

**Policy:** Watershed Land Conservation Outside the Two-Mile Limit

**Effective Date:** 12/27/2022

**Supersedes:** Adopted 2007, Amended 2013, 2016, 2019, 2020

**Approved by:** BOT

**Land Conservation Policy (2007):** It is the policy of Portland Water District to support measures to preserve Sebago Lake watershed land in perpetuity and to provide open space for lake-friendly public access. The District acknowledges that it is neither feasible nor necessary to own all land in the watershed. Instead the District will cooperate and partner with organizations and individuals who seek to conserve and manage their watershed lands in a manner that protects water quality and therefore protects the health of drinking water consumers.

**Land Conservation Program (2013):** Toward the goal of supporting Sebago Lake watershed landowners who seek to conserve their land in perpetuity, the District's Board of Trustees will contribute between 0% and 25% of the estimated conservation value for qualifying projects. Proposed projects will be evaluated by staff for their water quality value and staff recommendation for financial support will be considered by the Board on a case-by-case basis.

## **I. PURPOSE**

The purpose of this policy is to outline the District's approach to protecting the long-term water quality of Sebago Lake through cooperative land conservation partnerships with landowners throughout the watershed. Conservation of forests in the Sebago Lake Watershed is a key element of the District's Watershed Control Program, a legal requirement of our exemption to the filtration requirements of the Safe Drinking Water Act [40 CFR 141.71 (b)(iv)(2)].

## **II. BACKGROUND**

### **IIA. MULTIPLE BARRIER APPROACH TO SOURCE PROTECTION**

Portland Water District, like many water utilities nationwide, employs a multi-barrier approach to protecting the health of customers. These barriers include protecting the source, water treatment and disinfection, and monitoring and maintenance of the distribution system. The first and most cost-effective barrier is source protection. When the source is protected, all later protective barriers are more effective, less costly, and easier to establish and maintain.

### **IIb. HUMAN ACTIVITIES IN THE WATERSHED ADD AN ELEMENT OF RISK**

The most effective source protection strategy is to own and/or control watershed lands, particularly those closest to the water intakes. By owning land and/or keeping it in its natural state, hazardous chemicals and pathogens (disease-causing organisms) are not introduced to the watershed and therefore cannot contaminate the source. Allowing land to be developed

and then regulating the subsequent human activity can protect a water body but, because chemicals and pathogens are introduced to the watershed there is always a possibility that control measures could fail and contamination of the source could occur.

### **IIc. REASON FOR A “ZONED” APPROACH TO PROTECTION**

Activity throughout the watershed contributes to the water quality of Sebago Lake. Lands closer to the lake in general and closer to the intake in particular are more critical to protect. This is because runoff from nearby lands enters the lake with little opportunity for natural “cleaning.” Since 1908, the District has worked to protect the land around the Lower Bay of Sebago Lake, the site of the water intakes, by purchasing 2,500 acres of land. The District has also maintained a Watershed Control Program to minimize the impact of development activities on lands further away.

### **IIId. PROTECTION IS POSSIBLE WITHOUT OUTRIGHT OWNERSHIP**

In 1999 the District adopted a policy for acquisition of lands located within the two-mile, no-bodily contact zone around the water intakes. This policy states that the District will seek to acquire, from willing sellers, lands located within the two-mile limit which are also within 500 feet of the shoreline and/or are environmentally sensitive. Even if all these lands were acquired and returned to their natural state, a great deal of land around Sebago Lake is already developed or is highly desirable for future development.

It is not the goal of the District to own all or even a majority of the land around the lake, and it is neither feasible nor necessary. The District is committed to the concept of multiple uses of Sebago Lake and the surrounding watershed, while encouraging lake friendly practices involving responsible development and reasonable, low-impact recreational opportunities. The District seeks to encourage and facilitate the conservation of lands outside the two-mile limit by owners or organizations who will keep them as much as possible in their natural state. If it is the intent of the landowner, continued use of conserved land as active managed forest is consistent with the District’s water quality goals.

## **III. LAND CONSERVATION PRINCIPLES AND CONSIDERATIONS**

The protection of water quality, which benefits both customers of the District and all other users of Sebago Lake, can be furthered without direct ownership of land but rather through such methods as establishment of conservation easements by homeowners and support for land acquisition by groups and land trusts whose mission it is to set aside land in its natural state. When land is purchased and activity restricted to low-impact, lake-friendly uses, most of the significant risks to water quality associated with typical development will be avoided. In addition to this direct benefit, establishment and maintenance of natural areas in the Sebago Lake watershed will have an educational benefit by bringing conservation-minded individuals into the area and raising public awareness about the value of the lake and watershed.

District support for conservation easements or other types of landowner agreements and contributions to land trusts or conservation organizations seeking to protect watershed lands should be governed by the following five key principles:

1. Conservation of any land within the watershed of Sebago Lake contributes to the long-term protection of lake water quality;

2. Land in the direct watershed of Sebago Lake is more important to conserve than land in the indirect watershed;
3. Land closest to the shoreline of water bodies (rivers, lakes, streams and ponds) is more important to conserve than land further away from water;
4. Land with shore frontage, either on Sebago Lake or on another water body, is more important to conserve than land with no frontage; and
5. Land with natural features (forest, wetlands, aquifers) that are important to water quality is more important to conserve than land without those features.

In addition, there are other important land features that should be considered, including:

- a. Land closer to Sebago Lake is more valuable to conserve than land further away;
- b. Land likely to be developed is more valuable to conserve than land not likely to be developed;
- c. Land which will be made available for public access and recreation is more valuable to conserve than land which will not be accessible to the public;
- d. Land which will be acquired to support education/naturalist purposes is more valuable to conserve than land which will not be used for these purposes;
- e. Land which will be acquired with some direct support from the municipality in which the land is located is more valuable than land which is acquired without municipal support;
- f. Land with unique or rare natural features is more valuable to conserve than land without these attributes;
- g. Land on which forest growth will be encouraged on parts that are presently not forested are more valuable to conserve than land on which reforestation is not planned; and
- h. Land which will be acquired as part of a formal conservation plan is more valuable to conserve than land which is not part of a plan.

#### **IV. POLICY STATEMENT**

It is the policy of Portland Water District to support measures to conserve Sebago Lake watershed land in perpetuity, to support working forests, and to provide open space for lake-friendly public access. The District acknowledges that it is neither feasible nor necessary to own all land in the watershed. Instead the District will cooperate and partner with organizations and individuals who seek to conserve and manage their watershed lands in a manner that protects water quality and therefore protects the health of drinking water consumers.

#### **V. LAND CONSERVATION PROGRAM**

Toward the goal of supporting Sebago Lake watershed landowners who seek to conserve their land in perpetuity, the District's Board of Trustees will contribute between 0% and 25% of the conservation value of the transaction for qualifying projects.

Projects proposed by land trusts or individual property owners for consideration will be evaluated by staff for their water quality value using an approved evaluation methodology which is consistent with the land conservation principles outlined in Section III of this policy. Staff will assign a value and make a recommendation to the Board for financial support. A recommendation will be considered by the Board on a case-by-case basis. The Board reserves the right to choose not to support a project or support a project at a level different than that recommended by staff.

## **VI. WATER QUALITY-BASED CONTRIBUTIONS**

The overarching goal of the District's Land Conservation Program is to protect the water quality of Sebago Lake. This is best accomplished by conserving forested lands and associated wetlands within the watershed. Forests naturally treat runoff and are especially important when they are adjacent to development and other nearby land uses that could harm water quality.

The District calculates a contribution to a conservation project based on the water quality value of the protected parcel(s). Using a method which considers characteristics important to protecting water quality, District staff evaluates each project and provides a recommended funding level to the Board. The contribution is a percentage of the appraised value or the amount requested by the land trust, whichever is lowest. Appraisals must be conducted by a State-certified general appraiser and must conform to the Uniform Standards of Professional Appraisals Practices (USPAP). The fair market value of a conservation easement is determined by a "before and after" appraisal, which provides the fair market value of the easement property before the conservation easement is placed and the fair market value of the easement property after the conservation easement is placed on the property. The difference in the two values is the value of the conservation easement. Higher percentages are recommended by staff for proposals with greater water quality protection value.

For projects that will conserve land using an easement that permits agricultural activity on a portion of the property, the District will use the same method of calculating its contribution, which considers characteristics important to water quality, but will consider contribution for the non-agricultural land to be conserved as part of the transaction. The easement must indicate that the non-agricultural land will be conserved in its existing state (not cleared for fields). Preference will further be given to easements which are limited to organic practices and/or non-livestock activities.

## **VII. ACQUISITION OF REAL INTEREST**

The overarching purpose of this policy is to conserve watershed lands because forested land is a critical public health barrier. Actions taken under the policy will result in District investment in conserved properties that will be owned and managed by others who agree to conserve the forests on them in perpetuity. The possibility exists that at some future date one or more of the organizations entrusted with this responsibility could become insolvent, cease to exist and/or be unable to meet their stewardship obligations for other reasons. In order that the District's investment in these properties is not lost, a condition of District contribution to certain projects is that the transaction shall result in the District acquiring some form of real estate interest in the conserved property. This could include but not be limited to a conservation easement or a

third party right of enforcement of a conservation easement, or deed restriction. The guidelines for acquiring a real estate interest are outlined in Figure 1.

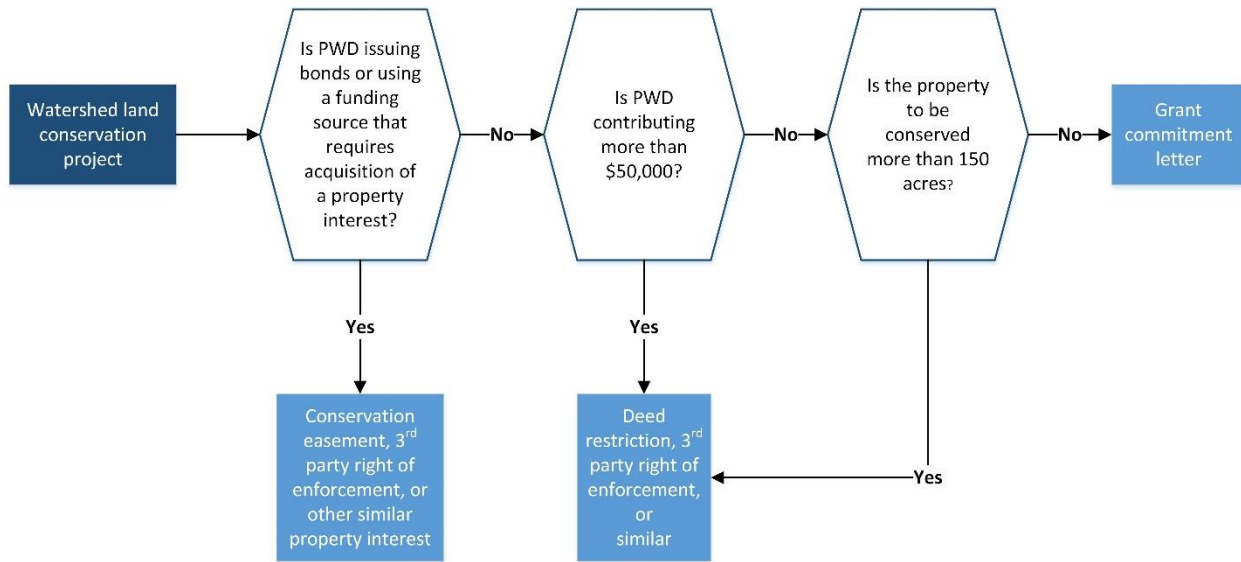


Figure 1