsurface area), all consents or approvals required to be obtained from, and all rules and regulations of, and all building and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, authorities, board of officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions, having or acquiring jurisdiction of the Property (in each case, an "**Applicable Law**" and, collectively "**Applicable Laws**"), except as expressly stated otherwise in this Conservation Easement. Without placing any limitation on the foregoing sentence, the parties agree as follows:

(a) **Condition of Property.** Grantee shall have no duty or responsibility for (i) the operation or maintenance of the Property except to the extent specifically undertaken by Grantee as permitted under this Conservation Easement, (ii) the monitoring of any hazardous conditions thereon, or (iii) the protection of STATE, the public, or any other person or entity from any risks relating to conditions on the Property, except to the extent that the risks involved are the result of the activities of Grantee or Grantee's Representatives on the Property.

(b) **Taxes.** Grantee shall have no duty or responsibility for real property taxes and assessments levied by competent authority on the Property.

(c) **Permits and Approvals.** STATE shall be solely responsible for obtaining any and all applicable governmental permits and approvals for, and otherwise complying with all Applicable Laws relating to, any activity or use of the Property by STATE which is permitted by this Conservation Easement; provided, however, STATE shall have no responsibility pursuant to this Conservation Easement for obtaining permits and approvals required on behalf of unrelated third parties who use the Property. Grantee shall be solely responsible for obtaining any and all applicable governmental permits and approvals for, and otherwise complying with all Applicable Laws relating to, any activity on or use of the Property by Grantee which is permitted by this Conservation Easement.

(d) **No Owner or Operator Liability.** The parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Grantee any of the following solely as the result of being a passive holder of the Conservation Easement:

(i) The obligations or liability of an "owner" or "operator" or "arranger," as those terms are defined and used in Environmental Requirements, including, but not limited to, CERCLA;

(ii) The obligations or liabilities of a person described in 42 U.S.C. section 9607(a)(3) or (4);

- (iii) The obligations of a responsible person under any applicable Environmental Requirements (as defined below);
- (iv) The obligation to investigate and remediate any Hazardous Substances associated with the Property; or
- (v) Any control over STATE's ability to investigate, remove, remediate or otherwise clean up any Hazardous Substances associated with the Property.

As used in this Conservation Easement the term "**Environmental Requirements**" means all applicable present and future laws, statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, judicial, administrative and regulatory decrees, directives and judgments of all governmental agencies, departments, commissions and boards, relating to the protection of human health or safety, or regulating or relating to industrial hygiene or environmental conditions, or the protection of the environment, or pollution or contamination of the air, soil, surface water or groundwater, including, without limitation, all requirements and regulations pertaining to reporting, licensing, permitting, investigating and remediating emissions, discharges, releases or threatened releases of Hazardous Substances, whether solid, liquid or gaseous in nature, into the air, surface water, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances, whether solid, liquid or gaseous in nature. As used in this Conservation Easement, the term "**Hazardous Substances**" means any hazardous or toxic material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government under any Environmental Requirements, including, without limitation, any material or substance:

(A) now or hereafter defined as a "hazardous substance," "hazardous waste," "hazardous material," "extremely hazardous waste," "restricted hazardous waste" or "toxic substance" or words of similar import under any applicable local, state or federal law or under the regulations adopted or promulgated pursuant thereto, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.) ("CERCLA"); the Hazardous Materials Transportation Act (49 U.S.C. § 5101 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.); the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.); the Clean Air Act (42 U.S.C. § 7401 et seq.); the Clean Water Act (33 U.S.C. § 1251 et seq.); the Safe Drinking Water Act (42 U.S.C. § 300f et seq.); the River and Harbors Act of 1899 (33 U.S.C. § 401 et seq.); the National Emission Standard for Asbestos (40 C.F.R. § 61.140 et seq.); the OSHA Construction Standards (29 C.F.R. § 1926.1 et seq.); the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.); the Oil Pollution Act (33 U.S.C. § 2701 et seq.); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136 et seq.); the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.); the Atomic Energy Act of 1954, (42 U.S.C. § 2011 et seq.); the Nuclear Waste Policy Act of 1982 (42 U.S.C. § 10101 et seq.); the Medical Waste Management Act (Cal. Health & Safety Code § 117600 et seq.); the Porter-Cologne Water Quality Control Act (Cal. Water Code § 13020 et seq.); the Safe Drinking Water and

Toxic Enforcement Act of 1986 (Cal. Health & Safety Code § 25249.5 et seq.); the Carpenter-Presley-Tanner Hazardous Substance Account Act (Cal. Health & Safety Code § 25300 et seq.); the Hazardous Waste Control Act (Cal. Health & Safety Code § 25100 et seq.); and all rules and regulations of the United States or California Environmental Protection Agency or any successor agency, or any other state or federal department, board or agency, or any other agency or governmental board or entity having jurisdiction, as any of the foregoing have been, or are hereafter amended from time to time; or

(B) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous, and is now or hereafter regulated as a Hazardous Substance by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, any State of the United States or any political subdivision thereof; or which cause, or are listed by the State of California as being known to the State of California to cause, cancer or reproductive toxicity; or

(C) the presence of which on the Property poses or threatens to pose a hazard to the health or safety of persons or to the environment; or

(D) which contains gasoline, diesel fuel or other petroleum hydrocarbons; or

(E) which contains lead-based paint or other lead contamination, polychlorinated biphenyls or asbestos or asbestos-containing materials or urea formaldehyde foam insulation; or

(F) which contains radon gas.

(e) **Reporting to Grantee.** Not less frequently than annually, STATE shall make reasonable efforts to inform Grantee of the construction and/or development activities that STATE anticipates undertaking on the Property within the following twelve (12) months. In the event Grantee determines that any of the anticipated activities may violate the terms of this Conservation Easement, the parties will meet and confer regarding such activities within thirty (30) days after Grantee's written request.

**11. Express Third Party Uses.** Exhibit E hereto describes the existing third party uses of the Property permitted with the express agreement of STATE ("**Express Third Party Uses:**"). STATE 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 STATE's obligations with respect to the Express Third Party Uses, subject to the following conditions:

(a) **Increases in Intensity or Expansion of Location or Size or Change in Use.** Any (i) 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 STATE determines in STATE's reasonable discretion exercised in

good faith are likely to significantly impair the Conservation Values, shall be subject to Grantee's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed by Grantee.

(b) **Renewal or Replacement of Third Party Use Agreements.** All Third Party Use Agreements existing on the date hereof are identified on Exhibit E. As Third Party Use Agreements are renewed or replaced (either with the existing user or a new user), STATE, in consultation with the Grantee, 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.

(c) **Enforcement of Third Party Use Agreements.** If STATE or Grantee discovers any default under a Third Party Use Agreement that significantly impairs the Conservation Values (and if Grantee makes such discovery, Grantee gives STATE written notice thereof), subject to the provisions of **Section 12(d)** below, STATE shall use reasonable efforts to stop or prevent such violation. The Parties acknowledge and agree that any form of legal action by STATE shall be subject to authorization by the California Attorney General.

## 12. Enforcement and Remedies.

(a) **Notice of Violation.** If a party hereto ("Non-Breaching Party") determines there is a violation of the terms of this Conservation Easement or that a violation is threatened ("Violation"), written notice of such Violation ("Violation Notice") and a demand for corrective action sufficient to cure the Violation shall be given by the Non-Breaching Party to the party allegedly violating this Conservation Easement ("Breaching Party"). Within thirty (30) days after delivery of a Violation Notice, STATE and Grantee shall meet at a location that STATE and Grantee agree upon to discuss the circumstances of the alleged or threatened Violation and to attempt to agree on appropriate corrective action. If the parties determine that it is appropriate and desirable, a duly qualified expert in the subject matter of the alleged or threatened Violation ("Consulting Expert") shall attend the meeting. STATE and Grantee shall each pay one-half of the costs of retaining the services of the Consulting Expert for such discussion; provided, however, that if STATE and Grantee are unable to agree upon a Consulting Expert, each party may retain the services of an expert at its own expense. If STATE and Grantee are unable to agree on appropriate corrective action (or if any such corrective action is required) within thirty (30) days after such meeting, then the Non-Breaching Party shall deliver a further written notice to the Breaching Party to demand reasonable, particular corrective action to cure the Violation ("Second Notice"). Upon the giving of a Second Notice, the Breaching Party shall promptly commence, and thereafter diligently pursue to completion, corrective action sufficient to cure the Violation and, where the Violation involves injury to the Property resulting from any use or activity that conflicts with the Conservation Values or the Conservation Purpose, to restore the portion of the Property so injured. If a Violation is not cured within thirty (30) days after the delivery of the Second Notice ("Final Cure Period"), or if the cure reasonably requires more than thirty (30) days to complete and there is failure to begin the cure or failure to continue diligently to complete the cure within the thirty (30) day period, the parties may elect to proceed with the Legal Remedies as provided in **Section 12(b)**.

(b) **Legal Remedies.** If the parties are not able to settle the claim or dispute

through consultation pursuant to **Section 12(a)** above, following exhaustion of all requisite administrative remedies, if any, the parties may, pursuant to California Civil Code section 815.7, bring an action at law or in equity in a court of competent jurisdiction to seek injunctive relief and/or money damages to enforce the terms of this Conservation Easement. If any party hereto determines that the circumstances require immediate action to prevent or mitigate unreasonable damage to the Conservation Values from a Violation, then that party may pursue its remedies under this **Section 12(b)** without first complying with **Section 12(a)** above.

(c) **Enforcement Discretion.** Enforcement of the terms of this Conservation Easement shall be at the respective discretion of Grantee and STATE and any forbearance to exercise rights of enforcement under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any rights under this Conservation Easement. No delay or omission in the exercise of any right or remedy upon any breach shall impair such right or remedy or be construed as a waiver.

(d) **Subject to Appropriation.** The parties hereto agree and acknowledge that any expenditures of money that may be required by the STATE under this Conservation Easement shall be contingent on the appropriation of funds by the Legislature for the specific purpose of STATE complying with its obligations in this Conservation Easement. Any delay or failure of the STATE to perform and comply with its obligations in this Conservation Easement due to funds not being appropriated or being terminated by the Legislature shall not be considered a breach or default of the terms of this Conservation Easement, and STATE shall not be liable in any way due to delay or failure to perform under the terms of this Conservation Easement, including undertaking corrective action and/or restorative action, as a result of the funds not being appropriated or being terminated by the Legislature. Notwithstanding, STATE agrees to make diligent efforts to obtain the necessary budget appropriations in amounts reasonably calculated to support the fulfillment of its obligations under this Conservation Easement as expeditiously as possible. This section only applies to the STATE. Notwithstanding the above, Grantee shall not be responsible for (i) fulfilling any of the STATE's obligations that are required by this Conservation Easement, or (ii) expending funds in order to fulfill the STATE's obligations that are required by this Conservation Easement.

### 13. Indemnification.

(a) **Indemnification of STATE by Grantee.** Other than violation or breach of the terms of this Conservation Easement by STATE Grantee waives all claims against STATE, its agencies, departments, boards, commissions, officers, agents, and employees (collectively "**Indemnitees**"), for loss or damage caused by, arising out of, or in any way connected with the Grantee's exercise of this Conservation Easement. Grantee shall protect, indemnify, and hold Indemnitees harmless and defend Indemnitees, with counsel selected by Indemnitees, from and against any suits, actions, judgments, legal or administrative proceedings, arbitrations, claims, demands, causes of action, damages, liabilities, interest, reasonable attorneys' fees, fines, penalties, losses, costs and expenses of whatsoever kind or nature, arising out of, in connection with or incidental to any injury to or the death of any person, or damage to any property arising out of, caused by, or resulting from (in whole or in part) the negligence or willful misconduct of Grantee and/or Grantee's Representatives and their respective employees,

agents and subcontractors on the Property in connection with Grantee's exercise of this Conservation Easement. Grantee's duty to defend the Indemnitees is separate from, independent of and free-standing of Grantee's duty to indemnify the Indemnitees and applies whether the issue of either parties negligence, breach of contract or other fault or obligations has in any way been determined. Grantee's indemnity obligations under this Agreement shall not extend to that portion of such loss or damage that shall have been caused by any of the Indemnitees' comparative negligence or willful misconduct. The indemnity set forth in this section shall survive any termination of this Conservation Easement until such time as action against the Indemnitees on account of any matter covered by this indemnity is barred by the applicable statute of limitations.

Grantee shall, further, cause such indemnification in favor of the Indemnitees to be inserted in each contract and/or agreement for the provision of services to Grantee on the Property or entry onto the Property by Grantee's Representatives. Grantee's failure to comply with this indemnification provision shall be considered a material breach of this Conservation Easement, however such breach shall not impair the perpetual nature of this Conservation Easement.

The provisions of this **Section 13(a)** shall be inoperative at any time, and for so long as, the fee interest in the Property is owned by an entity other than the STATE, and the indemnification provisions of **Sections 13(b) and 13(e)** shall instead be operative and binding on such successor fee interest owner ("Grantor"); provided, any obligation of Grantee to STATE arising prior to such transfer of the fee interest in the Property from STATE to a non-STATE entity shall survive the transfer.

(b) **Indemnification by Grantor other than the STATE.** Grantor shall hold harmless, indemnify, and defend Grantee and its directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (each a "**Grantee Indemnified Party**" and collectively, the "**Grantee Indemnified Parties**"), from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' fees and experts' fees), causes of action, claims, demands, orders, liens or judgments (each a "**Claim**" and, collectively, "**Claims**"), arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, including but not limited to any such act, omission, condition or other matter occurring in connection with the presence of the general public on the Property, regardless of cause, unless due to the negligence or willful misconduct of any of the Grantee Indemnified Parties while acting upon the authority of Grantee; or (b) Grantor's obligations specified in this Conservation Easement; or (c) a breach of any of Grantor's representations or warranties made in this Conservation Easement; or (d) any violation of, or other failure to comply with, any state, federal or local law, regulation or requirement related to the Property, by Grantor, or any entity other than a Grantee Indemnified Party acting upon the authority of Grantee, in any way affecting, involving or relating to the Property; or (e) any Hazardous Substances or underground storage tanks present, alleged to be present, released in, from or about, or otherwise associated with the Property at any time, except with respect to any Hazardous Substances placed, disposed or released by a Grantee Indemnified Party acting upon the authority of Grantee, including Claims for injury to or death of any person or physical damage to any Property and for the violation or alleged violation of, or other failure to comply with, any Environmental

Requirement. If any action or proceeding is brought against any Grantee Indemnified Party by reason of any such Claim, Grantor shall, at the election of and upon written notice from the applicable Grantee Indemnified Party, defend such action or proceeding by counsel reasonably acceptable to the Grantee Indemnified Party.

**(c) Indemnification by Grantee to Grantor other than the STATE.**

Grantee shall hold harmless, indemnify, and defend Grantor and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (each a Grantor Indemnified Party and, collectively, the "**Grantor Indemnified Parties**"), from and against any and all Claims arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, occurring on or about the Property, resulting from the negligence of any Grantee Indemnified Party, while acting on behalf of Grantee; or (b) Grantee's obligations specified in this Conservation Easement; or (c) any violation of, or other failure to comply with, any state, federal or local law, regulation or requirement, by any Grantee Indemnified Party while acting on behalf of Grantee in any way affecting, involving or relating to the Property. If any action or proceeding is brought against any Grantor Indemnified Party by reason of any such Claim, Grantee shall, at the election of and upon written notice from the applicable Grantor Indemnified Party, defend such action or proceeding by counsel reasonably acceptable to the Grantor Indemnified Party.

**14. Insurance.** Prior to Grantee's or Grantee's Representatives' initial entry onto the Property, and thereafter at least thirty (30) days prior to the expiration date of any policy, Grantee and Grantee's Representatives shall each, at their own expense, provide STATE evidence of insurance as follows:

**(a) Commercial General Liability.** Grantee and Grantee's Representatives shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage liability. The policy must include coverage for liabilities arising out of premises operations, independent contractors, products/completed operations, personal & advertising injury and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Grantee and/or Grantee's Representatives limit of liability. The policy must include: Department of Forestry and Fire Protection, State of California, its officers, agents and employees as additional insureds. This endorsement must be supplied under form acceptable to DGS' Office of Risk and Insurance Management.

**(b) Automobile Liability.** Grantee and Grantee's Representatives shall maintain motor vehicle liability with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. The same additional insured designation and endorsement required for general liability is to be provided for this coverage.

**(c) Workers' Compensation and Employers' Liability.** Grantee and Grantee's Representatives shall maintain statutory workers' compensation and employers' liability for all employees who will be engaged in the performance of any activities and/or work related to the Property as authorized under this Conservation Easement. Employers' liability

limits of \$1,000,000 are required. Workers' compensation policy shall contain a waiver of subrogation endorsement in favor of the STATE.

At any time, and for so long as, the fee interest in the Property is owned by an entity other than the STATE, such successor Grantor shall maintain a commercially available general liability policy, or self-insurance, insuring against bodily injury and property damage on the Property in the amount of not less than \$1,000,000 per occurrence \$2,000,000 in aggregate. Grantee shall be named an additional insured on any policy. For any claim covered by the indemnification in **Section 13(b)** above, the liability insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to Grantee with respect to Grantee's entries onto the Property pursuant to the Conservation Easement. Grantor waives all rights of subrogation against the Grantee Indemnified Parties for recovery of damages to the extent these damages are covered by insurance maintained pursuant to this Conservation Easement. Grantor shall furnish Grantee with certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. Any failure of Grantee to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Grantee to identify a deficiency from evidence that is provided shall not be construed as a waiver of Grantor's obligation to maintain such insurance.

## 15. Grantee Assignment of Conservation Easement.

(a) **Voluntary Assignment.** In the event that Grantee decides to assign its interest under this Conservation Easement, Grantee shall only assign such interest to an organization that is: (1) qualified to hold a conservation easement under Section 815.3 of the California Civil Code; (2) experienced in holding and monitoring conservation easements on properties similar to the Property; and (3) willing and financially able to assume all of the responsibilities imposed on Grantee under this Conservation Easement. Before assigning its interest under this Conservation Easement, Grantee shall provide STATE and the Sierra Nevada Conservancy ("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 set forth in this section. Grantee shall allow SNC, with the consent of STATE, a period of not less than sixty (60) days to approve the proposed assignee, which consent shall not be unreasonably withheld and shall be based on whether the proposed assignee meets the designation criteria specified in this section. If SNC does not approve the proposed assignee, SNC shall provide Grantee with the reasons behind such decision. Notwithstanding, any approved assignment by Grantee of this Conservation Easement to an approved assignee shall not relieve Grantee from any obligations hereunder arising prior to the date of the assignment.

(b) **Involuntary Assignment.** If Grantee ever ceases to exist or no longer qualifies under applicable state law to hold a conservation easement interest, then SNC shall, with the consent of STATE, select an assignee that meets all the designation criteria specified in **Section 15(a)** above. If SNC is unable to identify an assignee that meets all the designation criteria specified in **Section 15(a)** above that is willing to accept such assignment, then SNC shall petition a court of competent jurisdiction to effect a transfer of the Conservation Easement to an organization that meets each of the qualifications criteria in **Subsection 15(a)**.

Notwithstanding the foregoing, SNC may elect to serve as such assignee but only on a temporary basis until a permanent assignee can be identified by SNC and/or such transfer is effectuated by a court of competent jurisdiction.

(c) **Conditions of Assignment.** As conditions to any assignment of this Conservation Easement: (1) the assignee shall expressly agree in writing to assume Grantee's obligations hereunder; (2) the assignee shall have the resources to fulfill its obligations under the Conservation Easement; and (3) Grantee shall not be relieved from any obligations under the Conservation Easement arising prior to the date of the assignment.

(d) **Successor to SNC.** Upon any liquidation or dissolution of SNC, SNC or STATE shall have the right to assign SNC's rights and obligations under this **Section 15** 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.

(e) **Recording.** Pursuant to California Civil Code section 815.5, any instrument assigning or otherwise transferring this Conservation Easement shall be recorded in the Official Records of the Counties.

## **16. Subsequent Property Transfers.**

(a) STATE shall disclose the existence of this Conservation Easement in any deed or other legal instrument by which STATE divests itself of a real property interest in all or a portion of the Property, including, without limitation, a leasehold interest. STATE shall notify Grantee in writing not more than thirty (30) days after any grant by STATE to any third party of any interest in any portion of the Property, whether such interest is a fee, easement, lease, or other interest. The failure of STATE to perform any act required by this **Section 16** shall not impair the validity of this Conservation Easement or limit its enforcement in any way or create any obligation on the part of Grantee.

(b) **Release of Fee Title and Demonstration State Forest Status.** In the event that STATE transfers fee title to an unaffiliated third-party not qualified to own and manage a Demonstration State Forest, STATE shall release, relinquish and forever terminate, in a manner that shall be binding upon all successors in interest to the Property, all rights of STATE described in **Sections 6(a), 6(b), and 6(c).**

## **17. Extinguishment and Condemnation.**

(a) **Judicial Extinguishment.** If circumstances arise in the future that render the Conservation Purpose impossible or impracticable to accomplish, this Conservation Easement can be terminated or extinguished, whether in whole or in part, only by judicial proceedings in a court of competent jurisdiction, and the amount of the compensation to which Grantee shall be entitled from any sale, exchange, or involuntary conversion of all or any portion of the Property after such termination or extinguishment, shall be determined, unless otherwise provided by California law at the time, in accordance with **Section 17(c).** Grantee must use any proceeds received under the circumstances described in this section in a manner consistent with

the Conservation Purposes, which are exemplified and articulated by the Conservation Easement and contemporaneously prepared exhibits to it and other documentation.

(b) **Condemnation.** If all or any part of the Property is taken by exercise of eminent domain, or acquired by purchase in lieu of condemnation, so as to terminate this Conservation Easement in whole or in part, STATE and Grantee may join in appropriate actions to recover the full value of their respective interests in the Property so taken or purchased, and all direct or incidental resulting damages. All expenses reasonably incurred by the STATE and Grantee in any such action shall be first reimbursed out of the recovered proceeds; the remainder of such proceeds shall be divided between STATE and Grantee in proportion to their respective interests in the Property, or portion thereof, as established by **Section 17(c)**.

(c) **Valuation.** In accordance with California Civil Code section 815.2, STATE and Grantee acknowledge and agree that this Conservation Easement shall not be deemed personal in nature and shall constitute a real property interest in the Property vested in Grantee upon recording notwithstanding that this Conservation Easement is an obligation, and not a financial asset. For the purpose of **Sections 17(a) and 17(b)**, fair market value of the Conservation Easement shall be determined as of the time of the extinguishment or termination by an appraisal set forth in a written report prepared and signed by an appropriately licensed or certified real estate appraiser in good standing pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code and its implementing regulations, Title 10 Section 3701 of the California Code of Regulations, the California Department of General Services Appraisal Specifications, and shall conform to the Uniform Standards of Professional Appraisal Practice. STATE and Grantee shall mutually agree on the appraiser and shall share equally in the costs of preparing the appraisal report. The fair market value as set forth in the appraisal report is subject to the approval of the California Department of General Services.

(d) **No Merger.** Due to the Conservation Purpose of the Conservation Easement, it is the intent of STATE and Grantee that notwithstanding the provisions of Civil Code Section 811, any time the fee title to all or any portion of the Property is vested in an entity, including STATE, which also holds this Conservation Easement, the interest in the Conservation Easement shall not merge into the fee title (whether by operation of law or otherwise), and the Conservation Easement shall remain in full force and effect as to all portions of the Property, until and unless explicitly terminated by judicial proceedings (and then, only to the extent so terminated).

**18. Notices.** Any notice or other communication required or permitted under this Conservation Easement shall be in writing and shall be either personally delivered or transmitted by registered or certified mail, return receipt requested, postage prepaid, or by a nationally recognized overnight courier, such as FedEx or Airborne Express, addressed to the parties as follows:

**If to STATE:**

California Department of Forestry and Fire Protection  
PO Box 944246  
Sacramento, CA 94244  
Attn: State Forests Program Manager

With a copy to:

Department of General Services  
707 Third Street, 5<sup>th</sup> Floor (MS 505)  
West Sacramento, CA 95605  
Attn: RESD/RPSS--Acquisitions Unit

**If to Grantee:**

Bear Yuba Land Trust  
Attn: Executive Director  
PO Box 1004  
Grass Valley, CA 95945

**If to Sierra Nevada Conservancy:**

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

The date of any notice or communication shall be deemed to be the date of receipt if delivered personally, or the date of the receipt or refusal of delivery if transmitted by mail or overnight courier. Any party may change the address for notice by giving notice to the other party in accordance with this **Section 18**.

**19. Amendment.** This Conservation Easement may be amended by STATE and Grantee or their respective successors and assigns, by mutual written agreement of STATE and Grantee. STATE and Grantee shall have no right to amend **Sections 2 or 3** hereof without the written consent of PG&E in its sole and absolute discretion. The parties agree to mutually cooperate in good faith to accomplish future amendments, to the extent such amendments are deemed necessary to clarify or correct the terms of this Conservation Easement and do not significantly impair the Conservation Values. Any such amendment shall be consistent with the Conservation Purpose of this Conservation Easement and shall not affect its perpetual duration, and Grantee shall promptly record the amendment in the official records of the Counties, and shall thereafter promptly provide a conformed copy of the recorded amendment to STATE.

Notwithstanding the foregoing, STATE and Grantee have no right or power to consent to any action or agree to any amendment of this Conservation Easement that would result in significant impairment of the Conservation Values or limit the term or result in

termination of the Conservation Easement, or adversely affect the qualification of the Conservation Easement as a conservation easement under California Civil Code section 815 et seq. or the status of Grantee as an entity authorized to acquire and hold conservation easements under California Civil Code section 815.3. Any amendment to this Conservation Easement shall comply with Grantee's Conservation Easement Amendment Policy, with California Civil Code section 815 et seq., and with other Applicable Laws.

## 20. General Provisions.

(a) **Governing Law.** This Conservation Easement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

(b) **No Public Dedication.** Nothing contained in this Conservation Easement shall be deemed to be a gift or dedication of any portion of the Property to the general public.

(c) **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of Grantee to effect the purposes of this Conservation Easement and the policy and purpose of California Civil Code section 815 et seq. If any provision in this Conservation Easement is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement which recognizes the PG&E Reserved Rights and the PG&E Easement Reserved Rights (as defined in **Sections 2 and 3 above**), and STATE's Reserved Rights and that would render the provision valid shall be favored over any interpretation that would render it invalid.

(d) **Further Assurances.** Each party hereto agrees to execute and deliver to the other party such further documents or instruments as may be necessary or appropriate in order to carry out the intentions of the parties as contained in this Conservation Easement.

(e) **Severability.** If any provision of this Conservation Easement shall be unenforceable or invalid, the same shall not affect the remaining provisions of this Conservation Easement and to this end the provisions of this Conservation Easement are intended to be and shall be severable.

(f) **Entire Agreement.** This Conservation Easement sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement all of which are merged herein.

(g) **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of STATE's title in any respect.

(h) **Successors.** The Conservation Easement shall be a servitude running with the land in perpetuity. The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns and shall continue as a servitude running with the Property.

(i) **Recordation.** Grantee shall promptly record this Conservation Easement in the official records of the Counties, and shall thereafter promptly provide a conformed copy of

the recorded Conservation Easement to STATE. Grantee may re-record at any time as may be required to preserve its rights in this Conservation Easement.

(j) **Termination of Rights and Obligations.** Except as otherwise stated herein, a party's rights and obligations under this Conservation Easement shall terminate only upon transfer of the party's interest in all or portions of either the Conservation Easement or the Property, except that liability for acts or omissions occurring prior to transfer shall survive the transfer.

(k) **Captions.** The captions in this Conservation Easement have been inserted solely for convenience of reference and are not a part of this Conservation Easement and shall have no effect upon construction or interpretation.

(l) **List of Exhibits.** The following exhibits are attached hereto and incorporated herein:

<u>Exhibit A</u>	Legal Description of the Property
<u>Exhibit B</u>	Property Maps
<u>Exhibit C</u>	Form of Grant Deed
<u>Exhibit D</u>	Copy of Utility Facility Access, Operation and Maintenance Easement
<u>Exhibit E</u>	Schedule of Express Third-Party Uses and Third Party Use Agreements

(m) **Counterparts.** This Conservation Easement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

*//signatures follow on next page//*

IN WITNESS WHEREOF, STATE has granted to Grantee, and Grantee has accepted this Conservation Easement and the parties mutually agree to the covenants set forth above, as of the Effective Date.

**STATE:**

**AUTHORIZED PER GOVERNMENT CODE §14666**

STATE OF CALIFORNIA  
Department of General Services

By: \_\_\_\_\_  
Michael P. Butler, Chief  
Real Property Services Section

Dated: \_\_\_\_\_

**APPROVAL PER GOVERNMENT CODE §14666**

STATE OF CALIFORNIA  
Department of Forestry and Fire Protection

By: \_\_\_\_\_  
[REDACTED], [REDACTED]

Dated: \_\_\_\_\_

**GRANTEE:**

BEAR YUBA LAND TRUST,  
a California nonprofit public benefit corporation

By: \_\_\_\_\_  
[REDACTED], [REDACTED]

Dated: \_\_\_\_\_

**ACCEPTANCE OF CONDITIONAL RIGHT OF ENFORCEMENT**

**The Sierra Nevada Conservancy, a subdivision of the California Natural Resources Agency, hereby acknowledges and accepts the conditional enforcement rights set forth in Section 15 hereof.**

By: \_\_\_\_\_  
Angela Avery, Executive Officer

Dated: \_\_\_\_\_

[Need Notary Acknowledgement to record]

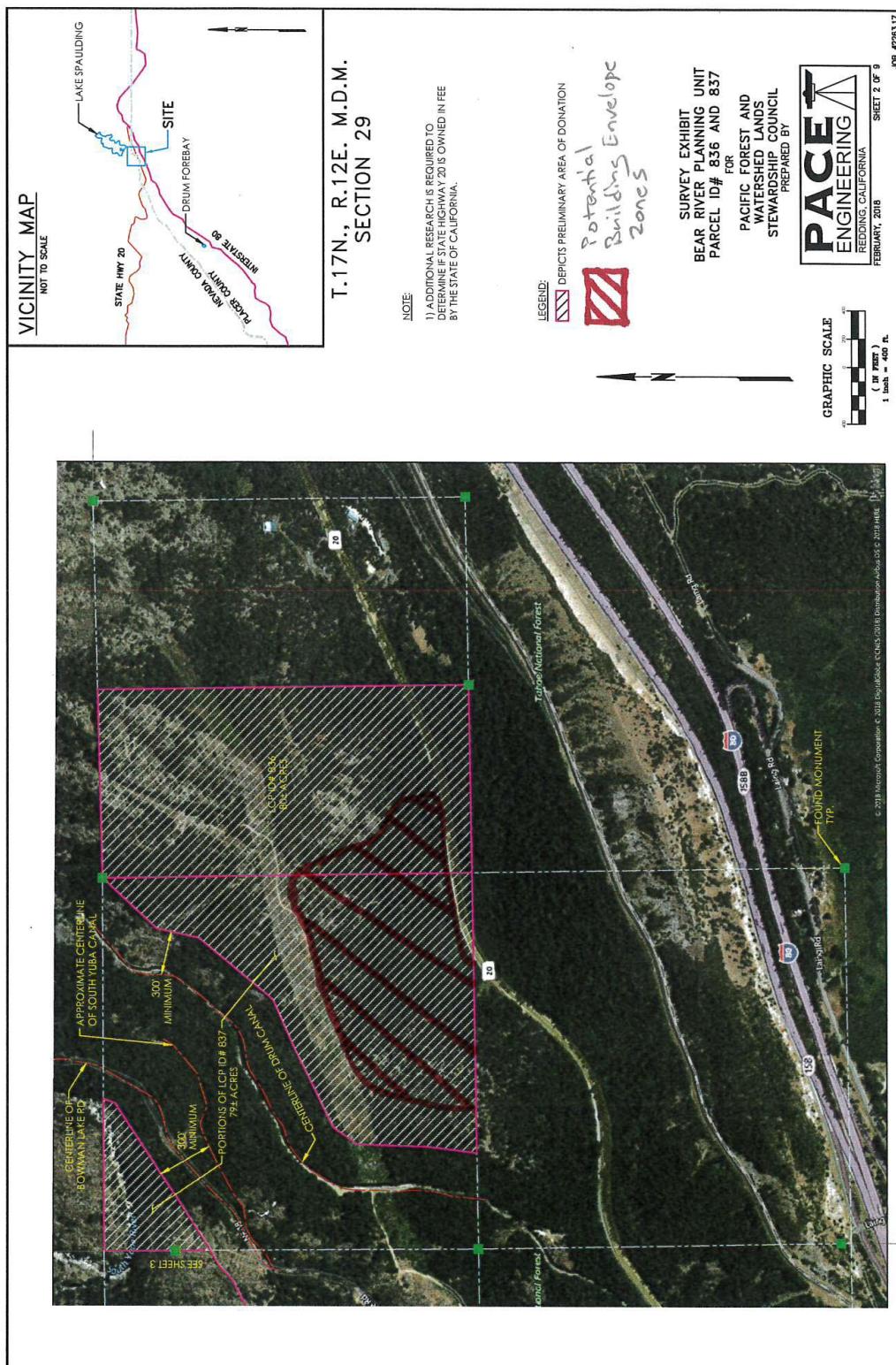
**EXHIBIT A**

Legal Description of the Property

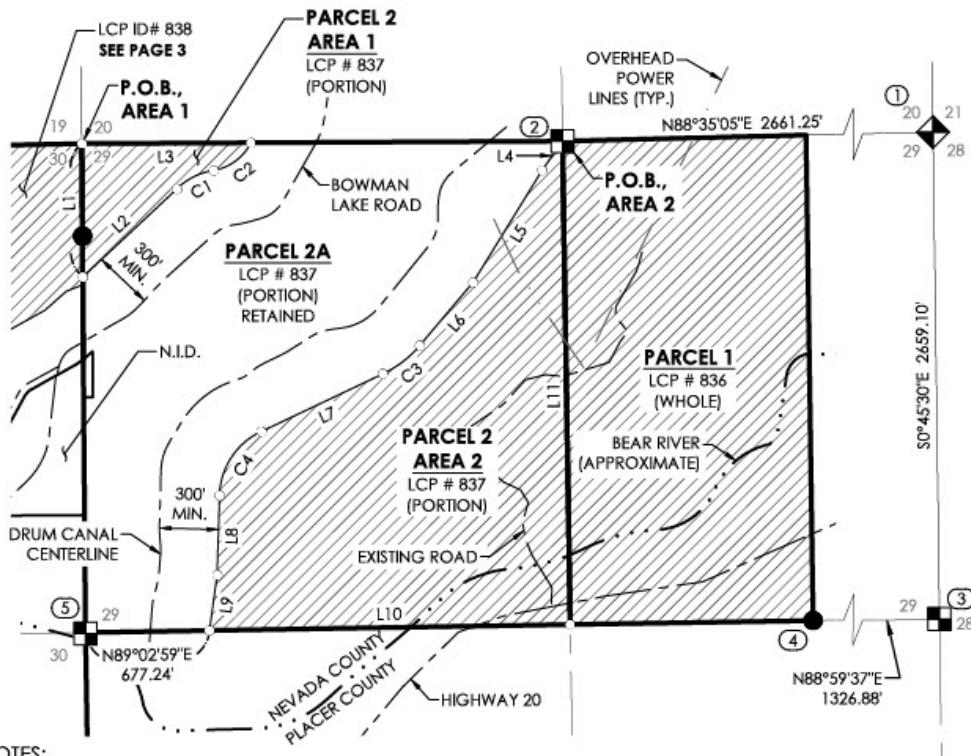
[Attached Behind this Page]

## **EXHIBIT B**

## Property Maps



T.17N., R.12E., M.D.M., SECTION 29



## LEGEND/ABBREVIATIONS

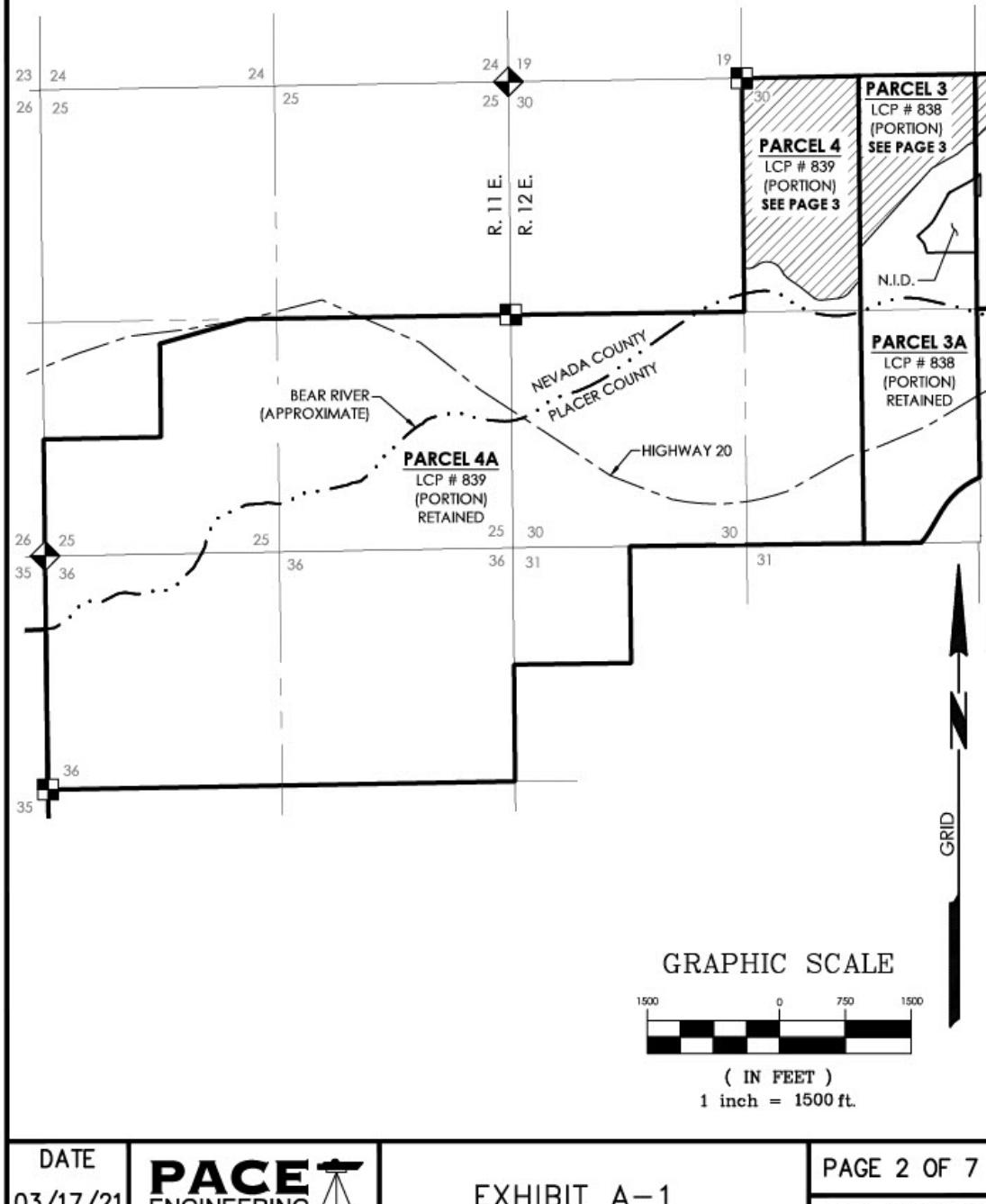
	DONATED LANDS	P.O.B.	POINT OF BEGINNING
○	DIMENSION POINT	P.O.C.	POINT OF COMMENCEMENT
●	FOUND MONUMENT	P.O.T.	POINT OF TERMINATION
◆	FOUND SECTION CORNER	T.P.O.B.	TRUE POINT OF BEGINNING
■	FOUND QUARTER CORNER	TYP.	TYPICAL
#	FOUND MONUMENT NUMBER, AS DEPICTED IN MONUMENT TABLE (SEE PAGE 7)		
N.I.D.	NEVADA IRRIGATION DISTRICT CONVEYANCE (NOT A PART)		

## GRAPHIC SCALE

( IN FEET )  
1 inch = 800 ft.

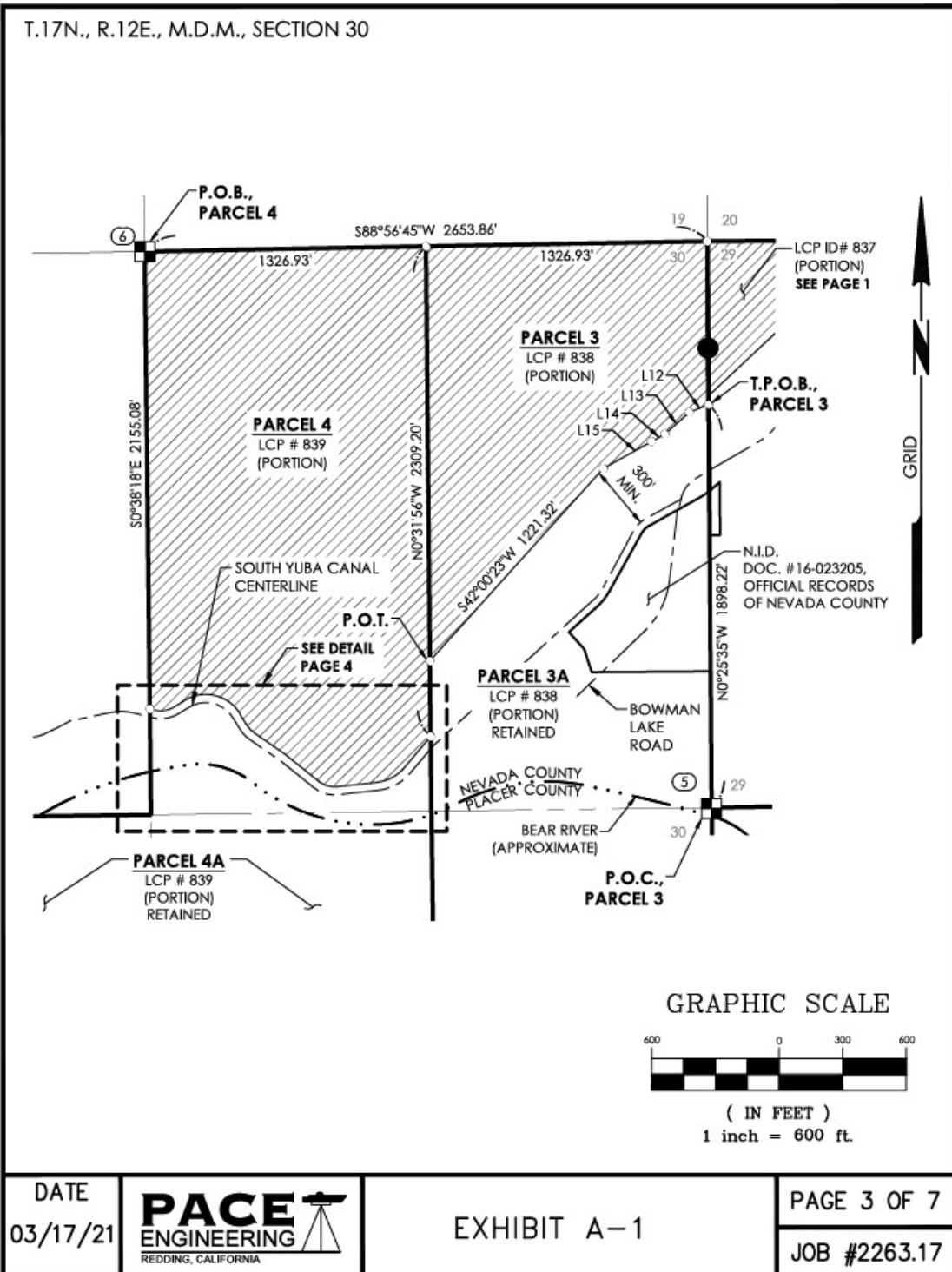
DATE 03/17/21	<b>PACE</b> ENGINEERING REDDING, CALIFORNIA	EXHIBIT A-1	PAGE 1 OF 7 JOB #2263.17
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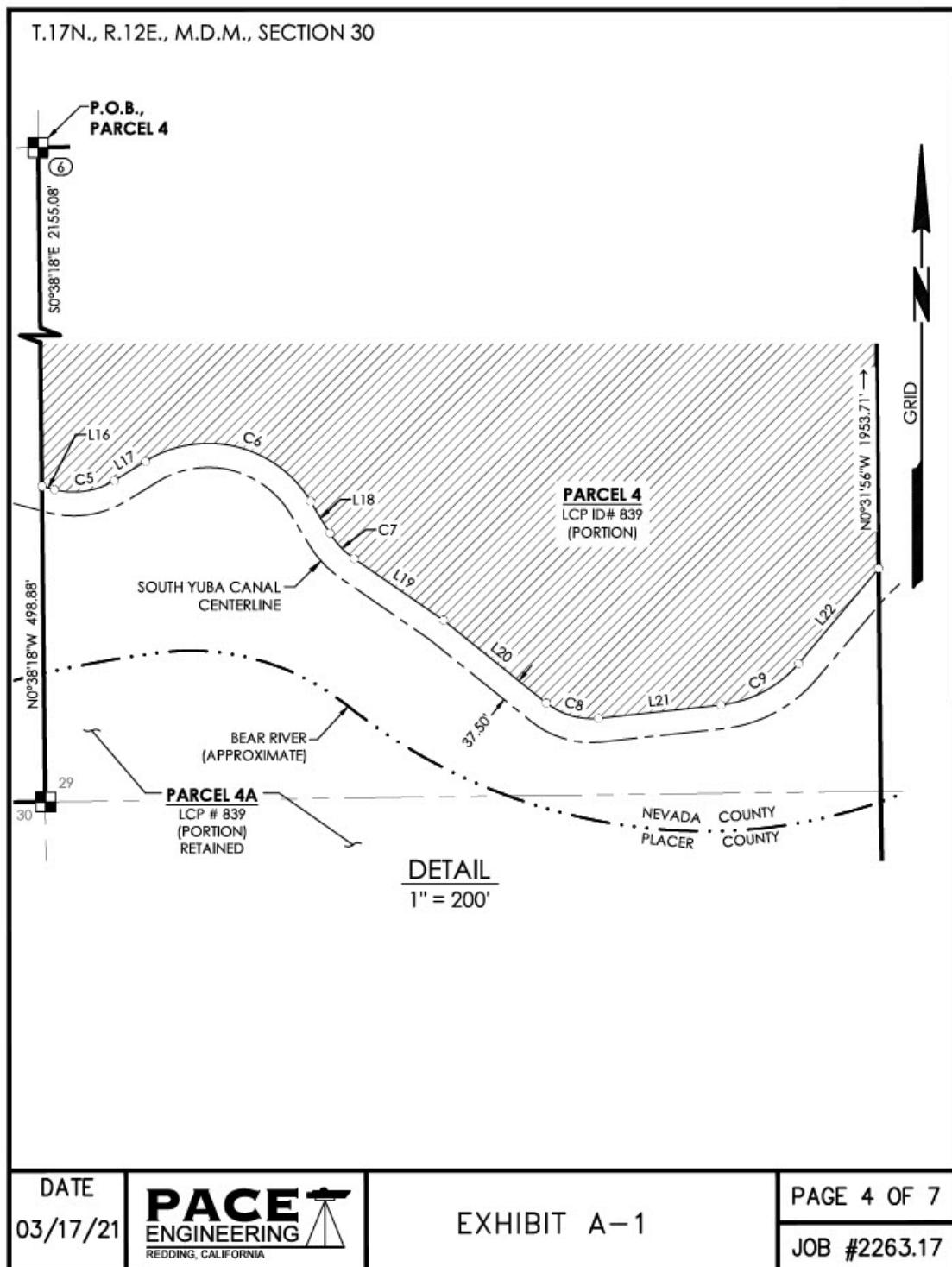
T.17N., R.11E., M.D.M., SECTIONS 25 & 36  
T.17N., R.12E., M.D.M., SECTIONS 30 & 31



DATE 03/17/21	<b>PACE</b> ENGINEERING REDDING, CALIFORNIA	EXHIBIT A-1	PAGE 2 OF 7 JOB #2263.17
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T.17N., R.12E., M.D.M., SECTION 30





**EXHIBIT C**

Form of Grant Deed

[Attached Behind this Page]

**EXHIBIT D**

Copy of Utility Facility Access, Operation and Maintenance Easement

[Attached Behind this Page]

**EXHIBIT E**

## Express Third-Party Uses and Third Party Use Agreements

## 1. Express Third Party Uses

The Express Third Party Uses on the Property are all uses permitted by and pursuant to the Third Party Use Agreements.

## 2. Third Party Use Agreements

The Third Party Use Agreements on the Property are those agreements and rights disclosed by the following:

A. AN EASEMENT OVER SAID LAND FOR PUBLIC HIGHWAY PURPOSES AND INCIDENTAL PURPOSES, AS GRANTED TO STATE OF CALIFORNIA, IN DEED DATED SEPTEMBER 12, 1935, RECORDED DECEMBER 14, 1935 IN BOOK 346 PAGE 244, PLACER COUNTY RECORDS.P G & E 2117-12-0055

AFFECTS: A.P.N. 64-320-02, 08, 10 AND 066-010-004, 005, 084, 085 WITH OTHER PROPERTY

B. AN EASEMENT OVER SAID LAND FOR PUBLIC HIGHWAY PURPOSES AND INCIDENTAL PURPOSES, AS GRANTED TO COUNTY OF PLACER, IN DEED RECORDED DECEMBER 07, 1951, BOOK 599, PAGE 395, PLACER COUNTY RECORDS.

AFFECTS: A.P.N. 064-320-02

C. AN UNRECORDED EASEMENT OVER SAID LAND FOR THE CONSTRUCTION AND MAINTENANCE OF COMMUNICATION FACILITIES AND INCIDENTAL PURPOSES, AS GRANTED TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CALIFORNIA CORPORATION, IN DEED DATED JULY 17, 1961, AS DISCLOSED BY INFORMATION PROVIDED TO THIS COMPANY.P G & E 2117-12-0047

AFFECTS: A.P.N. 066-010-84 & 85 AND 064-320-02

D. AN EASEMENT OVER SAID LAND TO CONSTRUCT, MAINTAIN AND USE A ROAD AND INCIDENTAL PURPOSES, AS GRANTED TO DONALD L. HOAGLAND, ET UX., IN DEED RECORDED MAY 11, 1965, BOOK 379, PAGE 419, NEVADA COUNTY RECORDS.P G & E 2117-11-0002

AFFECTS: A.P.N. 64-320-02

E. AN EASEMENT OVER SAID LAND FOR CONSTRUCTION, RECONSTRUCTION, MAINTENANCE AND FULL, FREE AND QUIET USE AND ENJOYMENT OF A ROAD AND INCIDENTAL PURPOSES, AS GRANTED TO UNITED STATES OF AMERICA, IN DEED RECORDED DECEMBER 15, 1965, BOOK 392, PAGE 328, NEVADA COUNTY RECORDS.P G & E 2117-12-0004

AFFECTS: A.P.N. 64-320-02 & 08 AND 66-010-85, 84, 04 & 05

F. AN EASEMENT OVER SAID LAND TO MAINTAIN AND USE EXISTING ROAD AND INCIDENTAL PURPOSES, AS GRANTED TO MELVIN F. BELYEA, ET UX, IN DEED RECORDED APRIL 10, 1968, BOOK 444, PAGE 383, NEVADA COUNTY RECORDS.P G & E 2117-12-0193

AFFECTS: A.P.N. 66-010-84 & 85 AND 64-320-02

G. AN EASEMENT OVER SAID LAND TO MAINTAIN AND USE EXISTING ROAD AND INCIDENTAL PURPOSES, AS GRANTED TO CHRIS BUSATH, IN DEED RECORDED SEPTEMBER 08, 1968, BOOK 485, PAGE 559, NEVADA COUNTY RECORDS.

AFFECTS: A.P.N. 64-320-02, 66-010-84 & 85

H. AN EASEMENT OVER SAID LAND FOR TO MAINTAIN AND USE EXISTING ROAD AND INCIDENTAL PURPOSES, AS GRANTED TO LESLIE O. ADAMS, IN DEED RECORDED NOVEMBER 10, 1969, BOOK 493, PAGE 654, NEVADA COUNTY RECORDS.P G & E 2117-12-0226

AFFECTS: A.P.N. 64-320-02, 66-010-84 & 85

I. AN EASEMENT OVER SAID LAND TO MAINTAIN AND USE EXISTING ROAD AND INCIDENTAL PURPOSES, AS GRANTED TO JOSEPH A. YOUNG, IN DEED RECORDED NOVEMBER 10, 1969, BOOK 493, PAGE 658, NEVADA COUNTY RECORDS.P G & E 2117-12-0227

AFFECTS: A.P.N. 64-320-02, 66-010-84 & 85

J. AN EASEMENT OVER SAID LAND FOR ROAD AND PUBLIC UTILITIES AND INCIDENTAL PURPOSES, AS GRANTED TO JOHN L. WILCOX, ET AL., IN DEED RECORDED OCTOBER 01, 1976, BOOK 1767, PAGE 619, PLACER COUNTY RECORDS.

AFFECTS: A.P.N. 62-230-45

K. AN EASEMENT OVER SAID LAND FOR TRANSMISSION AND DISTRIBUTION OF ELECTRIC ENERGY AND FOR COMMUNICAITON PURPOSES AND INCIDENTAL PURPOSES, AS GRANTED TO NEVADA IRRIGATION DISTRICT, IN DEED RECORDED APRIL 22, 1985, IN INSTRUMENT NO. 85-08067, NEVADA COUNTY RECORDS, AND CORRECTED FEBRUARY 21, 1986, INSTRUMENT NO. 86-03661, NEVADA COUNTY RECORDS. PG&E 2117-12-0309 & 2117-12-0302

AFFECTS: A.P.N. 64-320-08

L. WAIVER OF ANY CLAIMS FOR DAMAGES TO SAID PROPERTY BY REASON OF THE LOCATION, CONSTRUCTION, LANDSCAPING OR MAINTENANCE OF THE FREEWAY ADJOINING SAID PROPERTY AS CONTAINED IN THE DEED TO THE STATE OF CALIFORNIA RECORDED DECEMBER 04, 1992, INSTRUMENT NO. 92-93231, PLACER COUNTY RECORDS.P G & E 2117-12-033523.

M. AN EASEMENT OVER SAID LAND FOR ROAD AND INCIDENTAL PURPOSES, AS GRANTED TO CHRISTOPHER NEAL KIBBE, ET UX, IN INSTRUMENT RECORDED OCTOBER 08, 1993, IN INSTRUMENT NO. 93-0035858, OFFICIAL RECORDS.

N. AN EASEMENT OVER SAID LAND FOR BICYCLE, EQUESTRIAN & PEDESTRIAN TRAIL AND INCIDENTAL PURPOSES, AS GRANTED TO UNITED STATES OF AMERICA, IN DEED RECORDED APRIL 10, 2001, INSTRUMENT NO. 2001-0010340, NEVADA COUNTY RECORDS, AND RECORDED APRIL 10, 2001, INSTRUMENT NO. 2001-0032296, PLACER COUNTY RECORDS.P G & E 2117-12-0363

AFFECTS: A.P.N. 64-280-02 & 04, 64-320-02

O. AN EASEMENT OVER SAID LAND FOR MULTIUSE STORAGE AREA, INGRESS AND EGRESS, UTILITIES, ELECTRICAL FACILITIES AND INCIDENTAL PURPOSES, AS CONDEMNED IN FAVOR OF NEVADA IRRIGATION DISTRICT, IN INSTRUMENT RECORDED OCTOBER 11, 2016 AS DOCUMENT NO. 20160023205 NEVADA COUNTY RECORDS AND RECORDED OCTOBER 31, 2016, IN INSTRUMENT NO. 2016-0093828 PLACER COUNTY RECORDS.

P. THE TERMS, CONDITIONS AND STIPULATIONS OF THAT CERTAIN UNRECORDED "MASTER SPECIAL USE AGREEMENT" EXECUTED BY AND BETWEEN THE UNITED STATES DEPARTMENT OF AGRICULTURE AND PACIFIC GAS AND ELECTRIC COMPANY ISSUED UNDER F.P.C. LICENSE NO. 2310.



**Conservation Easement Funding Agreement**  
**Bear River Planning Unit**  
**(California Department of Forestry and Fire Protection - Donated Lands)**

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 Bear Yuba Land Trust, a California nonprofit public benefit corporation ("Grantee") (each a "Party" and collectively the "Parties") 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 the California Department of Forestry and Fire Protection ("Cal Fire") by PG&E consisting of approximately 267 acres of real property located in Nevada and Placer Counties, State of California, as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Property").

E. 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:

Conservation Easement Funding Agreement  
 BYLT, Bear River  
 Cal Fire Donated



1. Effective Date. This Agreement shall become effective upon the recording of the Conservation Easement in favor of Grantee in the Official Records of Nevada and Placer Counties (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 December 31, 2022, 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. Effective upon the Effective Date, the Stewardship Council grants **One Hundred Forty-Four Thousand Five Hundred Dollars (\$144,500)** (the “**Grant Funds**”) to Grantee to be used solely for the following purposes:

a. One Hundred Thirty-Four Thousand Five Hundred Dollars (\$134,500) of the Grant Funds shall be used to implement conservation easement monitoring as described in Section 4 below (the “**Monitoring Funds**”).

b. Ten Thousand Dollars (\$10,000) of the Grant Funds shall be used for conservation easement defense and enforcement costs as described in Section 5 below (the “**Defense and Enforcement Funds**”).

3. Use of Grant Funds. 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.

a. Grantee may “pool” the Monitoring Funds with other funds Grantee uses for monitoring of other conservation easements held by Grantee and Grantee may use the Monitoring Funds to monitor any of its conservation easements as long as Grantee meets its obligations as described in Section 4 below.

b. Within thirty (30) days of receipt of funds, Grantee will provide the Stewardship Council with evidence of deposit of the (1) the Monitoring Funds into an account which shall be restricted to the stewardship and monitoring of conservation easements held by the Grantee, including but not limited to the Conservation Easement on the Property; and (2) Defense and Enforcement Funds in an account which shall be restricted to the legal defense or enforcement of conservation easements held by the Grantee, including but not limited to the Conservation Easement on the Property. The requirement to provide evidence of deposit will be satisfied when Grantee submits to the Stewardship Council the form attached as **Exhibit B**.

4. 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 Monitoring Funds shall include:

- 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. 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;
- d. 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.

5. 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.

6. 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 2023 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, 2025. 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.

7. 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.

8. 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.

9. 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 ("Assignee"), Grantee shall transfer all Grant Funds in its possession to Assignee and require that Assignee assume all of Grantee's obligations under this Agreement.

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

11. 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 501(c)(3).

12. 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.

13. 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.

14. Assignment. This Agreement may not be assigned by the Grantee in whole or in part except as provided in Section 9 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.

15. 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.

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

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

**[Signature page follows:]**



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

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

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

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

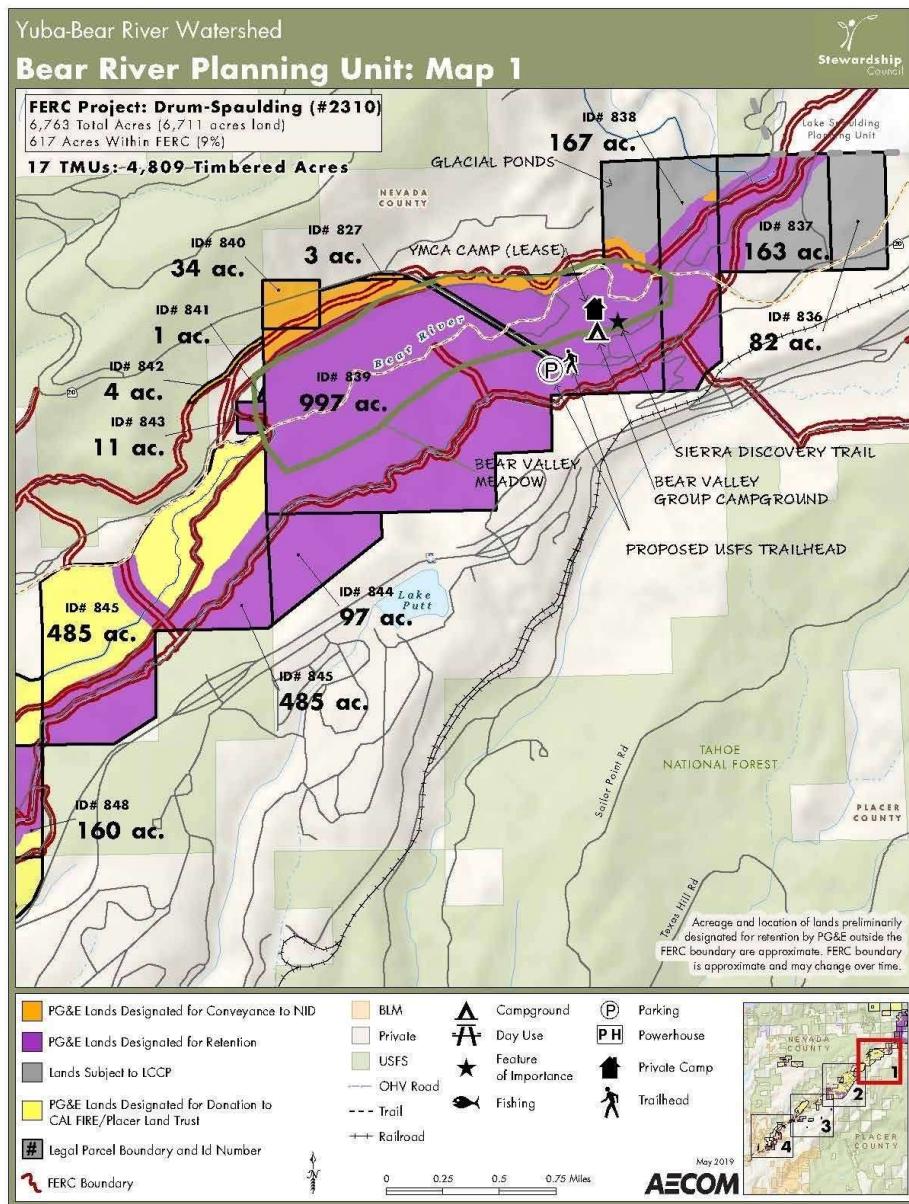
**Bear Yuba Land Trust,  
a California nonprofit public benefit corporation**

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

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

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

**Exhibit A**  
**Map of Bear River Planning Unit**




**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> Bear River – Cal Fire Donated Lands	
<b>Grantee Name:</b> Bear Yuba Land Trust	<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 Monitoring Funds as set forth in Section 4 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 Grant Funds and Restricted Use of Defense &amp; Enforcement 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 the Defense and Enforcement Funds as set forth in Section 5 of the Grant Agreement.		
<b>Name:</b>	<b>Title:</b>	
<b>Signature:</b>	<b>Date:</b>	

**Please include bank statement referencing the deposit.**

**Return to:**

Stewardship Council  
 3300 Douglas Blvd, Suite 250  
 Roseville, CA 95661  
**Phone:** (916)297-6660

## PROPERTY TAX NEUTRALITY METHODOLOGY

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### 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.

More recently, 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.

### 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

<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)

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 receive a one-time lump sum payment. 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 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. 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.
4. The Stewardship Council will fund the settlement amount according to the terms of the tax neutrality funding agreement as described in number 3 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.

### ***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.

## Appendix A

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

**Table 1**

**Table 1 – Estimated Property Taxes From Land Available for Donation<sup>3</sup>**

County	Lands Available for Donation	Total Taxes (Annual)	Total Taxes (Lump)
Alpine	410	2,948	\$73,691
Amador	2,040	\$8,577	\$214,431
Butte	N/A	\$0	\$0
Calaveras	60	\$53	\$1,320
El Dorado	N/A	\$0	\$0
Fresno	267	\$2,413	\$60,334
Kern	N/A	\$0	\$0
Lake	986	\$31,844	\$796,090
Lassen	N/A	\$0	\$0
Madera	220	\$10,271	\$256,770
Mariposa	N/A	\$0	\$0
Mendocino	797	\$17,011	\$425,289

## Appendix 5: Tax Neutrality Methodology

Adopted 06/27/2012  
 Amended 06/24/2015  
 Amended 01/21/2016  
 Amended 11/15/2017

Merced	N/A	\$0	\$0
Nevada	1,867	\$13,150	\$328,758
Placer	2,683	\$46,794	\$1,169,882
Plumas	3,278	\$40,873	\$1,021,828
San Luis Obispo	N/A	\$0	\$0
Shasta	23,386	\$89,727	\$2,243,172
Tehama	151	\$45	\$1125
Tulare	N/A	\$0	\$0
Tuolumne	868	\$360	\$9,9009
Yuba	41	\$530	\$13,256
<b>Total</b>	<b>\$37,054</b>	<b>\$264,597</b>	<b>\$6,614,955</b>

<sup>a</sup> This acreage  
 includes lands  
 within parcels that  
 cross county  
 boundaries

**I.02-04-026**

**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.

**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

**I.02-04-026**

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.