

FEE TITLE RECOMMENDATION LYONS RESERVOIR 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 Lyons Reservoir planning unit, located in Tuolumne County, consists of 12 legal parcels encompassing approximately 1,088 acres of land. Approximately 786 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 786 acres of land have been made available for fee title donation.

Three organizations submitted land stewardship proposals seeking fee title to lands available for donation in this planning unit- the California Department of Forestry and Fire Protection (CAL FIRE), the U.S. Forest Service (USFS), and the Tuolumne Utilities District (TUD). CAL FIRE and USFS both expressed interest in approximately 628 acres in parcels 1024 -1027. The Stewardship Council Board recommended these 628 acres be donated in fee to the US Forest Service - Stanislaus National Forest (USFS) on January 19, 2012.

The recommendation presented below pertains to the remaining 158 acres identified as available for donation within eight parcels in this planning unit. Of this acreage, CAL FIRE expressed interest in approximately 100 acres available for donation within parcel 1017 and TUD has identified interest in approximately 20 acres available for donation within parcel 1019.

Based on review of the LSPs, consultation with the Watershed Planning Committee (Planning Committee), and follow-up discussions with the organizations, Stewardship Council staff developed the following recommendation, which was endorsed by the Planning Committee:

PG&E to retain fee title to approximately 158 acres available for donation within eight parcels (parcels 1016 -1023) at the Lyons Reservoir planning unit. This acreage is in addition to the approximately 302 acres originally designated by PG&E for retention in this planning unit.

If this recommendation is accepted by the Stewardship Council Board (Board), PG&E and the recommended conservation easement holder will negotiate a conservation easement for the lands

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").

that will be retained by PG&E in this planning unit. After review by the Stewardship Council, the proposed conservation easement will be incorporated into a Land Conservation and Conveyance Plan (LCCP) developed for the planning unit. The draft LCCP will be made available for public review and comment before it is reviewed and approved by the Watershed Planning Committee and the Board. Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process for selecting donees.

I. INTRODUCTION AND BACKGROUND

a. *Planning Unit Description*

The Lyons Reservoir planning unit is located in Tuolumne County, 10 miles northeast of the City of Sonora. The planning unit is surrounded by the Stanislaus National Forest and private lands, including lands belonging to Sierra Pacific Industries. The elevation within the planning unit ranges from 2,600 to 4,700 feet.

The water features within this planning unit include Lyons Reservoir and portions of the Main Tuolumne Canal and South Fork Stanislaus River. Lyons Reservoir, fed by the waters of the South Fork Stanislaus River, serves as the primary drinking water supply for Tuolumne County's population.

The majority of acreage available for donation (628 acres) within this planning unit is located northeast of the Reservoir within four contiguous parcels. These parcels were recommended for donation to the USFS – Stanislaus National Forest on January 19, 2012. The remaining eight parcels consist of 460 acres (of which 158 acres were identified as available for donation) and include Lyons Reservoir and lands surrounding the reservoir, as well as several parcels southwest of Lyons Dam along the Main Tuolumne Canal. The parcels encompassing the Reservoir as well as parcel 1016 southwest of the Reservoir are adjacent to Stanislaus National Forest property. The remaining parcels within the planning unit are surrounded by private lands.

The water features and associated riparian areas within the properties addressed within this recommendation provide a variety of wildlife and plant habitat values. Both migratory and resident populations of the Stanislaus deer herd are located in the area. Regular observations of osprey have occurred in the area. In addition, the planning unit has been identified as suitable habitat for black bear, black-tailed deer, mountain lion, and gray fox.

Recreational activities at Lyons Reservoir are generally limited to seasonal use between May 1st and October 31st when road access is available. Activities include bank angling, hiking, picnicking, horseback riding, and bicycling. To protect water quality, boating and swimming in Lyons Reservoir are not allowed. There is one formal day use area adjacent to Lyons Reservoir, on lands to be retained by PG&E. Hiking, mountain biking, and horseback riding on the historic Sugar Pine Railroad grade, as well as hiking along the Tuolumne Ditch trail, are popular activities. In addition, there is a popular trail that crosses Lyons Dam and provides access downstream to the base of the dam. Interpretive signs about the Sugar Pine Railroad have been posted at the Lyons Reservoir parking area.

The Main Tuolumne Canal is stocked with catchable trout by PG&E and the California Department of Fish and Game (DFG). DFG also stocks rainbow trout in Lyons Reservoir. Lyons Reservoir is inhabited by at least seven species of fish.

b. Donee Evaluation Process

The Stewardship Council received statements of qualifications (SOQs) from seven 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, CAL FIRE, USFS, Tuolumne County, and TUD were invited to submit LSPs. Three LSPs were received from the USFS, CAL FIRE, and TUD.

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 Lyons Reservoir 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.

After reviewing the LSPs, engaging in follow up discussions with the interested fee title organizations, and consulting with the Planning Committee, Stewardship Council staff recommended that the USFS receive a fee title donation of approximately 628 acres located within four parcels (parcels 1024 -1027) at the Lyons Reservoir planning unit. This recommendation was approved by the Board at the January 19, 2012 board meeting.

After further review of the remaining LSPs, additional discussions with PG&E, CAL FIRE, and TUD, and consultation with the Planning Committee, Stewardship Council staff is recommending that PG&E retain fee title to approximately 158 acres available for fee donation within eight parcels (parcels 1016 -1023). This acreage is in addition to the approximately 302 acres originally designated by PG&E for retention in this planning unit.

II. EVALUATION

Both TUD and CAL FIRE's LSPs identified an interest in acreage available for donation and subject to this recommendation. These LSPs were evaluated and considered along with the alternative that PG&E retain the property.

a. TUD's Land Stewardship Proposal

TUD's LSP identified interest in 20 acres available for donation within parcel 1019 for the construction of an off-stream, raw water storage reservoir, which would support a future water treatment facility proposed for the adjacent property. TUD stated that the proposed reservoir would improve the reliability of TUD's treated and raw-water systems.

TUD is a public entity governed by five directors elected at large. TUD's mission is "to provide our community with reliable, high quality water, wastewater and other utility services." TUD owns and manages a variety of properties and water facilities for purposes related to its mission. These properties include the Main Tuolumne Canal which is managed for raw water conveyance under an agreement with PG&E. This Canal runs from Lyons Reservoir and intersects several of the PG&E parcels within the Lyons Reservoir planning unit, including parcel 1019. TUD also owns lands adjacent to parcel 1019, which were previously acquired for the future development of a water treatment facility.

Parcel 1019 is located immediately adjacent to a residential area and is accessible by paved road off Highway 108. It is intersected by the Main Tuolumne Canal, which is used for fishing seasonally from approximately May 1 to October 31 subject to weather conditions. A public parking area and fishing access is maintained by PG&E on acreage previously identified to be retained by PG&E. The parcel is open for public access and recreation from dawn to dusk during the fishing season. Additional facilities include a maintenance building, water gage, and helipad.

Based on Stewardship Council staff's review of TUD's LSP, discussions with TUD and PG&E, and consultation with the Planning Committee, staff believes that PG&E retention of the 20 acres of land available for donation within parcel 1019, rather than a donation of this land to TUD, would be the most appropriate outcome. Such an outcome would still allow TUD to pursue its interests in this parcel for a possible future expansion of its operations.

b. CAL FIRE's Land Stewardship Proposal

CAL FIRE's LSP identified interest in fee title to approximately 728 acres of lands within 5 parcels (parcels 1017, 1024 -1027). 628 acres of property within 4 parcels 1024 -1027 were recommended for donation to the USFS by the Board on January 19, 2012. The remaining acreage of interest to CAL FIRE, approximately 100 acres surrounding Lyons Reservoir, is considered to be constrained as a result of the limited acreage, geographical configuration of lands available, and extensive survey and subdivision work necessary to transfer fee title ownership as a result of existing FERC boundaries. Accordingly, staff is recommending that this property remain with PG&E.

c. PG&E Retention

According to PG&E, its management of the watershed lands is guided by a number of considerations, including optimizing benefits to PG&E customers, shareholders, and the environment. The retention of the lands within the Lyons Reservoir planning unit by PG&E, at least in the near term, would likely result in continuing the current management regime, subject to a newly established conservation easement.

PG&E's management of parcel 1019, however, could be affected by the future expansion or modification of water delivery facilities by TUD.

d. Requirements of the Settlement and Stipulation

The Stewardship Council's recommendation that PG&E retain fee title to certain lands within this planning unit is subject to compliance with all the requirements of the Land Conservation Commitment. Several of these requirements are highlighted below.

- A conservation easement would be established on lands owned by PG&E within the Lyons Reservoir planning unit.
- The conservation easement would include an express reservation of 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.
- The conservation easement would reserve the authority of PG&E or other holders of applicable water rights to apply to the applicable regulatory authority to increase or otherwise modify the water storage capacities of existing facilities.

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 Lyons Reservoir planning unit is attached.

IV. RECOMMENDATION

Stewardship Council staff has completed an evaluation of CAL FIRE and TUD's LSPs and is making the following recommendation:

PG&E to retain approximately 158 acres available for donation within eight parcels (parcels 1016 -1023) at the Lyons Reservoir planning unit. This acreage is in addition to the 302 acres originally designated by PG&E for retention in this planning unit.

V. NEXT STEPS

If the Board approves this recommendation on May 2, 2012, PG&E and the recommended conservation easement holder will negotiate a conservation easement for the lands that will be retained by PG&E in this planning unit. After review by the Stewardship Council, the proposed conservation easement will be incorporated into a Land Conservation and Conveyance Plan (LCCP) developed for the planning unit. The draft LCCP will be made available for public review and comment before it is reviewed and approved by the Watershed Planning Committee and the Board. Adoption of the LCCP by the Board would be the final step in the Stewardship Council's process for selecting donees.



ATTACHMENTS AND REFERENCE MATERIAL

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