

# Final LCCP

September 10, 2014



## Land Conservation and Conveyance Plan

Lands for Donation to US Forest Service (USFS) at Wishon Reservoir Planning Unit

## **Executive Summary**

### **Subject**

LCCP for Wishon Reservoir Planning Unit (USFS donated lands)  
Land Conservation Plan Parcel Identification Number 1064 (portion) as shown on the  
map attached as Exhibit 1.

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

- United States Forest Service (USFS) to hold fee simple title to approximately 167 acres within LCP Parcel ID #1064 of the Wishon Reservoir planning unit. Final acreage will be determined by survey.
- Sierra Nevada Conservancy (SNC) to hold the conservation covenant (“covenant”) on the portion of Parcel 1064 donated to the USFS.

### **Summary**

The Stewardship Council has recommended approximately 167 acres of Parcel 1064 be subdivided and donated to the USFS. Pending California Public Utilities Commission (CPUC) approval and immediately following PG&E's conveyance of approximately 167 acres within Parcel 1064 to the USFS, a conservation covenant between the USFS and the SNC will be recorded.

The 167 acres within Parcel 1064 to be donated to the USFS are outside FERC Project boundaries 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.

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 Wishon Reservoir planning unit is located within the Sierra National Forest in Fresno County, approximately 60 miles northeast of the City of Fresno. A portion of the property subject to this LCCP is within the John Muir Wilderness Area. Upon transfer to the USFS, all of the land conveyed to USFS will be taken into the John Muir Wilderness Area.

### **Economic Uses and Agreements**

There are no recorded encumbrances on the acreage for donation within the Wishon Reservoir planning unit. There are no existing economic uses or agreements on the acreage for donation at the Wishon Reservoir planning unit.

## **Conservation Management Objectives to Preserve and/or Enhance the Beneficial Public Values**

The conservation covenant states:

- That the USFS shall manage the Property for public uses and protection of natural resources as a component of the National Forest System;
- That the Property shall be open to the public for outdoor recreation;
- That the USFS shall manage the Property for wildlife and fish purposes;
- That the Property shall be managed for agricultural values such as forage and for sustainable forestry on suitable lands in accordance with the land and resource management plan (“LRMP”), LRMP standards and other applicable laws and regulations;
- That the Property shall be managed to protect historic, cultural, and archaeological resources;
- That the Property shall not be open to location and entry under the mining laws of the United States;
- That the USFS shall manage the Property in conformity with a LRMP prepared with public involvement pursuant to the National Forest Management Act and other applicable laws; and
- That the USFS shall amend the LRMP and incorporate language into the management area descriptions that states that the Property was donated to ensure the permanent protection of the Property’s natural resources. The amendment will include the objectives for the protection of the Beneficial Public Values identified in the Stewardship Council’s Land Conservation Plan, and will reference the Conservation Covenant.
- That the Property shall be managed consistent with the Wilderness Act of 1964 as part of the John Muir Wilderness Area.

### **Tax Neutrality**

The Stewardship Council intends to provide funding to satisfy property tax payments in perpetuity for the Property.

Pending CPUC approval of the fee title donation of the Property, Fresno County may select the option of either receiving a lump sum payment of \$8,709 or an annual payment from a trustee selected by the Stewardship Council. Annual payments would be equal to 4% of a rolling 20 quarter average of the principal balance invested for the parcel, consistent with the methodology described in the Property Tax Neutrality Methodology adopted on June 27, 2012 by the Stewardship Council Board of Directors.

### **Hazardous Waste Disclosure**

PG&E has provided the Wishon Reservoir Environmental Site Assessment Report dated dated October 5, 2012 to USFS, fulfilling the disclosure requirements of the Land Conservation Commitment.

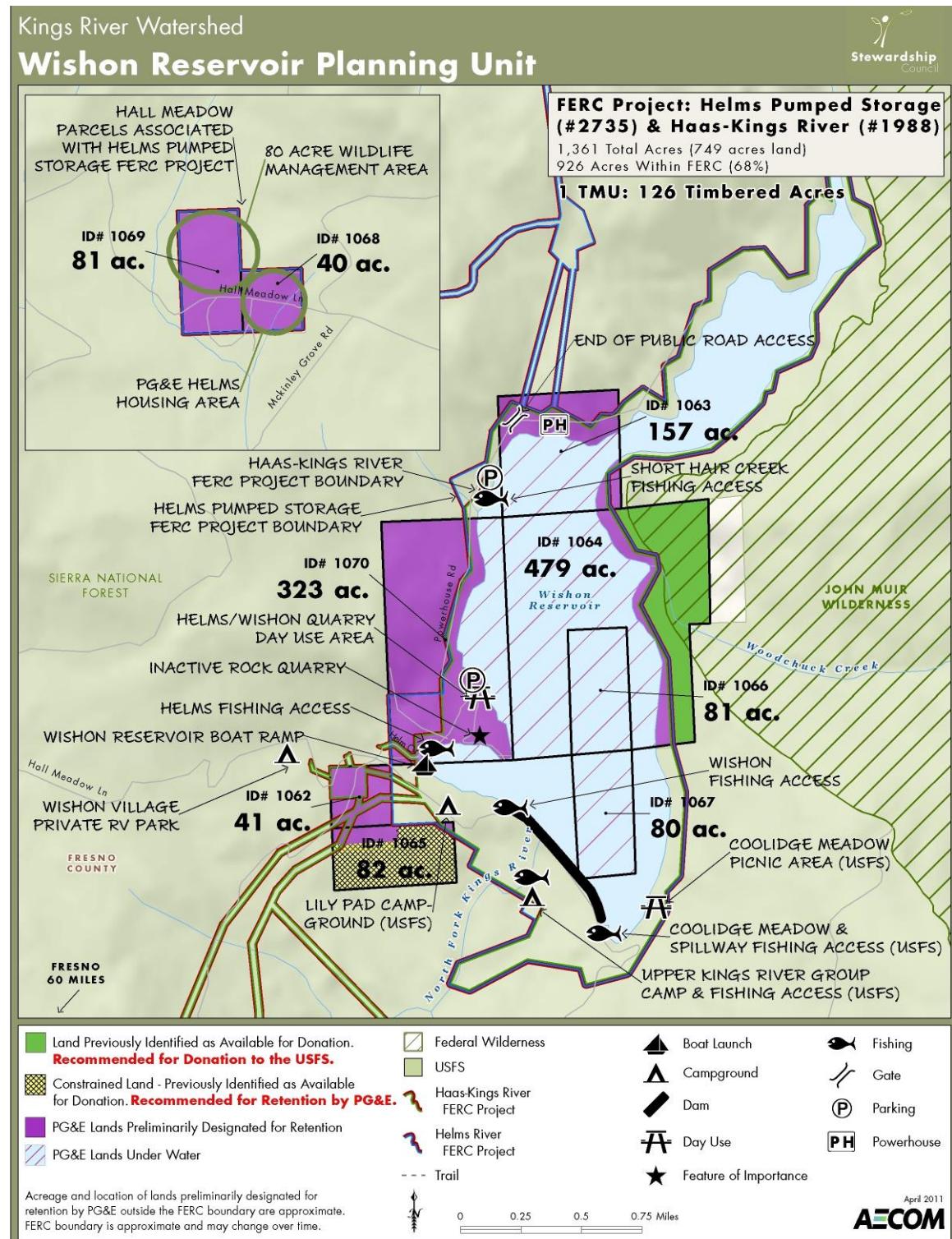
### **Consideration of Parcel Split**

A portion of Parcel 1064 is proposed for transfer to USFS. The final acreage will be determined after a survey is completed. At closing the property as well as the remainder of the parcel must comply with the California Subdivision Map Act (Government Code Section 66410, et seq.) as separate legal parcels.

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

The Wishon Reservoir 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.

## Exhibit 1. Map of the Property



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## 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 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 to PG&E 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, 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.

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 this 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 Wishon Reservoir 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 United States Forest Service receive a portion of parcel (#1064) of the Wishon Reservoir planning unit in fee and that the Sierra Nevada Conservancy hold a conservation covenant over the Property. The final acreage to be conveyed will be determined after a survey.**

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;”

**Table 1 Stipulation 12(a) Requirements**

**(9) Monitoring Plan for the Economic and Physical Impacts of Disposition and Implementation of Enhancement Measures**

*“A plan to monitor the economic and physical impacts of disposition and implementation of enhancement measures on the applicable management objectives;”*

**(10) Implementation Schedule for Transactions and Measures**

*“A schedule for the implementing transactions and measures.”*

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

### **Acreage and Property Description**

A portion of Parcel 1064 of Wishon Reservoir planning unit will be donated by PG&E to the USFS consistent with the conditions in the Settlement Agreement. The final acreage to be conveyed will be determined after a survey is complete. The Property will be subject to a conservation covenant granted by USFS to SNC.

The Wishon Reservoir planning unit is located in Fresno County, approximately 60 miles northeast of the City of Fresno. The area is on the western slope of the Sierra Nevada mountains, within the North Fork Kings River drainage at elevations ranging from about 6,350 to 7,200 feet above mean sea level. The planning unit is surrounded by the Sierra National Forest and is sparsely populated.

The planning unit area provides summer and winter habitat for a variety of wildlife species. The reservoir and area streams support a coldwater fishery consisting of brown, rainbow, and brook trout, but no special status species.

Some of the acreage subject to this LCCP is located within the wilderness boundary. Upon conveyance, all of the property conveyed to USFS will be incorporated into the John Muir Wilderness Area.

### **Adjacent and Nearby Landowners**

The parcel subject to donation to the USFS is adjacent to National Forest System lands managed by the Sierra National Forest and other parcels to be retained by PG&E. The parcel is accessible from Wishon Reservoir or adjacent National Forest System lands within the John Muir Wilderness area.

The Stewardship Council notified and invited landowners located within one mile of the subject parcel to provide comment during key phases of the land conservation and conveyance planning process. Any comments received were brought to the attention of the Stewardship Council Board of Directors.

### **Existing Economic Uses and Agreements**

There are no unrecorded encumbrances on the property to be donated to the USFS.

PG&E's specific reserved rights are set forth in the grant deed which can be found in Appendix 2.

## **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 Wishon Reservoir 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.

*1. Objective: Preserve and enhance habitat in order to protect special biological resources.*

The conservation covenant (Appendix 3) states that the USFS will manage the Property in conformity with a land and resource management plan (LRMP) prepared with public involvement pursuant to the National Forest Management Act and other applicable laws, including full compliance with the National Environmental Policy Act and the Multiple Use Sustained Yield Act. The USFS agrees to manage the Property for habitat purposes consistent with the multiple uses identified in the applicable LRMP and in full compliance with the Endangered Species Act.

*2. Objective: Preserve open space in order to protect natural and cultural resources, viewsheds, and the wilderness character of the region.*

The conservation covenant states that the Property shall be managed by the USFS for public uses and protection of natural resources as a component of the National Forest System and subject to applicable laws and regulations. In addition, the acreage identified for donation will be managed under the Wilderness Act and consistent with surrounding John Muir Wilderness Area.

*3. Objective: Assess trail opportunities in order to provide additional recreation opportunities and enhance site connectivity.*

The conservation covenant states that the Property will be open to the public for outdoor recreation such as hiking, camping, hunting and fishing, subject to reasonable regulations and state fish and game laws and consistent with the long-term protection of the natural

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

resources of the Property. The conservation covenant acknowledges that the property will be managed consistent with the Wilderness Act of 1964 (78 Stat. 890), which prohibits use of motor vehicles or motorized equipment; landing of aircraft; or other form of mechanical transport.

*4. Objective: Develop and implement forestry practices in order to ensure appropriate fuel load management.*

Forested lands will be managed in accordance with the LRMP and other applicable laws and regulations including the Wilderness Act of 1964 (78 Stat. 890) which includes restrictions on commercial enterprise, roads, structures and mechanized transport.

*5. Objective: Agricultural uses*

There are no current agricultural uses within the property for donation.

*6. Objective: Identify and manage cultural resources in order to ensure their protection.*

The conservation covenant states that the Property will be managed to protect historic, cultural and archaeological resources in conformity with the National Historic Preservation Act and the Archaeological Resources Protection Act.

### **Amending the LRMP**

The USFS shall amend the LRMP and incorporate language into the management area descriptions that states that the Property was donated to ensure the permanent protection of the Property's natural resources. The amendment will include the objectives for the protection of the BPVs identified in the Stewardship Council's LCP, and will reference the covenant.

### **3. Recommendations for Conservation Covenant 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.

Section 12(d) of the Stipulation provides for two exceptions to the requirement that the BPVs of the Watershed Lands be protected via conservation easements held by qualified organizations. The pertinent exception is when “the chosen donee of fee title informs the Governing Board that applicable law or policy precludes its accepting such easement, and the Governing Board receives satisfactory assurance in another form that the parcel will be managed consistent with the purpose of the Land Conservation Commitment.”

#### **Conservation Covenant**

The USFS informed the Stewardship Council that applicable law or policy precludes it from accepting donations of Watershed Lands encumbered with conservation easements and provided the Stewardship Council with an explanation of the basis for its determination. The Stewardship Council board accepts as reasonable the basis for the determination of the USFS that applicable law or policy precludes the USFS from accepting donations of PG&E lands encumbered with conservation easements.

The Stewardship Council board has determined that a conservation covenant in the form attached as Appendix 3 encumbering the Property qualifies as a satisfactory assurance that the Property will be managed consistent with the purpose of the Land Conservation Commitment.

Therefore, a conservation covenant will be placed on the Property rather than a conservation easement. For the complete text of the conservation covenant, see Appendix 3. The conservation covenant over the Property will be held by SNC. The qualifications of SNC are described in Chapter 4.

#### **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.

Within Parcel 1064 at the Wishon Reservoir planning unit, approximately 312 acres are located within the Haas-Kings River and Helms Pumped Storage FERC Project boundaries and/or have otherwise been determined as necessary for PG&E's hydro operations; the remaining acres are located outside the FERC Project boundaries and PG&E has determined that it does not need to retain this acreage for existing or future utility operations. Thus, the portion of Parcel 1064 located outside the FERC boundaries is available for donation.

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

A portion of one legal parcel (Parcel 1064) will be donated to the USFS. The legal description of the property to be conveyed to USFS will be developed as part of completing the survey of the new property boundary. The qualifications and capacity of the USFS to manage the Wishon Reservoir property recommended for donation are discussed in Chapter 4.

The map attached in Appendix 5 shows the land within Parcel 1064 in the Wishon Reservoir 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**

The remaining lands in the Wishon Reservoir planning unit will be retained by PG&E and will be the subject of a future LCCP.

## **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 below, the following organizations were endorsed by the Stewardship Council board on September 16, 2010:

- USFS to hold fee simple title to approximately 167 acres within Parcel 1064. The final acreage to be conveyed will be determined after a survey.
- SNC to hold the conservation covenant on the approximately 167 acres to be donated to the USFS in Parcel 1064. The final acreage to be encumbered will be determined after a survey.

### **Capacity of Selected Organizations**

The Stewardship Council board made a finding that the USFS and SNC 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. USFS:**

- The USFS is a public agency that was established in 1905. The USFS manages 193 million acres of public forests and grasslands. The mission of the USFS is to sustain the health, diversity, and productivity of the Nation's forest and grasslands to meet the needs of present and future generations. Congress directs the USFS to manage National Forests for multiple uses and benefits and for the sustained yield of renewable resources such as water, forage, wildlife, wood, and recreation.
- Management direction for the Sierra National Forest is governed by the Sierra National Forest Land and Resource Management Plan of 1991 and a variety of national and regional policies and regulations. The USFS maintains a base of professional, technical and administrative expertise in a multitude of specialties and management functions and is able to draw on the expertise of over 1,000 USFS professionals within the state of California. Disciplines includes wildlife biologists, archaeologists, aquatic biologists, botanists, fuels planners, conservationists, recreation specialists, landscape architects, public affairs specialists, interpretive/conservation education specialists, geographic information specialists, business management specialists, and engineers.
- The Stewardship Council's review of the USFS's financial capacity consisted of an evaluation of its annual operating budget and financial statements. Based on this review, staff concluded that the USFS has the financial ability to manage the

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

lands being recommended for donation to preserve and/or enhance the BPVs associated with these lands.

B. SNC:

- SNC is a California state agency created by bi-partisan legislation (AB 2600) that was signed into law in 2004. The mission of SNC is to initiate, encourage and support efforts that improve the environmental, economic, and social well-being of the Sierra Nevada Region, its communities and the citizens of the State of California.
- The legislation that created SNC includes program areas that incorporate all of the BPVs identified in Volume II of the LCP.
- SNC supports the Sierra Nevada Region by providing funding for local projects and offering technical assistance and other support for collaborative projects in partnership with local government, nonprofit organizations, and Native American entities. To date, SNC has distributed nearly 40 million dollars to 175 projects throughout the Sierra Nevada Region.
- SNC's Board of Directors is made up of 16 members; 13 voting and 3 non-voting members. The voting members include five Governor's appointees, two legislative appointees, and six local government representatives. The non-voting members include representatives from the National Park Service, United States Bureau of Land Management, and USFS.
- SNC will receive adequate funding from the Stewardship Council to monitor the conservation covenant at the Wishon Reservoir planning unit in perpetuity.

### **Donee Selection Process**

A. USFS:

At the request of the Stewardship Council board, Stewardship Council staff performed an evaluation of certain lands previously identified as available for donation focusing on adjacent land ownership. Parcels bounded on two sides or more by an adjacent landowner were identified and then further evaluated against the following set of criteria:

- Confirmation that the adjacent landowner is an eligible donee pursuant to the PG&E Settlement and Stipulation.
- Confirmation that the eligible adjacent landowner is interested in acquiring fee title of the subject parcel.
- A preliminary determination that the transfer of the subject parcel would not result in an expansion of FERC license conditioning authority under the Federal Power Act.

Staff then assessed whether the introduction of a new landowner would potentially complicate future land management, with the potential for little or no assurance of increased preservation or enhancement of the BPVs. Staff also evaluated whether a donation of such acreage to the adjacent eligible landowner would promote consistent and consolidated land management, as well as achieve more efficient implementation of the land conservation program.

Based on this evaluation and that the planning unit is surrounded by the Sierra National Forest, on September 16, 2010, following a public comment period, the Stewardship Council board recommended the USFS for donation of fee title to 167 acres within Parcel 1064 within the Wishon Reservoir planning unit.

B. SNC:

SNC was selected by the Stewardship Council board to be the holder of a conservation covenant for all lands to be donated to the USFS for the following reasons:

- SNC has the organizational and financial capacity to carry out the covenant holder duties as described above.
- SNC's program goals and objectives are compatible with the protection of the six BPVs.
- SNC's geographic focus is the Sierra Nevada and Cascade ranges where PG&E's Watershed Lands are located.
- SNC is willing to carry out the covenant holder role in perpetuity and the USFS is willing to enter into an agreement with SNC granting that right to SNC.
- SNC has a diverse board of directors, representing state, federal, and local agencies and the public.

## **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 Fresno County, the county in which the Property is located. The final LCCP submitted for all PG&E Watershed Lands located in Fresno County will address tax neutrality for the totality of all fee title transfers within the county, 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 methodology it had adopted on May 2, 2012, after an opportunity for public comment and specific outreach to all potentially affected counties. The methodology establishes a standard payment process when lands are transferred to organizations that are exempt from paying property taxes (see Appendix 4). The methodology outlines two in-lieu payment options: a one-time lump sum payment from the Stewardship Council

directly to counties, and the Stewardship Council's establishment of an endowment account that would be designed to generate enough investment income to make annual in-lieu payments to counties on an ongoing basis. Regardless of the payment option selected by the county, the payment methodology provides that the county will distribute funds related to the special districts as defined in the Tax Rate Area upon receipt of the lump sum payment or the annual installment payment.

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.

### **Achieving Property Tax Neutrality**

The Stewardship Council will provide funding to satisfy property tax payments in perpetuity for the Property. After the CPUC has approved the fee title donation of the Property, Fresno County may select the option of either receiving a lump sum payment or an annual payment from a trustee selected by the Stewardship Council.

The transfer of lands to Fresno County is expected to result in the reduction of approximately \$348 in annual taxes paid to Fresno County (as shown in Table 2 below).

**Table 2: Property Tax Detail**

Parcel ID	SBE Map Number	Taxes on Acres Transferred
1064	143-10-6-7	\$348

If Fresno County chooses the lump sum option, the Stewardship Council would make a one-time payment of approximately \$8,709 to the county. Fresno 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 parcel.

If Fresno County chooses the annual payment option, the Stewardship Council could elect to do one of the following: (1) for an initial period of time, make installment payments itself to Fresno County with the annual installment fixed at approximately \$348 per year or (2) immediately after the donation of lands to a tax exempt entity deposit approximately \$8,709 with a third party trustee, which would be responsible for making annual payments to Fresno County. Pursuant to the methodology described in the Property Tax Neutrality Methodology adopted on June 27, 2012, the trustee will make annual payments equal to 4% of a rolling 20 quarter average of the principal balance invested for the parcel. Fresno 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 parcel.

### **Other Economic and Physical Impacts**

The Settlement and Stipulation require an analysis of the physical and economic impacts of each disposition. The transaction agreements for the donation of 167 acres within the Wishon Reservoir planning unit have not mandated any changes to the physical or economic uses of the lands. The USFS intends to manage the lands consistent with the Wilderness Act of 1964 and in a manner consistent with the current physical and economic uses of the lands. No new activities are proposed that will result in physical impacts.

## **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 Retained by PG&E**

Approximately 1,194 acres within the Wishon Reservoir planning unit will be retained by PG&E.

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

PG&E has provided the Wishon Reservoir Environmental Site Assessment Report dated dated October 5, 2012 to USFS, fulfilling the disclosure requirements of the Land Conservation Commitment.

### **Environmental Agreement**

Pending CPUC approval, PG&E will enter into an Environmental Agreement with the USFS, satisfying the requirements of Section 12(f) of the Stipulation.

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

To effectuate transfer of a portion of parcel 1064, a parcel split is required to comply with the California Subdivision Map Act (Government Code Section 66410, et seq.).

## **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>3</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 to fund enhancements on the Watershed Lands in the future. Grant funding will be available to accomplish any number of potential future physical measures such as developing trails, day use areas, and other public access improvements.

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<sup>3</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 covenant holder is required to monitor every conservation covenant that it holds to ensure that the landowner is complying with the terms of the covenant in perpetuity. The Stewardship Council will enter into a Conservation Covenant Funding Agreement with SNC whereby SNC will receive a monitoring endowment from the Stewardship Council to fund its monitoring activities on the donated property at Wishon Reservoir.

To further meet the requirement of monitoring the economic and physical impacts, the Stewardship Council will enter into another agreement with the SNC, 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 at that time. The 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 and conservation covenant 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 (2014)
- Close of escrow (2014)
- Stewardship Council begins releasing funds to SNC on a reimbursement of costs basis (2015)

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

Future management of the donated property at the Wishon Reservoir planning unit is anticipated to comply with all applicable County ordinances and/or General Plan policies that would pertain to uses and activities on federal lands.

## **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.

## **WISHON 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 Wishon Reservoir 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, no public comments were submitted concerning the Wishon Reservoir planning unit.

### **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 Wishon Reservoir planning unit to a Public Information Meeting that was held in Clovis, California on April 21, 2011. 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 several planning units in the Kings Wishon and Willow Creek Watershed Areas was hosted by the Stewardship Council on April 21, 2011 in Clovis, California. The meeting concerned eight planning units: Kern River, Wishon Reservoir, Kings River, Willow Creek, Kerckhoff Lake, Manzanita Lake, Auberry Service Center, and Bass Lake. Attendees at the workshop included a total of 19 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 Wishon Reservoir planning unit.

The purpose of the workshop was to: (1) provide a review and update on the Stewardship Council's Land Conservation Program; and, (2) solicit additional public input on future stewardship of the two planning units. Stations were set up with maps, other pertinent information, and easels with blank paper to receive attendee comments on specific planning units. No comments specific to the Wishon Reservoir planning unit were received.

#### **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 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 conservation easement recommendation at the Wishon Reservoir 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.

## **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

## Appendix 1: Summary of Public Outreach

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.

*DRAFT FOR DISCUSSION PURPOSES ONLY*

Grant Deed, Wishon Parcel, Pacific Gas and Electric Company  
8/20/14

RECORDING REQUESTED BY  
USDA Forest Service

WHEN RECORDED MAIL TO:  
PSW-Arcata  
1700 Bayview Drive  
Arcata, CA 95570  
Attn: James R. Webb

REAL PROPERTY TRANSFER TAX \$ EXEMPT

Declared: \_\_\_\_\_

James R. Webb  
Regional Land Adjustment Team

By and For: USDA Forest Service

APN: 133-19-01U *[PORTION]*

***GRANT DEED***

I. CONVEYANCES

KNOW ALL MEN BY THESE PRESENTS, that, PACIFIC GAS AND ELECTRIC COMPANY, a California corporation ("Grantor"), hereby grants unto the UNITED STATES OF AMERICA ("Grantee") and its assigns, all those certain lots, pieces or parcels of land situate, lying and being in the County of Fresno, State of California, more particularly described as follows (the "Property"):

*[LEGAL DESCRIPTION TO BE INSERTED AFTER SURVEY]*

The acquiring agency is the Department of Agriculture, Forest Service. The Forest Service accepts the donation of the property as authorized by the Act of August 3, 1956 (7 U.S.C. § 428a(a)), the Wilderness Act of September 3, 1964 (16 U.S.C. §1131 (note)), and the Act of October 10, 1978 (7 U.S.C. § 2269).

Pursuant to Section 6 of the Wilderness Act (16 U.S.C. §1135), the United States agrees that all of the land described above is incorporated into the John Muir Wilderness and shall be managed as a component part of the John Muir Wilderness.

*DRAFT FOR DISCUSSION PURPOSES ONLY*

2

Grant Deed  
Wishon Donation  
8/20/14  
APN: 133-19-01U

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof,

ALL SUBJECT TO (a) any applicable 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 Grantee; (c) all contracts, leases, licenses, covenants, conditions, easements, restrictions, liens, encumbrances and other exceptions of record or unrecorded; (d) the terms and conditions of the Conservation Covenant attached hereto as Exhibit 1 (the "Conservation Covenant"); and (e) the terms and conditions of the Environmental Agreement attached hereto as Exhibit 2.

## II. MISCELLANEOUS

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.

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.

TO HAVE AND TO HOLD all and singular the said premises, together with the appurtenances, unto the United States of America and its assigns forever.

[Signature page follows]

## Appendix 2: Grant Deed

*DRAFT FOR DISCUSSION PURPOSES ONLY*

Grant Deed, Wishon Parcel, Pacific Gas and Electric Company  
8/20/14

IN WITNESS WHEREOF, **Pacific Gas and Electric Company**, a California corporation, has hereunto set its hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Pacific Gas and Electric Company

By \_\_\_\_\_

Its \_\_\_\_\_

## Appendix 2: Grant Deed

*DRAFT FOR DISCUSSION PURPOSES ONLY*

Grant Deed, Wishon Parcel, Pacific Gas and Electric Company  
8/20/14

**This deed is correct as to the description, consideration and conditions.**

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

James R. Webb  
Lands Specialist  
Regional Land Adjustment Team,  
USDA Forest Service, Pacific Southwest Region

### **CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in real property conveyed by the attached Grant Deed in favor of the UNITED STATES OF AMERICA, is hereby accepted by the undersigned officer on behalf of the United States of America pursuant to authority granted by the Act of August 3, 1956 (7 U.S.C. § 428a(a)), the Wilderness Act of September 3, 1964 (16 U.S.C. §1131 (note)), and the Act of October 10, 1978 (7 U.S.C. § 2269) and the Grantee consents to the recordation thereof.

Authorized Officer \_\_\_\_\_ Date: \_\_\_\_\_  
Title: Forest Supervisor, Sierra National Forest

## Appendix 2: Grant Deed

*DRAFT FOR DISCUSSION PURPOSES ONLY*

Grant Deed, Wishon Parcel, Pacific Gas and Electric Company  
8/20/14

### ACKNOWLEDGMENT

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, before me, \_\_\_\_\_,

Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_  
that the foregoing paragraph is true and correct.

Witness my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
(Notary Seal)

My commission expires: \_\_\_\_\_

RECORDING REQUESTED BY:  
U.S. Department of Agriculture  
Forest Service

WHEN RECORDED MAIL TO:  
Sierra Nevada Conservancy  
11521 Blocker Drive, Suite 205  
Auburn, CA 95603

APN 133-190-01U (por.)

## **CONSERVATION COVENANT**

**THIS CONSERVATION COVENANT** ("Covenant") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the Sierra Nevada Conservancy ("Conservancy"), an agency of the State of California, and the United States of America ("United States"), acting by and through the United States Forest Service ("USFS").

### **RECITALS**

A. The United States is the owner of approximately 170 acres of real property located in the County of Fresno (the "County"), State of California, as more particularly described in the attached Exhibit A (the "Property"). The Property is located within the watershed of Woodchuck Creek, a tributary of the North Fork Kings River.

B. Pacific Gas and Electric Company, a California corporation ("PG&E"), transferred fee title in the Property to the United States by Grant Deed, recorded in the Official Records of the County of Fresno, on \_\_\_\_\_, 20\_\_\_\_, as Instrument Number \_\_\_\_\_ (the "Grant Deed"). PG&E transferred fee title to the Property to the United States in connection with PG&E's implementation of the "Land Conservation Commitment" provided for in the following documents and described more fully below:

(1) That certain Settlement Agreement (the "Settlement Agreement") as modified and approved by the Public Utilities Commission of the State of California (the "Commission") in its Opinion and Order of December 18, 2003 (Decision 03-12-035); and

(2) That certain Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003 (the "Stipulation").

C. The Settlement Agreement and the Stipulation (collectively, the "Governing Documents") require PG&E to ensure that approximately 140,000 acres of

watershed lands owned by PG&E as of the effective date of the Governing Documents (collectively, the “Watershed Lands”) 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, the “Beneficial Public Values”). The Property is included in the Watershed Lands.

D. Pursuant to the Governing Documents, the Pacific Forest and Watershed Lands Stewardship Council, a California nonprofit public benefit corporation (the “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 (the “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, including the Property.

E. The Conservancy is authorized to carry out projects and activities to further the purposes of the Laird-Leslie Sierra Nevada Conservancy Act, Division 23.3 of the California Public Resources Code, and, among other things, is authorized to acquire and hold interests in real property pursuant to California Public Resources Code Sections 33347 and 33352. The Conservancy is further authorized, as an entity described in California Civil Code Section 815.3(b), to hold a “conservation easement” as defined in Civil Code Section 815.1.

F. By this instrument, the parties desire to create a Covenant providing for the permanent protection of the Property’s natural resources, and for the retention of the Property predominantly in its natural, scenic, historical, agricultural, forested, and/or open-space condition. The parties intend that the Covenant created hereby shall run with and burden the Property in perpetuity, binding the USFS and its successors as the owners of the Property, and enforceable by the State acting by and through the Conservancy (or any lawful successor agency).

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to the laws of the United States and the State of California, the parties agree as follows:

1. **Covenants and Conditions.** In order to promote the perpetual use of the Property herein described for scenic and natural purposes including, where appropriate, provisions for open space and resource utilization, it is agreed that the Property:

(a) Shall be managed by the USFS for public uses and protection of natural resources as a component of the National Forest System and subject to the laws and regulations applicable thereto;

(b) Shall be managed by the USFS in conformity with a land and resource management plan (“LRMP”) prepared with public involvement pursuant to the National Forest Management Act (90 Stat. 2949) and other applicable laws, including full

compliance with the National Environmental Policy Act (83 Stat. 852) and the Multiple Use Sustained Yield Act (74 Stat. 215).

(c) Shall be managed in accordance with the Wilderness Act of 1964 (78 Stat. 890), including the requirements that there shall be no commercial enterprise and no permanent roads except as necessary to meet minimum requirements for the administration of the area for wilderness including measures required in emergencies involving the health and safety of persons within the area; and no temporary roads; no use of motor vehicles, motorized equipment or motorboats; no landing of aircraft; no other form of mechanical transport, and no structure or installation;

(d) Shall be open to the public for outdoor recreation such as hiking, camping, hunting and fishing, subject to reasonable regulations and state fish and game laws and consistent with the long-term protection of the natural resources on the Property;

(e) Shall be managed for wildlife and fish habitat purposes consistent with other multiple uses as identified in the LRMP, including full compliance with the Endangered Species Act (87 Stat. 884);

(f) Shall be managed for agricultural values such as forage and for sustainable forestry on suitable lands in accordance with the LRMP, LRMP standards and other applicable laws and regulations.

(g) Shall be managed to protect historic, cultural and archaeological resources in conformity with the National Historic Preservation Act (80 Stat. 915), and the Archaeological Resources Protection Act (93 Stat. 721);

(h) Shall have acquired status under the Weeks Act of 1911 (36 Stat. 961) and, therefore, shall not be open to location and entry under the mining laws of the United States;

(i) Shall be subject to the above referenced laws, and others generally applicable to the National Forest System, as such laws may be amended by Congress from time to time.

The United States hereby agrees that the foregoing provisions affecting the use of the Property, and all of the other terms, conditions, and restrictions set forth below, shall be binding upon and inure to the benefit of the parties and their respective successors in interest, and shall constitute a restriction running with the Property in perpetuity, enforceable by the State, acting by and through the Conservancy or any lawful successor agency.

2. **Disposal of the Property.** Before relinquishing title to the Property through exchange, sale or other means of disposal, the United States, acting by and through the USFS, will transfer a conservation easement over and upon the Property to, as the case may be: (a) the Conservancy, (b) the Conservancy's then-existing lawful successor agency, or

(c) such other public agency as may be designated by the Conservancy or its lawful successor agency. The said conservation easement shall assure perpetual protection of the Property equivalent to the protections provided for in this Conservation Covenant. Upon conveyance of the said conservation easement, this Conservation Covenant will be dissolved and have no further force and effect.

3. **Dispute Resolution.** In the event of a disagreement or dispute related to this Covenant, the parties hereto agree first to seek an administrative resolution of the dispute by meeting first with field staff and thereafter elevating the matter for meetings with upper management, prior to resorting to legal action for enforcement of the Covenant. For the USFS, the first meeting will involve USFS Ranger Unit staff, next the matter will be elevated to the appropriate Forest Supervisor and, thereafter, if necessary, to the Regional Forester. For the Conservancy, the first meeting will involve field staff, next the matter will be elevated to the appropriate Program Manager, and thereafter, if necessary, to the Executive Officer. Each party shall bear its own costs for participation in the administrative dispute resolution (ADR) process. Unless the parties agree otherwise, at a minimum the ADR process will consist of the following: The party claiming a breach or failure of the Covenant will give written notice detailing such breach or failure and suggestions for cure of the breach or failure to the other party. The first meeting of the parties to resolve the matter shall occur no later than 30 days after the receipt of the notice, and subsequent meetings elevating the matter within the management hierarchy shall occur as soon as reasonably practicable, but no later than 30 days after the first meeting; provided, however, that if the complaining party believes there is an imminent risk of serious harm to natural resources resulting from the dispute, then it shall so notify the other party and only one meeting involving top level management shall be required before either party may seek enforcement in a court action. If after completion of this administrative process, a dispute remains, then either party may seek relief in a court of competent jurisdiction.

4. **Amendment to Land and Resource Management Plan.** The USFS shall amend the LMRP and incorporate language into the management area descriptions that states that the Property was donated to ensure the permanent protection of the Property's natural resources. The amendment will include the objectives for the protection of the Beneficial Public Values identified in the Stewardship Council's Land Conservation Plan, and will reference this Covenant. The amendment will also require notification as addressed below and require that all future amendments to the LRMP (and any successor management plan thereto) provide reference to this Covenant. In addition, the objectives set forth in the Land Conservation Plan for the protection of the Beneficial Public Values shall be carried forward into all future amendments to the LRMP and any successor management plans thereto. This Covenant's recording information shall be included in the LRMP revision (and applicable amendments) to assure perpetual access to the intent of this donation.

5. **Right to Monitor.** The Conservancy has the right to enter and to monitor the Property for compliance with the terms of this Covenant.

6. **Notification.** The USFS shall provide the Conservancy reasonable advance written notice of any proposal to amend or revise the LRMP or any other management

## Appendix 3: Conservation Covenant

plans or documents relating to the management or use of the Property and shall provide the Conservancy with the opportunity to fully participate in such planning process as an interested party. In any public proceedings respecting any proposed modification to the LRMP or any other management plan or document relating to the management or use of the Property, USFS shall fully disclose and describe the existence of this Covenant and the intentions of the Stewardship Council to effect the permanent protection of the Beneficial Public Values of the Property in connection with PG&E's donation of the Property to the United States. Without limiting the foregoing, it is understood and agreed that no modification to the LRMP shall be made unless and until USFS has publicly disclosed the intention of PG&E to effect the permanent protection of the lands herein conveyed.

7. **Recording.** This Covenant will be recorded in the Official Records of the County in which the Property is located. Two duplicate original copies of this Covenant will be executed. Each signatory will receive one original for its records.

**IN WITNESS WHEREOF** the parties have executed this Covenant as of the day and year first above written.

SIERRA NEVADA CONSERVANCY, an agency of the State of California	SECRETARY OF AGRICULTURE
By: _____ <b>JAMES BRANHAM</b> Executive Officer	By: _____ <b>RAMIRO VILLALVAZO</b> Director, Public Services Pacific Southwest Region USDA - Forest Service

ACKNOWLEDGMENT

State of California

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_,  
personally appeared

\_\_\_\_\_, who proved to me on the basis of satisfactory  
evidence to be the person(s) whose name(s) is/are subscribed to the within instrument  
and acknowledged to me that he/she/they executed the same in his/her/their authorized  
capacity(ies), and that by his/her/their signature on the instrument the person(s), or the  
entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

(Notary Seal)

ACKNOWLEDGMENT

State of California  
County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared

\_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

(Notary Seal)

**EXHIBIT “A”**  
Property of the United States

The land described herein is situated in the State of California, County of Fresno, unincorporated area, and is described as follows:

All that certain parcel of land situate in Section 31, Township 10 South, Range 28 East, Mount Diablo Base and Meridian, recorded on June 6, 1922 in Book 216, Page 431 of Official Records of the County of Fresno, State of California, particularly described therein as follows:

All that portion of the following lands located east of the Helms Pump Storage and Haas-Kings River FERC Project Boundary: The Northeast one-quarter, the East one-half of the Northwest one-quarter, and the West one-half of the Southeast one-quarter of said Section 31.

A.P.N. 133-190-01U (por.)



## PROPERTY TAX NEUTRALITY METHODOLOGY

### 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 below lists the estimated acreage and annual property taxes associated with PG&E watershed lands which are available for donation as of September 2011. The estimated total tax liability that would be subject to tax neutrality will depend upon the total acreage transferred, and the types of organization receiving lands.

COUNTY	Total Acres	Total Taxes (\$)	Acres Available for Donation	Taxes on Lands Avail. (\$)
Alpine	1,983	\$26,995	965	\$6,449
Amador	4,891	\$45,916	3,238	\$25,493
Butte	8,029	\$75,706	6,449	\$55,539
Calaveras	318	\$2,699	230	\$1,643
Fresno	1,527	\$26,917	342	\$3,552
Kern	664	\$1,734	0	\$0
Lake	5,271	\$116,467	3,355	\$80,975

<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)



COUNTY	Total Acres	Total Taxes (\$)	Acres Available for Donation	Taxes on Lands Avail. (\$)
Madera	2,016	\$181,650	686	\$64,396
Mendocino	2,112	\$28,181	1,799	\$22,252
Nevada	10,651	\$107,895	4,889	\$39,128
Placer	7,846	\$356,996	5,587	\$179,825
Plumas	38,094	\$304,316	4,935	\$113,228
Shasta	46,989	\$296,123	36,191	\$178,510
Tehama	1,946	\$8,839	1,564	\$4,422
Tuolumne	1,840	\$28,470	1,040	\$11,368
Yuba	41	\$612	41	\$612
<b>Grand Total</b>	<b>134,216</b>	<b>\$1,609,516</b>	<b>71,310</b>	<b>\$787,392</b>

## 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.
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 select either the lump-sum or annual payment option (described below) for the selected fee-title donation and communicate their preference in writing to the Stewardship Council.
4. 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 or annual 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 provide a one-time reimbursement of up to \$3,000 of the county cost to perform such activities.

5. The proposed funding agreement that has been deemed acceptable by the county as evidenced by a certified board resolution will be included in the Stewardship Council's Land Conservation and Conveyance Plan (LCCP). In turn, the LCCP will be attached to PG&E's Section 851 filing with the California Public Utilities Commission, wherein PG&E will seek regulatory approval of the proposed fee title donation. If assessed values on the lands recommended for donation change prior to the transfer of land, the Stewardship Council will revise the payment calculation included in the proposed funding agreement prior to its execution by the parties.
6. Immediately following the transfer of lands, the Stewardship Council and the county will execute the funding agreement and the Stewardship Council will fund the settlement amount according to the terms of the funding agreement as described in number 4 above.

## OPTIONS FOR FUNDING PROPERTY TAX NEUTRALITY PAYMENTS

The Stewardship Council is presenting two options for making tax neutrality payments: (1) a one-time lump-sum payment; or, (2) funding of an independent trustee to continue annual payments in lieu of taxes.

### *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.

### *Annual payments*

The Stewardship Council is in negotiations with a professional investment manager to act as investment manager and trustee for an endowment to support the management and monitoring of conservation covenants after the Stewardship Council's anticipated dissolution in 2016 or thereafter. The Stewardship Council is prepared to make this arrangement available to counties which prefer to receive an annual payment in lieu of property taxes on lands which are removed from the tax rolls.

Under this structure, the Stewardship Council will make a contribution to an endowment account which would be designed to generate enough income to compensate for the lost property tax revenues and pay for annual investment management and trustee fees. The contribution to the endowment account would be calculated based upon the Annual Base Value for lands approved for donations and the expected payout ratio of 4%.

Annual payments out of the endowment account will be calculated based upon a rolling 20 quarter average of the account's ending balance<sup>3</sup>. The practice of calculating payments based

<sup>3</sup> During the initial four years, the trustee will calculate payments based upon the number of available quarters (e.g. year 1 – rolling 4 quarters, year 2 – rolling 8 quarters, etc.)



upon a rolling average (smoothing) has been shown to reduce the number of significant declines in annual distributions, and increase the total value of payments and invested assets<sup>4</sup>.

Annual payments to counties would be allocated based upon the applicable Tax Rate Area at the time of payment by the receiving county. The Stewardship Council envisions making these annual 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.

Participating counties would be enrolled in a common service model in the investment management account. All counties would share a common investment policy and investment management agreement. Funds will be invested in a commingled account, with the investment manager providing an individual accounting to each individual county.

### **Considerations of the Annual Payment Approach**

The viability of the annual payment option is subject to a level of participation by the counties which meets the minimum account size (estimated at \$1 million).

Under this approach annual payments may exceed the original Annual Base Value in some years, and be lower in others, as the payment amount is reliant upon the ending market value of the account.

The Stewardship Council's transaction process is expected to occur serially, over the span of several years. It is likely that the viability and pricing of the annual payment approach will not be known for the initial transactions. Therefore, the Stewardship Council may make the initial annual payments directly to counties until the minimum account size is reached.

Please see Appendix A for more details on the annual payment option.

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<sup>4</sup> Smarter Giving for Private Foundations, AllianceBernstein, [https://www.alliancebernstein.com/Research-Publications/Black-Books/Foundations-and-Endowments/Stories/Foundations\\_BlackBook.htm](https://www.alliancebernstein.com/Research-Publications/Black-Books/Foundations-and-Endowments/Stories/Foundations_BlackBook.htm)



## Appendix A Annual Payment Details

### TRUSTEE SELECTION

The Stewardship Council is performing due diligence for the selection of an investment manager and trustee to administer the trust account for annual payments to counties. Selection will be based upon many factors, including (but not limited to): organization history and reputation, investment management experience, fee structure, and administrative capabilities. Additional information on the selection process can be provided upon request.

#### Trustee's Responsibilities:

Upon the Stewardship Council's funding of the trust account, the trustee would assume all responsibilities for making annual payments to counties in lieu of property taxes, including:

##### Trust administration

- Interpret the trust document.
- Distribute trust assets according to the trust document.
- Perform principal and income accounting.
- Prepare and file tax returns.
- Address specific beneficiary issues, reporting, etc.

##### Investment management

- Invest the trust portfolio assets objectively for the benefit of all interested parties.
- Manage portfolio assets in a tax-efficient and tax-effective manner.
- Review investment performance to ensure the portfolio is meeting the established goals and objectives.

### THE ANNUAL PAYMENT STRUCTURE

Using the inputs described in the term sheet, the Stewardship Council will make a contribution to the trust account on behalf of the participating county. The following example illustrates the funding and payout process.

#### EXAMPLE: Calculation of Contribution to Trust Account

Annual Base Value:	\$5,000 per year
Annual Payout Percentage:	4.00%
Contribution Calculation:	$\$5,000 \div 0.04 = \$125,000$



The actual annual payout is dependent upon the following factors:

**Annual Rate of Return:** The annual rate of return will depend upon investment selections and market and economic performance. While past results are not an accurate predictor of future results, the annual return of the S&P 500 has averaged approximately 9%-10% since 1925<sup>1</sup>.

**Estimated Annual Fees:** Annual investment management and trust administration fees will be deducted from the account and are expected to be approximately 1% - 2%, depending upon the selected investment manager and trustee.

As envisioned, the trustee will make annual payments based upon a rolling 20 quarter average of the account balance<sup>2</sup>. The practice of calculating payments based upon a rolling average (smoothing) has been shown to reduce the number of significant declines in annual distributions, and increase the total value of payments and invested assets<sup>3</sup>. However, this does not guarantee against the possibility of losses in investment principal resulting in payments in some years being less than the county would have otherwise received from property taxes.

The following examples illustrate the payment methodology in two theoretical scenarios. Scenario A shows anticipated annual payments to a county with a stable rate of return. While it is unrealistic to expect no volatility in investment returns, Scenario A shows that the growth in annual payments should keep pace with, or exceed annual inflation, when invested in a balanced portfolio<sup>4</sup>.

Scenario B shows actual market returns for the S&P 500 index from 1980 to 2010. While historical returns do not predict future performance, the time period in Scenario B provides a more realistic assumption of variability in stock market returns. Please note that the proposed investment portfolio would not include a 100% allocation to the S&P 500 or to equities. A model portfolio would include diversification among equities (small cap, large cap, international) and fixed income investments. This diversification would likely reduce the estimated annual return and reduce volatility.

Please note that both of the scenarios are provided for illustrative purposes only and do not constitute a prediction of future performance on behalf of the Stewardship Council or the prospective investment manager.

<sup>1</sup> Based upon Historical Average Return of the S&P 500 index 1925-2010.

[http://apps.finra.org/investor\\_information/smart/401k/401104.asp](http://apps.finra.org/investor_information/smart/401k/401104.asp)

Past performance does not guarantee future results.

<sup>2</sup> During the initial four years, the trustee will calculate payments based upon the number of available quarters (e.g. year 1 – rolling 4 quarters, year 2 – rolling 8 quarters, etc.).

<sup>3</sup> Smarter Giving for Private Foundations, AllianceBernstein, [https://www.alliancebernstein.com/Research-Publications/Black-Books/Foundations-and-Endowments/Stories/Foundations\\_BlackBook.htm](https://www.alliancebernstein.com/Research-Publications/Black-Books/Foundations-and-Endowments/Stories/Foundations_BlackBook.htm)

<sup>4</sup> Bureau of Labor Statistics, CPI Rate: Jan 1913 to Nov 2011 [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm)


**Scenario A: \$125,000 earning a stable return<sup>5</sup>**

Year	Beginning Balance	Annual Return %	Annual Return \$	Annual Distribution (4%)	Fees -1%	Ending Balance
0	125,000	9.00%	11,250	-	(1,250)	135,000
1	135,000	9.00%	12,150	(5,400)	(1,350)	140,400
2	140,400	9.00%	12,636	(5,508)	(1,404)	146,124
3	146,124	9.00%	13,151	(5,620)	(1,461)	152,194
4	152,194	9.00%	13,697	(5,737)	(1,522)	158,632
5	158,632	9.00%	14,277	(5,859)	(1,586)	165,464
6	165,464	9.00%	14,892	(6,103)	(1,655)	172,598
7	172,598	9.00%	15,534	(6,360)	(1,726)	180,046
8	180,046	9.00%	16,204	(6,631)	(1,800)	187,818
9	187,818	9.00%	16,904	(6,916)	(1,878)	195,927
10	195,927	9.00%	17,633	(7,215)	(1,959)	204,387
11	204,387	9.00%	18,395	(7,526)	(2,044)	213,211
12	213,211	9.00%	19,189	(7,851)	(2,132)	222,417
13	222,417	9.00%	20,018	(8,190)	(2,224)	232,020
14	232,020	9.00%	20,882	(8,544)	(2,320)	242,038
15	242,038	9.00%	21,783	(8,913)	(2,420)	252,489
16	252,489	9.00%	22,724	(9,297)	(2,525)	263,390
17	263,390	9.00%	23,705	(9,699)	(2,634)	274,763
18	274,763	9.00%	24,729	(10,118)	(2,748)	286,626
19	286,626	9.00%	25,796	(10,554)	(2,866)	299,002
20	299,002	9.00%	26,910	(11,010)	(2,990)	311,912
21	311,912	9.00%	28,072	(11,486)	(3,119)	325,379
22	325,379	9.00%	29,284	(11,981)	(3,254)	339,428
23	339,428	9.00%	30,549	(12,499)	(3,394)	354,084
24	354,084	9.00%	31,868	(13,038)	(3,541)	369,372
25	369,372	9.00%	33,243	(13,601)	(3,694)	385,320
26	385,320	9.00%	34,679	(14,189)	(3,853)	401,957
27	401,957	9.00%	36,176	(14,801)	(4,020)	419,313
28	419,313	9.00%	37,738	(15,440)	(4,193)	437,417
29	437,417	9.00%	39,368	(16,107)	(4,374)	456,304
30	456,304	9.00%	41,067	(16,802)	(4,563)	476,005

<sup>5</sup> Annual return based upon historical performance of the S&P 500 index 1925-2010. These figures are provided for illustrative purposes only and do not constitute a prediction of future performance on behalf of the Stewardship Council or the prospective investment manager.

**Scenario B: \$125,000 at historical S&P 500 returns<sup>6</sup>**

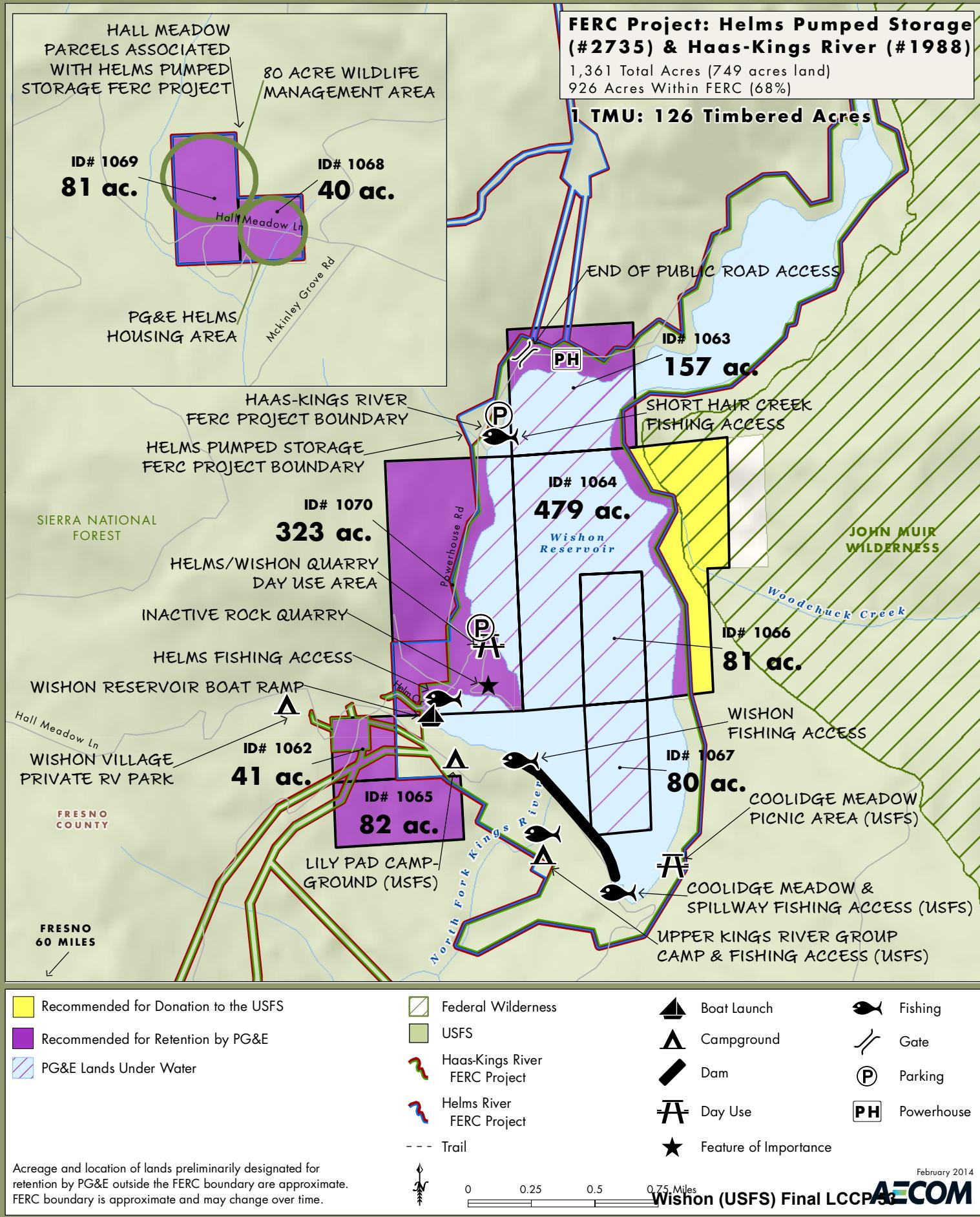
Year	Beginning Balance	Annual Return %	Annual Return \$	Annual Distribution (4%)	Fees (1%)	Ending Balance
1980	125,000	25.8%	32,213	0	(1,250)	155,963
1981	125,000	-9.7%	(12,163)	(6,239)	(1,250)	105,349
1982	105,349	14.8%	15,550	(4,214)	(1,053)	115,631
1983	115,631	17.3%	19,969	(4,420)	(1,156)	130,025
1984	130,025	1.4%	1,820	(4,680)	(1,300)	125,865
1985	125,865	26.3%	33,140	(4,769)	(1,259)	152,977
1986	152,977	14.6%	22,365	(5,039)	(1,530)	168,774
1987	168,774	2.0%	3,426	(5,546)	(1,688)	164,966
1988	164,966	16.6%	27,401	(5,941)	(1,650)	184,777
1989	184,777	31.7%	58,556	(6,379)	(1,848)	235,106
1990	235,106	-3.1%	(7,288)	(7,253)	(2,351)	218,214
1991	218,214	30.5%	66,490	(7,775)	(2,182)	274,747
1992	274,747	7.6%	20,936	(8,622)	(2,747)	284,313
1993	284,313	10.1%	28,659	(9,577)	(2,843)	300,551
1994	300,551	1.3%	3,967	(10,503)	(3,006)	291,009
1995	291,009	37.6%	109,361	(10,951)	(2,910)	386,510
1996	386,510	23.0%	88,743	(12,297)	(3,865)	459,090
1997	459,090	33.4%	153,152	(13,772)	(4,591)	593,880
1998	593,880	28.6%	169,731	(16,248)	(5,939)	741,424
1999	741,424	21.0%	155,996	(19,775)	(7,414)	870,230
2000	870,230	-9.1%	(79,191)	(24,409)	(8,702)	757,927
2001	757,927	-11.9%	(90,118)	(27,380)	(7,579)	632,850
2002	632,850	-22.1%	(139,860)	(28,770)	(6,329)	457,891
2003	457,891	28.7%	131,369	(27,683)	(4,579)	556,999
2004	556,999	10.9%	60,601	(26,207)	(5,570)	585,823
2005	585,823	4.9%	28,764	(23,932)	(5,858)	584,797
2006	584,797	15.8%	92,339	(22,547)	(5,848)	648,741
2007	648,741	5.5%	35,616	(22,674)	(6,487)	655,196
2008	655,196	-37.0%	(242,423)	(24,252)	(6,552)	381,969
2009	381,969	26.5%	101,069	(22,852)	(3,820)	456,366
2010	456,366	15.1%	68,729	(21,817)	(4,564)	498,715

**Annualized Return :** 9.6% (1980-2010)

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<sup>6</sup> Annual return based upon historical performance of the S&P 500 index 1980-2010. These figures are provided for illustrative purposes only and do not constitute a prediction of future performance on behalf of the Stewardship Council or the prospective investment manager.

# Wishon Reservoir Planning Unit



**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

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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.