

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION

Agenda ID 15292
RESOLUTION E-4766
December 15, 2016

R E S O L U T I O N

Resolution E-4766. Pacific Gas and Electric Company (PG&E) Lower Drum – Bear River Pineroft Reserve Land Donation Request for Approval under Advice Letter (AL) 4728-E, and P.U. Code Section 851.

PROPOSED OUTCOME:

- This Resolution dismisses the Protests of Nevada Irrigation District and approves Pacific Gas & Electric Company's (PG&E's) AL 4728-E with an effective date of today. PG&E's AL proposes to donate fee simple title to Placer County of approximately 10 acres of land within a 21 acre parcel in Placer County known as Bear River Pineroft Reserve. Placer County will then immediately convey a conservation easement (CE) to Placer Land Trust to permanently protect the Beneficial Public Values (BPVs) on the property. The property is primarily wooded canyon lands, surrounded by private lands, and California Fish and Wildlife Property.

SAFETY CONSIDERATIONS:

- Effective administration of PG&E's Land Conservation Commitment (LCC) is part of the responsibility of PG&E to meet their obligations under Public Utilities Code Section 451 to provide services that promote the safety, health, comfort, and convenience of their patrons, employees and the public.

ESTIMATED COST:

- In D.03-12-035, the Commission approved the LCC with funding at \$70 million. Ongoing fees for managing the CE are to be covered by the previously authorized LCC funding.

By Advice Letter 4728-E, filed on October 29, 2015.

SUMMARY

This Resolution approves PG&E's AL 4728-E, with an effective date of today. On October 29, 2015 PG&E filed Advice Letter 4728-E, requesting approval under Public Utilities Code Section 851, of the Lower Drum – Bear River Pinecroft Reserve Land Donation.

Pursuant to PG&E's LCC approved in D.03-12-035, PG&E proposes donating to Placer County and encumbering with a perpetual CE, 10 acres of land within a 21 acre parcel in Placer County, known as the Lower Drum – Bear River Pinecroft Reserve ("Property"). Placer County will then immediately convey a CE to Placer Land Trust to permanently protect the BPVs on the Property. The Property is located along the Bear River, and adjacent to the Bear River Campground maintained by Placer County. The Property is primarily wooded canyon lands, and surrounded by private lands, and California Fish and Wildlife property. This donation is being made in the public interest with the intent to provide for: (1) the preservation of land areas to protect the natural habitat of fish, wildlife, and plants; (2) the protection of open space, outdoor recreation by the general public, sustainable forestry, agricultural uses, and historic values; and (3) the prevention of any uses that will significantly impair or interfere with those values. This donation is in accordance with the terms and conditions specified in the PG&E Bankruptcy Settlement Agreement and Stipulation that were approved by the Commission (CPUC) in D. 03-12-035.¹

BACKGROUND

On April 6, 2001, PG&E filed for Chapter 11 bankruptcy protection. Two years later, the CPUC approved a Settlement Agreement under which PG&E Watershed Lands would be subject to CEs and/or be donated in fee simple to public entities or non-profit organizations for the benefit of the public. Pursuant

¹ The Settlement Agreement provides a substantially increased opportunity for environmentally beneficial use and access by the public to 140,000 acres of land associated with PG&E's hydroelectric facilities, without compromising the ability to PG&E to generate electricity from those facilities. In 1999 PG&E proposed to sell these lands to the highest bidder. The Settlement Agreement would remove forever that possibility, and replace the specter of loss of public control with the promise of perpetual public access. (D.03-12-035, pages 61, 62.)

to the Settlement Agreement, the Pacific Forest and Watershed Lands Stewardship Council (Stewardship Council) was established in 2004 to develop a plan to permanently protect, for the benefit of the citizens of California, more than 140,000 acres of Watershed Lands currently owned by PG&E.

Located primarily in the Sierra Nevada and Cascade Mountain range watersheds, the PG&E Watershed Lands contain some of the most pristine and resource-rich landscapes found in the state. The properties are diverse and geographically remote, located in 21 counties from the northern reaches of the state to the southern end of the Central Valley.

Protecting the Watershed Lands will be accomplished through (1) PG&E's grant of CEs to one or more public agencies or qualified conservation organizations so as to protect the natural habitat of fish, wildlife and plants, the preservation of open space, outdoor recreation by the general public, sustainable forestry, agricultural uses, and historic values (collectively the Beneficial Public Values), and (2) PG&E's donation of the Watershed Lands in fee simple to one or more public entities or qualified conservation organizations, whose ownership would be consistent with these conservation objectives. This effort is known as PG&E's "Land Conservation Commitment" (LCC).

As required by D.03-12-035, the Stewardship Council prepared a Land Conservation Plan (LCP) to establish a framework for the conservation and/or enhancement of the Watershed Lands, and to ensure the permanent protection of these lands for the benefit of current and future Californians. To address the challenge of a conservation effort of this large scope, and to facilitate engagement of a wide range of stakeholders and interested members of the public, the Stewardship Council grouped the Watershed Lands into 47 planning units and established a phased approach to development and implementation of the LCP.

In 2007, the Stewardship Council Board adopted Volumes I and II of the LCP:

Volume I: The Land Conservation Framework establishes the overall framework for the LCP, including legal requirements, the planning process, methodologies, public involvement, and relevant regulatory processes.

Volume II: Planning Unit Concepts documents existing conditions and presents management objectives, potential measures, and conceptual plans to preserve and/or enhance the Beneficial Public Values (BPVs) within each planning unit. The management objectives for the Property are:

1. Preserve and enhance habitat in order to protect special biological resources and wilderness values;
2. Preserve open space in order to protect natural and cultural resources, viewsheds, and the recreation setting;
3. Enhance recreational facilities in order to provide additional public access and education and recreation opportunities;
4. Develop and implement forestry practices in order to contribute to a sustainable forest, preserve and enhance habitat, enhance surrounding wilderness values, as well as to ensure appropriate fuel load and fire management;
5. Identify potential grazing opportunities in order to enhance agricultural resources and related economic benefits;
6. Identify and manage cultural resources in order to ensure their protection.

Volumes II and III also document existing economic uses.

Volume III: Land Conservation and Conveyance Plans (LCCPs) to be issued serially and cumulatively will encompass a series of real estate transaction packages that will detail the specific land conservation and/or disposition requirements for each parcel or cluster. LCCPs represent the Stewardship Council's recommendations for preserving and/or enhancing the BPVs of the Watershed Lands to PG&E, and are intended to support required regulatory approvals of the land transactions.²

Specifically, the LCCP produced for each parcel will incorporate the 10 programmatic objectives of the LCP as identified in the Stipulation that was an integral part of the Proposed Settlement Agreement adopted in D.03-12-035. These 10 programmatic objectives, which are intended to govern how the LCP is implemented for each and every Watershed Parcel, include: 1) reasonably exact estimates of acreage, by parcel, within or outside licensed project boundaries, and existing economic uses (including all related agreements); (2) objectives to preserve and/or enhance beneficial public values, as defined in the Settlement Agreement, Appendix E, of each individual parcel; (3) a recommendation for grant of a conservation easement or fee simple title for each such parcel;

² The LCCP addresses the requirements set forth in Section 12(a) of the "Stipulation Resolving Issues Regarding the Land Conservation Commitment" September 25, 2003.

(4) a finding that the intended recipient of such easement or fee simple title has the funding and other capacity to maintain that property interest so as to preserve and/or enhance the beneficial public values thereof; (5) an analysis of tax and other economic and physical impacts of such a disposition strategy, and a commitment by an appropriate entity to provide property tax revenue, other equivalent revenue source, or a lump sum payment, so that the totality of dispositions in each affected county under this Land Conservation Commitment will be “tax neutral” for that county³; (6) a disclosure of all known hazardous waste or substance contamination or other such environmental liabilities associated with each parcel; (7) appropriate consideration of whether to split any parcel which is partly used or useful for operation of PG&E’s and/or co-licensee’s hydroelectric facilities, where the beneficial public values of the unused part may be enhanced by such split, provided it is consistent with Section 12(b)(4) of this stipulation; (8) a strategy to undertake appropriate physical measures to enhance the beneficial public values of individual parcels; (9) a plan to monitor the economic and physical impacts of disposition and implementation of enhancement measures on the applicable management objectives; and (10) a schedule for implementing transactions and measures.

Advice Letter 4728-E Lower Drum – Bear River Pinecroft Reserve Land Donation (LCCP)

In compliance with the Stipulation 12(a) requirements, the following disclosures are included in all Watershed Lands Section 851 advice letter filings:

Acreage and Property Description

The Property, consists of 10 acres within a 21 acre parcel identified as Parcel 871 of the Lower Drum Planning Unit. The 10 acres are outside the Drum-Spaulding Federal Energy Regulatory Commission (FERC) Project Boundary and PG&E has determined this acreage does not need to be retained for existing or future utility

³ The Stewardship Council has agreed that it is the appropriate entity to provide property tax revenue, drawing from the \$70 million provided to the Stewardship Council to implement the Land Conservation Commitment. In Finding #14 of Resolution E-4644, which was approved on August 14, 2014, the Commission made the following finding: The Commission agrees with the Stewardship Council that the tax neutrality payment to Tehama County may come from the LCC fund. (Deer Creek LCCP, November 14, 2013).

operations. The remaining 11 acres within parcel 871 will be retained by PG&E and will be addressed in a separate LCCP.

Placer County has leased 15 acres of the parcel for a campground caretaker's mobile home, campground water treatment facility, and public hiking trails since 1973. PG&E's Bear River Canal and Pineroft Spillway run through the eastern and southern portions of the parcel, respectively. The County has indicated that the physical barrier imposed by the canal structure and future maintenance and access activities associated with the canal structure makes the development and use of recreational amenities on the easterly portion infeasible.

The Property is accessible from the adjacent Bear River campground and offers opportunities for passive recreation including hiking or picnicking.

Adjacent and Nearby Land Owners

The parcel subject to donation to Placer County is primarily wooded canyon lands and surrounded by private lands as well as California Department of Fish and Wildlife property. Several private landowners submitted comments expressing concerns about the County's ability to manage the subject property and the adjoining Bear River Campground.

Existing Economic Uses and Agreements

There is one unrecorded encumbrance on the property to be donated to Placer County; a lease to Placer County for a campground caretaker's mobile home, campground water treatment facility, and public hiking trails. This lease will be extinguished upon transfer of the acreage to Placer County.

PG&E will reserve rights in the conservation easement as necessary to maintain and operate existing and future utility facilities over portions of the parcels. The specific Hydro Reserved Rights are set forth in the conservation easement.

Objectives to preserve and/or enhance the BPVs

The Land Conservation Commitment provides that "PG&E shall ensure that the Watershed Lands it owns...are conserved for a broad range of beneficial public values including the protection of the natural habitat of fish, wildlife and plants, the preservation of open space, outdoor recreation by the general public, sustainable forestry, agricultural uses, and historic values."

The following text lists the objectives for each BPV for the Property that the Stewardship Council Board approved in LCP Volume II, as well as a description of how the conservation easement addresses each objective and each applicable BPV.

1. *Preserve and enhance habitat in order to protect special biological resources and wilderness values.*

The conservation easement provides for the protection of “habitat for plants and animals that are native to the area, including species protected under the California Endangered Species Act and/or the federal Endangered Species Act. Placer County proposes to maintain the Property in its natural state as well as restore habitat values where it is appropriate and feasible. The CE will permanently protect habitat by restricting development and limiting the landowner’s uses to those that are consistent with the protection of the BPV’s on the Property.

2. *Preserve open space in order to protect natural and cultural resources, viewsheds, and the recreation setting.*

The conservation easement will conserve the scenic character of the property by ensuring that no further development will occur unless specifically authorized or permitted by the conservation easement. Placer County proposes to maintain the property as open space, without modifications to the landscape other than a possible caretaker’s residence and other limited improvements within the building envelope.

3. *Enhance the recreational facilities in order to provide additional public access, and education and recreational opportunities.*

The conservation easement acknowledges that outdoor recreational uses exist on the property, and lists recreational uses including hiking, non-motorized multiple-use trail use, picnicking, and similar passive recreational uses as a BPV ensuring the protection and preservation of such uses in perpetuity. Furthermore, the conservation easement provides that the landowner will allow public access on the property at levels substantially consistent with those existing at the time the conservation easement is recorded, subject to PG&E’s Hydro Reserved Rights and right to make reasonable rules and regulations.

4. *Develop and implement forestry practices in order to contribute to a sustainable forest, preserve and enhance habitat, enhance surrounding wilderness values, as well as to ensure appropriate fuel load and fire management.*

The current timber management prescription on the acres proposed for transfer to Placer County is limited to salvage harvest and fuel load reduction. The CE will ensure that fire management activities, including vegetation management and fuel load reduction required for compliance with any laws or guidelines are allowed to continue.

5. *Identify potential grazing opportunities in order to enhance agricultural resources and related economic benefits.*

There is currently no managed grazing within the planning unit.

6. *Identify and manage cultural resources in order to ensure their protection.*

The conservation easement will protect historic and cultural resources (as defined in Title XIV of the California Code of Regulations) on the Property consistent with applicable laws and regulations.

Recommendation for Conservation Easement and Fee Simple Retention

The Settlement and Stipulation require that the Watershed Lands: (1) be subject to permanent conservation easements and restricting the development of the Watershed Lands so as to protect and preserve the BPVs and/or (2) be donated in fee simple to one or more public entities or qualified nonprofit conservation organizations, whose ownership will ensure the protection of these BPVs.

Accordingly, immediately following PG&E's conveyance of the lands to be donated to Placer County in the Lower Drum planning unit, the County will convey the conservation easement to Placer Land Trust (PLT).

Finding of Donee Funding and Other Capacity to Maintain Lands to Preserve and/or Enhance the BPVs

The Stewardship Council invited organizations to join its registry and submit a statement of qualifications (SOQs). The Stewardship Council then reviewed the SOQs, and organizations that appeared capable were invited to submit additional information describing their qualifications. Organizations demonstrating sufficient experience holding and enforcing CEs, sufficient financial and organizational capacity, and which the Stewardship Council has determined to be best-suited to receive a donation of CEs within particular Watershed Lands are recommended to PG&E to receive CEs.

At the conclusion of the selection process, the Stewardship Council board found that Placer Land Trust (PLT) has the funding and other capacity to maintain the property interest so as to preserve and/or enhance the BPVs. PLT was established in 1991 and holds 17 conservation agreements on over 3,537 acres in Placer County. In addition, PLT owns 14 fee properties totaling 3,984 acres. PLT is guided by a ten-member board of directors and is staffed by an Executive Director, assistant director, stewardship manager, land manager, community relations manager, program manager, and office assistant. PLT staff has expertise in strategic land acquisitions, natural resources management, forestry, habitat restoration, ecology, agriculture, and community outreach and volunteer management. PLT is an accredited Land Trust.

Analysis of Tax and Other Economic and Physical Impacts

The Settlement and Stipulation adopted by D.03-12-035, requires that the LCCP provide: “an analysis of tax and other economic and physical impacts of such a disposition strategy, and a commitment by an appropriate entity (which may be PG&E, subject to being authorized by the Commission to fully recover in rates any such costs in approving PG&E’s Section 851 application or in another appropriate Commission proceeding, Stewardship Council, donee, or a third party, depending on the individual circumstances) to provide property tax revenue, other equivalent revenue source, or a lump sum payment, so that the totality of dispositions in each affected county under this Land Conservation Commitment will be “tax neutral” for that county”.⁴

To achieve property tax neutrality, the Stewardship Council has developed a methodology to establish a standard payment process when lands are transferred to organizations that are exempt from paying property taxes. The methodology would be applied to all counties that experience a loss in property tax revenue due to a fee title donation.

The Stewardship Council will address property tax neutrality based on the most current property taxes paid by PG&E on the lands being transferred at the time of the actual transfer of fee title from PG&E. The State Board of Equalization estimates the value of the entire 20 acre parcel at \$72,100.00 with taxes totaling \$1098.00. Tax on the 10 acres is \$549 annually.

⁴ Stipulation Resolving Issues Regarding the Land Conservation Commitment (page 8).

The Stewardship Council will provide funding to satisfy property tax payments in perpetuity for the Property. After the CPUC has approved the fee title donation of the Property, Placer County may select the option of either receiving a lump sum payment or an annual payment from a trustee selected by the Stewardship Council. The transfer of Lands to Placer County is expected to result in the reduction approximately \$540 in annual taxes paid to Placer County. If Placer County chooses the lump sum payment option, the Stewardship Council would make a one-time payment of \$13,725.00 to the County.

The Settlement and Stipulation require an analysis of the physical and economic impacts of each disposition. The agreements for the conservation easement on the Property have not mandated any changes to the physical or economic uses and Placer County intends to manage the lands in a manner consistent with the current physical and economic uses.

No new activities are proposed that will result in physical impacts.

California Environmental Quality Act

While transfers of ownership of utility property under Public Utilities Code Section 851 may have an environmental impact, and accordingly constitute projects under the California Environmental Quality Act (CEQA), here the proposed donation of the Property to Placer County and donation of conservation easement to PLT results in no proposed changes to land uses; thus no direct or indirect environmental impacts will occur as a result of the donation. Therefore, the transaction is exempt due to the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and does not require review under CEQA.

Hazardous Waste Disclosure

The stipulation states that in the transfer of fee title and conveyance of a conservation easement, PG&E will disclose all known hazardous waste, substance contamination, or other such environmental liabilities associated with each parcel and hold the donee harmless. On December 1, 2011 AMEC Inc., Prepared the Lower Drum Environmental Site Assessment covering the Lower Drum Planning Unit. The hazardous waste disclosure made no reference to potential hazardous waste, substance contamination, or other such environmental condition on the property.

Consideration of Parcel Split

To effectuate transfer of the 10 acres identified for donation to Placer County within Parcel 871, a parcel split is required to comply with the California Subdivision Map Act.

Strategy for Physical Measures to Enhance BPVs

The Stewardship Council has not identified any physical measures to enhance the beneficial public values of the Property. The Stewardship Council is developing a grant program to fund enhancements on the Watershed Lands in the future. Grant funding will be available to accomplish any number of potential future physical measures such as developing trails, day use areas, and other public access improvements.

Monitoring Plan for the Economic and Physical impacts of Disposition and Implementation of Enhancement Measures

The Stipulation requires that the LCCP outlines a plan to monitor the economic and physical impacts of disposition and implementation of enhancement measures. The conservation easement holder is required to monitor every conservation easement that it holds to ensure that the landowner is complying with the terms of the easement in perpetuity. The Stewardship Council has entered into a Conservation Easement Funding Agreement with PLT whereby the Stewardship Council will provide a monitoring and enforcement endowment to fund PLT's monitoring activities at the Property.

Implementation Schedule for Transaction and Measures

The implementation schedule for the Bear River Pinecroft Reserve Transaction indicates CPUC review and approval in early 2016 and close of escrow in 2016. The Stewardship Council will release funds to PLT per the conservation easement funding agreement when the conservation easement is recorded.

NOTICE

Notice of AL 4728-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

Advice Letter AL 4728-E was protested by Nevada Irrigation District. The protest was filed on November 18, 2015.

Protest of Nevada Irrigation District

Nevada Irrigation (NID), a California irrigation district operating under Division 11 of the California Water Code, protested the proposed conveyance of fee title ownership to Placer County and the placement of a conservation easement on the Pinecroft Reserve Lands.

NID is presently studying construction of the Centennial Reservoir and Power Supply Project. The Centennial Reservoir would be located on the Bear River between NID's existing Combie and Rollins reservoirs. It would capture water that is currently lost to NID service area customers because of a lack of storage capacity. The Centennial Reservoir would increase the District's storage capacity by nearly 50%. If built, the reservoir would hold up to 110,000 acre feet of water and include two power units. The tentative plan is for construction to begin in 2021.

A significant portion of the land required for the Centennial Reservoir is already in public ownership. If the project is approved, NID will be working with private property owners to acquire the additional necessary lands. A portion of the Pinecroft Reserve property would be necessary for the reservoir, as presently configured. If the project is approved for construction, NID will seek acquisition of the necessary lands by negotiation or, if necessary through exercise of eminent domain.

In order to facilitate land acquisition, NID requests that fee title ownership and conservation easement proposed for Pinecroft Reserve property be made subject to termination upon determination by NID that the land will be necessary for The Centennial Reservoir and Power Supply Project and payment of just compensation by NID, in accordance with law.

PG&E Response to the Protest of Nevada Irrigation District

On December 17, 2015 PG&E responded to the NID protest. PG&E argues that NID's request should be rejected because: 1) it is based on conclusions about a water storage project that is only in preliminary stages of development; 2) it is

inconsistent with the intent of the Land Conservation Commitment to permanently protect the BPVs on the property; and, 3) the proposed CE provides the necessary mechanisms to address changes in ownership and/or use of the property.

PG&E points out that NID acknowledges that the project has not been approved and the plan is tentative. Because there is no final project defined, it is not possible to evaluate whether and what impacts might be caused to the Property or proposed CE by such development. PG&E believes it is premature for NID to conclude that the proposed water storage project will be approved or that the proposed transfer of land and CE contemplated in AL 4728-E are inconsistent with its plans.

NID's request that the transfer of fee title and the CE be subject to termination upon determination by NID that the land will be necessary for its water storage project is both impractical and inconsistent with the intent of the Land Conservation Commitment, which is to permanently protect the BPVs on the Property. NID's request to nullify the fee transfer of the Property to Placer County is effectively a request for the CPUC to require Placer County to transfer the Property to NID when NID determines it needs the Property for its water storage project development.

PG&E states that incorporating a termination provision in the CE as suggested by NID is inconsistent with the intent of the Land Conservation Commitment to permanently protect the BPVs on the Property. Moreover, incorporation of such a provision in the proposed CE is inconsistent with the requirements of Section 815, et seq., of the California Civil Code, which defines a conservation easement as one which is executed by or on behalf of the owner of the land and is binding upon successive owners of the land for the purpose of retaining the land in its natural scenic, historical, forested or open space condition.

PG&E states that if and when the water storage project is approved, NID may seek acquisition of the property through eminent domain authority. Section 13 of the CE articulates the terms and conditions under which extinguishment of the CE must occur and further describes requirements for lands taken via the power of eminent domain or purchase in lieu of a condemnation proceeding.

DISCUSSION

Nevada Irrigation District's Request for Termination Clause in CE

The Commission has reviewed PG&E AL 4728-E, protest of the advice letter by Nevada Irrigation District, and the reply to that protest by PG&E. The Commission agrees with PG&E's assessment that NID's request for incorporation of a termination provision in the CE is both inconsistent with the intent of the Land Conservation Commitment and requirements of California Civil Code governing conservation easements granted within the state.

Exemptions for construction of improvements by Placer County within the Conservation Easement

AL 4728-E states that existing ownership rights to the 10-acre parcel do not contain any restriction on an owner's future ability to construct improvements, assuming all necessary agency approvals are obtained. However, Placer County is accepting donation of the parcel subject to a conservation easement that will prohibit all future improvements with the following limited exceptions drafted in the CE:

1. The right to construct, alter, or remove recreational and maintenance structures as needed to facilitate the recreational use of the Property, including but not limited to, fences, benches, interpretive kiosks and displays, trails, and/or a water system for visitors to the Property and the nearby Bear River Campground, and;
2. The future ability to construct, alter, or remove a caretaker's residence not to exceed 1,200 square feet, and other related improvements.

The conservation easement further limits Placer County's right to construct future improvements within an identified 0.5 acre site, and such improvements are only permissible if they enhance the BPVs, or improve maintenance and security of the Property.

The exemptions to the CE are intended to allow the development of specific facilities on the property that might not otherwise be allowed if left to the discretion of the land trust responsible for enforcing the CE and protecting the property's BPVs. In this case, by creating exemptions to the CE for specific limited development, the recipient of the property, Placer County, receives the undisputed right to construct the facilities in the manner described in the CE.

The Commission has considered the proposed exemptions to the CE and believes that creating even these limited exemptions within the CE could potentially establish a problematic precedent. A central feature of the LCC is that the appointed land trust is responsible for preserving the Property's BPVs – and only limited exemptions can be allowed if they are intended to enhance and not detract from the BPV of the specific property.

To be clear, the Commission has no issue with physical improvements to accommodate increased public access to, and enjoyment of, the 10 acre Property itself. Such improvements should serve the donated property. Typically, such improvements are not cause for explicit exemptions to the CE. For example, the type of improvement that the Commission envisions on Watershed Lands, and certainly the Bear River Pinecroft Reserve Property, would likely be limited to day use facilities such as picnic tables, interpretive kiosks or displays, benches, improved trail facilities, etc.

In this specific case, the proposed facilities that are called out as an exemption will serve an adjacent property and not the Bear River Pinecroft Reserve Property exclusively. Although the Commission understands that watershed lands parcels could serve as a convenient location for facilities (such as a caretakers residence intended to serve the neighboring campground), even the limited scale of those facilities could potentially detract from the BPVs of the Property itself. Accordingly, the Commission notes that these exemptions are unusual and reaffirms here that it expects that the improvements provided for in the CE will enhance and not detract from the stated BPVs that the CE is intended to protect. However, given the historical uses of the Bear River Pinecroft Reserve property, the Commission recognizes that the specific CE exceptions are warranted in this limited instance given the unique configuration of the Property relative to the adjacent land managed by the County.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS

1. The Commission approved a PG&E bankruptcy settlement Agreement in D.03-12-035. Among other things, the Settlement Agreement contained provisions for certain environmental benefits. Those benefits included the adoption of the Land Conservation Commitment, which established provisions to permanently protect and enhance the approximately 140,000 acres of PG&E's watershed lands associated with its hydroelectric system, plus the 655 acre Carrizo Plains property in San Luis Obispo County.
2. D.03-12-035 established a Land Conservation Plan process and authorized a non-profit corporation named the Pacific Forest and Watershed Lands Stewardship Council to oversee the implementation of the Land Conservation Commitment and to carry out environmental enhancement activities.
3. D.03-12-035 authorized the creation of the Land Conservation Commitment and required PG&E through retail rates, to fund the Stewardship Council with \$70 million over 10 years to cover both the administrative expenses and the costs of environmental enhancements to the protected lands. D.03-12-035 also adopted the "Stipulation Resolving Issues Regarding the Land Conservation Commitment." The "Stipulation Resolving Issues Regarding the Land Conservation Commitment", Section 12 (a) describes the 10 informational components to be contained in the disposition document developed by the Pacific Forest Watershed Lands Stewardship Council for each donated parcel.
4. D.08-11-043, as modified by D.10-08-004, established a streamlined Section 851 process for Advice Letters related to the PG&E Land Conservation Commitment.
5. On October 29, 2015, PG&E filed Advice Letter (AL) 4728-E Lower Drum-Bear River Pineroft Reserve Land Donation--Request for Approval under Public Utilities Code Section 851.

6. PG&E Advice Letter 4728-E complied with the streamlined procedures that adopted by the Commission in D.08-11-043 as modified by D.10-08-004.
7. Advice Letter AL 4728-E was protested by Nevada Irrigation District, which sought a condition in the CE that would permit their acquisition of the property if a planned Nevada Irrigation District project came to fruition.
8. PG&E replied to the protests of AL 4728-E by Nevada Irrigation District on December 17, 2015 opposing the proposed condition as being contrary to the Land Conservation Commitment .
9. The Commission finds that it is both unnecessary and contrary to the intent of the Land Conservation Commitment to stipulate that the Pincroft Reserve conservation easement be subject to termination upon determination that the Property will be necessary for the Centennial Water Storage Project. The Protest of Nevada Irrigation District is dismissed.
10. AL 4728-E contained an LCCP that was compliant with D.03-12-035. The Stewardship Council prepared a LCCP for the Bear River Pincroft Reserve Land Donation in compliance with D.03-12-035 and in accordance with the requirements set forth in Section 12(a) of the Stipulation Resolving Issues Regarding the Land Conservation Commitment.
11. In the LCCP, the Stewardship Council recommended that PG&E donate to Placer County, in fee-simple, the 10 acre parcel of the Bear River Pincroft Reserve and subject that parcel to a perpetual conservation easement. The Placer Land Trust was identified as the organization qualified to hold and manage the conservation easement over the property. The Stewardship Council documented in the LCCP the ability of each organization to enhance the Beneficial Public Values (BPVs) of the Bear River Pincroft Reserve Property in compliance with D.03-12-035.
12. The Stewardship Council did not identify any specific physical measures to enhance the BPVs of the Bear River Pincroft Reserve. However, a grant program is available to fund future physical measures, if deemed appropriate by PG&E and the Placer Land Trust.
13. Lower Drum Environmental Site Assessment, prepared for PG&E by AMEC, Inc., dated December 1, 2011, found no potential hazardous waste, substance contamination, or other such environmental conditions on the property.
14. The proposed transaction constitutes a change in ownership with no proposed changes to land uses; thus no direct or indirect environmental

impacts will occur as a result. Therefore, the transaction is exempt from review under the California Environmental Quality Act (CEQA).

Accordingly, approval of this Advice Letter does not require review under CEQA.

15. PG&E will retain fee simple ownership of the remaining 10 acres of land and will continue to pay property taxes to Placer County as assessed by the State Board of Equalization.
16. The Stewardship Council has entered into a Conservation Easement Funding Agreement with the Placer Land Trust to establish a monitoring endowment for costs the Placer Land Trust will incur for monitoring activities at the Bear River Pineroft Reserve.

THEREFORE IT IS ORDERED THAT:

1. The request of Pacific Gas & Electric Company for approval of the Bear River Pineroft Reserve Land Donation as requested in AL 4728-E, is approved.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held December 15, 2016; the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director