

## FEE TITLE DONEE RECOMMENDATION LAKE SPAULDING PLANNING UNIT

### EXECUTIVE SUMMARY

The Stewardship Council was created to oversee Pacific Gas and Electric's (PG&E) Land Conservation Commitment, as set forth in the Settlement and Stipulation,<sup>1</sup> to protect over 140,000 acres of land and to preserve and enhance, on an overall basis, the following six beneficial public values (BPVs): protection of the natural habitat of fish, wildlife, and plants; preservation of open space; outdoor recreation by the general public; sustainable forestry; agricultural uses; and historic values. The Stewardship Council is responsible for developing a land conservation plan and recommending qualified organizations to become involved in the future stewardship of these lands.

The Lake Spaulding planning unit, located in Nevada and Placer Counties, consists of 32 legal parcels encompassing approximately 8,241 acres of land. Approximately 4,481 acres have been identified by PG&E as lands outside of Federal Energy Regulatory Commission (FERC) project boundaries and not necessary for current and future utility operations. Therefore, these 4,481 acres of land have been made available for fee title donation. The recommendation presented here pertains to one parcel (#798), for which the Stewardship Council staff received and evaluated three land stewardship proposals from the US Forest Service, Tahoe National Forest (USFS), California Department of Forestry and Fire Protection (CAL FIRE), and San Joaquin County Office of Education (SJCOE).

In November 2011, the Stewardship Council Board of Directors (Board) recommended the donation of three parcels encompassing approximately 1,484 acres to the University of California Center for Forestry. The Stewardship Council continues to evaluate opportunities for the recommendation of additional donations of land within this planning unit. At this time, Stewardship Council staff is proposing the following recommendation which has been endorsed by the Watershed Planning Committee (Planning Committee):

**USFS (Tahoe National Forest)** to become the prospective recipient of fee title to approximately 469 acres available for donation within one parcel (Parcel #798) subject to compliance with all the requirements of the Land Conservation Commitment.

The Planning Committee also recommended that the Board accept the USFS's proposed Conservation Covenant as providing satisfactory assurance that the parcels recommended for donation to the USFS in the Lake Spaulding planning unit will be managed consistent with the purpose of the Land Conservation Commitment.

A donation to the USFS of fee title to the remaining acres available for donation within this planning unit is not possible due to the provisions of Section 12(b)(4) of the Stipulation relating

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<sup>1</sup> California Public Utilities Commission Decision 03-12-035, December 18, 2003 (the "Settlement") and the Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003 (the "Stipulation").

to the exercise of mandatory conditioning authority by federal agencies under Section 4(e) of the Federal Power Act.

If this recommendation is approved by the Board, PG&E would negotiate the transaction agreements with the USFS, and the Stewardship Council would develop a Land Conservation and Conveyance Plan (LCCP) for the property. If approved by the Board, a conservation covenant between the USFS and the Sierra Nevada Conservancy, under which the Sierra Nevada Conservancy would monitor the uses on the subject lands, would be established in lieu of a conservation easement in order to protect the beneficial public values of the lands donated to the USFS.

Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process.

## I. INTRODUCTION AND BACKGROUND

### a. *Planning Unit Description*

The Lake Spaulding planning unit is located in Nevada and Placer counties, approximately 26 miles east of Nevada City and 19 miles west of Truckee. The surrounding properties are a mixture of private land and USFS Tahoe National Forest. The elevation within the planning unit ranges between 5,200 and 7,000 feet.

The planning unit features many scenic lakes and reservoirs associated with the Drum-Spaulding FERC Project. The topography of the planning unit lands ranges from exposed outcroppings to sloped forested areas surrounding remote lakes and canyons. A variety of year round public uses are supported by these lands, including camping, fishing, and cross-country skiing.

The Lake Spaulding planning unit is characterized by a variety of habitat types, which have the potential to host a diversity of special status wildlife species. The planning unit also contains major deer corridors, fawning areas, and key summer and winter ranges. Numerous parcels within the planning unit abut USFS California Spotted Owl Protected Activity Centers (PACs).

PG&E manages one recreational lease within the planning unit, as well as 14 Timber Management Units (TMUs), totaling 5,332 timbered acres, managed under sustainable timber, recreation and sustainable timber, multiple-use, and salvage prescriptions.

### b. *Description of Parcel 798*

The subject parcel is located primarily in Placer County, with some acreage in Nevada County. The parcel consists of 469 acres and is entirely available for fee title donation. The parcel is sparsely forested and is bounded on the west and south by USFS lands, and by private lands to the north and east. Access to the parcel is from the Yuba Gap exit off Interstate 80, in the northwest corner of the parcel. Lake Valley Road, a county road with the exception of a short segment in the southeast corner of the parcel, runs entirely through the western half of the parcel. The majority of the western portion of the parcel was burned by the Gap Fire in 2001. The burn area was subsequently salvage logged and restocked. Numerous unimproved logging roads and decks exist on the parcel. The North Fork of the North Fork American River runs through the southwestern corner of the parcel and a tributary runs entirely through the central portion of this parcel. A large meadow is located along the tributary and is commonly known as Six Mile Valley. A spring-fed pond is also located in the north-central portion of this parcel.

Past uses of this property have included grazing leases in the meadow areas, and a lease for a cross-country ski and mountain bike resort (Eagle Mountain Lodge). The lease for the operation expired 10 years ago and the former lodge structure has been removed. A large, open, gravel parking area abuts the western edge of the former lodge area and is used for PG&E construction staging and snow course sampling purposes (to measure water content). Unauthorized uses at this location, have included OHV and snowmobile use, wood-cutting, camping, hunting, and archeological artifact collecting.

*c. Donee Evaluation Process*

The Stewardship Council received statements of qualifications (SOQs) from nine organizations interested in acquiring fee title to lands available for donation within this planning unit. A list of organizations that submitted SOQs is attached. Based on a review of the SOQs, seven organizations were invited to submit LSPs. The following three organizations submitted LSPs seeking donations to fee title within this parcel: USFS, SJCOE, and CAL FIRE.

In evaluating LSPs, the following factors were considered:

- The potential donees' programmatic, financial, and legal capacity to maintain the property interest so as to preserve and/or enhance the beneficial public values of the planning unit;
- Anticipated funding needs of the potential donees;
- The management objectives for the Lake Spaulding planning unit as set forth in Volume II of the Land Conservation Plan (LCP);
- Public comments received regarding the desired qualifications of potential donees and the future stewardship of the planning unit;
- The requirements of the Settlement and Stipulation; and,
- Other relevant policies, procedures, and goals adopted by the Stewardship Council.

**II. EVALUATION**

Based on staff's evaluation of the LSPs and follow-up discussions with the USFS, and in consultation with the Planning Committee, the USFS is being recommended to receive a donation of fee title to lands within parcel #798 in the Lake Spaulding planning unit as follows, subject to compliance with all of the requirements of the Land Conservation Commitment:

**USFS (Tahoe National Forest)** as the prospective recipient of fee title to approximately 469 acres available for donation within one parcel (Parcel #798).

A donation to the USFS of fee title to the remaining acres available for donation within this planning unit is not possible due to the provisions of Section 12(b)(4) of the Stipulation relating to the exercise of mandatory conditioning authority by federal agencies under Section 4(e) of the Federal Power Act.

This recommendation is based on a determination that the USFS appears to have sufficient financial and organizational capacity to hold and maintain fee title interests on these lands, and that the addition of these lands to the USFS system would result in the preservation and/or

enhancement of the BPVs. Staff's recommendation of the USFS as the best suited donee for fee title to the 469 acres identified in this recommendation is based on the following considerations:

- As the adjacent land owner, the USFS is best suited to achieve consolidated and consistent management of the resources on the PG&E lands recommended for donation.
- USFS management of the lands would promote biological and physical connectivity, as well as public access and recreational opportunities consistent with adjacent lands.
- The Tahoe National Forest Land and Resource Management Plan has proposed management goals for the subject lands which reflect the full range of Stewardship Council BPVs reflected on the acreage identified for donation to the USFS.

Staff's evaluation of the agency's LSP is further described below.

*a. Donee Organizational Capacity*

The USFS possesses the organizational capacity and experience to own and manage fee title to the properties identified for donation as follows:

- The USFS is a federal agency within the US Department of Agriculture that manages 193 million acres of public lands. The mission of the USFS is "to sustain the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of present and future generations."
- The USFS manages land adjacent to the parcel recommended for donation to them as part of the Tahoe National Forest. Law, policy, and various regulations govern the management of public lands by the USFS. The Tahoe Forest Land and Resource Management Plan provides direction for the management of cultural, historic, and biological resources within the National Forest.
- The Tahoe National Forest employs approximately 250 permanent employees and 150 additional temporary employees during the peak season. This base of professional, technical and administrative expertise reflects specialties and management functions including, but not limited to, wildlife biology, botany, fuels management, forestry, archeology, hydrology, soils, ecology, range management, recreation, interpretation, and education.

*b. Donee Financial Capacity*

USFS's financial capacity was evaluated based on a review of the Tahoe National Forest's operating budget and expenditures for 2011 and 2012. Based on a review of financial statements submitted, the agency continues to spend below budget for both years and demonstrates sufficient funding to own and manage the fee title interests identified for donation within the Lake Spaulding planning unit.

*c. Management Objectives*

Volume II of the LCP established certain management objectives for the Lake Spaulding planning unit (see Volume II Planning Unit Report with attachments). As described below, the USFS is seeking fee title to lands within the Lake Spaulding planning unit to achieve a number

of proposed management activities consistent with the management objectives established in Volume II.

The USFS seeks fee title to lands available for donation within parcel #798 to achieve consolidated, consistent management of the ecological, recreational, cultural, and historical resources. Parcel #798 will be managed under a Management Area emphasizing vegetation management, hazardous fuels reduction, wildlife habitat improvement, watershed protection, and recreation management. The US Forest Service is particularly interested in achieving the restoration, protection, and enhancement of the Six Mile Valley meadow system found on this parcel.

*d. Funding*

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

*e. Requirements of the Settlement and Stipulation*

Section 12(b)(4) of the Stipulation provides that the "Parties agree that the Land Conservation Commitment does not expand or limit PG&E's obligation or the rights of others in Federal Energy Regulatory Commission relicensing proceedings or otherwise under Part I of the Federal Power Act ("FPA"). For example, a land disposition that would result in the creation of FPA Section 4(e) authority in PG&E relicensing proceedings would be inconsistent with this provision." Therefore, the donation of lands to the USFS is conditioned on this Stipulation requirement being satisfied.

The Stewardship Council would work with PG&E, Placer County, and Nevada County to ensure the land conveyance of these parcels achieves property tax neutrality.

The USFS is precluded by existing policy from accepting a conservation easement on lands it acquires. Therefore, a conservation covenant has been proposed by the USFS in lieu of a conservation easement, to provide satisfactory assurance that lands conveyed would be managed consistent with the purpose of the Land Conservation Commitment as required by Section 12(d)(2) of the Stipulation. It has been proposed by the Stewardship Council that the covenant be held by the Sierra Nevada Conservancy and the Conservancy has agreed to perform this role.

*f. Conservation Partners*

The permanent protection of the Lake Spaulding planning unit and the future preservation and enhancement of the BPVs may benefit from the participation of land conservation partners. For the purposes of this recommendation, land conservation partners are defined as an organization, other than the prospective fee title donee or conservation easement holder, involved in future activities on the donated lands that contribute to the preservation and enhancement of the BPVs. Land conservation partners may be identified in the LSPs submitted by organizations interested in a fee title donation, or during or after the development of the LCCP. Such organizations and activities may be eligible for Stewardship Council funding, depending on the type of organization, proposed activities, availability of funds, and other factors. The USFS collaborates with many agencies and community organizations on land management activities including



cultural resource monitoring, habitat restoration, noxious weed eradication, and trail maintenance and construction.

Staff would work with the USFS as the prospective organization recommended for donation of fee title to evaluate opportunities for land conservation partners. The results of this effort may be reflected in the LCCP or via enhancement projects funded after fee title is transferred to the USFS.

### **III. PUBLIC COMMENTS**

The Stewardship Council has implemented a public outreach program to engage stakeholders and solicit public input on the development and implementation of the land conservation plan. A summary of key public outreach activities and public comments associated with the Lake Spaulding planning unit is attached.

### **IV. NEXT STEPS**

If the Board adopts this recommendation on November 14, 2013, staff would invite the USFS to negotiate specific terms of the transactions with PG&E. Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process for selecting donees. The proposed LCCP would be made available for public review and comment before it is approved by the Board.

### **ATTACHMENTS AND REFERENCE MATERIAL**

- Lake Spaulding Planning Unit Map
- LCP Volume II Planning Unit Report for the Lake Spaulding Planning Unit
- List of Registered Organizations That Submitted SOQs for Lands Available in the Lake Spaulding Planning Unit
- Summary of Key Public Outreach Activities and Public Comments Associated with the Lake Spaulding Planning Unit

## **Lake Spaulding Planning Unit**

**The Lake Spaulding Planning Unit report located in LCP Volume II can be found at this link:**

**[http://lcp.stewardshipcouncil.org/Vol\\_2/pdf/26\\_1\\_LakeSpauldingText.pdf](http://lcp.stewardshipcouncil.org/Vol_2/pdf/26_1_LakeSpauldingText.pdf)**

**The aerial map to the Lake Spaulding Planning Unit can be found at this link:**

**[http://www.stewardshipcouncil.org/maps/Lake\\_Spaulding\\_aerial\\_mapbook\\_new\\_reduced.pdf](http://www.stewardshipcouncil.org/maps/Lake_Spaulding_aerial_mapbook_new_reduced.pdf)**

**The existing conditions maps to the Lake Spaulding Planning Unit can be found at this link:**

**[http://www.stewardshipcouncil.org/maps/Lake\\_Spaulding\\_ex\\_mapbook\\_new\\_reduced.pdf](http://www.stewardshipcouncil.org/maps/Lake_Spaulding_ex_mapbook_new_reduced.pdf)**



## **Lake Spaulding Planning Unit**

Organizations That Submitted a  
Statement of Qualifications  
for Fee-Title Interests

Bureau of Land Management  
Bear Yuba Land Trust (Formerly Nevada County Land Trust)  
California Department of Forestry and Fire Protection (CAL FIRE)  
Eagle Mountain Conservancy  
Placer County Water Agency  
Placer Land Trust  
San Joaquin County Office of Education  
United States Forest Service – Tahoe National Forest  
University of California

## **SUMMARY OF KEY PUBLIC OUTREACH ACTIVITIES AND PUBLIC COMMENTS ASSOCIATED WITH THE LAKE SPAULDING PLANNING UNIT**

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

The Draft Land Conservation Plan (LCP) Volumes I and II were released in June 2007 for a 60-day public comment period. During this time, the Stewardship Council held ten public meetings to publicize the availability of the Draft LCP and to encourage public comment. During public review of Volumes I and II of the LCP, three entities submitted comments concerning the Lake Spaulding planning unit. Comments were received via email, the Stewardship Council website, and hardcopy letters. The comments were reviewed and responded to individually, and the text in the Draft LCP was revised as appropriate.

Public comments emphasized the following regarding the future management of the property:

- Support Native American efforts to restore and protect cultural resources and to maintain confidentiality of site locations
- Ensure that fee title recipients in the region collaborate closely to ensure protection of the Yuba Bear watershed lands
- Donate lands to the Tsi-Akim Maidu Tribe to preserve cultural practices associated with the land
- Support for lands available for donation to be transferred to the US Forest Service to support the consolidation of in-holding within the Tahoe National Forest
- Limit timber harvesting to dead or dying trees and ensure forest management complements adjacent US Forest Service lands
- Future management should emphasize maintaining and enhancing open space, scenic, and recreational values
- Preserve glacial ponds and interpret these sites for the public
- Restrict vehicle access to preserve scenic values and enhance non-motorized recreational uses

### **PUBLIC INFORMATION MEETING FOR THE LAKE SPAULDING PLANNING UNIT**

A public information meeting was hosted by the Stewardship Council on April 14, 2011 at the Auburn Parks and Recreation District Community Center in Auburn, California. The meeting concerned the following six planning units: Bear River, Chili Bar, Fordyce Lake, Lake Spaulding, Lower Drum, and Narrows. A total of 58 people attended and participated in the meeting, representing a wide variety of interests, including local and federal governments, community organizations, and community members. The meeting was advertised via an e-mail sent to contacts in our database, an announcement posted on the Stewardship Council's web site, a press release in the local newspaper, and a postcard sent to all landowners on record that reside within one mile of any PG&E parcel associated with the six planning units that were the focus of the meeting.

The purpose of this meeting 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 six planning units. During the meeting, participants were invited to ask questions and provide comments on the six planning units. Stations were set up with maps, other pertinent information, and easels with blank paper. Below is a summary of comments related to the Lake Spaulding planning unit that were recorded on the easels and provided on comment cards.

### **Lake Spaulding**

- Support transfer of lands to an entity that would restrict vehicle traffic to present levels
- Continue to allow public use of existing roads
- Protect water quality of the lake from road salt runoff
- Maintain public access for recreation (hiking, fishing, and camping)
- Support for lands available for donation to be transferred to the US Forest Service
- Rely on existing laws to protect sensitive wildlife and archaeological resources

### **General Comments Concerning the Yuba-Bear Watershed Area**

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

### **ADDITIONAL COMMENTS RECEIVED**

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

- Preserve wildlife habitat, recreation, and open space values
- Limit timber sales to protect watershed lands
- Explore opportunities for disabled youth to access the watershed lands