

Background

The Pacific Forest and Watershed Lands Stewardship Council (Stewardship Council) was formed in 2004 as the result of a court settlement in 2003, and is responsible for developing and implementing a land conservation plan for the permanent protection of more than 140,000 acres of Pacific Gas & Electric (PG&E) watershed lands (the Watershed Lands) located in 22 counties. This is referred to as PG&E's Land Conservation Commitment. Some watershed lands will be donated to public entities, Native American tribes, or qualified nonprofit conservation organizations. Conservation easements or conservation covenants will be placed on the watershed lands to ensure that the Beneficial Public Values (BPV) of the parcels are protected in perpetuity.

The Stewardship Council is expected to dissolve after the completion of its work on the land conservation program. The Stewardship Council's dissolution is not expected until 2016 or thereafter.

In September, 2010 the Sierra Nevada Conservancy (SNC) Board authorized its Executive Officer to enter into a Memorandum of Understanding (MOU) and subsequent funding agreements with the Stewardship Council. Further, the SNC Board also authorized the Executive Officer to establish an appropriate budgetary mechanism to receive and expend funds necessary to fully cover the costs to perform the responsibilities associated with the MOU and any subsequent authorized agreements between the SNC and the Stewardship Council.

Also in September, 2010 the Stewardship Council board delegated authority to the Stewardship Council Executive Director to enter into a MOU with SNC that would guide the negotiation of specific contracts. The MOU was signed in November, 2010 by both designees and contains items pertaining to: 1) SNC serving as the covenant holder on watershed lands donated to the U.S. Forest Service (USFS); and 2) SNC performing certain other third-party roles related to the monitoring of lands or easements to be donated to various organizations held by other entities on donated PG&E lands. The MOU clearly states that no agreement would require SNC to perform duties unless adequate financial resources were provided to reimburse SNC, and such duties would only be performed to the extent that resources were made available.

The Stewardship Council has made progress in identifying donees for fee title and conservation easements, and is planning this spring and summer to bring to its board for approval the first Land Conservation and Conveyance Plans that have been drafted, including all proposed transaction documents.

Current Status

CONSERVATION COVENANTS: SNC Staff and Legal Counsel are working to resolve all outstanding matters involved with placing and accepting conservation covenants on lands to be donated to the USFS, including all necessary approvals by the Stewardship Council, USFS and SNC.

THIRD PARTY ROLES: SNC Staff has been working with the Stewardship Council to complete final definitions of the roles and budget details for inclusion in the funding agreements for reimbursement of tasks completed both during the remaining life of the Stewardship Council and after their dissolution. These roles are to be performed in perpetuity as outlined in the MOU.

FUNDING MECHANISM TO REIMBURSE SNC FOR TASKS COMPLETED: The Stewardship Council Fiduciary Committee is in the process of selecting a trustee to administer a permanent fund to reimburse the SNC for work completed to perform third party roles, including holding conservation covenants on lands donated to the USFS. SNC Staff has been in discussions with the Stewardship Council regarding the selection of this trustee and SNC's requirements as a State agency.

PLAN TO MONITOR THE ECONOMIC AND PHYSICAL IMPACTS OF THE PG&E LAND CONSERVATION COMMITMENT: SNC Staff and the Stewardship Council are completing a Scope of Work to specifically define the proposed responsibilities of the SNC. This Role was not included in the MOU of November, 2010, therefore it is anticipated that the Scope of Work and funding agreement would be brought back to the SNC Board in June 2012 for review and approval as an amendment to the existing MOU.

Next Steps

A recommendation will be brought to the SNC Board in June 2012 to authorize an amendment of the November 2010 MOU with Stewardship Council and add language to include: 1) responsibility of the SNC to approve successor conservation easement holders for conservation easements on lands retained by PG&E in the event that original easement holders desire to assign their interest or cease to exist, 2) clarifying that SNC is willing to serve as a back-up conservation easement holder on a temporary basis for conservation easements on lands retained by PG&E, and 3) the Scope of Work and funding agreement for the Plan to Monitor the Economic and Physical Impacts of the PG&E Land Conservation Commitment. All other responsibilities will remain the same as outlined in the original MOU.

SNC Executive Officer and Stewardship Council Executive Director will execute a master agreement pertaining to acceptance of covenants and related SNC roles on the Kings River and Deer Creek planning units. The master agreement will also accommodate future amendments to cover all conservation covenants that SNC will accept via the Stewardship Council processes.

Upon execution of master agreement and verification that all funding mechanisms are in place, the SNC will complete baseline condition reports for The Deer Creek and Kings River donation units to be included in the Stewardship Council's Land Conservation Plan. The USFS and PG&E will review the baseline condition reports and indicate whether they have any concerns about the content.

Recommendation

This is an informational item only; no formal action is needed by the Board at this time. SNC staff will work to complete the Scope of Work for the Plan to Monitor Economic and Physical Impacts, with a goal of bringing a proposed revised MOU to the Board at the June Board meeting. Boardmembers are encouraged to share their thoughts and comments.