

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

**Land Acquisition Program
Semi-Annual Report**

July 2020

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



Prepared by: DEP, Bureau of Water Supply

Land Acquisition Program Semi-Annual Report January 1, 2020 through June 30, 2020

The 2017 Filtration Avoidance Determination (FAD) requires the New York City Department of Environmental Protection (DEP) to implement the Land Acquisition Program (LAP) in accordance with specific FAD milestones, the 2010 Water Supply Permit (WSP), and the 1997 Memorandum of Agreement (MOA). The 2017 FAD requires a semi-annual progress report on program activities and status. This report covers January 1, 2020 through June 30, 2020, during which time the LAP adhered to all requirements of the FAD, WSP, and MOA.

Solicitation

The 2017 FAD establishes a 350,000-acre solicitation goal for the 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 the NYC-Funded Flood Buyout Program (NYCFFBO), the Farm and Forest Conservation Easement (CE) Programs operated by the Watershed Agricultural Council (WAC), 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 partner programs.

At the start of 2020, DEP expected to follow its 2019-2020 LAP Solicitation Plan while continuing to implement modifications to the 2012-2022 Long-Term Land Acquisition Plan, which were approved in March 2019 and create restrictions on properties that may be solicited towards the overall FAD goal. However, due to the global COVID-19 pandemic, DEP suspended outgoing solicitations in March 2020; total core LAP solicitations to date (not including partner programs, which are tallied at year-end) equal 2,618 acres, which include properties solicited prior to the COVID-imposed shutdown and incoming calls from landowners of properties the city is interested in pursuing. Combined with the 100,602 acres solicited during 2018-2019, the LAP has thus far solicited 103,220 acres of the 350,000-acre FAD goal (29%).

Projects Signed to Purchase Contract

During the first half of 2020, DEP and its LAP partners signed seven purchase contracts comprising 402.3 acres; these include two DEP fee simple contracts (39.0 acres), one NYCFFBO contract (0.2 acre), three SAP contracts (7.6 acres), and one WAC Farm CE (355.5 acres). DEP did not sign to contract any CEs during this period. Since 1997, DEP and its LAP partners have executed a total of 1,817 contracts comprising 154,770 acres¹ of fee simple properties and CEs in the Catskill/Delaware watersheds at a total cost of \$493.6 million. DEP has also expended an additional \$43 million for associated LAP “soft” costs such as appraisals and surveys.

Real Property Interests Acquired

During the first half of 2020, DEP and its LAP partners closed 16 purchase contracts comprising 710 acres, which includes six DEP fee simple acquisitions (231.6 acres), three NYCFFBO properties (25.9 acres), two WAC Forest CEs (418.5 acres), and five SAP properties

¹ This total includes 856 acres along the watershed boundary of the Catskill/Delaware system that are entirely outside of the City’s watershed, acquired as part of 57 transactions where it was difficult or impossible to subdivide property that spans the watershed boundary.

(34.4 acres). DEP did not close any CEs during this period. Since 1997, DEP has closed on 25,933 acres of CEs and WAC has secured 28,241 acres in Farm CEs and 2,982 acres in Forest CEs; CEs thus represent 37% of the 154,770 total Catskill/Delaware acres secured by DEP and all LAP partners to date.

WAC Farm and Forest Easement Programs

To date, DEP has committed \$138 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 not yet executed \$19 million successor contract to continue the Farm CE Program (\$11 million) and Forest CE Program (\$6 million) beyond December 31, 2020 per the FAD. During this reporting period, WAC signed one Farm CE contract (356 acres). To date, WAC has signed (including deals subsequently closed) 31,223 acres of Farm and Forest CEs in the Catskill-Delaware System. Pursuant to Special Condition 19a of the 2010 WSP, the city continues to pay taxes on WAC CEs in accordance with New York State legislation passed in 2016; no significant issues have arisen.

Streamside Acquisition Program (SAP)

Pursuant to FAD requirements, DEP has committed \$8 million through a contract with CCCD to implement the pilot SAP in the Schoharie basin. Approximately 42% 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, mainly due to the small size of properties pursued. During the reporting period, CCCD solicited 64 properties (577 acres). Since the beginning of the SAP, CCCD has solicited 325 properties totaling 3,260 acres and ordered appraisals on 59 properties; four of these appraisals were ordered during the first half of 2020 (58.5 acres averaging \$3,713 per acre). The City closed on five SAP purchase contracts (34.40 acres) during this period, with 17 contracts (120 acres) now closed through SAP.

To date, CCCD and the City have executed 26 SAP contracts totaling 200 acres at a cost of \$1.4 million. Since no communities have opted in, SAP acquisitions continue to be focused outside of hamlets. In March 2019, DEP submitted a FAD report that recommended incentives intended to encourage municipalities and landowners to opt into the SAP. During the reporting period, DEP and CCCD began to implement these new incentives once the city approved a new model purchase contract that includes incentives to landowners whose properties meet eligibility requirements, as well as a new purchase option agreement that is ready for use once CCCD identifies applicable properties.

New York City-Funded Flood Buyout Program (NYCFFBO)

During the reporting period, DEP signed three contracts (all in the Town of Shandaken), received seven accepted offers, and closed three projects, in the Towns of Shandaken, Hunter and Conesville. To date, there have been 40 properties with both a municipal resolution and landowner interest in selling through the NYCFFBO, including projects in the Local Flood Analysis, Erosion Hazard, and Stream Project categories. Of these 40 projects, DEP has ordered appraisals on 35 properties, with 27 offers accepted and eight refused. Of the 27 accepted offers,

22 contracts were executed and 13 of those have closed. Five of the 13 closed projects have been acquired by the municipality and eight have been acquired by the city.

Tax Litigation Avoidance Program

After receiving a Review Report in December 2016 from the Catskill Watershed Corporation (CWC) on behalf of the Town of Marbletown, and in accordance with Special Condition 25(b)8 of the 2010 WSP, the city and town reached a tentative settlement for all outstanding years. That settlement was approved by the NYC Comptroller in June 2019 and was executed in October 2019. Through April 30, 2020, CWC expenditures for the Tax Litigation Avoidance Program totaled \$125,374 (the most recent figure available as of this report).

Enhanced Land Trust Program

The towns of Hunter, Gilboa, Woodstock, Halcott, and Olive originally passed resolutions to opt into this program, with six properties totaling 3,910 acres all remaining eligible pursuant to Special Condition 33 of the 2010 WSP. There was no activity to report during the first half of 2020. The next six-month period for towns to consider opting in or out of the Enhanced Land Trust Program begins December 24, 2020.

Transfer of Conservation Easements on Fee Acquisitions to New York State

During the reporting period, although DEP did not convey any additional CEs to the New York State Department of Environmental Conservation (NYSDEC), the state did record one previously conveyed CE covering 844 acres. To date, DEP has conveyed a total of 85 conservation easements to the NYSDEC covering 1,112 properties acquired by LAP totaling 74,716 acres. NYSDEC has recorded 79 of these easements covering 68,258 acres, with the remaining easements pending review by the New York State Attorney General's Office.