

# **LAND CONSERVATION PROGRAM FUNDING POLICY**

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## **BACKGROUND**

The first two volumes of the Stewardship Council's Land Conservation Plan (LCP), which were adopted by the Board of Directors on November 28, 2007, established an overall programmatic framework to guide the Stewardship Council's role in enacting the Land Conservation Commitment as described in the Settlement Agreement<sup>1</sup> and Stipulation.<sup>2</sup> These documents focused on land use planning, an assessment of existing resources, and recommendations on possible actions to preserve and enhance the beneficial public values (BPVs) on the properties. In addition, they acknowledged the availability of \$70 million to support the land conservation program, including funding enhancements, long term management, and stewardship of the watershed lands.

Staff has conducted a preliminary financial analysis of activities related to the Land Conservation Commitment. This analysis included cost projections for the following categories of activities:

- costs related to program and administrative operations,
- costs related to the transfer of fee title or conservation interests to donees,
- costs related to the satisfaction of property tax neutrality requirements, and
- costs of enhancements to the beneficial public values on watershed lands.

This analysis also indicated that the total potential cost of the Land Conservation Commitment, including transaction costs and implementation of all identified potential measures to achieve the land management objectives, is likely to exceed the total funding available from the Stewardship Council.

## **FUNDING OBJECTIVES**

This document is intended to guide future planning and decision-making regarding funding of the long term management and stewardship of the watershed lands and communicate expectations around matching funds and contributions by recipients of donated fee title holdings and conservation easements. The policies and guidelines included herein are intended to provide the guidance necessary to achieve the following objectives:

1. Ensure the Stewardship Council is able to fulfill its funding obligations and other requirements established in the Settlement Agreement and Stipulation;
2. Ensure funding provided to donees results in the greatest impact on achieving the objectives articulated in the Land Conservation Plan;
3. Make certain funding is appropriately allocated and meted out over time to better ensure equitable funding of all transactions and resulting conservation measures; and,

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<sup>1</sup> CPUC Decision 03-12-035 dated December 18, 2003 "Opinion Modifying the Proposed Settlement Agreement of Pacific Gas & Electric Company, PG&E Corporation and the Commission Staff, and Approving the Modified Settlement Agreement"

<sup>2</sup> Stipulation Resolving Issues Regarding the Land Conservation Commitment, September 25, 2003

4. Maximize the amount of funding available for the enhancement of the beneficial public values on the watershed lands.

### OVERARCHING ASSUMPTIONS

Policies and guidelines articulated herein are based on the following key assumptions:

1. Program administrative and overhead costs will be prudent.
2. Funding for conveyance of fee interests in lands available for donation will be considered when:
  - a) Transfer is to an entity whose primary interest and objective will be management of the lands for preservation and enhancement of the beneficial public values; and,
  - b) Ownership by the recipient enhances their ability to secure additional funding to support management and preservation and enhancement of the beneficial public values; and/or,
  - c) Ownership by the recipient enables improved management of the beneficial public values on the lands (e.g., incorporation in a broader, well-established land acquisition and management plan).
3. Donees will be funded on the basis of demonstrated need and will be expected to seek other sources of funding.

### CURRENT AND POTENTIAL NET INCOME

Revenue is generated on the watershed lands from a variety of economic uses, including commercial, agricultural, and residential leases, as well as timber harvests. These revenues, which accrue to the landowner, are associated with particular parcels within the watershed lands and are not evenly distributed across the watershed lands. While much of the residential and commercial revenues are generated on lands to be retained by PG&E, other substantial revenue (particularly timber sales) is associated with lands that may be transferred to new land owners.

**The Stewardship Council expects current sources of revenues related to lands available for donation to be the first source of funding for the costs associated with property ownership, land management, and enhancements to the beneficial public values.**

Some properties may yield revenue streams that exceed the annual costs to own and manage that property. In these cases, the Stewardship Council will:

- Assess such opportunities and engage future potential landowners in a discussion to determine the viability of revenue sharing across the lands. Any revenue sharing requirement will attempt to take into account potential future changes in conditions on revenue producing lands that that could increase costs to the landowner or reduce the amount of revenues generated; and/or,
- Consider the potential to group parcels such that lands yielding annual revenue streams in excess of expected ownership and management costs are conveyed with lands that do not generate revenue streams to allow for revenues to be more widely used as a source of funding to protect and enhance the beneficial public values on the lands; and/or,

- Consider a commitment from land owners to fund future implementation of enhancements to the beneficial public values on the lands they receive.

## POTENTIAL AREAS TO BE FUNDED BY THE STEWARDSHIP COUNCIL

### **I. The Stewardship Council will fund reasonable transaction costs associated with the conveyance of fee or conservation easement interests to donees.**

Consistent and in accordance with the terms of the Settlement, Stipulation, or other related implementation agreements, the Stewardship Council may fund all or portions of the costs to implement recommended conservation transactions, based on the needs and capabilities of prospective donees to pay for such costs. Typical transaction costs include, but are not limited to:

- Preparation of legal agreements;
- Title reports;
- Preparation of required new legal descriptions;
- One-time escrow fees, transfer costs, and document recording costs;
- Subdivision/parcel splits/boundary line adjustments and related costs;
- Boundary surveys; and,
- Title insurance

The Stewardship Council may consider reimbursing recommended easement holders' extraordinary costs for participation in activities at the mandate of the Stewardship Council (e.g., participation in the Stewardship Council's public engagement process).

### **II. Satisfaction of property tax neutrality requirements**

The Stewardship Council will work with the affected counties, future landowners and other relevant parties to address property tax neutrality with an objective to recommend solutions that minimize cash outlays, when possible. Possible vehicles to achieve this goal include:

- Voluntary payment of property taxes by the new landowner
- Lump-sum payment in satisfaction of future tax revenues
- Establishment of an endowment to fund a negotiated share of annual payments
- Other in-lieu compensation as negotiated by the parties
- Payment by PG&E per the terms articulated in the Stipulation
- Other consideration or benefit as negotiated by the parties

### **III. As a rule, the Stewardship Council will not fund costs related to baseline land ownership and management activities.**

The Stewardship Council will require future land owners to demonstrate that they have the funding and other capacity to maintain that property interest so as to preserve and/or enhance

the beneficial values.<sup>3</sup> For this policy, “*baseline land ownership and management activities*” include, but are not limited to:

- Periodic property inspections;
- General clean-up and repairs;
- Fire/Hazard insurance;
- Tenant management; and
- General state and local requirements for property owners

Exceptions to this guideline will be rare and considered only in circumstances where,

- 1) The funding of baseline land ownership and management activities will clearly lead to enhancement of the beneficial public values on the lands; and/or,
- 2) The funding of baseline land ownership and management activities is only temporary (≤5 years).

A report describing current land management and operational activities will be provided to potential donees during the donee selection process.

Property taxes are typically included in this category but are addressed separately in this document per the terms in the Stipulation. Additional land management requirements resulting from implementation of enhancements will be addressed via the enhancements funding process.

**IV. The Stewardship Council will fund certain land management and physical enhancements on the watershed lands**

For the purposes of this policy, land management and physical enhancements will be defined as: Conservation easements that protect the watershed lands into perpetuity; Management activities that enhance the beneficial public values; and Capital improvements which enhance the quality and/or quantity of beneficial public values on the watershed lands.

The land management and physical enhancements that will be funded by the Stewardship Council will be prioritized on the basis of overall beneficial impact to achieving the land management objectives articulated in the LCP. Funding will be based on the demonstrated need and capability of the donee to fund proposed enhancements. Enhancements will be prioritized at an overall watershed lands level and might not be funded on all watershed parcels.

- A. The Stewardship Council will fund up to 100% of a conservation easement holder’s reasonable annual costs to monitor compliance, prepare required reports, and perform other duties under the terms of the conservation easement as negotiated by the parties.**

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<sup>3</sup> From the Stipulation Resolving issues Regarding the Land Conservation Commitment, September 23, 2003, paragraph 12(a)5

Reasonable annual monitoring and other costs may include, but are not limited to:

- Labor costs for monitoring easements
- Labor costs for establishing and maintaining landowner and lessee relationships
- Consultants necessary for certain monitoring tasks (e.g. biological or other surveys)

**B. The Stewardship Council will consider funding land management activities that enhance any of the six beneficial public values on the watershed lands.**

These activities may be performed by the landowner, conservation easement holder, or a qualified third party in partnership with the landowner and conservation easement holder (conservation partner).

Land management enhancements include, but are not limited to:

- Increased frequency and intensity of property management activities above the baseline land ownership and management activities described above;
- Performing cultural, biological, or other resource surveys/studies;
- Increasing the frequency or intensity of resource management activities, including restoration and enhancements;
- Extraordinary expense investments like major repairs or refurbishment of existing buildings, grounds, or other facilities.

**C. The Stewardship Council will consider funding one-time and ongoing maintenance costs of capital improvements which enhance the quality and/or quantity of beneficial public values on the watershed lands.**

These improvements may be performed by the landowner, the conservation easement holder, or a qualified third party in partnership with the landowner and conservation easement holder (conservation partner).

Funding will be based on the demonstrated need and capability of the parties to fund proposed capital improvements and ongoing maintenance costs. Capital Improvements will be prioritized at an overall watershed lands level.

Capital improvements are typically defined as the addition of a permanent structural improvement or the restoration of some aspect of a property that will either enhance the property's overall value or increase its useful life. Capital improvements that could be funded by the Stewardship Council include, but are not limited to:

- Construction of a new recreational trail;
- Development of a new campground or day-use area;
- Construction of new buildings (consistent with land management plan);
- Construction of new parking lots;
- Installation of infrastructure, such as permanent fences and roads;
- Substantial refurbishment or replacement of structural elements of a property necessary to carry out the recommendations in the LCP.

If the Stewardship Council's actions increase the easement holder's monitoring responsibilities through the funding of enhanced management activities or capital improvements, the Stewardship Council will consider providing additional financial support to the easement holder in the form of additional easement funding.