

**New York City Department of Environmental Protection  
Bureau of Water Supply**

**Land Acquisition Program  
Semi-Annual Report**

**July 2018**

*Prepared in accordance with Section 4.2 of the NYSDOH  
2017 Filtration Avoidance Determination*



Prepared by: DEP, Bureau of Water Supply

**New York City Department of Environmental Protection**  
**Land Acquisition Program Semi-Annual Report**  
**January 1, 2018 through June 30, 2018**

Solicitation

The 2017 Filtration Avoidance Determination (FAD) imposes a minimum 350,000-acre solicitation goal for the New York City Department of Environmental Protection (DEP) Land Acquisition Program (LAP) that covers the seven-year period inclusive of 2018 through 2024. The FAD allows for annual credit of up to 20,000 acres solicited by LAP satellite programs including the Farm and Forest Conservation Easement (CE) Programs operated by the Watershed Agricultural Council (WAC), the NYC-Funded Flood Buyout Program (NYCFFBO) operated by DEP, and the Streamside Acquisition Program (SAP) operated by the Catskill Center for Conservation and Development. Acres solicited under the NYCFFBO and SAP can be credited on a five-to-one basis within the 20,000-acre annual contribution of LAP satellite programs. DEP's 2017-2018 Solicitation Plan issued in October 2016 provides a schedule of expected solicitation for 2018. During the first half of 2018, DEP solicited 11,030 acres (not including satellite programs, which are tallied later in the year).

Projects Signed to Purchase Contract

During the first half of 2018, a total of 28 purchase contracts were executed (signed) by DEP and its LAP partners totaling 2,678 acres; these figures include 15 DEP contracts to buy 1,175 acres in fee simple, three NYCFFBO contracts to buy three acres, six SAP contracts to buy 50 acres, two WAC contracts to buy 298 acres under Farm CEs, and two WAC contracts to buy 1,153 acres under Forest CEs. Since 1997, DEP and its LAP partners have executed a grand total of 1,735 contracts comprising 149,954 acres<sup>1</sup> of fee simple and conservation easements in the Catskill/Delaware watersheds at a total cost of \$480.3 million. DEP has also expended an additional \$40 million for associated LAP "soft" costs such as appraisals and surveys.

Real Property Interests Acquired

During the first half of 2018, a total of 13 purchase contracts were closed by DEP and its LAP partners totaling 887.45 acres; these figures include 11 fee simple acquisitions totaling 653.91 acres acquired by DEP, one WAC Farm CE covering 231.28 acres, and one SAP contract covering 2.26 acres.

Conservation Easements

During this reporting period, no CEs were signed to contract or closed by DEP. Since 1997 through June 2018, DEP has signed and/or closed on 25,984 acres of CEs and WAC had secured 26,827 acres in Farm CEs and 1,476 acres in Forest CEs; CEs thus represent 35% of the 149,954 total Catskill/Delaware acres secured by DEP and all LAP partners to date.

Associated Programs

During this reporting period DEP adhered to all requirements of the 2017 FAD, 2010 Water

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<sup>1</sup> This total includes 820 acres at the edge of the Catskill/Delaware system that are entirely outside of the City's watershed but acquired as part of 36 transactions. These acres were acquired in cases where it was difficult or impossible to subdivide a property that spans the watershed boundary.

Supply Permit (WSP) and 1997 Memorandum of Agreement (MOA). The following programs were maintained or further developed and refined during the reporting period:

- **WAC Farm and Forest Easement Programs:** To date, the City has committed \$130 million to WAC's acquisition and stewardship of Farm and Forest CEs. This total includes DEP's original \$20 million contract commitment to the Farm CE Program in 1999 followed by subsequent Farm CE contract commitments of \$7 million, \$20 million, and \$23 million as required by the FAD regulators over the years. The \$130 million also includes a \$6 million contract commitment to the Forest CE Pilot Program as required by the 2010 WSP, a \$43 million commitment to the WAC CE Stewardship Endowment Fund (contract executed in 2016), and a new but not yet executed \$11 million contract commitment to the Farm CE Program as required by the 2017 FAD. Not included in the \$130 million is a potential \$8 million commitment to the Forest CE Program pending a future determination of the FAD regulators based on evaluation of the pilot program.

Of the \$76 million allocated to WAC for acquisition of Farm and Forest CEs under all prior and currently active DEP contracts, \$62 million has been paid to WAC, of which \$40.5 million has been spent or committed by WAC to purchasing 28,303 acres of Farm and Forest CEs. WAC reports that 37% of the current program contract totaling \$29 million has been spent on overhead costs. In all, four contracts (1,476 acres) have been signed for Forest CEs to date, at a cost of \$1.1 million of the \$6 million allocated to the WAC Forest Easement Program.

- **Streamside Acquisition Program** (see WSP Special Condition 29): In July 2015 the City and the Catskill Center began implementation of this \$5 million pilot program to permanently protect streams and stream buffers; under FAD and WSP provisions, the SAP currently operates only in the Schoharie Basin. Approximately 50% of SAP funds are expected to be available for acquisitions, with the rest being spent on administration and overhead costs. The Catskill Center solicits landowners, appraises properties, and signs purchase contracts, while the City acquires the land in fee simple at closing. CEs are possible but have not been pursued to date. Through June 2018, 291 properties totaling 2,906 acres have been solicited and 38 appraisals have been ordered, of which nine were ordered during the first half of 2018 (99 acres valued at an average of \$6,366 per acre). The first purchase contract on a two-acre parcel was closed in early 2018 and another eleven contracts are now signed totaling 89 acres at a cost of \$636,415. To date, no hamlets have elected to opt into the SAP, so acquisitions continue to be focused outside those areas. Pursuant to the 2017 FAD, the City convened three stakeholder meetings during the reporting period to explore ways to incentivize municipalities to opt into the SAP, as well as ways to encourage more landowners to consider working with the SAP to permanently protect their streamside holdings. Recommendations on SAP incentives will be reported in early 2019 pursuant to the FAD.
- **New York City-Funded Flood Buyout Program:** During the reporting period, DEP signed three contracts covering three acres; twelve additional properties have accepted offers (28.5 acres). To date, a total of 33 landowners (including two closed deals) have been actively interested in pursuing the NYCFBBO, including projects in the Local Flood

Analysis, Erosion Hazard, and Stream Project categories; the first closing under the NYCFFBO occurred in the third quarter of 2017.

- **Taxes on WAC Conservation Easements** (WSP Special Condition 19a): The City continued making tax payments on WAC CEs in accordance with New York State legislation passed in 2016 and no significant issues have arisen.
- **Tax Litigation Avoidance Program** (WSP Special Condition 25b8): After receiving a Review Report in December 2016 from the Catskill Watershed Corporation (CWC) on behalf of the Town of Marbletown, the City and Town reached a tentative settlement in May 2018 on all outstanding years. That settlement is expected to be finalized in the second half of 2018. Through May 30, 2018, CWC expenditures for the Tax Litigation Avoidance Program totaled \$118,499; these are the most recent figures available at this time of this report.
- **Enhanced Land Trust Program** (see WSP Special Condition 33): The towns of Hunter, Gilboa, Woodstock, Halcott, and Olive originally passed resolutions to opt into this program; at the time there were six properties in these five towns totaling 3,910 acres, all of which remain on the list of eligible properties. However, due to lack of interest by the six landowners there has been no change in program status. The first half of 2016 represented a period for towns to opt in or out of this program; to date there has been no change in status and the next window for such consideration will be in 2020. Although DEP does not envision this program generating further interest from towns, land trusts or landowners, LAP staff remain available to ensure follow-up in the event that any of the six landowners express interest.

#### Transfer of Conservation Easements on Fee Acquisitions to New York State

DEP has conveyed a total of 76 conservation easements to the New York State Department of Environmental Conservation (NYSDEC) covering 999 LAP-acquired fee properties totaling 66,372 acres. NYSDEC has recorded 68 easements covering 58,126 acres, with the remaining easements under review by the New York State Attorney General's Office.

#### FEMA Flood Buyout Program

Following Hurricane Irene, the City executed agreements with three counties (Delaware, Greene and Ulster) to implement Flood Buyouts under FEMA's Hazard Mitigation Grant Program. Acquisitions are complete and demolitions have been conducted on 15 properties in Greene County, five in Delaware County and 16 properties in Ulster County. Of these 36 total properties, 14 were acquired by municipalities and the remaining 22 were acquired by the City.

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