

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

**Land Acquisition Program
Semi-Annual Report**

July 2019

*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, 2019 through June 30, 2019

Solicitation

The 2017 Filtration Avoidance Determination (FAD) establishes a 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 2018 through 2024. The FAD allows for an 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 (CCCD). 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 2019-2020 Solicitation Plan¹ provides a schedule of expected solicitation for 2019. During the first half of 2019, DEP solicited 34,124 acres (not including satellite programs, which are tallied at year-end).

Projects Signed to Purchase Contract

During the first half of 2019, DEP and its LAP partners signed 21 purchase contracts comprising 987 acres; these include 13 DEP fee simple contracts (931 acres), three NYCFFBO contracts (two acres), and five SAP contracts (54 acres). Since 1997, DEP and its LAP partners have executed a total of 1,781 contracts comprising 153,893 acres² of fee simple and CEs in the Catskill/Delaware watersheds at a total cost of \$490.3 million. DEP has also expended an additional \$42 million for associated LAP "soft" costs such as appraisals and surveys.

Real Property Interests Acquired

During the first half of 2019, DEP and its LAP partners closed 20 purchase contracts comprising 2,458 acres, which include 13 DEP fee simple acquisitions (1,009 acres plus one acre under NYCFFBO), one WAC Farm CE (109 acres), three WAC Forest CEs (1,311 acres), and two SAP contracts (28 acres).

Conservation Easements

During this reporting period, no CEs were signed to contract or closed by DEP. Since 1997, DEP has signed and/or closed on 25,934 acres of CEs and WAC has secured 27,942 acres in Farm CEs and 2,971 acres in Forest CEs; CEs thus represent 37% of the 153,893 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 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

¹ In April 2018, DEP submitted a FAD deliverable titled "*Proposed Modifications to the Long-Term Land Acquisition Plan 2012-2022*", which was accepted by NYSDOH in March 2019 and is now being implemented; although this proposal creates new restrictions on properties that may be solicited, these restrictions are not expected to impact DEP's ability to attain the overall FAD solicitation deliverable.

² 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.

million to WAC's acquisition and stewardship of Farm and Forest CEs. This total includes \$70 million for the Farm CE Program, \$6 million for the Forest CE Pilot Program, \$43 million for the WAC CE Stewardship Endowment Fund, and a new but not yet executed \$11 million contract to continue the Farm CE Program as required by the 2017 FAD. Not included in the \$130 million is a potential \$8 million commitment to the WAC Forest CE Program pending a future determination of program status by the FAD regulators based on DEP's evaluation of the pilot program, which is now scheduled to be completed in December 2019 to align with the start of the new WAC program contract.

Of the \$76 million allocated to WAC for acquisition of Farm and Forest CEs to date, DEP has paid \$67.5 million to WAC, of which \$44.1 million has been spent or committed to purchasing Farm and Forest CEs. Thus, 65% of all program expenditures has been spent on the hard costs of acquisitions. During this reporting period, WAC signed three contracts (1,310 acres) for Forest CEs at a cost of \$1,046,782. To date, WAC has signed and/or closed on 28,423 acres of Farm and Forest CEs.

- **Streamside Acquisition Program** (WSP Special Condition 29): In July 2015, DEP and CCCD began implementation of this \$5 million pilot program to permanently protect streams and stream buffers; per the FAD and WSP, SAP currently operates only in the Schoharie Basin. Approximately 50% of SAP funds are expected to be available for the hard costs of acquisitions. CCCD solicits landowners, appraises properties, and negotiates three-party purchase contracts through which the City acquires the land in fee simple at closing. CEs are possible but have not been pursued to date. During the reporting period, SAP/CCCD staffing changes resulted in few properties being solicited. Since the beginning of SAP, CCCD has solicited 307 properties totaling 3,101 acres and ordered appraisals on 46 properties; five of these appraisals were ordered during the first half of 2019 (51.2 acres valued at an average of \$5,491 per acre). CCCD closed on two purchase contracts (28 acres) during this reporting period, with six (39 acres) contracts now closed. In all, SAP has executed 21 contracts totaling 173 acres at a cost of \$1.2 million. To date, no communities have elected to opt in their hamlets, so SAP acquisitions continue to be focused outside hamlets. In March 2019, DEP submitted a FAD report that recommended incentives intended to encourage municipalities and landowners to opt into SAP. Those recommendations are being incorporated into the SAP via the model purchase contract, a new purchase option agreement, and community outreach efforts.

The 2017 FAD required the City to execute a contract amendment adding \$3 million to the SAP by June 30, 2019. The amendment was registered on July 17, 2019.

- **New York City-Funded Flood Buyout Program:** During the reporting period, DEP signed three contracts (all in the Town of Shandaken), received seven accepted offers, and closed one project in the Village of Hunter. To date, a total of 37 landowners have been actively interested in pursuing transactions through the NYCFFBO, including projects in the Local Flood Analysis, Erosion Hazard, and Stream Project categories. Of these 37 projects, DEP has ordered appraisal on 28 properties, with 22 offers accepted and six refused. Of the 22 accepted offers, 15 projects (45 acres) have reached contract execution and three (seven acres) have closed.
- **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 for all outstanding years. That settlement was approved by the NYC Comptroller in June 2019 and is expected to be executed in the second half of 2019. Through May 30, 2019, CWC expenditures for the Tax Litigation Avoidance Program totaled \$119,533 (the most recent figure available at this time of this report).
- **Enhanced Land Trust Program** (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 totaling 3,910 acres, all of which remain eligible despite a lack of interest from these landowners. The next timeframe for towns to opt into this program will be 2020. DEP does not envision this program generating further interest from towns, land trusts or landowners.

Transfer of Conservation Easements on Fee Acquisitions to New York State

DEP has conveyed a total of 85 conservation easements to the New York State Department of Environmental Conservation (NYSDEC) covering 1,112 properties acquired by LAP totaling 74,716 acres. NYSDEC has recorded 76 of these easements covering 66,372 acres, with the remaining easements pending 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.

end of text