

FEE TITLE DONEE RECOMMENDATION BUTTE CREEK 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,¹ 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 Butte Creek planning unit, located in Butte County, consists of 24 legal parcels encompassing approximately 2,179 acres of land. Approximately 1,780 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 1,780 acres of land have been made available for fee title donation. The Stewardship Council received two land stewardship proposals (LSP) for lands within the Butte Creek planning unit, one from the California Department of Fish and Wildlife (CDFW) and another from the United States Bureau of Land Management (BLM). Subsequent to its submittal of the LSP, BLM determined that it could not pursue the land donation due to requirements of the Stipulation related to Section 4(e) of the Federal Power Act.

Stewardship Council staff reviewed CDFW's LSP and has developed the following recommendation, which was endorsed by the Watershed Planning Committee (Planning Committee), based on an evaluation of the LSP and follow-up discussions with CDFW.

CDFW to become the prospective recipient of fee title to up to approximately 1,305 acres available for donation within nine parcels (parcels 707, 708, 710-713, 715, 724 and 725).

It is anticipated that during transaction negotiations, when field visits are conducted by PG&E and CDFW, that the acreage that is actually donated could increase or decrease depending on PG&E operational needs, FERC requirements, and the complexity of the surveys that would need to be conducted to transfer the land.

CDFW to receive a grant in an amount not to exceed \$425,000 for its future management costs for the property recommended for donation.

¹ 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").

PG&E to retain fee title to approximately 475 acres available for donation within 12 parcels (parcels 705, 706, 708-712, 715, 717, 720, 725, and 726). This acreage is in addition to the 399 acres originally designated by PG&E for retention in this planning unit. Any acres within the nine parcels recommended for donation to CDFW that are not transferred will be retained by PG&E.

If this fee recommendation is approved by the Stewardship Council Board (Board), PG&E would negotiate the transaction agreements with CDFW. The Planning Committee has recommended that the Northern California Regional Land Trust (NCRLT) be selected by the Board as the prospective holder of the conservation easements to be established at the Butte Creek planning unit. If the Board approves that recommendation, NCRLT and CDFW would negotiate the conservation easement over lands recommended for donation to CDFW, and the Stewardship Council would develop a Land Conservation and Conveyance Plan (LCCP) for the donated property.

If this recommendation that PG&E retain approximately 475 acres (plus an additional 399 acres originally designated by PG&E for retention) in the Butte Creek planning unit is approved by the Board, PG&E would negotiate the conservation easement for the retained lands with NCRLT. The Stewardship Council would develop a separate LCCP for the property being retained by PG&E.

The public will have an opportunity to review and provide comment on the proposed LCCPs. Comments received will be shared with the Planning Committee before the Planning Committee forwards the proposed LCCP to the Board for its review and approval. 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 Butte Creek planning unit consists of 24 legal parcels encompassing approximately 2,179 acres of land. The planning unit is located in Butte County near the communities of Magalia, Paradise, and Chico. Two distinct and connected land areas are found in the Butte Creek planning unit; a canyon area and a ridge top area. The lands comprising this planning unit are part of the DeSabla-Centerville FERC Project No. 803, which is currently in the process of being relicensed. The lands surrounding the planning unit are largely owned by the BLM or are under private ownership.

The planning unit is bisected by Butte Creek. The 10 acre DeSabla Forebay is located in this planning unit as well as multiple penstocks, canals, and flumes that carry water to the DeSabla and Centerville Powerhouses. Habitat types include riparian forest, oak and oak/pine woodlands, chaparral, and mixed conifer and pine forest. Associated resources include rare plants and primarily undisturbed habitat for common animal species such as black bear, deer, other mammals, birds, reptiles, and amphibians. Three species of special status plants have also been recorded in the planning unit: Butte County morning-glory, checkerbloom, and fritillary.

The aquatic habitat provided by Butte Creek is important for wild steelhead and spring-run Chinook salmon. The spring-run Chinook salmon population that uses Butte Creek is the largest in the state. Catch and release fishing is permitted from mid-November through mid-February.

However, the remote access and inaccessibility of the river limit public recreation in this planning unit to limited fishing and whitewater boating opportunities.

The planning unit also contains a Pacific Service Employees Association (PSEA) campground for member use only on the northwest side of the DeSabla Forebay. A large portion of the planning unit is comprised of two PG&E Timber Management Units encompassing 470 timbered acres.

b. Donee Evaluation Process

The Stewardship Council received statements of qualifications (SOQs) from four 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, all four organizations were invited to submit an LSP. Of these organizations, only CDFW and BLM submitted LSPs. Subsequent to its submittal of the LSP, BLM determined that it could not pursue the land donation due to requirements of the Stipulation related to Section 4(e) of the Federal Power Act.

In evaluating CDFW's LSP, the following factors were considered:

- The potential donee's 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 donee;
- The management objectives for the Butte Creek 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.

Pursuant to an evaluation of CDFW's LSP for the subject lands, Stewardship Council staff is recommending a donation of 1,305 acres to CDFW.

II. EVALUATION

Stewardship Council staff's evaluation of the submitted LSP included follow-up discussions with CDFW and PG&E. Based on this evaluation, CDFW is being recommended to receive a donation of fee title to lands within the Butte Creek planning unit as follows, subject to compliance with all of the requirements of the Land Conservation Commitment:

CDFW to become the prospective recipient of fee title to up to approximately 1,305 acres available for donation within nine parcels (parcels 707, 708, 710-713, 715, 724 and 725).

It is anticipated that during transaction negotiations, when field visits are conducted by PG&E and CDFW, that the acreage that is actually donated could increase or decrease depending on

PG&E operational needs, FERC requirements, and the complexity of the surveys that would need to be conducted to transfer the land.

PG&E to retain fee title to approximately 475 acres available for donation within 12 parcels (parcels 705, 706, 708-712, 715, 717, 720, 725, and 726). This acreage is in addition to the 399 acres originally designated by PG&E for retention in this planning unit. Any acres within the nine parcels recommended for donation to CDFW that are not transferred will also be retained by PG&E.

This recommendation is based on a determination that, as augmented by the grant funding staff recommends be provided to CDFW, CDFW 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 existing CDFW land holdings would result in the preservation and/or enhancement of the BPVs. Staff's evaluation of CDFW and its LSP is further described below. The recommendation that PG&E retain 475 acres is based on the lack of interest of qualified and eligible entities for a fee title donation to those lands.

a. Donee Organizational Capacity

The mission of CDFW is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public.

CDFW has decades of experience managing the fisheries and guiding restoration efforts to improve aquatic habitat in Butte Creek, within the Butte Creek watershed. CDFW, other state and federal agencies, water districts, and non-profit organizations have implemented restoration projects in the Butte Creek watershed, with the goals of improving fish passage, increasing natural salmon and steelhead production, and enhancing riparian habitat. In addition to guiding restoration actions within the Butte Creek watershed, CDFW has conducted research on fishery life cycles.

The CDFW maintains native fish, wildlife, plant species, and natural communities for their intrinsic and ecological value and their benefits to people. This includes habitat protection and maintenance in a sufficient amount and quality to ensure the survival of all species and natural communities. The CDFW is also responsible for the diversified use of fish and wildlife including recreational, commercial, scientific and educational uses.

The CDFW is responsible for the management of over 1,135,000 acres of fish and wildlife habitat. In total, the CDFW manages 720 properties throughout the state. These properties provide habitat for a rich diversity of fish, wildlife, and plant species and comprise habitats from every major ecosystem in the state. In addition, CDFW also administers several private lands conservation programs designed to assist landowners with the management of wetlands, riparian habitats, native grasslands and wildlife-friendly farmlands.

The CDFW oversees 110 wildlife areas located throughout the state, totaling over 705,545 acres. CDFW operated wildlife areas range in size from only a few acres to the 46,862-acre Tehama Wildlife Area in Tehama County. The CDFW acquires wildlife areas to protect and enhance habitat for wildlife and to provide for public uses that are compatible with the long-term well-being of wildlife and habitat. CDFW management of these areas range from custodial care, in that the goal is to protect the area from destructive activities, to annual intensive habitat

manipulation to maximize wildlife populations. While these areas still support hunting and angling, as provided for in law, they offer many more opportunities to the public who visit them.

CDFW has statewide and regional specialists in the following areas of expertise that can manage the proposed Ecological Reserve or provide technical assistance: wildlife biology, fisheries biology, engineering, hydrology, fluvial geomorphology, botany, fish pathology, GIS, timber management, vegetation management, fish and wildlife education and outreach, invasive species, entomology, herpetology, statistics, water quality, water rights, and other areas.

The variety of management approaches employed now has yielded a diversity of wildlife species and subsequently broadened the experiences available. The CDFW has developed informative brochures to guide visitors in activities such as bird watching, hunting, fishing and nature walks. Efforts are also underway to increase the number of informational kiosks, tour routes (viewing wildlife from an auto), observation platforms, and fishing and disabled access sites.

b. Management Objectives

Volume II of the LCP established certain management objectives for the Butte Creek planning unit (see Volume II Planning Unit Report with attachments). As described below, CDFW is seeking fee title to lands within the planning unit to achieve a number of proposed management activities, which are consistent with the established management objectives.

CDFW proposes to designate the donated parcels as an Ecological Reserve. Ecological reserves are established to provide protection for rare, threatened or endangered native plants, wildlife, aquatic organisms and specialized terrestrial or aquatic habitat types. Public entry and use of ecological reserves must be compatible with the primary purposes of such reserves, and subject to applicable general rules and regulations, except as otherwise provided for in the special area regulations.

The CDFW would develop a Land Management Plan (LMP) for the Ecological Reserve. The LMP would require a public review process under the California Environmental Quality Act (CEQA), including public outreach and meetings. The best applicable land management practices for the donated watershed lands would be identified through the LMP process. Development of the LMP would begin after acquisition of the property by the CDFW. Plans are updated periodically, and can be adjusted or changed to suit changing conditions or situations.

The Ecological Reserve Land Management Plan would be used to develop appropriate rules, regulations, and compatible public uses, for submission to the Fish & Game Commission, and inclusion in Title 14 for that specific Ecological Reserve. It is anticipated that fishing regulations would remain unchanged. Fishing is permitted on ecological reserves, however special regulations are necessary so that DFG can determine when this public use is appropriate and will cause no impacts to protected species and habitat as well as adhering to current fishing regulations of the Commission. Sensitive biological sites and important cultural sites to the Mechoopda would be identified and public access restrictions would be initiated through the management plan and Commission process in the California Code of Regulations, Title 14.

CDFW would develop a baseline of existing species and then perform periodic surveys of conditions. These data could be used to evaluate ecosystem health and management. This enhanced management activity would inform future activities to enhance the BPVs. A baseline inventory of existing species would be conducted soon after acquisition as an Ecological

Reserve. Periodic resurveys of existing species would be conducted every 5 to 10 years, as resources permit.

Public access and use would be granted during defined periods of time on certain parcels acquired. Future projects could be identified to develop trails within the Ecological Reserve. Existing designated access roads and parking areas within the area would be maintained as an ongoing baseline activity and any need for seasonal restrictions or gates would be evaluated. Some roads could conceivably be decommissioned to prevent vehicular access. The use of motor vehicles, bicycles or any other type of vehicle is prohibited on an Ecological Reserves.

Development of the Ecological Reserve Land Management Plan would identify critical fisheries management issues and outline efforts needed to address these issues. Fishery management would balance public use and protect the anadromous fishery resources of Butte Creek. CDFW warden patrol would occur periodically throughout the season as needed. Enhanced CDFW warden patrol would occur in the Butte Creek watershed lands as a result of acquisition and designation as an Ecological Reserve.

Important cultural and archeological values would be protected and preserved. Native American tribes would continue to have access to these sites, which would be protected by public ownership.

c. Requirements of the Settlement and Stipulation

The Stewardship Council's recommendation that CDFW receive fee title to certain lands available for donation within this planning unit is subject to compliance with all the requirements of the Land Conservation Commitment. Several of these requirements are highlighted below.

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

A conservation easement will be established on the lands within the planning unit. On lands to be retained by PG&E, the conservation easement will include an express reservation of rights for continued operation and maintenance of hydroelectric facilities and associated water delivery facilities, including project replacements and improvements required to meet existing and future water delivery requirements for power generation and consumptive water use by existing users, and compliance with any FERC license, FERC license renewal, or other regulatory requirements. On lands to be conveyed to CDFW, the grant deed would reserve to PG&E similar rights for operation and maintenance of hydroelectric facilities and associated water delivery facilities.

d. Conservation Partners

The permanent protection of the Butte Creek planning unit and the future preservation and enhancement of the BPVs may benefit from the participation of land conservation partners. In guiding restoration efforts in the Butte Creek Watershed, CDFW has partnered with numerous public agencies, nonprofits, environmental groups, community groups, research institutions, and private entities. In its LSP, CDFW identified several partners that it anticipates working with on the donated lands. These potential partners include:

- National Marine Fisheries Service (NOAA Fisheries)
- California Trout

- Northern California Regional Land Trust (applicant to hold the conservation easement)
- The Nature Conservancy

For the purposes of this recommendation, land conservation partners are defined as organizations, 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. Staff would work with the prospective organizations recommended for donation of fee title and conservation easements in this planning unit and evaluate opportunities for land conservation partners.

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 Butte Creek planning unit is attached.

IV. NEXT STEPS FOLLOWING PLANNING COMMITTEE RECOMMENDATION

If the Board approves this fee recommendation and the earlier Planning Committee recommendation that NCRLT be selected to hold the conservation easements at the Butte Creek planning unit on January 22, 2015, staff would invite CDFW to negotiate specific terms of the transaction with PG&E, and NCRLT would negotiate a conservation easement with CDFW and a separate easement with PG&E.

After review by the Stewardship Council, the proposed conservation easements will be incorporated into the Land Conservation and Conveyance Plans (LCCPs) to be developed for the planning unit. The public will have an opportunity to review and provide comment on the proposed LCCPs. Comments received will be shared with the Planning Committee before the Planning Committee forwards the proposed LCCPs to the Board for its review and approval. Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process.

ATTACHMENTS AND REFERENCE MATERIAL

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



BUTTE CREEK ATTACHMENTS

[Butte Creek Planning Unit Report](#)

[Butte Creek Existing Conditions Map](#)

[Butte Creek Aerial Map](#)



Butte Creek Planning Unit

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

Bureau of Land Management
California Department of Fish and Game
Enterprise Rancheria
Northern California Regional Land Trust

SUMMARY OF KEY PUBLIC OUTREACH ACTIVITIES AND PUBLIC COMMENTS ASSOCIATED WITH THE BUTTE CREEK 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, fifteen entities/individuals submitted comments concerning the Butte Creek 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:

- Limit public access within the planning unit particularly along Butte Creek
- Improve public access at Hog Ranch Road, the DeSabla Powerhouse, and Lower Centerville Head Dam
- Allow access along flume trails
- Delay decision making on recreational activities along Butte Creek until a new FERC license has been issued for the DeSabla-Centerville Project.
- Develop a fuels management plan

PUBLIC INFORMATION MEETING FOR THE BUTTE CREEK PLANNING UNIT

A public information meeting was hosted by the Stewardship Council on April 20, 2011 at the Chico Masonic Family Center in Chico, California. The meeting concerned the following five planning units: Butte Creek, Deer Creek, North Fork Feather River, Oroville, and Philbrook Reservoir. A total of 34 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. There were no comments made at the meeting that pertained specifically to the Butte Creek planning unit. However, listed below are general comments that were made concerning the Feather River watershed area.

General Comments Concerning the Feather River Watershed Area

- Respect local land use decisions and general plans/zoning

- Preserve and enhance public access
- Address property tax neutrality and other socio-economic factors that may affect public entities
- All lands should provide public recreation opportunities (hiking, horseback riding, camping, fishing, rafting, and limited OHV use)
- Where feasible, land should be made available for small scale farming and community gardens
- Limit timber harvesting to preserve biodiversity
- Restore land to a native state where possible
- Ensure Native American access

ADDITIONAL COMMENTS RECEIVED

The Stewardship Council also received other public comments and letters from individuals regarding the future management of the Butte Creek planning unit, as summarized below:

- Open canals and flume catwalks for public access
- Increase public access on parcels 715 and 725
- If public access is allowed along Butte Creek, it would need to be carefully managed and monitored
- Conduct fuels thinning where needed