



## FEE TITLE RECOMMENDATION WILLOW 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,<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 Willow Creek planning unit, located in Madera County, consists of six legal parcels encompassing approximately 246 acres of land. Approximately 161 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 161 acres of land were made available for fee title donation. However, approximately half of the acreage available for donation within this planning unit was identified as constrained due to the configuration of FERC Project boundaries, which would necessitate extensive survey and subdivision work to transfer fee title ownership.

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. The Tribe's LSP expressed broad interest in all of the acres available for donation, with particular interest in 68 acres available for donation within parcel 1055 and 1057.

Based on review of the LSP, follow-up discussions and a site visit 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 161 acres made available for donation within six parcels (parcels 1053 -1058) at the Willow Creek planning unit. This acreage is in addition to the approximately 85 acres originally designated by PG&E for retention in this planning unit.

If this recommendation is endorsed by the Stewardship Council Board, PG&E and the recommended conservation easement holder would negotiate a conservation easement for the lands that would 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 will be incorporated into a Land Conservation and Conveyance Plan (LCCP) developed for the planning

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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").

unit. The public will have an opportunity to review and provide comment on the proposed LCCP. 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 Willow Creek planning unit is located in Madera County, south of the community of North Fork. The planning unit is bisected by County Road 222 and has a variety of hydropower facilities including conduits, tunnels, flumes, dams, a powerhouse, and roads providing access to these facilities. The planning unit is surrounded by both private lands and lands managed by Sierra National Forest. The elevation within the planning unit ranges from 800 to 1,600 feet.

The planning unit includes a mix of oak woodland and Manzanita-dominated brush. Riparian habitat within the planning unit is found along Willow Creek, which is fed by North Fork Willow Creek, and South Fork Willow Creek, both of which transect the planning unit.

Elderberry shrubs are found along riparian areas within the planning unit, providing potential habitat to the valley elderberry longhorn beetle, a federally protected species. Additional special status species that may be present within the planning unit include Mariposa pussypaws and the flaming trumpet. Two noxious weeds, Scotch broom and Spanish broom, have been identified in the area.

Several Native American cultural sites have been found within or near the planning unit parcels. In addition, a variety of enthobotanical resources used for basketry and medicine are found within the planning unit. These resources, which include willow, sedges and wormwood, are harvested and used by Native Americans.

The two parcels in which the Tribe expressed particular interest are parcel 1055 and 1057. Parcel 1055 consists of 27 acres available for donation. The parcel is bordered by private land to the north, and by Sierra National Forest to the east, west and south. A variety of hydropower infrastructure runs through this parcel, and access is limited.

Parcel 1057 consists of approximately 41 acres available for donation. The parcel is surrounded by private property to the north, east and west, and the Sierra National Forest to the south. The majority of the parcel lies adjacent to a working cattle ranch, which is located on the private lands surrounding the parcel. There are no fences between this parcel and surrounding lands, so cattle wander onto PG&E property at times. Access is from County Road 222 across two private properties. The parcel contains a spill channel and electric transmission line. The northern part of the parcel is oak and chaparral descending to the willow lined riparian area along the creek.

### b. *Donee Evaluation Process*

The Stewardship Council received statements of qualifications (SOQs) from three 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 three organizations were invited to submit an LSP. Only one organization, the North Fork Mono Tribe, submitted an LSP.

In evaluating the Tribe'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 Willow Creek 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 Tribe's LSP, and engaging in follow-up discussions with the Tribe, Stewardship Council staff is recommending that PG&E retain fee title to approximately 161 acres available for fee donation within six parcels (parcels 1053 -1058). This acreage is in addition to the approximately 85 acres originally designated by PG&E for retention in this planning unit.

## II. EVALUATION

North Fork Mono Tribe's LSP identified broad interest in all the acreage made available for donation and subject to this recommendation. The 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 identified their interest to be primarily with the unconstrained acres within parcels 1055 and 1057. The Tribe expressed an interest in creating a cemetery on parcel 1055 that would serve to increase the capacity of an existing cemetery located near the parcel. According to the Tribe, the proposed cemetery would be a public cemetery, but intended to expand the availability of burial plots for members of the local Native American community. The Tribe also expressed an interest in acquiring lands in parcel 1057 to restore native plants such as sedge root for Native American cultural uses, such as basket weaving.

To further evaluate the feasibility of the Tribe's proposed enhancement projects, staff conducted meetings and a site visit with the Tribe. Based on this evaluation, it appears that constrained access and the steep terrain associated impede the successful implementation of the proposed enhancements.

In addition to these site constraints, it does not appear that the tribe has sufficient organizational and financial capacity to receive a donation of fee title and manage the land for the long term preservation and enhancement of the beneficial public values.

### *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 Willow Creek 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 Willow Creek 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.

*d. Conservation Partners*

The permanent protection of the Willow Creek 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 pertaining to the need to protect the Willow Creek planning unit from off-road motor vehicles 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 161 acres made available for donation within six parcels (parcels 1053 -1058) at the Willow Creek planning unit. This acreage is in addition to the approximately 85 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

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

## Willow Creek Planning Unit

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

[http://lcp.stewardshipcouncil.org/Vol\\_2/pdf/40\\_1\\_WillowCreekText.pdf](http://lcp.stewardshipcouncil.org/Vol_2/pdf/40_1_WillowCreekText.pdf)

The aerial map to the Willow Creek Planning Unit can be found at this link:

[http://www.stewardshipcouncil.org/Land\\_Conservation/planning\\_units/round-2/maps/Willow\\_Creek\\_aerial\\_letter.pdf](http://www.stewardshipcouncil.org/Land_Conservation/planning_units/round-2/maps/Willow_Creek_aerial_letter.pdf)

The existing conditions maps to the Willow Creek Planning Unit can be found at this link:

[http://www.stewardshipcouncil.org/Land\\_Conservation/planning\\_units/round-2/maps/Willow\\_Creek\\_ex\\_letter.pdf](http://www.stewardshipcouncil.org/Land_Conservation/planning_units/round-2/maps/Willow_Creek_ex_letter.pdf)



## **Willow Creek Planning Unit**

### Organizations That Submitted a Statement of Qualifications

Coarsegold Resources Conservation District  
Madera County  
North Fork Mono Tribe

## **SUMMARY OF KEY PUBLIC OUTREACH ACTIVITIES AND PUBLIC COMMENTS ASSOCIATED WITH THE WILLOW 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, one individual submitted a comment concerning the need to protect the Willow Creek planning unit from off-road motor vehicle use. This comment was reviewed and responded to individually, and the text in the Draft LCP was revised as appropriate.

### **PUBLIC INFORMATION MEETING FOR THE WILLOW CREEK 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 eight 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.

No comments specifically related to the Willow Creek planning unit were received.