

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

**Land Acquisition Program
Semi-Annual Report**

July 2017

*Prepared in accordance with Section 4.2 of the NYSDOH
Revised 2007 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, 2017 through June 30, 2017**

Solicitation

The Revised 2007 Filtration Avoidance Determination (FAD) imposes a minimum 300,000-acre solicitation goal that covers the six-year period inclusive of 2012 through 2017; the FAD provides credit for up to 10,000 acres solicited by the Watershed Agricultural Council (WAC) annually, as well as acreage counted two-for-one if solicited under the NYC-Funded Flood Buyout Program (“NYCFFBO”) and/or the Streamside Acquisition Program (“SAP”). DEP’s 2017-2018 Solicitation Plan issued October 31, 2016 provides a schedule of expected solicitation for the subject period, which has been used to develop revised projections shown below. During the first half of 2017, DEP solicited 15,883 acres. Actual and projected solicitation across the six-year period is summarized in Table 1.

Table 1: Actual and Projected Solicited Acres 2012 – 2017 (Goal: >300,000)

Year	DEP LAP	Accessory Programs			Credit from Accessory Programs**	Totals
		WAC	SAP*	NYCFFBO*		
2012	64,904	2,439	0	0	2,439	67,343
2013	40,702	4,626	0	0	4,626	45,328
2014	38,785	11,202	0	0	10,000	48,785
2015	49,961	46,171	0	0	10,000	59,961
2016	36,436	28,799	620	34	10,000	46,436
2017	30,000	8,000	2,000	100	10,000	40,000
Totals	260,788	101,237	2,620	134	47,065	307,853

Figures in gray are projected

* Figures shown for SAP and NYCFFBO are twice actual to account for double-credit policy

** Capped at 10,000 acres annually

Projects Signed to Purchase Contract

During the first half of 2017, the City signed 20 purchase contracts to acquire land (fee simple and conservation easements), representing 1,237 acres in the Catskill/Delaware (Cat/Del) system. Program-wide for Cat/Del, DEP alone has secured a grand total (fee simple and conservation easements) of 1,675 contracts totaling 117,036 acres at a cost of \$423 million (plus an additional \$39.0 million for associated “soft” costs). During the first half of 2017, the WAC Farm Easement Program signed two contracts totaling 271 acres. Total Cat/Del land protected by DEP and WAC since 1997 thus stand at 143,553 acres¹.

Real Property Interests Acquired

During the reporting period, DEP closed 20 contracts (fee simple and conservation easements) totaling 1,655 acres and WAC closed three contracts (farm easements) totaling 507 acres.

Conservation Easements

¹ This total includes 820 acres at the edge of the Cat/Del 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.

During this reporting period DEP signed no conservation easements to contract and closed on two easements totaling 602 acres. As of June 30, 2017, DEP had secured (signed and/or closed) 25,299 acres of conservation easements and WAC had secured 26,517 acres in farm easements, representing 36% of the 143,553 total Cat/Del acres secured by DEP and WAC to date.

Associated Programs

During this reporting period DEP adhered to all FAD requirements and the 2010 Water Supply Permit (WSP). The following programs were maintained or further developed and refined during the reporting period:

- **WAC Farm and Forest Easement Programs (WSP Special Condition 31):** The second annual invoice was processed under the WAC Stewardship Endowment Contract that was registered in 2016. Total City commitments to the WAC Farm and Forestry Easement Programs are summarized as follows:

Original 1999 Program Contract:	\$20m
2006 allocation from \$50m Supplementary Fund (per 2/5/04 EPA letter):	\$ 7m
2007 allocation from \$50m LAP Supplementary Fund (per 1/19/06 EPA letter):	\$20m
Additional funds budgeted pursuant to NYS DOH 4/30/08 letter:	\$23m
Pilot Forest CE Program pursuant to 2010 WSP:	\$ 6m
Stewardship Endowment:	\$43m
Total NYC funding commitment:	\$119m

Of the \$76 million allocated to WAC for acquisition of farm and forestry easements, \$56 million has been spent or committed to date, of which \$39 million has been spent or committed to purchasing 26,517 acres of farm easements. Roughly 38% of the current program contract totaling \$29 million has been spent on overhead costs. No contracts have been signed for forest easements to date out of the \$6 million allocated to the Forest Easement Program.

As a general rule, farms are usually built on valley bottomlands that contain relatively high levels of streams, stream buffers, road frontage, and moderate slopes. These same features – which facilitate watering of animals and crops, movement of material and services around the property, and access to external roads and markets – also make farmland of interest to developers, and also more compelling than many other types of properties for protection of water quality. Thus the Farm Easement Program is considered fundamental to the overall success of the City’s effort to protect long-term watershed integrity.

- **Streamside Acquisition Program (WSP Special Condition 29):** In July 2015 the City and its partner, the Catskill Center for Conservation and Development (“CCCD”), began implementation of this \$5 million pilot program. Approximately 50% of these funds are expected to be available for acquisitions, the rest being spent on start-up and overhead costs. SAP has been initiated in the Schoharie Basin and as of this report, 156 properties totaling 1,841 acres have been solicited. Twelve appraisals were ordered during the first half of 2017, with the twelve properties totaling 73 acres (average size is six acres) and valued at an average of \$8,500 per acre. The first purchase contract (a two-acre parcel at \$45,000) has been signed and three more (totaling 10 acres at \$135,000) are expected during 2017. To date, none of the hamlets that excluded LAP have elected to opt into the SAP. Unless this changes over time, acquisitions will be relegated to areas outside those

hamlets.

- **Taxes on WAC Conservation Easements** (WSP Special Condition 19a): The City continued making tax payments on WAC easements in accordance with New York State legislation passed in 2016.
- **Tax Litigation Avoidance Program** (WSP Special Condition 25b8): The City received a Review Report from the Town of Marbletown's consultant and the City's engineering consultant was asked to review that document. Through April 30, 2017, CWC expenditures for TLAP totaled \$115,394.
- **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 in these five towns totaling 3,910 acres, all of which remain on the ELTP list of eligible properties. However, there has been little change in the status of the ELTP due to lack of interest by the six landowners. The first half of 2016 represented a period for towns to opt in (or out) of the program; there were no change in the interests of any towns to their status with respect to ELTP during that time, and the next window for such consideration will be in 2020. Thus while we will remain hopeful, we do not envision this program generating sufficient interest from towns, land trusts or landowners to make it worth investing more than the minimal staff resources that allow LAP to take action if one of the six landowners indicates interest.
- **New York City-Funded Flood Buyout Program** (NYCFFBO): One contract was executed during the reporting period and another project was at the accepted offer stage. To date, a total of four landowners have accepted offers, including projects in the Local Flood Analysis (LFA), Erosion Hazard, and Stream Project categories; the first closing is anticipated in the third quarter of 2017.

Transfer of Conservation Easements on Fee Acquisitions to NYS

DEP has conveyed a total of 76 conservation easements to the NYSDEC covering 999 LAP-acquired fee properties totaling 66,372 acres. During the reporting period, the State recorded one conservation easement, bringing the total recorded to 68 covering 58,126 acres.

Irene / Lee Flood Buyout Program

Since Hurricane Irene, the City has executed agreements with three counties (Delaware, Greene and Ulster) to implement Flood Buyouts under FEMA's Hazard Mitigation Grant Program. The Greene County program is complete, resulting in the acquisition of 15 properties, eight of which are owned by the towns and seven by the City. Also, the City received a check in the amount of \$202,244 from Greene County representing the amount of FEMA reimbursement the County received for the City's contributions on projects eligible for 25% State matching funds. In Delaware County, where five of the six properties closed in 2016, with the final closing expected in the second half of 2017. Of the sixteen properties in Ulster County, six closed during the reporting period, bringing the total closed to thirteen to date. Closings on the remaining three Ulster properties are anticipated in the second half of 2017.