

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION

Agenda ID 15853
RESOLUTION E-4858
August 10, 2017

R E S O L U T I O N

Resolution E-4858. Pacific Gas and Electric Company (PG&E) Fall River Valley Land Retained--Request for Approval under Advice Letter (AL) 4998-E, and P.U. Code Section 851.

PROPOSED OUTCOME:

- This Resolution dismisses the Protests of Dave and Jan Roach, Gary R. Martin, Dan Beatty, Steve French, Scott and Margaret French, and William A. Burgstrom (Protestants) and approves Pacific Gas and Electric Company's (PG&E's) AL 4998-E with an effective date of today. PG&E's AL 4998-E proposes to encumber with a perpetual conservation easement, approximately 236 acres of land in Shasta County commonly known as Fall River Valley planning unit (Property). PG&E will retain fee title to the Property and Wetlands America Trust, Inc. and Ducks Unlimited will hold the conservation easement (CE) to permanently protect the Beneficial Public Values (BPVs) on the property. The property is primarily riparian, forest, and grassland located along the Fall River, a California Department of Fish and Wildlife designated Wild Trout stream.

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 4998-E, filed on January 12, 2017.

SUMMARY

This Resolution approves PG&E's AL 4998-E, with an effective date of today. On January 12, 2017, PG&E filed Advice Letter 4998-E, requesting approval under Public Utilities Code Section 851, of the Fall River Valley Land Donation.

Pursuant to PG&E's LCC approved in D.03-12-035, PG&E proposes encumbering approximately 236 acres of the Fall River Valley (Property) with a perpetual CE. Wetlands America Trust, Inc. (WATI) a District of Columbia Corporation supporting Ducks Unlimited (DU), will hold the conservation easement. PG&E will retain fee title ownership of the Property. The Property is located along the Fall River in Shasta County. The Property encompasses primarily grassland, forest and riparian habitat, and is surrounded by private lands. The nearby Fall River is a California Department of Fish and Wildlife designated Wild Trout stream.

This donation is being made in the public interest with the intent to provide for: the preservation of land areas to protect the natural habitat of fish, wildlife, and plants; forest resources, scenic viewsheds, outdoor recreation by the general public, and identified historic and cultural values; and 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

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.)

public entities or non-profit organizations for the benefit of the public. Pursuant 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:

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.

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;

(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 BPVs 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 BPVs 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 BPVs of individual parcels;

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).

(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 4998-E Fall River Valley Land Retained 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 approximately 236 acres within Shasta County identified as parcels 181-184 of the Fall River Planning Unit. The 236 acres are located east of the town of Dana and includes a strip of land extending from the Fall River south across McArthur Road; land in Spring and Lava Creeks; a small piece of land connecting Lava Creek to the Ivy Horr southern pond; land in both the Ivy Horr northern and southern ponds; and a small piece of land on the Fall River east of Spring Creek. Gas transmission lines cross the full length of the Fall River land section. The planning unit is surrounded entirely by private and Tribal land.

The Fall River Valley planning unit provides a range of habitat: most of the land is forested, with grasslands along the gas pipeline and at the northern end of the lands bordering the Fall River. Wetlands also occur near McArthur Road, and may sporadically exist adjacent to watercourses that occur throughout the planning unit. Riparian and instream habitats are located along and within the Fall River, Spring and Lava Creeks, as well as the two ponds. One of the largest remaining populations of the endangered Shasta crayfish are found in Spring Creek, with additional populations in Fall River and Lava Creek. The Fall River contains trophy Rainbow Trout and is a California Department of Fish and Wildlife (CDFW) designated Wild Trout stream.

Recreational use of the planning unit lands is limited by lack of public access. However, the public can gain access via the Fall River by using the California Trout Inc. (CalTrout) fishing access.

There is one PG&E Timber Management Unit (TMU) on the planning unit that includes 79 acres of timber, consisting of second-growth pine. Current PG&E

timber management is considered salvage only, managing for forest health exclusively.

Most grazing activity occurs along the gas pipeline and at the northern end near the Fall River; the remainder of the area is forested. Currently, there is one grazing lease of 140 acres on the planning unit on the south side of the Fall River.

The Fall River Valley planning unit is within the ancestral territory of the Ahjumawi band of the Pit River Tribe, and at least two documented prehistoric cultural sites are located here.

Adjacent and Nearby Land Owners

The four parcels within the Fall River Valley planning unit to be retained by PG&E are surrounded by private lands. The parcels are accessed via McArthur Road, Spring Creek Road and through private property.

Existing Economic Uses and Agreements

There are recorded encumbrances on the property to be retained by PG&E for telecommunications, roads and pumping water for domestic irrigation and incidental purposes. There is one existing agreement for economic uses, a grazing lease on Parcel 181.

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 and Gas Pipeline 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 within the Fall River Valley planning unit. The Stewardship Council Board approved the objectives in LCP Volume II, and a description of how the conservation easement addresses each objective and each applicable BPV is listed below.

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

The CE 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. The term “habitat” includes vegetation along the banks and shoreline that contribute to maintain watershed health. The term “native” refers to plants and animals that occur naturally on the property and are defined as “native” by the CDFW.

PG&E 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 CE 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.

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

The CE acknowledges that outdoor recreational uses exist on the property, fishing, 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 donation of a CE is limited to salvage harvest for forest health. The CE will ensure that 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 managed grazing within the planning unit.

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

The CE 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 (CE) 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, following approval of AL 4998-E, PG&E will immediately convey a CE to WATI/DU over the Fall River Valley planning unit.

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 WATI/DU has the funding and other capacity to preserve and/or enhance the BPVs. WATI/DU was established in 1937 and has conserved over 4 million acres in the United States. WATI/DU holds 498 conservation easements on over 404,000 acres of wetlands, grasslands, forests and farms with 16 of these conservation easements in California encompassing over 7,300 acres. WATI/DU has an experienced staff and board of directors with expertise in wetlands, restoration, waterfowl habitat, agriculture, wildlife biology, and recreation.

WATI/DU is a qualified conservation easement holder under California Civil Code Section 815.3

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.

However, in this case, PG&E is retaining fee title ownership of the entire 236 acres with Parcels 181-184 of the Fall River Valley planning unit and as such, PG&E will continue to pay property taxes to Shasta County as assessed by the State Board of Equalization.

Other Economic and Physical Impacts

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 PG&E 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.

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

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 retention of the Property by PG&E and donation of conservation easement to WATI/DU 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.

Consideration of Parcel Split

PG&E will retain fee title to all 236 acres within Parcels 181-184 of the Fall River Valley planning unit. Therefore, there is no need for a parcel split.

Strategy for Physical Measures to Enhance BPVs

The Stewardship Council has not identified any physical measures to enhance the BPVs 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 WATI/DU

whereby the Stewardship Council will provide a monitoring and enforcement endowment to fund WATI/DU's monitoring activities at the Property.

Implementation Schedule for Transaction and Measures

The implementation schedule for the Fall River Valley Land Retained Transaction indicates CPUC review and approval in mid-2017 and close of escrow in late-2017. The Stewardship Council will release funds to WATI/DU per the conservation easement funding agreement when the conservation easement is recorded.

NOTICE

Notice of AL 4998-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

Protest of PG&E AL 4998-E by area Land Owners

Advice Letter AL 4998-E was protested by Mr. and Mrs. Dave Roach, Gary Martin of Lava Springs Ranch, Dan Beatty, Steve French, Scott and Margret French and William Burgstrom (Protestants) . The protests were timely filed between January 12 and January 20, 2017.

Protestants express general concern that the lands within the Fall River Valley planning unit could become damaged as a result of changes in land use and improvements in access resulting from the donation of a CE to WATI/DU. Specifically, Protestants expressed an interest in obtaining PG&E AL 4998-E, Attachment A – the LCCP for the Fall River Valley planning unit.

The Protestants concerns with the donation include increased foot traffic, silt damage to the Fall River, vehicle traffic, garbage, disturbance of cultural resources, and the general effects of increased access on the fragile riparian habitat. Additionally, Protestants express concern that the creation of new or improved public access such as expansion of parking areas and boat launch facilities, or the creation of hiking trails, could adversely impact the river by resulting in increased trash, vandalism, and may increase trespassing on private property. Finally, Protestants wanted more information on what is likely to

occur on the Property following PG&E's donation of a CE to WATI/DU, with specific concern to the small piece of land connecting Lava Creek to the Ivy Horr Southern Pond.

PG&E Response to the Protest of AL 4998 by area Land Owners

On February 8, 2017 PG&E responded to the protest of AL 4998-E. PG&E reports that following the filing of the AL 4998-E, they received phone calls and letters from local land owners requesting additional information regarding the use of the land subject to the CE. PG&E believes that general confusion surrounds the proposed donation. First, the LCCP contains references to the Stewardship Council's LCP Volume II, which recorded public comments submitted concerning the Fall River Valley planning unit future management. Some of the comments identified opportunities to enhance recreational facilities, or to provide additional public access. PG&E points out that it is important to understand that LCP Volume II is merely a representation of prospective and conceptual opportunities for enhancing the Property identified by the public at the time the LCP was developed. It is not a specific plan for any such enhancement.

PG&E stresses that the proposed CE does not authorize or otherwise encourage new or increased public access or use of the Property. Rather, it preserves and protects current access and uses, but ensures PG&E will be able to impose reasonable rules and restrictions on access to ensure that BPVs are not harmed. To further ensure the protection of BPVs, the easement holder, WATI/DU, will conduct annual monitoring to ensure that these values are not being adversely impacted by use and management of the property.

PG&E contacted each of the concerned land owners to clarify what the proposed CE is intended to accomplish.

DISCUSSION

The Commission has reviewed PG&E AL 4998-E, protest of the advice letter by Protestants, and the reply to Protestants by PG&E. The Commission agrees with PG&E's assessment of the Protestant's concerns and understands that such confusion is often inherent in land use matters, especially where changes in use could be possible, and public comments on future land management practices are encouraged.

The Draft LCP Volumes I and II were released in June, 2007 for a 60-day comment period. The Stewardship Council received a number of public comments. Over two years later, on October 29, 2009 the Stewardship Council held a public information meeting in Burney, California. Additional comments related to the Fall River Valley planning unit were received during and following the Burney public meeting.

The purpose of the public comments was to inform Stewardship Council land planning staff on best practices and appropriate actions for enhancing the BPVs of the Property. Specifically, Section 2 of the Fall River Valley planning unit LCCP incorporates the comments into the management of the Property as appropriate. Additionally, Fall River Valley planning unit LCCP, Section 8 identifies a “Strategy for Physical Measures to Enhance the BPVs”. Section 8 references the Draft LCP public comment period and describes the measures to be “illustrative in nature and subject to change over time in coordination with the future land owner”. Clearly, the measures identified in public comment are not certain to be implemented.

The Commission believes the PG&E’s timely efforts to contact each concerned land owner is helpful in dispelling misconceptions around the proposed donation and intent of the CE.

Fortunately, the Stewardship Council expertly assesses the current state of each parcel as required by the Commission in D. 03-12-035. Specifically, the foundation of LCCP is constructed from Baseline Report and Environmental Assessment completed for each watershed parcel to be donated. Using this information the Stewardship is able to document historical usage – a key consideration informing any planned changes in access or usage levels. Generally, the CE acknowledges and preserves historical use levels unless there is evidence that the Property BPVs are being substantially negatively impacted by this use. Often, however, the current level of use and public access are appropriate for the property in question and no additional facilities or access is necessary or desirable. This would seem to be the case at this time with regard to Fall River Valley parcels that are the subject of this donation. It appears that the CalTrout public access area is providing sufficient access for recreational purposes, and development of additional access is likely unnecessary. Furthermore, the amount of funding available to the Stewardship Council for funding such enhancements is limited, requiring that recommended enhancements to donated watershed properties are highly prioritized.

The Commission is confident that the proposed CE is in the long-term interest of the both the Fall River Valley planning unit parcels and in the interest of area property owners. The Commission appreciates that neighbors to parcels 181-184 are so protective of the natural beauty and unique environment of the Fall River Valley. We believe that PG&E as the continuing land owner and Ducks Unlimited, the CE holder, share this appreciation and desire to protect.

The Commission believes that this donation is in keeping with the spirit and intent of the PG&E Land Conservation Commitment and approves the donation of a CE to WATI/DU.

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 January 12, 2017, PG&E filed Advice Letter (AL) 4998-E, Fall River Valley Land Retained --Request for Approval under Public Utilities Code Section 851.
 6. PG&E Advice Letter 4998-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 4998-E was timely protested by several Fall River Valley land owners, all of whom expressed concern that the proposed CE would allow damaging levels of public access and would additionally lead to unnecessary and detrimental development of public facilities.
 8. PG&E replied to the protests of AL 4998-E on February 8, 2017. The PG&E response contained clarification of what the proposed CE was intended to achieve. PG&E reached out to each area land owner to further explain the intent of the CE.
 9. AL 4998-E contained an LCCP that was compliant with D.03-12-035. The Stewardship Council prepared a LCCP for the Fall River Valley planning unit 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.
 10. In the LCCP, the Stewardship Council recommended that PG&E retain fee ownership of the Fall River Valley planning unit parcels 181-184 and protect those parcels with a perpetual conservation easement. The Ducks

Unlimited 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 Property in compliance with D.03-12-035.

11. The Stewardship Council did not identify any specific physical measures to enhance the BPVs of the Fall River Valley planning unit parcels. However, a grant program is available to fund future physical measures, if deemed appropriate by PG&E and Ducks Unlimited.
12. An environmental site assessment, prepared for PG&E found no potential hazardous waste, substance contamination, or other such environmental conditions on the property.
13. The proposed transaction constitutes no change in ownership without 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.
14. PG&E will retain fee simple ownership of the parcels and will continue to pay property taxes to Placer County as assessed by the State Board of Equalization.
15. The Stewardship Council has entered into a Conservation Easement Funding Agreement with WATI/Ducks Unlimited to establish a monitoring endowment for costs Ducks Unlimited will incur for monitoring activities at the Fall River Valley Properties.
16. The Commission believes that this donation is in compliance with D.01-12-035 and the PG&E Watershed Lands Conservation Program.

THEREFORE IT IS ORDERED THAT:

1. The request of Pacific Gas and Electric Company for approval of the Fall River Valley Land Retained and donation of a Conservation Easement as requested in AL 4998-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 August 10, 2017; the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director