

FEE TITLE RECOMMENDATION BATTLE 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 forestry²; 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 Battle Creek planning unit, located in Shasta and Tehama counties, consists of 71 legal parcels encompassing approximately 7,060 acres of land. Approximately 5,948 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 5,948 acres of land have been made available for fee title donation.

Stewardship Council staff received and evaluated two land stewardship proposals (LSPs) from the California Department of Forestry and Fire Protection (CAL FIRE) and the United States Forest Service (USFS) seeking fee title to a portion of the land available for donation in this planning unit. The USFS is seeking a fee title donation to six parcels encompassing approximately 1,139 acres (parcel 302-304, 331-333). CAL FIRE is seeking a fee title donation to these six parcels plus an additional 20 parcels encompassing approximately 2,326 acres.

Based on an evaluation of these LSPs and follow-up discussions with the potential donees, Stewardship Council staff developed the following recommendation, which was endorsed by the Watershed Planning Committee:

CAL FIRE to become the prospective recipient of fee title to approximately 2,326 acres available for donation within 20 parcels (parcels 305-307, 310-314, 325-326, 336-339, and 343-348).

PG&E to retain fee title to approximately 2,362 acres available for donation within 32 parcels (parcels 308-309, 315-324, 327-330, 334-335, 340-342, 349, 351, 355-356, 363-365, 367-368, 371-372). This acreage is in addition to the 1,253 acres originally designated by PG&E for retention within 53 parcels (parcels 302, 304-306, 308-309, 312, 315-324, 327-372).

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").

² The Stewardship Council has adopted the following definition of "Sustainable Forestry": The practice of managing dynamic forest ecosystems to provide ecological, economic, social, and cultural benefits for present and future generations.

A recommendation with respect to the six parcels of interest to both the USFS and CALFIRE has been deferred pending the resolution of legal issues affecting the USFS's ability to receive donations of watershed lands pursuant to the requirements of the Land Conservation Commitment.

If this recommendation is endorsed by the Stewardship Council Board (Board), Stewardship Council staff would work with the prospective donee on the development of a management and funding agreement. In addition, PG&E, CALFIRE, and the recommended conservation easement holder organization(s) would negotiate the conservation easements that would be established for these watershed lands. Following Stewardship Council review of the proposed conservation easements, the conservation easements and the management and funding agreement would be incorporated into a Land Conservation and Conveyance Plan (LCCP). 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.

I. INTRODUCTION AND BACKGROUND

a. Planning Unit Description

The Battle Creek planning unit is located in both Shasta and Tehama counties at an elevation range of 1,000 to 6,000 feet. The planning unit is located in the vicinity of the rural communities of Shingletown and Manton; approximately 30 miles east of the City of Redding.

PG&E manages several leases and licenses at this planning unit for grazing, water use, recreational use, and aquaculture.

The planning unit provides aquatic habitat within the planning unit's many reservoirs, lakes, creeks, and canals. Rainbow trout are found in the reservoirs and lakes. California Department of Fish and Game currently stocks fish in North Battle Creek Reservoir and Grace and Nora lakes. Fish species within Battle Creek include spring and fall-run Chinook salmon and steelhead trout, among other native and non-native fish species. Special status aquatic species within the planning unit include foothill yellow-legged frog and northwestern pond turtle as well as salmon and steelhead trout.

All developed recreation facilities are located near reservoirs and lakes in the northern half of the planning unit, including a campground and a car-top boat ramp. The North Battle Creek Reservoir is primarily used for camping, boating, and fishing. McCumber Reservoir is a popular local fishing spot, with a host and a boat launch.

A significant portion of the planning unit is forested and primarily managed for sustainable timber production. The planning unit contains eight PG&E Timber Management Units (TMUs), which cover approximately 3,386 timbered acres. Several of the TMUs are currently managed under a Recreation and Sustainable Timber Management prescription, meaning that recreation in this area is compatible with timber management. Outside of designated recreation areas, sustainable timber management is emphasized. In these areas, TMUs are managed under a Sustainable Timber Management prescription, meaning that sustained timber production is regarded as the highest and best use of the land while also placing an emphasis on protecting

water quality, wildlife and fisheries habitat, soils, carbon sequestration, and cultural resources. One TMU is currently managed under a multiple-use prescription, meaning that protection and use of other resources and facilities may preclude sustained timber management as the highest and best use of portions of the TMU.

Grazing currently occurs in the Asbury Pump area, the Wildcat Diversion Dam area south of North Fork Battle Creek, and Inskip Powerhouse area. There is also a USFS range allotment on land adjacent to the reservoir.

The Battle Creek planning unit contains documented historic and prehistoric resources. The planning unit lies within the ancestral territory of the Yana people. The planning unit also has a long history of hydroelectric power generation and several structures associated with hydropower development are eligible for listing on the National Registry of Historical Places.

b. Donee Evaluation Process

The Stewardship Council received statements of qualifications (SOQs) from six 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 six organizations were invited to submit an LSP. Of these organizations, only CAL FIRE and the USFS submitted LSPs for the planning unit:

In evaluating the 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 Battle 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.

After completing an evaluation of the LSPs, engaging in follow-up discussions with CAL FIRE and the USFS, and consulting with the Watershed Planning Committee, Stewardship Council staff is recommending a donation of 2,326 acres to CAL FIRE.

II. EVALUATION

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

CAL FIRE to become the prospective recipient of fee title to approximately 2,326 acres available for donation within 20 parcels (parcels 305-307, 310-314, 325-326, 336-339, and 343-348).

The USFS and CAL FIRE are seeking fee title donation to six parcels encompassing approximately 1,139 acres (parcel 302-304, 331-333). A recommendation with respect to the six parcels of interest to both the USFS and CAL FIRE has been deferred pending the resolution of legal issues affecting the USFS's ability to receive donations of watershed lands pursuant to the requirements of the Land Conservation Commitment.

PG&E to retain 2,362 acres previously designated as available for donation and located primarily in the southerly portion of the planning unit.

These 2,362 acres, combined with 1,253 acres originally designated for PG&E retention, would total approximately 3,615 acres and encompass 63 parcels (parcels 302, 304-306, 308, 309, 312, 315-324, 327-372). A donation of fee title to these 2,362 acres is not advised due to a lack of donee interest and the creation of parcels that would be difficult for a new landowner to manage in the future. CAL FIRE and the USFS did not express interest in these lands.

Staff's recommendation is based on a determination that CAL FIRE 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 the Demonstration State Forest system would result in the preservation and/or enhancement of the BPVs. Staff's evaluation of CAL FIRE and its LSP is further described below.

a. Donee Organizational Capacity

CAL FIRE is a major resource management, protection, and emergency response department within the California Natural Resources Agency. CAL FIRE's mission is to serve and safeguard the people and protect the property and resources of California through its offices of Fire Protection, Resources Management, and State Fire Marshal. CAL FIRE has a wide breadth and depth of expertise in land management, archaeology, forestry, and other natural resource sciences, fire protection, law enforcement and recreation. With 4,700 permanent and 3,100 seasonal employees, including over 100 Registered Professional Foresters, CAL FIRE is responsible for protecting over 31 million acres of California's privately-owned wildlands, providing emergency services within 35 of California's 58 counties, and managing the Demonstration State Forest system.

CAL FIRE manages a network of eight Demonstration State Forests across California that encompasses a total of 71,000 acres. This network includes the 9,033-acre LaTour Demonstration State Forest in eastern Shasta County. The eight Demonstration State Forests are managed for sustainable forestry, applied research and demonstration projects on forest management, public recreation, education, fish and wildlife habitat, and watershed protection. The lands in this planning unit of interest to CAL FIRE would expand and complement the network of existing Demonstration State Forests across the State of California. The availability of multiple Demonstration State Forests along diverse spatial and elevation gradients in the Sierra Nevada and elsewhere in the State strengthens the value of the Demonstration State Forests for these purposes.

At each of the Demonstration State Forests, CAL FIRE works in cooperation with a variety of entities to implement research, fuels management, and fire protection activities. In Shasta County, CAL FIRE maintains an active role in research and professional forestry. CAL FIRE is a member of the Sierra-Cascade Intensive Forest Management Research Cooperative, maintains a close working relationship with the USDA Forest Service Pacific Southwest Research Station in Redding, and hosts several of their study installations at LaTour Demonstration State Forests. CAL FIRE maintains a close working relationship with the Department of Fish and Game and cooperates on joint wildlife studies at LaTour Demonstration State Forest. CAL FIRE maintains an active presence in local government, community, professional, conservation and recreation organizations in this area. CAL FIRE currently works with a large number of groups in Shasta County, including the Western Shasta Resource Conservation District and the Cow Creek Watershed Management Group, where CAL FIRE holds a seat on the board of directors.

CAL FIRE has a wide range of existing research partners to collaborate with on the Battle Creek planning unit. These organizations include: the University of California, Humboldt State University, Cal Poly San Luis Obispo, California Department of Fish and Game, California Energy Commission, US Forest Service, US Department of Energy, NOAA/Scripps, The Nature Conservancy, and others.

According to its LSP, CAL FIRE supported and participated in the development of the Cow Creek Watershed Fuel Reduction Plan, the Lakehead Area Strategic Fuel Reduction Plan, and the Fire Safe Plan for the Shingletown Community. CAL FIRE's Shasta Trinity Unit (SHU) Vegetation Management Program implements cost-share projects for wildlife habitat improvement, noxious weed control, range improvement and wildfire hazard reduction, primarily through prescribed burning and Conservation Camp inmate labor. In Shasta County, Vegetation Management Program (VMP) projects include an 850-acre wildlife habitat enhancement project in McArthur Swamp to improve waterfowl habitat. The SHU has also participated in Defensible Space Residential Chipping Programs in the Community of Shingletown, which provided free chipping services to help clear vegetation around residential homes in compliance with fire safe clearance codes and fuel break projects.

CAL FIRE collaborates with archaeology departments and programs at state universities to assist in protecting historic and prehistoric archaeological resources. The universities conduct surveys and California Environmental Quality Act (CEQA) analysis to protect archaeological resources on CAL FIRE properties and facilities (e.g., Demonstration State Forests, fire stations, conservation camps, and Unit headquarters) and on private or state lands where CAL FIRE implements its Vegetation Management Program and California Forest Improvement Program projects. This mutually beneficial collaboration has existed for 23 years, providing training opportunities for the universities and their students, while offering low-cost archaeological and environmental review services to CAL FIRE.

b. Donee Financial Capacity

CAL FIRE's financial capacity was evaluated based on a review of its operating budget and financial statements for the three most recent fiscal years. Based on a review of financial statements submitted, CAL FIRE appears to possess the financial capacity to own and manage the lands being recommended for donation in the Battle Creek planning unit.

c. Management Objectives

Volume II of the LCP established certain management objectives for the Battle Creek planning unit (see Volume II Planning Unit Report with attachments). As described below, CAL FIRE 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.

CAL FIRE is seeking a fee title donation in the Battle Creek planning unit to establish a new Demonstration State Forest. This Demonstration State Forest would be incorporated into the existing Demonstration State Forest system which supports monitoring, adaptive management, and research on best forest management practices. The management of the lands donated to CAL FIRE and incorporated into the Demonstration State Forest system would be subject to oversight by the California Board of Forestry. This oversight would include review and approval of a management plan to guide the management of the lands.

Development of a Demonstration State Forest at the planning unit would achieve several of the recommended potential measures identified under the sustainable forestry objective for the planning unit and would align with the overall management objectives identified under the sustainable forestry BPV. The Battle Creek planning unit provides a representative site for monitoring, adaptive management, research, and demonstration on best management practices to support privately owned forestry enterprises that are both ecologically and financially sustainable.

Additionally, Demonstration State Forests are managed for a variety of recreation and habitat management objectives consistent with the BPVs. CAL FIRE proposes to undertake the following objectives and activities on lands conveyed to it in the Battle Creek planning unit:

- Establish a Demonstration State Forest that would encompass all the donated lands within the planning unit with a part-time forest manager and other staff as needed.
- Implement a sustainable forestry research program focused on demonstrating best management practices for watershed protection. An important part of researching sustainable forestry at the planning unit would be to implement and demonstrate forest management practices that maintain forest cover, protect soils, and reduce fuels and wildfire hazard.
- Develop a comprehensive, multi-resource management and sustained yield plan. The management plan would address biological resources, recreation, and cultural values.
- Seek public input on the development of the management plan through requests to the public for comments, public meetings, as well as via the Board of Forestry and Fire Protection plan review and approval process and California Environmental Quality Act.
- Promote opportunities to study, mitigate, and adapt to climate change through management, research, and demonstration.
- Implement an ecosystem monitoring and adaptive management program that includes a forest-wide, multi-resource inventory and monitoring system.

- Implement habitat protection and restoration in the context of an actively managed forest. Activities would be aimed at developing a robust forest ecosystem with a wide range of wildlife habitat features, providing for habitat resilience to wildfire, and implementing habitat restoration projects.
- Implement educational and recreational activities such as a rustic campground, public tours and hikes, displays, self-guided tours and/or science camps similar to activities implemented on other Demonstration State Forests. Activities would demonstrate best practices for forest management.
- Fire protection and fuels management in fire prone areas is an important component of sustainable forestry and of Demonstration State Forest management plans. CAL FIRE is engaged in many fuels management and fire hazard reduction projects in the Battle Creek area, with local, State and federal partners. CAL FIRE would review local, State and federal fire planning and fuels treatment efforts in the area in an effort to streamline and increase efficiency.
- Given the nexus with the Battle Creek Salmon and Steelhead Restoration Project, CAL FIRE anticipates that riparian areas will be a fertile area for future research on the Battle Creek Planning Unit.
- Unique biological features of the Battle Creek Planning Unit that make it a valuable addition to the Demonstration State Forest System include riparian forest and the opportunity to reestablish steelhead and winter-run and spring-run Chinook salmon populations in Battle Creek.
- Implement a program to protect cultural and historic resources. CAL FIRE has a department-wide cultural resources management plan that details measures for protection of cultural resources, which applies to all the Demonstration State Forests. The Battle Creek planning unit, if donated to CAL FIRE, would also be covered by this management plan. The Demonstration State Forests and the department's archeology staff have extensive experience with protecting cultural resources, accommodating tribal use, and providing educational opportunities where appropriate.
- CAL FIRE has indicated that it would maintain and manage the two aquaculture leases and the water use license that exist on lands being recommended for donation at the Battle Creek planning unit.

d. Requirements of the Settlement and Stipulation

The Stewardship Council's recommendation that CAL FIRE 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, CAL FIRE, and Shasta County to ensure the land conveyance of these parcels achieves property tax neutrality.

In addition, PG&E currently manages two aquaculture leases and a water use license on lands being recommended for donation to CAL FIRE within the Battle Creek planning unit. Consistent with the Settlement Agreement, agreements for economic uses must be honored. Accordingly, all

existing agreements encumbering lands to be donated to CAL FIRE would be assigned to CAL FIRE at closing.

A conservation easement will be established on the lands within the planning unit. The conservation easement for lands that are donated 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 retained by PG&E. On lands to be conveyed to CAL FIRE, the grant deed would reserve to PG&E similar rights for operation and maintenance of hydroelectric facilities and associated water delivery facilities.

e. *Conservation Partners*

The permanent protection of the Battle Creek planning unit and the future preservation and enhancement of the BPVs may benefit from the participation of land conservation partners. For the purposes of this recommendation, land conservation partners are defined as an organization, 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. The results of this effort would be reflected in the management and funding agreements and LCCP to be developed.

CAL FIRE identified potential partnerships for management and enhancement activities with the University of California, Western Shasta Resource Conservation District, USDA Forest Service Pacific Forest Southwest Research Station, and the California Department of Fish and Game. Letters of support from several of these organizations are included in CAL FIRE's LSP.

At the LaTour Demonstration State Forest, a memorandum of understanding between CAL FIRE and the California Department of Fish and Game formalizes a cooperative research and monitoring program to study the effects of different silvicultural practices on wildlife habitat. This agreement would extend to any lands donated to CAL FIRE in the Battle Creek planning unit. Moreover, CAL FIRE is a leading member of the California Growth and Yield Model Cooperative, an organization dedicated to improving existing models to project forest growth and development under different management treatments. CAL FIRE also contributes to the Sierra-Cascade Intensive Forest Management Research Cooperative, a group of research organizations, landowners, and agencies dedicated to advancing applied silvicultural research. CAL FIRE would work with these same entities to conduct and promote research on the Battle Creek planning unit.

CAL FIRE collaborates with many community organizations on fire prevention and fire hazard reduction activities. CAL FIRE partnered with Shasta County Fire Safe Council to develop shaded fuel breaks at Rock Creek, Walker Mine, and Lower Springs using conservation camp inmate labor. Similar projects have also been implemented in partnership with the Trinity County

Resource Conservation District, Shasta-Trinity and Lassen National Forests, and private timberland owners. CAL FIRE also partnered with the Western Shasta Resource Conservation District on fuel break installation and maintenance in the communities of Old Shasta, Shasta Lake, Ingot, Centerville, Whitmore, and Shingletown. CAL FIRE expects to cooperate with most of these entities on fuels management projects and potentially recreation and habitat management activities for the Battle Creek planning unit.

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 Battle Creek planning unit is attached.

IV. RATIONALE FOR RECOMMENDATION

Staff is recommending that fee title to the 2,326 acres of lands available be donated to CAL FIRE for the following reasons:

- Donation of these lands would further one of the key goals of the Land Conservation Commitment of donating lands to a qualified organization with the financial and organizational capacity to preserve and enhance the BPVs.
- CAL FIRE has significant capacity and interest in preserving and/or enhancing the BPVs associated with these lands based on their years of experience managing the Demonstration State Forest lands for similar resource values.
- Lands donated to CAL FIRE would become part of the Demonstration State Forest system and subject to oversight by the California Board of Forestry, including policies and procedures requiring public review and input of CAL FIRE's management activities.
- Donation of these lands to CAL FIRE would increase the likelihood that the BPVs would be enhanced in the future, especially through established collaborative relationships.

CAL FIRE has proposed the following actions and activities that would contribute to the preservation and/or enhancement of BPVs:

- Enhance management to create a diversity of forest stand structural conditions across the landscape.
- Enhance fuels management beyond current practices.
- Create a research and demonstration program where one has not existed before.
- Opportunity to reestablish steelhead and winter-run and spring-run Chinook salmon populations in Battle Creek.
- Support recreation and education including activities such as science camps, tours and hikes, displays, and self-guided trails.

- Enhance public education by adding signs, and hosting public and private tours to demonstrate research and best management practices.
- Enhance protection of biological resources through comprehensive surveys, inventory, management, and monitoring and sharing this information with government agencies, landowners, and the general public through CAL FIRE’s forest resources information system.
- Enhance opportunities for education and preservation of historical and cultural values through surveys and inventory of historical resources and cultural sites, as required by law and Governor’s Executive Order, and incorporating this information into the Management Plan for Historic Buildings and Archaeological Sites.
- Donation of these lands to CAL FIRE would advance the burgeoning field of sustainable forestry and climate change research by providing CAL FIRE with additional lands for research and demonstration, with benefits that would extend well beyond the watershed lands.
- The availability of multiple Demonstration State Forests along diverse spatial and elevation gradients in the Sierra Nevada and elsewhere in the State strengthens the value of the Demonstration State Forests for research and demonstration purposes.

V. NEXT STEPS

If the Watershed Planning Committee’s recommendation is approved by the Board on May 2, 2012, staff would invite CAL FIRE to negotiate specific terms of the transactions with PG&E and would work with CAL FIRE to develop a management and funding agreement. The development of a management and funding agreement would be coordinated with the development of an LCCP.

In addition, Stewardship Council staff will make a recommendation of a prospective conservation easement holder as part of a separate recommendation to the Watershed Planning Committee and Board.

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

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