



MEMORANDUM

To: Stewardship Council Board of Directors

From: Ric Notini, Director of Land Conservation Program

Date: September 9, 2010

RE: ACTION ITEM - Proposal concerning transfer of select lands to USFS and BLM

EXECUTIVE SUMMARY

In November 2007, the Stewardship Council adopted a Land Conservation Plan that identified 67,488 acres of watershed lands likely to be retained by PG&E and 75,069 acres likely to be made available for donation. Recently, the Stewardship Council conducted an evaluation of the watershed lands to identify opportunities to advance recommendations on the donation or retention of some of these lands. Specifically, staff evaluated certain lands previously identified as available for donation focusing on adjacent land ownership and 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 beneficial public values. Based on this evaluation, the Stewardship Council is recommending that the U.S. Forest Service (USFS) be the prospective donee of fee title to seven parcels of land encompassing approximately 867 acres, and the Bureau of Land Management (BLM) be the prospective donee of fee title to one parcel of land encompassing 42 acres.

INTRODUCTION AND BACKGROUND

This memo provides background information on, and staff's evaluation of, the watershed lands that are the subject of this proposal, as well as a description of the public comment process possible next steps.

The PG&E Settlement Agreement and Stipulation allows PG&E to retain fee title interest to lands that contain hydroelectric project features or are necessary for current and future hydroelectric operations. Accordingly, during the preparation of Volumes I and II of the Land Conservation Plan, staff worked closely with PG&E to identify the lands that would likely be retained by PG&E. Of the 142,536 acres of watershed lands, 67,488 acres were designated as likely to be retained by PG&E and 75,069 acres were designated as likely to be made available for donation (see pages 4-1 through 4-4 and tables 4-1 and 4-2 in Volume I of the Land Conservation Plan).

The 75,069 acres that were identified as likely to be made available for donation encompass several hundred parcels located across 22 counties. For purposes of developing and implementing the Land Conservation Plan, these lands were organized into nine watershed areas

and 47 planning units. The lands that are the subject of this proposal are located in seven of these 47 planning units, as indicated in Tables 1 and 2, below.

Over the past two years, staff has developed and begun to implement a process to solicit, evaluate and select organizations interested in receiving fee title to parcels that make up the 75,069 acres available for donation. This multi-step process involves determining the eligibility of interested organizations, soliciting proposals from eligible organizations through a formal “request for proposal” (RFP) process, and recommending fee title transfer to organizations that have sufficient financial and organizational capacity, and appear to be best-suited for a particular parcel or parcels within a planning unit.

In furtherance of the objective of achieving a more efficient and effective implementation of the land conservation program, and at the request of the board, staff completed an evaluation of the watershed lands to determine if certain land ownership recommendations could be made without the need to complete the multi-step RFP process described above. The results of this evaluation are summarized below.

STAFF EVALUATION

Staff performed an evaluation of certain lands previously identified as available for donation focusing on adjacent land ownership and 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 beneficial public values.

Parcels bounded on two sides or more by an adjacent land owner were identified and then further evaluated against the following set of criteria:

1. confirmation that the adjacent land owner is an eligible donee pursuant to the PG&E Settlement Agreement and Stipulation;
2. confirmation that the eligible adjacent land owner is interested in acquiring fee title of the subject parcel;
3. 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.

Based on this evaluation, seven parcels encompassing a total of approximately 867 acres, and one parcel encompassing 42 acres emerged from this evaluation as candidate sites for transfer to the USFS and BLM, respectively. The lands being recommended for transfer to the USFS and BLM are summarized in Tables 1 and 2 below.

Proposed US Forest Service Transfer

Based on staff’s evaluation, seven parcels encompassing a total of approximately 867 acres meet the above criteria. A summary of these seven parcels is provided below in Table 1, and maps of

each parcel can be viewed at: www.stewardshipcouncil.org. Transfer of these lands to the USFS would be expected to result in the donated lands being managed similar to the adjacent USFS properties. In contrast, introduction of a new landowner with no adjacent property ownership and limited capacity could potentially complicate land management with little or no significant increased preservation or enhancement of the beneficial public values apparent.

Table 1: Summary of Land and Parcels proposed for transfer to USFS

Planning Unit and County	Total acres	Acres available for donation	Proposed No. of Acres to be donated to USFS	No. of Parcels
North Fork Feather River Butte and Plumas Counties	5,669	4,245	97	2
Kings River Fresno County	100	100	100	1
Wishon Reservoir Fresno County	1,361	234	167	1
Kern River Kern County	651	443	279	1
Bass Lake Madera County	1,085	149	73	1
Deer Creek Tehama County	151	151	151	1

In five of the planning units shown in Table 1, excluding the North Fork Feather River Planning Unit, located in Butte and Plumas Counties, the USFS is proposed to be the only donee of fee title. All other lands in those planning units would be retained by PG&E. In the North Fork Feather River Planning Unit, all of the remaining lands previously identified as available for donation would continue to be made available for donation via the Round 2 open donee selection process with the exception of the two parcels that are being considered for donation to the USFS.

Proposed BLM Transfer

Based on staff's evaluation, one parcel encompassing a total of approximately 42 acres met the above criteria. A summary of this parcel is provided in Table 2 below, and a map of this parcel can be viewed at: www.stewardshipcouncil.org. This 42 acre parcel is located in the Oroville Planning Unit, Butte County, and is bordered on two sides by lands currently owned and managed by the BLM. Transfer of this acreage to the BLM would be expected to result in the donated lands being managed similar to the adjacent BLM properties. In contrast, introduction of a new landowner with no adjacent property ownership and limited capacity could potentially complicate land management with little or no significant increased preservation or enhancement of the beneficial public values of the donated lands.

Table 2: Summary of Land and Parcel proposed for transfer to BLM

Planning Unit and County	Total acres	Acres available for donation	Proposed No. of Acres to be donated to BLM	No. of Parcels
Oroville Butte County	1,337	1,260	42	1

In the Oroville planning unit, all the lands preliminarily designated for donation would continue to be made available for donation via the Round 2 open donee selection process with the exception of the 42 acre parcel that is being considered for donation to the BLM.

Key Considerations

There are several other considerations related to the subject proposal that have been evaluated and are summarized below.

Donee Interest

The lands that comprise the eight subject parcels are located in seven different planning units as indicated in Tables 1 and 2. In 2006, the Stewardship Council established a process that allowed organizations to register interest in being considered for a donation of fee title to lands available for donation within each of the 47 planning units. Accordingly, a number of organizations registered interest in the seven subject planning units on the Stewardship Council's Interested Donee Registry. Organizations that registered interest were not required to distinguish between their interest in receiving a donation of fee title or becoming the holder of a conservation easement.

To date, the Stewardship Council has not announced the closing of the registry or initiated work on evaluating organizations interested in receiving donations of fee title to lands identified in Tables 1 and 2. As a result, staff's knowledge of the level of interest by these organizations in pursuing a donation of fee title to these lands is limited.

Future Preservation and Enhancement of the Beneficial Public Values

Consistent with the requirements of the PG&E Settlement and Stipulation Agreement, a conservation easement or some other form of satisfactory assurances would be placed on all lands donated and a qualified organization would be selected to monitor and protect the beneficial public values associated with these lands. Moreover, opportunities for enhancements on these lands would be further assessed during the development of the Land Conservation and Conveyance Plan for these lands. Any funding of enhancements on the subject lands by the Stewardship Council would be based on available funds and consistent with the Land Conservation Program Funding Policy adopted by the Stewardship Council board. A summary of the public comments received at public workshops concerning the subject lands during the development of the LCP is provided in Attachment 1.



Property Tax Neutrality

If the board approves the proposal to recommend the donation of the subject parcels to the USFS and BLM, the Stewardship Council would work with each affected county to ensure that the property tax neutrality requirement of the Stipulation¹ is sufficiently addressed, by either a lump sum payment or establishment of an endowment to fund a negotiated share of annual payments.

Transaction Costs

Donation of the subject lands to the USFS and BLM would result in certain transaction costs. BLM has indicated that they would fund the transaction costs associated with the one parcel proposed for donation and not seek funding for such costs from the Stewardship Council. The USFS has indicated that they may seek to share some of the transaction costs associated with the subject parcels with the Stewardship Council.

PUBLIC COMMENT ON THE PROPOSED BOARD ACTION

Due to the potential public interest in this proposal, an extensive effort was undertaken to inform the public and solicit input prior to the board taking action. An announcement concerning this proposed action was posted on the Stewardship Council's web site in July 2010, and sent via email to over 10,000 individuals and organizations that have provided their email addresses to the Stewardship Council, including all of the organizations that previously registered interest in holding a conservation easement or receiving a fee title donation to lands available for donation within the subject seven planning units. Copies of this announcement were also mailed to all county supervisors in which the subject lands are located, as well as to Native American entities which were previously identified having a potential interest in these lands. A compilation of all written public comment received will be provided to the board on September 16, 2010. To date, the Stewardship Council has received a number of public comments in response to the subject proposals. The public will also have an opportunity to comment on the proposed action at the public board meeting of the Stewardship Council Board of Directors on September 16, 2010, prior to the board taking action on the proposal.

BOARD ACTION

The board is considering taking the following actions at its meeting on September 16, 2010, subject to consideration of public comment.

- Approve the USFS as *the prospective donee of fee title for 7 parcels encompassing 867 acres*, as identified in Table 1.
- Approve BLM as *the prospective donee of fee title for the one parcel encompassing 42 acres* in the Oroville Planning Unit, as identified in Table 2.

¹ Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003, Section 12(a)(5)



NEXT STEPS

If the board approves of the above-described action, the Stewardship Council will formally request that PG&E contact the donees to begin negotiating the necessary transaction documents. Stewardship Council staff will proceed with identifying qualified organizations to hold conservation easements or covenants over those lands, as applicable, and begin work on developing Land Conservation and Conveyance Plans for the subject parcels.

ATTACHMENT 1: SUMMARY OF LCP COMMENTS ON SUBJECT PLANNING UNITS

I. Public Review of the Land Conservation Plan

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 II of the LCP, 25 public comments were submitted concerning the North Fork Feather River, Kings River, Kern River, Bass Lake, Deer Creek, and Oroville planning units, as summarized and compiled below. No public comments were received for the Wishon Reservoir 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.

Regarding future management of the planning units, public comments emphasized the following:

- Recreational access and facilities should be enhanced in the North Fork Feather River Planning Unit, including the restoration of a three mile trail that begins below Bardees Bar road.
- All forest activities in Plumas County should be managed in coordination with community-specific prescriptions in the Plumas County Community Wildfire Protection Plan, as well as the Herger Feinstein Quincy Library Group Act on National Forest lands and other future county fire and forestry policies.
- The Kings River Planning Unit should be transferred to the US Forest Service to enhance resource management in coordination with adjacent public lands and the proposed Wild and Scenic River designation.
- The future owner of the Kings River Planning Unit should manage the property in the interest of all watershed users and should not restrict public access.
- Open space should be preserved in the Bass Lake Planning Unit because the area is already overdeveloped.
- Coordinated management of the historic resources located at Bass Lake is important.
- The Deer Creek Planning Unit should be transferred to the US Forest Service to ensure consistent management with adjacent wilderness, roadless area, and proposed Wild and Scenic River designation.
- Concern that the recommended timber management in the Deer Creek Planning Unit may have an impact on the sensitive riparian habitat.
- Recreation at the Oroville Planning Unit should be managed in coordination with the State Department of Water Resources, an adjacent landowner, as there are certain management priorities already identified for the area.

- The lands available for donation in the Oroville Planning Unit should be donated to the California Department of Water Resources or Department of Parks and Recreation, since portions of this planning unit is contiguous with Lake Oroville State Recreation Area and already being managed for public benefit.
- Parcels in the Oroville Planning may be important to Native American tribes and the preservation of their culture. These tribes should also have an opportunity to apply for these lands.
- Secured public access and limited development of the Oroville River Corridor is essential to preserve wildland outdoor recreation.