

FEE TITLE RECOMMENDATION KERCKHOFF LAKE 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 Kerckhoff Lake planning unit, located in Madera and Fresno County, consists of two legal parcels encompassing approximately 325 acres of land. Approximately 127 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 127 acres of land have been made available for fee title donation.

One organization submitted a land stewardship proposal (LSP) seeking fee title to lands available for donation in this planning unit – the North Fork Mono Tribe. Based on review of the LSP and follow-up discussions with the Tribe, Stewardship Council staff is making the following recommendation, which was endorsed by the Watershed Planning Committee:

PG&E to retain fee title to approximately 127 acres made available for donation within two parcels (parcels 1059 and 1060) at the Kerckhoff Lake planning unit. This acreage is in addition to the approximately 198 acres originally designated by PG&E for retention in this planning unit.

If this recommendation is endorsed by the Stewardship Council Board (Board), 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. A recommendation for a prospective conservation easement holder would be made as part of a separate recommendation to the Board.

After review by the Stewardship Council, the proposed conservation easement would be incorporated into a Land Conservation and Conveyance Plan (LCCP) developed for the planning unit. The public will have an opportunity to review and provide comment on the proposed LCCP and the 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.

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").

I. INTRODUCTION AND BACKGROUND

a. *Planning Unit Description*

The Kerckhoff Lake planning unit is located in Madera and Fresno counties, approximately 10 miles from the communities of North Fork and Auberry. The planning unit includes Wishon Powerhouse and the northern, upstream end of 172-acre Kerckhoff Lake. The planning unit, which is adjacent to both private lands and lands managed by Sierra National Forest, is located at an elevation of approximately 1,000 feet.

The planning unit is accessed by County Road 222, which runs through the planning unit and provides access to the Smalley Cove recreation area which provides a campground, picnic area and restroom facilities. Camping, fishing, and picnicking are activities that occur at this planning unit. PG&E manages two license agreements that affect approximately 130 acres of parcel 1060; one for grazing and one for staging cattle. Grazing takes place year round, with the property used to gain access to the adjoining USFS allotment.

The planning unit features open oak woodland as well as riparian habitat. The lake is an attractive area for waterfowl and wading birds due to its shallow calm water and a marsh resulting from sediment in-fill, which provides uncommon habitat for the area. Several special status species may occur within the planning unit, including the tree anemone, a rare shrub found only in this area of the Sierra foothills.

The planning unit is largely maintained in open space, providing a scenic viewshed to residents and travelers on County 222. Several cultural sites are found within the planning unit including a Yokut village site. Additionally, the historical remnants of early hydropower development dating to the early 1900s are found just north of the Wishon Powerhouse.

Local tribes have used the Kerckhoff Lake area for community gatherings, cultural activities, and recreation for many years.

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. All four organizations were invited to submit an LSP. Only one organization, the North Fork Mono Tribe, submitted an LSP.

In evaluating this 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 Kerckhoff Lake planning unit as set forth in Volume II of the Land Conservation Plan (LCP);
- The requirements of the Settlement and Stipulation; and,

- Other relevant policies, procedures, and goals adopted by the Stewardship Council.

After reviewing the LSP and follow-up discussions with the Tribe, Stewardship Council staff is recommending that PG&E retain fee title to approximately 127 acres available for fee donation within the two parcels (parcels 1059 and 1060). This acreage is in addition to the approximately 198 acres originally designated by PG&E for retention in this planning unit.

II. EVALUATION

The North Fork Mono Tribe's LSP identified interest in all acreage made available for donation and subject to this recommendation. This LSP was evaluated and considered along with the alternative that PG&E retain the property.

a. North Fork Mono Tribe's Land Stewardship Proposal

The North Fork Mono Tribe's LSP highlighted its interest in the 155 acres around the northwestern edge of Kerckhoff Lake. This acreage includes Smalley Cove, a 28-acre area north of the lake which was not designated as available for donation. The Tribe is interested in preserving the numerous cultural resources within these acres including village sites and burial grounds, as well as a portion of a historical Mono Trail which transects the north portion of the lake and follows the San Joaquin River from the central valley to the mountains.

The Tribe proposes to continue grazing uses while expanding recreational opportunities including an expansion of the Smalley Cove campsites, and the development of hiking trails. The Tribe also proposes to restore native vegetation, specifically several culturally important species. Also, the Tribe wants to pursue construction of a traditional Mono Village for educational and cultural uses.

After reviewing the Tribe's LSP and follow-up discussions with the Tribe, staff concluded that the Tribe does not appear to have sufficient organizational or financial capacity to receive a donation of fee title and manage these lands for the long term preservation and enhancement of the beneficial public values.

However, staff recommends that the Stewardship Council continue to further explore opportunities for the Tribe to pursue its proposed activities and enhancements on lands to be retained by PG&E. Staff has requested additional information from the Tribe to better evaluate the feasibility and suitability of the proposed projects and the Tribe's capacity to achieve them in partnership with PG&E as landowner and with consent of a recommended conservation easement holder.

b. 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 Kerckhoff Lake planning unit by PG&E, at least in the near term, would likely result in continuing the current management regime, subject to a conservation easement.

c. 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 Kerckhoff Lake planning unit.
- PG&E currently manages two license agreements – one for cattle grazing and one for staging cattle on the property. The conservation easement will allow for continued agricultural use.
- 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.

d. Conservation Partners

The permanent protection of the Kerckhoff Lake planning unit, and the future preservation and enhancement of the BPVs, may involve, and benefit from, the participation of land conservation partners. For purposes of this recommendation, land conservation partners are defined as organizations other than PG&E or the conservation easement holder that become involved in future activities on the retained lands that contribute to the preservation and enhancement of the BPVs. Land conservation partners may be organizations that expressed interest in enhancement activities on the properties via a land stewardship proposal, such as the North Fork Mono Tribe, or organizations otherwise identified during or after the development of the Land Conservation and Conveyance Plan (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 PG&E and the proposed conservation easement holder in this planning unit to evaluate opportunities for land conservation partners. The results of this effort could be reflected in the final LCCP.

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 is attached. One public comment recommending enhanced public access from the San Joaquin River trail to Smalley Cove campground through the old bridge abutments was received.



IV. RECOMMENDATION

Stewardship Council staff has completed an evaluation of the North Fork Mono Tribe's LSP and is making the following recommendation:

PG&E to retain fee title to approximately 127 acres made available for donation within two parcels (parcels 1059 and 1060) at the Kerckhoff Lake planning unit. This acreage is in addition to the approximately 198 acres originally designated by PG&E for retention in this planning unit.

V. NEXT STEPS

If the Board approves this recommendation at the March 13, 2013 board meeting, 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 public will have an opportunity to review and provide comment on the proposed LCCP and the 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.

ATTACHMENTS AND REFERENCE MATERIAL

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

Kerckhoff Lake Planning Unit

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

http://lcp.stewardshipcouncil.org/Vol_2/pdf/41_1_KerckhoffLakeText.pdf

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

http://www.stewardshipcouncil.org/Land_Conservation/planning_units/round-2/maps/Kerckhoff_aerial_letter.pdf

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

http://www.stewardshipcouncil.org/Land_Conservation/planning_units/round-2/maps/Kerckhoff_ex_letter.pdf



Kerckhoff Lake Planning Unit

Organizations That Submitted a Statement of Qualifications

Coarsegold Resource Conservation District
Madera County
North Fork Mono Tribe
San Joaquin County Office of Education

SUMMARY OF KEY PUBLIC OUTREACH ACTIVITIES AND PUBLIC COMMENTS ASSOCIATED WITH THE KERCKHOFF LAKE 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, no comments concerning the Kerckhoff Lake planning unit were received.

PUBLIC INFORMATION MEETING FOR THE KERCKHOFF LAKE PLANNING UNIT

A public information meeting was hosted by the Stewardship Council on April 21, 2011 at the Clovis Veterans Memorial Hall in Clovis, California. The meeting concerned the following seven planning units: Auberry Service Center, Kerckhoff Reservoir, Willow Creek, Manzanita Lake, Bass Lake, Kern River, Kings River and Wishon Reservoir. A total of 18 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 eight 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 eight planning units. During the meeting, participants were invited to ask questions and provide comments on the eight planning units. Stations were set up with maps, other pertinent information, and easels with blank paper.

During the public information meeting, meeting participant recommended enhancing public access from the San Joaquin River trail to Smalley Cove campground through the old bridge abutments. This was the only comment specifically related to the Kerckhoff Lake planning unit received at the meeting.