

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

**Land Acquisition Program
Semi-Annual Report**

July 2021

*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, 2021 through June 30, 2021

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, 2021 through June 30, 2021, 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.

In October 2020, DEP submitted its 2021-2022 LAP Solicitation Plan, which outlined DEP's expectation to solicit 60,000 acres during 2021 across all its acquisition programs. The Plan also noted that projections "may be adjusted as the COVID-19 pandemic evolves", and likewise in regard to recommendations contained in the National Academy of Sciences, Engineering and Medicine's evaluation of the City's Watershed Protection Program issued in August 2020. Indeed, due to the COVID-19 pandemic and impacts on City finances and staffing, in March 2020 DEP suspended LAP activities related to (1) outgoing solicitations, (2) appraising properties of landowners who had expressed interest in selling as of early 2020, and (3) drafting contracts to landowners who had accepted purchase offers in early 2020. This affected all LAP partner programs. Thus, during the first half of 2021, no outgoing solicitation took place; incoming solicitation (landowners calling in) totaled 2,172 acres (core LAP only).

Combined with the 124,811 acres solicited during 2018-2020, at the halfway point of the seven-year solicitation period, the LAP has now solicited 126,983 acres (36%) of the 350,000-acre FAD goal. Outgoing solicitations for core LAP are expected to resume late in the second half of 2021, after significant progress has been made with previously accepted offers that were placed on hold and appraisal orders that had been held in abeyance since early 2020. Outgoing solicitations for the SAP are expected to begin in the second half of 2021.

Projects Signed to Purchase Contract

During the first half of 2021, DEP and its LAP partners signed five purchase contracts comprising 204 acres; these include two DEP fee simple contracts (193 acres), one NYCFFBO contract (four acres), and two SAP contracts (seven acres). DEP and its LAP partners did not sign to contract any CEs during this period. Since 1997, DEP and its LAP partners have executed

a total of 1,819¹ purchase contracts comprising 154,564 acres¹ of fee simple properties and CEs in the Catskill/Delaware watersheds at a total cost of \$492.5¹ 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 2021, DEP and its LAP partners closed nine purchase contracts comprising 339 acres, which includes six DEP fee simple acquisitions (318 acres), two NYCFFBO properties (0.4 acres), and two SAP properties (21 acres). DEP and its LAP partners did not close any CEs during this period. Since 1997, DEP has closed on 95,348 acres in fee simple with an additional 193 acres acquired through SAP, 41 acres through the NYCFFBO Program and 74 acres through the Federal Emergency Management Agency (FEMA) Flood Buyout Program. Details of acquisitions closed during this period, by tax parcel, is found in Attachment A and a summary of all acquisitions from 1997 through this period by Priority Areas is found in Attachment B.

DEP has secured (signed or closed) 25,933 acres of CEs, while WAC has secured 28,229 acres in Farm CEs and 2,982 acres in Forest CEs; CEs thus represent 37% of the 154,564 total Catskill/Delaware acres protected under all acquisition programs to date.

WAC Farm and Forest Easement Programs

To date, DEP has committed \$140 million to WAC’s acquisition and stewardship of Farm and Forest CEs. This total includes \$70 million for the Farm CE Program, \$8 million for the Forest CE Pilot Program, \$43 million for the WAC CE Stewardship Endowment Fund, and an as-yet unexecuted \$19 million successor contract to continue the Farm CE Program (\$11 million) and Forest CE Program (\$8 million) beyond December 31, 2020 per the FAD. During this reporting period, WAC focused on addressing internal organizational challenges and fiscal management deficiencies, and therefore did not engage in active solicitations, appraisals, or property acquisitions, although final preparations have been made to close a contract that was executed in 2020 (a 343-acre Farm CE). To date, WAC has signed (including deals subsequently closed) 31,211 acres of Farm and Forest CEs in the Catskill/Delaware watersheds. 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. 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, DEP directed CCCD to stop soliciting properties for reasons discussed above stemming from the COVID-19 pandemic. Since the beginning of the SAP, CCCD has solicited 329 properties totaling 3,363 acres and ordered appraisals on 59 properties; two of these appraisals were ordered during the first half of 2021 and

1. This total (i) excludes purchase contracts that were rescinded in the last several months, which revision may result in certain figures that are lower than data reported in prior periods, and (ii) includes 856 acres along the watershed boundary of the Catskill/Delaware system that are outside of the City’s watershed, acquired as part of 57 transactions where it was difficult or impossible to subdivide tax lots that span the watershed boundary.

are pending. The City closed on two SAP purchase contracts (20.7 acres) during this period, with 23 contracts (193 acres) now closed through SAP. To date, CCCD and the City have executed 29 SAP purchase contracts totaling 215 acres at a value 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; several incentives are now in place for implementation, while additional incentives were developed during the reporting period by DEP, CCCD, and watershed stakeholders. These are expected to be finalized in the second half of 2021, and submitted by DEP as a FAD deliverable by mid-December.

New York City-Funded Flood Buyout Program (NYCFFBO)

During the reporting period, two projects closed: 0.31 acres acquired by the Town of Windham, and 0.12 acres acquired by the Village of Hunter. DEP signed one contract (3.54 acres), but due to the pandemic made no purchase offers. To date, there have been 48 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 48 projects, DEP has ordered appraisals on 35 properties, with 27 offers accepted and eight refused. Of the 27 accepted offers, 23 contracts were executed and 19 of those have closed. Nine of the 19 closed projects have been acquired by the local municipality and ten 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 was approved by the NYC Comptroller in June 2019 and executed in October 2019. Through April 30, 2021, CWC expenditures for the Tax Litigation Avoidance Program totaled \$126,190 (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 2021, which closed the most recent six-month period during which towns could consider opting in or out of the Enhanced Land Trust Program. DEP was not notified about any revised elections by towns, so this program continues to remain dormant.

Transfer of Conservation Easements on Fee Acquisitions to New York State

During the reporting period, DEP did not convey any additional CEs to the New York State Department of Environmental Conservation (NYSDEC). To date, DEP has conveyed a total of 84 CEs in the Catskill/Delaware watersheds to the NYSDEC covering 1,096 properties acquired by LAP totaling 73,535 acres. NYSDEC has recorded 80 of these easements covering 70,476 acres, with the remaining easements pending review by the New York State Attorney General's Office.

Water Quality Metrics

To begin addressing some of the recommendations in the National Academy of Sciences, Engineering and Medicine’s evaluation of the City’s Watershed Protection Program, Table 1 below summarizes key water quality protection features found within properties acquired through the City’s core LAP and various LAP partner programs. Among the many noteworthy data points is that the City has now acquired roughly six times the length of rivers and streams, and more than five times the area of stream buffers (areas within 300 feet of streams), that it owned in 1997. Note that the acreages reported in the table below are calculated directly from areas of GIS polygons and differ from survey-based acreage reported elsewhere in this document.

Table 1. Summary of water quality protection features present within the boundaries of lands protected by acquisition of real property interests as of June 30, 2021.

Status as of December 31, 2020	Acres¹	Miles of Stream²	Acres in Stream Buffer³	Acres of Wetlands⁴
LAP – Fee Simple	94,810.1	372.8	23,985.8	2,343.1
LAP – CEs	25,700.3	102.8	6,450.0	444
SAP – Fee Simple	204.7	2.9	139.3	21.8
WAC – Farm CEs	28,058.6	119.1	7,385.2	380.6
WAC – Forest CEs	2,969.3	5.6	412.7	17.1
NYCFFBO – City-Owned	45.2	1.4	38.6	3.8
FEMA FBO – City-Owned	53.1	0.9	41.0	7.1
Subtotals	151,841.3	605.5	38,452.6	3,217.5
Accomplishments January 1 – June 30, 2021				
LAP – Fee Simple	194.0	1.7	102.4	0.5
LAP – CEs	0	0	0	0
SAP – Fee Simple	7.1	0.1	6.0	0
WAC – Farm CEs	0	0	0	0
WAC – Forest CEs	0	0	0	0
NYCFFBO – City-Owned	3.5	0.01	2.5	0.6
Subtotals	204.6	1.8	110.9	1.1
Pre-MOA Lands				
Fee Simple (excludes reservoirs)	34,422.4	105.1	6,891.9	27,013.8
Grand Totals	186,468.3	712.4	45,455.4	30,232.4

1. GIS Data Source: NYCDEP BWS, 2021. Land ownership acreage categories are calculated directly from areas of GIS polygons and therefore may not match exactly other survey-based acreage totals submitted by DEP. GIS data are clipped to the NYC watershed boundary. Reservoir basin boundaries derived from 1m

LiDAR in 2014. Water features are from local-resolution National Hydrography Dataset (NHD) originally derived from 1m LiDAR in 2013 and last updated by DEP in 2020.

2. Includes streams and river centerlines only as a linear measurement, wherever they intersect with the specified land category.
3. Riparian Buffers are calculated as a 300-foot area on both sides of watercourses (streams and rivers only, excludes ponds, lakes, and reservoirs). Any water features within these buffers were excluded from buffer acreages.
4. Includes Wetlands plus Deepwater Habitats. Acres of both are calculated from a combined GIS layer of National Wetland Inventory (NWI) and NYSDEC-mapped polygons and summarized by categories already used by DEP for FAD reporting purposes. "Deepwater Habitats" include reservoirs or large lakes, unconsolidated bottom, riverbeds or streambeds. "Wetlands" include Palustrine Systems and exclude the Deepwater Habitats categories as well as all upland and unconsolidated shore. These definitions are distinct from the definition of an NFC-qualified wetland under the WSP.
5. Wetlands and Riparian Buffers may overlap with each other, so these acreages cannot be added together for a cumulative total. "Floodplain" acreages will be provided in future FAD reports.



Parcels Eased or Acquired in Fee Simple: 01/01/2021 to 06/30/2021
Newly-Acquired Tax Parcels by County and Town and Closing Date
 With Closing Dates Between 01/01/2021 and 06/30/2021

This report is being submitted to NYS DOH, NYS DEC and the Watershed Protection and Partnership Council in fulfillment of Paragraph 22 of the 2010 Water Supply Permit. Maps of these and all other properties acquired are provided by the City on a quarterly basis using the NYC Property ID number for cross-reference.

<u>NYC Property ID</u>	<u>County</u>	<u>Town</u>	<u>Tax Map Number</u>	<u>Location</u>	<u>R.E. Type</u>	<u>Acquired Acres</u>	<u>Closing Date</u>
4105	Greene	Hunter	148.00-4-28.12	Garfield Ave	Fee (City Fee)	38.64	03/31/2021
4131	Greene	Hunter	165.00-1-24	Scribner Hollow Road	Fee (City Fee)	128.03	02/26/2021
9611	Greene	Hunter	198.00-1-4	off Byrne Rd	Fee (City Fee)	50.85	04/26/2021
5260	Greene	Lexington	159.00-1-5.2	BEECH RIDGE ROAD	Fee (City Fee)	82.90	03/31/2021
9112	Greene	Lexington	127.04-2-2	Rt 23A	Fee (SAP)	17.07	03/19/2021
9581	Greene	Lexington	128.04-1-8	Norwegian Rd	Fee (SAP)	3.67	03/19/2021
2944	Greene	Prattsville	74.00-4-31	ROUTE 23	Fee (City Fee)	16.95	03/31/2021
9573	Greene	Windham	96.14-1-12	88 County Route 65	Fee (City FBO)	0.31	05/27/2021
9527	Putnam	Kent	21.-1-51	Whangtown Rd	Fee (City Fee)	0.58	03/31/2021
Grand Totals			Count: 9			339.00	



<u>Priority Area</u>	<u># of Parcels</u>	<u>Acres</u>	<u>Appraised Value</u>
1A	134	5,149.98	\$34,441,170
1B	338	18,749.07	\$135,312,811
2	203	11,744.53	\$37,793,873
3	427	42,902.93	\$95,426,542
4	717	76,017.85	\$189,561,593
Program Totals	1,819	154,564.36	\$492,535,989