

AGENDA PACKET

AUGUST 15, 2023 MEETING

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TOWN OF LEWISBORO
Westchester County, New York



Planning Board
79 Bouton Road
South Salem, New York 10590

Tel: (914) 763-5592
Fax: (914) 875-9148
Email: planning@lewisborogov.com

AGENDA

Tuesday, August 15, 2023

Courtroom at 79 Bouton Road

Meeting will start at 7:30 p.m. and end at or before 11:00 p.m.

I. PUBLIC HEARING

Cal #10-15 PB, Cal #20-17WP, Cal #5-17SW

Lewisboro Commons (Wilder Balter), 100 Beekman Lane, Goldens Bridge, NY 10526; Sheet 5, Block 10776, Lots 19, 20 & 21 (Lewisboro Commons Housing Development Fund Co., Inc., owner of record) - Request for a partial release of the apartments' construction performance bond.

II. SITE DEVELOPMENT PLAN REVIEW

Cal #01-23PB, Cal #11-23SW

Waccabuc Country Club pickleball courts, 74 Mead Street, Waccabuc, NY 10597; Sheet 22, Block 10802, Lot 23 (Waccabuc Country Club Co., owner of record) - Application for a Waiver of Site Development Plan Procedures for the installation of four pickleball courts on an existing residence's tennis court.

III. WETLAND PERMIT REVIEWS

Cal #22-23WP, Cal #02-23WV

Merchan and Valencia Residence, 1324 Route 35, South Salem, NY 10590; Sheet 39, Block 10543, Lot 22 (Lina Merchan and Fabio Valencia, owners of record)

Cal #29-23WP, Cal #09-23SW

Bernabo vacant land, 96 Post Office Road, Waccabuc, NY 10597; Sheet 25, Block 10812, Lot 3; (Alex Bernabo, owner of record) – Application for a new well, septic and house.

Cal #30-23WP

Bisset Residence, 65 Lake Shore Drive, South Salem, NY 10590; Sheet 36G, Block 11174, Lot 3 (Patricia & Paul Bisset, owners of record) – Application for a new patio and walls, walkways

Cal #31-23WP

Long Pond Preserve channel, 0 Tarry-A-Bit Drive, Waccabuc, NY 10597; Sheet 22, Block 11155, Lots 143 & 145 and Sheet 25, Block 11155 Lot 139 (Three Lakes Council, owner of record) – Application for an East of Hudson Watershed Corporation stormwater retrofit/channel stabilization project on Long Pond Preserve.

IV. SPECIAL USE PERMIT

Cal #02-10PB

Bedford Audubon Society, 35 Todd Road, Katonah, NY 10536; Sheet 5, Block 10776, Lots 7 & 30 and Sheet 5, Block 10777, Lot 3 (Bedford Audubon Society, owner of record)– Application for the renewal of a Special Use Permit or a private nature preserve.

V. SITE VISIT REPORT

Cal #26-23WP

Scott's Dam Reservoir Rehabilitation, 0 Wakeman Road, South Salem, NY 10590; Sheet 47, Block 10057, Lot 11 (Norwalk City First Taxing District, owner of record) - Application for dam improvements and a temporary accessway.

VI. CORRESPONDENCE

Delaware County Department of Planning and Watershed Affairs – Lead Agency Notification for land acquisition in the EOH and WOH water sheds.

Ridgefield, CT Planning and Zoning Commission to amend its Town Code § 2.2 - renewable energy systems.

VII. MINUTES OF July 18, 2023.

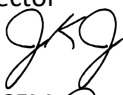

VIII. NEXT MEETING DATE: September 19, 2023.

IX. ADJOURN MEETING.

MEMORANDUM

TO: Chairperson Janet Andersen and
Members of Lewisboro Planning Board

CC: Ciorsdan Conran
Judson Siebert, Esq.
Kevin Kelly, Building Inspector

FROM: Jan K. Johannessen, AICP 
Joseph M. Cermele, P.E., CFM 
Town Consulting Professionals

DATE: August 10, 2023

RE: Paul Bisset
65 Lake Shore Drive
Sheet 36G, Block 11174, Lot 003

PROJECT DESCRIPTION

The subject property consists of ±0.48 acres of land and is located at 65 Lake Shore Drive within the R-1/2 Acre Zoning District. The subject property is developed with an existing one-story frame dwelling with associated driveway, shed, patios and walkways. The applicant is proposing a new stone patio, fire pit, stone walkways, stone lawn stairs, stone retaining walls, landscaping, and wetland mitigation planting.

SEQRA

The proposed action is a Type II Action and is categorically exempt from the State Environmental Quality Review Act (SEQRA).

REQUIRED APPROVALS

1. A Wetland Activity Permit is required from the Planning Board; a public hearing is required to be held on the Wetland Permit.
2. A Town Stormwater Permit may be required from the Planning Board.

COMMENTS

1. The Wetland Mitigation Plan appears adequate; however, we recommend incorporating a couple native deciduous trees along the lake edge.
2. The applicant should submit an agreement with the property owners of 69 Lake Shore Drive for the walkway removal which extends over the property line.
3. More clarification is needed on the future intent of the existing retaining wall on the northwestern side of the house. It appears the construction access is proposed to extend over the wall.
4. Clearly point out on the site plans what existing features are to be removed as part of the work.
5. The plan shall note that the construction of all walls greater than or equal to four (4) feet in height shall be certified by the Design Professional prior to issuance of a Certificate of Occupancy/Completion.
6. The plan shall illustrate the location of the existing well and existing septic areas (primary and expansion). The plan shall show this area to be cordoned off during construction.
7. All improvements including but not limited to patio re-pointing, construction access, pathway removals, proposed grading, concrete washout, tree removals and the topsoil stockpile must be shown to be located within the proposed limits of disturbance.
8. If land disturbance exceeds $\geq 5,000$ s.f., coverage under the New York State Department of Environmental Conservation (NYSDEC) SPDES General Permit (GP-0-20-001) will be required as will the filing of a Notice of Intent (NOI) and MS4 Acceptance Form with the NYSDEC. Submit draft copies to this office for review.
9. Silt Fence should be shown to be installed parallel to the contours.
10. The SWPPP notes refer to drain inlets and a level spreader. Please clarify where these items will be proposed, as they are not shown on the plan or amend the notes, as applicable.

Chairperson Janet Andersen
Bisset – 65 Lake Shore Drive
August 10, 2023
Page 3 of 3

In order to expedite the review of subsequent submissions, the applicant should provide annotated responses to each of the comments outlined herein.

PLANS REVIEWED, PREPARED BY LOUIS FUSCO LANDSCAPE ARCHITECTS, DATED MAY 30, 2023:

- Erosion and Sediment Control Plan (EC-1)
- Layout Plan, Construction Details (LP-1)
- Wetland Mitigation Plan (WM-1)

DOCUMENTS REVIEWED:

- Wetland Permit Application
- Short EAF, dated July 10, 2023

JKJ/dc

https://kellardsessionsconsulti.sharepoint.com/sites/Kellard/Municipal/Lewisboro/Correspondence/2023-08-10_LWPB_Bisset - 65 Lake Shore Drive_Review Memo.docx

TO: The Town of Lewisboro Planning Board
FROM: Lewisboro Conservation Advisory Council
SUBJECT: Bisset Residence, 65 Lake Shore Drive, South Salem, NY 10590
DATE: August 7, 2023

The Conservation Advisory Council (CAC) has reviewed the materials submitted by the applicant for a new patio, walls and walkways.

The entire project is in the wetland buffer. The drawings indicated some tree removals. The CAC would like to see a list of the trees to be removed including their type and size. The CAC would also like to see some permanent demarcation between the lawn and the mitigation plantings.

Application No.: _____

Fee: _____ Date: _____

**TOWN OF LEWISBORO
WETLAND PERMIT APPLICATION**

79 Bouton Road, South Salem, NY 10590

Phone: (914) 763-5592

Fax: (914) 875-9148

Project Address: 65 Lake Shore Dr

Sheet: 43.11 Block: 3 Lot(s): 7

Project Description (Identify the improvements proposed within the wetland/wetland buffer and the approximate amount of wetland/wetland buffer disturbance): New Retaining Walls, Patio and Steps along the rear of the property. Total disturbance within the wetland buffer is 2,400 s.f.

Owner's Name: Paul Bisset Phone: 203-536-4373 9868

Owner's Address: 65 Lake Shore Dr Email: hikesalotpaul@sbcglobal.net

Applicant's Name (if different): _____ Phone: _____

Applicant's Address: _____ Email: _____

Agent's Name (if applicable): Louis Fusco Phone: 914-764-9123

Agent's Address: P.O. Box 362 Pound Ridge NY 10576 Email: pfusco@louisfusco.com

TO BE COMPLETED BY OWNER/APPLICANT

What type of Wetland Permit is required? (see §217-5C and §217-5D of the Town Code)

☐ Administrative ☒ Planning Board

Is the project located within the NYCDEP Watershed? ☒ Yes ☐ No

Total area of proposed disturbance: ☒ < 5,000 s.f. ☐ 5,000 s.f. - < 1 acre ☐ ≥ 1 acre

Does the proposed action require any other permits/approvals from other agencies/departments? (Planning Board, Town Board, Zoning Board of Appeals, Building Department, Town Highway, ACARC, NYSDEC, NYCDEP, WCDOH, NYSDOT, etc): Identify all other permits/approvals required: _____

Building Permit

Note: Initially, all applications shall be submitted with a plan that illustrates the existing conditions and proposed improvements. Said plan must include a line which encircles the total area of proposed land disturbance and the approximate area of disturbance must be calculated (square feet). The Planning Board and/or Town Wetland Inspector may require additional materials, information, reports and plans, as determined necessary, to review and evaluate the proposed action. If the proposed action requires a Planning Board Wetland Permit, the application materials outlined under §217-7 of the Town Code must be submitted, unless waived by the Planning Board. The Planning Board may establish an initial escrow deposit to cover the cost of application/plan review and inspections conducted by the Town's consultants.

For administrative wetland permits, see attached Administrative Wetland Permit Fee Schedule.

Owner Signature: Paul Bisset

Date: 7/10/2023

TOWN OF LEWISBORO PLANNING BOARD

79 Bouton Road, South Salem, NY 10590

Email: planning@lewisborogov.com

Tel: (914) 763-5592

Fax: (914) 875-9148

Affidavit of Ownership

State of: New York

County of: Westchester

Paul J. Bisset, being duly sworn, deposes and says that he/~~she~~
resides at 65 Lake Shore Drive, South Salem
in the County of Westchester, State of New York
and that he/~~she~~ is (check one) ☒ the owner, or ☐ the _____
of _____ Title
_____ Name of corporation, partnership, or other legal entity

which is the owner, in fee of all that certain log, piece or parcel of land situated, lying and being in the
Town of Lewisboro, New York, aforesaid and know and designated on the Tax Map in the Town of
Lewisboro as:

Block 11174, Lot 3, on Sheet 366.

Paul J. Bisset
Owner's Signature

Sworn to before me this

10 day of July, 2023

Janet L. Donohue
Notary Public - affix stamp

JANET L. DONOHUE
NOTARY PUBLIC, STATE OF NEW YORK
No. 01DO6259627
Qualified in Westchester County
Commission Expires April 16, 2026

TOWN OF LEWISBORO PLANNING BOARD

79 Bouton Road, South Salem, NY 10590
Email: planning@lewisborogov.com
Tel: (914) 763-5592 Fax: (914) 875-9148

Tax Payment Affidavit Requirement

This form must accompany all applications to the Planning Board.

Under regulations adopted by the Town of Lewisboro, the Planning Board may not accept any application unless an affidavit from the Town of Lewisboro Receiver of Taxes is on file in the Planning Board office. The affidavit must show that all amounts due to the Town of Lewisboro as real estate taxes and special assessments on the total area encompassed by the application, together with all penalties and interest thereon, have been paid.

Under New York State law, the Westchester County Clerk may not accept any subdivision map for filing unless the same type of affidavit from the Town of Lewisboro Receiver of Taxes is submitted by the applicant at the time of filing.

This form must be completed by the applicant and must accompany all applications to the Planning Board. Upon receipt, the Planning Board Secretary will send the form to the Receiver of Taxes for signature and notarization. If preferred, the applicant may directly obtain the signature of the Receiver of Taxes and notarization prior to submission.

To Be Completed by Applicant (Please type or print)

Paul Bisset

Name of Applicant

Bisset Residence

Project Name

Property Description

Tax Block(s): 43.11

Tax Lot(s): 3

Tax Sheet(s): 7

Property Assessed to:

Paul and Patricia Bisset

Name

65 Lake Shore Dr

Address

South Salem

City

Ny

State

10590

Zip

The undersigned, being duly sworn deposes and says that a search of the tax records in the office of the Receiver of Taxes, Town of Lewisboro, reveals that all amounts due to the Town of Lewisboro as real estate taxes and special assessments, together with all penalties and interest thereon, affecting the premises described below, have been paid.

Signature - Receiver of Taxes:

Date

Sworn to before me this

10th day of July, 2023

JANET L. DONOHUE
NOTARY PUBLIC, STATE OF NEW YORK
No. 01DO6259627
Qualified in Westchester County
Commission Expires April 16, 2024

Signature - Notary Public (affix stamp)



July 7, 2023

Town of Lewisboro
79 Bouton Rd
South Salem, NY 10590

RE: 65 Lake Shore Dr. - Letter of Consent

To Whom it May Concern:

Please be advised that I am the property owner of 65 Lake Shore Dr, South Salem NY and have retained Louis Fusco Landscape Architects to provide Landscape Architectural services for the above referenced property.

This letter shall serve as consent for employees of Louis Fusco Landscape Architects to act as our agent(s) with respect to permitting, inspections and site walks with the Town of Lewisboro.

Sincerely,

The block contains two handwritten signatures in dark ink. The first signature, 'Paul Binet', is written in a cursive style. The second signature, 'Patricia C. Bisset', is also in cursive and appears to be written over the first signature.

Paul & Patricia Bisset

Tel. 914.764.9123

PO Box 362 • Pound Ridge • NY 10576

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

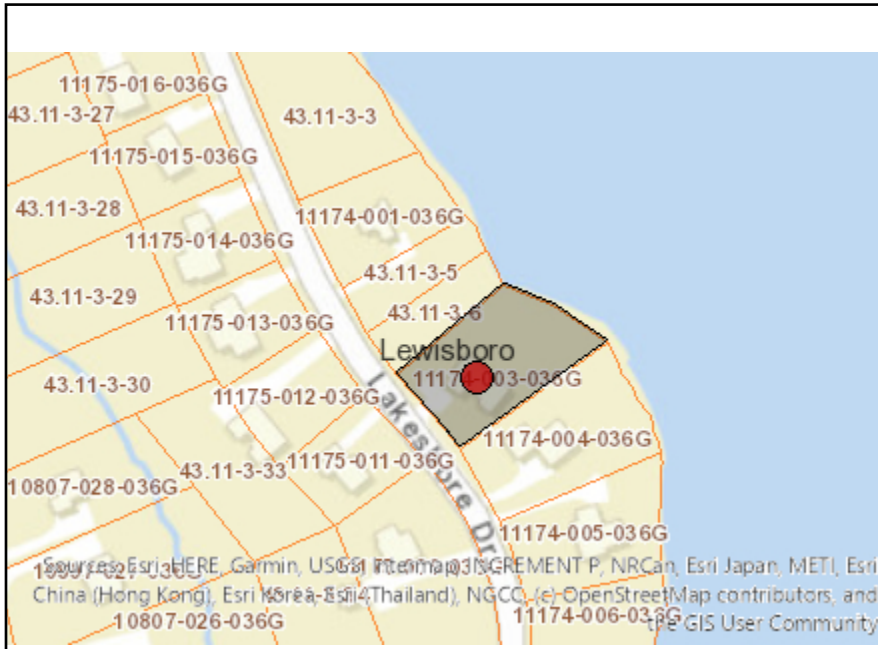
Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information				
Name of Action or Project:				
Project Location (describe, and attach a location map):				
Brief Description of Proposed Action:				
Name of Applicant or Sponsor:			Telephone:	
			E-Mail:	
Address:				
City/PO:		State:	Zip Code:	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?			NO	YES
If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<input type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency?			NO	YES
If Yes, list agency(s) name and permit or approval:			<input type="checkbox"/>	<input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres				
b. Total acreage to be physically disturbed? _____ acres				
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres				
4. Check all land uses that occur on, are adjoining or near the proposed action:				
5. Urban	Rural (non-agriculture)	Industrial	Commercial	Residential (suburban)
<input type="checkbox"/> Forest	Agriculture	Aquatic	Other(Specify):	
<input type="checkbox"/> Parkland				

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

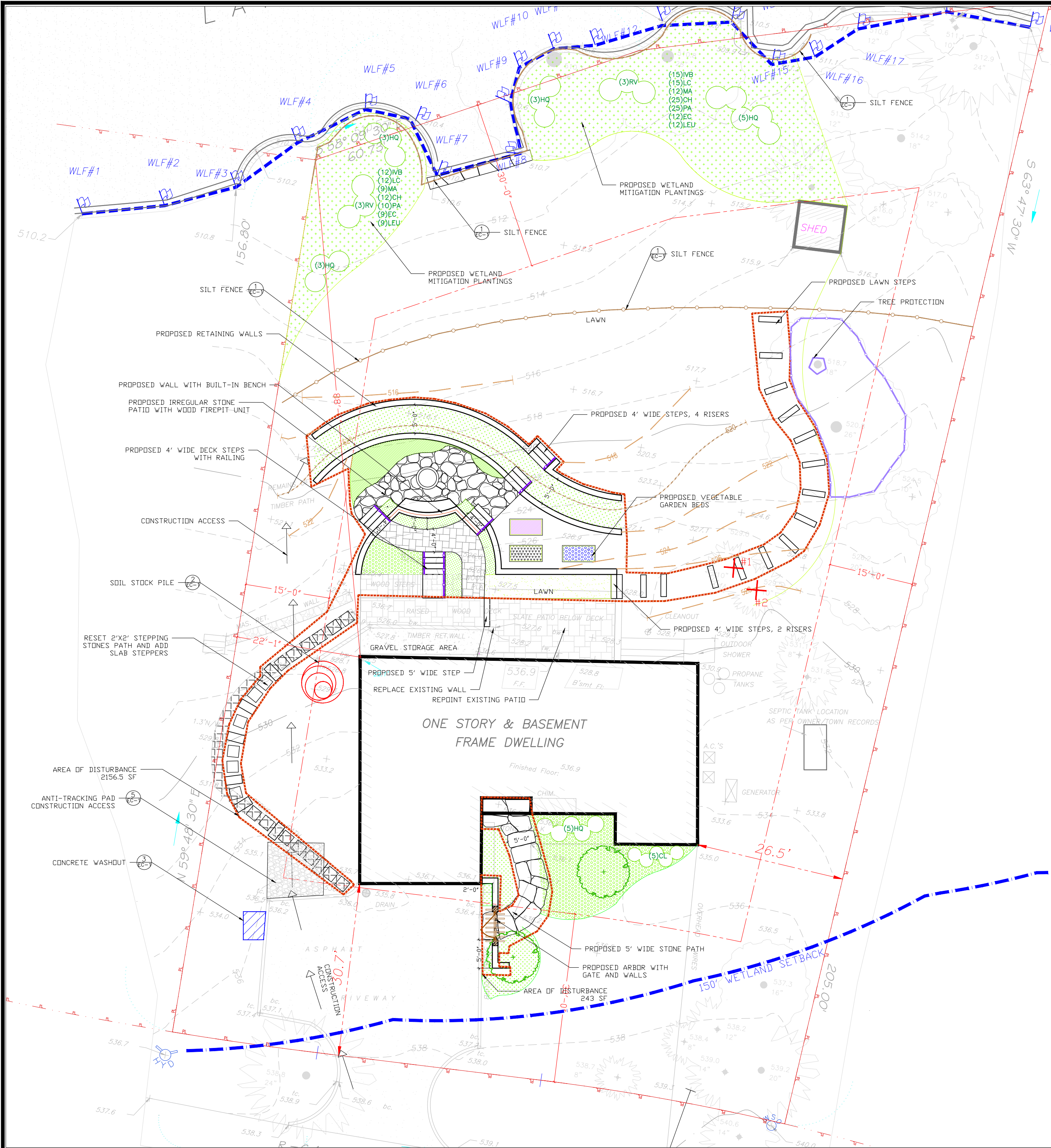
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest Agricultural/grasslands Early mid-successional Wetland <input type="checkbox"/> Urban Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: _____ Date: _____		
Signature: _____ Title: _____		



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No



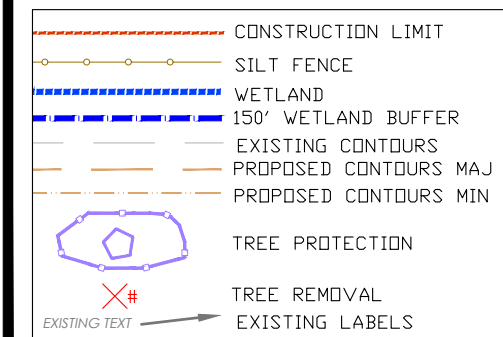
SITE PLAN

SCALE: 1" = 10'-0"

ADJACENT PROPERTIES:

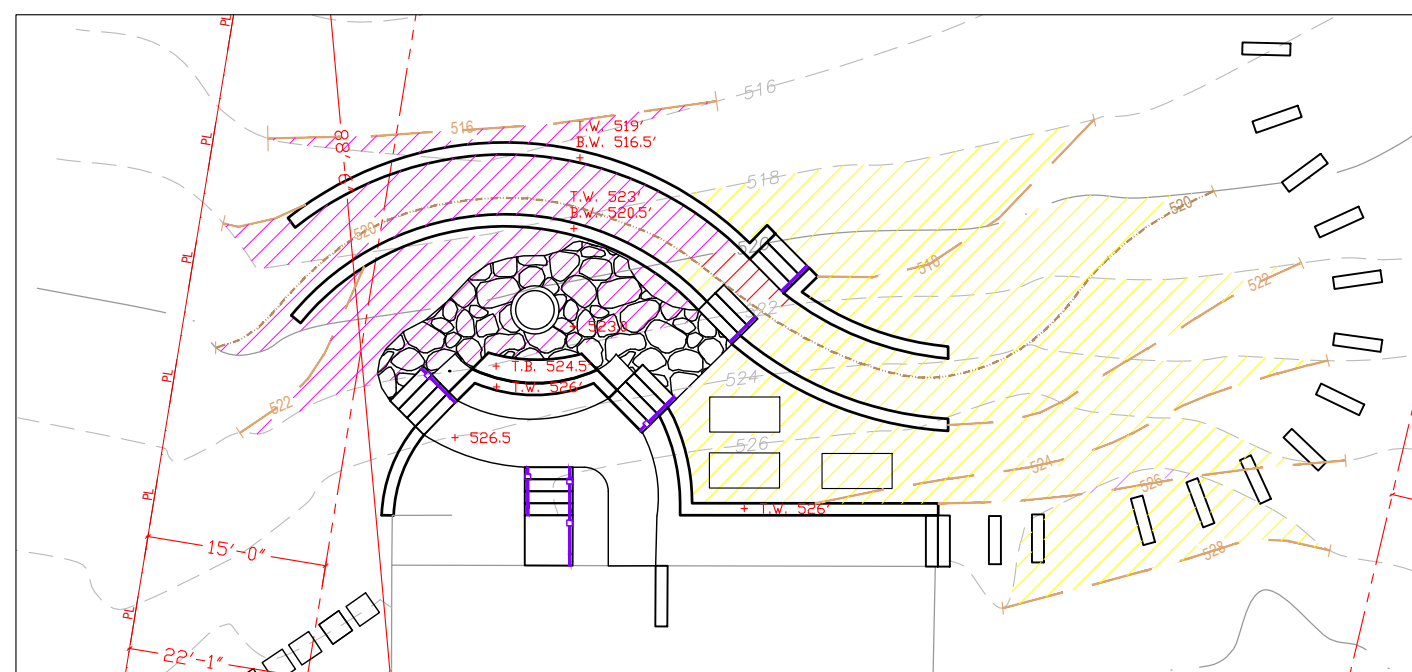
OWNERNAME	PROPADDRESS	PROPPROP	PROPCITY	PROPPZIP
TAYLOR IRREVOCABLE INCOME ONLY TRUST	60 LAKE SHORE DR		SOUTH SALEM	10590
GIARDINA, JULIEANN	64 LAKE SHORE DR		SOUTH SALEM	10590
TAYLOR IRREVOCABLE INCOME ONLY TRUST	LAKE SHORE DR		SOUTH SALEM	10590
TRUESDALE LAKE PROPERTY OWNERS ASSOC., INC.	LAKE SHORE DR		SOUTH SALEM	10590
SCHATTMAN, GLENN & CLAUDIA	56 LAKE SHORE DR		SOUTH SALEM	10590
THOMSON, PATRICIA	69 LAKE SHORE DR		SOUTH SALEM	10590
FREMED, CHARLES & RESA	65 LAKE SHORE DR		SOUTH SALEM	10590
BRADY, WILLIAM J. & ANN E.	MAIN ST		SOUTH SALEM	10590
SCHATTMAN, GLENN & CLAUDIA	LAKE SHORE DR		SOUTH SALEM	10590
TRUESDALE ESTATES ASSOC. INC.	LAKE SHORE DR		SOUTH SALEM	10590
STELLY, MICHAEL J. & JANET C.	58 LAKE SHORE DR		SOUTH SALEM	10590
NOVAK, MICHAEL G. & BONNIE E.	52 LAKE SHORE DR		SOUTH SALEM	10590
BRADY, WILLIAM J. & ANN E.	62 LAKE SHORE DR		SOUTH SALEM	10590
TRUESDALE LAKE PROPERTY OWNERS ASSOC. INC.	LAKE SHORE DR		SOUTH SALEM	10590
FILES, ROBERT A. & JOAN A. CO-TRUSTEES, J. W. FILES FAM	63 LAKE SHORE DR		SOUTH SALEM	10590
MORSE, RAYMOND A.	61 LAKE SHORE DR		SOUTH SALEM	10590
GUSMANO, JOHN L. & KNOWLES, JILL E.	57 LAKE SHORE DR		SOUTH SALEM	10590

LEGEND:



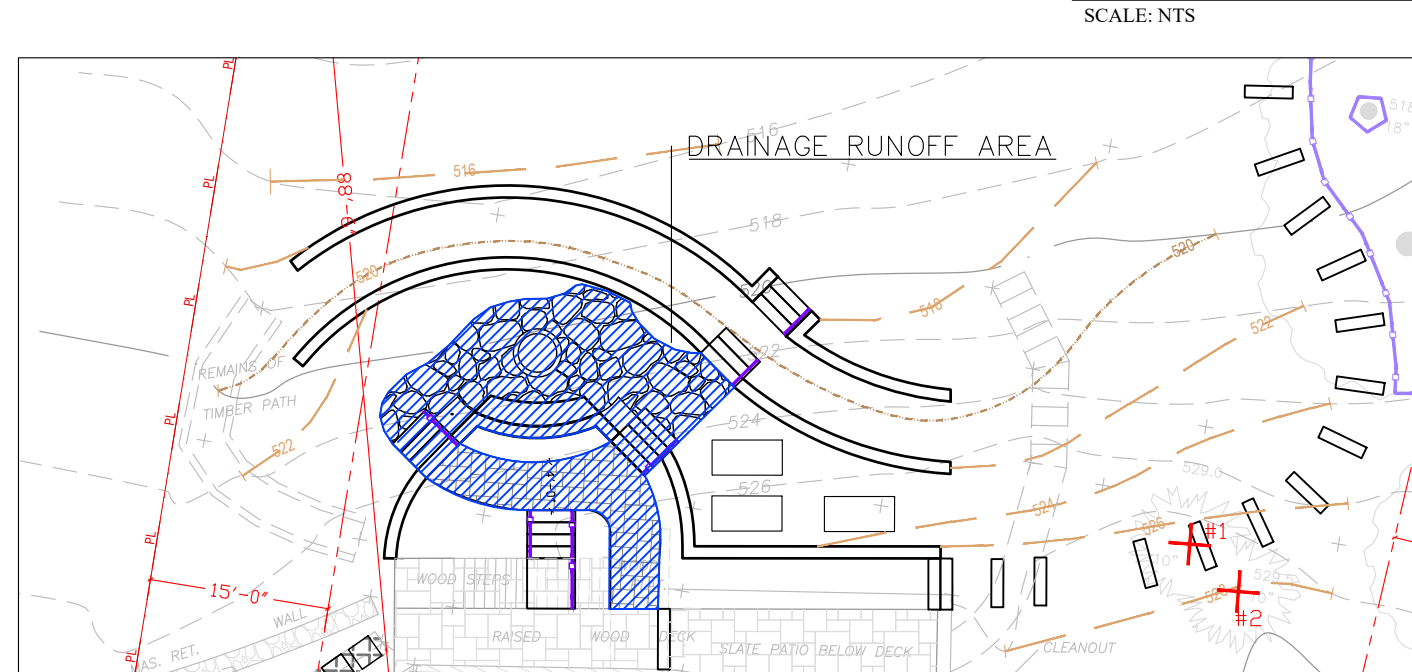
REMEDATION AND CONSTRUCTION SEQUENCE

1. PROVIDE SILTATION FENCING AROUND ALL PROPOSED DISTURBANCE AREAS AS INDICATED ON PLANS
2. PROVIDE SILTATION FENCING AROUND STOCKPILE LOCATION AND WETLAND LOCATIONS
3. TREE PROTECTION SHALL BE INSTALLED AROUND SELECTED TREES IN DISTURBED AREAS
4. INSTALLATION OF CONSTRUCTION ACCESS ROAD
5. REMOVAL OF EXISTING TREES, STUMPS AND SHRUBS
6. STRIP AND STOCK PILE EXISTING COMPOST/TOPSOIL
7. INSTALL ALL UTILITY CONNECTIONS
8. ROUGH GRADING OF SITE AND REMOVAL OF ROCKS AS NEEDED
9. INSTALL PROPOSED PATIO SPACES
9. INSTALL NEW PROPOSED TREES AND PLANTS AS SPECIFIED AND INDICATED ON PLANS. PLANTING BED TO RECEIVE A 1 TIME APPLICATION OF 2" ORGANIC MULCH
10. FINAL GRADING AND REMOVE EXCESS FILL FROM SITE IF NEEDED
11. REMOVE SILTATION FENCING ONCE ALL DISTURBED AREAS HAVE BEEN STABILIZED WITH PLANT MATERIAL AND/OR LAWN



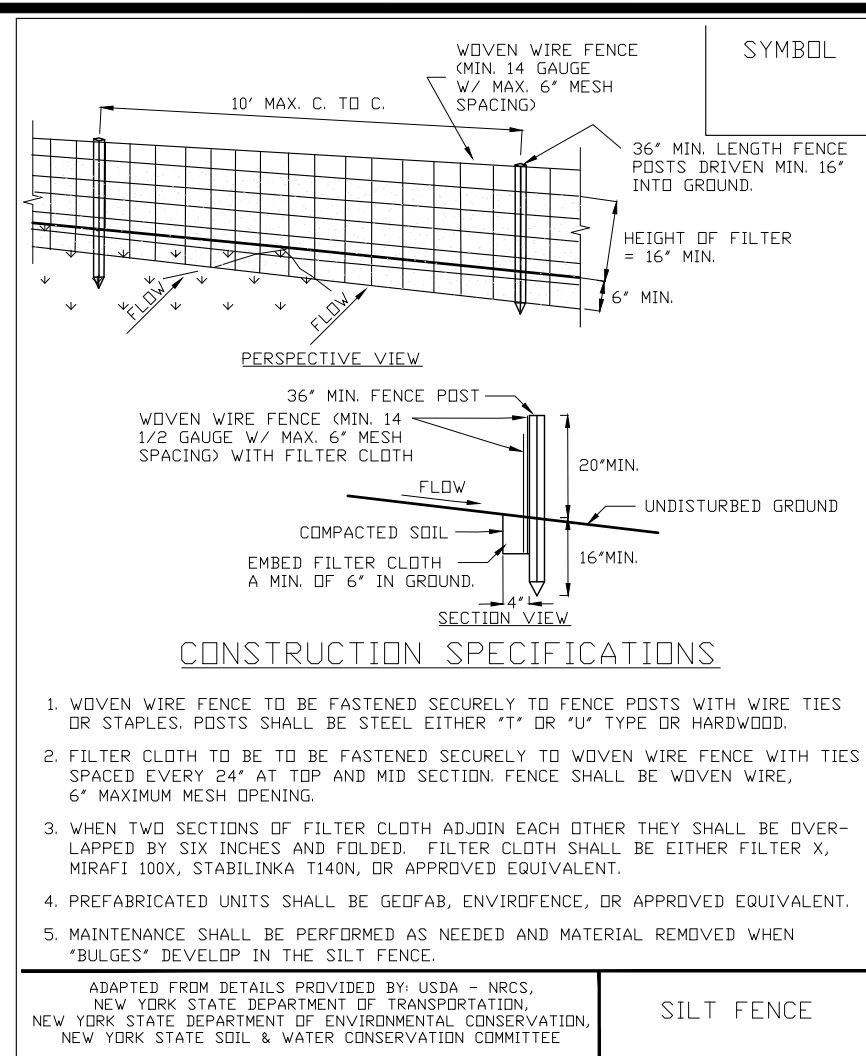
CUT AND FILL PLAN
SCALE: 1" = 16'-0"

CUT AND FILL:
- FILL, TOTAL 43 CUBIC YARD
- CUT, TOTAL 118.4 CUBIC YARD

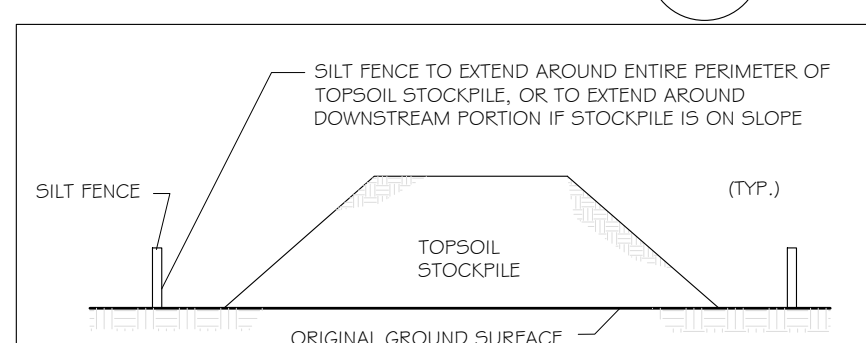


DRAINAGE PLAN
SCALE: 1" = 16'-0"

PROPOSED DRAINAGE:
DESIGN CRITERIA
- 25 YEAR STORM, ZERO INCREASE IN RUNOFF
- 24 HR. RAINFALL EVENT=6.41"
INCREASE IN RUNOFF: AREA OF INCREASE= 500.5 S.F.
- PROPOSED HARDSCAPES=CN 98(5.46" RAINFALL)
- EXISTING LAWN CONDITION CN=61(1.8" RAINFALL)
- ((6.41-1.8)/12) X 500.5 = 181.0 C.F.
WQv = 181.0 C.F.
REAR PATIO DRYWELL CALCULATION
WQv = 181.0 C.F.
AREA OF DRYWELL = 405 S.F.
(Pd) DRAIN LAYER POROSITY = 4
1.17 GRAVEL STORAGE = 1.17 X 405 X .4 = 189.54 C.F.
WQv ≤ 189.54
181 ≤ 189.54 = OK
TOTAL GRAVEL DRYWELL DEPTH = 14"

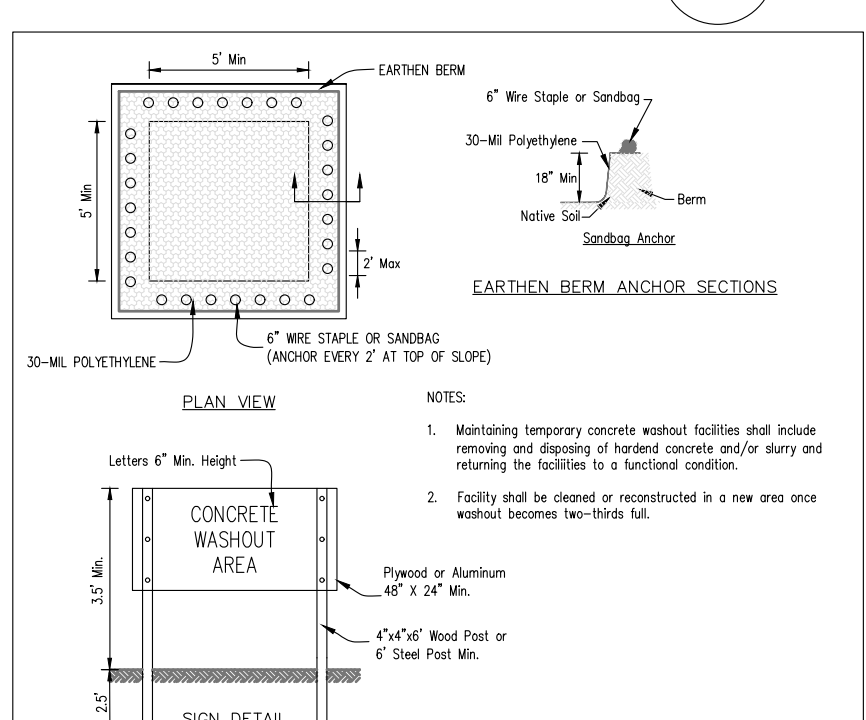


CONSTRUCTION SPECIFICATIONS
1. WOVEN WIRE FENCE TO BE FASTENED SECURELY TO FENCE POSTS WITH WIRE TIES OR STAPLES. POSTS SHALL BE STEEL EITHER 1" OR 1 1/2" TYPE OR HARDWOOD.
2. FILTER CLOTH TO BE TO BE FASTENED SECURELY TO WOVEN WIRE FENCE WITH TIES SPACED EVERY 24" AT TOP AND MID SECTION. FENCE SHALL BE WOVEN WIRE, 6" MAXIMUM MESH OPENING.
3. WHEN TWO SECTIONS OF FILTER CLOTH ADJOIN EACH OTHER THEY SHALL BE OVERLAPPED BY SIX INCHES AND FOLDED. FILTER CLOTH SHALL BE EITHER FILTER X-MIRAFIT 100K, STABILINKA 1140N, OR APPROVED EQUIVALENT.
4. PREFABRICATED UNITS SHALL BE GEOPAB, ENVIRPENCE, OR APPROVED EQUIVALENT.
5. MAINTENANCE SHALL BE PERFORMED AS NEEDED AND MATERIAL REMOVED WHEN "BULGES" DEVELOP IN THE SILT FENCE.



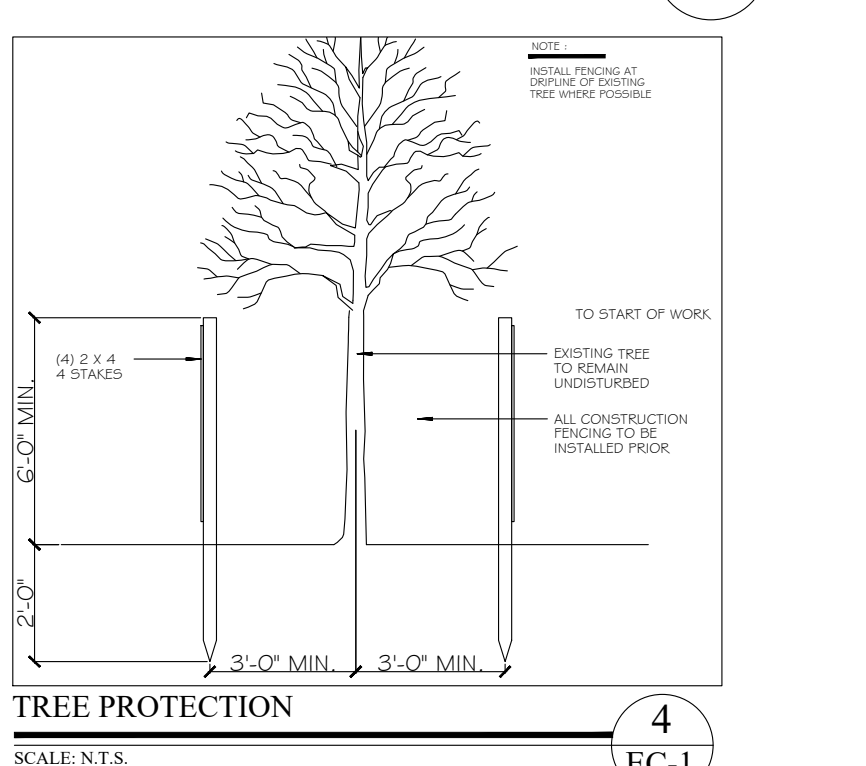
SILT FENCE
SCALE: N.T.S.

1
EC-1



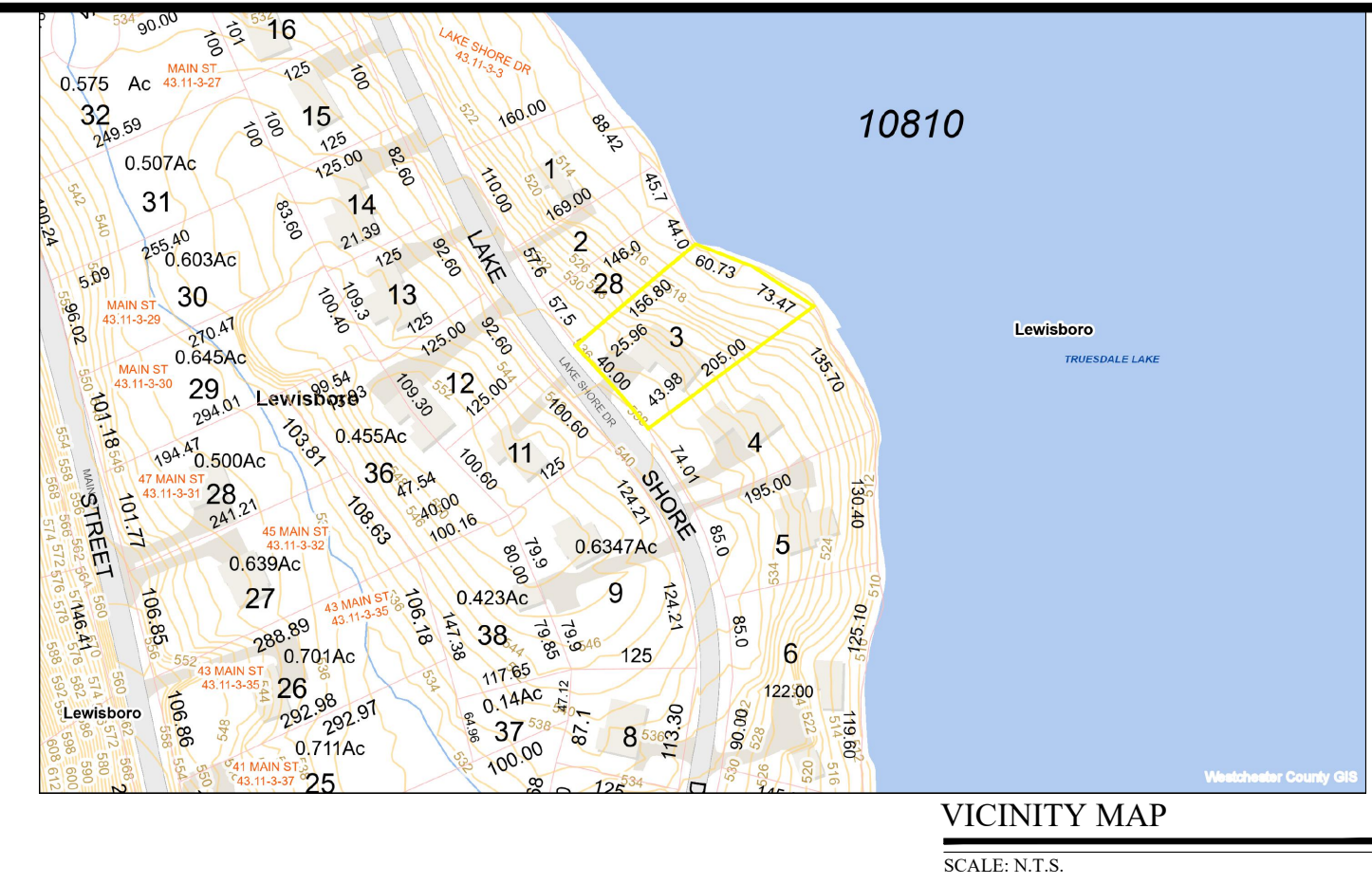
CONCRETE WASHOUT
SCALE: N.T.S.

3
EC-1



TREE PROTECTION
SCALE: N.T.S.

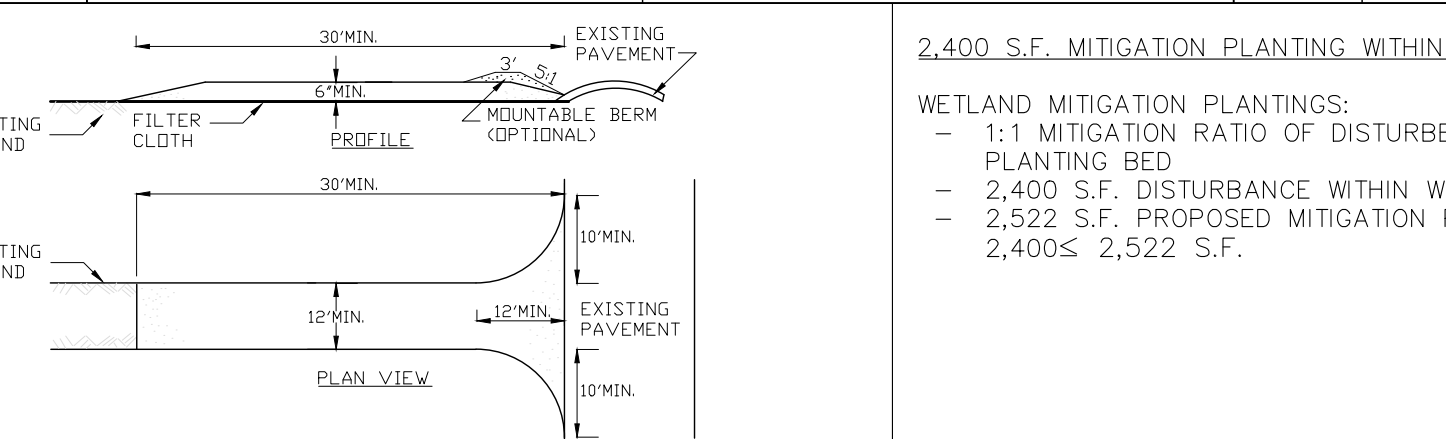
4
EC-1



ZONING TABLE R-1/2A	ALLOWABLE	EXISTING
LOT AREA	1/2 ACRE	21,330 S.F. 0.48 ACRE
RESIDENTIAL BUILDING AREA	15%	3199.5 S.F.
FRONT SETBACK	30'	30.7'
SIDE SETBACK	15'	22.1'
REAR SETBACK	30'	88.5'

FRONT WALK AND WALLS = (-)39.5 SF
REAR PATIO, DECK, STEPS AND WALLS = (+)540 SF
TOTAL ADDED = (+)500.5 SF

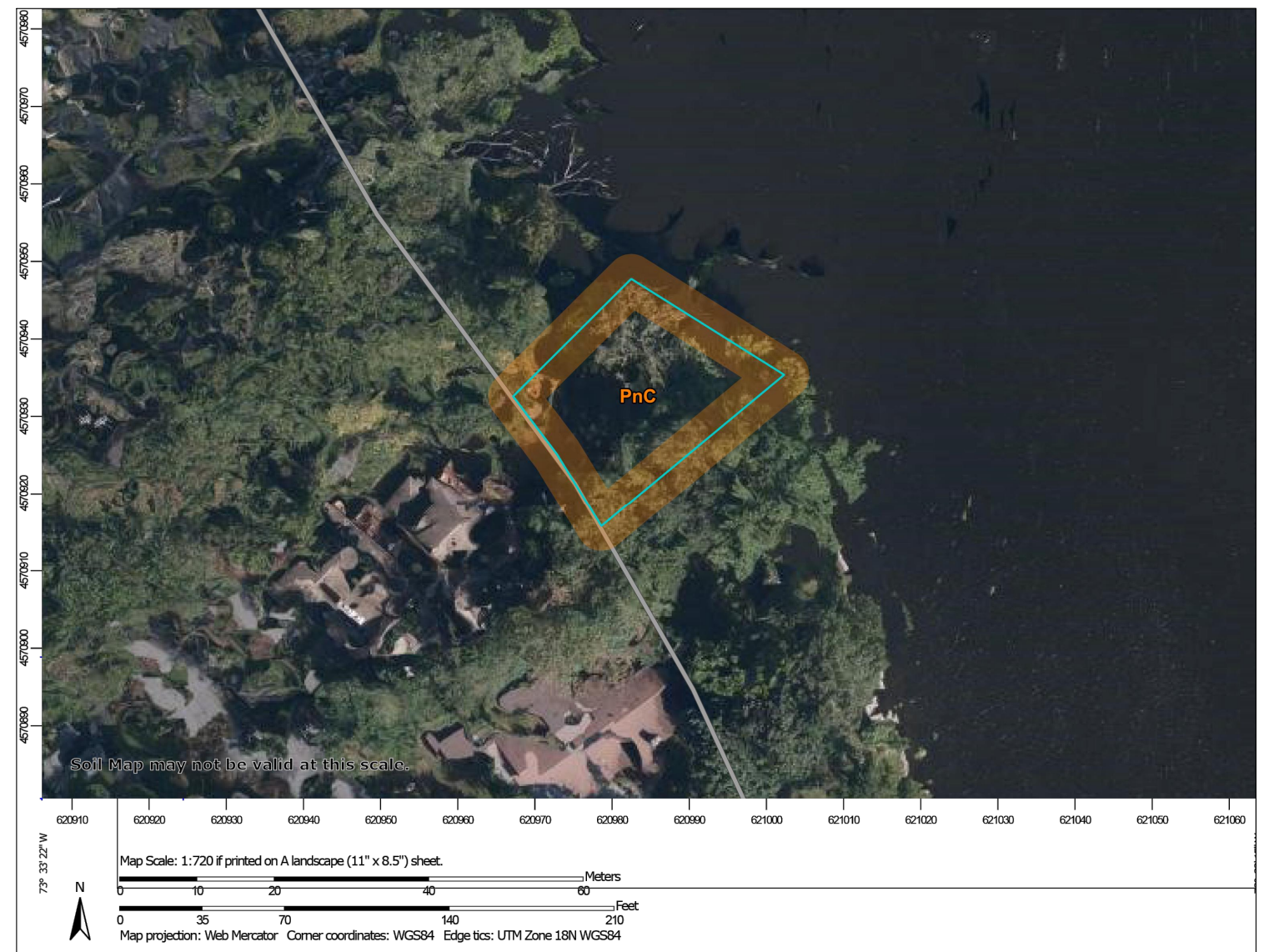
Symbol	Latin Name	Common Name	Quantity	Size
HQ	Hydrangea quercifolia	Oakleaf Hydrangea	14	5 gal.
RV	Rhododendron viscosum	Swamp Azalea	6	3 - 5 gal.
CH	Carex hobb	Hobb Sedge	37	1 gal.
IVB	Iris virginica	Blue Flag Iris	27	1 gal.
LC	Labelia cardinalis	Red Cardinal Flower	27	1 gal.
MA	Monarda	Bee Balm (varieties)	21	1 gal.
PA	Polystichum acrostichoides	Christmas Fern	35	2 gal.
IVB	Iris virginica	Blue Flag Iris	27	1 gal.
EC	Echinacea purpurea	Purple Coneflower	21	2 gal.
LEU	Lecuanthemum x superbum	Shasta Daisy	21	2 gal.



CONSTRUCTION SPECIFICATIONS
1. STONE SIZE - USE 1-4 INCH STONE, OR RECLAIMED OR RECYCLED CONCRETE EQUIVALENT.
2. LENGTH - NOT LESS THAN 30 FEET (EXCEPT ON A SINGLE RESIDENCE LOT WHERE A 30 FOOT MINIMUM LENGTH WOULD APPLY).
3. THICKNESS - NOT LESS THAN SIX (6) INCHES.
4. WIDTH - TWELVE (12) FOOT MINIMUM, BUT NOT LESS THAN THE FULL WIDTH AT POINTS WHERE INGRESS OR EGRESS OCCURS. TWENTY-FOUR (24) FOOT IF SINGLE ENTRANCE TO SITE.
5. GEOTEXTILE - WILL BE PLACED OVER THE ENTIRE AREA PRIOR TO PLACING OF STONE.
6. SURFACE WATER - ALL SURFACE WATER FLOWING OR DIVERTED TOWARD CONSTRUCTION ACCESS SHALL BE PIPED BENEATH THE ENTRANCE. IF PIPING IS IMPRACTICAL, A MOUNTABLE BERM WITH 5:1 SLOPES WILL BE PERMITTED.
7. MAINTENANCE - THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION WHICH WILL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC RIGHTS-OF-WAY. ALL SEDIMENT SPILLED, DROPPED, WASHED OR TRACKED ONTO PUBLIC RIGHTS-OF-WAY MUST BE REMOVED IMMEDIATELY.
8. WHEN WASHING IS REQUIRED, IT SHALL BE DONE ON A AREA STABILIZED WITH STONE AND WHICH DRAINS INTO AN APPROVED SEDIMENT TRAPPING DEVICE.
9. PERIODIC INSPECTION AND NEEDED MAINTENANCE SHALL BE PROVIDED AFTER EACH RAIN.

ANTI TRACKING PAD
SCALE: N.T.S.

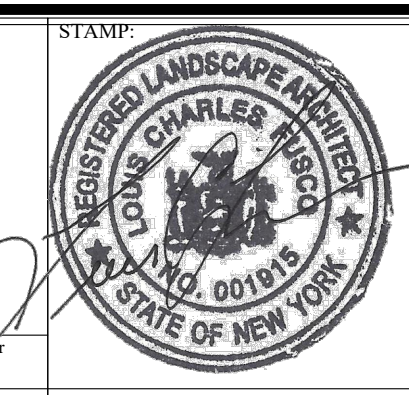
5
EC-1

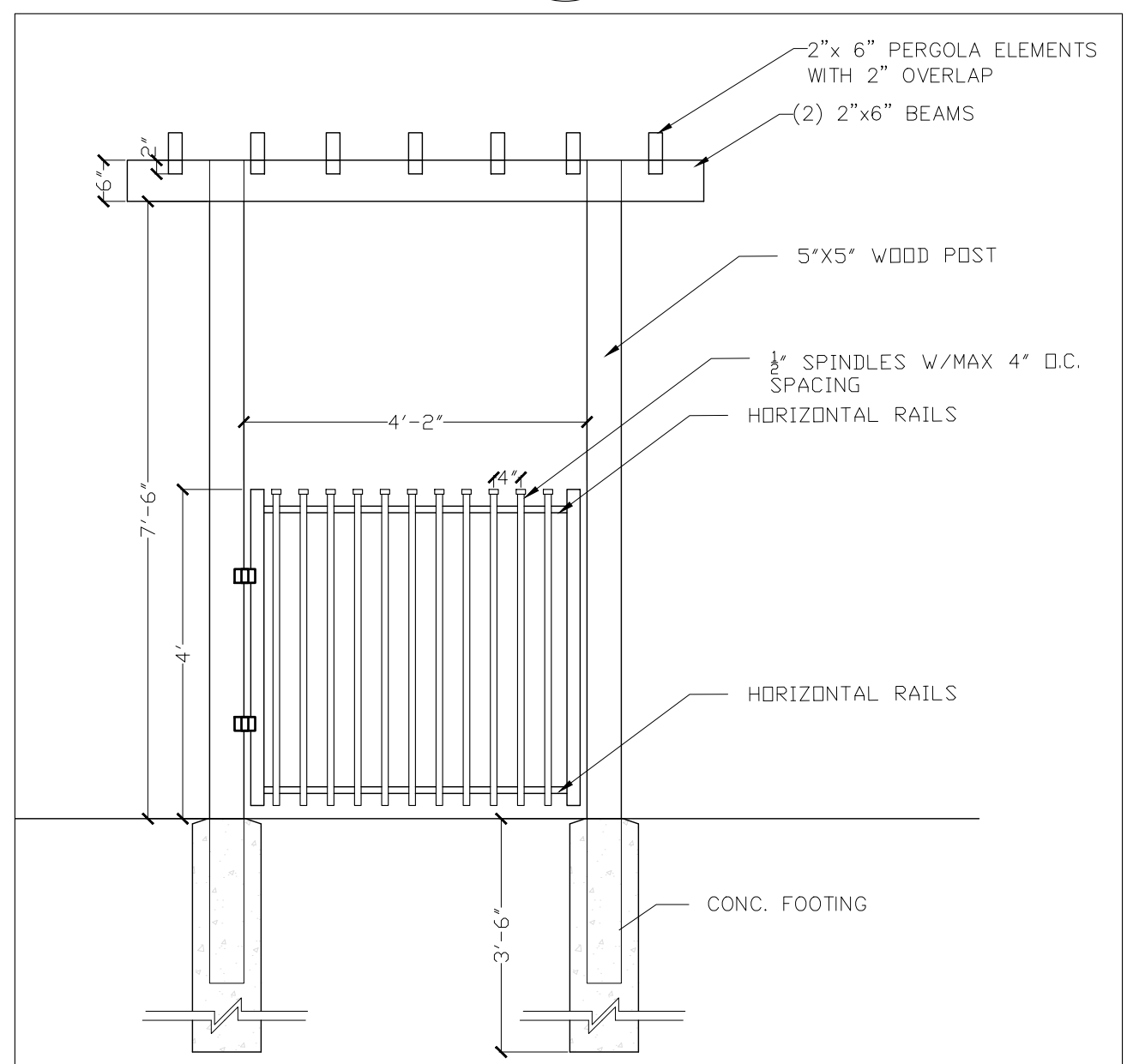
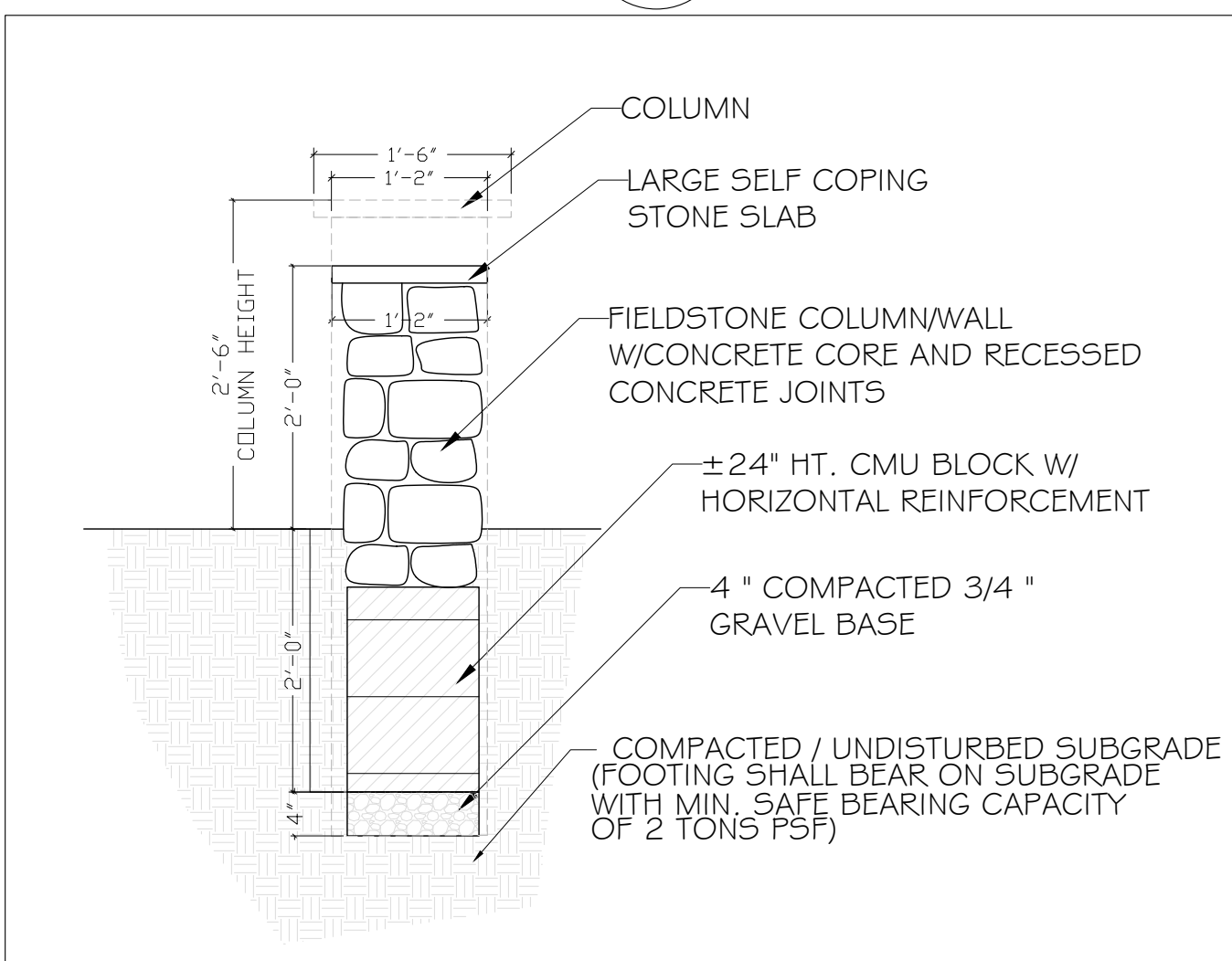
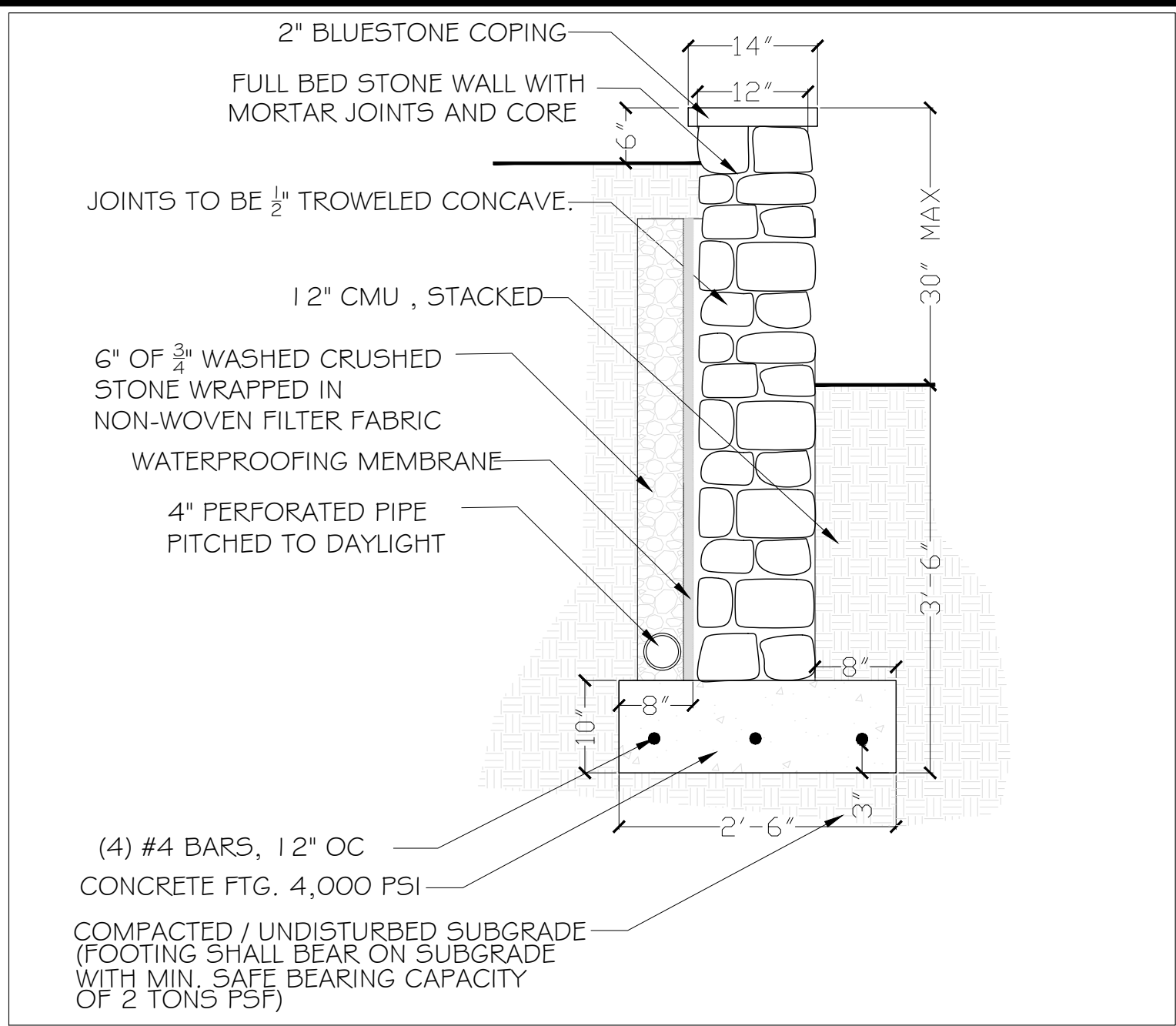
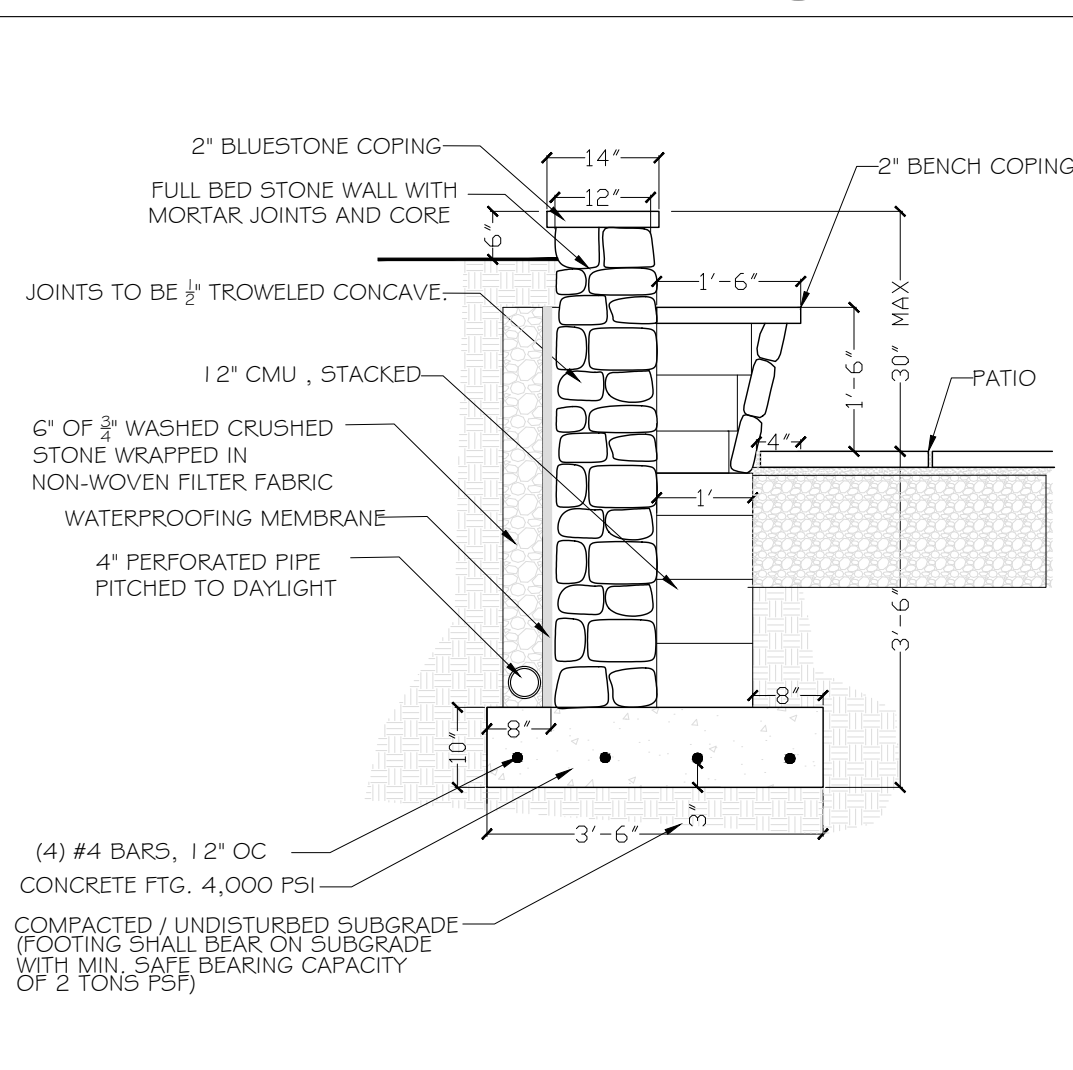
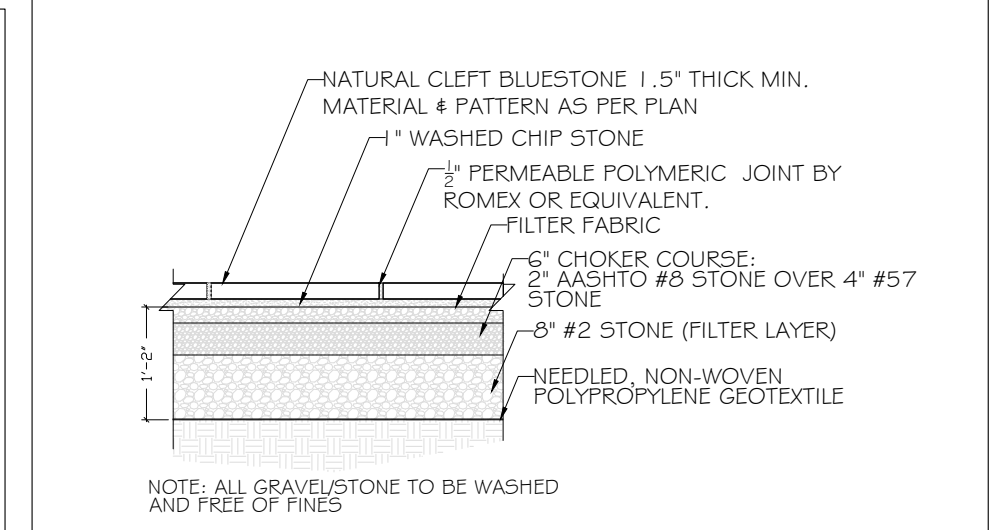
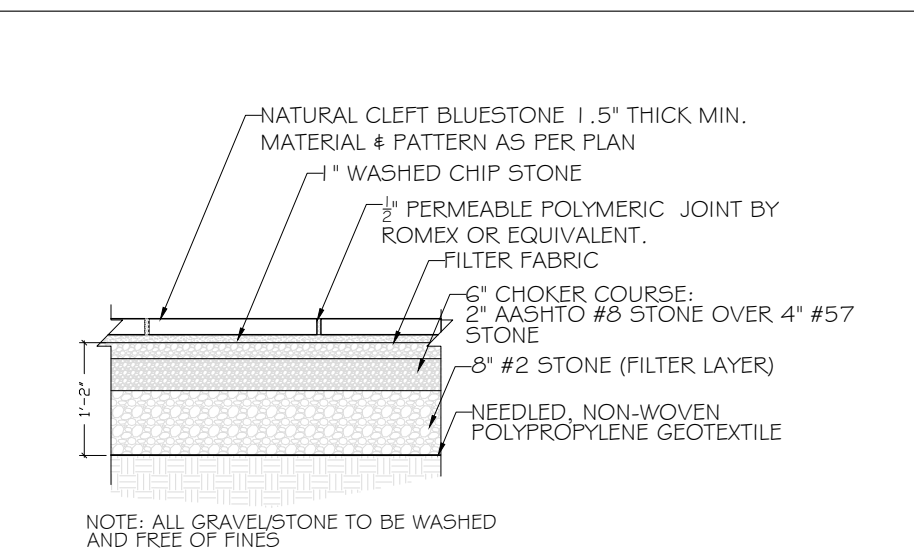
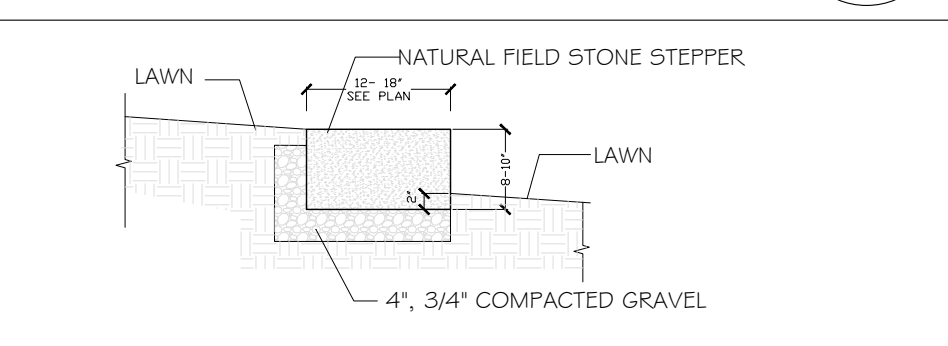
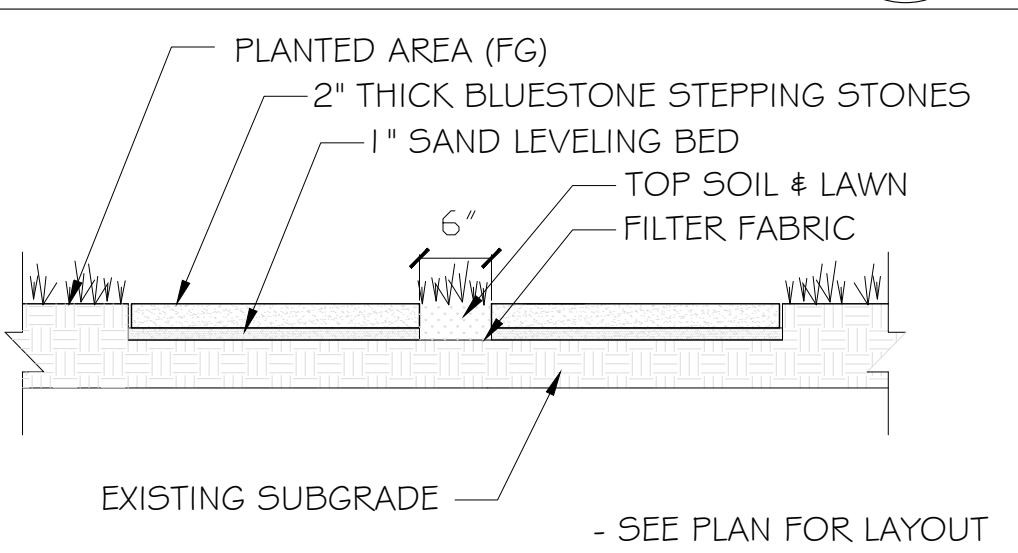
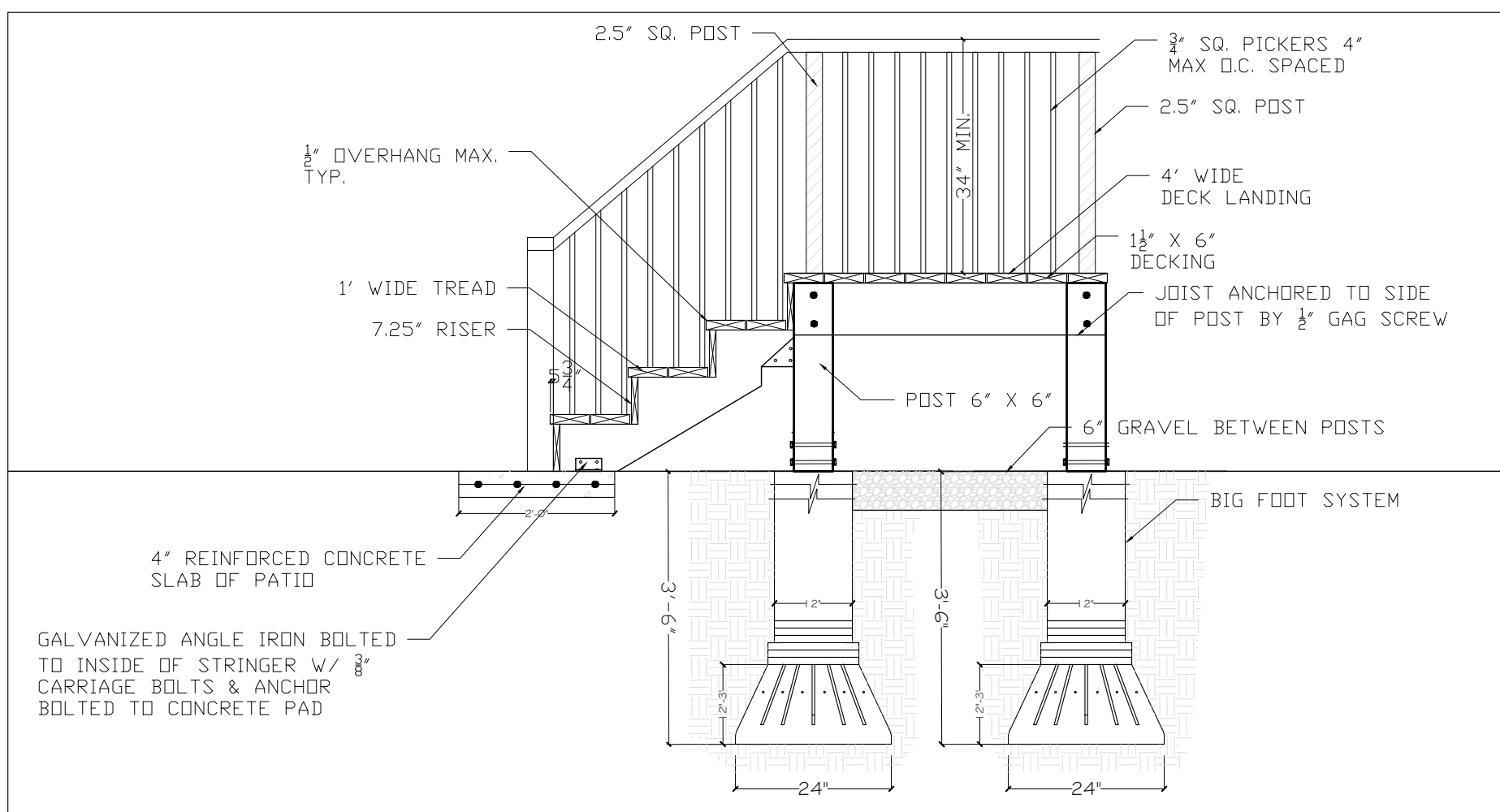
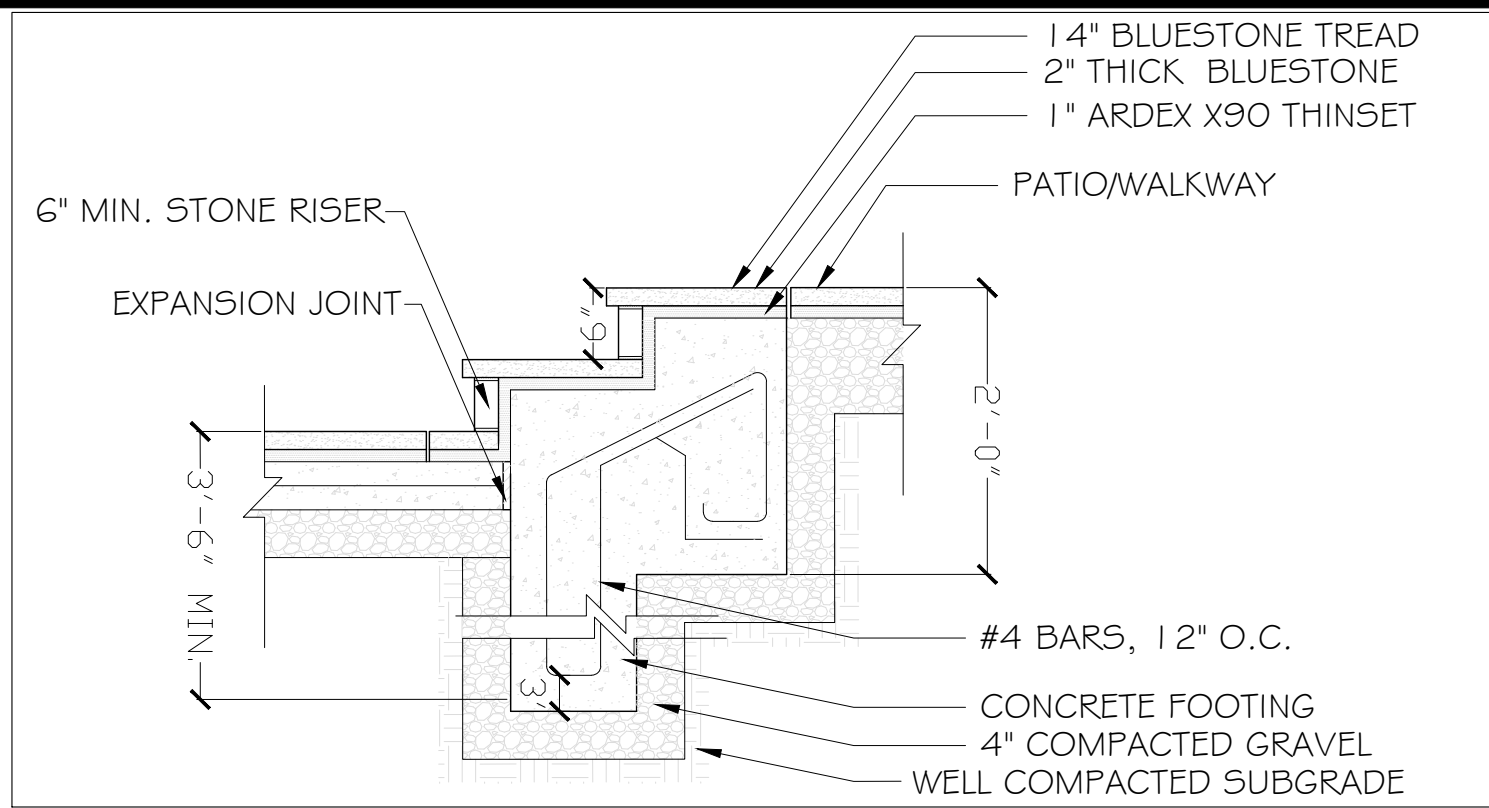
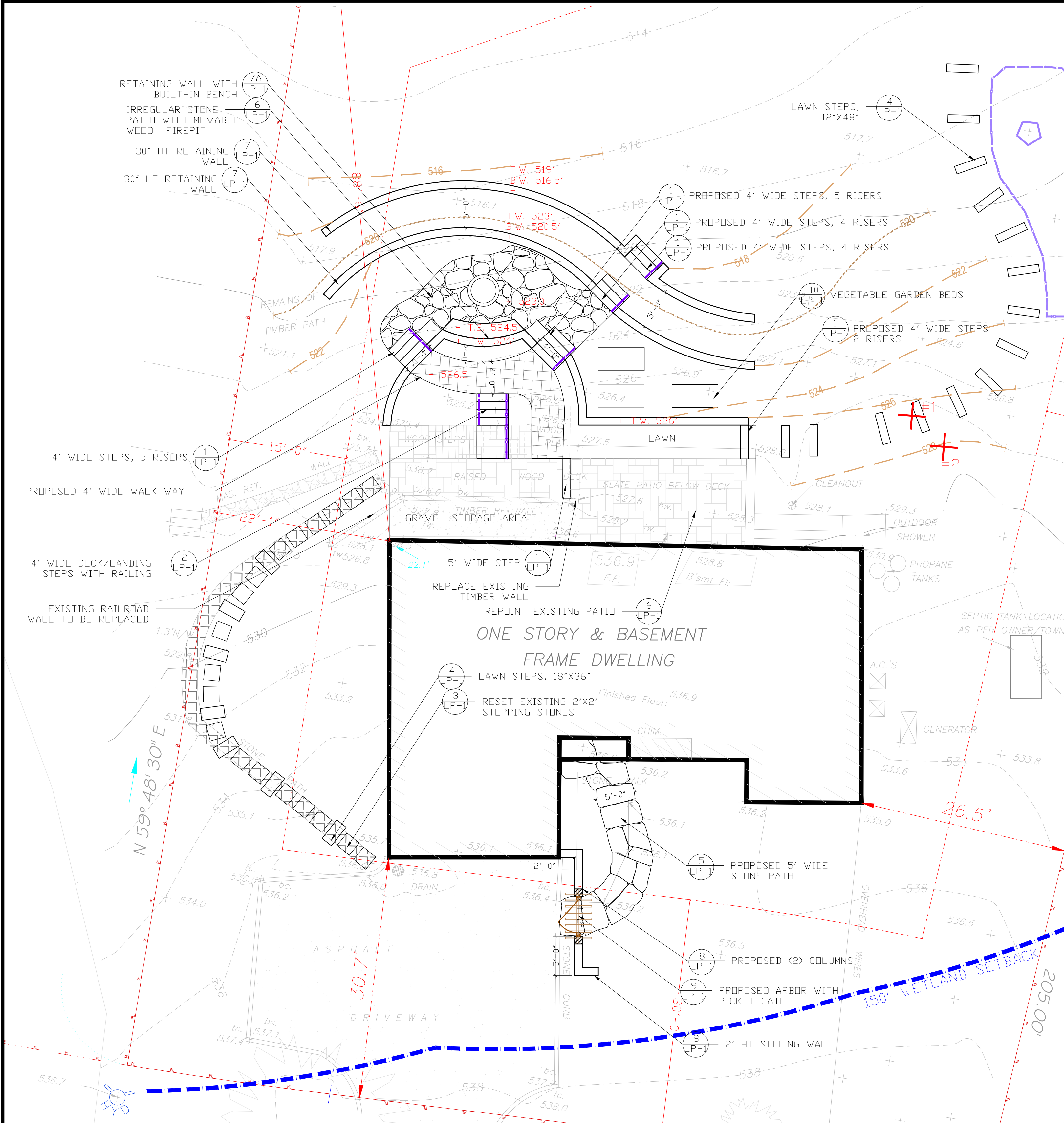


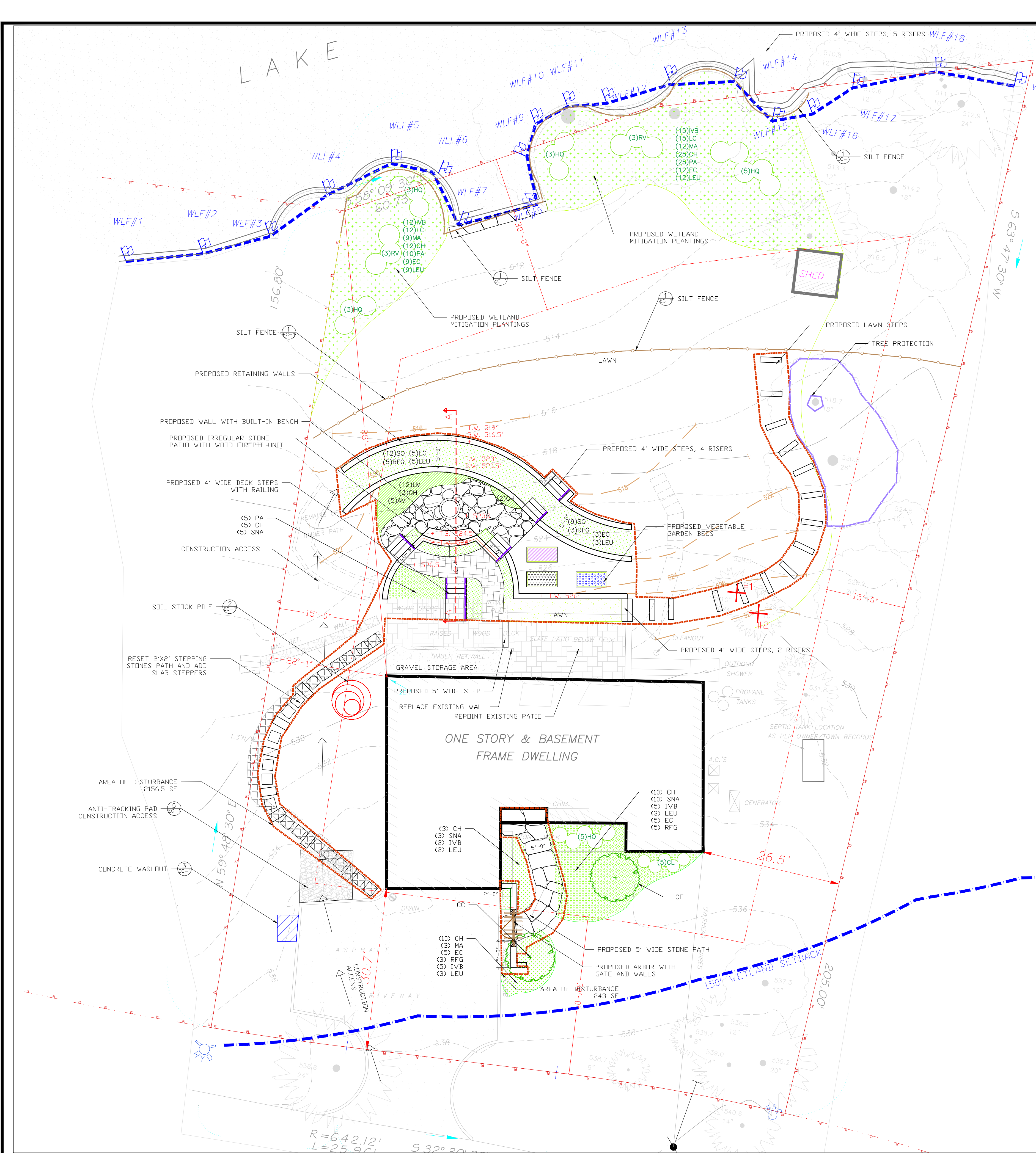
SOIL DATA:
- PNC PAXTON FINE SANDY LOAM, 8 TO 15% SLOPES, 100%
(SEE WETLAND STUDY BY PAUL J. JAENING, DATED SEPTEMBER 15, 2022 FOR MORE DETAILED SOIL MAP)

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Pound Ridge, NY 10576
914.764.9123
louisfusco.com

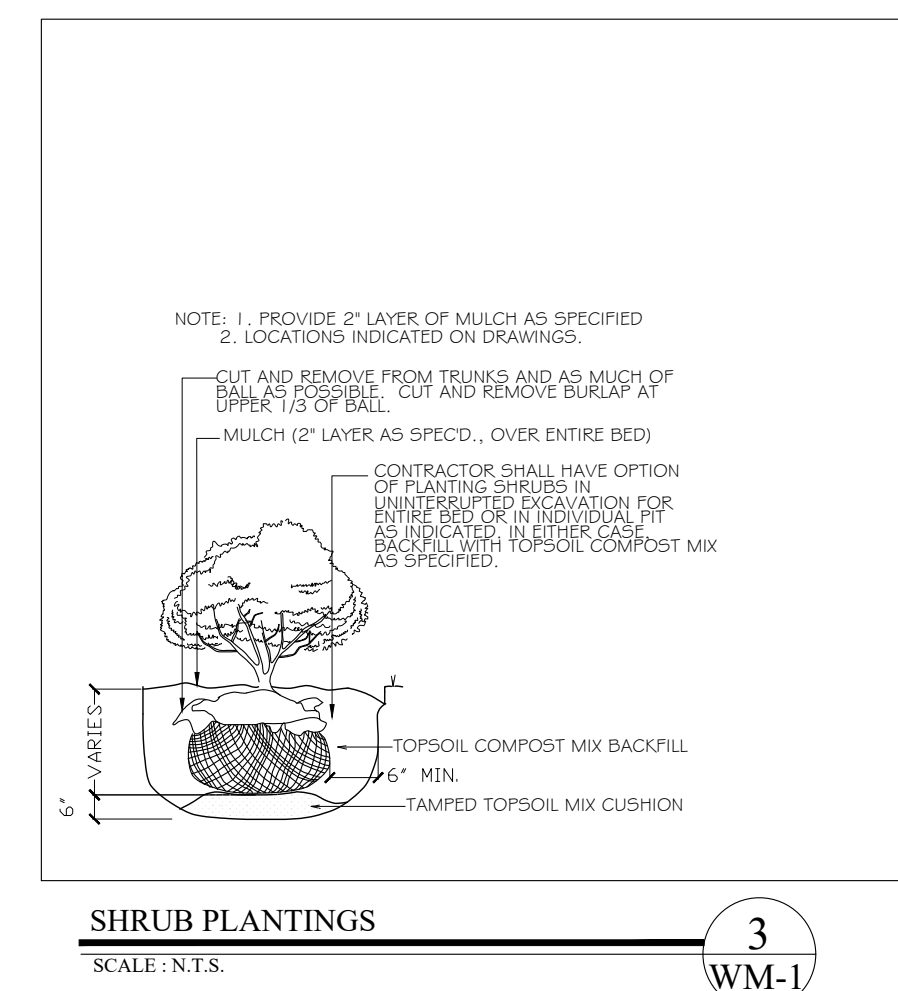
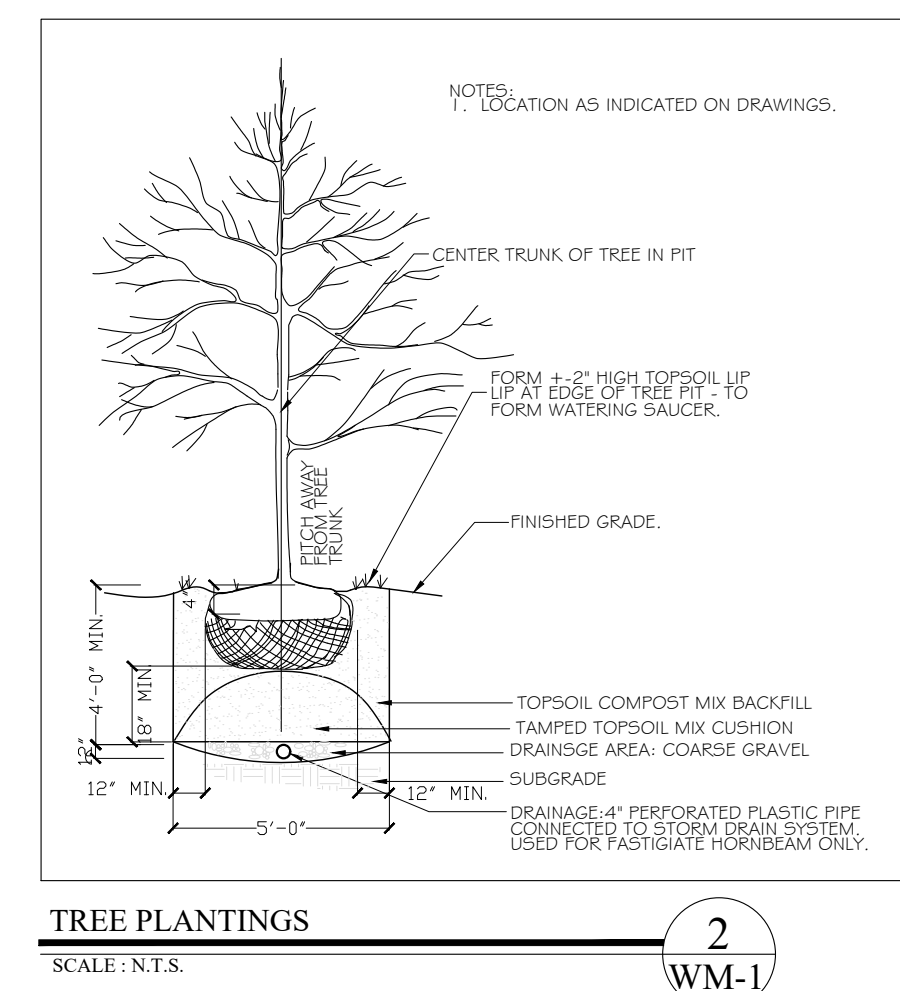
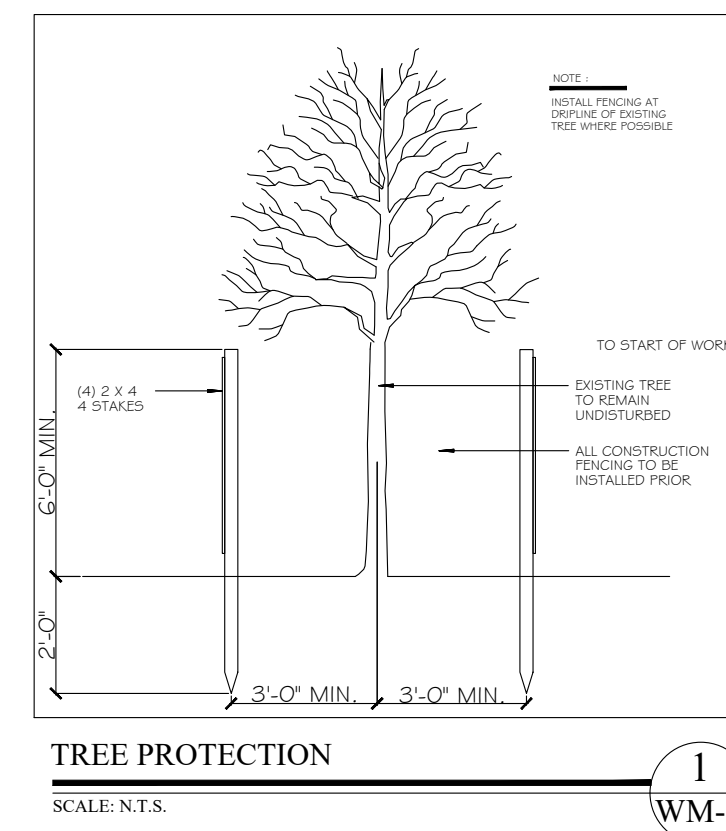
BISSET RESIDENCE 65 LAKE SHORE DRIVE, LEWISBORO, NY		REVISED:	STAMP:
ZONE: R-1/2A	TAX ID: 43.11-3.7		
DATE: 05-30-2023	SCALE: AS NOTED		
EROSION AND SEDIMENT CONTROL PLAN			
SWPPP			







07-10-2023 BISSET PLANT LIST				
Symbol	Latin Name	Common Name	Quantity	Size
WETLAND MITIGATION PLANT LIST (Pond Edge)				
HQ	Hydrangea quercifolia	Oakleaf Hydrangea	14	5 gal.
RV	Rhododendron viscosum	Swamp Azalea	6	3 - 5 gal.
CH	Carex hobb	Hobb Sedge	37	1 gal.
IVB	Iris virginica	Blue Flag Iris	27	1 gal.
LC	Labelia cardinalis	Red Cardinal Flower	27	1 gal.
MA	Monarda	Bee Balm (varieties)	21	1 gal.
PA	Polystichum acrostichoides	Christmas Fern	35	2 gal.
IVB	Iris virginica	Blue Flag Iris	27	1 gal.
EC	Echinacea purpurea	Purple Coneflower	21	2 gal.
LEU	Lecuanthemum x superbum	Shasta Daisy	21	2 gal.
TREES				
CC	Cercis canadensis	Eastern Redbud	1	B & B 1-1/2" - 2" cal.
CF	Cornus florida	White Flowering Dogwood	1	B & B 1-1/2" - 2" cal.
SHRUBS				
CL	Clethra alnifolia	Summersweet Clethra	5	B & B 30"
HQ	Hydrangea quercifolia	Oakleaf Hydrangea	5	5 gal.
PERENNIALS				
AM	Allium 'Millenium'	Ornamental Onion	5	2 gal.
CH	Carex hobb	Hobb Sedge	28	1 gal.
LM	Liriope muscari 'Majestic'	Lilyturf	12	1 gal.
PA	Polystichum acrostichoides	Christmas Fern	5	2 gal.
GH	Geranium 'Rozanne'	Hardy Geranium Rozanne	5	1 gal.
EC	Echinacea purpurea	Purple Coneflower	18	2 gal.
IVB	Iris virginica	Blue Flag Iris	12	1 gal.
LEU	Lecuanthemum x superbum	Shasta Daisy	16	2 gal.
SNA	Symphotrichum novae-angliae	New England Aster	18	2 gal.
RFG	Rudbeckia fulgida 'Goldstrum'	Black Eyed Susan	16	1 gal.



LEGEND:

- CONSTRUCTION LIMIT
- SILT FENCE
- WETLAND
- 150' WETLAND BUFFER
- EXISTING CONTOURS
- PROPOSED CONTOURS MAJ
- PROPOSED CONTOURS MIN
- TREE PROTECTION
- TREE REMOVAL
- EXISTING LABELS

2,400 S.F. MITIGATION PLANTING WITHIN WETLAND BUFFER

WETLAND MITIGATION PLANTINGS:

- 1:1 MITIGATION RATIO OF DISTURBED AREA TO NEW PLANTING BED
- 2,400 S.F. DISTURBANCE WITHIN WETLAND BUFFER
- 2,522 S.F. PROPOSED MITIGATION PLANTINGS
- 2,400S 2,522 S.F.

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louisfusco.com

BISSET RESIDENCE
65 LAKE SHORE DRIVE,
LEWISBORO, NY

ZONE: R-1/2A
DATE: 07-10-2023
SCALE: 1"= 10'-0"

WETLAND MITIGATION PLAN



REVISED: STAMP:

REGISTERED LANDSCAPE ARCHITECT
LOUIS FUSCO
No. 001915
STATE OF NEW YORK

MEMORANDUM

TO: Chairperson Janet Andersen and
Members of Lewisboro Planning Board

CC: Ciorsdan Conran
Judson Siebert, Esq.
Kevin Kelly, Building Inspector

FROM: Jan K. Johannessen, AICP 
Joseph M. Cermele, P.E., CFM 
Town Consulting Professionals

DATE: August 10, 2023

RE: Three Lakes Council
Tarry-A-Bit Drive & Long Pond Preserve
Sheet 22, Block 11155, Lots 142, 143, 145

PROJECT DESCRIPTION

The subject land consists of a drainage channel located in a wooded area which runs from Tarry-A-Bit Drive to Lake Waccabuc. The property is located within the R-4A Zoning District. The applicant is proposing to remove sediment at certain locations of the channel and perform stream bank stabilization. Stabilization will consist of re-vegetation, rip-rap and live staking.

SEQRA

The proposed action is a Type II Action and is categorically exempt from the State Environmental Quality Review Act (SEQRA).

REQUIRED APPROVALS

1. A Wetland Activity Permit is required from the Planning Board; a public hearing is required to be held on the Wetland Permit.
2. A Floodplain Development Permit is required from the Town Building Inspector, in accordance with Chapter 126, Flood Damage Prevention, of the Town Code.

3. The subject property is located within the NYC East of Hudson Watershed and proposed land disturbance exceeds 5,000 s.f. Coverage under New York State Department of Environmental Conservation (NYSDEC) SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) will be required.

COMMENTS

1. The applicant shall submit any property easements or agreements that are in place in order to perform the proposed work, including work adjacent to Tarry-A-Bit Drive, which is a private road.
2. The plans shall be signed/sealed by the Design Professional.
3. The plan shall illustrate and quantify the limits of disturbance (s.f.). The plan shall note that disturbance limits shall be staked in the field prior to construction.
4. Construction sequencing notes shall be provided on the plan.
5. Verify if any trees are being removed as part of the project.
6. The plan shall clarify the method of disposal regarding the silt and vegetation removal from the channel.
7. The temporary construction access locations and staging areas should be shown on the plans and shown within the limits of disturbance. Any use of Mead Street or work within the Mead Street Town right-of-way will require Town of Lewisboro Highway Superintendent Approval, as well as a Highway Work Permit.
8. A temporary turbidity curtain and/or temporary sediment trap must be shown to be installed at the discharge location at Lake Waccabuc. Details of the same should also be added to the plans.
9. Land disturbance is proposed to exceed $\geq 5,000$ s.f. and will therefore require conformance with NYSDEC SPDES General Permit (GP-0-20-001) and filing of a Notice of Intent (NOI) and MS4 Acceptance Form with the NYSDEC. Submit draft copies to this office for review.
10. The applicant shall prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) prepared in compliance with Chapter 189, Stormwater Management and Erosion and Sediment Control, as NYSDEC SPDES General Permit (GP-0-20-001) and the NYSDEC Stormwater Management Design Manual.

Chairperson Janet Andersen
Three Lakes Council – Long Pond Preserve & Tarry-A-Bit Drive
August 10, 2023
Page 3 of 3

11. A portion of the proposed work is located within the 100-year FEMA Floodplain (Zone A). The floodplain boundary shall be depicted on the plan as should the base flood elevation. A Floodplain Development Permit will be required in accordance with Chapter 126 of the Town Code.

In order to expedite the review of subsequent submissions, the applicant should provide annotated responses to each of the comments outlined herein.

DOCUMENTS REVIEWED:

- Letter, prepared by Three Lakes Council, January 12, 2023
- Wetland Permit Application
- EOH Watershed – Long Pond Preserve Channel Stabilization Plan
- Channel CH01 – Plan View

JKJ/dc

https://kellardsessionsconsulti.sharepoint.com/sites/Kellard/Municipal/Lewisboro/Correspondence/2023-08-10_LWPB_ThreeLakesCouncil - LongPondPreserve&Tarryabit_Review Memo.docx

TO: The Town of Lewisboro Planning Board
FROM: Lewisboro Conservation Advisory Council
SUBJECT: Long Pond Preserve channel, Tarry-A-Bit Drive, Waccabuc, NY 10597
DATE: August 7, 2023

The Conservation Advisory Council (CAC) has reviewed the materials submitted by the applicant for an East of Hudson Watershed Corporation stormwater retrofit/channel stabilization project on Long Pond Preserve.

The CAC would like to see additional details on the stabilization. The CAC would like to know if it expands outside the existing channel.

Application No.: _____

Fee: _____ Date: _____

**TOWN OF LEWISBORO
WETLAND PERMIT APPLICATION**

79 Bouton Road, South Salem, NY 10590

Phone: (914) 763-5592

Fax: (914) 875-9148

Project Address: Tarry-A-Bit Drive, Waccabuc, NY 10597

Sheet: 32.4 Block: 3 Lot(s): 10,11,12

Project Description (Identify the improvements proposed within the wetland/wetland buffer and the approximate amount of wetland/wetland buffer disturbance): Channel stabilization and revegetation of the three major drainage channels within Long Pond Preserve. ~0.3 acres of wetlands disturbance

Owner's Name: Three Lakes Council Phone: 914 763-3615

Owner's Address: PO Box 241 South Salem, NY 10590 Email: ThreeLakesCouncil@gmail.com

Applicant's Name (if different): Cory Lapidus Phone: (845) 319-6349

Applicant's Address: 2 Route 164, Suite 2, Patterson NY Email: Cory@EOHWC.org

Agent's Name (if applicable): _____ Phone: _____

Agent's Address: _____ Email: _____

TO BE COMPLETED BY OWNER/APPLICANT

What type of Wetland Permit is required? (see §217-5C and §217-5D of the Town Code)

☐ Administrative ☐ Planning Board

Is the project located within the NYCDEP Watershed? ☒ Yes ☐ No

Total area of proposed disturbance: ☐ < 5,000 s.f. ☒ 5,000 s.f. - < 1 acre ☐ ≥ 1 acre

Does the proposed action require any other permits/approvals from other agencies/departments? (Planning Board, Town Board, Zoning Board of Appeals, Building Department, Town Highway, ACARC, NYSDEC, NYCDEP, WCDOH, NYSDOT, etc): Identify all other permits/approvals required: No

Note: Initially, all applications shall be submitted with a plan that illustrates the existing conditions and proposed improvements. Said plan must include a line which encircles the total area of proposed land disturbance and the approximate area of disturbance must be calculated (square feet). The Planning Board and/or Town Wetland Inspector may require additional materials, information, reports and plans, as determined necessary, to review and evaluate the proposed action. If the proposed action requires a Planning Board Wetland Permit, the application materials outlined under §217-7 of the Town Code must be submitted, unless waived by the Planning Board. The Planning Board may establish an initial escrow deposit to cover the cost of application/plan review and inspections conducted by the Town's consultants.

For administrative wetland permits, see attached Administrative Wetland Permit Fee Schedule.

Owner Signature: *Janet E. Anderson* Date: 6/2/23

TOWN OF LEWISBORO PLANNING BOARD

79 Bouton Road, South Salem, NY 10590
Email: planning@lewisborogov.com
Tel: (914) 763-5592 Fax: (914) 875-9148

Tax Payment Affidavit Requirement

This form must accompany all applications to the Planning Board.

Under regulations adopted by the Town of Lewisboro, the Planning Board may not accept any application unless an affidavit from the Town of Lewisboro Receiver of Taxes is on file in the Planning Board office. The affidavit must show that all amounts due to the Town of Lewisboro as real estate taxes and special assessments on the total area encompassed by the application, together with all penalties and interest thereon, have been paid.

Under New York State law, the Westchester County Clerk may not accept any subdivision map for filing unless the same type of affidavit from the Town of Lewisboro Receiver of Taxes is submitted by the applicant at the time of filing.

This form must be completed by the applicant and must accompany all applications to the Planning Board. Upon receipt, the Planning Board Secretary will send the form to the Receiver of Taxes for signature and notarization. If preferred, the applicant may directly obtain the signature of the Receiver of Taxes and notarization prior to submission.

To Be Completed by Applicant (Please type or print)

East of Hudson Watershed Corporation
Name of Applicant

L-CR-804 - Tarry-A-Bit Drive Channel Stabilization
Project Name

Property Description

Tax Block(s): ~~10,11,12~~ 11/55

Tax Lot(s): ~~3~~ 142, 143, 145

Tax Sheet(s): ~~324~~ 22

Property Assessed to:

THREE LAKES COUNCIL, INC

Name
PO Box 241

Address
South Salem
City

NY 10590
State Zip

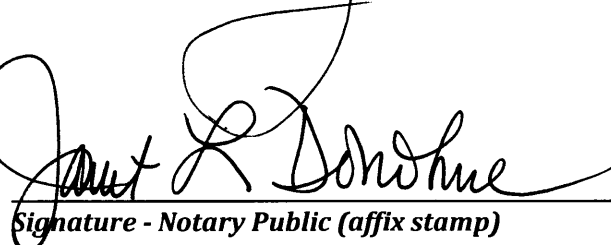
The undersigned, being duly sworn deposes and says that a search of the tax records in the office of the Receiver of Taxes, Town of Lewisboro, reveals that all amounts due to the Town of Lewisboro as real estate taxes and special assessments, together with all penalties and interest thereon, affecting the premises described below, have been paid.

Signature - Receiver of Taxes: 

Date

Sworn to before me this

2nd day of June, 2023


Signature - Notary Public (affix stamp)

JANET L. DONOHUE
NOTARY PUBLIC, STATE OF NEW YORK
No. 01DO6259627
Qualified in Westchester County
Commission Expires April 16, 2024

TOWN OF LEWISBORO PLANNING BOARD

79 Bouton Road, South Salem, NY 10590

Email: planning@lewisborogov.com

Tel: (914) 763-5592

Fax: (914) 875-9148

Affidavit of Ownership

State of: New York

County of: Westchester

Janet Andersen, being duly sworn, deposes and says that he/she
resides at 5 Orchard Drive, South Salem,
in the County of Westchester, State of NY
and that he/she is (check one) the owner, or x the President
Title
of Three Lakes Council, Inc.
Name of corporation, partnership, or other legal entity

which is the owner, in fee of all that certain log, piece or parcel of land situated, lying and being in the
Town of Lewisboro, New York, aforesaid and know and designated on the Tax Map in the Town of
Lewisboro as: 11155-139-0025, 11155-143-0022, 11155-145- 0022, and 11155-146-0023
Block , Lot , on Sheet .

Janet E Andersen
Owner's Signature

Sworn to before me this

2 day of June, 2023

Janet L. Donohue
Notary Public - affix stamp





**THREE LAKES COUNCIL
WACCABUC–OSCALETA–RIPPOWAM
P.O. BOX 241, SOUTH SALEM, NY 10590
www.threelakescouncil.org**

January 12, 2023

Planning Board
79 Bouton Road
South Salem, NY 10590
Via email to planning@lewisborogov.com

Re: EOHWC stormwater retrofit on Long Pond Preserve

Dear Planning Board:

The Three Lakes Council is a non-profit organization that promotes the stewardship of the watershed and waters of lakes Waccabuc, Oscaleta, and Rippowam. Since 1970, we have practiced environmental stewardship and educational outreach regarding these lakes. We own Long Pond Preserve in Waccabuc, NY, which borders Lake Waccabuc.

East of Hudson Watershed Corporation (EOHWC) has proposed stormwater retrofits which would be installed on Long Pond Preserve. On behalf of the Three Lakes Council, I authorize Kevin Fitzpatrick to speak on our behalf regarding this project.



Sincerely,

A handwritten signature in blue ink that reads "Janet E. Andersen".

Janet Andersen, President
Three Lakes Council

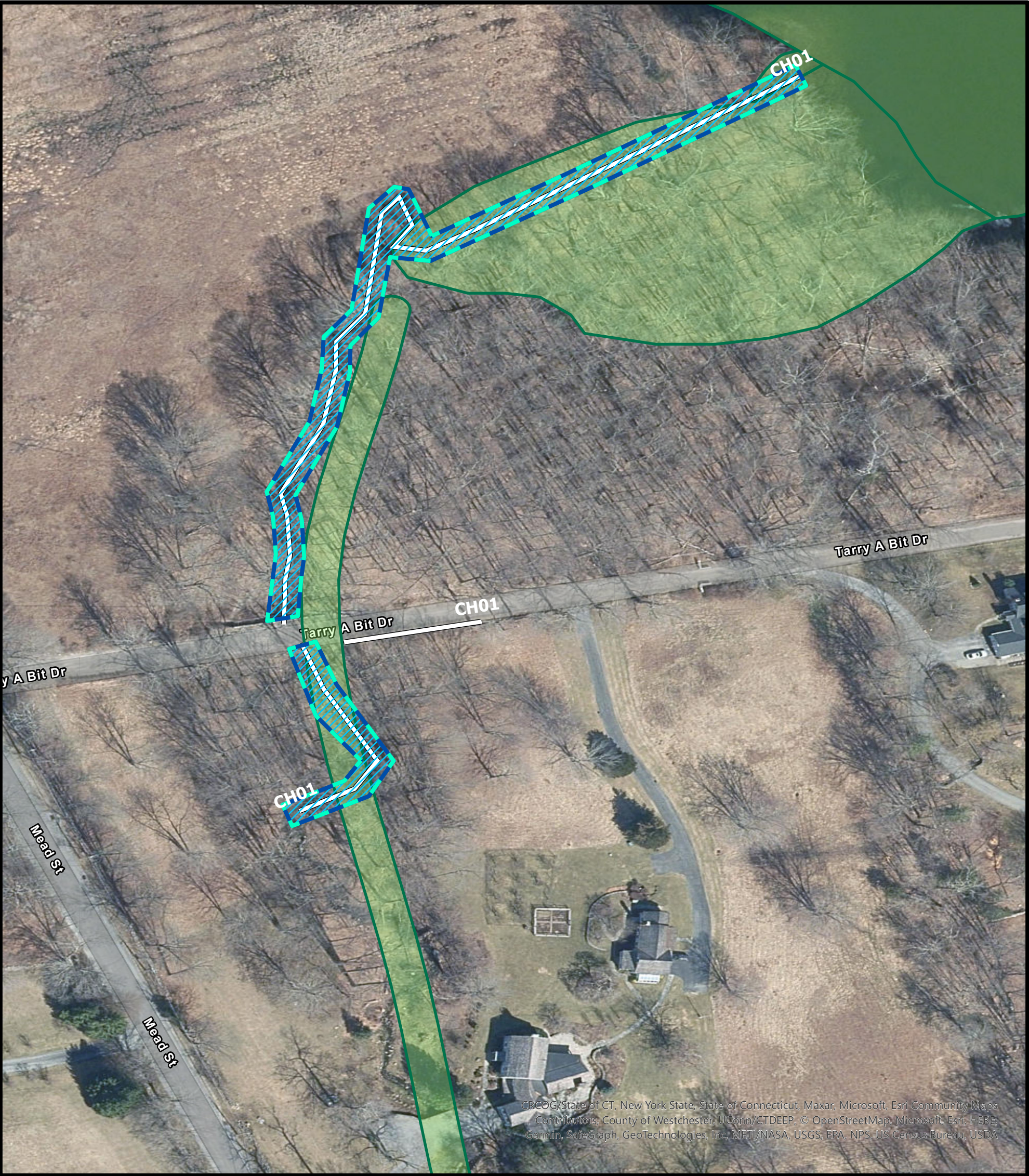
CC: Kevin Fitzpatrick
Jan Johannessen



AFFIX SEAL: ON: _____		ALTERED BY: ON: _____																															
		<table border="1"> <thead> <tr> <th>NUMBER</th> <th>DATE</th> <th>DESCRIPTION</th> <th>APPROVED</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr> <td colspan="4">REVISIONS</td> </tr> </tbody> </table>		NUMBER	DATE	DESCRIPTION	APPROVED																	REVISIONS				<div style="text-align: center;"> EAST OF HUDSON WATERSHED CORPORATION STORMWATER RETROFIT PROJECT TARRY-A-BIT DRIVE </div>		ALL DIMENSIONS IN FT UNLESS OTHERWISE NOTED		SRP L-CR-804	
		NUMBER	DATE	DESCRIPTION	APPROVED																												
REVISIONS																																	
		<div style="text-align: center;"> CHANNEL CH01- PLAN VIEW </div>		DRAWING NO. SHEET NO.																													
IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, OR LAND SURVEYOR, TO ALTER AN ITEM IN ANY WAY. IF AN ITEM BEARING THE STAMP OF A LICENSED PROFESSIONAL IS ALTERED, THE ALTERING ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, OR LAND SURVEYOR SHALL STAMP THE DOCUMENT AND INCLUDE THE NOTATION "ALTERED BY" FOLLOWED BY THEIR SIGNATURE, THE DATE OF SUCH ALTERATION, AND A SPECIFIC DESCRIPTION OF THE ALTERATION.				BEACON, NEW YORK 12508 (845) 838-3600 www.hveapc.com																													

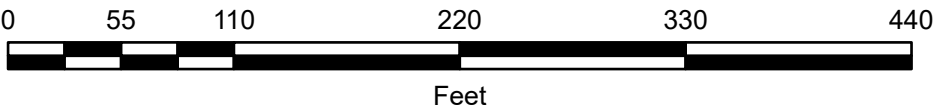
EAST OF HUDSON WATERSHED CORPORATION

Long Pond Preserve, Lewisboro, L-CR-804 - Channel Stabilization



Spatial Reference
Name: GCS North American 1983

Date Printed: 6/14/2023



NOTES:

Provide channel stabilization in existing and emerging channels to help improve Lake Waccabuc water quality and health

Disturbed Wetland Area = 0.46 acres
Phosphorus Reduction = ~17 kg/yr

Legend

NYS Regulated Wetlands

Channel to Stabilize

Federal Wetlands

Construction Buffer

Ciorsdan Conran

From: David Alfano <dalfano@lewisboropd.com>
Sent: Friday, June 23, 2023 10:00 AM
To: Peter Ripperger
Cc: Ciorsdan Conran; Kevin Kelly (Kkelly@lewisborogov.com)
Subject: Re: Bedford Audubon SUP PB Resolution

Nothing on my end...

Chief David Alfano Lewisboro Police Department

79 Bouton Road
South Salem, New York 10590

Dalfano@lewisboropd.com

HQ: 914-763-8903

Fax: 914-763-9016



CONFIDENTIALITY NOTICE: This email, including any attachments, may contain highly sensitive and confidential information. It is intended only for the individual(s) named. If you received this email in error or from someone who was not authorized to send it to you, do not disseminate, copy or otherwise use this email or its attachments. Please notify the sender immediately by reply email and delete the email from your system.

On Fri, Jun 23, 2023 at 7:16 AM Peter Ripperger <highway@lewisborogov.onmicrosoft.com> wrote:

No changes. Thanks.

Peter

From: Ciorsdan Conran <Planning@lewisborogov.onmicrosoft.com>
Sent: Thursday, June 22, 2023 3:52 PM
To: Kevin Kelly (Kkelly@lewisborogov.com) <Kkelly@lewisborogov.com>; Dave Alfano <dalfano@lewisboropd.com>; Peter Ripperger <highway@lewisborogov.onmicrosoft.com>
Subject: FW: Bedford Audubon SUP PB Resolution

Good afternoon gentlemen-

Ciorsdan Conran

From: Peter Ripperger
Sent: Friday, June 23, 2023 7:17 AM
To: Ciorsdan Conran; Kevin Kelly (Kkelly@lewisborogov.com); Dave Alfano
Subject: RE: Bedford Audubon SUP PB Resolution

No changes. Thanks.
Peter

From: Ciorsdan Conran <Planning@lewisborogov.onmicrosoft.com>
Sent: Thursday, June 22, 2023 3:52 PM
To: Kevin Kelly (Kkelly@lewisborogov.com) <Kkelly@lewisborogov.com>; Dave Alfano <dalfano@lewisboropd.com>; Peter Ripperger <highway@lewisborogov.onmicrosoft.com>
Subject: FW: Bedford Audubon SUP PB Resolution

Good afternoon gentlemen-

This summer the Bedford Audubon Society (35 Todd Rd, Katonah) will be before the Planning Board to renew its Special Use Permit.

I am writing to check if there have been any complaints to your departments on this use.

Thank you,

Ciorsdan

Ciorsdan Conran
Town of Lewisboro
Planning Board Administrator
email: Planning@lewisborogov.com
tel # 914-763-5592, fax # 914-875-9148
mailing address: 79 Bouton Road, South Salem, NY 10590
physical address: 79 Bouton Road, South Salem, NY 10590
Typical hours: 9:00 a.m. - 4:30 p.m.

We Need You: Be a Part of Lewisboro's Comprehensive Plan Update!
Visit www.lewisborogov.com/cmpsc to learn more.

Please take our latest survey at:
<https://www.lewisborogov.com/cmpsc/page/current-public-survey>

From: executivedirector <wcavers@bedfordaudubon.org>
Sent: Thursday, June 22, 2023 12:27 PM

Bedford Audubon



Ms. Ciorsdan Conran
Planning Board Administrator
Town of Lewisboro
79 Bouton Road
South Salem, New York 10590

July 10, 2023

Re: Renewal of Bedford Audubon Society's Special Use Permit

Dear Ms. Conran,

Bedford Audubon Society respectfully requests a five-year renewal of our Special Use Permit for the continuation of a Private Nature Preserve (adopted Local Law #2-09, Private Nature Preserve Law), originally granted on February 9, 2010 with five-year renewals extended on June 12, 2012 and August 14, 2018. Our renewal request includes the attached application form and updated supporting material.

Bedford Audubon Society's mission and use of our properties within the Town of Lewisboro remain unchanged from our original application and subsequent renewals. We anticipate no changes to this fact or to our continued fulfillment of the conditions of the Special Use Permit. We would, however, like to disclose the following matters regarding our SUP renewal and property:

- The structures listed in the 2018 SUP's description of Lot 3 comprising of a stone garage, greenhouse and garden area are used by Bedford Audubon Society for maintenance and storage and are desirable to be used for our educational programs, workshops and research. We would enjoy your guidance on listing these uses in the renewed SUP's description of Lot 3.
- We are currently pursuing two projects to greatly improve Bedford Audubon's ability to provide its nature-oriented programs and services to physically handicapped persons. The first project is a wheelchair lift to be installed on Lot 7 of our property. This would enable handicapped persons to access our patio area and living room to attend events, classes and workshops. The second is a compacted gravel walking trail through our Lots 7, 18 and 30. The trail would allow physically handicapped persons to better access nature on our property. Our intent is to develop both projects in compliance with the conditions of our Special Use Permit and with minimal disruption to the landscape.

I look forward to discussing our SUP renewal application with you and the Planning Board in the days/weeks ahead.

Sincerely,

A handwritten signature in black ink, appearing to read "W. W. Cavers". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

William W. Cavers
Executive Director, Bedford Audubon Society
executivedirector@bedfordaudubon.org
Phone: 914-232-1999

TOWN OF LEWISBORO PLANNING BOARD

79 Bouton Road, South Salem, NY 10590 Tel: (914) 763-5592 Email: planning@lewisborogov.com

Site Development Plan/Subdivision Plat Application – Check all that apply:

Waiver of Site Development Plan Procedures ☐
Site Development Plan Approval ☐
Special Use Permit Approval ☒
Subdivision Plat Approval ☐

Step I ☐
Step I ☒
Step I ☐

Step II ☐
Step II ☐
Step II ☐

Step III ☐

Project Information

Project Name: BEDFORD AUDUBON SOCIETY

Project Address: 35, 36 TODD RD, KATONAH, NY 10536

Gross Parcel Area: _____ Zoning District: R4 Sheet(s): 5 Block(s): _____ Lot(s): _____

Project Description: BEDFORD AUDUBON SOCIETY SEEKS SPECIAL USE PERMIT RENEWAL

PERMIT TYPE: PRIVATE NATURE PRESERVE PER SECTION 220-43-2

Is the site located within 500 feet of any Town boundary?

YES ☐

NO ☒

Is the site located within the New York City Watershed?

YES ☐

NO ☒

Is the site located on a State or County Highway?

YES ☐

NO ☒

Does the proposed action require any other permits/approvals from other agencies/departments?

Town Board ☐

ZBA ☐

Building Dept. ☐

Town Highway ☐

ACARC ☐

NYSDEC ☐

NYCDEP ☐

WCDH ☐

NYSDOT ☐

Town Wetland ☐

Town Stormwater ☐

Other _____

Owner's Information

Name: BEDFORD AUDUBON SOCIETY

Email: executivedirector@bedfordaudubon.org

Address: 35 Todd Road, Katonah, NY 10536

Phone: 914-232-1999

Applicant's Information (if different)

Name: William W. Cavers

Email: executivedirector@bedfordaudubon.org

Address: 35 Todd Road, Katonah, NY 10536

Phone: 914-232-1999

Authorized Agent's Information

Name: _____ Email: _____

Address: _____ Phone: _____

THE APPLICANT understands that any application is considered complete only when all information and documents required have been submitted and received by the Planning Board. The applicant further understands that the applicant is responsible for the payment of all application and review fees incurred by the Planning Board.

THE UNDERSIGNED WARRANTS the truth of all statements contained herein and in all supporting documents according to the best of his/her knowledge and belief, and authorizes visitation and inspection of the subject property by the Town of Lewisboro and its agents.

APPLICANT'S SIGNATURE

William W. Cavers

DATE

June 27, 2023

OWNER'S SIGNATURE

DATE

TOWN OF LEWISBORO PLANNING BOARD

79 Bouton Road, South Salem, NY 10590
Email: planning@lewisborogov.com
Tel: (914) 763-5592 Fax: (914) 875-9148

Tax Payment Affidavit Requirement

This form must accompany all applications to the Planning Board.

Under regulations adopted by the Town of Lewisboro, the Planning Board may not accept any application unless an affidavit from the Town of Lewisboro Receiver of Taxes is on file in the Planning Board office. The affidavit must show that all amounts due to the Town of Lewisboro as real estate taxes and special assessments on the total area encompassed by the application, together with all penalties and interest thereon, have been paid.

Under New York State law, the Westchester County Clerk may not accept any subdivision map for filing unless the same type of affidavit from the Town of Lewisboro Receiver of Taxes is submitted by the applicant at the time of filing.

This form must be completed by the applicant and must accompany all applications to the Planning Board. Upon receipt, the Planning Board Secretary will send the form to the Receiver of Taxes for signature and notarization. If preferred, the applicant may directly obtain the signature of the Receiver of Taxes and notarization prior to submission.

To Be Completed by Applicant (Please type or print)

BEDFORD AUDUBON SOCIETY
Name of Applicant

BEDFORD AUDUBON SOCIETY SPECIAL USE PERMIT RENEWAL
Project Name

Property Description

Tax Block(s): 10777 | 10772

Tax Lot(s): 6 | 3

Tax Sheet(s): 6 | 5

- - -

Parcel in full

Property Assessed to:

BEDFORD AUDUBON SOCIETY
Name

35 TODD ROAD
Address

KATONAH NY 10536
City State Zip

The undersigned, being duly sworn deposes and says that a search of the tax records in the office of the Receiver of Taxes, Town of Lewisboro, reveals that all amounts due to the Town of Lewisboro as real estate taxes and special assessments, together with all penalties and interest thereon, affecting the premises described below, have been paid.

Signature - Receiver of Taxes: _____

Date

Sworn to before me this

27th day of June, 2023

Signature - Notary Public (affix stamp)

JANET L. DONOHUE
NOTARY PUBLIC, STATE OF NEW YORK
No. 01D06259627
Qualified in Westchester County
Commission Expires April 16, 2029

TOWN OF LEWISBORO PLANNING BOARD

79 Bouton Road, South Salem, NY 10590

Email: planning@lewisborogov.com

Tel: (914) 763-5592

Fax: (914) 875-9148

Affidavit of Ownership

State of : New York

County of: Westchester

Susan S. Fisher, being duly sworn, deposes and says that he/she
resides at 9 Park View Place, Pound Ridge, New York 10576-1208
in the County of Westchester, State of New York
and that he/she is (check one) ☐ the owner, or ☒ the President
of Bedford Audubon Society *Title*
Name of corporation, partnership, or other legal entity

which is the owner, in fee of all that certain log, piece or parcel of land situated, lying and being in the
Town of Lewisboro, New York, aforesaid and know and designated on the Tax Map in the Town of
Lewisboro as:

Block 10777, Lot 3, on Sheet 5.

Owner's Signature

Sworn to before me this

_____ day of _____, 2_____

Notary Public - affix stamp

TOWN OF LEWISBORO PLANNING BOARD

79 Bouton Road, South Salem, NY 10590

Email: planning@lewisborogov.com

Tel: (914) 763-5592

Fax: (914) 875-9148

Affidavit of Ownership

State of : New York

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in the County of Westchester, State of New York
and that he/she is (check one) ☐ the owner, or ☒ the President
of Bedford Audubon Society *Title*
Name of corporation, partnership, or other legal entity

which is the owner, in fee of all that certain log, piece or parcel of land situated, lying and being in the
Town of Lewisboro, New York, aforesaid and know and designated on the Tax Map in the Town of
Lewisboro as:

Block 10776, Lot 7, 30, on Sheet 5.

Owner's Signature

Sworn to before me this

_____ day of _____, 2_____

Notary Public - affix stamp

**RESOLUTION
LEWISBORO PLANNING BOARD**

SPECIAL USE PERMIT

**BEDFORD AUDUBON SOCIETY - PRIVATE NATURE PRESERVE
35 & 36 TODD ROAD**

Sheet 5, Block 10776, Lots 7 and 30

Sheet 5, Block 10777, Lot 3

Cal. #2-10 P.B.

August 14, 2018

WHEREAS, on February 9, 2010 and pursuant to Section 220-43.2 of the Town of Lewisboro Zoning Code, the Planning Board granted Special Use Permit Approval to the Bedford Audubon Society ("the applicant") for the establishment of a Private Nature Preserve; and

WHEREAS, the Bedford Audubon Society is a locally based, not-for-profit Chapter of the 550,000 member National Audubon Society and its mission is to promote environmental education, grass-roots activism, public and private conservation efforts, preservation and protection of open space; and

WHEREAS, the subject property, which is the applicant's headquarters, is comprised of three (3) tax parcels totaling ± 103 acres and is located within the Town's R-4A Zoning District ("the subject property"); and

WHEREAS, more specifically, the subject property is comprised of the parcel identified as Sheet 5, Block 10776, Lots 7 and 30 and Sheet 5, Block 10777, Lot 3; and

WHEREAS, the Special Use Permit was issued for an initial term of two (2) years and must be renewed every five (5) years thereafter; and

WHEREAS, the Planning Board granted a 5-year renewal of the Special Use Permit on June 12, 2012, which expired on June 12, 2017; and

WHEREAS, the applicant has submitted a Special Use Permit Application and has requested that the Special Use Permit be re-approved for a period of 5 years ("the proposed action"); and

WHEREAS, reference is made to a letter from Suzanne Cahill, Executive Director of the Bedford Audubon, dated June 19, 2018; and

WHEREAS, the Town Consulting Planner and Building Inspector conducted a site visit and determined that the physical site conditions remain in compliance with the originally adopted Special Use Permit; and

WHEREAS, the Planning Board has made inquiries to the Town of Lewisboro Police Department and Highway Department and neither department has identified any concerns related to the operation, traffic and/or safety of the facility; and

WHEREAS, the application has been referred to the Westchester County Planning Board ("notification only referral") in accordance with Section 239-m of the General Municipal Law; and

WHEREAS, no changes or modifications to the originally issued Special Use Permit or its terms and conditions have been requested by the applicant; and

WHEREAS, the Planning Board is familiar with the subject property and the general surrounding area; and

WHEREAS, the Planning Board conducted a duly noticed public hearing, which was opened and closed on August 14, 2018, at which time all interested parties were afforded an opportunity to be heard; and

WHEREAS, the Planning Board has considered the submitted Special Use Permit Application, materials submitted by the applicant in support of its application, the written and verbal comments from the Board's professional consultants, the verbal commentary made during Planning Board meetings and the public hearing, and testimony of the applicant.

NOW THEREFORE BE IT RESOLVED THAT, the proposed action is a Type II Action under the State Environmental Quality Review Act (SEQRA); and

BE IT FURTHER RESOLVED THAT, the Planning Board has determined that the applicant has substantially complied with the terms and conditions of the Special Use Permit, granted on February 9, 2010, renewed on June 12, 2012, and Section 220-43.2 of the Zoning Code; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby re-approves the following maps:

- Survey of Property, prepared for Bedford Audubon Society, Inc. and dated (last revised), December 21, 2009; and
- Aerial showing approximate property boundaries and existing conditions for Lots 7 and 30; and

BE IT FURTHER RESOLVED THAT, the Special Use Permit is hereby reapproved for a term of five (5) years, commencing from the date of this Resolution; and

BE IT FURTHER RESOLVED THAT, the Special Use Permit shall expire on August 14, 2023, unless renewed by the applicant; and

BE IT FURTHER RESOLVED THAT, this Special Use Permit may be renewed or amended by the Planning Board any time prior to the expiration date of said permit, upon receipt of a written request from the applicant or the owner of the land. Renewals and/or amendments shall be acted upon by the Planning Board in the same manner as would be required for a new Special Use Permit. A renewal shall not be granted if the Planning Board finds that the applicant has not substantially complied with the originally approved Special Use Permit; and

BE IT FURTHER RESOLVED THAT, unless specifically amended herein, the terms and conditions of the Planning Board's February 9, 2010 Resolution shall remain in full force.

ADOPTION OF RESOLUTION

WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro as follows:

The vote was as follows:

JEROME KERNER	<u>aye</u>
JOHN O'DONNELL	<u>absent</u>
JANET ANDERSEN	<u>aye</u>
GREG LASORSA	<u>absent</u>
RICHARD SKLARIN	<u>aye</u>



Jerome Kerner August 14, 2018

**RESOLUTION
LEWISBORO PLANNING BOARD
SPECIAL USE PERMIT APPROVAL**

**BEDFORD AUDUBON SOCIETY - PRIVATE NATURE PRESERVE
35 & 36 TODD ROAD**

Sheet 5, Block 10776, Lots 7 and 30
Sheet 5, Block 10777, Lot 3
Cal. #2-10 P.B.

February 9, 2010

WHEREAS, the Town of Lewisboro Planning Board has received a Special Use Permit application from the Bedford Audubon Society ("the applicant") to establish a Private Nature Preserve ("the proposed action"); and

WHEREAS, on March 19, 2009, the Town Board of the Town of Lewisboro adopted Local Law #2-09, known as the Private Nature Preserve Law; and

WHEREAS, the purpose of the law is to allow for environmental, horticultural, wildlife and/or agricultural education programs on parcels of land owned by not-for-profit organizations; and

WHEREAS, the Bedford Audubon Society is a locally based, not-for-profit Chapter of the 550,000 member National Audubon Society and its mission is to promote environmental education, grass-roots activism, public and private conservation efforts, preservation and protection of open space; and

WHEREAS, the subject property, which is the applicant's headquarters, is located on the Bylane Farm, is comprised of three (3) tax parcels totaling ±103 acres, and is located within the Town's R-4A Zoning District ("the subject property"); and

WHEREAS, more specifically, the subject property is comprised of Sheet 5, Block 10776, Lots 7 and 30 and Sheets 5, Block 10777, Lot 3; and

WHEREAS, Lots 7 and 30 are located on the northerly side of Todd Road. Lot 7 contains an existing residence, which is occupied year-round by one (1) staff member and is also used as the applicant's office space and for lectures, seminars, Board meetings, etc. Lot 30 is currently vacant; and

WHEREAS, Lot 3, which is comprised of ±97 acres, is located on the southerly side of Todd Road and contains an access drive, 1½ story frame residence, stone garage, greenhouse, gardens, and informal parking; and

WHEREAS, the residence located on Lot 3 is currently being rented by the applicant to a third party; and

WHEREAS, in addition to seasonal interns, the applicant employs two (2) full-time staff persons, one (1) of whom resides on the subject property; and

WHEREAS, the applicant is proposing to offer environmental, horticultural, wildlife and agricultural education programs year-round, the majority of which will be held between the months of March and November and will be attended by 40 or fewer people per event; and

WHEREAS, parking on the subject property will consist of six (6) existing spaces on Lot 7 and ±34 parking spaces on Lot 3, the majority of which will be accommodated by existing grass fields; and

WHEREAS, a “notification only” referral was made to the Westchester County Planning Board in accordance with §239-m of General Municipal Law; and

WHEREAS, the Planning Board is familiar with the subject property, the general surrounding area and has conducted a site visit; and

WHEREAS, the Planning Board conducted a duly noticed public hearing, which was opened and closed on February 12, 2010, at which times all interested parties were afforded an opportunity to be heard; and

WHEREAS, the Planning Board has considered the submitted Special Use Permit Application, correspondence from outside agencies, materials submitted by the applicant in support of its proposal, the written and verbal comments from the Board’s professional consultants, the verbal commentary made during Planning Board meetings and public hearings, testimony of the applicant and observations made at site visits; and

WHEREAS, the proposed action is an Unlisted Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the applicant has submitted the Short Environmental Assessment Form (EAF), dated August 26, 2009; and

WHEREAS, the Planning Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c) and determined that the proposed action will not have a significant adverse impact on the environment; and

WHEREAS, the Planning Board has considered all reasonably related long-term, short-term, direct, indirect, and cumulative environmental effects associated with the proposed action including other simultaneous or subsequent actions.

NOW THEREFORE BE RESOLVED THAT, the Planning Board has reviewed the criteria for issuing a Special Use Permit, outlined in §220-32E of the Zoning Code and finds:

- The location and size of the use and the nature and intensity of the use is appropriate for the area. The subject property is located on Todd Road, a Town Road, situated ±3,700 l.f. east of NYS Route 22. The subject property is surrounded by low-density residential uses and forested areas. The proposed action will require limited site disturbance to install a proposed fence and improve access to a grass parking area. The applicant has been operating on the subject property for a period of time and wishes to validate the existing use as a Private Nature Preserve. Programs offered by the applicant will not substantially increase as a result of the issuance of this Special Use Permit. Parking will be accommodated on-site and on-street parking will be prohibited. To ensure the intensity of the use is kept in harmony with the surrounding area and the number of parking spaces provided, conditions of the Special Use Permit will restrict the number of persons attending programs. The subject property is comprised of ±103 acres, the majority of which is preserved as open space. The nature of the programs offered by the applicant is benign and will not impact adjacent properties by way of traffic, noise, odor, etc.
- The location, nature and height of buildings, walls and fences on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings. No new buildings are proposed and the proposed use will not hinder the future development of adjacent properties.
- The proposed Special Permit Use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristic than would be the operation of any permitted use not requiring a Special Use Permit. As stated above, the programs offered by the applicant are low impact and will not be objectionable to neighbors. Other permitted uses within the underlying zoning district, such as residential development, would have greater impacts on the surrounding environs.
- Parking areas will be of adequate size for the proposed use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives will be laid out so as to achieve maximum and adequate safety. All parking needs will be met on-site and on-street parking will be prohibited. The subject property can adequately accommodate a total of ±40 vehicles. School buses will be required to unload or pick-up persons on Lot 7, where there is adequate space for the bus to enter the subject property and maneuver.

BE IT FURTHER RESOLVED THAT, the Planning Board has compared the proposed action against the "Site Standards" and "Traffic Control" requirements outlined under Sections 220-43.2(B) and (C) of the Zoning Code and finds:

- The subject parcel far exceeds the minimum 10-acre lot size requirement for Private Nature Preserves. Further, the subject property is located on Todd Road, a Town Road, which provides direct access to NYS Route 22.
- The existing structures and uses located on the subject parcel qualify as permitted accessory uses, as outlined under Section 220-43.2(B)(2) of the Zoning Code.
- The surrounding existing forest and vegetation adequately screens the proposed use from surrounding properties and no additional landscaping is required.
- On-site wetlands have been delineated, validated by the NYSDEC, and verified by the Town's Wetland Inspector.
- A condition of this Special Use Permit will be that preserve staff provide for the control of traffic coming to and from the site during functions that produce traffic in excess of customary daily traffic conditions.
- A condition of this Special Use Permit will be that buses/vans will enter Lot 7 only and only one (1) bus/van will be permitted to enter Lot 7 at one time.
- A condition of this Special Use Permit will be the prohibition of on-street parking and vehicle queuing.
- On-site parking will be accommodated by a series of grass parking areas. Given the low intensity and use of the subject property, the Planning Board has determined that off-street parking areas do not need to be improved with gravel or pavement.

BE IT FURTHER RESOLVED THAT, the Planning Board hereby approves a Special Use Permit for a Private Nature Preserve, subject to the below conditions; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby approves the following maps:

- Survey of Property, prepared for Bedford Audubon Society, Inc. and dated (last revised), December 21, 2009; and
- Aerial showing approximate property boundaries and existing conditions for Lots 7 and 30; and

BE IT FURTHER RESOLVED THAT, this Special Use Permit shall be deemed to authorize only the particular Special Permit Use described herein and shall be issued for an initial term of two (2) years and shall thereafter be renewed every five (5) years. This Special Use Permit may be renewed or amended by the Planning Board any time prior to the expiration of said permit, upon receipt of a written request from the applicant or the owner of the land. Renewals and/or amendments shall be acted upon by the Planning Board in the same manner as would be required

for a new Special Use Permit. A renewal shall not be granted if the Planning Board finds that the applicant has not substantially complied with the originally approved Special Use Permit.

Conditions to be Satisfied Prior to the Signing of the Plan by the Secretary and Chairman:

1. The plan shall contain an updated revision date with notation stating "Planning Board Approval", shall contain an original seal and signature of the design professional, and shall contain an original signature of the owner.
2. The owner/applicant shall satisfy any outstanding written comments provided by the Town Consulting Engineer, Town Consulting Planner and Town Wetland Inspector.
3. The plan shall be revised to illustrate all proposed parking areas on Lot 3, consistent with an aerial map (previously submitted by the applicant) identifying the various parking areas proposed on the subject property, for a total of 34 spaces. The Zoning Conformance Chart shall be updated accordingly.
4. The plan shall be revised to illustrate a proposed split-rail fence, to be located along the Town's wetland buffer line on the westerly side of the access drive, to the satisfaction of the Town's Wetland Inspector.
5. The following note shall appear on the plan: "The Private Nature Preserve Special Use Permit, approved by the Lewisboro Planning Board on February 12, 2010, applies to the following Tax Parcels: Sheet 5, Block 10776, Lots 7 and 30 and Sheet 5, Block 10777, Lot 3".
6. The following signature blocks should appear on the Plan:

PLANNING BOARD APPROVAL

Approved by the Planning Board of the Town of Lewisboro,
Westchester County, N.Y. by resolution dated _____.
Any change, erasure, modification or revision to this Plan,
as approved, shall void this approval.

Jerome Kerner Date

Aimee Hodges Date

OWNER'S CERTIFICATION

The undersigned owner of the property shown hereon is familiar with this drawing(s), its contents, and its legends and hereby approves the same for filing

Owners Name

Date

Owners Address

TOWN ENGINEER'S CERTIFICATION

The Town Engineer hereby certifies that this plan has been prepared in compliance with the Planning Board Resolution dated _____.

Ryan Coyne, P.E.

Date

Town Consulting Engineer

Kellard Sessions Consulting, P.C.

7. The owner/applicant shall submit the plan, prepared in final form and in accordance with the conditions of this Resolution, for review by the Planning Board's Consultants.
8. Any revisions required as a result of the consultants review of the final plan shall be made and within six (6) months of the date of this Resolution, the owner/applicant shall furnish the Planning Board with two (2) complete mylar sets of the final plan for final review by the Town Consulting Engineer and endorsement by the Town Consulting Engineer, Planning Board Chairman and Secretary.
9. The owner/applicant shall provide a written statement to the Planning Board Secretary acknowledging that they have read and will abide by all conditions of this Resolution.
10. The applicant shall pay any outstanding fees and escrow.

Conditions to be Satisfied Subsequent to the Signing of the Plan:

11. Following the endorsement of the Plan by the Town Engineer, Planning Board Chairman and Secretary, one (1) mylar set will be returned to the owner/applicant for copying and the second mylar set will be retained by the Planning Board as a record copy.
12. Within ten (10) days after endorsement of the Plan by the Town Engineer, Planning Board Chairman and Planning Board Secretary, the owner/applicant shall deliver to the Planning Board Secretary nine (9) printed sets of the signed Plan.

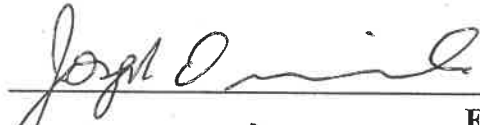
Conditions of the Special Use Permit:

13. Within six (6) months following the adoption of this Special Use Permit, the split-rail fence to be located along the Town's 150-foot wetland buffer line, as shown on the approved plan, shall be installed. A second means of ingress/egress to the ±14 space grass parking area, as shown on the approved plan, shall also be installed within said six (6) month period. Upon completion of the above, the applicant shall schedule a site inspection with the Town Wetland Inspector and Town Planner or Engineer.
14. Bus/van pick-up and drop-off shall be conducted on Lot 7 only. No more than one (1) bus/van shall be permitted to enter the subject property at one time.
15. On-street parking and on-street vehicle/bus queuing is prohibited.
16. Staff shall provide for the control of traffic coming to and leaving the subject property during functions that produce traffic in excess of customary daily traffic conditions.
17. The hours of operation shall be from sunrise to sunset.
18. Programs are permitted year-round. No more than 40 visitors shall be permitted on the subject property at one time without first obtaining written permission from the Planning Board.
19. No new buildings shall be constructed on the subject parcel without Planning Board approval and amendment of this Special Use Permit.
20. This Special Use Permit pertains to Lots 3, 7, and 30 only. Should Lot 3 cease to operate as a Private Nature Preserve for any reason, Lots 7 and 30 shall also cease to operate as a Private Nature Preserve.
21. All activities shall be operated pursuant to the Code of the Town of Lewisboro and the conditions of this Special Use Permit. Upon failure to do so, this Special Use Permit may be rescinded by the Planning Board after a public hearing thereon, at which time the applicant shall have an opportunity to be heard.
22. The Town or its representatives shall be entitled, upon reasonable notice to the applicant, to conduct site inspections of the facility to ensure compliance with this Special Use Permit.
23. Program registration and scheduling records, in either paper or digital form, shall be maintained by the applicant for a minimum of five (5) years and shall be available for inspection by the Town or its representatives upon reasonable notice to the applicant and during normal business hours.

ADOPTION OF RESOLUTION

WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro, as follows:

JEROME KERNER	<u>Absent</u>
JOSEPH DECAMINADA	<u>Aye</u>
MAUREEN MAGUIRE	<u>Aye</u>
RICHARD ELLRODT	<u>Aye</u>
JOHN GUSMANO	<u>Aye</u>



February 9, 2010

Joseph Decaminada
Acting Chairperson DO 2/9/10

**STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF LEWISBORO**

I, Constance Rendich, Assistant Secretary of the Planning Board of the Town of Lewisboro, County of Westchester, State of New York, do hereby certify that I have compared the preceding copy of a resolution adopted by the Planning Board of the Town of Westchester at a meeting held on the 9 day of February, 2010 and that the same is a true and correct copy of said original and of the whole thereof.



Constance Rendich
Assistant Planning Board Secretary

Dated at South Salem, New York
This 11th day of February 2010

**State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance**

Date: February 9, 2010

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Lewisboro Planning Board has determined that the proposed action described below will not have a significant environmental impact and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Bedford Audubon Society - Private Nature Preserve

SEQRA Status: ☐ Type 1

☒ Unlisted

Conditioned Negative Declaration: ☐ Yes

☒ No

Coordinated Review: ☐ Yes

☒ No

Description of Action: The Town of Lewisboro Planning Board has received an application from the Bedford Audubon Society ("the applicant") for a Special Use Permit to establish a Private Nature Preserve ("the proposed action"). The subject property, which is the applicant's headquarters, is located on the Bylane Farm, is comprised of three (3) tax parcels totaling ±103 acres, and is located within the Town's R-4A Zoning District ("the subject property"). The applicant is proposing to offer environmental, horticultural, wildlife and agricultural education programs year-round, the majority of which will be held between the months of March and November and will attended by 40 or fewer people per event.

Location: 35 and 36 Todd Road, Town of Lewisboro, Westchester County, New York.

Reasons Supporting This Determination: The Planning Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c). Specifically:

1. The proposed action will not result in a substantial adverse change in the existing air quality, ground or surface water quality or quantity, traffic or noise levels or a

substantial increase in solid waste production.

The proposed action will require limited site disturbance to install a proposed fence and improve access to a grass parking area. The applicant has been operating on the subject property for a period of time and wishes to validate the existing use as a Private Nature Preserve. Programs offered by the applicant will not substantially increase as a result of the issuance of this Special Use Permit. Parking will be accommodated on-site and on-street parking will be prohibited. To ensure the intensity of the use is kept in harmony with surrounding area and the number of parking spaces provided, conditions of the Special Use Permit will restrict the number of persons attending programs. The subject property is comprised of ±103 acres, the majority of which is preserved as open space. The nature of the programs offered by the applicant are benign and will not impact adjacent properties by way of traffic, noise, odor, etc.

2. The proposed action will not result in the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impact a significant habitat area; result in substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such species; and will not result in other significant adverse impacts to natural resources.

The proposed action involves limited site disturbance and no vegetation will be removed.

3. The proposed action will not result in the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to 6 NYCRR Part 617.14(g).

There are no Critical Environmental Areas in the proximity of the proposed action.

4. The proposed action will not result in a material conflict with the Town's officially approved or adopted plans or goals.

The proposed use is a Special Permit Use within the underlying R-4A Zoning District. The proposed action complies with the general criteria for issuing Special Use Permits and the specific criteria required for the issuance of a Private Nature Preserve Special Use Permit.

5. The proposed action will not result in the impairment of the character or quality of important historical, archaeological, architectural, aesthetic resources or the existing character of the community or neighborhood.

See response to Finding #1. Further, no alteration to the façade of any existing building is proposed. The subject property is mainly protected open space and

no adverse impacts to aesthetic resources or the character of the community will result. The number of programs will be limited as to their size. The nature of the programs offered by the applicant is benign and will not impact adjacent properties.

The proposed action will not result in a major change in the use of either the quantity or type of energy.

See response to Finding #1.

6. The proposed action will not create a hazard to human health.
7. The proposed action will not create a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses.

The subject property consists of ±103 acres, which is mainly protected open space. The number of programs offered will not substantially increase as a result of the proposed action.

8. The proposed action will not encourage or attract a large number of people to a place or place for more than a few days, compared to the number of people who would come to such place absent the action.

The number of visitors at one time will be limited. The hours of operation will be from sunrise to sunset.

9. The proposed action will not create a material demand for other actions that would result in one of the above consequences.
10. The proposed action will not result in changes in two (2) or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.
11. When analyzed with two (2) or more related actions, the proposed action will not have a significant impact on the environment and when considered cumulatively, will not meet one or more of the criteria under 6 NYCRR 617.7(c).
12. The Planning Board has considered reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions.

For further information contact:

Aimee Hodges, Planning Board Secretary
Onatru Farm
99 Elmwood Road
South Salem, NY 10590
Phone: 763-5592

This notice is being filed with:

Aimee Hodges, Planning Board Secretary
Onatru Farm
99 Elmwood Road
South Salem, NY 10590

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information							
Bedford Audubon Society							
Name of Action or Project: Special Use Permit - Bedford Audubon Society, Private Nature Preserve							
Project Location (describe, and attach a location map): 35, 36 Todd Road, Katonah, New York 10536 (3/4 miles east of intersection of Todd Road and Route 22)							
Brief Description of Proposed Action: No proposed action							
Name of Applicant or Sponsor: William W. Cavers, Executive Director		Telephone: 914-232-1999					
		E-Mail: executivedirector@bedfordaudubon.org					
Address: 35 Todd Road							
City/PO: Katonah		State: New York	Zip Code: 10536				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: Action is a renewal of an existing Special Use Permit (Private Nature Preserve permit) from the Town of Lewisboro			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
3. a. Total acreage of the site of the proposed action? _____ 102 acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres							
4. Check all land uses that occur on, are adjoining or near the proposed action: <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other(Specify): Nature Preserve <input type="checkbox"/> Parkland							

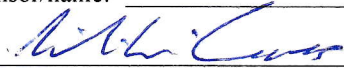
5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ Septic system _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input checked="" type="checkbox"/> Early mid-successional <input checked="" type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>William W. Cavers</u> Date: <u>June 28, 2023</u> Signature: <u></u> Title: <u>Executive Director</u>		

TITLE NO.

CERTIFIED TO:

COPYRIGHT © 1997-2010 BUNNEY ASSOCIATES,
ALL RIGHTS RESERVED. UNAUTHORIZED
DUPLICATION IS A VIOLATION OF
APPLICABLE LAWS.

IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE FOR LAND
SURVEYS ADOPTED BY THE NEW YORK STATE ASSOCIATION OF
PROFESSIONAL LAND SURVEYORS.

CERTIFICATIONS SHALL RUN ONLY TO THOSE INDIVIDUALS AND
INSTITUTIONS SHOWN HEREON UNDER THE TITLE POLICY NUMBER
SHOWN ABOVE. SAID CERTIFICATIONS ARE NOT TRANSFERABLE.

IF UNDERGROUND IMPROVEMENTS, EASEMENTS, OR ENCROACHMENTS
EXIST AND ARE NEITHER VISIBLE DURING NORMAL FIELD SURVEY
OPERATIONS NOR DESCRIBED IN INSTRUMENTS PROVIDED TO THIS
SURVEYOR, THEY MAY NOT BE SHOWN ON THIS MAP AND ARE NOT
CERTIFIED.

THIS PROPERTY MAY BE AFFECTED BY INSTRUMENTS WHICH HAVE
NOT BEEN PROVIDED TO THIS SURVEYOR. USERS OF THIS MAP
SHOULD VERIFY TITLE WITH THEIR ATTORNEY OR A QUALIFIED TITLE
EXAMINER.

UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP
BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF
SECTION 7209, SUB-DIVISION 2, OF THE NEW YORK STATE
EDUCATION LAW.

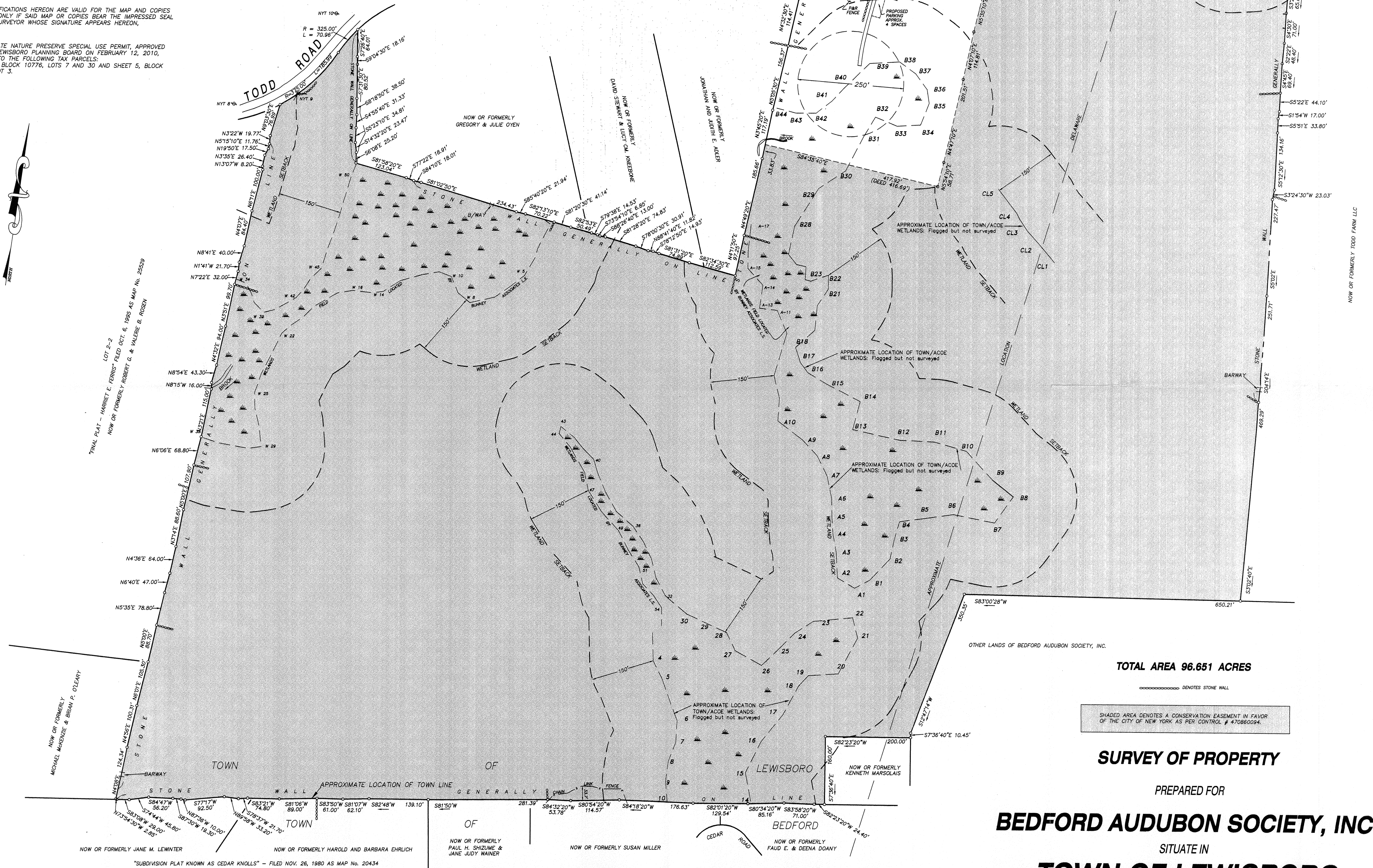
ALL CERTIFICATIONS HEREON ARE VALID FOR THE MAP AND COPIES
THEREOF ONLY IF SAID MAP OR COPIES BEAR THE IMPRESSED SEAL
OF THE SURVEYOR WHOSE SIGNATURE APPEARS HEREON.

THE PRIVATE NATURE PRESERVE SPECIAL USE PERMIT, APPROVED
BY THE LEWISBORO PLANNING BOARD ON FEBRUARY 12, 2010,
APPLIES TO THE FOLLOWING TAX PARCELS:
SHEET 5, BLOCK 10776, LOTS 7 AND 30 AND SHEET 5, BLOCK
10777, LOT 3.

ZONING CONFORMANCE CHART R-4A ZONING DISTRICT

R-4A	REQUIRED	EXISTING
MINIMUM LOT AREA (ACRES)	4.0	96.651
WIDTH / CIRCLE	250'	250'
MINIMUM YARD (FEET)		
FRONT YARD	50'	EXCEEDS 50'
SIDE YARD	50'	EXCEEDS 50'
REAR YARD	50'	EXCEEDS 50'
MAXIMUM BUILDING HEIGHT		
STORIES	2 1/2	1 1/2
FEET	35'	15.5'
MAXIMUM BUILDING COVERAGE	6%	0.06%
NUMBER OF DWELLING UNITS	1	1
PARKING SPACES	N/A	34 ADDITIONAL PROPOSED

NYSDC FRESHWATER WETLAND BOUNDARY VALIDATION
The freshwater wetland boundary as represented on these plans accurately depicts the limits of Freshwater
Wetland F-772 as delineated by Anthony J. Ianniello on 2/23/10.
Date: 4/21/10 Surveyor/Engineer: Anthony J. Ianniello SEAL
Wetland boundary as validated by DBC remains valid for three years from the date of flagging or revalidation.
For official use of the wetland boundary after this three year period, the boundary must be revalidated by DBC
and. This may include re-flagging and survey of the wetland boundary if changes are noted.
Any proposed construction, grading, filling, excavating, clearing or other regulated activity in the freshwater
wetland or within 100 feet of the wetland boundary as depicted on this plan requires a permit from the NYS
Department of Environmental Conservation under Article 24 of the Environmental Conservation Law (Freshwater
Wetlands Act) prior to commencement of work.



TOTAL AREA 96.651 ACRES

SHADED AREA DENOTES A CONSERVATION EASEMENT IN FAVOR
OF THE CITY OF NEW YORK AS PER CONTROL # 470860094.

SURVEY OF PROPERTY

PREPARED FOR

BEDFORD AUDUBON SOCIETY, INC.

SITUATE IN

TOWN OF LEWISBORO

WESTCHESTER COUNTY

NEW YORK

SCALE: 1" = 100'

DATE: MAY 27, 1997
BROUGHT TO DATE: OCTOBER 6, 2009
REVISED: DECEMBER 21, 2009
*REVISED: MARCH 24, 2010

FILE No. T 612-5A P 15-20

Z:\LEWISBORO\BEDFORD AUDUBON\AUDUBON SURVEY.DWG

WETLANDS LOCATED BY BUNNEY ASSOCIATES LAND SURVEYORS
WERE FLAGGED BY THE NYSDC ON FEBRUARY 23, 1999 AND JAY
FAN & ASSOC. IN MAY 2000, AND FIELD LOCATED AND MAPPED BY
BUNNEY ASSOCIATES IN NOVEMBER 2000. ALL OTHER WETLANDS
DELINEATED HEREON ARE NOT CERTIFIED BY ANTHONY DEROSA, L.S.

SURVEYED & PREPARED BY
BUNNEY ASSOCIATES
LAND SURVEYORS
301 FIELDS LANE, BREWSTER
NEW YORK 10509
PH. (845) 277-3404



PLANNING BOARD APPROVAL

APPROVED BY THE PLANNING BOARD OF THE TOWN OF LEWISBORO,
WESTCHESTER COUNTY, BY RESOLUTION
DATED: 4/21/10
ANY CHANGE, ERASURE, MODIFICATION OR REVISION TO THIS PLAN,
AS APPROVED, SHALL VOID THIS APPROVAL.

JEROME KERN

DATE

4/21/10

AMEE HODGES

DATE

4/21/10

OWNER'S CERTIFICATION

THE UNDERSIGNED OWNER OF THE PROPERTY SHOWN HEREON IS FAMILIAR
WITH THIS DRAWING(S), ITS CONTENTS, AND ITS LEGENDS AND HEREBY
APPROVES THE SAME FOR FILING

Anthony J. Ianniello 4/21/10
PRESIDENT, BEDFORD AUDUBON SOCIETY, INC. DATE
ANTHONY IANNIELLO

35 TODD ROAD, KATONAH, NY 10536

TOWN ENGINEER'S CERTIFICATION

THE TOWN ENGINEER HEREBY CERTIFIES THAT THIS PLAN HAS BEEN
PREPARED IN COMPLIANCE WITH THE PLANNING BOARD RESOLUTION
DATED: 4-6-10

Paul H. Shizume & Jane Judy Wainer
TOWN ENGINEERING
KELLARD SESSIONS CONSULTING, P.C.

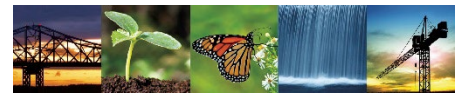
* PLANNING BOARD APPROVAL SIGNATURE BLOCK, TOWN ENGINEER AND OWNER ADDED



Known for excellence.
Built on trust.

GEOTECHNICAL
ENVIRONMENTAL
ECOLOGICAL
WATER
CONSTRUCTION
MANAGEMENT

GZA GeoEnvironmental of
New York
104 West 29th Street
10th Floor
New York, NY 10001
T: 212.594.8140
F: 212.279.8180
www.gza.com



August 3, 2023
GZA File No. 01.0173150.20

Eleanor M. Militana - General Manager
The First Taxing District of the City
of Norwalk Water Department
12 New Canaan Ave.
Norwalk, CT 06851

Re: Lewisboro Wetland and Planning Board Comments
Scotts Reservoir Dam Repairs and Improvements
Lewisboro NY, Westchester County

Dear Eleanor:

As requested by the First Taxing District of Norwalk Water Department (District), GZA GeoEnvironmental of New York (GZA) has provided the following responses to the Town of Lewisboro Wetland and Planning Board comments on the Permit Application, stated July 13, 2023.

Comment #1 – *Please provide a list of all outside agency approvals/permits and status of same. Please coordinate with the NYSDEC and Army Corps of Engineers (ACOE) regarding the extent of wetland permitting, if any. Provide a written determination.*

Responses:

- Based on a meeting on May 19, 2023 with NYSDEC Dam Safety division, they indicated that they will be approving the dam safety portion of this permit.
- DEC Environmental has reviewed the EAF and is awaiting on declaration of a lead agency.
- This project is eligible for self-authorization under the ACOE Nationwide Permit #3 - Maintenance, and thus no applications to the Corps or determinations from the Corps are forthcoming.

Comment #2 – *The truck route for importing/exporting fill should be explained and detailed/illustrated on the plan. The Board may wish to consider requesting the applicant to prepare a map of potential truck routes for review. Ideally, the routing should be kept to as many main roads as possible. Any deterioration of the roadways due to the construction should be repaired by the applicant. The condition of the roads to be used should be documented prior to construction.*

Responses:

- A specific truck route will be added to Sheet G-2 of the drawings, limiting the eventual Contractor to as few residential roads between the site entrance and Rt. 123 as possible.
- The Project specifications (Section 01436) already include provisions for pre- and post-construction condition surveys of the site entrance and adjacent property. The specifications will be revised to also include residential streets between Rt. 123 and the site.



- The eventual Contractor is already obligated to repair damage to public roads and the private driveway under Section 01740 of the Project specifications.
- A note will be added on Sheet G-2 of the drawings referring the eventual Contractor to their protection and restoration responsibilities under the applicable specification sections described above.

Comment #3 – *The applicant should provide the size of the trucks that will be transporting fill, as well as the hours of operation, estimated number of trips required, and the overall duration of time required for the import/export of materials.*

Responses:

- Actual truck size, number of trips, and duration of hauling will be contingent on factors such as Contractor schedule, availability of materials, and material supplier(s) and therefore cannot be quantified at this time.
- It is anticipated that trucks hauling fill materials will be no larger than typical tri-axle dump trucks (10-16 yd capacity).
- Hours of work are expected to be weekdays between 7AM and 7PM, with no work after dusk/sundown allowed. A specific note dictating working hour limitations will be added to Sheet G-2 of drawings.

Comment #4 - *The Site Plan shall include additional detail, as needed, to clarify the construction entrance, required access route and the existing driveway serving 9 Wakeman Road. It appears that the applicant has shared access with the owners of 9 Wakeman Road. Please provide our office with any easement agreements that may be in place.*

Responses:

- Additional detail will be added Sheet G-3 of drawings to indicate location of construction access with respect to the private driveway.
- District will provide information on easements and/or agreements with property owner.

Comment #5 - *The plan shall illustrate the entire limits of the temporary construction access route and perennial stream crossing (a NYSDEC Class AA-S watercourse). Based on a site visit, it appears that improvements will need to be made to the existing access road to safely transport the construction equipment and materials to the area of work. The applicant should show any tree clearing and grading that will be required to provide the necessary access.*

Responses:

- Based on prior activities at the site (hauling stone and drill rig access), no significant grading is anticipated to be necessary to prepare portion of access route between the easement and existing riprap path. However, periodic maintenance may be required to address rutting and localized low areas as they develop. It is anticipated that the eventual contractor will utilize tracked, low ground pressure equipment between the proposed laydown area and the riprap access path at the dam to minimize disturbance.
- Based on similar, prior maintenance activities at the site, no tree clearing is anticipated to be necessary along proposed access route. The stream crossing is anticipated to consist of a timber mat bridge, in general accordance with Figure 2.2 in NYSDEC "Blue Book".
- Limits of anticipated access path and stream crossing will be shown on Sheet G-3, between easement and existing, in-place riprap. Location of anticipated path has been shown on the marked-up drawing accompanying these responses and can be re-evaluated, if necessary, during the August 12 site walk.



Comment #6 – *Provide a tree survey within the areas of construction access and in proximity to the dam. Trees with a diameter at breast height (DBH) of 8” or greater should be survey located; identify trees to be removed and preserved.*

Responses:

- It should be noted that during permitting discussions with NYSDEC Dam Safety, the DEC reminded the District that Dam Safety regulations require dam owners to remove trees 4” or greater from “near” the dam (generally within 10’ of abutment contact and downstream toe). The area where this might occur would be in the vicinity of the spillway, and the need for such work can be re-evaluated during the August 12 site walk.
- GZA suggests that the need for a tree survey can be re-evaluated or confirmed during the August 12 site walk. As shown on the sketch accompanying this letter, the locations where trees with 8” DBH may be required would possibly be within the laydown area.

Comment #7 – *Provide construction details for the construction access driveway and temporary perennial stream crossing.*

Responses:

- Construction entrance detail has been provided on Sheet G-4 of the drawings.
- Refer to Comment #5 response – Based on prior, similar sitework it is anticipated that access will be accomplished without the need for constructing a formal access road along the reservoir shoreline.
- Refer to Comment #5 response – Stream crossing will be in accordance with Figure 2.2 in NYSDEC “Blue Book”. This detail will be added to Sheet G-3 or G-4 as appropriate.

Comment #8 – *The Site Plan shall show the location, equipment and method that will be used to lower the water level of the reservoir while working on the dam, as well as any outlet protection measures that will be required. Provide details of same.*

Responses:

- With the exception of outlet improvements, it is anticipated that water control will be achieved by flow through the existing low-level outlet. The current drawn-down state of the reservoir has been achieved and maintained with this outlet as the sole source of discharge.
- Actual equipment and methods for temporary water control during construction of outlet repairs will be contingent upon the eventual Contractors proposed scheduling as well as their means and methods.
- Requirements for dewatering equipment and pump outlet protection are defined in Section 01565 of the specifications. The eventual Contractor will be required to provide a submittal detailing equipment and location of pumps/siphons (if used) and the submittal will be subject to review and approval by the Engineer.
- If pumps or a siphon are necessary to temporarily provide bypass flows during portions of the Work, it is anticipated that these measures will discharge to either the existing channels that the spillway and/or low-level outlet currently discharge to.

Comment #9 – *The plan shall note that the construction of all walls greater than or equal to four (4) feet in height shall be certified by the Design Professional prior to issuance of a Certificate of Occupancy/Completion.*



Responses:

- It is unclear whether this certification is necessary, since the proposed parapet wall is less than 4 feet in exposed height, and only “retains” stone at the operator location or water during the design flood (150% of 100-yr flood).
- It is also unclear how this certification would differ from the as-built documentation (stamped by a P.E.) which is required by NYSDEC Dam Safety.

Comment #10 – *The plan shall quantify the limits of disturbance (s.f.). The plan shall note that disturbance limits shall be staked in the field prior to construction; disturbance limits within the reservoir proper need not be staked.*

Responses:

- It should be noted that the “limit of work” line shown on the drawings is not an indicator of the limits of disturbance. Rather, it was intended to be a project boundary line. The drawings will be revised to make this distinction.
- A marked-up copy of Sheet G-3 has been provided with these responses, the maximum area of “disturbance” (assumed to include permanent features and potential temporary disturbance due to construction equipment traffic) has been estimated as 31,800 square feet (0.73 acres).
- It should be noted that no significant disturbance due to construction activities is anticipated in the area of the existing riprap access path.

Comment #11 – *Please explain what work will be performed, other than the assumed construction access noted above, along the western side of the Scotts Reservoir. This area is within the limits of disturbance, but no proposed work is being shown.*

Responses:

- Please refer to Comment #10 response with respect to “limit of work” line shown on drawings.
- No work is planned along the western shoreline of the reservoir. Minor grading will be required to tie the parapet wall into the right (west) abutment of the dam; however, no significant tree removal is anticipated for this work.

Comment #12 – *Permanent protection and stabilization should be shown at the location of the stop log bay spillway. As shown, it appears that when the stop logs are removed, if required, the flows would erode the dam and slopes in this location as well as potentially flow over the existing stone dam face and erode the base of the dam. A defined spillway channel should be illustrated and detailed on the plan.*

Responses:

- The stoplog bay is intended only to provide an opening in the parapet wall for the District to access the dam with equipment/vehicles for maintenance while the reservoir is drawn down or dewatered.
- A defined spillway channel is not required, as the stoplog bay is not intended to act as a spillway and will remain in-place at all times, other than to provide access for maintenance as described above.

Comment #13 – *Specify on the Site Plan where the filter sock will be utilized vs. the silt fence. The line type shown is the same for each method. The filter socks and silt fence must be shown to be installed parallel to the existing contours.*



Responses:

- The intent of a singular perimeter erosion control line was to allow use of either silt fence **OR** filter sock, if the Contractor's means and methods or the existing ground conditions are such that one method is more appropriate than the other. If one method is preferred by the Town over the other, please specify the preference so that the drawings and specifications can be revised accordingly.
- Perimeter controls were generally shown along the general downslope side of areas where potential sedimentation could occur. These will remain as currently shown on drawings. Perimeter controls shown perpendicular to contours at the project boundary (limit of work line) will be removed.

Comment #14 – *The Site Plan shall illustrate the location you intend to install the dirt bag.*

Response:

- Anticipated location for sedimentation measures for groundwater pumped during dewatering of excavation (if necessary) has been shown on the marked-up sketch accompanying these responses and will be shown on the final drawings. Actual location will be coordinated between Contractor, District, and Engineer during construction in accordance with any permit requirements.

Comment #15 – *Stockpile locations should be shown on the Site Plan.*

Response:

- Anticipated location for temporarily stockpiling material during construction has been shown on the marked-up sketch accompanying these responses and will be shown on the final drawings. Actual location will be coordinated between Contractor, District, and Engineer during construction in accordance with any permit requirements.

Comment #16 – *Land disturbance is proposed to exceed one (1) acre and will therefore require conformance with NYSDEC SPDES General Permit (GP-0-20-001) and filing of a Notice of Intent (NOI) and MS4 Acceptance Form with the NYSDEC. Submit draft copies to this office for review.*

Response:

- Please refer to responses to Comment #10. Maximum estimated land disturbance is less than 1 acre.

Comment #17 – *The Erosion Control Notes found on Sheet G-4 should be updated to reference the NYSDEC SPDES General Permit (GP-0-20-001), as well as to describe the requirements of the Trained Contractor, Qualified Inspector, inspection frequencies, etc.*

Response:

- Please refer to responses to Comment #10 and #16. Maximum estimated land disturbance is less than 1 acre therefore SPDES GP and associated SWPPP personnel will not be required.

Comment #18 – *The subject parcel is located within the 100-year FEMA Floodplain (Zone A). The floodplain boundary shall be depicted on the plan as should the base flood elevation. A Floodplain Development Permit will be required in accordance with Chapter 126 of the Town Code.*



Responses:

- Please provide a copy of the referenced permit application so that the intent of the permit and the information required to complete the application can be better understood.
- The majority of new fill on the upstream slope of the dam is located below the normal reservoir level (El. 523.9) and thus will not have a significant impact flood storage volume.
- Although improvements have been designed to pass 150% of 100-year flood entirely through spillway, it is not anticipated that the spillway discharge will increase downstream flooding, as the same inflow would overtop the current dam configuration by 0.8 feet.
- Based on our detailed hydrologic and hydraulic analysis of the Scotts Reservoir watershed (part of an analysis of the overall watershed for the District's downstream reservoirs), the reservoir elevation for proposed conditions under 100-year flood inflows has been calculated to be El. 527.0, which is only 0.5 feet higher than the reservoir level calculated for the 100-year flood inflow under existing conditions. A line depicting this elevation/boundary has been added to the marked-up drawing accompanying this memorandum and will be added to Sheet G-3 of the drawings.
- It should be noted that the FEMA FIRM map for Scotts Reservoir does not include a base flood elevation. It should also be noted that the floodplain limits shown on the Westchester County GIS viewer indicate a 100-year flood elevation of roughly El. 535, which is greater than 9' above the top of dam elevation.

Comment #19 – *A cut and fill analysis should be added to the Site Plan set.*

Response:

- Please provide clarification on the intent of the cut/fill analysis so that the necessary information can be provided in the appropriate location in the drawings.
- A cut/fill analysis was performed in support of the quantity estimates for the project. Since the repairs to the upstream slope will involve flattening the existing grade by adding larger riprap and specialized bentonite-coated aggregate, the site was estimated to require approximately 300 yards of fill, compared to a cut of less than 10 yards.

Comment #20 – *The plans shall be signed/sealed by the Design Professional.*

Response:

- Once the permit comments have been resolved, the final design drawings will be signed/sealed by a NYS P.E.

Comment #21 – *The names of the adjacent property owners shall appear on the plan.*

Response:

- Current owner names listed by the Town Assessor's Department will be added to the parcels shown on Sheet G-3 of the drawings. If additional parcels are required by the Town, please let us know and the drawing(s) will be revised accordingly.



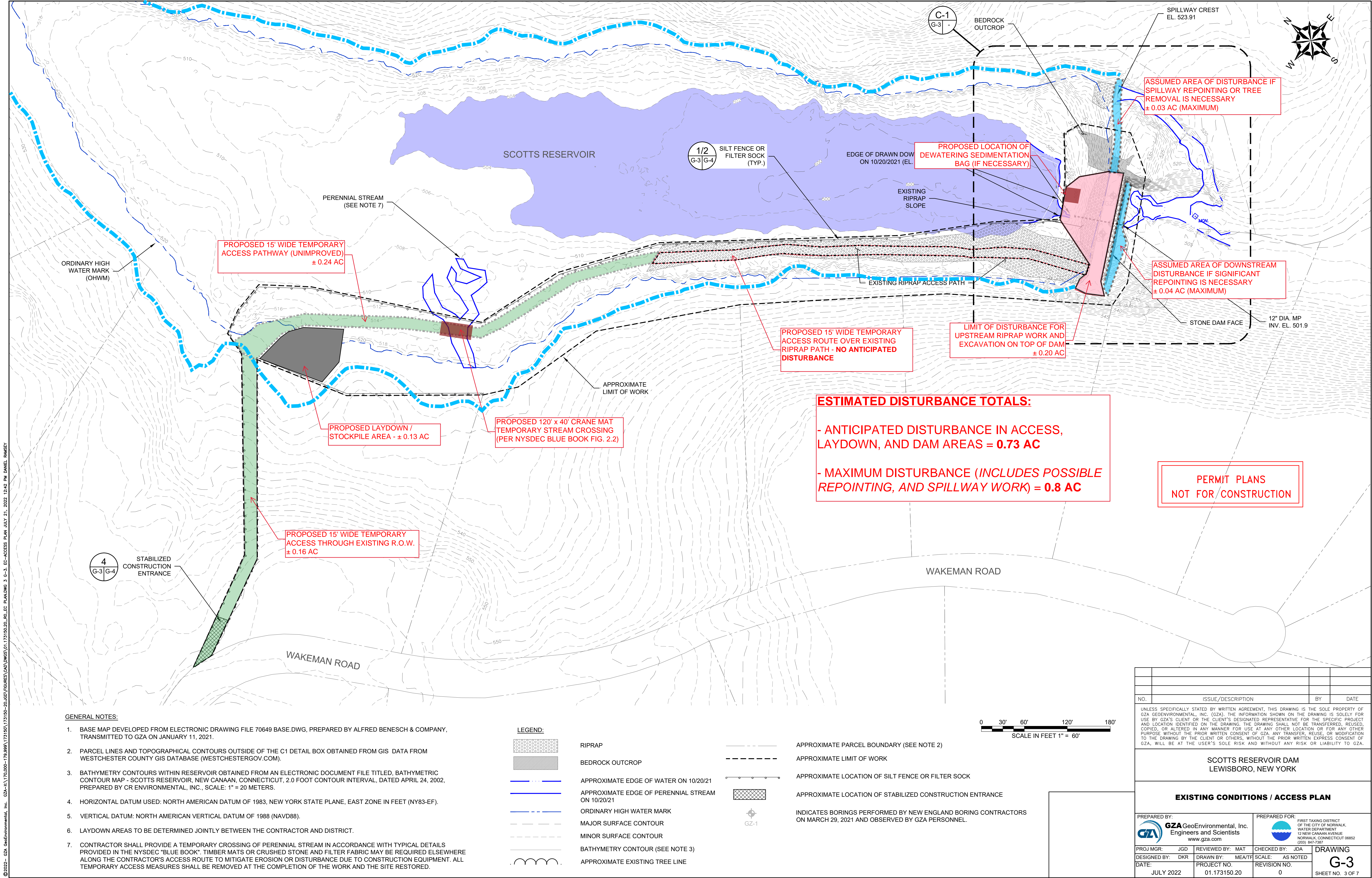
Should you have any questions or comments regarding the contents of this letter, please contact us at your convenience. A GZA representative will also be available at the August 12 site walk and August 15 meeting.

Very truly yours,

GZA GEOENVIRONMENTAL OF NEW YORK

A handwritten signature in blue ink, appearing to read 'John G. DeLano'.

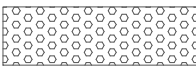
John G. DeLano, P.E.
Sr. Project Manager



GENERAL NOTES:

1. BASE MAP DEVELOPED FROM ELECTRONIC DRAWING FILE 70649 BASE.DWG, PREPARED BY ALFRED BENESCH & COMPANY, TRANSMITTED TO GZA ON JANUARY 11, 2021.
2. PARCEL LINES AND TOPOGRAPHICAL CONTOURS OUTSIDE OF THE C1 DETAIL BOX OBTAINED FROM GIS DATA FROM WESTCHESTER COUNTY GIS DATABASE (WESTCHESTERGOV.COM).
3. BATHYMETRY CONTOURS WITHIN RESERVOIR OBTAINED FROM AN ELECTRONIC DOCUMENT FILE TITLED, BATHYMETRIC CONTOUR MAP - SCOTTS RESERVOIR, NEW CANAAN, CONNECTICUT, 2.0 FOOT CONTOUR INTERVAL, DATED APRIL 24, 2002, PREPARED BY CR ENVIRONMENTAL, INC., SCALE: 1" = 20 METERS.
4. HORIZONTAL DATUM USED: NORTH AMERICAN DATUM OF 1983, NEW YORK STATE PLANE, EAST ZONE IN FEET (NY83-EF).
5. VERTICAL DATUM: NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
6. LAYDOWN AREAS TO BE DETERMINED JOINTLY BETWEEN THE CONTRACTOR AND DISTRICT.
7. CONTRACTOR SHALL PROVIDE A TEMPORARY CROSSING OF PERENNIAL STREAM IN ACCORDANCE WITH TYPICAL DETAILS PROVIDED IN THE NYSDEC "BLUE BOOK". TIMBER MATS OR CRUSHED STONE AND FILTER FABRIC MAY BE REQUIRED ELSEWHERE ALONG THE CONTRACTOR'S ACCESS ROUTE TO MITIGATE EROSION OR DISTURBANCE DUE TO CONSTRUCTION EQUIPMENT. ALL TEMPORARY ACCESS MEASURES SHALL BE REMOVED AT THE COMPLETION OF THE WORK AND THE SITE RESTORED.

LEGEND:



RIPRAP



BEDROCK OUTCROP



APPROXIMATE EDGE OF WATER ON 10/20/21



APPROXIMATE EDGE OF PERENNIAL STREAM ON 10/20/21



ORDINARY HIGH WATER MARK



MAJOR SURFACE CONTOUR



MINOR SURFACE CONTOUR



BATHYMETRY CONTOUR (SEE NOTE 3)



APPROXIMATE EXISTING TREE LINE



APPROXIMATE PARCEL BOUNDARY (SEE NOTE 2)



APPROXIMATE LIMIT OF WORK



APPROXIMATE LOCATION OF SILT FENCE OR FILTER SOCK





APPROXIMATE LOCATION OF STABILIZED CONSTRUCTION ENTRANCE



INDICATES BORINGS PERFORMED BY NEW ENGLAND BORING CONTRACTORS ON MARCH 29, 2021 AND OBSERVED BY GZA PERSONNEL.



NO.	ISSUE/DESCRIPTION	BY	DATE
UNLESS SPECIFICALLY STATED BY WRITTEN AGREEMENT, THIS DRAWING IS THE SOLE PROPERTY OF GZA GEOENVIRONMENTAL, INC. (GZA). THE INFORMATION SHOWN ON THE DRAWING IS SOLELY FOR USE BY GZA'S CLIENT OR THE CLIENT'S DESIGNATED REPRESENTATIVE FOR THE SPECIFIC PROJECT AND LOCATION IDENTIFIED ON THE DRAWING. THE DRAWING SHALL NOT BE TRANSFERRED, REUSED, COPIED, OR ALTERED IN ANY MANNER FOR USE AT ANY OTHER LOCATION OR FOR ANY OTHER PURPOSE WITHOUT THE PRIOR WRITTEN CONSENT OF GZA. ANY TRANSFER, REUSE, OR MODIFICATION TO THE DRAWING BY THE CLIENT OR OTHERS, WITHOUT THE PRIOR WRITTEN EXPRESS CONSENT OF GZA, WILL BE AT THE USER'S SOLE RISK AND WITHOUT ANY RISK OR LIABILITY TO GZA.			
SCOTTS RESERVOIR DAM LEWISBORO, NEW YORK			
EXISTING CONDITIONS / ACCESS PLAN			
PREPARED BY:  GZA GeoEnvironmental, Inc. Engineers and Scientists www.gza.com		PREPARED FOR:  FIRST TAXING DISTRICT OF THE CITY OF NORWALK, WATER DEPARTMENT 12 NEW CANAAN AVENUE NORWALK, CONNECTICUT 06852 (203) 847-7387	
PROJ MGR: JGD	REVIEWED BY: MAT	CHECKED BY: JDA	DRAWING
DESIGNED BY: DKR	DRAWN BY: MEA/TF	SCALE: AS NOTED	G-3 SHEET NO. 3 OF 7
DATE: JULY 2022	PROJECT NO. 01.173150.20	REVISION NO. 0	



**DELAWARE COUNTY DEPARTMENT
OF PLANNING AND WATERSHED AFFAIRS**

Highway Department Building • P.O. Box 367 • Delhi, New York 13753
Phone (607) 832-5444 • Fax (607) 832-6070 • Email: pln@co.delaware.ny.us

July 12, 2023

All Signatories of 1997 MOA,

Please find the enclosed supplemental documents and exhibits that were omitted from the Lead Agency Request that you recently received from Delaware County, NY. These additions are referenced in the Lead Agency Notification. Any questions pertaining to this notification and request form can be directed to Delaware County Department of Planning and Watershed Affairs at the number listed below.

Respectfully submitted,

A handwritten signature in cursive script, reading "Nicholas P. Carbone".

Nicholas P. Carbone
Delaware County Dept. of Planning & Watershed Affairs
Watershed Affairs Coordinator
1 Gallant Ave. Suite 1, Delhi, NY 13753
P- (607) 832-5437
F -(607) 832-6042

Lead Agency Notification: Delaware County

Proposed Action/Project: DOH's Approval of NYC 2023-2033 Long Term Land Acquisition Plan dated May, 2023 ("LTLAP") and NYC Water Supply Permit ("WSP") Application dated June, 2022 seeking authorization to acquire 39,869 acres during the period January 1, 2026 through December 31, 2035; Other actions triggered by the NYCDEP land acquisition program ("LAP") during the period January 1, 2026 through December 31, 2035 include Amendments to the Memorandum of Agreement ("MOA") and Supplemental Side Agreements; Amendments to various program agreements necessary for implementation of land acquisition to acquire 39,869 acres during the period January 1, 2026 through December 31, 2035 including the Stream Management Program Agreement; Local Consultation Fund Agreement and other agreements/programs referenced in Sections 25 (Programs to Foster Cooperation), 26 (Continuation of Programs Related to Watershed Regulations), and 27 (Restrictions on Acquisition of Title) of the existing WSP.

To All Involved Agencies:

New York City ("NYC" or "the City") has submitted to the New York State ("NYS") Department of Environmental Conservation ("DEC") a Water Supply Permit Application dated June, 2022 ("Permit Application") seeking authorization under NYS ECL Article 15, Title 15 to acquire 39,869 acres in the West of Hudson Watershed during the period January 1, 2026 through December 31, 2035 and has submitted to NYS Department of Health ("DOH") for approval of "NYC 2023-2033 Long Term Land Acquisition Plan dated May, 2023" ("LTLAP"). Copies of the application documents and LTLAP are enclosed as **Exhibits A and B**. The implementation of a land acquisition program during the period January 1, 2026 through December 31, 2035 to acquire 39,869 acres will trigger Amendments to the 1997 Memorandum of Agreement ("MOA") and/or 2010 and/or 2018 Supplemental Side Agreements and various program agreements effected by the implementation of a land acquisition program during the period January 1, 2026 through December 31, 2035 to acquire 39,869 acres including the Stream Management Program Agreement, Local Consultation Fund Agreement and other agreements/programs referenced in Sections 25 (Programs to Foster Cooperation), 26 (Continuation of Programs Related to Watershed Regulations), and 27 (Restrictions on Acquisition of Title) of the existing 2010 Water Supply Permit ("Existing WSP").

Regulatory Requirements Applicable to LAP

In order to obtain a water supply permit authorizing the purchase of land within the West of Hudson Watershed for the purpose of watershed protection, ECL Article 15, Title 15 requires the applicant to demonstrate public necessity and project justification. In the past, the public necessity and project justification under ECL Article 15, Title 15 were the LAP requirements in the NYC Department of Environmental Protection ("DEP") Filtration Avoidance Determination ("FAD").

The December 2022 Revised FAD defines the core LAP requirements as follows:

"NYSDOH agrees that changes to core LAP are necessary in the West of Hudson watershed, as guided by the recommendations of the NASEM expert panel. The

program should be focused on the most sensitive areas for water quality protection, including floodplains, riparian areas, wetlands, and steep slopes. NYSDOH agrees that both the Long-Term Land Acquisition Plan and the successor Water Supply Permit should be shaped by the NASEM Expert Panel recommendations and stakeholder input. ... NYSDOH agrees that strategic, well-reasoned acquisition of water quality protective parcels should be the focus of the LAP, while allowing future community growth to occur in a manner that is consistent with the existing character and planning goals of each of the Watershed communities.”

The NASEM [National Academy of Sciences, Engineering and Medicine] Expert Panel Recommendations referenced above are set forth in **Exhibit C** hereto and are summarize below as follows:

“the City ... shift funding and emphasis from acquiring large parcels in the fee-simple and conservation easement programs to the protection of riparian lands on critical areas of tributary streams through programs that provide an opportunity to simultaneously address community needs and watershed protection. Programs which provide a “financial mechanism” to promote community well-being and economic vitality in the watershed while promoting the protection of high potential water quality impact areas were specifically encouraged.”

The NASEM Expert Panel also concluded as follows:

“[Land acquisition programs] are designed to maintain or enhance current water quality by preventing future development and deleterious activities. As such their ‘damage avoided’ benefits are more difficult to perceive in the short term. This also requires more attention to program design and evaluation to ensure that water quality protection outcomes are being met in a cost-effective manner without sacrificing other program objectives”. NAS Report, Chapter 7, Land Protection and Management Programs, p. 202.

As a condition of the continuation of the LAP past December 31, 2025, the Revised FAD requires the City to fund a study of the long-term viability of the West of Hudson Watershed Communities so that the Watershed protection programs can be adapted to facilitate community vitality and economic sustainability. Catskill Watershed Corporation (“CWC”) has agreed to oversee the preparation of the study and the process is just beginning to take shape.

In addition, with the FAD emphasis on “the protection of riparian lands on critical areas of tributary streams through programs that provide an opportunity to simultaneously address community needs and watershed protection”, DOH has directed DEP and Catskill Center for Conservation and Development (“Catskill Center”) to enter into discussions with stakeholders “to integrate [into SAP] common-sense program modifications which will position SAP to operate with wide-spread municipal support in the future.” In response, the Stream Management Program (“SMP”) implementing agencies (i.e., Delaware County, Greene County, Sullivan County and Ulster County Soil and Water Conservation Districts along the Ulster County Cornell Cooperative Extension) have developed an enhanced Stream Acquisition Program (“SAP”) entitled the

“Collaborative Stream Management Program.” That program incorporates SAP into a bottom up stream protection program with the incorporation of property rights acquisition as necessary and appropriate to achieve the program objectives.

Water Supply Permit Process and SEQRA

The details of the core LAP during the period January 1, 2026 through December 31, 2035 and the Collaborative Stream Management Program supported by the four counties will be the subject of a series of negotiations between both governmental stakeholders (e.g., the counties, DEP, DOH, DEC, the towns and villages) and private stakeholders (e.g., Watershed Agricultural Council, Natural Resources Defense Council, Riverkeeper, Catskill Center). Upon completion of those negotiations, the LTLAP must be revised and updated to reflect the agreements, if any, arising from those negotiations and resubmitted to DOH for approval. The DOH approved LTLAP will be the template for the new WSP Proceeding.

Under SEQRA, the governmental stakeholders cannot take any action (execute an agreement; issue an approval/disapproval decision of the LTLAP) until the governmental stakeholder has completed a SEQRA process (coordinated review with either a negative declaration or a Final EIS/Findings). On page 4 of the LTLAP, DEP asserts that “this Plan meets that deliverable while intending to forecast a land acquisition strategy consistent with a successor WSP expected to be issued in 2025 and a successor FAD anticipated to be issued in 2027”. As a result, the DOH review, revisions, approval or disapproval of the LTLAP is the primary component of the SEQRA review.

NYC 2023-2033 Long Term Land Acquisition Plan dated May, 2023 (“LTLAP”)

On page 8 of the LTLAP, DEP states that “[f]or the past ten years, the overall LAP has operated according to DEP’s 2012-2022 Long Term Land Acquisition Plan.” The May, 2023 LTLAP is a repeat of the 2012-2022 Long Term Land Acquisition Plan incorporating the April, 2021 modifications to the core LAP that reduced the total acreage of properties eligible for future acquisition to approximately 159,000 acres. The LTLAP is further adjusted to reflect the acreage that has been acquired since 2010 but LTLAP maintains the same land acquisition focus. On page 6 of the LTLAP, DEP summarized the focus of the existing program as follows:

“Since 2010, DEP has also emphasized core LAP solicitation within certain reservoir basins based on the overall level of protection and contribution to future supply (Areas of Focus), as well as certain subbasins based on their proximity to reservoir intakes and/or lower levels of protected land (Areas of High Focus). As depicted in Exhibit B, the Areas of High Focus are primarily located in portions of the towns of Tompkins, Masonville, Walton, Colchester, Andes, Hamden, Bovina, Roxbury, Prattsville, Jewett and Lexington.”

In order to predict the future acquisitions, in its June, 2022 WSP application, DEP provided a breakdown of the acreage it acquired by county under the current WSP (the period 2010 through June, 2022) as follows:

	Acres	Cost (\$)	Cost per Acre (\$)	% of total acreage	Price Differential
Delaware	43778	109,044,832	2490.86	67%	
Greene	14817	70,091,350	4730.47	23%	190%
Sullivan	1409	5,917,206	4199.58	2%	169%
Ulster	4051	19,806,307	4889.24	6%	196%
Schoharie	1707	3,643,129	2134.23	3%	
Total	65762			1	

In Exhibit C to the LTLAP, DEP lists the acres acquired by town during the same period together with the LAP Solicitation Thresholds, if any, for each Town. The top fifteen towns listed in order of acres acquired are listed below:

Acres Acquired By Town

Town	Acres Acquired	% of EIS Proj.	Town	Acres Acquired	% of EIS Proj.
1. Andes	7,865	102%	9. Windham	2,130	97%
2. Walton	4,971		10. Hamden	2,027	56%
3. Delhi	4,570	116%	11. Lexington	1,911	51%
4. Middletown	3,218	65%	12. Jewett	1,548	55%
5. Roxbury	3,151		13. Hunter	1,325	49%
6. Bovina	2,466	89%	14. Meredith	1,271	
7. Kortright	2,387		15. Prattsville	1,223	52%
8. Stamford	2,251	50%			

According to DEP's June, 2022 Permit Application, two thirds of the acreage acquired under the existing WSP (between 2010 to June, 2022) were in Delaware County and 90% of the acreage acquired were in Delaware and Greene Counties. During the same period, ten of the top fifteen acquisition towns were in Delaware County and the remaining five towns were in Greene County. By focusing its purchases on Delaware County, the City was able to get approximately double the acreage per dollar compared to the other counties. Since the real property tax assessment on newly acquired City land is based upon the purchase price, the City was able to pay approximately 50% less per acre in real property tax in Delaware County versus the other counties. The lower price per acres is due, in part, to the fact that Delaware County is one of the poorest counties in the state -- the median family income in Delaware County is less than the other watershed counties and only 70% and 41% of the State and NYC Metro Area Median Family Income, respectively. The median family income in Greene County is 82% and 48% of the State and NYC Metro Area Median Family Income, respectively.

Median Household and Per Capita Income for Delaware, Greene, Schoharie, Sullivan, and Ulster County

County	Median Household Income	Per Capita
Delaware County	\$ 52,757.00	\$ 30,547.00
Greene	\$ 61,328.00	\$ 33,894.00
Schoharie	\$ 64,220.0	\$ 33,957.00
Sullivan	\$ 60,433.00	\$ 33,037.00
Ulster	\$ 71,040.00	\$ 38,966.00
New York State	\$ 75,157.00	\$ 43,208.00
NYC Metro Area	\$ 127,100.00	\$ 78,089.00

Income data taken from 2021 US Census

Consistent with these findings, the LTLAP states that the greatest loss of population during the period 2010 through 2019 occurred in Delaware County (7.8%). The LTLAP attributes the overall loss of population in part to high property taxes. Citing the NASEM Expert Panel Report, the LTLAP states “changes in the WOH land cover and land uses from conversion of forest and farmland to developed areas during 2001 – 2016 appear to have been minimal: one-tenth the average change for New York State.”

The LTLAP provides an acquisition plan for each of the basins. **Exhibit D** attached hereto compares the 2010 LTLAP Basin Plan to the 2023 LTLAP Basin Plan for the Pepacton, Cannonville and Schoharie Basins. The comparison demonstrates little or no change to the City’s acquisition plan for those three basins -- the City intends to maximize its solicitations in the following towns: Hamden, Masonville, Franklin, Colchester, Harpersfield, Roxbury and Middletown. The LTLAP notes that it has exceeded (or is close to exceeding) its acreage limits from the 2010 SEQRA analyses in Andes, Delhi, Bovina and Walton. In those communities that the City has (or will soon) exceed its solicitation limits, the LTLAP states that the City will not solicit but the City will still purchase land if approached by a property owner. Since the LAP has been around for 25 years and the City has already solicited these properties (once or more than once), the lack of solicitation will not be a significant impediment to future purchases.

Benefits to the City from the LAP

On page 3 of the LTLAP, DEP confirms that the purpose of the LAP is to maintain the FAD and reduce its overall burden to obtain the agreement of the land owners. DEP states as follows:

“Under the SWTR, applicants for filtration avoidance must ‘demonstrate through ownership and/or written agreements with landowners within the watershed that it can control all human activities which may have an adverse impact on the

microbiological quality of the source water.’ As such, ownership interest in watershed lands has been and remains a central component of the City’s ability to successfully meet filtration avoidance criteria for the high quality Catskill/Delaware water supply.”

Because the City’s Watershed Rules add costs, uncertainty and delay to new development, the City LAP benefits from Watershed Rules downward impact on land values. When development does occur, the Partnership Programs referenced in Section 25 and 26 of the WSP require the City to bear some or all of the additional cost from the Watershed Rules. As a result, despite the acknowledged lack of development (and thus no ‘damage avoided’ benefits), the City benefits from land acquisition by reducing its obligation to obtain the agreement with the local landowners (reduce contribution to the Partnership Programs). The depressed price of vacant land in Delaware County also makes land acquisition a more attractive investment despite the lack of water quality benefit.

The Watershed Communities Response

In 2021, after the NASEM Expert Report was issued and DEP issued a proposal dated April, 2021 to continue the core LAP with over 159,000 acres eligible for acquisition, the Counties of Greene, Schoharie and Delaware together with the majority of watershed villages and towns passed resolutions (the “Land Acquisition Resolutions”) calling for the end of the core LAP and limiting the SAP to a voluntary program. Delaware County’s and Greene County’s resolutions are attached as **Exhibit E** hereto. Those resolutions identified and described in detail the communities’ rationale for their demands (identified as a “change in circumstances”).

In their in their Land Acquisition Resolutions, the communities (including Delaware County), conditioned their support for the continuation of the FAD on an end to the core LAP and a voluntary SAP program. The communities believed that they had substantially achieved those objectives when DOH issued its FAD revisions in December, 2022. Based upon the December 2022 FAD revisions mandating “changes to core LAP ... guided by the recommendations of the NASEM expert panel” and mandating modifications to the SAP to obtain “wide-spread municipal support”, the Delaware County, Greene County and several other communities passed resolutions acknowledging their support for the continuation of the FAD and thanked DOH for addressing their demands (See Greene and Delaware County Resolutions attached as **Exhibit F**).

SEQRA Lead Agency Notification

Based upon the above information and other considerations, Delaware County is serving notice that the project (implementation of land acquisition program to acquire 39,869 acres during the period January 1, 2026 through December 31, 2035 consistent with LTLAP) is a Type 1 action under SEQRA and that in accordance with 6 NYCRR 617.6 (a) and (b), Delaware County will be conducting a coordinated review under SEQRA and seeks to be lead agency.

Enclosed with this letter is the City’s June 2022 Permit Application (Exhibit A) and 2023 LTLAP (Exhibit B) along with a form for each involved agency to respond to Delaware County determination to serve as lead agency. Delaware County encourages all involved agencies (and

interested parties) to participate in the SEQRA process. In order to facilitate informed participation, Delaware County will be establishing a document depository of relevant documents relating to the existing WSP and the future of land acquisition. The document depository will be accessible through a link to be provided once the document depository is available.

To facilitate a fully informed SEQRA process, Delaware County is soliciting comments on the topics below. Any information you can provide will be helpful.

1. Whether there is a housing crisis within your community and, if so, what is the cause and suggested mitigation measures.
2. What do you consider the biggest challenge to your communities' continued viability and potential mitigation measures to address that challenge?

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

**Land Acquisition Program
2023-2033 Long-Term Land Acquisition Plan**

May 2023

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



Prepared by: DEP, Bureau of Water Supply

Executive Summary

The Revised 2017 Filtration Avoidance Determination (FAD) requires the New York City Department of Environmental Protection (DEP) to submit a Long-Term Land Acquisition Plan covering the period 2023-2033, subject to approval by the New York State Department of Health (NYSDOH). The FAD requires this Long-Term Plan to include a consideration of the findings of the National Academies of Sciences, Engineering and Medicine (NASEM) Expert Panel review of the City's watershed protection programs, including the Land Acquisition Program (LAP), as well as public input received in response to the Expert Panel review. The FAD also requires the City to participate in several workgroups relating to the LAP. Based on the approved 2023-2033 Long-Term Plan, LAP solicitation rates for 2025 through 2027 will be determined by NYSDOH in consultation with the U.S. Environmental Protection Agency (USEPA) and the New York State Department of Environmental Protection (NYSDEC).

The LAP complements a variety of successful watershed protection programs and pollution remediation strategies funded by DEP to maintain excellent source water quality originating from the Catskill/Delaware watershed. Since 1997, the LAP has operated under an evolving set of strategies, policies, and programs with the goal of increasing the amount of land in permanent protected status through robust land acquisition and associated initiatives. Prior to 1997, the City owned approximately 34,452 acres of land in the Catskill/Delaware watershed, and New York State owned another 202,000 acres, for a total protected land base of approximately 24%. Since 1997, the LAP and its various partner programs have acquired approximately 154,000 acres of land in the Catskill/Delaware watershed. Together with lands protected by other entities such as New York State and land trusts, these acquisitions have raised the level of permanently protected land in the Catskill/Delaware watershed to almost 40% today.

For the past ten years, the LAP has operated in accordance with a 15-year Water Supply Permit (WSP) issued by NYSDEC in December 2010 and a 2012-2022 Long-Term Land Acquisition Plan that DEP developed and submitted in September 2009 pursuant to the 2007 FAD. The 2012-2022 Long-Term Plan contained several goals, methods and strategies designed to increase protected lands within specific West of Hudson (WOH) sub-basins and throughout the Catskill/Delaware watershed; develop parcel selection procedures that maximize the water quality benefits of land acquisition; and build on existing programs to promote City-owned lands as a working landscape in partnership with local communities.

This 2023-2033 Long-Term Land Acquisition Plan describes the methods and strategies that will guide the LAP and its City-funded partners over the next ten years to continue enhancing the permanent protection of sensitive watershed lands in the unfiltered Catskill/Delaware water supply. The driving goal of this Plan is to pursue compelling lands with a nexus to water quality protection, with significant consideration given to WOH watershed areas where outgoing solicitation is or may be constrained by a number of factors discussed throughout this Plan. This 2023-2033 Plan outlines specific conditions and strategies for each reservoir basin in the Catskill/Delaware watershed. This Plan acknowledges that multiple variables and uncertainties may require additional adjustments to the LAP as future milestones are achieved and future programmatic decisions are made by State and federal regulators in consultation with the City and watershed stakeholders.

For example, the current WSP expires in December 2025 and the current FAD expires in December 2027; although DEP anticipates both regulatory documents will be renewed for successor terms, the requirements set forth in each will certainly influence the future direction of the LAP and its partner programs. In addition, pursuant to existing FAD requirements, the City is either currently engaged in discussions with regulators and watershed stakeholders on myriad topics related to the LAP, or will need to engage in discussions during the near-term.

Specifically, the Revised 2017 FAD requires the City to continue funding the LAP and its partner programs, while working with regulators and watershed stakeholders, to: (a) explore issues related to the expansion of the Streamside Acquisition Program (SAP) outside of the Schoharie basin, including an evaluation of the riparian buffer rental/license pilot program proposed by Delaware County (due December 2023); (b) explore potential changes to language in the conservation easements granted to NYSDEC on LAP fee simple properties to allow for certain activities, including utilities and renewable energy infrastructure (due December 2023); (c) explore the suitability of including pre-emptive purchase rights within Watershed Agricultural Council (WAC) conservation easements (due December 2024); and (d) assess opportunities to use certain potentially developable LAP-acquired lands that have lower water quality protection value to facilitate relocation of development (ongoing; no due date).

Given the above variables and potential future outcomes and decisions, DEP anticipates that this 2023-2033 Long-Term Land Acquisition Plan will require future adjustments or amendments to potentially refine its goals, strategies or methodologies based on various factors including the outcomes from several FAD workgroups as well as other emerging issues. For example, the recent COVID-19 global pandemic was an unanticipated public health emergency that resulted in the near-shutdown of the LAP for most of 2020 and the first half of 2021. Locally, the COVID-19 pandemic also impacted the real estate market within the watershed, as numerous people moved from cities into rural areas and thus created a new dynamic within many watershed communities that traditionally hadn't experienced housing shortages and/or development pressures of such magnitude and speed.

In many ways, the LAP is still in recovery mode given the long-term nature of real estate transactions; for example, real estate purchase contracts have historically taken 12-18 months to advance and execute but more recently are taking longer due to several factors. Although DEP paused LAP solicitation for over a year during the height of COVID-19, numerous real estate projects were already in the pipeline that were subsequently impacted by Citywide budget, procurement and internal staff capacity challenges that continue to have lingering effects.

In summary, the LAP has evolved considerably since it was initially created and funded more than two decades ago, and that future adaptations will be necessary due to multiple internal and external factors and uncertainties. In collaboration with regulators and stakeholders, especially watershed communities, DEP remains committed to ensuring that the LAP continues to reflect a balanced approach to protecting the high quality of the City's unfiltered source water supply originating from the Catskill/Delaware watershed.

1. Introduction

The LAP is one component of the City's Long-Term Watershed Protection Strategy to avoid the costs and environmental impacts of filtering the Catskill/Delaware water supply. Land acquisition is an anti-degradation strategy whose goal is to reduce the threat of adverse water quality impacts associated with future development. Ownership of real property interests in watershed land by a water supply agency is generally deemed the most effective means of ensuring that land uses and potential contaminants can be sufficiently controlled for public health purposes. For more than 25 years, the LAP and its various partner programs have acquired such interests to approximately 154,000 acres of Catskill/Delaware watershed land. Together with lands protected by other entities such as New York State and land trusts, these acquisitions have raised the level of protected land in the Catskill/Delaware watershed from 24% in 1997 to almost 40% today.

1.1 Regulatory Context

The LAP grew out of the City's response to the 1986 Federal Safe Drinking Water Act Amendments and the 1989 Surface Water Treatment Rule (SWTR) promulgated by the USEPA, which required most public water utilities to either filter their water supply or meet specific "filtration avoidance" criteria. Under the SWTR, applicants for filtration avoidance must "demonstrate through ownership and/or written agreements with landowners within the watershed that it can control all human activities which may have an adverse impact on the microbiological quality of the source water." As such, ownership interest in watershed lands has been and remains a central component of the City's ability to successfully meet filtration avoidance criteria for the high quality Catskill/Delaware water supply.

DEP initially sought to establish a land acquisition program in the Catskill/Delaware watershed as a condition of the first FAD issued in 1993. That year, the City applied for a WSP from the NYSDEC while concurrently attempting to promulgate new Watershed Rules and Regulations. Those initial efforts met strong resistance from many WOH watershed communities who viewed the City's efforts as a threat to their future economic vitality. Over the next several years, the City engaged in extensive negotiations with federal and State regulators, local government officials, and environmental organizations that culminated in the signing of the 1997 Watershed Memorandum of Agreement (MOA). Under that landmark agreement, the City agreed to undertake a wide array of programs to protect water quality while supporting local economic development. Pursuant to the MOA, the City dedicated \$300 million for a land acquisition program to be governed by specific program parameters and acquisition procedures as detailed therein.

In January 1997, the City received a WSP issued by NYSDEC, and the first acquisition under the newly formed LAP closed in October of that year. The WSP was issued for a ten-year period through January 2007, with a five-year renewal option. A successor WSP was issued by NYSDEC in December 2010 with a 15-year term through December 2025.

Since 1997, USEPA and NYSDOH have issued the City a series of FADs that have continued to place strong emphases on land acquisition. The 2007 FAD required the City to dedicate an additional \$241 million for land acquisition, and to develop a Long-Term Land Acquisition Plan covering 2012-2022, which DEP submitted in September 2009.

The 2017 FAD, which was revised by NYSDOH in 2022, requires the City to develop a 2023-2033 Long-Term Land Acquisition Plan to be submitted in May 2023; this Plan meets that deliverable while intending to forecast a land acquisition strategy consistent with a successor WSP expected to be issued in 2025 and a successor FAD anticipated to be issued in 2027.

1.2 Real Estate Methods and Procedures

The LAP follows numerous methods and procedures that were determined during original program development, many of which are memorialized in the 1997 MOA and subsequent WSPs. Over the years, subsequent FADs and stakeholder agreements have led to additional requirements, programs, procedures, and policies. Together these govern how the LAP identifies and prioritizes properties, solicits landowners, appraises properties, configures real property rights to be acquired, determines public access to lands acquired in fee simple, pays property taxes, conveys conservation easements (CEs) to the State on fee simple lands held by the City, and myriad related matters. The LAP has successfully maintained an excellent record of compliance with all MOA, FAD, WSP, and other statutory or legal obligations; some of the most important parameters governing the LAP include:

- **Willing Buyer/Willing Seller.** Landowners and the City must both enter into transactions on a strictly voluntary basis. The LAP makes purchase offers to willing sellers based on appraised fair-market values, but landowners are under no obligation to sell until and unless a purchase contract is executed.
- **Fair Market Value.** The LAP commissions appraisals of real property interests at fair market value by independent New York State-certified appraisers. Purchase offers are based strictly on the results of these appraisals, and landowners have the right to submit their own commissioned appraisals that, if submitted, must be considered by the LAP's appraiser. Only under very limited circumstances, such as mortgage or tax foreclosure, can the LAP make a purchase offer and acquire land at below fair market value. The LAP model purchase contract provides for limited reimbursement to sellers of costs related to subdivisions and site cleanups.
- **Solicitation.** Parameters surrounding the LAP's obligation to diligently pursue acquisition are outlined in the MOA. Although the LAP retains flexibility to decline interest in a property upon inspection, the City is obligated to pursue acquisition in good faith once an appraisal is ordered (except in very limited circumstances, which have never been triggered to date). Since 1997, the LAP has been required to meet a series of annual or multi-year targets for solicitation of acres; this includes both "original solicitation" (a landowner is contacted for the first time to pursue acquisition of a given property) and "re-solicitation" (attempts in subsequent years to either recontact a landowner after failing to generate a positive response from the original solicitation, or after contacting the new owner of a property of interest after it has been transferred in the marketplace).
- **Real Property Rights.** The City and its LAP partners can fund the acquisition of property interests via purchase of CEs or land in fee simple. The City's preferred path is generally to acquire land via fee simple, which results in the highest level of control, allows the City to consider recreational uses, natural resource management,

and other uses on the property acquired, and makes the most efficient use of City staff in both the short and long-term. In cases where landowners are unwilling to sell their land outright in fee simple, a CE can be purchased that limits future development through the acquisition of perpetual deeded rights. Although initial acquisition costs of CEs are lower than fee simple purchases, CEs involve significantly longer negotiating timeframes, more complex legal documents and transactions, and higher long-term investments of City resources for monitoring, reviewing proposed uses, and potentially enforcing deed restrictions. Although the City acquired several relatively small CEs in the early years of the LAP, CE purchases are now generally pursued on larger and more compelling properties.

- **Property Taxes.** The City pays property taxes on all land and CEs it acquires, as well as on CEs acquired by WAC. Pursuant to the MOA, watershed towns are required to assess taxes in accordance with certain rules and the City is required under the MOA and State law to pay taxes as assessed. Since 1997, the City has paid approximately \$170 million in local property taxes on all real property interests acquired by the LAP throughout the entire watershed, including Croton; this number is approximately \$157 million for only lands acquired by the LAP in the Catskill/Delaware watershed.
- **CE Conveyance to NYSDEC.** Pursuant to the MOA, permanent protection of land is achieved not only through the City's acquisition and stewardship of real property interests, but by the conveyance of CEs to NYSDEC over lands acquired by the City in fee simple. Each CE conveyed to NYSDEC usually includes multiple properties per county. As of December 31, 2022, DEP had submitted 85 CEs on fee simple lands covering 1,112 properties (74,716 acres), of which NYSDEC has recorded 83 CEs on 1,093 properties (72,835 acres). Recently, watershed communities have expressed an interest in the City and NYSDEC amending the CE conveyed on fee simple lands to better support future community expansion objectives; these ongoing discussions are codified as a requirement of the revised 2017 FAD and represent one of several contributing uncertainties that DEP must consider in this Long-Term Plan.

1.3 Planning Principles

The Catskill/Delaware watershed spans just over a million acres in eight upstate counties. Identification of the most important parcels for acquisition within this vast watershed is an ongoing process based on several geographic, topographic, and real estate factors. The LAP prioritizes solicitation based on a property's location within the water supply system, followed by various site-specific characteristics and principles as embodied in the MOA.

Priority Areas

The basins and sub-basins comprising the Catskill/Delaware watershed are assigned the following Priority Areas, which were codified in the 1997 MOA and are depicted in Exhibit A:

- **Priority 1A:** Sub-basins within 60-day travel time to distribution located near reservoir intakes.
- **Priority 1B:** All other sub-basins within 60-day travel time to distribution.

- **Priority 2:** All remaining sub-basins in terminal reservoir basins.
- **Priority 3:** Sub-basins in non-terminal reservoir basins with water quality problems identified as of 1996.
- **Priority 4:** All other sub-basins in non-terminal reservoir basins.

The 1997 MOA originally required the LAP to solicit at least 355,050 acres in accordance with a schedule that progressively targeted higher Priority Areas first while considering the percentage of eligible lands to be solicited (ranging from 95% of eligible lands in Priority Area 1A down to 50% in Priority Area 4). In 2000, DEP issued the LAP Out-Basin Plan, which detailed a strategy for solicitation in Priority Areas 3 and 4 – regions where property selection and ranking had been much more important than Priority Areas 1 and 2 because virtually all eligible properties were to be solicited within the latter. This strategy has remained central to the LAP's evolving process for prioritizing solicitation over time.

Pursuant to the 2007 FAD, the LAP's 2008-2010 Solicitation Plan called for an additional 90,000 acres of new solicitation, primarily in Priority Areas 3 and 4 since Priority Areas 1 and 2 had already been almost entirely solicited, effectively raising the level of solicitation in those Priority Areas above the original MOA thresholds. Since 2010, DEP has also emphasized core LAP solicitation within certain reservoir basins based on the overall level of protection and contribution to future supply (Areas of Focus), as well as certain subbasins based on their proximity to reservoir intakes and/or lower levels of protected land (Areas of High Focus). As depicted in Exhibit B, the Areas of High Focus are primarily located in portions of the towns of Tompkins, Masonville, Walton, Colchester, Andes, Hamden, Bovina, Roxbury, Prattsville, Jewett and Lexington.

The Revised 2017 FAD currently requires the LAP to solicit or resolicit 200,000 acres during the period 2018-2024, a decrease from 350,000 acres that were originally required before the FAD was revised in 2022. As of December 31, 2022, the LAP has solicited 150,390 acres (75%) against the Revised 2017 FAD requirement (covering 2018-2024) and over 480,000 unique acres in total since 1997.

Natural Features Criteria

Natural Features Criteria (NFC) establish a set of hydrologic and topographic features, of which one or more criteria must be present at specific minimum levels on a property for it to qualify for acquisition in Priority Areas 2, 3 or 4. The LAP uses a proprietary Geographic Information System (GIS) to overlay NFC onto tax parcels as part of the property evaluation process illustrated in Figure 1. Because contaminants can be transported during a rain event to a reservoir within a few days from virtually any point in the tributary system, the distance of a parcel to a reservoir, whether along a tributary or in absolute terms, is not used as the sole factor in determining its priority. Rather, NFC represent the driving force behind the LAP's property ranking process, in particular the amount of surface water criteria. Over the last twenty years, the NFC originally defined in the MOA have been further refined by DEP based on stakeholder input and the LAP's success in raising the proportion of protected lands in important subbasins.

- **Surface Water Criteria (SWC).** For purposes of land acquisition, SWC includes watershed lands that are (a) within 1,000 feet of a reservoir, (b) within a designated

floodplain, (c) within 300 feet from a defined watercourse, or (d) within a wetland that is mapped by NYSDEC and/or federally designated and larger than five acres. The amount of SWC on a property has always been a primary consideration for the LAP due to the potential for pollutants to enter and be transported by watercourses during rain events (when most pollutant transport occurs) and rapidly reach reservoirs regardless of distance. While the LAP has always focused on streams and stream buffers, strategies have been narrowed over time such that more projects now involve subdivisions that exclude drier areas from acquisition, thus increasing the proportion of stream buffer acquired relative to total property size and allowing less sensitive land to remain privately owned and available for future development. The level of protected lands throughout the Catskill/Delaware watershed emphasizes the importance of not just quantity but quality of lands acquired, and the location of those lands with respect to Priority Areas, subbasins, and water supply operations. This Plan recommends strategies that consider the overall status of protected lands within reservoir subbasins, the evolution and direction of program requirements, funding and other resources allocated to land acquisition, and what can be accomplished during the ten-year planning period.

- **Steep Slopes.** For purposes of land acquisition, steep slopes are defined as a gradient of 15% or more. This distinction is made for several reasons that pertain to property selection: (a) parcels with steep slopes along public roads are more expensive and therefore less likely to be intensively developed; (b) soils are likely to be thinner on steeper slopes, making septic systems more expensive to construct; (c) steep slopes shed water faster and can erode more easily, thus are more likely to transport silt and particulates downhill into watercourses when disturbed by poor forestry, roads, or construction. Although slope factors are one of the NFC considerations in ranking and deciding whether to solicit a property, the LAP generally examines slope on a site-by-site basis where other factors are not determinative.

Property Ranking

The LAP employs a GIS-based ranking system that uses three equally weighted components (property size, percent SWC, and slope characteristics) to assign values to each property. A property is defined as one or more tax lots owned by the same entity; tax parcels in whole or part may be excluded from acquisition if they are not sufficiently compelling and/or if they would make the remaining property ineligible. Properties are evaluated against others within a geographic area such as basin, subbasin, or Priority Area, yielding rankings as depicted in the simplified example shown in Figure 1. Most situations are more complex, involving multiple tax lots of varying size and quality in a single ownership, developed or farmed portions, areas that are partially within half-mile zones around hamlets or outside the watershed, or land with limited legal access or road frontage. The LAP considers these characteristics along with long-term stewardship concerns when determining how much of a property should be solicited and/or how to configure properties in the event subdivision is necessary.

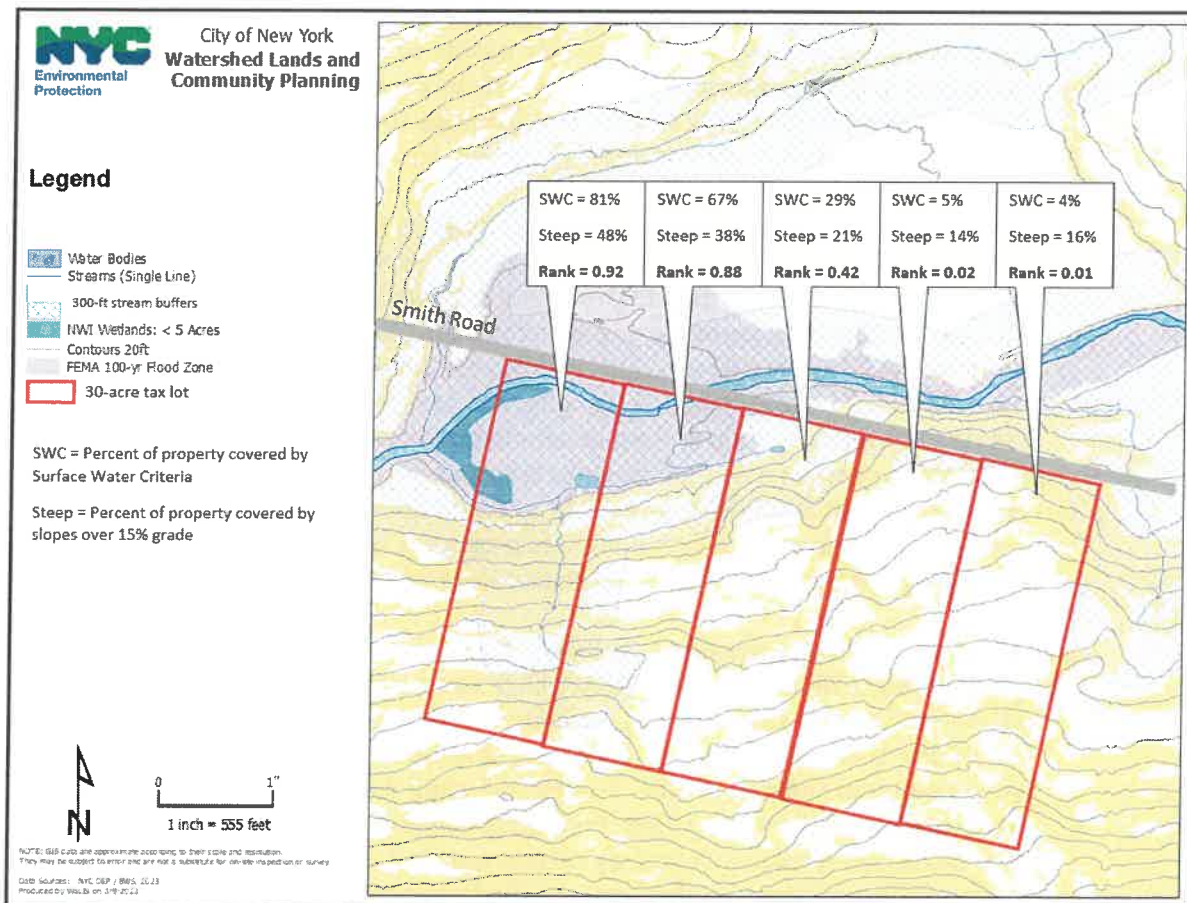


Figure 1. Hypothetical example of five properties with similar size and road frontage characteristics to illustrate how they would rank against each other in terms of surface water features and steep slopes over 15% grade. The higher the ranking, the higher the priority relative to other properties in the group examined.

2. Overview of Programs

As outlined in the MOA, the City's original program to acquire CE interests and fee simple lands has come to be known as "core LAP". While core LAP has focused mostly on fee simple acquisitions, several other willing buyer/willing seller programs implemented by partners have since been created to address particular situations, real property interests, and focus areas, thus resulting in a multi-faceted approach to land protection in the Catskill/Delaware watershed. In partnership with WAC, the City funds the purchase of CEs on agricultural and forest land. In partnership with the Catskill Center for Conservation and Development (CCCD) through the SAP, the City funds focused acquisition of streamside buffer lands and floodplains in the Schoharie basin. In partnership with communities through the New York City-Funded Flood Buy-Out Program (NYCFFBO), the City funds acquisition of high priority improved parcels that are important for local flood hazard mitigation and water quality protection objectives.

For the past ten years, the overall LAP has operated according to DEP's 2012-2022 Long-Term Land Acquisition Plan that outlined the following goals and strategies, annotated with a short update on how each has been implemented:

1. **Increase percentage of protected land in the Catskill/Delaware watershed with emphasis on (a) non-terminal reservoir basins with less than 30% protected lands, (b) specific subbasins with low levels of protected lands, and (c) reservoir basins expected to provide larger contributions to future water supply.** Key strategic accomplishments towards this goal are summarized later in this Plan.
2. **Develop parcel selection procedures to maximize the water quality benefit of acquisitions, in part by (a) augmenting parcel ranking with new GIS stream network resulting from new LiDAR data collected in 2009 to improve accuracy, and (b) adding road frontage as part of the ranking factors.** Since 2012, core LAP has used the GIS data that was derived from the 2009 LiDAR collection (land use/land cover, hydrography, topography, and basin boundaries) to improve parcel ranking and refine criteria to support solicitation in conjunction with prioritized Areas of Focus. Properties with road frontage are examined on a case-by-case for development potential since access can be too steep or blocked by features not necessarily apparent on GIS, while some properties with road frontage are undevelopable because of SWC yet remain compelling precisely due to such features.
3. **Build on existing programs to promote City lands as a working landscape in partnership with local communities.** DEP continues to honor its commitment to expand use of City-owned lands, including support of locally driven initiatives that contribute to economic vitality. DEP has significantly expanded recreational access to newly acquired lands soon after closing, including the full range of hunting opportunities as allowed by New York State and several new types of uses such as non-motorized recreational boating on non-terminal reservoirs and a pilot electric-motor trolling program on the Cannonsville Reservoir. Streamside acquisitions also offer new opportunities for public fishing access and potential connectivity to recreational trails. In addition, the Revised 2017 FAD includes several community-driven initiatives that DEP is actively discussing with stakeholders, such as (a) exploring land swaps between the City and local communities to facilitate relocation of development out of floodplains or potentially assist with economic vitality projects, and (b) considering a proposal by Delaware County for a possible land licensing program that involves payments to landowners who retain ownership of their property while committing to certain stewardship obligations.
4. **Develop strategies to promote the wise use of acquisition funds over the long term.** In recent years, core LAP has reduced solicitation in WOH geographic areas with relatively high land values, although high-cost properties are occasionally pursued when water quality benefits are deemed compelling. During the first decade of core LAP, for example, acquisitions in the Town of Woodstock represented 54% of acres (65 contracts) in the Ashokan basin and 47% of costs, whereas acquisitions in Woodstock represented 17% of acres (eight contracts) and 14% of costs during the period 2010-2022. The reduced focus on high-cost properties in areas such as this makes sense given the higher levels of protection already achieved combined with the more expensive market. Core LAP has also concentrated on lower cost areas in less protected WOH basins.

2.1 WAC Farm and Forest CE Programs

In 1999, as required by the MOA, DEP began funding a program to purchase Farm CEs that is locally managed and implemented by WAC. These CEs allow, but do not require, agricultural and forestry uses. If the property is farmed, the CE requires that agricultural activities be undertaken pursuant to a Whole Farm Plan which prescribes best management practices to control agricultural pollution and allows for a diversity of agriculture-related uses. WAC Farm CEs preclude most other types of development except within a designated zone known as an Acceptable Development Area. Each WAC Farm CE defines several areas that are restricted to certain uses. Unlike CEs that are acquired by core LAP and stewarded by DEP, Farm CEs are owned and stewarded by WAC using City funding.

In 2013, pursuant to the 2007 FAD and the 2010 WSP, DEP began contracting with WAC to fund a pilot Forest CE Program, distinct from the CE program offered through core LAP. WAC Forest CEs are directed towards tracts of private land that are actively managed for forest products, and the deed includes several defined areas that are restricted to certain uses, primarily forest regeneration and harvesting. More intensive uses are prohibited except in small, defined areas. In December 2019, DEP submitted an evaluation report as a requirement of both the FAD and WSP, recommending continuation of WAC's Forest CE Program. The WSP requires the NYSDEC, in consultation with NYSDOH, to determine whether the pilot Forest CE Program shall be continued or expanded. In the absence of a formal NYSDEC determination, DEP continues to fund the WAC Forest CE Program pursuant to requirements of the Revised 2017 FAD, which also requires that DEP convene a workgroup in 2024 to explore the suitability of including pre-emptive purchase rights within WAC CEs.

2.2 Flood Buyout Programs

Since 1997, the LAP has managed two flood buyout programs that have resulted in acquisition of fee simple lands either by the City or local communities, with CEs eventually to be conveyed to NYSDEC regardless of owner. Sellers receive the significant benefit of being paid the appraised value as if flood damage had not occurred.

Following flood events in 1996 and 2011, DEP partnered with several watershed towns and counties to protect sensitive lands through the Federal Emergency Management Agency (FEMA) Flood Buyout Program (FBO), combining City funds (25% of acquisition costs) with State and federal funding (75%). In support of these FEMA flood buyouts, the LAP managed landowner negotiations, contracts, and transactions.

The 2010 WSP and the Revised 2007 FAD both required the City to fund a New York City-Funded Flood Buyout Program (NYCFFBO), which became active in 2016 and is designed to operate between FEMA-designated flood events and to accept only projects advanced by communities. The NYCFFBO encourages local municipalities to accept ownership of such properties, although they may also request that the City take ownership.

2.3 Streamside Acquisition Program

The 2010 WSP required the City to fund a new Riparian Buffer Acquisition Program, now called the SAP, that is managed by CCCD and focuses on purchase of streams and riparian buffers throughout the Schoharie basin as a pilot program. Development of the SAP was based

on significant input from stakeholders that resulted in a Program Development Initiative (PDI) report commissioned by the Town of Hunter and prepared by CCCD. The PDI report proposed procedures and criteria for this new acquisition program. In July 2015, DEP began contracting with CCCD to operate the pilot SAP.

Per its DEP contract, CCCD develops SAP solicitation plans and outreach strategies to engage with municipalities and landowners. CCCD began soliciting properties in 2016 with a focus on Stream Preservation Areas (SPAs), creating criteria for buffers on individual parcels located along main stems and tributaries identified in Stream Management Plans for the Schoharie basin as developed by county Soil and Water Conservation Districts in partnership with DEP's Stream Management Program (SMP). SPAs are designations within Stream Management Plans that include stream management units with intact forested buffers that are deemed high priority for protection. Units are characterized as being moderately to highly stable and functioning effectively.

In 2018, pursuant to a 2017 FAD requirement, DEP convened meetings with watershed stakeholders to explore and develop incentives that might increase landowner participation in the SAP. In March 2019, the following SAP incentives were proposed and eventually finalized and adopted for implementation in the Schoharie basin:

- Increased down payments for properties with low appraised values.
- Reimbursement for removal of debris and improvements under specific conditions.
- Reimbursement for certain subdivision costs incurred during the purchase contract.
- A \$2,000 payment, beyond the purchase price, for properties that contain 85% or greater of SWC.
- A \$3,000 payment beyond the purchase price for properties where fair market value is \$40,000 or less.
- An additional \$1,000 payment beyond the purchase price or those properties valued at \$40,000 or below that require subdivisions.

In addition to financial incentives, the SAP also includes the following non-financial incentives: (a) an Option Agreement that would allow flexibility in cases where a SAP acquisition would only make sense if the property were part of a larger assemblage; (b) potential conveyance of SAP-acquired property to third parties; and (c) sample language for local subdivision ordinances that interested towns could adopt to allow for SAP-friendly subdivisions that are currently prohibited by town laws, allowing wetter portions of parcels to become eligible for the SAP while leaving areas further from watercourses available for future development. The latter incentive would facilitate new opportunities for landowners to participate in the SAP.

Properties with qualifying streams, stream buffer, wetlands, floodplain, and/or reservoir buffer are eligible for purchase and protection under the SAP. Among such eligible parcels, the SAP's current Solicitation Strategy prioritizes (a) long stretches of continuously forested riparian buffers; (b) SPAs and other priorities identified by Stream Management Plans; and (c) priorities identified by local communities that are acceptable to the SAP.

3. Evolution of Programs

During the past two decades, core LAP and partner programs have undergone significant evolution. Core LAP in particular has progressively refined its focus away from WOH population centers – including areas considered “designated hamlets” under the 1997 MOA as well as “expanded hamlets” pursuant to the 2010 WSP – and towards lands most sensitive and important for water quality protection. The MOA originally designated WOH areas within which municipalities were given the option, to be reconsidered every five years, to exclude LAP acquisition of CEs and/or land in fee simple; most communities elected to exclude LAP from both. In 2010, as part of negotiations related to a new WSP, the City and watershed stakeholders agreed to expand the original MOA hamlet designations, while the entire Town of Shandaken was excluded from outgoing LAP solicitation as codified in the 2010 WSP. According to DEP’s GIS calculations, there is a total of 64,512 WOH acres (including Shandaken) where LAP is now largely excluded. Figure 2 depicts the status of all MOA designated hamlets and expanded hamlet areas as of December 31, 2022, along with other WOH areas with LAP solicitation restrictions as further described in the next section of this Plan.

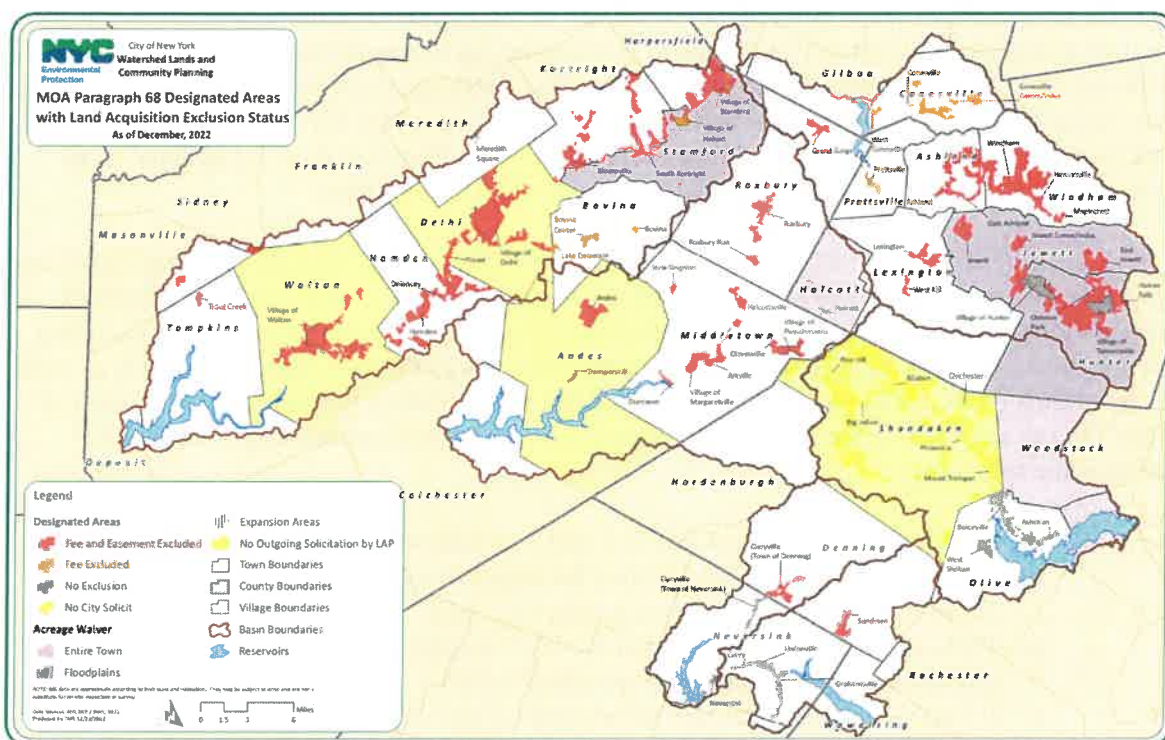


Figure 2. MOA designated hamlets, expanded hamlet areas, and other WOH watershed areas with LAP restrictions (no outgoing solicitation) as of December 31, 2022.

3.1 Town Level Assessments

In support of the 2010 WSP, DEP issued a Final Environmental Impact Statement (FEIS) on the “Extended New York City Watershed Land Acquisition Program”. The FEIS detailed several future scenarios for land acquisition using a conservative model (i.e., high expectations of acres to be acquired) to ensure that socioeconomic impacts on WOH communities were not underestimated, particularly in areas where LAP expected to solicit more frequently. The FEIS included projections of acreages to be acquired in 20 WOH towns that were chosen for in-depth

evaluation, along with assessments of projected impacts on the supply of developable land. Although the FEIS concluded that the total acquisitions authorized by the 2010 WSP were not expected to result in significant adverse socioeconomic impacts, neither the FEIS nor the WSP imposed limitations on the number of acres to be acquired in any given town.

During stakeholder discussions leading up to the 2017 FAD, watershed communities identified one town (Delhi) where core LAP and WAC acquisitions had collectively exceeded the FEIS projected acres along with several other towns where acquisitions were approaching the FEIS projected acres. DEP subsequently agreed to temporarily limit core LAP's outgoing solicitations in eight towns, and in April 2017 DEP issued updated town level assessments for 21 WOH towns to further evaluate the projected effects of continued land acquisition. Since then, acquisitions have reached the FEIS projected acreage in two towns (Walton and Andes); along with Delhi, core LAP no longer outwardly solicits landowners in these towns.

When the 2017 FAD was initially issued, it established a new LAP solicitation goal of 350,000 acres for the period 2018-2024 in addition to increasing solicitation acreage credit for the SAP and NYCFFBO from two-to-one to five-to-one, up to a maximum of 20,000 acres including WAC CE Programs on a one-to-one acreage basis; as previously noted and discussed later in this Plan, these metrics have since been further revised. The 2017 FAD also required DEP to modify its 2012-2022 Long-Term Land Acquisition Plan based on the updated town level assessments and comments received from watershed stakeholders.

In April 2018, DEP submitted proposed modifications to its 2012-2022 Long-Term Land Acquisition Plan, which NYSDOH approved in March 2019. These approved modifications further adjusted several aspects of LAP's planning principles effective immediately, including refinements to the minimum NFC solicitation requirements in Priority Areas 2, 3 and 4, as well as new limits on outgoing solicitation that expanded on a previous limitation for the Town of Shandaken as required by the 2010 WSP. Specifically, the modifications approved in 2019 included the following:

1. Revise NFC limits in Priority Areas 2, 3 and 4 as follows:
 - a. Raise the minimum SWC needed for acquisition (not solicitation) from 7% to 15% for properties that do not adjoin City land.
 - b. Within a half-mile zone around the 1997 hamlet designated areas, raise the minimum SWC needed for acquisition to 30%.
 - c. If LAP (core LAP plus partner programs) has acquired either 60% of the FEIS projection since 2010 for a given town, or more than 2,000 acres since 2010 for that town, the minimum SWC for an acquisition project would be raised to 50% within the half-mile zones around the 1997 hamlet designated areas. This immediately applied to the towns of Andes, Bovina, Delhi, Kortright, Middletown, Roxbury, Walton and Windham.
2. Offer each WOH town the ability to designate up to 100 acres of new land that would be off limits to outgoing solicitation by DEP's core LAP. Within a given county, interested towns could reallocate these 100 acres. DEP's core LAP may still accept landowner-initiated contact (incoming solicitations) in these areas.

3. DEP's core LAP will cease outgoing solicitation, limiting itself to responding to incoming landowner inquiries, in towns where the FEIS projection has been reached or more than 4,000 acres have been acquired since January 1, 2010. This immediately applied to the towns of Andes, Delhi and Walton. In addition, DEP had already ceased outgoing solicitations in the Town of Shandaken since 2010, pursuant to the WSP.

The current status of LAP acquisitions with respect to FEIS town-level assessments and thresholds is presented in Exhibit C; acreages approaching limits from the April 2018 plan are listed in blue font. In Delaware County, the Town of Bovina is closest to the "no outgoing solicitation" benchmark, with only 319 acres remaining to be acquired before core LAP ceases outgoing solicitation. In Greene County, the Town of Windham is closest to that threshold, with only 77 acres remaining to be acquired before core LAP ceases outgoing solicitation.

Watershed-wide, the LAP is limited to acquiring no more than 106,712 acres since January 1, 2010, of which no more than 105,043 acres can be acquired in total for all WOH towns. Between January 1, 2010 and December 31, 2022, core LAP and partner programs have executed contracts on 52,840 acres (51,783 acres in WOH towns), leaving a conservative balance of 53,872 acres for potential acquisition watershed-wide (53,260 acres in WOH towns).

3.2 NASEM Recommendations

In August 2020, the NASEM Expert Panel released a report titled "Review of the New York City Watershed Protection Program" that contained over 60 conclusions and recommendations. Six of these recommendations involved the LAP, of which five directly focused on the LAP. These recommendations are summarized below along with public comments submitted by various stakeholders and steps being taken to address each recommendation. It is worth noting that in April 2021, DEP proposed several additional modifications to core LAP that were shared with watershed stakeholders in response to the NASEM recommendations; these modifications have since been incorporated and therefore reflect further enhanced selectivity of properties by the LAP overall.

1. **Increased coordination between the SMP and other Watershed Protection Programs would more effectively prioritize project locations and achieve restoration objectives.** There was a comment submitted by an environmental stakeholder suggesting that the LAP should coordinate with the SMP, WAC, and other partners and programs to identify high priority riparian corridor protection and stream buffer improvement projects on SAP-acquired lands; the comment also suggested that such coordination could take place after City acquisition but before a CE is conveyed to NYSDEC.

In response to this recommendation, DEP is actively working internally and with watershed stakeholders to improve coordination between the SAP, core LAP, and the SMP to better focus solicitation and potential acquisition. In the short term, the LAP will incorporate WOH stream feature inventories provided by the SMP through DEP's internal GIS database to inform parcel selection on a case-by case-basis. Solicitation will prioritize riparian buffers containing intact, stable forested areas that have minimal need for treatment or management. To further improve coordination, the LAP will regularly consult with the SMP on special projects

for input on whether an acquisition would enable or benefit restoration, flood hazard mitigation, riparian planting, recreation, or applied research projects.

Additionally, DEP notes that it manages land use on newly acquired fee simple properties subject to the same constraints as if the NYSDEC CE were in place, even if the CE is not yet transmitted or recorded.

- 2. The metrics of the LAP should focus on acquisition of the most valuable lands for water quality protection.** There was strong agreement among environmental stakeholders that the LAP should concentrate acquisition of lands more tightly configured around riparian buffers and other highly sensitive lands. Watershed communities expressed a view that specific metrics such as an objective ranking system should be used to eliminate any acquisition that does not directly contribute to water quality objectives. Communities also expressed a desire for a complete restructuring of the LAP, with an augmented focus on community vitality and acquisition only of lands that have little development potential. The New York State Watershed Inspector General's office emphasized the value of including lands with steep slopes regardless of proximity to streams.

The definition of "valuable" or "compelling" properties has changed over time, influenced by lessons learned, geography and evolving program rules/requirements. The LAP's metrics and planning principles are continually refined and currently focus largely on SWC, while parcel configurations increasingly carve out drier lands that are distant from watercourses, away from population centers, and potentially developable. Although NFC rules fundamentally allow the LAP to pursue properties that lack SWC if they are more than half covered by steep slopes over 15%, core LAP has generally not pursued, with few exceptions, drier properties regardless of slope. This has resulted in more configurations that require subdivisions.

In response to this recommendation and the one below, and as shared with watershed stakeholders in April 2021, DEP has further agreed that for properties in Priority Areas 2, 3 and 4, the core LAP has: (a) increased SWC from 7% to 15% for parcels under 200 acres that are outside half-mile buffers around MOA-designated hamlet areas and adjoining City-owned lands; (b) increased SWC from 15% to 20% for parcels under 200 acres that are outside half-mile buffers around MOA-designated hamlet areas and not adjoining City-owned lands; and (c) increased SWC to 30% (from 7% or 15%) for parcels over 200 acres regardless of hamlet buffers and adjacency to City-owned land. DEP retained the existing policy that these SWC modifications do not apply to the SAP, NYCFFBO or WAC CE Programs even though the acreages acquired by those programs do count towards FEIS projections. Compared to DEP's April 2018 modifications that were approved by NYSDOH, these April 2021 modifications further reduced available lands for core LAP solicitation by more than 103,600 acres or 33%. The definition of "compelling" is expected to be discussed further among watershed stakeholders in the months ahead.

- 3. The current practice of focusing on acquiring larger parcels in core LAP should be reconsidered.** There was general agreement by environmental organizations and watershed communities that DEP should increase science-based metrics to evaluate properties for acquisition, and that smaller, less developable parcels or parcels with combined community and water quality benefits should be pursued.

Defining “large” is important for establishing criteria, to ensure consistency with the recommended focus on “most valuable” land. Core LAP has defined 200 acres as the current threshold for “large”, although properties with substantial SWC can exceed that limit and still be compelling enough for acquisition of fee simple or CE. For this reason, the LAP does not specifically target larger properties, although such parcels may be pursued occasionally if deemed compelling for water quality protection. Establishing a size threshold relates not just to fee simple acquisitions but in particular to CEs. The LAP has largely avoided acquiring CEs smaller than 75 acres and has established 100 acres as a minimum guideline for most CEs because they involve significant investment of staff time and costs upfront; both factors are magnified after acquisition by the need for perpetual monitoring, enforcement, and maintenance of relationships with current and future landowners. For these reasons, core LAP continues to consider properties that are both “large” and “compelling” for acquisition of CEs.

4. **DEP should work with watershed communities to identify parcels now owned by DEP with lower protection value that offer development or relocation potential.** While the general concept of “land swaps” was supported by some environmental organizations, no stakeholder comments specifically addressed relocation.

DEP is interested in considering specific proposals for specific properties from local communities. In fact, this recommendation was originally a requirement of the 2017 FAD and remains a requirement of the Revised 2017 FAD. Recently, DEP engaged in preliminary discussions with two communities about potential specific land swap proposals. However, DEP notes that the CE it conveys to NYSDEC on lands acquired in fee simple may present limitations for land swaps, depending on the property and its location within a specific Priority Area. The Revised 2017 FAD requires that DEP participate in a stakeholder workgroup to explore potential changes to NYSDEC CE language; those discussions are ongoing and remain one of the uncertainties that may influence this Long-Term Plan after submission.

5. **Land acquired under the Farm CE Program should be retired from intensive agricultural production.** The few comments submitted generally opposed this recommendation, based on the position that both the Farm CE and corresponding Whole Farm Plan already balance community vitality and water quality objectives. A stated goal of the WAC Farm CE Program is to support the conservation of working landscapes, which are central to the rural character of the WOH watershed.

DEP also disagrees with this recommendation, noting that Whole Farm Plans recommend best management practices that are implemented to control impacts from agricultural activities, particularly intensive uses. Further restricting agricultural uses would likely result in marginal water quality benefits while constraining the ability of eased farms to sustain their economic viability, thus conflicting with other NASEM recommendations that address the importance of community vitality as a dual goal of the MOA. It is also worth noting that the Revised 2017 FAD requires that DEP, in consultation with WAC, convene a workgroup in 2024 to explore the suitability of including pre-emptive purchase rights within WAC CEs.

6. **DEP should shift funding and emphasis to acquiring riparian lands on critical areas of tributary streams through the SAP and NYCFFBO.** Communities and environmental stakeholders expressed widespread support for both programs, although the specific direction of the SAP remains a point of disagreement. Several

stakeholders recommend wholesale expansion of the SAP throughout the WOH watershed, while some communities have proposed alternative buffer protection programs that reserve acquisitions for mostly undevelopable parcels, contingent upon community support.

One of the ongoing stakeholder workgroups is actively exploring issues related to the expansion of the SAP outside of the Schoharie basin. DEP will continue to dedicate significant resources to both the SAP and NYCFFBO and remains committed to support the continuation of both programs as part of this 2023-2033 Long-Term Plan.

Among other challenges, local subdivision processes can make it difficult to acquire those portions of streamside parcels that are most valuable to water quality, which advances the goal to leave potentially developable lands for future community expansion. In the context of the collaborative discussions during 2020-2021 that resulted in the adoption of new SAP incentives, the Coalition of Watershed Towns helped develop a model amendment for local subdivision ordinances to ease the process of subdivision design, review and approval to facilitate acquisitions targeted at riparian land.

The ongoing workgroup discussions, along with potential changes to local subdivision laws, are factors that will affect this Long-Term Plan.

4. Current Status of Programs

Since DEP's publication of the 2012-2022 Long Term Land Acquisition Plan, roughly 65,000 acres have been protected by core LAP and its partners, bringing total lands protected since 1997 to nearly 154,000 acres based on closed purchase contracts (Table 1). With an additional 34,452 acres owned by the City around reservoirs, almost 190,000 acres of watershed land are currently under some form of City ownership or control, not including land protected by the State and others; this represents a tremendous change in the watershed landscape since 1997.

Table 1. Summary of all LAP projects closed as of December 31, 2022.

	Contracts (#)	Contracts (% total)	Acres (#)	Acres (% total)	Cost (\$M)	Cost (% total)
DEP Fee Simple	1,361	75.2%	96,185	62.6%	\$367.9	75.1%
DEP CEs	170	9.4%	25,933	16.9%	\$72.2	14.7%
WAC Farm CEs	157	8.7%	28,229	18.4%	\$41.5	8.5%
WAC Forest CEs	9	0.5%	2,982	1.9%	\$2.9	0.6%
SAP	26	1.4%	227	0.1%	\$1.5	0.3%
FEMA FBO	64	3.5%	74	0.1%	\$0.5	0.1%
NYCFFBO	22	1.2%	47	0.0%	\$3.5	0.7%
Totals	1,809	100.0%	153,677	100.0%	\$489.9	100.0%

With roughly 40% of the entire Catskill/Delaware watershed now considered protected, DEP does not anticipate that future acquisition levels will continue at the same pace or scale as historical levels. For example, when viewing the accomplishments of the LAP each year based on the execution of purchase contracts, more recent trends indicate that acquisition overall is greatly reduced, with partner programs comprising a larger proportion of deals compared to core LAP. Figure 3 depicts the number of executed contracts annually by core LAP and each partner

program, whereas Figure 4 depicts the number of acres signed to contracts annually and Figure 5 depicts the total cost of these executed contracts each year. For ease of graphical representation, Figures 4 and 5 combine the SAP, FEMA FBO and NYCFFBO into one category.

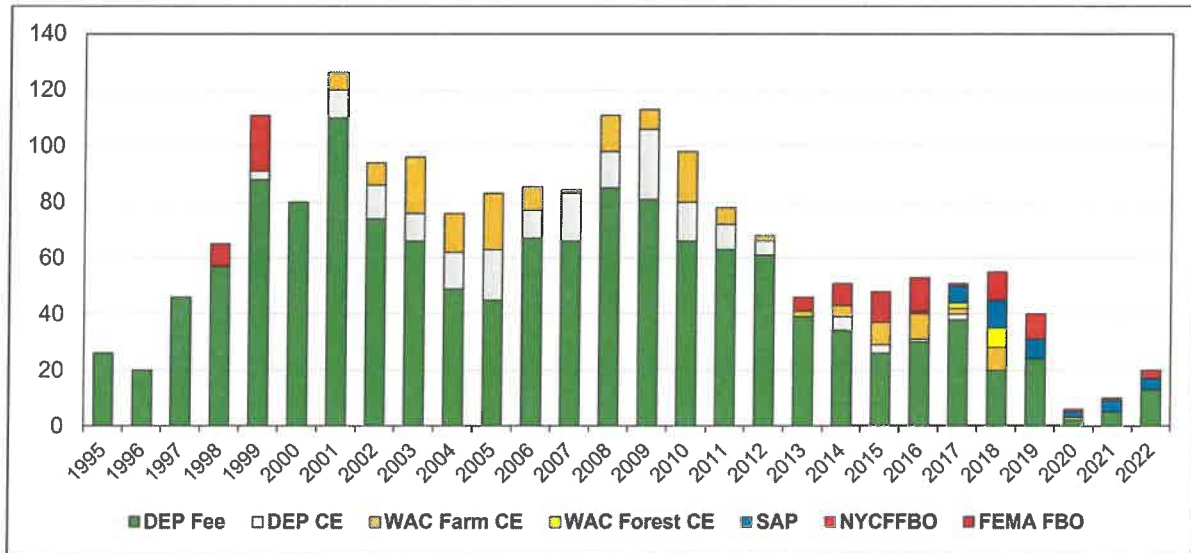


Figure 3. Number and type of all LAP contracts executed annually during 1995-2022.

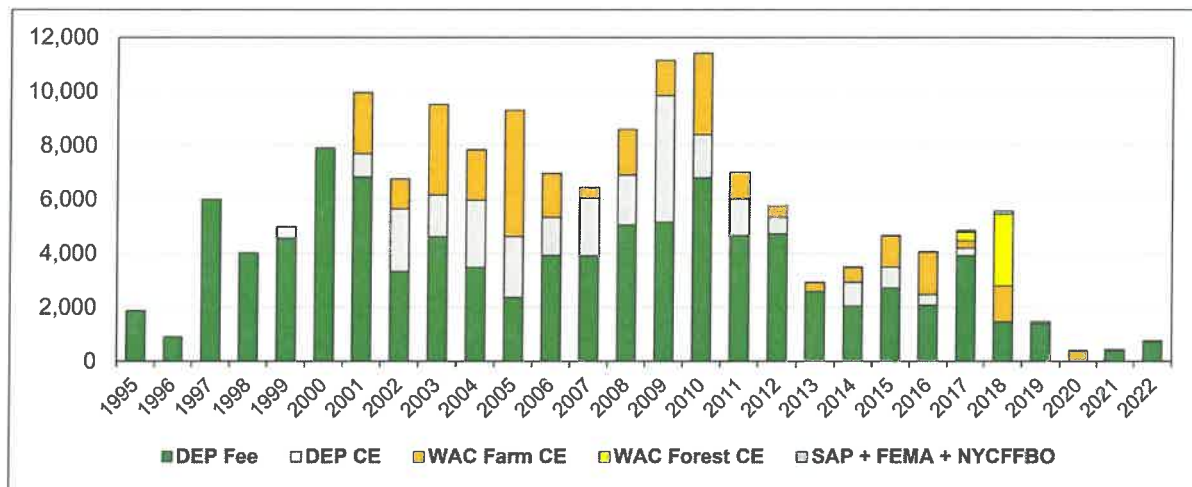


Figure 4. Number of acres signed to various LAP contracts annually during 1995-2022.

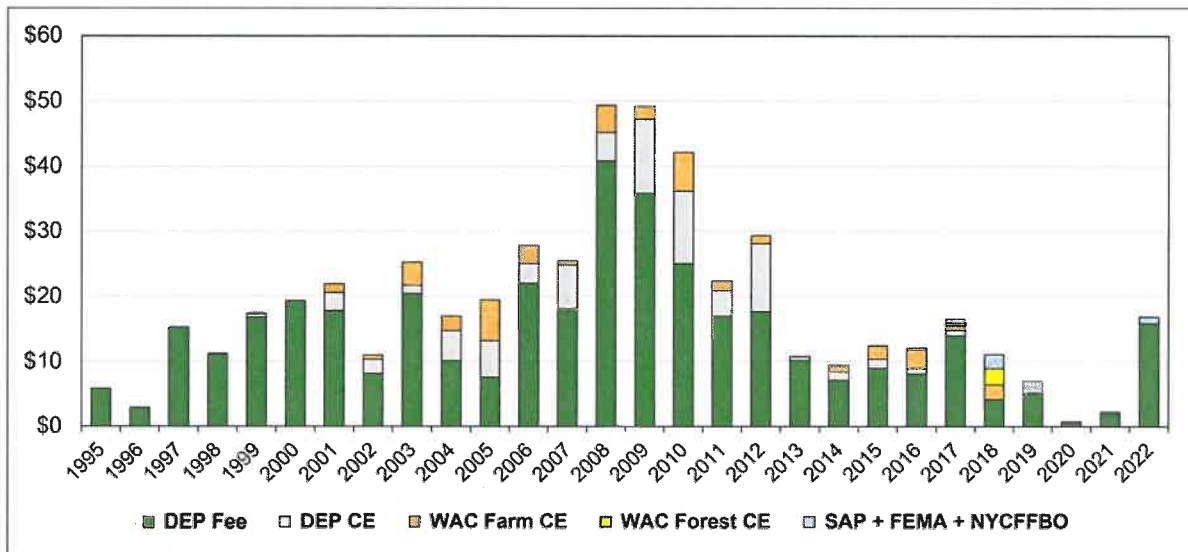


Figure 5. Total cost (in millions) of LAP contracts executed annually during 1995-2022.

As shown in Figures 6 and 7 and Exhibit D, the increases in protected lands since 1997 are meaningful not only at the watershed scale, but also for various basins, subbasins, and Priority Areas. For example, the Schoharie and Pepacton basins, both of which were protected at 20% or less in 1997 (pre-MOA), are now both over 34% protected. Since 2009, as guided by the 2012-2022 Long-Term Plan, DEP has reduced from twelve to three the number of Cannonsville subbasins with protection levels below 10%, while increasing three Pepacton subbasins with protection levels at 10% or less to levels well above that. The three least-protected Rondout subbasins, previously at 19%, 21% and 22%, are now at 23%, 24.4% and 30.7% respectively.

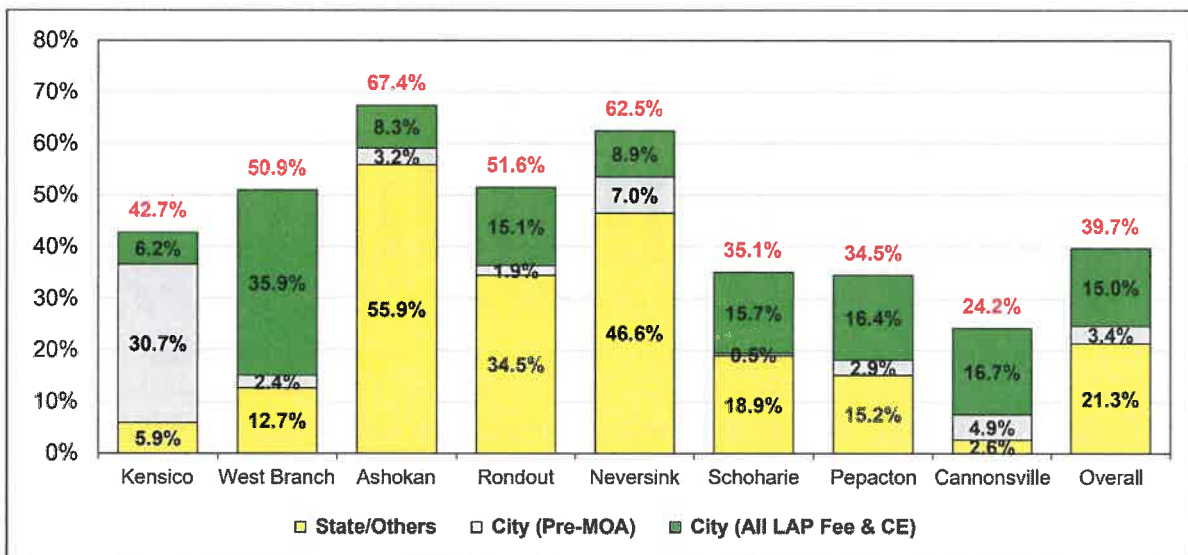


Figure 6. Protected lands by reservoir basin as a percentage of basin land area¹.

¹ Small reductions in certain protected land categories compared to those shown in DEP's 2012-2022 Long Term Land Acquisition Plan are the result of newer GIS data updated (1) as of 8/5/2013, when basin and reservoir acreage figures were revised following incorporation of new LIDAR data, and (2) as of 1/3/2018 following revised spillway elevation data (maximum reservoir levels are used to calculate the amount of land in each basin).

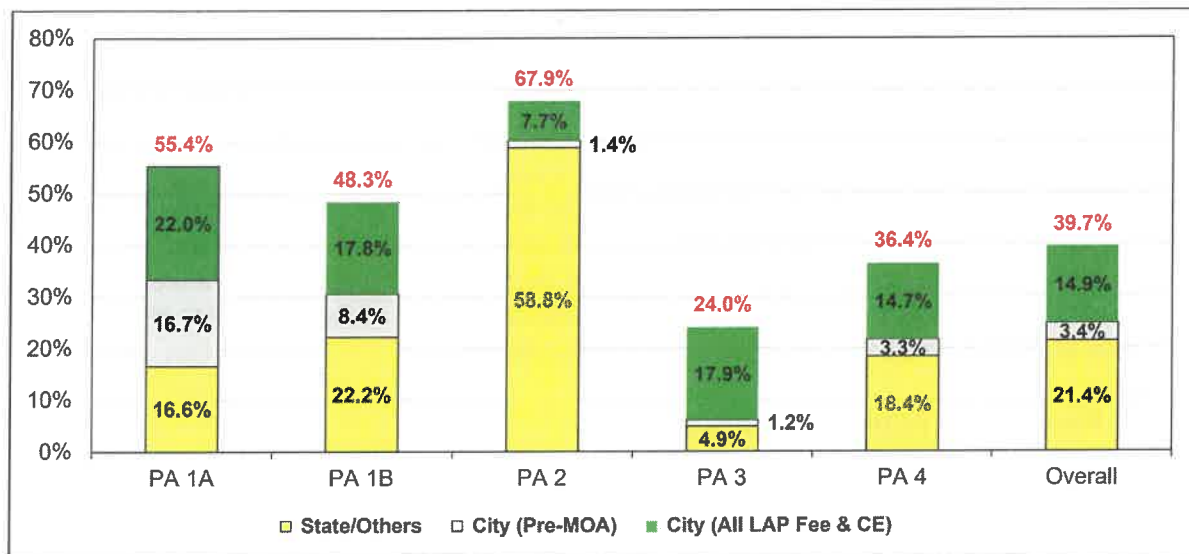


Figure 7. Protected lands by Priority Area (PA) and various ownership categories.

The NASEM Expert Panel confirmed that the LAP has substantially contributed to the City's overall watershed protection efforts. While acquiring an undevelopable cliff or wetland may do little to protect water against future pollutant impacts, it is similarly true that acquisition of a flat, developable property that is distant from a watercourse may have only marginal connections to water quality. In seeking to allocate funding and other resources necessary to acquire land effectively, the LAP has continually refined the metrics used to analyze the land it acquires and the quality of properties that remain eligible for solicitation.

In response to the NASEM recommendations, and as codified in the Revised 2017 FAD, DEP now reports on enhanced LAP metrics that better illustrate water quality protection values; these enhanced metrics include acres protected by riparian buffers, floodplains, wetlands and forest land; miles of streambank protected; and average SWC for fee simple and CE parcels acquired through core LAP and the SAP.

Table 2 depicts that for the total acres protected by core LAP acquisition of fee simple or CE since 1997, over 28% is SWC and 60% is steeply sloped (more than 15% grade). With the exception of streams, all percentages represent average surface area coverage of that feature for lands acquired. Since streams are linear measurements rather than surface area, the percentages in Table 2 are relative to total length of streams in watershed.

Table 2. Summary of NFC for all LAP transactions closed as of December 31, 2022, based on GIS data¹.

	Total Acres	SWC Acres	SWC (%)	Slope ² Acres	Slope (%)	Flood-plain ³ Acres	Flood-plain (%)	Stream Miles	Streams (%)
DEP Fee Simple	96,943	27,638	28.5%	58,514	60.4%	2,034	2.1%	379	9.9%
DEP CEs	26,158	7,350	28.1%	16,699	63.8%	532	2.0%	103	2.7%
WAC Farm CEs	28,217	8,287	29.4%	15,142	53.7%	1,358	4.8%	119	3.1%
WAC Forest CEs	2,944	462	15.7%	2,216	75.3%	42	1.4%	6	0.1%
SAP	240	184	76.5%	109	45.5%	35	14.7%	4	0.1%
FEMA FBO	71	65	91.5%	16	22.0%	60	84.0%	1	0.0%
NYCFFBO	49	48	98.5%	19	38.2%	37	75.7%	2	0.0%
Totals	154,622	44,035	28.5%	92,715	60.0%	4,098	2.7%	663	16.0%

¹ Since data used to assess NFC are based on GIS data analyses rather than tax lot or survey data, acreages may differ slightly from other analyses presented in this report, including Table 1.

² Slope refers to all grades equal to or greater than 15% (steep slopes).

³ Floodplain is treated as a subset of SWC.

For the entire Catskill/Delaware watershed, a total of 405,641 acres (39.7% of all lands) are now under some form of permanent protection by the City, other government agency, or land trust ownership. This includes 36% of stream length and stream buffers, 73% of wetlands and deepwater habitats, 65% of floodplains, and 44% of forest cover. Presented below are acquisition updates (closed transactions) for each LAP real estate category as of December 31, 2022, inclusive of West Branch, Boyd Corners and Kensico basins.

4.1 Fee Simple (core LAP only)

Lands acquired outright by the City total 96,186 acres, representing 63% of acres acquired across all programs, 75% of all purchase contracts, and 75% of fair market value costs. On average, 28% of fee simple acquisition lands are in SWC, 60% are slopes 15% or greater, and 2% are floodplains. A total of 379 linear miles of streams have been acquired in fee simple, accounting for nearly 10% of all mapped watercourses in the Catskill/Delaware watershed.

4.2 DEP Conservation Easements (core LAP only)

The City has directly acquired CEs covering a total 25,933 acres, representing 17% of acres acquired across all programs, 9% of all purchase contracts, and 15% of fair market value costs. A total of 103 linear miles of streams have been protected through core LAP CEs, accounting for 2.7% of all mapped watercourses in the Catskill/Delaware watershed.

4.3 WAC Conservation Easements

WAC has acquired 157 Farm CEs totaling 28,229 acres, representing 18.4% of acres acquired across all programs, 8.7% of all purchase contracts, and 8.5% of fair market value costs. A total of 119 linear miles of streams have been protected via WAC Farm CEs, accounting for 3.1% of all mapped watercourses in the Catskill/Delaware watershed.

WAC has acquired nine Forest CEs totaling 2,982 acres representing 1.9% of acres acquired across all programs, 0.5% of purchase contracts, and 0.6% of fair market value costs. A total of six linear miles of streams have been protected via WAC Forest CEs, accounting for 0.1% of all mapped watercourses in the Catskill/Delaware watershed.

4.3 Streamside Acquisition Program

The SAP has closed on 26 contracts protecting a total of 227 acres of sensitive streamside buffer land, representing 0.2% of acres acquired across all programs, 1.4% of all purchase contracts, and 0.3% of fair market value costs. More than four linear miles of streams have been protected through the SAP, accounting for 0.1% of all mapped watercourses in the Catskill/Delaware watershed. When considering these statistics, it is important to recognize that the SAP, along with the NYCFFBO, is one of the most recent additions to the LAP's portfolio of partner programs and therefore only reflects a short period of activity; unlike the NYCFFBO,

however, the SAP only operates within a single reservoir basin, which disproportionately impacts program success relative to the more established components of the LAP.

Overall, the SAP has solicited 5,752 acres since program inception, ordered and received 74 appraisals (including updates for time) on 69 properties, and signed 33 purchase contracts totaling 273 acres. On average, SWC covers 78% of SAP-acquired properties, an extremely high percentage that is only exceeded by the FEMA FBO and the NYCFFBO.

4.4 Flood Buyout Programs

Lands acquired in fee simple by both the City and watershed municipalities through the two FEMA FBOs total 74 acres, representing 0.05% of acres acquired across all programs, 3.5% of all purchase contracts, and 0.1% of fair market value costs. The average SWC for these projects, which are comprised of 64 purchase contracts, is 91.5%.

Lands acquired in fee simple by both the City and watershed municipalities through the NYCFFBO total 47 acres representing 0.03% of acres acquired across all programs, 1.2% of all purchase contracts, and 0.7% of fair market value costs. The average SWC for these projects, which are comprised of 22 purchase contracts, is 98.5%.

4.5 Water Supply Operations

In the 2012-2022 Long-Term Land Acquisition Plan, DEP reported on two metrics that offer a prism through which to consider the relative importance of land protection between basins. These metrics involve analyses of how water is drawn from the various reservoirs for actual use by consumers. A basin's relative contribution to the overall supply is paired with its level of protected land to yield weighted protection values. To understand why this is important, consider a basin that is already highly protected but contributes relatively little to the overall water supply; barring other factors, this would likely result in a land acquisition strategy that reduced emphasis on that basin. These analyses can even be useful in comparing entirely different watersheds relative to protected status of water supplies.

There are two measures of water supply that are useful in weighting the importance of protected land within basins: Diverted Water (Tables 3 and 4), which represents the volume of reservoir water directed into aqueducts for delivery to downstream reservoirs or consumers, and Supply (Tables 5 and 6), which is the relative contribution of a given reservoir to the overall delivery of water to consumers. Diversion-weighted levels of protected land emphasize terminal basins because those acres protect water entering a given reservoir as well as waters received from upstream reservoirs. Supply-weighted levels of protected land emphasize the importance of basins in terms of their overall contribution to water at the tap.

Table 3. Diversion-weighted basin land protection levels averaged over 1992-2008.

System	Basin	Percent Protected Land	Average Annual Diversions 1992-2008 (mg)	Percent Total Diversions	Cumulative Diversion-Weighted Average
Delaware	Cannonsville	16.3%	52,629	3.7%	0.6%
	Pepacton	27.5%	116,631	8.1%	2.2%
	Neversink	60.1%	44,447	3.1%	1.9%
	Rondout	48.2%	261,629	18.2%	8.8%
	West Branch	46.9%	281,744	19.6%	9.2%
Catskill	Schoharie	29.3%	67,734	4.7%	1.4%
	Ashokan	64.8%	174,758	12.1%	7.9%
	Kensico	40.8%	439,029	30.5%	12.5%
Totals		34.0%	1,438,602	100.0%	44.5%

Table 4. Diversion-weighted basin land protection levels averaged over 2009-2022.

System	Basin	Percent Protected Land	Average Annual Diversions 2009-2022 (mg)	Percent Total Diversions	Cumulative Diversion-Weighted Average
Delaware	Cannonsville	24.2%	52,568	4.2%	1.0%
	Pepacton	34.5%	109,997	8.9%	3.1%
	Neversink	61.5%	28,499	2.3%	1.4%
	Rondout	51.6%	239,217	19.3%	10.0%
	West Branch	50.9%	246,952	19.9%	10.1%
Catskill	Schoharie	35.2%	38,576	3.1%	1.1%
	Ashokan	67.5%	137,548	11.1%	7.5%
	Kensico	42.7%	387,234	31.2%	13.3%
Totals		39.7%	1,240,591	100.0%	47.5%

Table 5. Supply-weighted basin land protection levels averaged over 1992-2008.

System	Basin	Percent Protected Land	Average Annual Contribution to Supply 1992-2008 (mg)	Percent Total Supply	Cumulative Supply-Weighted Average
Delaware	Cannonsville	16.3%	52,629	11.9%	1.9%
	Pepacton	27.5%	116,631	26.3%	7.2%
	Neversink	60.1%	44,447	10.0%	6.0%
	Rondout	48.2%	43,480	9.8%	4.7%
	West Branch	46.9%	19,770	4.5%	2.1%
Catskill	Schoharie	29.3%	67,734	15.3%	4.5%
	Ashokan	64.8%	92,298	20.8%	13.5%
	Kensico	40.8%	6,876	1.5%	0.6%
Totals		34.0%	443,866	100.0%	40.5%

Table 6. Supply-weighted basin land protection averaged over 2009-2022.

System	Basin	Percent Protected Land	Average Annual Contribution to Supply 2009-2022 (mg)	Percent Total Supply	Cumulative Supply-Weighted Average
Delaware	Cannonsville	24.2%	52,568	13.6%	3.3%
	Pepacton	34.5%	109,997	28.5%	9.8%
	Neversink	61.5%	28,499	7.3%	4.5%
	Rondout	51.6%	45,380	11.7%	6.0%
	West Branch	50.9%	10,507	2.5%	1.3%
Catskill	Schoharie	35.2%	38,576	9.9%	3.5%
	Ashokan	67.5%	98,972	25.5%	17.2%
	Kensico	42.7%	4,194	1.1%	0.5%
Totals		39.7%	388,693	100%	46.1%

The data presented in Tables 3-6 cover two decades of reservoir operations and yield several observations and conclusions. First, steady or increased proportional use of waters from the Cannonsville, Pepacton, Rondout and Ashokan reservoirs over the last decade have offset decreases from the Neversink and Schoharie reservoirs. Second, the terminal basins of Kensico, West Branch and Rondout continue to represent roughly 60% of the entire Catskill/Delaware watershed in terms of volume, and together account for over 30% of cumulative diversion-average protection levels watershed-wide. Third, basin protection levels for the watershed overall are measurably higher when viewed through the perspective of how water is actually used (through Diversion and Supply) compared to a straightforward percentage-of-land basis. While this water supply information may not be significant enough alone to drive future land acquisition strategies, it does influence which basins might be emphasized to maximize source water protection goals.

5. Land Use and Demographics

As reported by the NASEM Expert Panel, changes in WOH land cover and land uses from conversion of forest and farmland to developed areas during 2001-2016 appear to have been minimal: one-tenth the average change for New York State. Census data covering 2010-2020 indicate that populations throughout the watershed declined roughly 2% (5% WOH and 1% EOH, including Croton). Those trends may have been reversed by the significant migration out of New York City since COVID-19 began in early 2020. DEP anticipates a continuing active real estate market in the future, with inventories down and prices up significantly. However, supply chain slowdowns, limited availability of contractors, and rapid increases in interest rates during 2022-2023 may result in stalled building activities in some areas.

A May 2023 report by [Hudson Valley Pattern for Progress](#) covering the period 2019-2020 shows a net loss of 4,845 residents for a nine-county area that includes six watershed counties. This report attributes the drop in part due to the attractiveness of lower property taxes in neighboring states. Per the most recent U.S. census data covering the period 2010-2019, populations were found to decrease in virtually all watershed counties, from as little as 1.2% (Dutchess) to as much as 7.8% (Delaware); only Westchester County increased (by 1.8%).

Subsequent estimates for the period April 2020 to July 2021, which overlaps with the pandemic when there was significant migration out of cities into rural areas. These numbers suggest a trend in exactly the opposite direction: virtually all watershed counties were projected to show an increase in population ranging from 0.3% (Putnam) to 1.5% (Sullivan), with the exception of Westchester (decreasing by 0.5%). DEP's regulatory approval of septic systems for WOH residential properties more than doubled in recent years, from 67 in 2017 to over 130 in 2021 and 2022. Septic approvals for EOH (which includes the Croton System) dropped from a high of 82 in 2017 to a low of 48 in 2019, rising to 62 in 2022. These apparent fluctuations in population and development data and the constantly changing micro- and macro-economic forces that influence demographics and real estate make it difficult to discern patterns that would have a meaningful impact on land acquisition strategies in the watershed.

According to [real estate sales datasets](#) for towns in the Hudson Valley that are available quarterly from several listing services, the median sales price of single-family homes in Ulster and Greene counties rose steeply starting in early 2020 and peaked later that year. As of early 2023, prices are lower than the start of the three-year term despite inventories being close to the lowest levels of this period. According to [One Key MLS reports](#), median sale prices for residential properties in Putnam County as of April 2023 are roughly the same as April 2021, having peaked about 20% higher in between. In Sullivan County, the average price for residential properties has risen roughly 28% during that same period, while a 20% rise was seen in Ulster County. A drop of 5% was seen in Westchester County after reaching significantly higher peaks during the period. Unfortunately, trends from these reports are difficult to translate into patterns that are helpful to the LAP since data are not specifically tailored to watershed boundaries nor do they offer significant information on vacant land (properties of interest to the LAP). In addition, it appears that since COVID-19 began in 2020, myriad market forces – including upstate migration of New York City residents, climate change impacts on ski resorts, and rising interest rates – have created a continually changing constellation of factors that complicate future strategies. The LAP has not previously used broad economic or real estate indicators to decide whether to enter a given real estate market or wait on the sidelines; this Plan continues that approach.

6. Long-Term Goals and Strategies

With roughly 40% of the Catskill/Delaware watershed under some form of protected status (Figure 8), the portfolio of properties that remain available and of interest to the LAP is quite different than it was 25 years ago. This alone is an important factor when developing land acquisition strategies for the next decade. The additional 6% of protected lands accomplished since 2009 represents almost 40% of all acquisitions since 1997. As such, DEP does not expect substantial growth in protected acres during the next ten years as future acquisitions will likely involve more complex transactions in fewer towns due to FEIS benchmarks being reached, thus yielding smaller properties with higher percentages of SWC. Although 53,214 acres remain available for acquisition before the watershed-wide FEIS limit is reached, it seems unlikely this threshold will be attained during the period covered by this Plan.

The two most important constraints and therefore drivers of solicitation activities over the next decade are (1) the growing list of towns where town-level FEIS thresholds have been reached, after which core LAP's direct outreach to landowners must cease and only incoming

calls from landowners can be pursued, and (2) the growing list of WOH subbasins that are highly protected and which therefore can be avoided in favor of less protected subbasins.

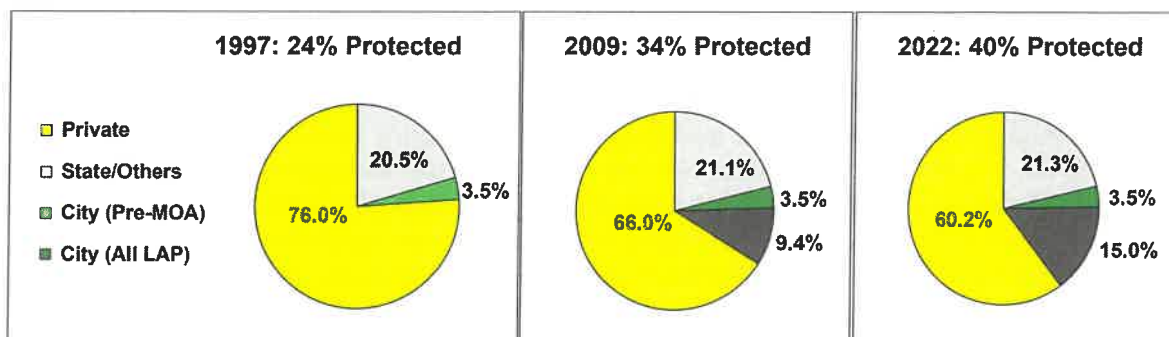


Figure 8. Progression of protected lands in the Catskill/Delaware watershed since 1997.

The MOA provides the structure and timing of original solicitation efforts, including the schedule and process through which lands are designated as formally solicited. Once a property is initially solicited, the LAP follows a policy that sets forth the frequency of resolicitation time intervals based on prior landowner responses as summarized in Table 7.

Table 7. Minimum resolicitation intervals for core LAP.

Focus Level	No Response	Not Interested	Offer Refused
High Focus Areas and Priority Areas 1A/1B	2 Years	2 Years	1 Year
Focus Areas – Subbasins < 20% Protected	2 Years	2 Years	2 Years
Focus Areas – Subbasins > 20% Protected	3 Years	4 Years	4 Years
No Specific Focus Area	No regular schedule (case-by-case)		

Numerous rules and policies constrain where core LAP can solicit and/or pursue acquisitions. The most significant constraints are shown in Exhibit E, which depicts WOH subbasins and their protected status with an overlay of (1) High Focus Areas, (2) Priority Areas 1A and 1B, (3) all designated hamlets, and (4) towns that are off-limits (or nearly so) for outgoing solicitation due to FEIS projections being reached or nearly reached per Exhibit C. Exhibit E depicts WOH watershed towns in which core LAP is now precluded from outgoing solicitation (shaded dark gray); towns which are within several hundred acres of the FEIS projections are shaded lighter gray. Subbasins that are at least 60% protected are also shaded, signifying areas where core LAP does not anticipate pursuing broad solicitation in the future. Exhibits C and E are therefore considered the principal guiding framework for the next decade of LAP activities.

Since town boundaries play an important role in terms of where core LAP anticipates soliciting in the future, the goal for core LAP over the next ten years will be to focus on compelling properties in less protected subbasins located in towns where FEIS projections have not been reached. Consistent with current practice, LAP partner programs will not be constrained by FEIS projections, which will require close coordination. For core LAP, the primary constraint will be the amount of compelling eligible lands that remain for solicitation in a given town. With these factors in mind, DEP proposes the following basin-specific strategies that can be adjusted over time based on acquisition progress or evolving conditions and requirements relating to

6.2 Cannonsville Basin

Comprising over 286,000 acres, the Cannonsville basin (Figure 10) represents more than 28% of the Catskill/Delaware watershed. Cannonsville is the most recently built reservoir, as well as the least proportionally protected: roughly 7.5% of the basin was protected as of 1997, whereas today that figure is 24.2%. Since acquisition levels in the towns of Walton and Delhi have already reached FEIS thresholds, core LAP can no longer solicit there, and Bovina is within a few hundred acres of its threshold. Future acquisitions in those towns will be limited to incoming calls from landowners, flood buyout projects, and WAC CEs, the latter of which will represent the only meaningful contributions to increased proportion of protected land although there is also the possibility that a future version of the SAP might eventually be available in this basin.

For the term of this Plan, core LAP expects to use remaining FEIS acreage to emphasize solicitation efforts in the following areas of the Cannonsville basin:

1. High Priority and High Focus subbasins in Tompkins and Masonville; and
2. Under-protected subbasins in towns which include all areas of Franklin, Meredith, Harpersfield, Kortright, Hamden and Jefferson that are within watershed boundaries (considerable portions of all these towns are outside the watershed).

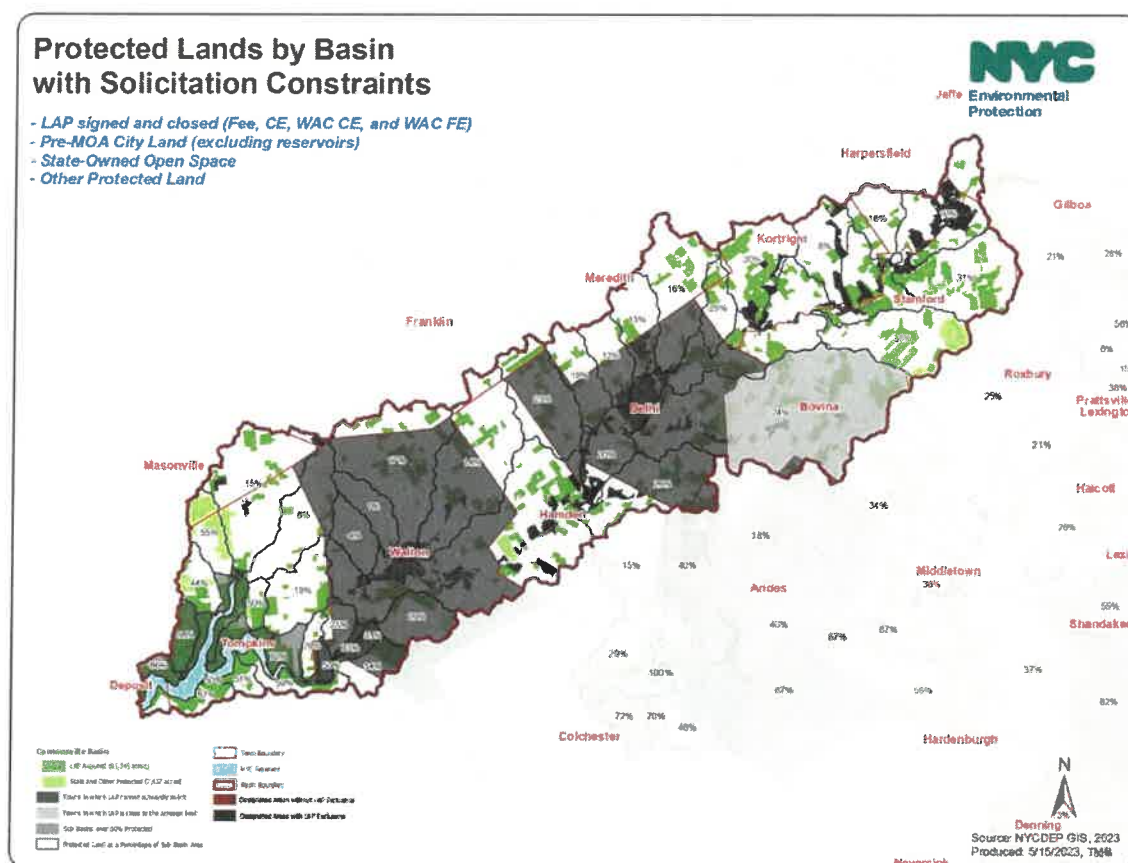


Figure 10. Cannonsville basin solicitation constraints based on town and subbasin boundaries.

6.3 Kensico Basin

Kensico (Figure 11) is the terminal basin closest to Hillview Reservoir and the reservoir serves as final storage for water received from other Catskill/Delaware reservoirs before entering the City's distribution system; it is therefore a crucially important basin. Kensico is also proportionally the most intensively developed basin, and by far the most expensive in terms of land values. As seen in Figure 6, 43% of the Kensico basin has been protected, including 6% (405 acres) acquired or in contract by core LAP since 1997 at a total cost of \$62.7 million.

Of the roughly 3,550 acres in Kensico that remain in private ownership, the vast majority is already developed with homes, businesses, roads, impervious surfaces, and other intensive uses. Core LAP is tracking only a few dozen properties in the Kensico basin, but very few are deemed compelling after weighing the marginal benefit of one acre that could cost over \$1 million. With a highly developable 49-acre vacant tract (approved for 43 building lots) now in purchase contract and expected to close in 2024, there are few remaining properties with reasonable cost-benefit ratios. Nonetheless, given the importance of Kensico as a terminal basin and its contribution to Diversions (Tables 3-4), DEP will undertake a detailed study of all properties that are currently tracked, with emphasis on the upper subbasin which has the lowest level of protection (23%), to confirm eligibility, estimate values, and determine interest level. If any compelling properties remain based on a cost-benefit analysis, core LAP will solicit them.

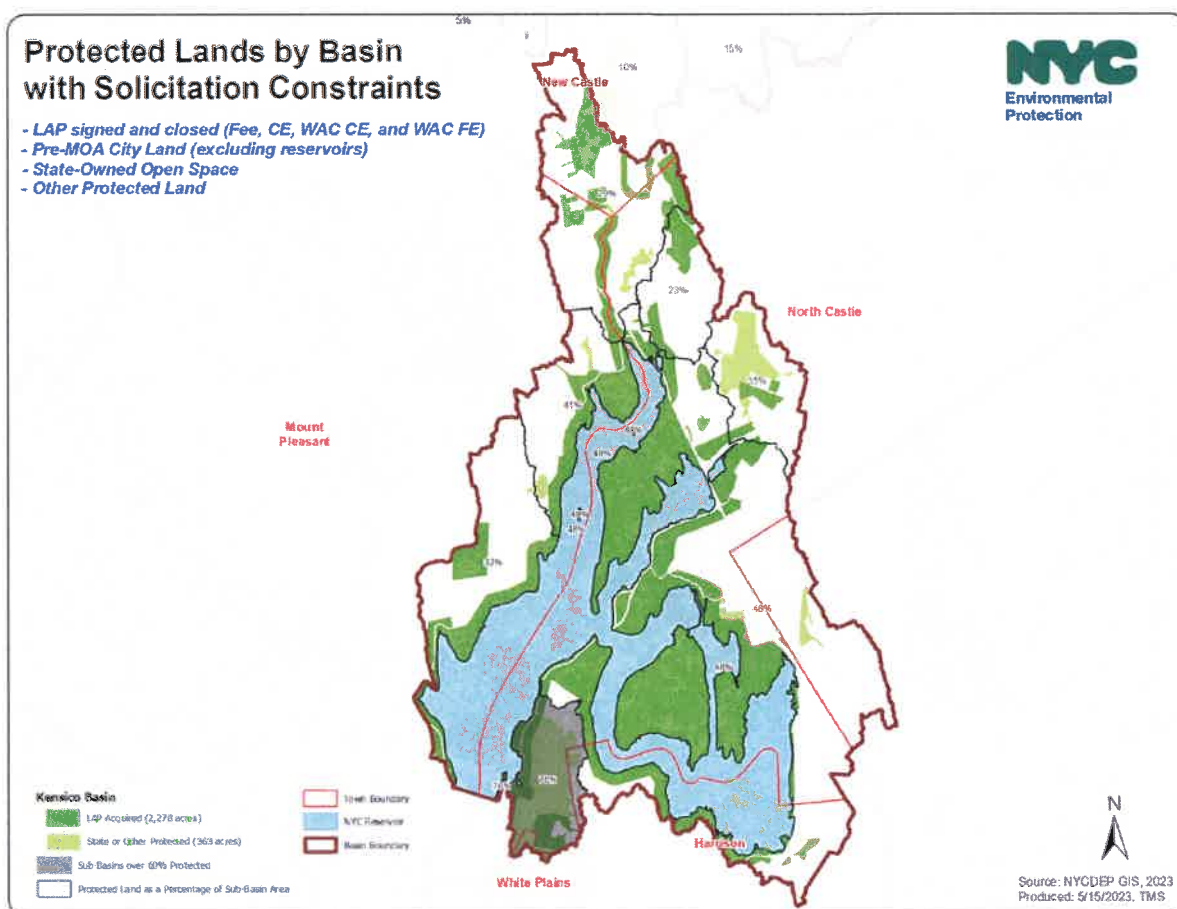


Figure 11. Kensico basin solicitation constraints based on town and subbasin boundaries.

6.4 Neversink Basin

With 62% of its land in State or City ownership, the Neversink basin (Figure 12) is second only to the Ashokan basin in terms of percent protected. All six Neversink subbasins are now protected at levels between 50% and 73%, with more than half of all streams (by length) flowing through protected lands. During the last decade, Neversink contributed the least (2.3%) of all basins in terms of Diversions (Table 4) and only modestly (7.3%) to overall Supply (Table 6); this decreased use of Neversink waters – and increase of Pepacton to compensate – is likely to continue. The two main towns in this basin, Denning and Neversink, have substantial acreage remaining (4,336 and 3,282, respectively) before reaching the FEIS acreage threshold, so solicitation in these towns will largely be directed toward the Rondout basin which contains several subbasins that are High Priority, High Focus, and less protected (in the 20-30% range).

Given higher priorities elsewhere, core LAP will solicit only opportunistically in the Neversink basin for the next few years, including responding to incoming calls. This will allow core LAP to focus attention on other basins, projects and programs that have greater needs. If time and resources allow, with remaining acreage available in Denning and Neversink after acquisitions in Rondout have advanced further, core LAP will solicit properties in Neversink, particularly in the Neversink River subbasin and Neversink Reservoir subbasin (both 50% protected) while avoiding the highly protected West Branch Neversink River subbasin (73%) and East Branch Neversink River subbasin (62%).

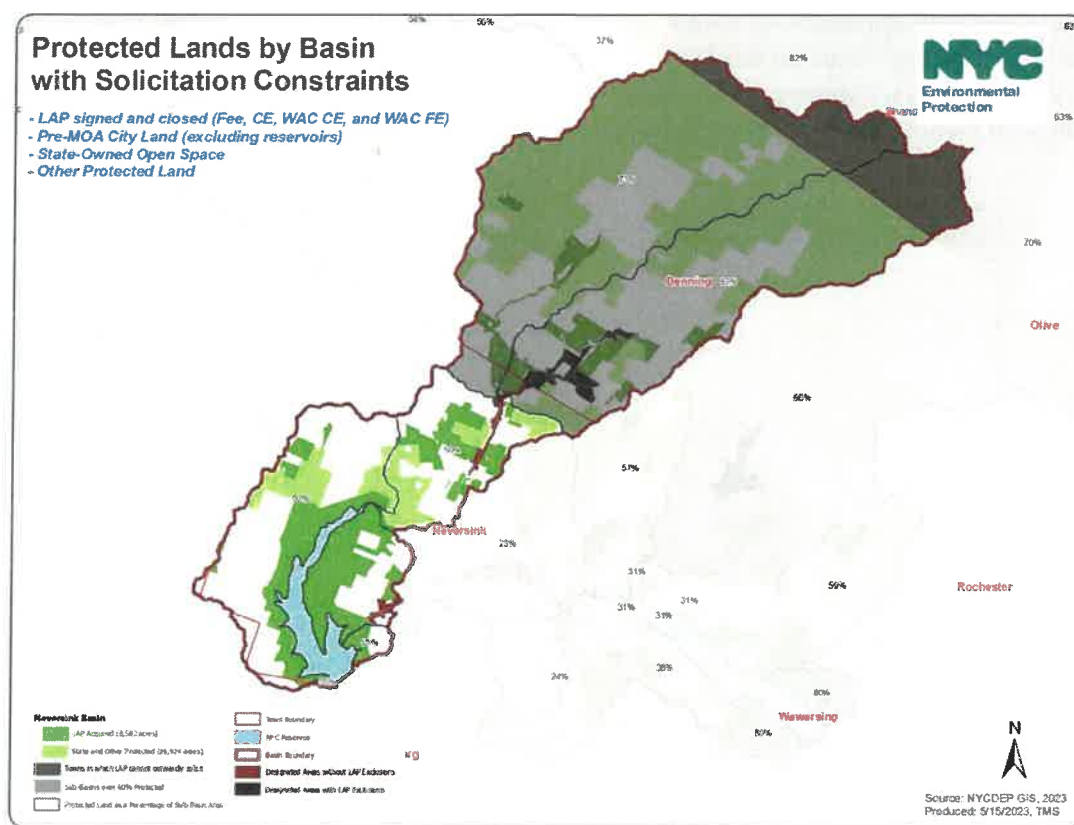


Figure 12. Neversink basin solicitation constraints based on town and subbasin boundaries.

6.5 Pepacton Basin

The Pepacton basin (Figure 13) is over 231,000 acres in size, representing almost 23% of the Catskill/Delaware watershed. Although total water volume contributed by Pepacton to both Diversion and Supply (Tables 3-6) have decreased in the last decade, the overall proportion of both with respect to the total water supply has increased. Overall land protection levels in this basin have almost doubled from 18% in 1997 to 34% today. Exhibit E illustrates that three Pepacton subbasins are considered High Focus Areas, but two are almost entirely within the Town of Andes where core LAP can no longer outwardly solicit. The remaining High Focus Area, the Terry Clove subbasin, is under-protected at 15% and overlaps with the towns of Hamden (1,613 acres remaining) and Colchester (3,490 acres remaining). These areas will be a significant, though not exclusive, focus of solicitation in this basin. Other areas will include the Bushkill (26% protected, mainly spanning the towns of Halcott and Middletown) and Batavia Kill (21%, Roxbury and Middletown) subbasins, although the latter will be contained in scope due to 849 remaining acres in Roxbury before the FEIS projection is reached.

One example of the complexities DEP faces when allocating a dwindling number of acres through the solicitation process in a given town is Bovina, with only 319 acres remaining for acquisition before meeting the FEIS projection. The southern tip of Bovina (roughly 2,500 acres) extends into the Tremper Kill subbasin, which is High Focus and only 18% protected. In this subbasin, 174 acres have already been protected by core LAP and WAC; the remainder includes approximately 2,000 acres in three properties that are eligible, compelling, and previously solicited (two were appraised by core LAP and the purchase offers rejected). Solicitations in Bovina will therefore focus on the Tremper Kill subbasin. Depending on success with this small group of landowners, outgoing solicitation will also be spread to compelling properties in the remainder of Bovina which is in the Little Delaware River subbasin of the Cannonsville basin.

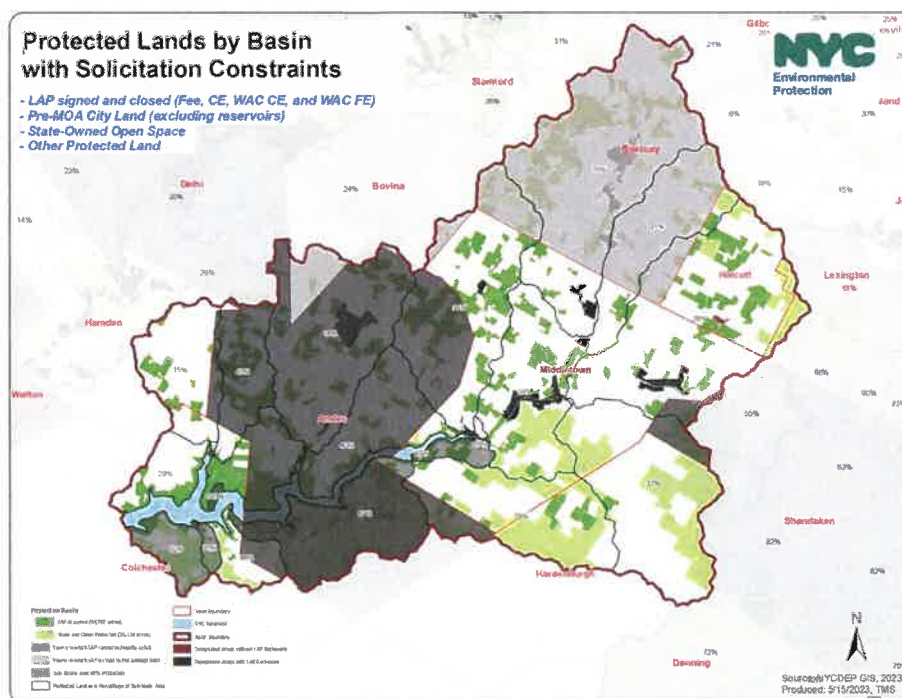


Figure 13. Pepacton basin solicitation constraints based on town and subbasin boundaries.

6.6 Rondout Basin

As the only WOH basin that is completely within 60-day travel time and entirely comprised of Priority Areas 1A and 1B, and because of its contribution to Diversion and Supply (Tables 3-6), Rondout is one of the most important Catskill/Delaware basins (Figure 14). As of 1997, a thin margin of City-owned land encircling the reservoir and high levels of State protected lands within the Rondout Creek subbasin resulted in an overall protected level of 35% for the entire Rondout basin; the remaining eight subbasins were all less protected. Red Brook was 2% and is now 26%; the subbasins known as Rondout Reservoir NE and SE were both less than 3% and are now approximately 18%. The entirety of Priority Area 1B was roughly 25% protected, but today is 64% protected.

Despite raising overall protection levels from 35% to 52% since 1997, DEP anticipates future LAP activity in the towns of Neversink, Wawarsing and Denning which have remaining FEIS acreage that are relatively high at 3,282 acres, 3,514 acres and 4,336 acres, respectively. There is substantial room to solicit broadly and potentially raise the protected levels of several important subbasins such as Chestnut Creek (currently 23%), Red Brook (24%), and Rondout Reservoir NW (31%).

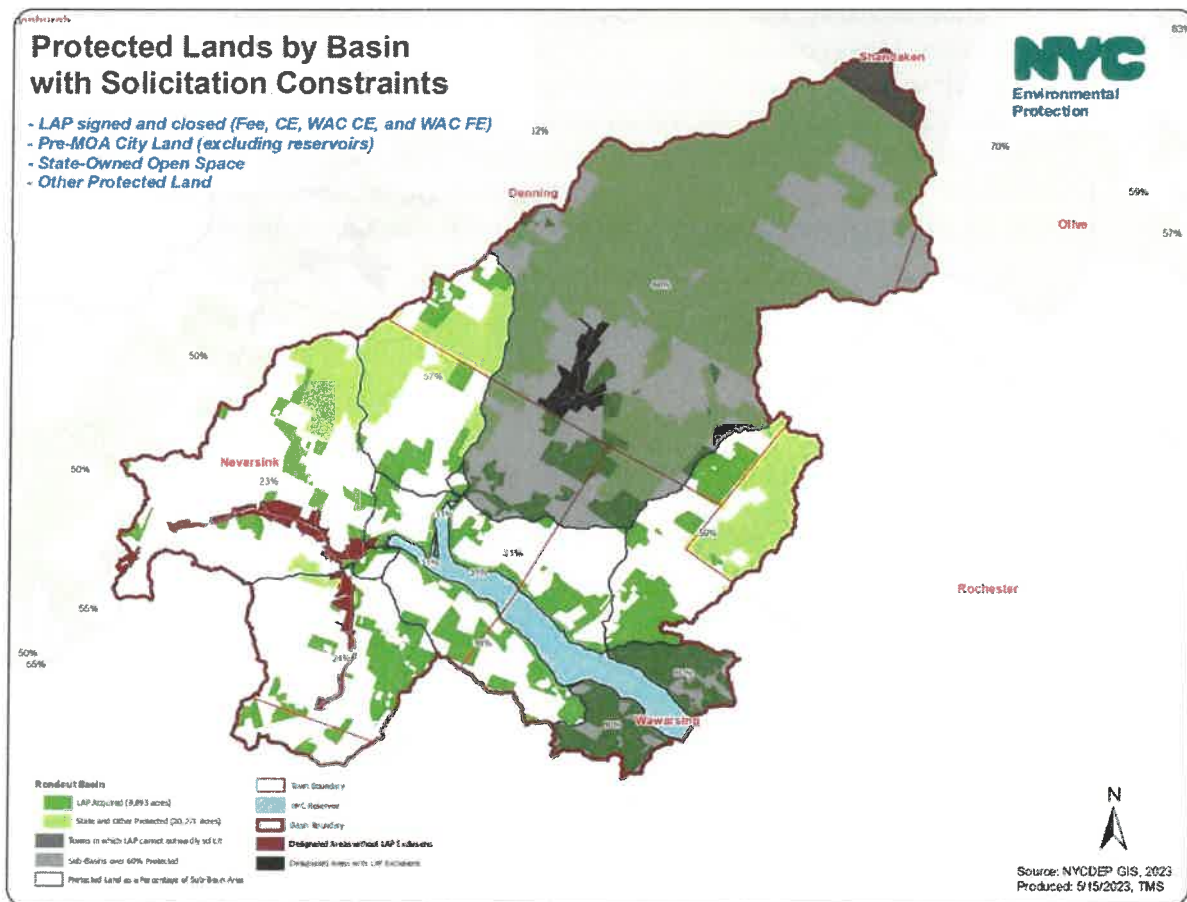


Figure 14. Rondout basin solicitation constraints based on town and subbasin boundaries.

6.7 Schoharie Basin

As depicted in Figures 6 and 8, protection of the Schoharie basin has increased by 16% since 1997 and now stands at 35% overall. While this represents substantial advancement for protection in a basin that is over 200,000 acres in size, or roughly a fifth of the entire watershed, several subbasins are still considered under-protected, including Johnson Hollow Brook (6%), Schoharie Creek (15%), Bear Kill (21%), Manor Kill (25%), Schoharie Reservoir West (28%), and the Sutton Hollow and North Settlement subbasins (both 26%). With emphasis on the first two, which are the Schoharie basin's only High Focus Areas, core LAP will emphasize work in these subbasins during the next ten years while coordinating with the SAP overall. Examples of solicitation strategies in the Schoharie basin (Figure 17) include the following:

1. In the Town of Roxbury, which currently has 849 acres remaining under FEIS projections, future core LAP solicitation will focus on the Johnson Hollow Brook subbasin, which is 6% protected and a High Focus Area; that subbasin is small, so remaining solicitation in Roxbury will be distributed between the Bear Kill subbasin (21%) in Schoharie and the Batavia Kill subbasin (21%) in the Pepacton basin.
2. In the three towns of Prattsville, Lexington and Jewett, where the remaining FEIS acreage is 1,123 acres, 1,861 acres and 1,246 acres, respectively, core LAP will focus solicitation primarily, though not exclusively, in the Schoharie Creek subbasin (High Focus Area, 15% protected).
3. Core LAP will also focus on the remaining Conesville acreage in the Manor Kill subbasin (25% protected), the Sutton Hollow subbasin (26%) in Ashland, and the North Settlement subbasin (26%) in Ashland and Windham.
4. Core LAP will continue to support the SAP and strive to improve its coordination with the SMP and local partners to further refine future solicitation strategies.

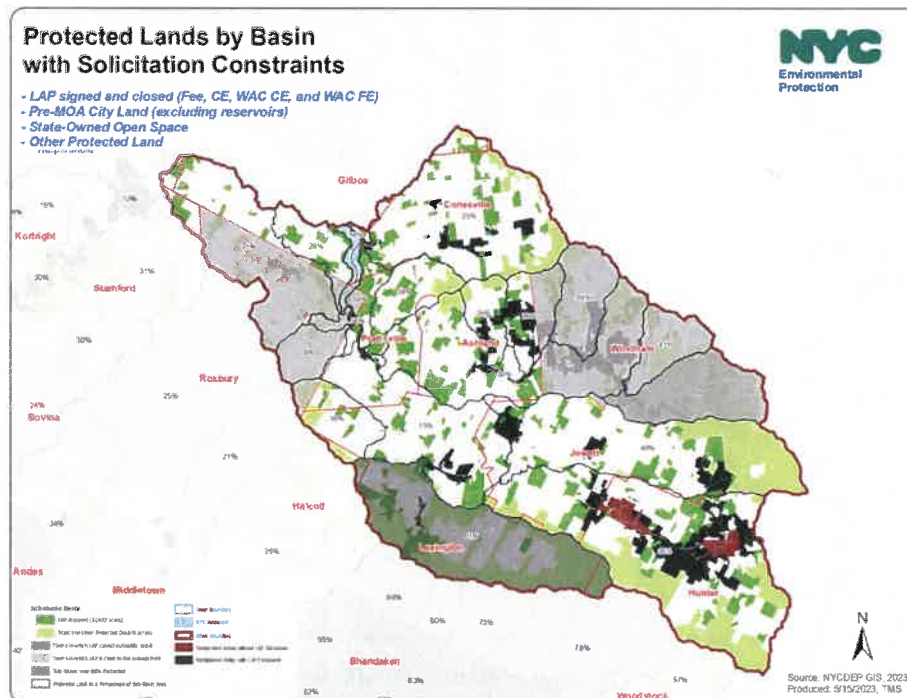


Figure 17. Schoharie basin solicitation constraints based on town and subbasin boundaries.

6.8 West Branch/Boyd Corners Basin

Based on strong landowner responses to solicitation over the years, and as reflected in Figure 6, this basin has experienced by far the most significant proportional advance in protected status, with more than a third of the basin (9,209 acres) protected since 1997. A total of 51% of the basin land area is now controlled by the City or other entities, which includes 32.6 miles of streams (56% of total) and 52.3% of SWC. All subbasins in West Branch/Boyd Corners are at least 40% protected with the exception of Black Pond (Priority Area 1B) to the northwest, which stands at 25%. Land in this basin is relatively expensive; acquisitions to date total \$88 million (averaging close to \$10,000 per acre), or 17.1% of total LAP expenditures to date. Although not as costly as Kensico, the marginal cost-benefit of a single small building lot in West Branch/Boyd Corners is not often compelling, given that hundreds are already developed, which is why larger tracts with subdivision potential generally make more sense to pursue. Nonetheless there may be small building lots located in particularly sensitive areas or in useful locations that could be pursued under the right circumstances.

Based on the above, the LAP's solicitation strategy for West Branch/Boyd Corners basin (Figure 18) will be to focus on properties with the following characteristics:

1. Relatively large, developable properties that contain high SWC.
2. Lands that offer connectivity between already protected properties.
3. Properties within the subbasin known as West Branch Reservoir West (38% protected, all Priority Area 1A).
4. Properties in the Black Pond subbasin (the least protected area as well as the most northerly, where costs of vacant land can be lower) with at least modest levels of SWC.

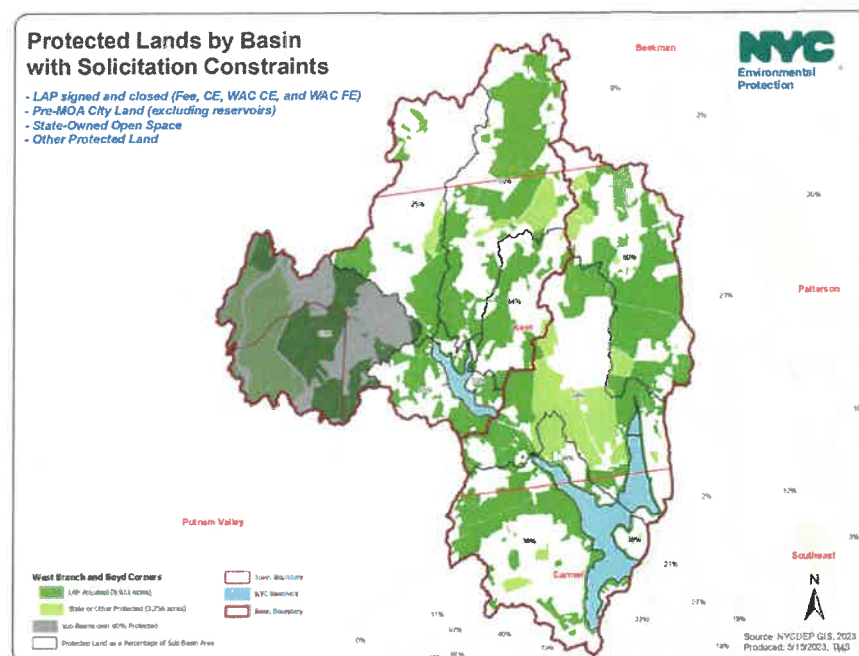


Figure 18. West Branch/Boyd Corners solicitation constraints based on town and subbasin boundaries.

6.9 Additional Strategies

DEP anticipates that at least 137,000 acres will be solicited by all acquisition programs over the life of this 2023-2033 Long-Term Plan, with acreage to be front-loaded in early years and tailing off in later years as shown in Table 7 and Figure 19. DEP is not proposing annual solicitation goals but will instead measure and report progress annually against the overall ten-year projection; this allows flexibility, adaptation, and coordination between programs. DEP estimates that approximately 87,000 acres will be solicited through core LAP over the next decade, with the remainder attributed to partner programs. For purposes of this Plan, and without knowing what the successor WSP or FAD may require, DEP is estimating acreage credit for all partner programs on a one-to-one basis, which reflects a refinement compared to previous FAD acreage credits. DEP anticipates further refining this proposed schedule through future two-year solicitation strategies consistent with current and previous FAD requirements.

Although solicitation strategies based on town boundaries, subbasins, Priority Areas and High Focus Areas comprise the core of this 2023-2033 Long-Term Plan, numerous factors will influence how and where landowner outreach is actually conducted. These include: (a) the LAP's policy for recontacting landowners based on time intervals since a prior response; (b) the amount of progress made in advancing protection levels in a given subbasin or Priority Area and (c) changing status of a given town as it nears or reaches its projected FEIS acreage threshold.

Table 7. Proposed solicitation schedule for core LAP and partner programs during 2023-2033

	2023	2024	2025	2026	2027	2028	2029	2030	2031 to 2033	Total
Core LAP	20,000	16,000	12,000	10,000	8,000	8,000	8,000	5,000	?	87,000
WAC CEs	12,000	10,000	6,000	5,000	5,000	5,000	2,000	1,000	?	46,000
SAP	300	300	500	800	800	500	500	300	?	4,000
NYCFFBO	5	5	5	5	5	5	5	5	?	40
Totals	32,305	26,305	18,505	15,805	13,805	13,505	10,505	6,305	?	137,040

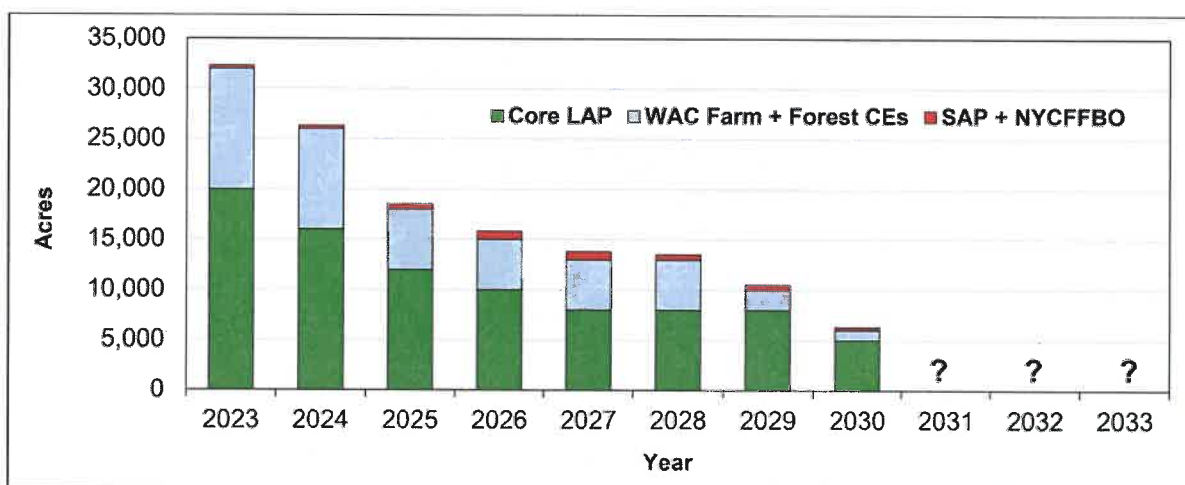


Figure 19. Proposed LAP solicitation schedule totaling 137,040 acres during 2023-2033.

As part of this 2023-2033 Long-Term Plan, DEP anticipates that core LAP will continue to closely coordinate with the SMP, SAP and WAC to ensure that respective program priorities are aligned, especially if the SAP expands to other watershed basins. However, since core LAP solicitation will increasingly be limited in greater numbers of towns as FEIS acreage benchmarks are approached, core LAP may not always be able to support the goals of the SMP in all geographic areas. Coordination between the SMP and SAP will continue to be a priority of this Plan. Further refinement of the SAP's solicitation strategies, as reflected in Table 7, is currently under discussion with a stakeholder workgroup as convened per the Revised 2017 FAD.

6.10 Potential Considerations

Projected solicitation activity for the final years of this Plan are difficult to anticipate due to future uncertainties and factors, including: (1) accomplishments during the early years of the 2023-2033 time period; (2) the nature of relevant requirements set forth in the expected 2025 WSP and 2027 FAD; (3) the impacts of continued climate change and the possibility for major flood events; (4) ongoing stakeholder discussions; and (5) macroeconomic and societal forces that cannot be accurately forecast. For these reasons, DEP does not propose detailed solicitation planning for the final years of this Plan. After a successor WSP and FAD are presumably issued and following several years of Plan implementation, it is likely that revisions to this Plan will be needed to address work during the remaining period. Some examples of potential future issues to consider are described below.

- Development of a plan to solicit properties specific to Special Condition 9b of the 2010 WSP, which allows for acquisition of properties smaller than 25 acres that abut lands owned by the City or State but which fail to meet NFC requirements. Such acquisitions must be intended to enhance access for stewardship or land management needs, recreational uses and/or proposed public trails or trailheads; reduce inholdings; or build connectivity between protected areas. At this time, only one property (14 acres) that meets this WSP requirement has been signed to contract. Pursuant to the 2010 WSP, total lands acquired under this framework cannot exceed 300 acres in a county or 1,500 acres WOH-wide. DEP anticipates that planning for this WSP requirement will involve consultation with watershed stakeholders.
- A review of the intersection between core LAP and SAP projects to ensure both programs are optimized in terms of project criteria and characteristics.

7. Conclusion

Significant future events may impact this 2023-2033 Long-Term Land Acquisition Plan, and there are several inflection points over the next few years that will likely impact core LAP, SAP, WAC CE Programs and the NYCFFBO. The current WSP expires in 2025 and the current FAD will expire in 2027, and exact terms of either cannot be forecast at this time; both successor documents will likely contain new requirements or parameters which may influence aspects of this Plan. DEP therefore anticipates that revisions to this Plan will be warranted at some point during the next ten years, taking into account the requirements of a successor WSP and FAD, as well as the contemporary status of acquisitions, remaining LAP funds, the outcome of ongoing stakeholder discussions, future market forces, and other salient issues.

Exhibit A. Catskill/Delaware Watershed Priority Areas

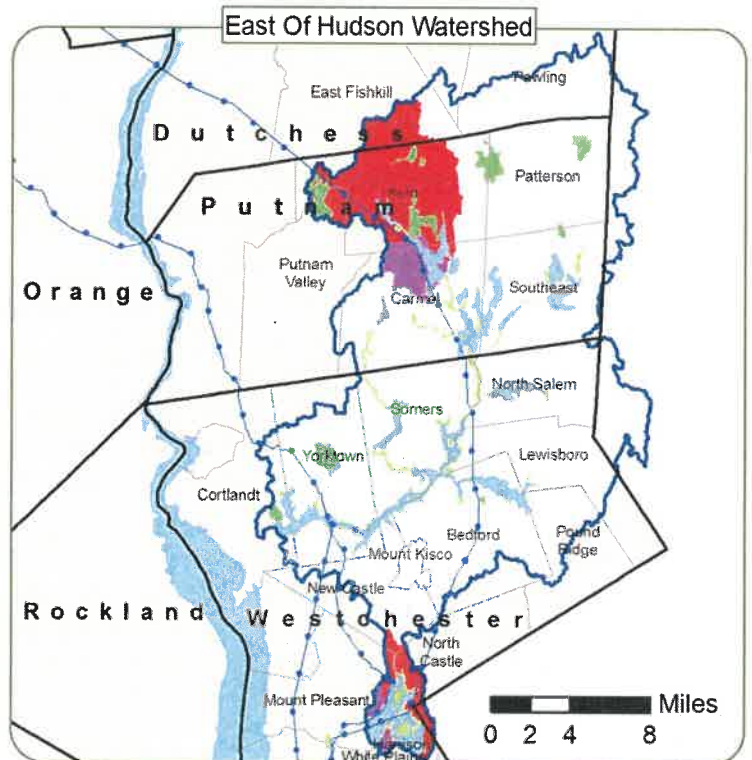
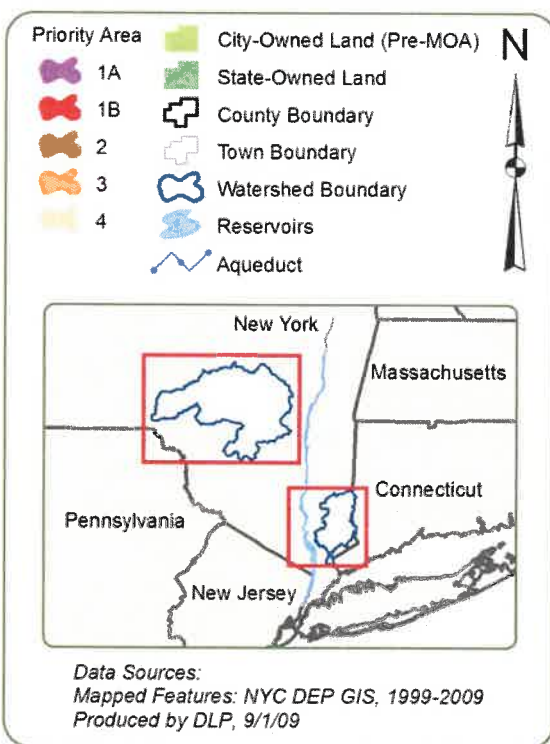
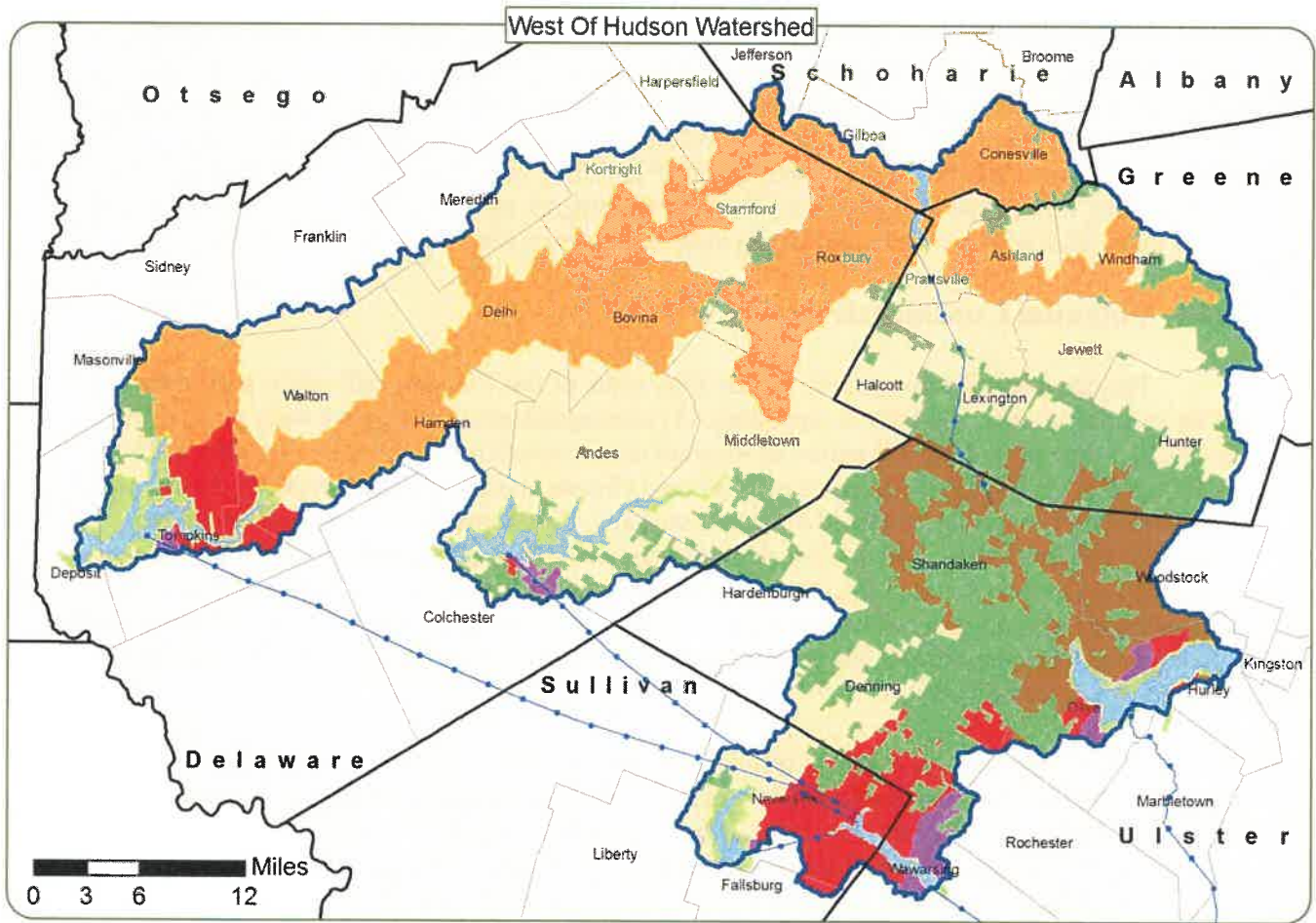


Exhibit B. West of Hudson Watershed Areas of Focus and Areas of High Focus

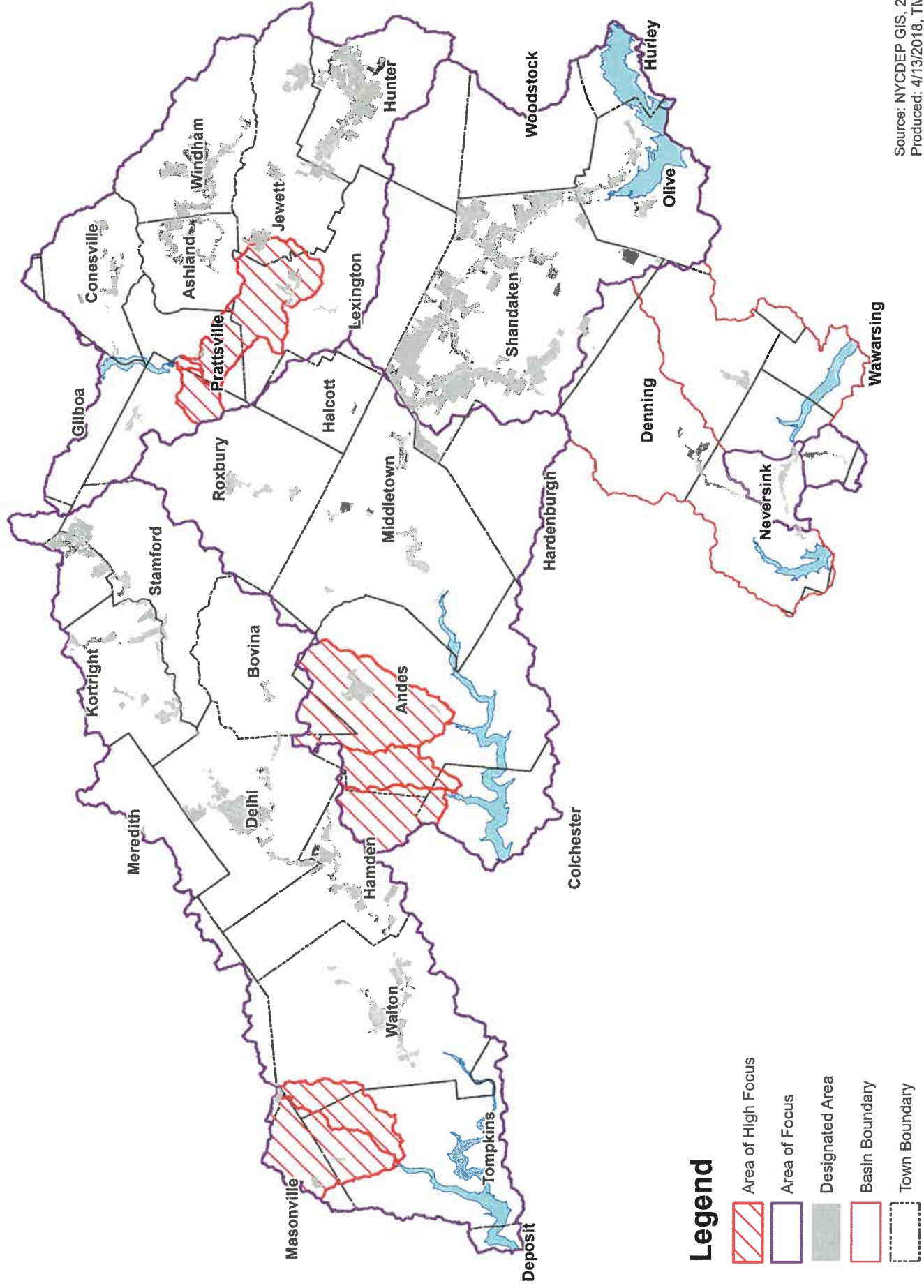


Exhibit C. Acres Acquired in West of Hudson Watershed Towns since January 1, 2010 depicting FEIS Projections and LAP Solicitation Thresholds as of December 31, 2022.

 = No outgoing solicitation and >50% SWC required within half-mile of Designated Hamlets

 = >50% SWC required within half-mile of Designated Hamlets

Delaware County

Town	City Acres	WAC Acres	Total Acquired	EIS Proj. thru 2022	% of EIS Proj.	Acres to No Out-Going Sol	Acres to 1/2 mile = 50%	Acres Exceeded	60% of Cap or 2k Max
Andes	5,835	2,029	7,865	7,690	102%			175	4,614
Walton	2,936	2,036	4,971					0	2,000
Delhi	3,173	1,397	4,570	3,951	116%			619	2,371
Middletown	2,380	839	3,218	4,983	65%	1,765		0	2,990
Roxbury	2,665	487	3,151			849		0	2,000
Bovina	2,063	402	2,466			319		0	1,671
Kortright	986	1,401	2,387	2,785	89%	1,613		0	2,000
Stamford	1,365	886	2,251	4,539	50%	2,288	473	0	2,723
Hamden	934	1,093	2,027	3,640	56%	1,613	157	0	2,184
Meredith	835	436	1,271			2,729	729	0	2,000
Tompkins	521	177	699			3,301	1,301	0	2,000
Colchester	400	110	510			3,490	1,490	0	2,000
Franklin	286	182	469			3,531	1,531	0	2,000
Masonville	332	0	332			3,668	1,668	0	2,000
Harpersfield	20	184	204			3,796	1,796	0	2,000

Greene County

Town	City Acres	WAC Acres	Total Acquired	EIS Proj. thru 2022	% of EIS Proj.	Acres to No Out-Going Sol	Acres to 1/2 mile = 50%	Acres Exceeded	60% of Cap or 2k Max
Windham	1,631	499	2,130	2,207	97%	77		0	1,324
Lexington	1,755	155	1,911	3,771	51%	1,861	352	0	2,263
Jewett	1,548	0	1,548	2,794	55%	1,246	128	0	1,676
Hunter	1,325	0	1,325	2,726	49%	1,401	310	0	1,636
Prattsville	1,223	0	1,223	2,346	52%	1,123	185	0	1,408
Ashland	974	0	974	1,948	50%	974	195	0	1,169
Halcott	558	61	619	1,571	39%	952	324	0	943

Exhibit C. Acres Acquired in West of Hudson Watershed Towns since January 1, 2010 depicting FEIS Projections and LAP Solicitation Thresholds as of December 31, 2022.

 = No outgoing solicitation and >50% SWC required within half-mile of Designated Hamlets

 = >50% SWC required within half-mile of Designated Hamlets

Schoharie County

Town	City Acres	WAC Acres	Total Acquired	EIS Proj. thru 2022	% of EIS Proj.	Acres to No Out-Going Sol	Acres to 1/2 mile = 50%	Acres Exceeded	60% of Cap or 2k Max
Conesville	420	405	825	2,400	34%	1,575	615	0	1,440
Gilboa	409	0	409			3,591	1,591	0	2,000
Jefferson	85	0	85			3,915	1,915	0	2,000

Sullivan County

Town	City Acres	WAC Acres	Total Acquired	EIS Proj. thru 2022	% of EIS Proj.	Acres to No Out-Going Sol	Acres to 1/2 mile = 50%	Acres Exceeded	
Neversink	1,190	0	1,190	4,472	27%	3,282	1,493	0	2,683

Ulster County

Town	City Acres	WAC Acres	Total Acquired	EIS Proj. thru 2022	% of EIS Proj.	Acres to No Out-Going Sol	Acres to 1/2 mile = 50%	Acres Exceeded	
Olive	925	0	925	1,899	49%	974	214	0	1,139
Denning	710	0	710	5,046	14%	4,336	2,318	0	3,028
Wawarsing	486	0	486			3,514	1,514	0	2,000
Shandaken	474	0	474	1,450	33%		396	0	870
Woodstock	414	0	414	2,593	16%	2,179	1,142	0	1,556
Hardenburgh	84	164	249	3,641	7%	3,392	1,936	0	2,185

Putnam County

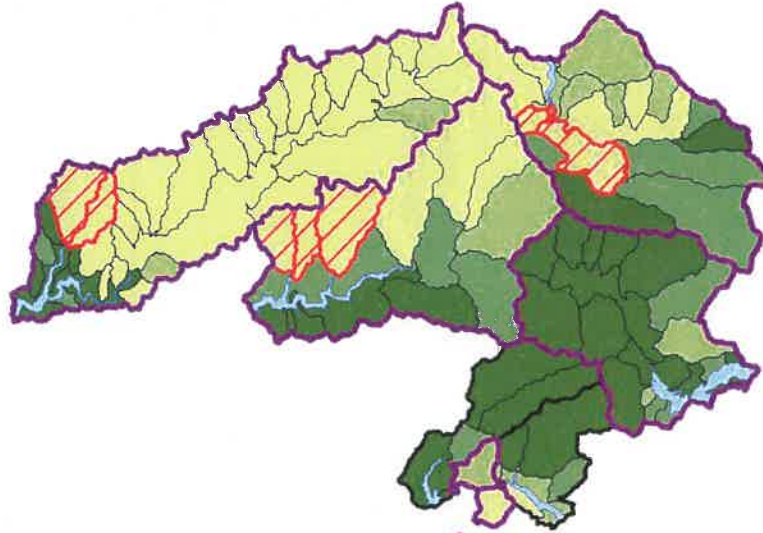
Town	City Acres	WAC Acres	Total Acquired	EIS Proj. thru 2022	% of EIS Proj.	Acres to No Out-Going Sol	Acres to 1/2 mile = 50%	Acres Exceeded	
Kent	716	0	716			3,284	1,284	0	2,000
Carmel	170	0	170			3,831	1,831	0	2,000

Westchester County

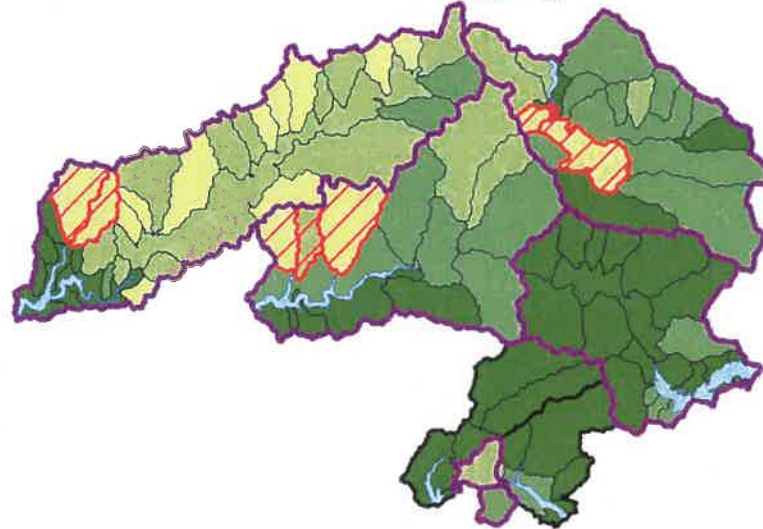
Town	City Acres	WAC Acres	Total Acquired	EIS Proj. thru 2022	% of EIS Proj.	Acres to No Out-Going Sol	Acres to 1/2 mile = 50%	Acres Exceeded	
North Castle	109	0	109			3,891	1,891	0	2,000
Mt. Pleasant	49	0	49			3,951	1,951	0	2,000
New Castle	12	0	12			3,988	1,988	0	2,000

Exhibit D. Time Series Depicting Percentage of Protected Lands* in West of Hudson Subbasins.

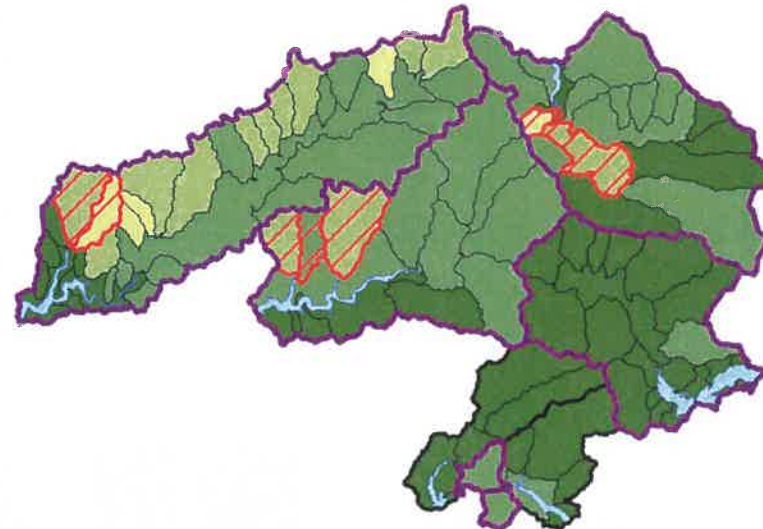
1997**





2009



2022



Legend

	Area of High Focus	Protected Land as a Percentage of Sub-Basin Area
	Area of Focus	
	Basin Boundary	
	0% to 9.9%	
	10% to 19.9%	
	20% to 39.9%	
	40% and over	

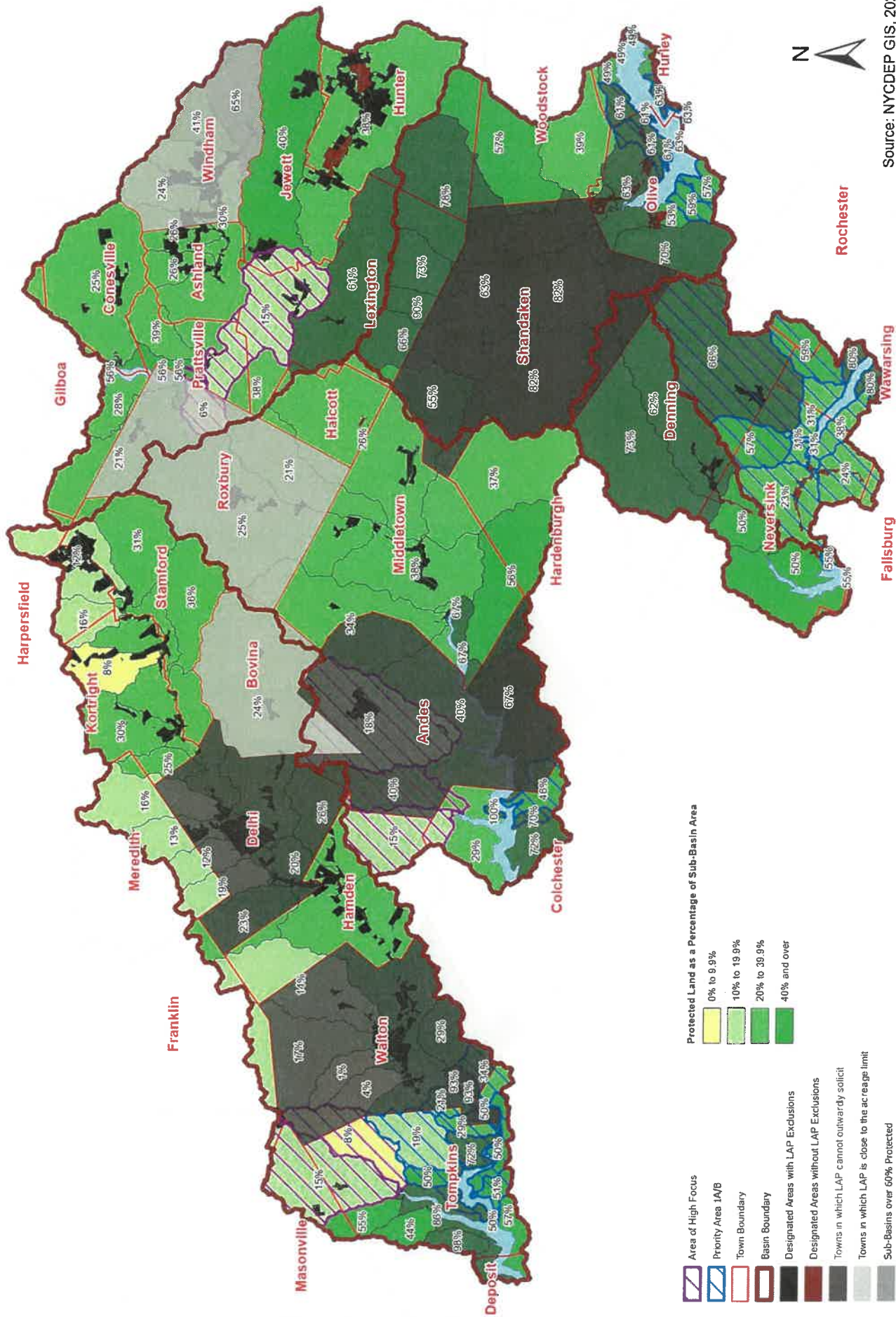
* Protected lands include core LAP (fee and CEs), WAC CEs, pre MOA City lands, State lands, and other protected lands.

** State and other protected land includes some land acquired after 1997 however the City does not track that information.

Source: NYCDEP GIS, 2023
Produced: 5/8/2023, TMS

Exhibit E. Percent Protected Lands* by West of Hudson Subbasin with Solicitation Constraints.

* Protected lands include core LAP (fee and CEs), WAC CEs, pre-MOA City lands, State lands, and other protected lands.





June 28, 2022

Chief Permit Administrator
Division of Environmental Permits
New York State Department of Environmental Conservation
625 Broadway, 4th Floor
Albany, New York 12233-1750

Rohit T. Aggarwala
Commissioner

Paul V. Rush, P.E.
Deputy Commissioner

P.O. Box 358
Grahamsville, NY 12740

Tel. (845) 340-7800
Fax (845) 334-7175
prush@dep.nyc.gov

Dear Permit Administrator:

Enclosed are four copies of New York City's initial application for a successor Public Water Supply Permit, as submitted by the City's Department of Environmental Protection (DEP). The Permit is being sought to continue the City's Land Acquisition Program in the upstate watershed, currently operated under Water Supply Permit #0-9999-00051/00001. The Permit Application sets forth the critical role that the Land Acquisition Program plays in ensuring the continued high quality of the City's drinking water supply.

The attached application consists of the Joint Application Form and the Water Withdrawal Application Supplement WW-1 Form, both of which were derived from DEC's website (<https://www.dec.ny.gov/lands/94327.html>). Also attached are numerous supporting documents as summarized in the List of Exhibits.

Below is current contact information for key parties on our team:

Paul V. Rush, Deputy Commissioner, Bureau of Water Supply
845-340-7800
prush@dep.nyc.gov

David S. Warne, Assistant Commissioner, Bureau of Water Supply
845-340-7802
dwarne@dep.nyc.gov

Daniel F. Mulvihill, Deputy General Counsel, Bureau of Legal Affairs
646-763-1862
dmulvihill@dep.nyc.gov

If you have any questions on the attached, please do not hesitate to contact me.

Sincerely,

David S. Warne
Assistant Commissioner



JOINT APPLICATION FORM

For Permits for activities affecting streams, waterways, waterbodies, wetlands, coastal areas, sources of water, and endangered and threatened species.

You must separately apply for and obtain Permits from each involved agency before starting work. Please read all instructions.

1. Applications To:

>NYS Department of Environmental Conservation ☒ Check here to confirm you sent this form to NYSDEC.

Check all permits that apply:

☐ Stream Disturbance

☐ Excavation and Fill in
Navigable Waters

☐ Docks, Moorings or
Platforms

☐ Dams and Impound-
ment Structures

☐ 401 Water Quality
Certification

☐ Freshwater Wetlands

☐ Tidal Wetlands

☐ Wild, Scenic and
Recreational Rivers

☐ Coastal Erosion
Management

☒ Water Withdrawal

☐ Long Island Well

☐ Incidental Take of
Endangered /
Threatened Species

>US Army Corps of Engineers

☐ Check here to confirm you sent this form to USACE.

Check all permits that apply: ☐ Section 404 Clean Water Act

☐ Section 10 Rivers and Harbors Act

Is the project Federally funded? Yes ☒ No

If yes, name of Federal Agency:

General Permit Type(s), if known:

Preconstruction Notification: Yes ☐ No ☐

>NYS Office of General Services

☐ Check here to confirm you sent this form to NYSOGS.

Check all permits that apply:

☐ State Owned Lands Under Water

☐ Utility Easement (pipelines, conduits, cables, etc.)

☐ Docks, Moorings or Platforms

>NYS Department of State

☐ Check here to confirm you sent this form to NYSDOS.

Check if this applies: ☐ Coastal Consistency Concurrence

2. Name of Applicant

City of New York

Mailing Address

59-17 Junction Blvd.

Taxpayer ID (if applicant is NOT an individual)

13-6400434

Post Office / City

Flushing

State

NY

Zip

11373

Telephone 718-595-4906

Email vsapienza@dep.nyc.gov

Applicant Must be (check all that apply): ☒ Owner ☒ Operator ☐ Lessee

3. Name of Property Owner (if different than Applicant)

Mailing Address

Post Office / City

State

Zip

Telephone

Email

For Agency Use Only

Agency Application Number:

4. Name of Contact / Agent			
David Warne			
Mailing Address		Post Office / City	State Zip
465 Columbus Avenue		Valhalla	NY 10595
Telephone	845-340-7802	Email	dwarne@dep.nyc.gov

5. Project / Facility Name		Property Tax Map Section / Block / Lot Number:	
New York City Watershed			
Project Street Address, if applicable		Post Office / City	State Zip
See Exhibits (maps) B1-B3 for location information			NY
Provide directions and distances to roads, intersections, bridges and bodies of water			
See Exhibits (maps) B1-B3 for location information			
Town	Village	City	County
See Exhibits (maps) B1-B3			
Stream/Waterbody Name			
Project Location Coordinates: Enter Latitude and Longitude in degrees, minutes, seconds:			
Latitude:			Longitude:

6. Project Description: Provide the following information about your project. Continue each response and provide any additional information on other pages. **Attach plans on separate pages.**

a. Purpose of the proposed project:

Continuation of the City's Land Acquisition Program authorized under Water Supply Permit (WSP) # 0-9999-00051/00001, WSP WSA #11,352; see Exhibit A.

b. Description of current site conditions:

The Catskill/Delaware watershed is 39.7% protected through public ownership by government or land trusts, designation as parkland or similar, including 18.3% owned and/or controlled by New York City.

c. Proposed site changes:

The 2010 WSP limits the City's acquisitions in the Catskill/Delaware watershed to 106,712 acres for the duration of that permit. Since January 1, 2010, the City has acquired permanent real property interests totaling 66,843 acres under all City-funded acquisition programs. Consistent with the analysis that supported the 2010 WSP, the City requests authorization to acquire an additional 39,869 acres through the term of the successor WSP. The City is not seeking to increase the current WSP's overall acreage allowance.

d. Type of structures and fill materials to be installed, and quantity of materials to be used (e.g., square feet of coverage, cubic yards of fill material, structures below ordinary/mean high water, etc.):

None / zero.

e. Area of excavation or dredging, volume of material to be removed, location of dredged material placement:

None / zero.

f. Is tree cutting or clearing proposed? Yes If Yes, explain below. ☒ No

Timing of the proposed cutting or clearing (month/year):

Number of trees to be cut:

Acreage of trees to be cleared:

g. Work methods and type of equipment to be used:

Willing seller / willing buyer negotiations at fair market value in accordance with the 2010 Water Supply Permit, 1997 NYC Watershed Memorandum of Agreement, and the 2017 Filtration Avoidance Determination, all as amended.

h. Describe the planned sequence of activities:

Solicitation of landowners; appraising of properties if and as jointly agreed to by owners and the City; extending purchase offers; signing of purchase contracts by willing sellers and the City (and/or third parties where such are involved, as with the Streamside Acquisition Program, NYC-Funded Flood Buyout Program, and easement acquisitions by the Watershed Agricultural Council); local consultation with stakeholders; subdivision approvals by local towns if necessary; satisfaction of contractual obligations by sellers and the City; and final conveyance of deeds.

i. Pollution control methods and other actions proposed to mitigate environmental impacts:

Resource management techniques to ensure highest possible levels of water quality.

j. Erosion and silt control methods that will be used to prevent water quality impacts:

NA

k. Alternatives considered to avoid regulated areas. If no feasible alternatives exist, explain how the project will minimize impacts:

NA

l. Proposed use: ☐ Private ☒ Public ☐ Commercial

m. Proposed Start Date: December 24, 2025 Estimated Completion Date:

n. Has work begun on project? ☒ Yes If Yes, explain below. No

Acquisition of real property interests under prior Water Supply Permits originally began in 1997 and is expected to continue through valid Water Supply Permit periods. See Exhibits D1-D4 for details on Catskill/Delaware watershed lands acquired since January 1, 2010 under the current Water Supply Permit (organized by county, priority area and real estate type), and total Catskill/Delaware watershed lands acquired to date since January 1, 1997 (organized by county, priority area and real estate type).

o. Will project occupy Federal, State, or Municipal Land? ☐ Yes If Yes, explain below. ☒ No

p. List any previous DEC, USACE, OGS or DOS Permit / Application numbers for activities at this location:

WSP # 0-9999-00051/00001, WSP WSA #11,352

q. Will this project require additional Federal, State, or Local authorizations, including zoning changes?

☐ Yes If Yes, list below. ☒ No

7. Signatures.

Applicant and Owner (If different) must sign the application. If the applicant is the landowner, the **landowner attestation form** can be used as an electronic signature as an alternative to the signature below, if necessary. Append additional pages of this Signature section if there are multiple Applicants, Owners or Contact/Agents.

I hereby affirm that information provided on this form and all attachments submitted herewith is true to the best of my knowledge and belief.

Permission to Inspect - I hereby consent to Agency inspection of the project site and adjacent property areas. Agency staff may enter the property without notice between 7:00 am and 7:00 pm, Monday - Friday. Inspection may occur without the owner, applicant or agent present. If the property is posted with "keep out" signs or fenced with an unlocked gate, Agency staff may still enter the property. Agency staff may take measurements, analyze site physical characteristics, take soil and vegetation samples, sketch and photograph the site. I understand that failure to give this consent may result in denial of the permit(s) sought by this application.

False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the NYS Penal Law. Further, the applicant accepts full responsibility for all damage, direct or indirect, of whatever nature, and by whomever suffered, arising out of the project described herein and agrees to indemnify and save harmless the State from suits, actions, damages and costs of every name and description resulting from said project. In addition, Federal Law, 18 U.S.C., Section 1001 provides for a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both where an applicant knowingly and willingly falsifies, conceals, or covers up a material fact; or knowingly makes or uses a false, fictitious or fraudulent statement.

Signature of Applicant



Date

June 28, 2022

Applicant Must be (check all that apply): ☒ Owner ☒ Operator ☐ Lessee

Printed Name

Vincent Sapienza, P.E.,

Title

Chief Operating Officer, NYCDEP

Signature of Owner (if different than Applicant)

Date

Printed Name

Title

Signature of Contact / Agent

Date

June 28, 2022

Printed Name

David S. Warne

Title

Assistant Commissioner, NYCDEP

For Agency Use Only

DETERMINATION OF NO PERMIT REQUIRED

Agency Application Number

(Agency Name) has determined that No Permit is required from this Agency for the project described in this application.

Agency Representative:

Printed
Name

Title

Signature

Date

Water Supply Permit Application by NYC to NYSDEC

June 2022

List of Exhibits

- A. 2010 Water Supply Permit # 0-9999-00051/00001
- B. Maps
 - 1. General Map - Entire Watershed with Service Area Boundaries (601.10.b)
 - 2. EOH Watershed Map with Topography and Protected Lands (601.10.c)
 - 3. WOH Watershed Map with Topography and Protected Lands (601.10.c)
 - 4. Watershed Priority Areas
- C. Project Justification (601.10.k)
- D. Reports
 - 1. Acquisitions by County Since 2010
 - 2. Acquisitions by Priority Area Since 2010
 - 3. Acquisitions by County To Date (1997 – 2022)
 - 4. Acquisitions by Priority Area To Date (1997 – 2022)
- E. Transmittal Letter (601.10.m)

Exhibit A

**New York State Department of Environmental Conservation
Division of Environmental Permits, Region 4**

65561 State Highway 10, Suite 1, Stamford, New York 12167-9503

Phone: (607) 652-7741 FAX: (607) 652-3672

Website: www.dec.state.ny.us



Peter M. Iwanowicz
Acting Commissioner

December 24, 2010

Honorable Caswell F. Holloway
Commissioner
New York City Department of Environmental Protection
59-17 Junction Boulevard
Flushing, NY 11373

Re: DEC ID# 0-9999-00051/00001
Water Supply Permit WSA#11,352
NYC Watershed Land Acquisition Program

Dear Commissioner Holloway:

Please find enclosed a Water Supply Permit issued pursuant to Article 15, Title 15 and Article 70 (Uniform Procedures) of the Environmental Conservation Law (ECL), authorizing land and easement acquisition within New York City's water supply watersheds.

The Department appreciates the cooperative efforts of your agency to fully address all concerns raised and work to achieve the agreement among the many parties to this process. We believe the outcome is protective of this vital water supply for 9 million of New York State's inhabitants while being fair and equitable to the watershed communities.

If you have any questions, please feel free to contact Martha A. Bellinger, Project Manager/Environmental Analyst of our Region 4 Division of Environmental Permits Stamford Office, or myself.

Sincerely Yours,

William J. Clarke
Regional Permit Administrator
Region 4

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC PERMIT NUMBER 0-9999-00051/00001
FACILITY/PROGRAM NUMBER(S) WSA #11,352 Date Filed: January 20, 2010 Ext. No.



EFFECTIVE DATE December 24, 2010
EXPIRATION DATE(S) As per Special Condition 3

TYPE OF PERMIT (Check All Appropriate Boxes)

☒ X NEW
 ☒ X RENEWAL
 ☒ X MODIFICATION
 ☐ PERMIT TO CONSTRUCT
 ☒ X PERMIT TO OPERATE

<input type="checkbox"/>	ARTICLE 15, TITLE 5: PROTECTION OF WATER	<input type="checkbox"/>	ARTICLE 17, TITLES 7, 8: SPDES	<input type="checkbox"/>	ARTICLE 27, TITLE 9; 6NYCRR 373: HAZARDOUS WASTE MGMT.
<input checked="" type="checkbox"/> X	ARTICLE 15, TITLE 15: WATER SUPPLY	<input type="checkbox"/>	ARTICLE 19: AIR POLLUTION CONTROL	<input type="checkbox"/>	ARTICLE 34: COASTAL EROSION MANAGEMENT
<input type="checkbox"/>	ARTICLE 15, TITLE 15: WATER TRANSPORT	<input type="checkbox"/>	ARTICLE 23, TITLE 27: MINED LAND RECLAMATION	<input type="checkbox"/>	ARTICLE 36: FLOODPLAIN MANAGEMENT
<input type="checkbox"/>	ARTICLE 15, TITLE 15: LONG ISLAND WELLS	<input type="checkbox"/>	ARTICLE 24: FRESHWATER WETLANDS	<input type="checkbox"/>	ARTICLES 1, 3, 17, 19, 27, 37; 6NYCRR 380: RADIATION CONTROL
<input type="checkbox"/>	ARTICLE 15, TITLE 27: WILD, SCENIC & RECREATIONAL RIVERS	<input type="checkbox"/>	ARTICLE 25: TIDAL WETLANDS	<input type="checkbox"/>	ARTICLE 27, TITLE 3, 6NYCRR 364: WASTE TRANSPORTER
<input type="checkbox"/>	6NYCRR 608: WATER QUALITY CERTIFICATION	<input type="checkbox"/>	ARTICLE 27, TITLE 7: 6NYCRR 360: SOLID WASTE MANAGEMENT	<input type="checkbox"/>	OTHER:

PERMIT ISSUED TO New York City Department of Environmental Protection			TELEPHONE NUMBER 718-595-6586
ADDRESS OF PERMITTEE 59-17 Junction Boulevard, Flushing, NY 11373			
CONTACT PERSON FOR PERMITTED WORK Caswell F. Holloway, Commissioner			TELEPHONE NUMBER
NAME AND ADDRESS OF PROJECT/FACILITY N/A			
LOCATION OF PROJECT/FACILITY Counties of Putnam, Westchester, Dutchess, Greene, Sullivan, Schoharie, Ulster, Delaware			
COUNTY Multiple	TOWN/CITY/VILLAGE Multiple	WATERCOURSE/WETLAND NO. N/A	NYTM COORDINATES E: N:
DESCRIPTION OF AUTHORIZED ACTIVITY: Land and easement acquisition and management program (Land Acquisition Program or LAP) within the New York City water supply watershed for the purpose of water quality protection.			

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, the General Conditions specified (see page 2) and any Special Conditions included as part of this permit.

REGIONAL PERMIT ADMINISTRATOR: William J. Clarke	ADDRESS NYSDEC, Region 4 Headquarters 1130 North Westcott Road, Schenectady, NY 12306
<i>William J. Clarke</i>	DATE 12/24/2010
Page 1 of 30	

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

GENERAL CONDITIONS

1. Facility Inspection by the Department

The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations

Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications for Permit Renewals or Modifications

The permittee must submit a separate written application to the Department for renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.

The permittee must submit a renewal application at least:

- a) 180 days before expiration of permits for State Pollutant Discharge Elimination System (SPDES), Hazardous Waste Management Facilities (HWMF), major Air Pollution Control (APC) and Solid Waste Management Facilities (SWMF); and
- b) 30 days before expiration of all other permit types.

Submission of applications for permit renewal or modification are to be submitted to:

NYSDEC Regional Permit Administrator, Region 4		NYSDEC Deputy Regional Permit Administrator, Region 4
1150 North Westcott Road, Schenectady, NY 12306		Stamford Field Office, 65561 SH 10, Stamford, NY 12167
(for Albany, Columbia, Greene, Rensselaer,		(for Delaware, Otsego, & Schoharie Counties)
Montgomery, & Schenectady Counties)		

4. Permit Modifications, Suspensions and Revocations by the Department

The Department reserves the right to modify, suspend or revoke this permit in accordance with 6 NYCRR Part 621.

The grounds for modification, suspension or revocation include:

- a) materially false or inaccurate statements in the permit application or supporting papers;
- b) failure by the permittee to comply with any terms or conditions of the permit;
- c) exceeding the scope of the project as described in the permit application;
- d) newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e) noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

Special Conditions
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1. **Authorization.** As authorized by and pursuant to all the terms and conditions of this permit, including attached exhibits, the City of New York ("City"), through the New York City Department of Environmental Protection ("NYCDEP"), may acquire fee title to, or Watershed Conservation Easements (which also include Watershed Agricultural Easements, Watershed Forest Easements, and Riparian Buffer Easements) on, parcels of land located within the Watershed of the New York City water supply system (Watershed). The terms and conditions of this permit draw their statutory authorization from and are designed to ensure that the project is consistent with, section 15-1503(2) and 15-1503(4) of the Environmental Conservation Law and implementing regulations 6NYCRR601. Nothing herein shall be construed to diminish any obligation of the City arising out of the prior approvals or permits issued by NYSDEC, or its predecessors, including the Water Supply Commission, Conservation Commission and Water Power and Control Commission. This authorization shall not exceed 106,712 acres in total City acquisitions in fee title and Watershed Conservation Easements across the entire Watershed which are acquired (i.e. executed contract to purchase) from January 1, 2010 forward of which no more than 105,043 acres shall be located in the West of Hudson watershed.

2. **Scope.** The 2007 USEPA filtration avoidance determination requires the City to commit Two Hundred Forty One Million Dollars (\$241,000,000) in funding a Land Acquisition Program ("LAP") to acquire fee title to, or Watershed Conservation Easements on, parcels of land in the Catskill and Delaware Watershed. This follows upon an earlier filtration avoidance determination embodied in the 1997 Water Supply Permit and the intergovernmental 1997 New York City Watershed Memorandum of Agreement or MOA that required the City to allocate Two Hundred Fifty Million Dollars (\$250,000,000) to the LAP and an additional Fifty Million Dollars (\$50,000,000) to the LAP between 2002 and 2008. The City's LAP, the City's Watershed Regulations, and the other programs and conditions contained in the Watershed MOA, when implemented in conjunction with one another, are intended to protect water quality while allowing existing development to continue and future growth to occur in a manner that is consistent with the existing community character and planning goals of each of the Watershed communities. The City's land acquisition goals recognize the importance of ensuring that the availability of developable land in the Watershed will remain sufficient to accommodate projected growth without adverse effects on water quality and without substantially changing future population patterns in the Watershed communities.

3. **Permit Duration.** The following special conditions shall expire 15 years from the effective date of this permit: Special Conditions 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 22, 25, 26, 27, 29, 30, 31, 33, and 34. All other special conditions shall remain in effect unless modified pursuant to 6NYCRR621. Operational non expiring permit conditions shall consist of:
 3. Permit Duration
 4. Definitions
 15. Recreational Uses: City Property Owned in Fee Simple for Watershed Protection.
 16. Uses: LAP Fee and Easement Property
 18. Real Property Taxes: Newly Acquired In Fee
 19. Real Property Taxes: Watershed Conservation Easements
 20. Limitation on Transfers to Tax Exempt Entities
 21. Land Held in Perpetuity for Watershed Protection
 23. Water Conservation Program Updates and Approval
 24. Water Conservation Program Implementation
 28. Notices and Submittals
 32. Forest Management Plan

4. **Definitions.** The following terms, as used in this permit, shall have the meaning set forth below:
 - a. "CAPA" means the City Administrative Procedure Act, chapter 45 of the New York City Charter.

- b. "Catskill and Delaware System" means the Ashokan, Cannonsville, Kensico, Neversink, Pepacton, Rondout, Schoharie, and West Branch/Boyd's Corner Reservoirs, and the tunnels, dams and aqueducts which are part of and connect the above listed reservoirs.
- c. "Catskill and Delaware Watershed" means the drainage basins of the Catskill and Delaware System. A map of this watershed is set forth in Exhibit 1.
- d. "Catskill Watershed Corporation" or "CWC" means an independent locally-based and locally administered not-for-profit corporation, organized under Section 1411 of the Not For Profit Corporation Law (the "CW Corporation") established in order to foster a working partnership between the City and the WOH Communities, and to manage certain programs more fully described in Special Condition 25 and Exhibit 14 required by this permit under contract to New York City.
- e. "City" means the City of New York, a municipal corporation with its principal office at City Hall, New York, New York 10007. The City is subject to all the terms and conditions in this Water Supply Permit through its implementing agency the NYC Department of Environmental Protection and is responsible for assuring all of its contractors adhere to the same.
- f. "Cluster Development" means the concentrated grouping of residential or commercial development so as to protect water quality and preserve the open space of the development parcel. Cluster Development is also defined within NYS Town Law Section 278 as follows: cluster development shall mean a subdivision plat or plats, approved pursuant to this article, in which the applicable zoning ordinance or local law is modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands.
- g. "Coalition of Watershed Towns" or "Coalition" means the inter-municipal body composed of the municipalities located wholly or partially within that portion of the New York City Watershed that lies west of the Hudson river, which have duly entered into a cooperative agreement, pursuant to § 119-o of the New York General Municipal Law, having its principal office at Tannersville, New York.
- h. "Croton System" means the Amawalk, Bog Brook, Cross River, Croton Falls, Diverting, East Branch, Middle Branch, Muscoot, New Croton, and Titicus Reservoirs, Kirk Lake, Lake Gleneida and Lake Gilead, and the tunnels, dams and aqueducts which are part of and connect the above listed reservoirs and controlled lakes.
- i. "Croton Watershed" means the drainage basins of the Croton System. A map of this watershed is set forth in Exhibit 1.
- j. "Drainage Basin" or "Reservoir Basin" means, for purposes of defining the boundaries of the drainage basin of each reservoir or controlled lake, the area of land that drains surface water into, or into tributaries of, a reservoir or controlled lake of the Catskill and Delaware or Croton Systems.
- k. "East of Hudson" or "EOH" means the drainage basins of the specific reservoirs and controlled lakes of the New York City Watershed located east of the Hudson River in the New York counties of Dutchess, Putnam, and Westchester.
- l. "Effective Date" means the date as shown on Page 1 of the issued permit.
- m. "Executive Committee" means the Executive Committee of the WPPC.
- n. "Individual Landowner Forest Management Plan" means a document prepared by a professional forester that is based upon the goals and objectives that individual owners have for their forested properties and updated on a ten year basis. It is a document which shows by maps, tables and written text, the boundaries and size of the forest, what kind and sizes of trees it contains, what needs to be done to produce and harvest forest products or to achieve other non-timber related objectives and how such activities should be designed in order to minimize negative impacts to water quality.

- o. "Filtration Avoidance Determination or "FAD" means the written determination of the United States Environmental Protection Agency, or the New York State Department of Health, determining that surface source waters may be used as a public water supply without filtration.
- p. "Land" means fee title in real property or Watershed Conservation easements on real property, unless a different meaning is clearly intended by the context.
- q. "NYCDEP" means the New York City Department of Environmental Protection, a mayoral agency of the City of New York organized and existing pursuant to the New York City Charter and its contractors.
- r. "NYSDEC" means the New York State Department of Environmental Conservation, an executive agency of the State of New York organized and existing pursuant to the New York Environmental Conservation Law.
- s. "NYSDOH" means the New York State Department of Health, an executive agency of the State of New York organized and existing pursuant to the New York Public Health Law.
- t. "Primacy Agency" means the United States Environmental Protection Agency or the New York State Department of Health, whichever has primary enforcement responsibility for implementation of the federal Surface Water Treatment Rule (40 CFR §141.70 et seq.) pursuant to §1413 of the federal Safe Drinking Water Act (42 U.S.C. §300g-2).
- u. "Riparian Buffer Easement" means a Watershed Conservation Easement, as defined below in paragraph (cc.) on real property (including floodplains) adjacent to streams, lakes, rivers, wetlands, and/or water bodies acquired pursuant to the Riparian Buffer Program described in Special Condition 29.
- v. "Riparian Buffer in fee" means real property (including floodplains) adjacent to streams, lakes, rivers, wetlands, and/or water bodies acquired in fee pursuant to the Riparian Buffer Program described in Special Condition 29.
- w. "TMDL" means Total Daily Maximum Load. A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. It is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL stipulates wasteload allocations for point source discharges, load allocations for nonpoint sources, and a margin of safety.
- x. "Uninhabitable Dwelling" means a dwelling which is deteriorated to the extent that: either the cost of rehabilitation which would prevent the continued deterioration of primary components will exceed sixty percent (60%) of the fair market value of the structure (as established by the City's appraisal) or rehabilitation will not prevent the continued deterioration of primary components of the dwelling which will result in unsafe living conditions; and it has not been occupied for one year immediately prior to the signing of an option. As used herein, the term "primary components of a dwelling" shall include: foundations, exterior wall framing, rafters, roof decks, roof coverings, porches, floor joists, sills, headers, electrical systems, heating systems, plumbing systems and septic systems.
- y. "USEPA" means the United States Environmental Protection Agency, an executive agency of the United States, organized and existing under the laws of the United States, with its principal office at 401 M Street, S.W., Washington, D.C. 20460.
- z. "Watershed" or "New York City Watershed" means the drainage basins of the Catskill and Delaware and Croton Systems.
- aa. "Watershed Agricultural Council" or "WAC" means an independent locally-based and locally administered not-for-profit corporation, organized under Section 1411 of the Not For Profit Corporation Law (the "Watershed Agricultural Council") established in order to foster a working partnership between the City and the WOH Communities, and to implement and manage certain programs under contract to New York City including but not limited to Watershed Agricultural Easements.

- bb. "Watershed Agricultural Easement" means a Watershed Conservation Easement, as defined below in paragraph (cc.), on real property in active agricultural production or designated for future agricultural production. Such easements shall allow agricultural production.
- cc. "Watershed Conservation Easement" means an easement, covenant, restriction or other interest in real property, created under and subject to the provisions of Article 49 of the New York Environmental Conservation Law, which limits or restricts development, management or use of such real property for the purpose of maintaining the open space or natural condition or character of the real property in a manner consistent with the protection of water quality generally and the New York City drinking water supply specifically. It also includes Watershed Agricultural Easements, Watershed Forest Easements, and Riparian Buffer Easements)
- dd. "Watershed Forest Easement" means a Watershed Conservation Easement, as defined in paragraph (cc.), on real property in forest production or designated for future forest production. Such easements shall allow forest production.
- ee. "Watershed MOA" or "MOA" means the agreement, entered on January 21, 1997, among the State of New York, the City of New York, the United States Environmental Protection Agency, Catskill Watershed Corporation, the Coalition of Watershed Towns, certain watershed municipalities, and certain environmental groups which established a framework for a "partnership to cooperate in the development and implementation of a Watershed protection program that maintains and enhances the quality of the New York City drinking water supply system and the economic vitality and social character of the Watershed communities."
- ff. "Watershed Protection and Partnership Council" or "WPPC" shall mean a group formed to aid in the protection of drinking water quality and the economic vitality of the Watershed communities. The Council will represent a broad-based diverse group of interests that share the common goal of protecting and enhancing the environmental integrity of the Watershed and the social and economic vitality of the Watershed communities. The Council shall consists of twenty-seven (27) members (sixteen (16) members constituting an executive Committee and eleven (11) additional members), which shall include representatives from the State and City of New York, local governments in the Watershed, the USEPA, business, the environmental community, and water supply consumers.
- gg. "Watershed Regulations" means the watershed rules and regulations applicable to the New York City Watershed, codified as Rules of the City of New York ("RCNY"), Title 15, Chapter 18 and New York Codes, Rules and Regulations, Title 10, Part 128 pursuant to Public Health Law Section 1100.
- hh. "1997 Designated Areas" means the villages, village extensions, hamlets, and commercial or industrial areas designated in accordance with paragraph 68 of the Watershed MOA.
- ii. "1997 Water Supply Permit" means the water supply permit issued by NYSDEC on January 21, 1997, DEC Permit Number 0-9999-00051/00001.
- jj. "Water Supply System" means the system of reservoirs, controlled lakes, structures and facilities such as dams, tunnels, and aqueducts which collect source water for the New York City drinking water supply and transport it to the City of New York.
- kk. "West of Hudson" or "WOH" means the Catskill and Delaware drainage basins of the specific reservoirs of the New York City Watershed located west of the Hudson River in the New York counties of Greene, Delaware, Ulster, Schoharie, and Sullivan.
- ll. "WWTP" means wastewater treatment plant.

5. **Willing Sellers/No Eminent Domain.** The City may acquire fee title to, or Watershed Conservation easements on, real property from willing sellers only. This permit does not authorize the use of any powers of eminent domain.

6. Mapping of Priority Areas.

- a. The Catskill and Delaware Watershed has been mapped, in descending order of priority for acquisition and protection, into Priority Areas 1A, 1B, 2, 3, and 4 by the City as shown in Exhibits 2 (West of Hudson) and 3 (East of Hudson).
 - i. Priority Area 1A is the highest priority. It consists of portions of reservoir basins that are within 60-day travel time to distribution and are in close proximity to an aqueduct intake. It consists of portions of the basins of the Kensico, West Branch, Ashokan, Rondout, Neversink, Pepacton, and Cannonsville Reservoirs. Priority Area 1B consists of portions of reservoir basins that are within 60-day travel time to distribution and not Priority Area 1A. It consists of: all of Boyd's Corners Reservoir basin; the remaining portions of the basins of Kensico, West Branch, and Rondout Reservoirs; and portions of the basins of Ashokan, Cannonsville, and Pepacton Reservoirs.
 - ii. Priority Area 2 consists of the remaining portion of the Ashokan Reservoir basin (portions of terminal reservoir basins that are not within priority areas 1A or 1B).
 - iii. Priority Area 3 consists of portions of reservoir basins with identified water quality problems that are not in priority areas 1A, 1B, or 2.
 - iv. Priority Area 4 is the lowest priority. It consists of the remaining areas within the Watershed.
- b. The Croton Watershed has been mapped by the City into Priority Areas A, B, and C; A being the highest priority.
 - i. The Croton Watershed priority areas are as follows: A (New Croton, Croton Falls, and Cross River Reservoirs); B (Muscoot and portions of Amawalk and Titicus Reservoirs within 60-day travel time to distribution); C (remaining reservoir basins and sub-basins beyond 60-day travel time to distribution).

A map of the boundaries of these Priority Areas is set forth in Exhibit 3 of this permit.

7. Eligibility and Authorization for Acquisition.

- a. To be eligible and authorized for acquisition by the City in fee, parcels of land must be vacant, as defined in Special Condition 8, and meet the size and natural features criteria, as set forth in Special Condition 9, and not fall under the acquisition exclusions (hamlet or village designations), as set forth in Special Condition 10. Acquisition eligibility and authorization for Riparian Buffer fee parcels shall be determined solely based upon their meeting the surface water features thresholds (but not steep slopes thresholds) in Special Condition 9.a.2.a - d. and falling outside the acquisition exclusion areas (hamlet or village designations) in Special Condition 10 unless such exclusion is waived in individual municipalities by the town or village boards by resolution authorizing the Riparian Buffer Program and the specific parcels described and covered by such program.
- b. Parcels of land participating in a federal or state flood buy-out program need neither be vacant, as defined in Special Condition 8, nor meet the size and natural features criteria, as set forth in Special Condition 9 nor are such parcels subject to the acquisition exclusions (hamlet or designations) in Special Condition 10.
- c. To be eligible and authorized for acquisition as Watershed Conservation Easements (except for Watershed Agricultural Easements and Riparian Buffer Easements) by the City, parcels of land must meet the size and natural features criteria set forth in Special Condition 9 and not fall under the acquisition exclusions (hamlet or village designations) in Special Condition 10. All Watershed Conservation Easements may be acquired on land regardless of whether the land is vacant, as defined in Special Condition 8. Acquisition eligibility and authorization for Watershed Agricultural Easement parcels shall be determined solely based upon falling outside the acquisition exclusion areas (hamlet or village designations) in Special Condition 10.

Acquisition eligibility and authorization for Riparian Buffer Easement parcels shall be determined solely based upon their meeting the surface water features thresholds (but not steep slopes thresholds) in Special Condition 9.a.2.a - d and falling outside the acquisition exclusion areas (hamlet or village designations) in Special Condition 10 unless such exclusion is waived in individual municipalities by the town or village boards by resolution authorizing the Riparian Buffer Program and the specific parcels described and covered by such program.

8. Vacant Lands Defined.

- a. Vacant land West of Hudson means land on which there are no structures, other than uninhabitable dwellings or accessory structures (sheds, barns, etc.). If a parcel contains a habitable dwelling, the City will acquire the parcel in fee only if the owner subdivides the parcel so that the City only takes title to the portion of the parcel without the habitable dwelling. The subdivided parcel containing the habitable dwelling must include an adequate area for septic field, reserve area and well. If a parcel acquired in fee contains an uninhabitable dwelling or accessory structure, the City will remove it within two years of acquiring title if requested to do so by the respective town or village during the local consultation period.
- b. Vacant land East of Hudson means land on which there are no inhabited structures at the time the City acquires title. If the City is interested in a parcel that contains a structure that would be inhabited at the time the City acquires title, the parcel must be subdivided so that the City only takes title to the portion of the parcel without the inhabited structure.
- c. The City shall be authorized to use land trusts operating under the Enhanced Land Trust Program established pursuant to Special Condition 33 for WOH as LAP contractors to acquire lands described in this special condition providing that the following requirements are adhered to: the subdivision of the parcels is carried out according to the criteria in 8.a above, the vacant land is conveyed to the City, the portion of the properties containing the habitable dwellings are fully maintained so as to not diminish their monetary value, all local tax (including ad valorem) payments are kept current and such subdivided habitable dwelling properties are placed for sale in the open real estate market. In order for this provision to take effect the Town or Village Board shall adopt a resolution pursuant to such procedures determined to be applicable by such Board within 180 days of the Effective Date of this Permit. Every five years, from the Effective Date of the Permit any Town or Village Board shall have a 180 day window following these five year anniversary dates (12/24/2015, 12/24/2020, 12/24/2025) to reassess and if it so chooses to implement the provisions of this paragraph or rescind any prior adopted resolution. All such resolutions shall be provided to NYSDEC, NYSDOH and NYCDEP within 21 days of their adoption.

9. Size and Natural Features Criteria.

Applicability defined herein and within Special Condition 7 above.

a. West of Hudson:

1. Size

All eligible and authorized parcels must:

- a. In Priority Area 1A be at least one acre in size.
- b. In Priority Area 1B must be at least five acres in size.
- c. In Priority Areas 2, 3, and 4 must be at least ten acres in size

2. Surface Water Features/Slopes:

All eligible and authorized parcels only in Priority Areas 2, 3, and 4 must either:

- a. Be at least partially located within 1,000 feet of a reservoir; or
- b. Be at least partially located within the 100-year flood plain; or
- c. Be at least partially located within 300 feet of a watercourse, as defined in the Watershed Regulations; or

- d. Contain in whole or in part a federal jurisdiction wetland greater than five (5) acres or NYSDEC mapped wetland; or
- e. Contain ground slopes greater than fifteen percent (15%).

3. Special Criteria:

All eligible and authorized parcels only in Priority Areas 2, 3 and 4 must either:

- a. Be no less than seven percent (7%) Surface Water Features, as set forth in 9.a.2.a - d above, or
 - b. Be no less than fifty percent (50%) slopes of 15% or greater as set forth in 9.a.2.e above.
- b. Parcels which meet the natural features criteria, as set forth in subparagraph a.2, adjoining to lands owned in fee by the City or owned in fee by the State and which would otherwise not be eligible and authorized under the above Special Criteria, as defined in subparagraph a.3 of this special condition, are eligible and authorized for acquisition in fee by the City subject to the following restrictions: 1) individual acquisitions cannot exceed 25 acres, 2) total acquisitions cannot exceed 1,500 acres in West of Hudson over the life of this permit condition, 3) total acquisitions cannot exceed 300 acres in any one county over the life of this permit and 4) such acquisitions must be for one or more of the following purposes of: a) enhancing recreational access or use, b) addressing access deficiencies such as proposed or existing recreational trail interconnections or trailheads, c) State or City owned in fee parcel access, d) addressing land management issues such as preventing unauthorized uses on State or City owned lands, or e) to provide for linking City or State owned lands or to achieve consolidation by purchasing private in-holdings found within City or State owned land.
 - c. The City may acquire parcels of land West of Hudson that do not meet the above size requirements applicable to Priority Areas 1B, 2, 3 and 4 throughout a town or village or only for those parcels located, at least partially, in a 100-year floodplain, if the Town or Village Board waives the size requirements by resolution adopted pursuant to such procedures determined to be applicable by such Board within 180 days of the Effective Date of this Permit. Every five years, from the Effective Date of the Permit any Town or Village Board shall have a 180 day window following these five year anniversary dates (12/24/2015, 12/24/2020, 12/24/2025) to reassess and if it so chooses to implement the provisions of this paragraph or revoke a prior waiver if granted. All such resolutions shall be provided to NYSDEC, NYSDOH and NYCDEP within 21 days of their adoption.
 - d. There are no parcel size requirements East of Hudson.
 - e. In the Croton Watershed, the City will prioritize its acquisitions based on the Priority Area in which the parcel is located and the natural features of the parcel which could affect water quality.
 - f. The City may aggregate adjoining tax parcels being acquired at one time, or being aggregated with adjoining City-owned land, to meet the minimum acreage (size) requirements as set forth in 9.a.1 above.
 - g. The City may aggregate adjoining tax parcels being acquired at one time to meet the Natural Features Criteria as set forth in 9.a. above so long as the parcels are under related family member ownership or related corporate ownership.
 - h. The natural features criteria determinations of parcel eligibility and authorization shall be based upon information contained in the City's geographic information system, or if available site inspection information, as of the parcel appraisal order date. Where and if available, new, verified, more up to date information shall be used to govern parcel eligibility and authorization up to the conclusion of the local consultation process as set forth in Special Condition 12 including the dispute resolution process as set forth in 12.h.
 - i. Any unacquired parcels not meeting the Special Criteria in this condition but which have appraisal orders which precede the Effective Date of this Permit shall continue to be considered eligible and authorized for acquisition for up to 12 months from the effective date of this permit whereupon such eligibility ceases unless a purchase contract has been signed between the City and the seller.

10. Exclusions from Acquisition (Designated Hamlet and Village Areas).

- a. West of Hudson. The following land areas described in subparagraphs i - iv below are hereby excluded from acquisition by the City in fee and Watershed Conservation Easement only if a town or a village designates them as Designated Hamlet (or Village) Areas by Town (or Village) Board resolution within 180 days of the Effective Date of the permit. Such Town or Village Board designation resolutions shall describe the excluded (hamlet or village) land parcels within their jurisdiction covered in subparagraphs i - iv below. Towns and Villages shall have the option to remove parcels from coverage so they would not be part of the designated hamlet or village area. Towns and Villages considering such resolutions shall provide for the following: 1) written notification via regular US Postal Service mail to the affected landowners within their jurisdiction as shown in Exhibits 4 and 5 using the mailing addresses found in the most current municipal tax rolls, 2) general notice to the public via local newspapers, and 3) a public comment period of no less than 30 days following such notices. Then within 21 days following their adoption, Town or Village Board designation resolutions must be submitted by the towns or villages to NYSDEC, the City and affected landowners with a certification and documentation that all requirements of this Special Condition and all applicable laws and regulations have been followed. Thereupon the resolution will take effect and becomes binding upon the City. NYSDEC retains final authority to resolve any dispute under this special condition between the City and Town or Village using the process as set forth in Special Condition 12.h. Towns may designate hamlet areas under subparagraphs ii. and/or land areas under iii. and iv. below. The excluded land areas under this paragraph can consist of only:
- i. land within an incorporated village designated by the Village Board (Designated Village Area); and
 - ii. land parcels within a town and designated as hamlet in whole or in part by the Town Board (Designated Hamlet Area) from the list of tax parcels and maps in Exhibits 4 and 5; and
 - iii. up to 50 acres of land within a town designated by the Town Board; provided that the lands are outside Priority Area 1A, are identified as whole tax map parcels, and are identified as commercial or industrial areas and provided that any acreage previously so designated by Town Boards is set forth in Exhibits 4 and 5; and
 - iv. lands within a town designated by the Town Board; provided that the lands are designated by tax map parcel and are located within one-quarter mile of a village and abutting the roads set forth in Exhibit 6 of this permit.
- b. The 1997 Town or Village Board Designated Areas by resolution which implemented an acquisition in fee only exclusion made pursuant to the provisions of the 1997 Water Supply Permit shall continue (except for the Town of Shandaken) unless superseded by the new designations authorized in Paragraph a of this Special Condition.
- c. Commencing on the Effective Date of this Permit except for Riparian Buffers in fee or Easements, the City shall not solicit the purchase of either land in fee or Watershed Conservation Easements from any landowner in the Town of Shandaken directly. Specifically, the City will not intentionally initiate contact with any landowner concerning opportunities to sell real property interests, whether by mail, by telephone, in person, or otherwise. Notwithstanding the City's agreement not to solicit landowners directly, nothing herein shall prevent the City from receiving, responding to, or acting upon unsolicited inquiries from owners of land in the Town of Shandaken.
- d. East of Hudson, the City shall not acquire fee title to property zoned commercial or industrial as of the date of the City's solicitation, except that the City may acquire up to five percent (5%) of the total acreage of such property within any town or village unless a town or village in Westchester County agrees, by resolution, to a higher percentage in such town or village.

- e. Any unacquired parcels which become part of the area excluded from acquisition (hamlet designation) under paragraph a. of this condition and have appraisal orders that precede the Effective Date of this Permit shall continue to be considered eligible and authorized for acquisition for up to 12 months from the Effective Date of this Permit whereupon such eligibility ceases unless a purchase contract has been signed between the City and the seller.
- f. Every five years, from the Effective Date of the Permit any town or village shall have a 180 day window following these five year anniversary dates (12/24/2015, 12/24/2020, 12/24/2025) to reassess and if it so chooses to: 1) implement the provisions of Paragraph a. of this Special Condition or 2) rescind any prior designation pursuant to such procedures determined to be applicable by such Board with such resolutions provided to NYSDEC, NYSDOH and NYCDEP within 21 days of their adoption in order for them to take effect. If the Town of Shandaken exercises this option then the provisions of paragraph c. in this special condition are no longer in effect. In order to maintain eligibility and acquisition authorization for any pending parcel specific land acquisition process in those communities the City shall have three months after receiving the town or village board resolution in which to order an appraisal and 12 months for purchase contracts to be signed by the City and the seller otherwise such parcels become excluded from acquisition. The City shall not solicit additional acquisitions upon passage and subsequent submittal to NYSDEC and the City of the designation resolution.
- g. As provided for in Special Condition 7.c above, Riparian Buffer in fee or easements may be acquired by the City even if within a Designated Village or Hamlet Area if the Town or Village Board waives by resolution which may be adopted at any time pursuant to such procedures determined to be applicable by such Board thereby authorizing the Riparian Buffer Program and the specific parcels described and covered. Such resolutions must be provided to NYSDEC, NYSDOH and NYCDEP within 21 days of their adoption in order for them to take effect.
- h. For the Towns of Ashland, Delhi, Hamden, Walton and Windham, the parcels referenced in the cluster development Town Board resolutions attached as Exhibit 13 shall be eligible for coverage under this Special Condition only if such resolutions remain in force. Such resolutions shall encourage and authorize town planning boards to approve cluster development projects.

11. Acquisition Procedures.

At request of a town or village, the City shall make a presentation describing the process the City intends to use to solicit acquisitions.

- a. West of Hudson, the City may make a joint presentation to groups of up to three towns and/or villages. With the consent of the involved towns or villages, the City may also make a joint presentation to groups of more than three towns and/or villages West of Hudson, or to any number of towns and/or villages East of Hudson.
- b. Such presentation shall also include an indication of what land is eligible for acquisition in such town or village (including a map of the town or village reflecting the priority areas and applicable Natural Features Criteria) and the estimated acreage that the City expects to acquire.
- c. The City may solicit landowners directly and acquire such land except as restricted by Special Conditions (SC) 7 – Eligibility and Authorization for Acquisition, SC 8 – Vacant Lands Defined, SC 9 – Size and Natural Features Criteria and SC 10 – Exclusions from Acquisition. The City may also receive, and act upon, unsolicited inquiries from landowners at any time subject to the restrictions of Special Conditions 7, 8, 9 and 10.

12. Local Consultation.

- a. Prior to acquiring any land or Watershed Conservation Easements, the City will consult with the town or village in which the parcel is located. The consultation will ensure that the City is aware of and considers the town's or village's interests and that the terms of this permit are complied with.

- b. The City will provide a local government consultation package with copies to NYSDOH, EPA and NYSDEC that will: 1) identify for the town or village, and for the appropriate County and for NYSDEC, the parcels of any land or Watershed Conservation Easements for which the City has entered into an option or contract to purchase, any structures which may be located on the property; 2) state the City's determination of whether structures are uninhabitable or accessory; 3) include a map or maps depicting the tax parcel boundary of the acquisition property, including the location and attributes of "envelopes" within the proposed acquisition; 4) include an aerial photo of the affected property (if available); 5) identify exclusions (if any) from the acquisition; 6) describe any proposed recreational uses; 7) describe all historical uses including natural resources; 8) identify known available natural resources; 9) include the Community Review Fact Sheet; 10) include a brief summary concerning and map depicting the proposed acquisition and any adjacent proposed City acquisitions in fee or easements including rights of way or adjacent existing City or State owned land in fee or easement; 11) describe any proposed fencing and signing; 12) include the form of easement agreement (if an easement is being acquired); and 13) state that the parcel meets these acquisition criteria: a) Special Condition 9 Size and Natural Features Criteria, b) Special Condition 8 Vacant Lands Defined, c) Special Condition 7 Eligibility and Authorization for Acquisition and d) Special Condition 10 Exclusions from Acquisition.
- c. The City will diligently attempt to group together parcels for review by the town or village and to minimize the number of times it submits parcels for review, and will submit such parcels for review no more frequently than on a monthly basis. The City shall allow the town or village a total of 120 days to undertake all the following:
 - review and assess the information contained in the City's submission;
 - conduct public review and interagency consultation where so desired by the town or village; and
 - submit comments to the City.
- e. The town or village review and comments (which may be supplemented with comments from the county) may include:
 - consistency with the natural features criteria in Special Condition 9;
 - consistency with the size requirements in Special Condition 9;
 - consistency with the vacancy requirements in Special Condition 8;
 - consistency with local land use laws, plans and policies;
 - the City's proposed fencing and signing;
 - proposed recreational uses;
 - available natural resources and access thereto;
 - access to any development areas;
 - potable water;
 - sewage disposal;
 - consistency with set-back requirements and local land use regulation; and
 - natural resource criteria.
- f. In the event of a mortgage foreclosure, tax foreclosure or judgment sale, the City may submit a parcel for review to a town or village without obtaining an option or contract to purchase.
- g. The City will respond to local government comments and provide notice of any proposed City actions, within thirty (30) days of receipt. Unless a town or village notifies the City of its intent to file an appeal within thirty (30) days of receiving the City's response and an appeal is filed pursuant to paragraph h. below the City may proceed to acquire the parcels

identified in the local consultation process in the village or town. In the event of any dispute, the acquisition of any specific parcel involved shall not proceed except under the dispute resolution/final decision provisions of paragraph h. below.

- h. Disputes between the City and the town or village over whether a particular parcel meets the vacancy, size, or natural features criteria contained in this permit in Special Conditions 8 and 9 will be submitted by the City to NYSDEC (attention: NYSDEC Office of Hearings) prior to the City's acquisition or may be submitted by the disputing town or village no later than thirty (30) days of receiving the City's response to comments under paragraph g above. This dispute, will be resolved based upon the facts as submitted and the terms and conditions of this permit by NYSDEC through a designated Administrative Law Judge in the NYSDEC Office of Hearings. The responding party (the town or village, or the City) may make a submission to NYSDEC in response to the position advocated by the party initiating the dispute resolution process within fifteen (15) days following the City's receipt of the initial submission. NYSDEC shall resolve such dispute or issue a final binding decision within thirty (30) days of the responding party's submittal deadline. NYSDEC's decision shall be a final decision for purposes of Article 78 of the New York Civil Practice Law and Rules. Unless otherwise specified, either party (the City or the community) has sixty (60) days from the date of the NYSDEC decision to commence an Article 78 proceeding in respect of NYSDEC's decision. In the event NYSDEC does not resolve the dispute or issue a final decision within the thirty (30) day time period specified herein then the City may send a request to NYSDEC in writing by certified mail, return receipt requested with copies to the disputing town or village, to issue a final decision pursuant to this paragraph. The Petition in an Article 78 proceeding shall name the City as a Respondent. If within thirty (30) days of the receipt of this letter the dispute is not resolved or a final decision by NYSDEC is not issued then a final NYSDEC decision finding that the disputed acquisition parcels have met the vacancy, size, or natural features criteria contained in this permit in Special Conditions 8 and 9 shall be deemed to have been granted.
- i. To assist towns and villages in the Watershed in their review and comment on proposed City land acquisition in such towns and villages, and the designation of hamlets, commercial/industrial areas, and village extensions and periodic determinations with respect to such designations in Special Condition 10, the City will reimburse each town or village where the City seeks to acquire lands or Watershed Conservation Easements, for actual costs incurred, up to Thirty Thousand Dollars (\$30,000), in the West of Hudson Watershed, up to Twenty Thousand Dollars (\$20,000) in the East of Hudson portions of the Catskill and Delaware Watershed, and up to Ten Thousand Dollars (\$10,000), per town or village in the Croton Watershed and not in the Catskill/Delaware Watershed, Such funding has previously been allocated pursuant to MOA ¶ 148 and the 2007 FAD.

13. Fair Market Value.

- a. The purchase price of all land and Watershed Conservation Easements acquired shall reflect fair market value, as determined by an independent appraisal obtained at the direction of the City and performed by an independent, New York State certified appraiser.
- b. Notwithstanding (a) above, the City may acquire property at less than the fair market value at public auction or at a directly negotiated sale from a bank, other financial institution, or taxing authority in the context of a mortgage foreclosure, tax foreclosure, or legal judgment.
- c. Fair market value shall be determined in accordance with the following definition from the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation, or in accordance with relevant successor language.
The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this

definition is the consummation of the sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
 2. Both parties are well informed or well advised, and acting in what they consider their best interest;
 3. A reasonable time is allowed for exposure in the open market;
 4. Payment is made in terms of cash in U.S. dollars, or in terms of financial arrangements comparable thereto; and
 5. The price represents the normal consideration for the property, sold unaffected by special or creative financing sales concessions granted by anyone associated with the sale.
- d. For purposes of determining fair market value if all other required governmental permits and approvals have been granted, the appraiser shall assume that any necessary City approvals have also been granted.
 - e. In determining the fair market value, the independent appraisers hired by the City will consider information from a second appraisal, provided by the landowner and made at the landowner's or a third party's expense, provided the second appraisal is made by a New York State certified appraiser and was completed no earlier than one year prior to the City's appraisal and no later than six (6) months after the owner received the City's appraisal. Upon request by the landowner or a third party, the City may extend the time period for completion of a second appraisal.

14. Schedule. The City will solicit acquisitions in accordance with the applicable solicitation plan prepared and submitted to NYSDEC, NYSDOH and USEPA pursuant to the 2007 FAD or its successor (Exhibits 7: 2007, Exhibit 8: 2008-10. The City may, at any time, respond to direct inquiries from property owners anywhere in the Watershed, subject to all applicable Special Conditions in this permit.

15. Recreational Uses: City Property Owned in Fee Simple for Watershed Protection.

- a. The City will consult during the 120-day review period specified in Special Condition 12 with NYSDEC, NYSDOH, USEPA local governments, and the appropriate regional Sporting Advisory Subcommittee, if any, regarding the recreational uses the City deems appropriate on newly acquired parcels in fee.
- b. The City shall allow historic recreational uses, including fishing, trapping, hiking, and hunting, to continue on newly acquired parcels in fee, subject to rules and regulations adopted or permits issued by NYCDEP, unless NYCDEP determines, on a rational basis, that such uses threaten public safety or threaten to have an adverse impact on water quality or NYCDEP operations related to water supply.
- c. The following recreational uses are more likely to be allowed on City land, if appropriate, subject to rules and regulations adopted, or permits issued, by NYCDEP: fishing (including fishing by boat) under regulation; hiking, especially where parcels intersect State trails, snowshoeing; cross country skiing; bird watching, educational programs, nature study and interpretation; and hunting (only in certain areas under certain conditions).
- d. The following activities are not likely to be allowed on City property even if the property was historically utilized for these purposes: boating (other than for permitted fishing by boat and the pilot boating program in paragraph g. of this condition); snowmobiling (except as per paragraph f. of this condition); camping; motorcycling; mountain bicycling; and horseback riding.
- e. Seven (7) years from the Effective Date of the Permit the City shall consult pursuant to paragraph 15.a above regarding recreational uses on City owned property owned in fee simple using the procedures in this special condition and based upon such consultation evaluate if there should be any changes in the allowable recreational uses specified herein. A report shall be prepared and submitted to NYSDEC within 6 months after such consultation. Thereafter, upon

request from NYSDEC, the City shall follow the consultation procedures described in 15.a above and prepare and submit a report to NYSDEC within twelve (12) months after receiving such request. Such requests will be made in writing, will include specific recommendations concerning changes in the allowable recreational uses for the City to consider, and may be made no more often than once every ten (10) years.

- f. Snowmobile Trails. The City will continue to allow snowmobile access on specific City-owned parcels under the following conditions:
 - i. A qualified organization must obtain a land use permit for trails that are part of a regional NYSDEC-sanctioned network to cross City property;
 - ii. Use of the trails must not pose a threat to water quality or NYCDEP operations related to water supply; and
 - iii. A qualified organization must take responsibility for establishment and maintenance of trails.
- g. Expanded Boating Program. The City will continue the Cannonsville Pilot Boating Program (for the purposes of this paragraph, the "Boating Program") including cooperating with CWC to complete the evaluation study to gather data from the Boating Program regarding its impact, if any, upon water quality, and providing recreational opportunities as well as establishing criteria for evaluating the Program. With this study in hand, NYCDEP shall consult with NYSDEC and NYSDOH prior to making any determination if the Boating Program should be continued and/or expanded to other City owned reservoirs.

16. Uses: LAP Fee and Easement Property.

- a. Permitted uses on land acquired in fee by the Land Acquisition Program (LAP): As described in Special Condition 15.b and c.
- b. Uses not likely to be allowed on LAP-acquired fee land: As described in Special Condition 15.d. above.
- c. Prohibited Uses on LAP-acquired fee land: as described in the declaration of restrictions contained in the grant of conservation easement to NYSDEC as shown in Exhibit 9 or as revised by NYSDEC in consultation with NYCDEP.
- d. Reserved Uses/Reserved Rights:
 - 1. The Reserved Uses/Reserved Rights that may be available on LAP Fee and Easement Property include, but are not limited to: communication towers, wind turbines, Farm Support Housing and other buildings used for rural enterprises (Watershed Agricultural Easements only), Commercial Forestry, Commercial Bluestone Mining, and public or private rights of way and utility easements.
 - 2. Watershed Conservation Easements Acquired after the Effective Date of this Permit.
 - a. The City will incorporate into NYCDEP Watershed Conservation Easements appraised on or after the Effective Date of this Permit provisions for the reserved uses/reserved rights listed in subparagraph d.1. above and also provide that the City must review such applications to exercise reserved uses/reserved rights on a case by case basis subject to the terms of the Easement and a determination that the proposed use will not pose a threat to water quality or NYCDEP operations related to water supply.
 - b. The City will ensure that Watershed Agricultural Easements appraised on or after the Effective Date of the Permit shall conform to the WAC model easement found in Exhibit 10, and shall provide the rights provided in paragraphs 2.s, 3, 8, 19, 20, and 24 of the model easement dated September 2, 2010.
 - c. Any unacquired easement parcels shall not be subject to paragraphs d.2.a. and b. of this condition if their appraisal orders precede the Effective Date of this

Permit and the landowner has declined the opportunity to convert the easement to the versions of the NYCDEP and WAC model easements described in paragraphs 16.d.2.a and 16.d.2.b above and a purchase contract has been signed between the City and the landowner/seller within 12 months from the Effective Date of this Permit. Otherwise paragraphs 16.d.2.a. and b. apply.

3. Watershed Conservation Easements Executed Prior to the Effective Date of this Permit.
 - a. Upon request from a grantor of an easement acquired prior to the Effective Date of this Permit, based on a specific proposal to undertake a use that would be a Reserved Use under this Permit but is not included in the existing easement, the City shall make (or shall ensure that its contractor makes) diligent efforts to execute and record amendments to the easement, or otherwise to allow the use if it is permissible without such an amendment, subject to reasonable conditions, so long as:
 - i. The grantor provides the following information about the proposed use:
 1. A project description;
 2. A map depicting the proposed area for the activity and approximate area(s) of disturbance;
 3. A list of all required regulatory approvals associated with the proposed use; and
 4. Information demonstrating that the proposed use will not pose a threat to water quality or NYCDEP operations related to water supply.
 - ii. Any modification to the easement is made subject to all applicable laws and requirements.
 - b. The City shall ensure the following actions: 1) within 180 days of the Effective Date of this Permit, WAC will send a letter to grantors of Agricultural Easements offering to amend existing Agricultural Easements; 2) the letter will specifically propose to add new language to the existing Easement, including but not necessarily limited to sections 2.s, 3, 8, 19, 20, and 24 of the updated model Agricultural Easement, attached as Exhibit 10; 3) the letter will state that WAC will pay for all costs associated with such amendments where grantors agree to amend; and 4) implementation of these provisions.
4. The NYS Conservation Easement for new fee parcels may include the reserved uses/rights as defined in 16.d.1 above. Such NYS Conservation Easements shall provide for the review and approval by the NYSDEC of each proposed wind energy tower/structure or communications tower/structure in accordance with the model NYS Conservation Easement attached as Exhibit 9 unless the NYSDEC waives such individual project review and approval in writing. The City may request on a case by case basis for specific project proposals that NYSDEC amend specific NYS Conservation Easements in order to provide for the wind energy or communications tower reserved uses enumerated in d.1 above. Any modification to such an easement or to the model easement shall be subject to all applicable laws and requirements.

17. Watershed Conservation Easements. In addition to acquisition in fee, the City may acquire Watershed Conservation Easements in accordance with Article 49 of the New York State Environmental Conservation Law and any implementing regulations. The Watershed Conservation Easements will be acquired at fair market value in accordance with Special Condition 13. Watershed Conservation Easements shall consist of Watershed Conservation Easements, Watershed Agricultural Easements, Watershed Forest Easements and Riparian Buffer Easements acquired by either the City or on behalf of the City as part of a contractual agreement between the

City and organizations or governmental agencies, individuals or companies pursuant to all the provisions of this permit.

18. Real Property Taxes: Newly Acquired in Fee under the City's Land Acquisition Program.

- a. The City will not challenge the initial assessed value or adjustments to the assessed value of parcels to be acquired pursuant to the land acquisition program set forth in this permit provided the initial assessed or adjusted value for such parcel does not exceed the fair market value of the parcel multiplied by the applicable equalization rate or a special equalization rate for that assessing unit. For purposes of this paragraph, fair market value equals the parcel's appraised value as finally determined by the City's independent appraiser.
- b. The City will not challenge future assessments on any parcel acquired pursuant to the land acquisition program set forth in this permit or the 1997 Water Supply Permit, provided that in any Town or Village both of the following two conditions are met: (1) the rate of increase of the total assessed value of all parcels purchased by the City under the land acquisition program, as measured from the assessment roll in any year over the assessment roll of the prior year is not greater than the equivalent rate of increase in total assessed value of all non-City-owned parcels classified as forest or vacant; and (2) the ratio of the total assessed value of all parcels purchased by the City under the land acquisition program in the town to the total assessed value of all taxable parcels in the town does not increase from the prior year (after excluding any City acquisitions not included in the prior year's calculation). With respect to each parcel purchased by the City, since the beginning of the LAP in 1997 as well as after the Effective Date of this Permit, this commitment with respect to challenges of future assessments shall last for thirty (30) years from the date of each purchase.
- c. The City will not seek to have any parcels acquired pursuant to this land acquisition program consolidated for purposes of reducing the City's property taxes.
- d. The City shall retain its right as a property owner to challenge in court, or otherwise, assessments of parcels purchased under the land acquisition program if the provisions of paragraphs (a) and (b) are not satisfied. In any such challenge, the City will not seek to have the assessed value of the parcel reduced below the highest value which would result in the assessed value of the parcel satisfying the limitation set forth in paragraph (a) or in the total assessed value of all parcels purchased by the City under the land acquisition program in the town satisfying the limitations set forth in paragraph (b) above.
- e. Except as provided in paragraph (c), the City retains all legal rights held by property owners with respect to any town-wide or county wide revaluation or update (as those terms are defined in Section 102, subdivisions (12-a) and (22) of the RPTL) currently being undertaken or which may be undertaken in the future.
- f. The City shall also make payment for real property tax and ad valorem levies upon properties covered by this Special Condition.
- g. The City shall assure the provisions of this special condition are incorporated into an instrument binding upon the recipient and if successors or assignees in the event of any property transfer or sale.

19. Real Property Taxes: Watershed Conservation Easements. The City shall support the enactment by the State Legislature of amendments as set forth in Exhibit 11 or its equivalent. Among other changes such amendments in Exhibit 11 would extend this statute so its provisions do not expire on 12/31/2016 and also expand property tax payment obligations by the City to include agriculturally exempt Watershed Agricultural Easements pursuant to Article 25-AA Agricultural and Markets Law acquired after 12/31/2010.

- a. Article 5, Title 4-a of the New York Real Property Tax Law is the applicable state law which applies to Watershed Conservation Easements and Watershed Agricultural Easements. After December 31, 2010 the City shall also be bound by the proposed amended provisions in Exhibit 11 unless it or its equivalent has been enacted into law. Should the current statute expire then the

City shall be bound by the provisions of Exhibit 11 in its entirety. Unless Exhibit 11 or its equivalent is enacted into statute the City may not enter into purchase contracts to acquire Watershed Conservation Easements (WCE) or Watershed Agricultural Easements (WAE) except in those towns or villages where the City has entered into agreements with each applicable local property tax and assessing authority or jurisdiction (Local Authority[ies]) to implement the proposed amended provisions of Exhibit 11 on the following schedule: 1) WAEs proposed for acquisition after 12/31/2010, 2) WCEs (including continuation for WAEs) proposed for acquisition after 12/31/2016. In the event the Local Authority[ies] does/do not execute within ninety (90) days a signed agreement provided by the City then the City may execute purchase contracts within that town or village. Exhibit 11 includes the City paying local property tax levies for agriculturally exempt Watershed Agricultural Easements pursuant to Article 25-AA Agricultural and Markets Law which are acquired after December 31, 2010 as well as the continuation past December 31, 2016 of the City's obligation to pay local property taxes for Watershed Conservation Easements and Watershed Agricultural Easements acquired by the City under the LAP. Such agreements shall expire only if Exhibit 11 or its equivalent is enacted into law.

- a. The City will provide to the respective Towns and Villages, as part of the local consultation process, and to the respective sellers, a generic description in plain language of the real property tax consequences to a seller arising from the City's purchase of a Watershed Conservation Easement.
- b. The City shall assure the provisions of this special condition are incorporated into an instrument binding upon the recipient and if successors or assignees in the event of any property transfer or sale.

20. Limitation on Transfers to Tax Exempt Entities. The City will not transfer land including Watershed Conservation Easements, acquired pursuant to this land acquisition program to a tax exempt entity unless the entity executes a binding agreement with the City to comply with the provisions of Special Conditions 18 and 19.a plus 19.c which includes payments in place of property taxes and ad valorem levies as well as with any agreements and requirements that run with the land. This binding agreement shall also provide for the tax exempt entity to enter into its own written agreements acceptable to and with each applicable local property tax and assessing authority or jurisdiction to make payments equal to real property tax and ad valorem levies to satisfy the provisions of this special condition and the binding agreement. The City shall also in each such binding agreement entered into pursuant to this Special Condition make each such local property tax and assessing authority or jurisdiction in which the land subject to transfer to a tax exempt entity is situated, a third party beneficiary. Such agreement will grant each such third party beneficiary the right to enforce against the tax exempt entity and obtain specific performance as a remedy as well as shall run with the land and apply to future grantees or assignees.

21. Land Held in Perpetuity for Watershed Protection. (a) The City will grant a conservation easement that shall run with the land on all land acquired in fee under the land acquisition program to NYSDEC to ensure that such land is held in perpetuity in an undeveloped state in order to protect the Watershed and the New York City drinking water supply. Such easement shall also provide that the Primacy Agency shall have enforcement rights or be specified as a third-party beneficiary with a right to enforce the easement. With respect to lands in Priority Areas 3, 4 or C, such easements will provide that, with the prior agreement of USEPA and NYSDOH, the City may sell such lands free of the easement restriction, in order to purchase already identified replacement lands located in a higher Priority Area. In addition, any lands to be sold shall be offered in the first instance to NYSDEC for the option to acquire pursuant to applicable New York State and NYC laws at fair market value or a mutually agreed upon acquisition price. If so, the replacement lands thus acquired will similarly be subject to conservation easements. The City will not use the granting of conservation easements to reduce property tax liability on the property it acquires. In order to acquire any replacement lands during the term of the land acquisition program, the City shall comply with all of the requirements of this permit. Replacement LAP land

acquisition shall be governed by the provisions of this permit which shall survive expiration for this express LAP purpose.

(b) Watershed Conservation Easements acquired by the City shall be held in perpetuity in order to protect the Watershed and the New York City drinking water supply.

22. Acquisition Reports. The City shall submit acquisition reports every six months from the Effective Date of the Permit to the Primacy Agency (USEPA or NYSDOH), NYSDEC, and the Watershed Protection and Partnership Council. Such reports will include the following information for all parcels and easements acquired during the reporting period: address; description of the property, including any easement; county and town where property is located; tax map number; acreage; closing date; and map of property. The acquisition report shall also contain cumulative totals of acreage solicited and acreage acquired identified by town and Priority Area. Such Reports may be consolidated with reports required to be submitted under a Filtration Avoidance Determination.

23. Water Conservation Program Updates and Approval. The City shall update its current Water Conservation Program dated December, 2006 (Exhibit 13) ("Program") every 5 years thereafter and submit four (4) copies and one electronic copy in PDF, or similar form, of the updated Program to the NYSDEC for approval by no later than six (6) months prior to the end of the five year period. The written Water Conservation Program must be submitted to NYSDEC with sufficient detail and analysis to explain any data, objectives, proposals, estimated savings, measurements, milestones, methods of documentation, results or conclusions contained therein.

24. Water Conservation Program Implementation. The City shall continue to carry out all elements of its approved Water Conservation Program ("Program"). Within one year after the approval of the latest Program by the NYSDEC, and annually thereafter, the permittee must submit to the NYSDEC four (4) copies and one electronic copy in PDF, or similar form, of a Water Conservation Report ("Report"). The Report must address each element of the approved Program and any additional water conservation measures planned or being carried out by the permittee. The Report must be in the same format as the Program and must also include an update on the progress of implementation of all elements of the Program to date, an identification of accomplishments over the previous year; and an explanation for any failure to accomplish an element of the Program. The Report shall also specifically include, but not be limited to, a table that includes the number of meters installed; leaks repaired; miles of water main repaired and replaced; miles of water main leak surveyed; hydrants repaired or replaced; water fixtures rebated and water conservation surveys completed for the City's five boroughs. Each category shall also include the estimated daily gallons of water saved by each action.

25. Programs to Foster Cooperation and Requirement to Fund Watershed Protection and Partnership Programs.

- a. Pursuant to Section 15-1503(4) of the Environmental Conservation Law, in addition to the foregoing conditions, NYSDEC has determined that the implementation, by the City, of the following programs, originally established by the 1997 Watershed MOA, incorporated as conditions in the 1997, 2002 and 2007 FADs and made a condition of the 1997 Water Supply Permit, as well as those programs identified below will foster cooperation with persons affected by the land acquisition program and assure the LAP is just and equitable to all affected municipalities and their inhabitants and in particular with regard to their present and future needs for sources of water supply. Except as otherwise provided in this permit, the City is required to execute and maintain Valid and Enforceable Program Contracts which implement the programs set forth below and as further described in the following provisions of the MOA which are incorporated by reference as Exhibit 14, and the following Watershed Protection and Partnership Programs: Septic Remediation and Replacement Program; Septic Maintenance Program; Community Wastewater Management Program; Stormwater Retrofit Program; Local Consultation Program; Education and Outreach Program; Tax Litigation Avoidance Program; CWC Operating Funds; Watershed Agricultural Program; Stream Management Program; and East of Hudson Non-Point Source

Pollution Control Program. The City's obligation to execute and maintain Valid and Enforceable Program Contracts for such programs is an independent requirement of this permit and shall continue whether or not the Watershed MOA is valid and enforceable. Nothing in this Permit limits the City's obligations under the MOA.

<u>Exhibit 14 Paragraph</u>	<u>Description</u>
120	Funding of the Catskill Watershed Corporation.
121	SPDES Upgrades.
122	New Sewage Treatment Infrastructure Facilities for Towns, Villages and Hamlets and Community Wastewater Management Program
125	Stormwater Retrofits, including continuation thereof.
126	Sand and Salt Storage Facilities, including continuation thereof.
131	Public Education, including continuation thereof
136	Tax Consulting Fund, which is hereby replaced by the Tax Litigation Avoidance Program
141	Upgrades to Existing WWTPs to comply with Watershed Regulations.
144	Phosphorus Controls in Cannonsville.
148	Local Consultation on Land Acquisition Program., including continuation thereof.

For purposes of this Special Condition, a Valid and Enforceable Program Contract shall mean a contract: (i) for which the City has appropriated sufficient funds to fulfill its obligations under this special condition and to make payments as they become due and owing; (ii) which has been registered pursuant to section 328 of the City Charter; and (iii) which remains in full force and effect and enforceable under applicable law during the term required by this permit. A failure by the City to comply with the condition requiring a valid and enforceable program contract for a program shall not be a violation of this permit if (i) the City continues to make timely payments for the program in accordance with the terms of the relevant paragraph of the MOA and the applicable program contract or (ii) the City has properly terminated the contract pursuant to the terms thereof and the City complies with its obligations to continue to fund or complete the subject program. For purposes of this Special Condition, a payment to be made by the City shall not be considered made to the extent such payments are required to be refunded to the City. In order to ensure the continuity of the programs in paragraph "b" below, the City shall meet annually with CWC prior to the end of CWC's fiscal year (December 31) to evaluate and confirm the availability of adequate and sufficient funding to meet the City's obligations.

b. Watershed Protection and Partnership Programs. In order to continue watershed protection and partnership programs, the City shall provide adequate levels of funding for continuation of all of the Watershed Protection and Partnership Programs required in this permit and in the 2007 FAD and any subsequent FAD or FAD amendment including adequate funding to the CWC and WAC, as described and set forth below:

1. Septic Remediation and Replacement Program:
 - i. Through October 2013, consistent with the terms of the 2007 FAD and pursuant to the City's Program Agreement with CWC, the City shall continue to pay CWC One Million, Three Hundred Thousand Dollars (\$1,300,000) each quarter to fund the Septic Remediation and Replacement Program as established pursuant to Watershed MOA paragraph 124 and as subsequently modified under the 2002 and 2007 FADs. These funds include funds available

for the Small Business Program and the Cluster System Program as set forth below. For the duration of this Permit, the City will continue to fund the Septic Remediation and Replacement Program at a level to allow a minimum of three hundred (300) septic systems per year to be remediated or replaced, provided that CWC demonstrates that the need for such funding continues. In addition, conditions of any subsequent FAD or FAD amendment requiring the City to fund the Septic Remediation and Replacement Program (including the Small Business Program and the Cluster System Program) shall be incorporated herein and made enforceable conditions of this Permit.

- ii. The City shall support the continued use of the Four Million Dollars (\$4,000,000) allocated under the 2007 FAD for the Small Business Program for the duration of this Permit for the purposes described in the 2007 FAD, as refined through the development of the Program Rules. For the duration of this Permit, the City will provide comparable and adequate funding for the Small Business Program, provided that CWC demonstrates that the need for such funding continues.
 - iii. The City shall support the continued use of the Two Million Dollars (\$2,000,000) allocated under the 2007 FAD for the Cluster System Program for the duration of this Permit for the purposes described in the 2007 FAD, as refined through the development of the Program Rules. The City agrees that cluster systems may be an effective solution to address certain problematic septic systems on lots with inadequate space and/or soils to accommodate individual systems in compliance with applicable regulations, and that rather than simple cooperative agreements among common users to a proposed cluster system that are only subject to private enforcement, municipal management and sewer district formation will be needed. Pursuant to the 2007 FAD, the City has identified thirteen areas/small hamlets that may be candidates for or in need of cluster systems. To determine the feasibility of such cluster systems, the City shall, in cooperation with CWC, consider the following issues: determining whether an individual town agrees that there is a need for a collective engineered intervention in a specific identified hamlet; identifying a willing host site for a collective system; establishing a sewer use ordinance; and overseeing project management by CWC or its agents. NYCDEP shall work with CWC to explore implementation of projects under these terms and to continue to examine the program terms to facilitate the advancement of cluster systems. In the event that CWC determines that it is not feasible to further pursue this program, the City shall allow CWC to allocate any remaining funds to either or both the Septic Remediation and Replacement Program or the Small Business Program.
2. Septic Maintenance Program: The City shall support the continued use of the One Million, Five Hundred Thousand Dollars (\$1,500,000) allocated and paid to CWC under the 2002 FAD for the Septic Maintenance Program. For the duration of this Permit, the City will provide additional funding, if necessary, to allow maintenance each year of 20% of the total number of septic systems eligible for maintenance under CWC's Septic Maintenance Program Rules, as revised February 28, 2008, provided that CWC demonstrates that the need for such funding continues. In addition, conditions of any subsequent FAD or FAD amendment requiring the City to fund the Septic Maintenance Program shall be incorporated herein and made enforceable conditions of this Permit.
3. Community Wastewater Management Program: As set forth in the 2007 FAD and as a continuation of the New Infrastructure Program established pursuant to Paragraph 122 of the Watershed MOA, the City shall provide sufficient funding to design and complete Community Wastewater Management Program projects for the remaining communities as set forth in the list contained in MOA Paragraph 122. This includes the hamlets of Trout Creek, Lexington, South Kortright, Shandaken, West Conesville, Claryville, Halcottsville, and New Kingston. Consistent with the City's Program Agreement with CWC, the City shall make payment based on invoices from CWC as needed for project design and implementation costs. In addition, conditions of any subsequent FAD or FAD amendment requiring the City to fund the Community Wastewater

Management Program shall be incorporated herein and made enforceable conditions of this Permit.

4. Stormwater Retrofit Program: Through October 2013, the City shall support the continued use of the Four Million, Six Hundred Fifty Thousand Dollars (\$4,650,000) allocated under the 2007 FAD for the Stormwater Retrofit Program established pursuant to Paragraph 125 of the Watershed MOA. For the duration of the Permit, the City shall continue to fund the Stormwater Retrofit Program to allow the Program to continue at a level of activity that has been maintained since the inception of the Program, consistent with the processes set forth in CWC's Stormwater Retrofit Program Rules, as revised October 6, 2009, provided CWC demonstrates that the need for such funding continues. In addition, conditions of any subsequent FAD or FAD amendment requiring the City to fund the Stormwater Retrofit Program shall be incorporated herein and made enforceable conditions of this Permit.
5. Local Consultation on Land Acquisition Program: The City shall continue to make available up to Thirty Thousand Dollars (\$30,000) per town or village in the West of Hudson Watershed allocated pursuant to Paragraph 148 of the Watershed MOA and the 2007 FAD for the Local Consultation Program, for purposes described in MOA Paragraph 148 and the 2007 FAD, for the duration of this Permit. The City shall also continue to make available up to Twenty Thousand Dollars (\$20,000) per town or village in the East of Hudson portions of the Catskill/Delaware Watershed allocated pursuant to MOA Paragraph 148 for the Local Consultation Program, for purposes described in the 1997 MOA, for the duration of this Permit. The City shall also continue to make available up to Ten Thousand Dollars (\$10,000) per town or village in the Croton Watershed and not in the Catskill/Delaware Watershed, for purposes described in the 1997 MOA, for the duration of this Permit.
6. Education and Outreach Program: As set forth in the 2007 FAD, the City shall continue to make available up to Eight Hundred Thousand Dollars (\$800,000) to fund the Education and Outreach Program as established pursuant to Paragraph 125 of the Watershed MOA. Consistent with the City's Program Agreement with CWC, the City shall make payment based on invoices from CWC as needed for eligible projects. For the duration of the Permit, the City will continue to fund the Education and Outreach Program at a minimum level of Two Hundred Three Thousand, Seven Hundred Thirty Four Dollars (\$203,734) per year, provided that CWC demonstrates that the need for such funding continues. In addition, conditions of any subsequent FAD or FAD amendment requiring the City to fund the Education and Outreach Program shall be incorporated herein and made enforceable conditions of this Permit.
7. Catskill Watershed Corporation General Operating Expenses:
 - i. General Operating Expenses: For the duration of this permit, the City will continue to fund CWC General Operating Expenses as needed, based on requests for such funding from CWC, which the City shall not unreasonably deny. The City estimates that the total funding will be approximately Four Million, Three Hundred Seventy-Three Thousand, Six Hundred Twenty-Five Dollars (\$4,373,625) over the duration of this Permit. The City shall be bound to provide no less than this amount to fulfill such CWC funding requests.
 - ii. Stormwater Coordination Position: Through 2013, consistent with the terms of the 2007 FAD and pursuant to the City's Stormwater Technical Assistance contract with CWC, the City shall continue to pay CWC Forty-Eight Thousand Dollars (\$48,000) each year to fund a position at CWC to assist the regulated community in complying with the stormwater provisions of the City's Watershed Regulations. For the duration of this Permit, the City will ensure adequate funding and continue to fund an appropriate engineering position at CWC (salary plus cost of standard fringe benefits) to assist applicants undertaking regulated activities to comply with the stormwater provisions of the City's Watershed Regulations. In addition, conditions of any subsequent FAD or FAD amendment requiring the City to fund such an engineering position at the Catskill Watershed Corporation, including annual salary

plus cost of standard fringe benefits, shall be incorporated herein and made enforceable conditions of this Permit.

8. **Tax Litigation Avoidance Program:** For the duration of this Permit, the City will fund the Tax Litigation Avoidance Program (TLAP) pursuant to which the City will provide funds in an initial amount of Five Hundred Thousand Dollars (\$500,000), and continued funding up to a cap of Two Million Dollars (\$2,000,000) plus a one time additional reasonable amount for any individual Assessing Authority to be used for the purposes of the TLAP to be administered by the CWC, for use by the jurisdictional local property tax assessing authorities (Assessing Authority[ies]) for the purpose of seeking to avoid the costs and risks of litigation over taxes assessed on dams, reservoirs, wastewater treatment plants and, to the extent applicable, sewer lines (Unique Properties) owned by the City. The City will seek to enter into a Program Agreement with CWC within nine months of the date of this Permit, setting forth the terms and conditions under which TLAP funds may be used by CWC to retain an expert to assist the Assessing Authority in (i) applying and updating templates for assessing Unique Properties owned by the City; (ii) evaluating a Valuation Report provided by the City to an Assessing Authority; and (iii) valuing Unique Properties where the Assessing Authority has undertaken a town-wide revaluation. In addition, under certain limited circumstances, the City will provide limited reimbursement for costs of litigation. The City will not challenge future assessments of Unique Properties, where templates have been established and the Assessing Authorities have used those templates, provided that the City does not dispute the manner in which the Assessing Authority has applied the template. Disputes will be resolved in accordance with the TLAP Program Agreement. The City shall provide a copy of the program agreement to NYSDEC when executed.
9. **Gap Funding:** The City will provide reimbursement to CWC of any funds transferred from CWC's Future Stormwater Program to the CWC Septic Program and/or the CWC Stormwater Retrofit Program for the purpose of ensuring continuation of those programs and from the Catskill Fund for the Future to CWC Operating accounts and/or the TLAP pending final funding agreements under the terms of the Second Five Years of the 2007 Filtration Avoidance Determination ("2012 FAD Reauthorization") or of a subsequent Filtration Avoidance Determination, if such a Determination is issued ("2017 FAD" and/or 2022 FAD"). Such reimbursement from the City, including interest foregone by CWC by virtue of having temporarily allocated money from the Future Stormwater Program and/or the Catskill Fund for the Future, shall be provided for in agreements or change orders. The City shall not oppose such agreements and/or change orders being included as conditions of the 2012 FAD Reauthorization or the 2017 FAD.
10. **Geographic Information System:** As set forth in the 2007 FAD, the City shall continue to disseminate data to stakeholders and the public as appropriate, including notification of data availability to communities and responses to requests for data.
11. **Watershed Agricultural Program:** Through October 2012, consistent with the terms of the 2007 FAD and pursuant to the City's Program Agreement with WAC, the City shall continue to make available up to Thirty-Two Million Dollars (\$32,000,000) to fund the Watershed Agricultural Program. Consistent with the City's Program Agreement with WAC, the City shall make payment based on quarterly invoices from WAC, subject to the terms of the Program Agreement, for farm plans and associated best management practices (BMPs), forest plans and forest BMPs, and other eligible costs relating to WAC's farm and forestry programs. For the duration of this Permit, the City's commitments to fund the Watershed Agricultural Program pursuant to any subsequent FAD or FAD amendment shall be incorporated herein and made enforceable conditions of this Permit.
12. **Stream Management Program:** Consistent with the terms of the 2007 FAD and pursuant to the City's contracts with Soil and Water Contract Districts in Delaware County (\$8,251,000), Greene County (\$10,748,506), Ulster County (\$4,460,000), and Sullivan County (\$3,292,684) and with

Ulster County Cornell Cooperative Extension (\$3,647,570), the City shall provide funding for the continuation of each of the existing Stream Corridor Management Program contracts. For the duration of this Permit, the City commits to fund the Stream Corridor Management Program pursuant to any subsequent FAD or FAD amendment which shall be incorporated herein and made an enforceable condition of this permit.

26. Restriction on Acquisition of Title.

a. The City shall not acquire title to land or Watershed Conservation Easements on land (hereinafter referred to as "Restrictions") as described below in subparagraph (c) if (1) the City has not appropriated funds for one or more of the programs listed in subparagraph (c) below and thereafter the City fails to make a payment that would otherwise be due and owing under a contract for such unappropriated program and (2) the City has not cured the failure to make such payment within thirty (30) days of the date the payment was due and owing. For purposes of this paragraph only, a failure to make a payment shall be deemed cured if the City makes such payment, with interest at 9% compounded annually from the date such payment was due and owing.

b. Except as provided in paragraph (a) above, the City shall not acquire title to land or Watershed Conservation Easements on land (hereinafter referred to as "Restrictions") as described below in subparagraph (c) if (1) for one or more of the programs listed below, the City does not have a valid and enforceable program contract during the term set forth in Exhibit 14 and thereafter the City fails to make a payment that would otherwise be due and owing under such invalid or unenforceable contract and (2) the City had not cured the failure to make such payment within 8 months of the date the payment would otherwise have been due and owing. The 8 month period is intended to provide the City with time to attempt to resolve the matter which caused the program contract to become invalid and unenforceable without interruption to the land acquisition program. For purposes of this paragraph only, a failure to make a payment shall be deemed cured if the City makes such payment, with interest at 6.5% compounded annually from the date such payment was due and owing.

c. The programs for which such failure to make payment and to timely cure late payment shall lead to Restrictions to the water supply permit under this subpart are: (1) with respect to acquisitions in West of Hudson: Catskill Watershed Corporation Funding, SPDES Upgrades; New Sewage Treatment Infrastructure Facilities; Sand and Salt Storage; Septic Remediation and Replacement Program; Septic Maintenance Program; Community Wastewater Management Program; Stormwater Retrofit Program; Education and Outreach Program; Tax Litigation Avoidance Program; Stream Management Program, (2) with respect to acquisitions in East of Hudson: Non-Point Source Control Program, and (3) with respect to acquisitions in the entire Watershed: Upgrades to Existing WWTPs to Comply with Watershed Regulations; Watershed Agricultural Program and Local Consultation on Land Acquisition.

d. If the water supply permit is Restricted under this Special Condition, the City shall not acquire title to land or Watershed Conservation Easements on land under this permit until, with respect to the program for which the failure to pay led to the Restrictions, the City has made all missed payments which the City failed to pay and which would otherwise be due and owing except that the City failed to maintain a valid and enforceable contract, as provided in paragraphs (a) and (b), as well as interest on such missed payments at the rate set forth in paragraphs (a) or (b), whichever is applicable.

e. The following process shall govern Restrictions on the City's acquisition of an interest in land or Watershed Conservation Easements on land pursuant to this water supply permit under this paragraph:

(i) The City shall notify in writing NYSDEC (Attention: Chief Permit Administrator) the individual members of the Executive Committee, and the CW Corporation as soon as practicable of the commencement of any litigation seeking to invalidate one or more program contracts. The

purpose of the notice is to provide the Parties at the earliest possible point in the litigation an opportunity to discuss such dispute. Additionally, the City will keep such parties advised of the status of the litigation.

(ii) If the conditions set forth in paragraphs (a) or (b) are met, the party to whom the City would otherwise have owed the missed payment ("Contracting Party") may notify the City, the Executive Committee, and NYSDEC in writing that the condition of this permit requiring a valid and enforceable program contract has been violated and that thereafter the City missed a payment under such contract, and that the City has not cured the failure to make such missed payment. The City shall have 10 days from its receipt of the notice to respond in writing to the Contracting Party, the Executive Committee and NYSDEC. If the City agrees with the notice or does not respond within 10 days, the City's permit shall be restricted without further proceedings and the City will not acquire title to land or Watershed Conservation Easements on land under this permit. If the City disputes the notice, NYSDEC shall have 15 days from its receipt of the City's response to determine, after consulting with the City, Executive Committee and Contracting Party, whether the condition requiring a valid and enforceable program contract has been violated and whether thereafter the City has missed a payment under such contract and whether the City has not cured the failure to make such missed payment. If NYSDEC determines that these criteria exist, it shall notify the City, the Executive Committee and the Contracting party of its determination within 5 days and the City will not acquire title to land or Watershed Conservation Easements on land under this permit.

(iii) If the water supply permit has been Restricted pursuant to subparagraph (d)(ii) above, and the City believes it has met the conditions set forth in paragraph (c) above so that the Restrictions should be lifted, the City may notify the Executive Committee, NYSDEC and the Contracting Party in writing. The Contracting Party shall have 10 days from its receipt of the City's notice to respond in writing to the City, the Executive Committee and NYSDEC. If the Contracting Party agrees with the City's notice or does not respond within 10 days, the City may resume land acquisition without further proceedings. If the Contracting Party disputes the notice, NYSDEC shall have 15 days from its receipt of the Contracting Party's response to determine, after consulting with the City, Executive Committee and Contracting Party, whether the missed payments have been paid with interest at the applicable rate. If NYSDEC determines that such missed payments have been paid with interest, it shall notify the City, the Executive Committee and the Contracting Party of its determination in writing within 5 days, and the City may thereafter resume land acquisition under this permit.

27. Primacy Agency Determination. The Primacy Agency has regulatory authority under the federal Safe Drinking Water Act and Surface Water Treatment Rule to review and approve any request by the City for a filtration waiver for the Catskill and Delaware portions of the Watershed and to incorporate and enforce conditions to any such Filtration Avoidance Determination it may issue. The Primacy Agency's authority is undiminished by this Water Supply Permit. If the Primacy Agency determines, as part of its review and approval process for such a request that the Natural Features Criteria as contained in Special Condition 9 and/or acquisition exclusions (hamlet or village designations) contained in SC 10 are having or have had a detrimental impact on the ability of the City to protect water quality by unduly restricting the acquisition of land in fee and Watershed Conservation Easements, the Primacy Agency may notify NYSDEC in writing (with copies to the MOA signatories and others upon request) to request the Natural Features Criteria be modified through the formal modification process as a new permit application as set forth in 6 NYCRR621.

28. Notices and Submittals. Except to the extent that any other paragraph specifically requires or authorizes a different form of notice, any notice required or permitted to be given hereunder shall be in writing, and shall be delivered by certified mail, postage prepaid, or by hand, or by overnight courier, or by telecopy confirmed by any of the previous methods, addressed to the receiving party at its address as shown on Exhibit 15 or at such

other or further address as the receiving party shall provide to the other parties in writing from time to time. If any organizations which are to receive any notice, material or information from the City under the terms of this permit are not established or cease to exist, such notice, material or information shall be submitted by the City to NYSDEC.

29. Riparian Buffers Program.

- a. The City shall allocate initially Five Million Dollars (\$5,000,000) of the LAP funds for a program for acquiring Riparian Buffers -in easement or fee as part of a Riparian Buffers Program (RBP) which shall be implemented within 18 months of the Effective Date of this permit and run for no less than 3 years thereafter.
- b. The goals, acquisition criteria, procedures (including implementing entity), and evaluation criteria for the RBP will be developed into a Report (PDI Report) with full City participation through an intergovernmental cooperative effort (RBP Program Development Initiative [PDI]) between the City, Coalition of Watershed Towns (CWT), the Town of Hunter and Greene Land Trust (lead implementing organization) funded by a grant from the Catskill Watershed Corporation (CWC) Local Technical Assistance Program ("LTAP Grant") with the input of a consultative working group including but not limited to NYCDEP, NYSDEC, NYSDOH, CWC, CWT, Delaware County, Greene County, Schoharie County, NRDC, Riverkeeper and NYPIRG.
- c. The City shall submit to NYSDEC a written recommendation regarding the implementation of the Program no less than 3 months before the implementation deadline in paragraph a. of this special condition. If the City's recommendation identifies a need to modify this permit then such recommendation shall be accompanied by a permit modification application. NYSDEC will, after consultation with NYSDOH, NYCDEP, and other agencies or local governments, make a written determination on whether or not it should be implemented and/or expanded beyond the Schoharie Reservoir Basin. Such written determination shall include addressing NYCDEP recommendations.
- d. Pursuant to Special Condition 7 above RBP acquisitions in fee or easement shall be subject only to the eligibility criteria of surface water features in Special Condition 9 Natural Features Criteria and the acquisition excluded areas (hamlet designations) in Special Condition 10. The acquisition exclusion areas (hamlets) may be waived in individual municipalities by the town or village boards by resolution which shall cover the Riparian Buffer Program and the specific parcels described and covered by such program.
- e. The RBP will be implemented in conjunction with one or more Stream Management Plans developed under the City's Stream Management Program, and will be carried out in partnership with one or more land trusts which shall be bound by contract to the City to implement and comply with the provisions of this permit. Consistent with the PDI Report, the land trust(s) will be responsible for coordinating with NYCDEP on tasks that may include but are not limited to: landowner outreach and contact, establishing eligibility and criteria; drafting legal documents; coordinating with NYCDEP to minimize multiple program solicitations; obtaining local approval to pursue acquisitions under the RBP that do not comply with the terms and conditions otherwise applicable to the LAP pursuant to this Permit; ordering appraisals and making purchase offers; acquiring eligible property interests; managing the Local Consultation process; identifying and implementing management practices linked to the goals of riparian buffer protection; stewarding, administering, monitoring, and enforcing the terms of riparian buffer easements or fee acquisitions; and allowing for public access on land acquired in fee simple where applicable. In the event a qualified land trust is not found then the City shall fully implement the program itself.
- f. An evaluation report on the effectiveness of the RBP meeting the requirements of this permit and Filtration Avoidance Determination as well as the goals and evaluation criteria to emerge from the PDI, including recommendations on any proposed changes, if necessary, to improve the program, shall be submitted by NYCDEP to NYSDEC within 6 months before the end of the initial 3 year program period in paragraph a. of this special condition. NYSDEC will evaluate

this program and, after consultation with NYSDOH, NYCDEP, as well as other agencies or local governments, make a written determination on whether or not it should be continued and/or expanded beyond the Schoharie Reservoir Basin. Such written determination shall include addressing NYCDEP recommendations.

30. Revocable Permits for Use of Watershed Property Owned In Fee by NYCDEP.

The City shall amend its revocable permit regulation Title 15, Chapter 17 (Issuance of Temporary Permits for the Occupation of City Property), Section 17-06 (Fees and Charges) of the Rules of the City of New York (RCNY) permit fee schedule to provide for a waiver or reduction for certain municipal and recreational uses.

31. Watershed Forest Conservation Easement Program.

- a. The City shall develop and implement a Watershed Forest Conservation Easement Program within 12 months from the Effective Date of the permit. The Watershed Forest Conservation Easement Program shall be implemented by the City and through WAC or another qualified local and/or regional land trust or by the City on its own. This program shall include the acquisition of Watershed Conservation Easements on eligible lands. The City shall initially commit Six Million Dollars (\$6,000,000) to support this program. Eligible lands shall include the following:
 - i. Land enrolled in WAC's Forest Management Program for which an Individual Landowner Forest Management Plan has been developed; or
 - ii. Land enrolled in NYSDEC's Forest Stewardship Program or Section 480A Forest Tax Law for which an Individual Landowner Forest Management Plan has been developed; or
 - iii. Other land important for watershed, water quality and/or forestry protection.
- b. This program shall be implemented for an initial period of (5) five years. NYCDEP shall submit a written evaluation on the effectiveness of the Watershed Forest Conservation Easement Program in meeting the requirements of this permit and Filtration Avoidance Determination and include recommendations concerning continuation and funding of this Program as well as on any proposed changes, if necessary, to improve the Program. This written evaluation is to be submitted to NYSDEC and NYSDOH (4) four years and (3) three months from the date on which the Watershed Forest Conservation Easement Program commences. NYSDEC will evaluate this Program and, after consultation with NYSDOH, NYCDEP, as well as other agencies or local governments, make a written determination on whether or not it should be continued and/or expanded. Such written determination shall include addressing the recommendations of NYCDEP. If the Program is implemented by WAC or another qualified local and/or regional land trust and a determination is made not to continue the program, all unused funds, including earnings thereon, shall be returned to the City and shall remain available for land acquisition.

- 32. Forest Management Plan.** The City is preparing a forest management plan for its watershed lands, pursuant to Section 4.3 of the 2007 FAD, which is due in November 2011. The plan will include a comprehensive forestry inventory on all lands owned by the City. The NYCDEP Forest Management Plan will include a discussion of fire risk management. The City will conduct a consultation process commencing no less than three months prior to the completion of the plan that will at a minimum include NYSDEC and Delaware County, as well as other Counties and any other interested stakeholders, to cover fire risk management aspects of the plan, forestry practices (including those of NYSDEC) and forest health. The plan shall contain an implementation schedule that shall go into effect once the plan has been submitted to and accepted by the Primacy Agency. The implementation schedule shall also provide for updating the plan 7 years from the Effective Date of the Permit and every 10 years thereafter when

requested in writing by either the Primacy Agency or NYSDEC. Such plan updates shall be in accordance with the provisions and process specified in this special condition.

33. Enhanced Land Trust Program. The City shall develop and implement a program to collaborate with land trusts to acquire properties including but not limited to land with habitable dwellings, in accordance with the provisions of Special Condition 8. Through this Program, in municipalities that have adopted resolutions allowing one or more specified land trusts to work with NYCDEP on acquisitions under this Program, land trusts may acquire property on behalf of the City in accordance with this permit. The City shall continue to participate in the Land Trust Working Group, with representatives of land trusts, the Coalition of Watershed Towns, CWC, and Delaware County, which has developed a number of terms and conditions for the Enhanced Land Trust Program and which will continue to provide guidance as the Program is implemented.

34. East of Hudson Non-Point Source Stormwater Program.

a. In order to foster continued partnership and cooperation in the protection of the City's water supply watershed, the City shall provide a total of Fifteen Million, Five Hundred Thousand Dollars (\$15,500,000) ("EOH NPS Fund") to the EOH Watershed Communities to help fund the first five year plan for the stormwater retrofit program to be implemented under the heightened requirements for phosphorus reduction applicable to the EOH Watershed Communities. The City shall make Ten Million Dollars (\$10,000,000) of the EOH NPS Fund available within 12 months of the Effective Date of this Permit. Provided that no East of Hudson Community brings a legal challenge to this Special Condition of this Permit within 120 days of the Effective Date of this Permit, the City shall make the remaining Five Million, Five Hundred Thousand Dollars (\$5,500,000) of the EOH NPS Fund available within 6 months of receiving written notification that the first Ten Million Dollars (\$10,000,000) have been committed via binding agreements.

b. Up to Two Hundred Thousand Dollars (\$200,000) of the EOH NPS Fund will be available to the EOH Watershed Communities to prepare a report analyzing the potential opportunities for phosphorus reduction in stormwater runoff on lands owned by the City in the EOH Watershed, including a calculation of the total possible phosphorus reduction, the drainage area captured and treated, the estimated cost of such reduction, a description of the retrofit projects on City lands and a timetable for possible implementation of such projects.

c. Up to Fifty Thousand Dollars (\$50,000) of the EOH NPS Fund will be available for the establishment of a Regional Stormwater Entity to administer and coordinate compliance with the MS4 Program.

d. On or before December 31, 2013, the City shall enter into discussions with the NYSDEC and the EOH Watershed Communities regarding requirements for future EOH phosphorus reductions in stormwater as required under the heightened requirements for phosphorus reduction applicable to the EOH Watershed Communities. In these discussions, the City will consider, among other things, any projects on City lands in the EOH Watershed that would be appropriate for the EOH Communities' Stormwater Management Programs identified in the report prepared pursuant to Paragraph b. above. The City shall make lands available for such projects so long as it determines that the projects will not pose a threat to water quality or NYCDEP operations related to water supply.

e. On or before December 31, 2014, if the City agrees to provide additional assistance to the EOH Communities to achieve the heightened requirements for phosphorus reductions applicable in the EOH Watershed, including but not limited to additional funding, the City shall request that this special condition be modified to incorporate such commitments. If City lands are identified as appropriate for stormwater management projects pursuant to Paragraphs b. and d. above, the City's making such lands

available shall constitute all or a portion of any additional assistance it agrees to provide. Any such required amendment of this special condition shall not require or constitute a reopening of any other provision of this permit. For the duration of this Permit, any City agreement to provide additional funding for the East of Hudson Non-Point Source Stormwater Program as described in this subparagraph shall be incorporated herein and made enforceable conditions of this Permit.

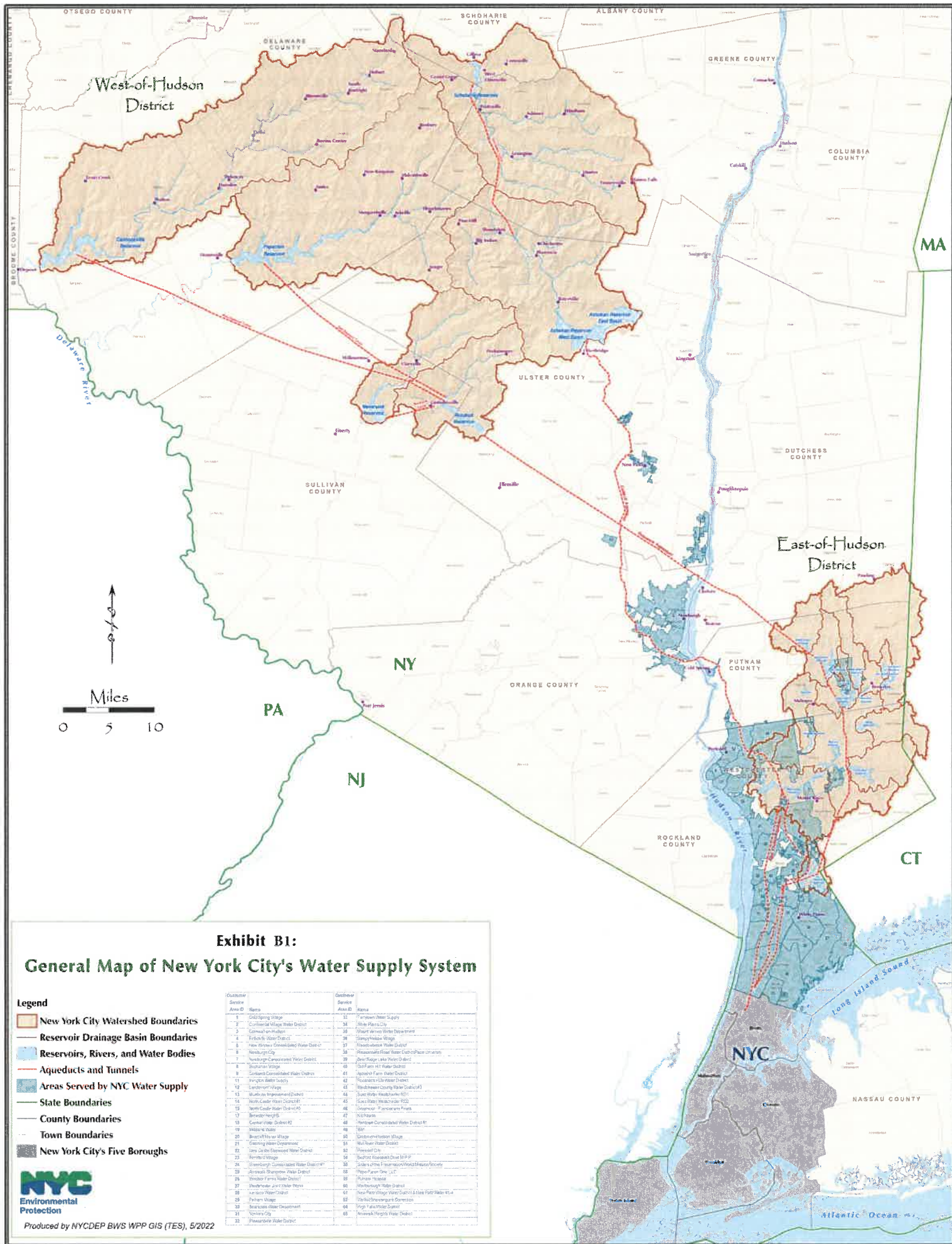
f. Consistent with the terms of the 2007 FAD, the City shall make available Four Million, Five Hundred Thousand Dollars (\$4,500,000) to the EOH Watershed Communities to help fund the first five year plan for the stormwater retrofit program implemented under the heightened requirements for phosphorus reduction in stormwater applicable to the EOH Watershed Communities in the Croton Falls and Cross River basins within the East of Hudson Watershed and any upstream/hydrologically connected basins and shall be made available on the same expedited basis as the funding set forth in subsection "a" hereof.

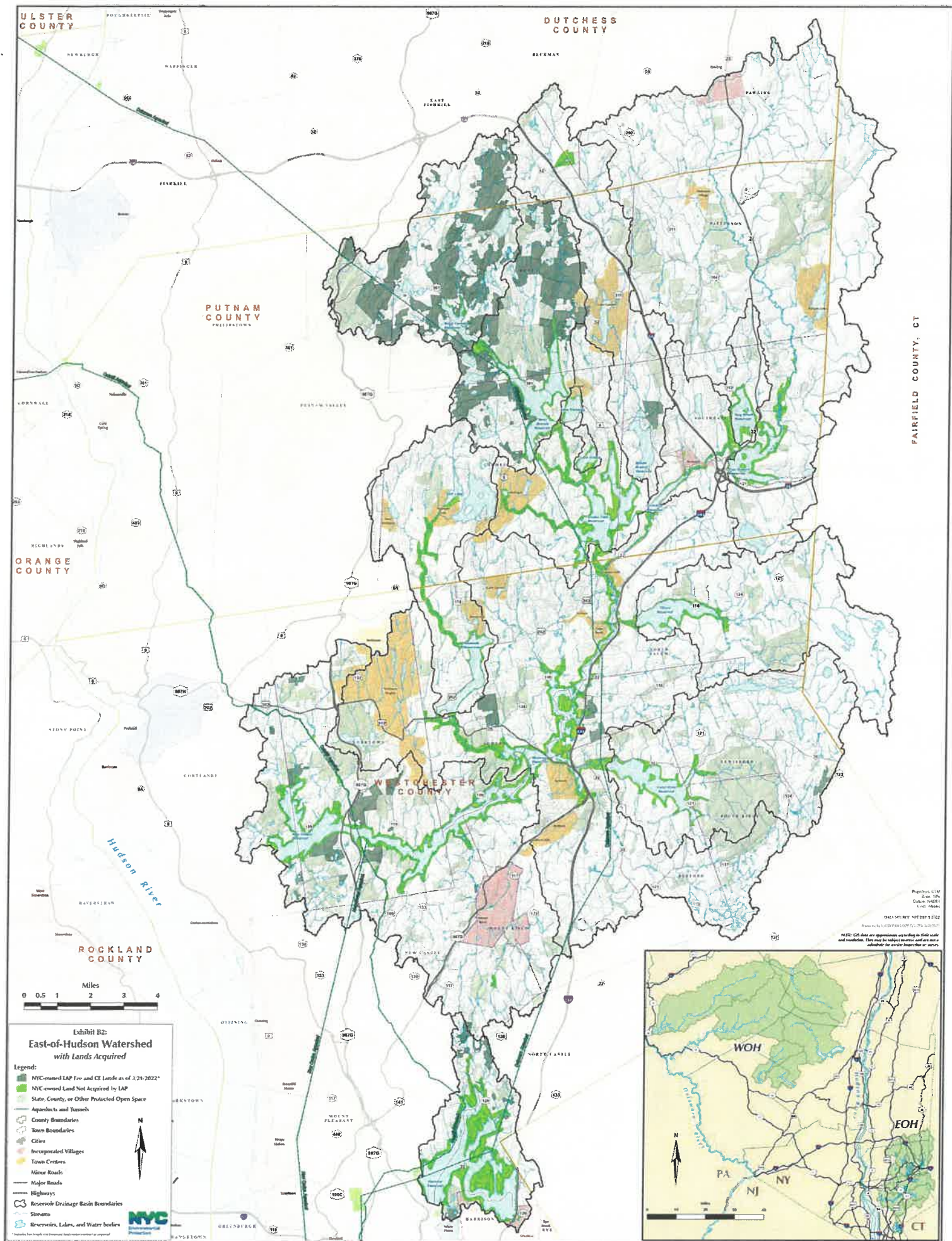
g. For the duration of this Permit, the City's commitment to fund the heightened requirements of the East of Hudson Non-Point Source Program (which encompasses the stormwater retrofit program and related projects) pursuant to any subsequent FAD or FAD amendment shall be incorporated herein and made enforceable conditions of this Permit. Consistent with the terms of the 2007 FAD, and as set forth in the MS4 SPDES General Permit No. GP-0-10-002 issued by NYSDEC on April 29, 2010 ("the MS4 Permit") (which contains the NYSDEC TMDL reduction requirements, including the heightened requirements applicable to the EOH Watershed Communities), the MS4 requirements are requirements of federal and State law. As stated in the MS4 permit, meeting those requirements is the responsibility of the EOH Watershed Communities.

h. On or before June 30, 2011, the City shall work with the NYSDEC and the EOH Watershed Communities to develop program rules that assure that the funds provided by the City pursuant to this special condition will be easily accessible by the EOH Watershed Communities and will be fully allocated for the implementation of the pending five-year plans for the stormwater retrofit program to be implemented under the heightened requirements for phosphorus reduction applicable to the EOH Watershed Communities, consistent with all applicable legal requirements and the City's fiduciary obligations.

Exhibits:[Corresponding Special Condition]

1. Map of Catskill and Delaware Water Supply and Watershed and Map of Croton Water Supply and Watershed [4c]
2. Catskill and Delaware Watershed Priority Areas West-of-Hudson [6.a]
3. Catskill, Delaware and Croton Watershed Priority Areas East-of-Hudson [6.a, 6.b]
4. List of Tax Parcels in West of Hudson Hamlet Areas [10.a.ii]
5. Maps of West of Hudson Hamlet Areas [10.a.ii]
6. Defined West of Hudson Roads Eligible for Land Acquisition Exemption [10.a.iv]
7. 2007 Solicitation Schedule [14]
8. 2008-2010 Solicitation Plan [14]
9. Model Conservation Easement to be Held by NYSDEC on City Fee Lands [16.c]
10. Model WAC Conservation Easement [16.d.2.b]
11. Draft Legislation to Amend Article 5, Title 4-a of the RPTL for Taxation of Watershed Conservation Easements [19]
12. City's Water Conservation Program dated December 2006 [23]
13. Cluster Development Resolutions [10.h]
14. Watershed Memorandum of Agreement [25 & 26] [incorporated by reference]
15. Notice Addresses





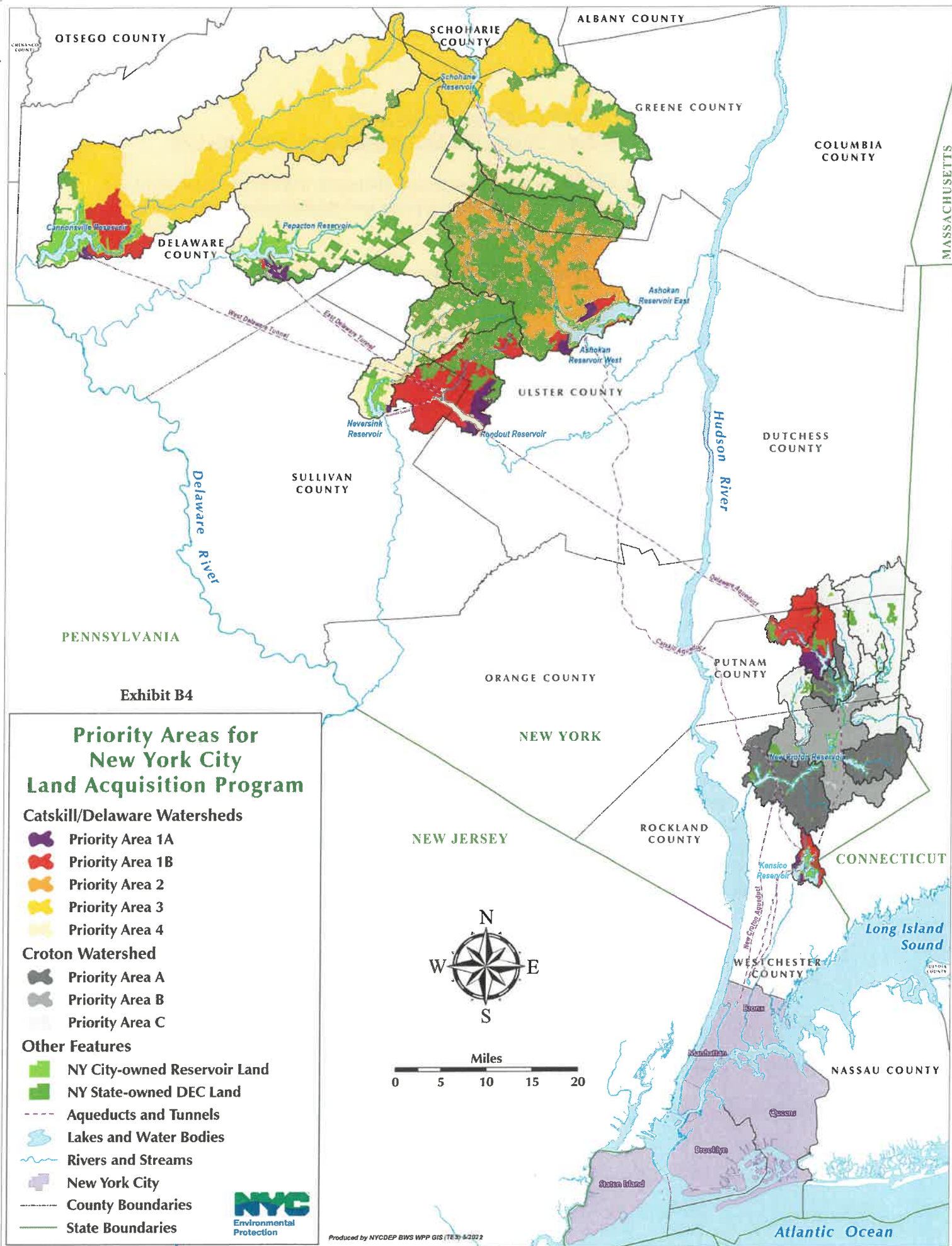


Exhibit C - Project Justification
In Support of the 2022 Water Supply Permit Application by New York City

Pursuant to 6 NYCRR Section 601.10(k), this is a summary statement responding to the eight justification questions for the proposed project. Facts, reports, and related information may be found in the attached exhibits.

1. Why was the proposed project selected from the evaluated alternatives?

New York City has developed its existing suite of watershed protection initiatives, including the Land Acquisition Program (LAP), based on extensive input from regulators, partners, and other stakeholders over the last three decades. The LAP has been a fundamental element of the City's Long-Term Watershed Protection Program since 1993, as reflected in the requirements of the Filtration Avoidance Determinations (FADs) issued to the City for its Catskill/Delaware Water Supply System by the agencies with primacy to administer the federal Surface Water Treatment Rule – first the US EPA and more recently the NYS Department of Health. The LAP continues to be a core element of the 2017 (current) FAD and of the NYS Department of Health's Draft Revised 2017 FAD, dated April 2022. Because the LAP is expected to remain an important element of future FADs, the City seeks approval for the proposed project, authorizing the continuation of the LAP.

The 1997 Water Supply Permit set forth core principles that were negotiated and memorialized in the 1997 New York City Watershed Memorandum of Agreement. The 2010 Water Supply Permit incorporates adjustments to those core principles, reflecting additional input from regulators, partners, and other stakeholders, informed by the implementation of the LAP starting in 1997. In particular, the 2010 Water Supply Permit includes new eligibility requirements, elevated minimum surface water criteria necessary for acquisition, greater use of subdivision to leave land far from watercourses in private ownership, and caps on total acreage that the LAP can solicit or acquire in most towns.

In 2020, the LAP was a main focus of a comprehensive review of the New York City Watershed Protection Program by a committee convened pursuant to the 2017 FAD by the National Academies of Sciences, Engineering and Medicine. In developing the proposed project, the City considered recommendations from the committee's review as well as input and feedback from regulatory agencies and other stakeholders and partner organizations. Throughout these discussions, numerous alternatives were considered, resulting in the further adjustments to the LAP as reflected in the proposed project.

2. Why don't increased water conservation or efficiency measures negate or reduce the need for the proposed water withdrawals?

Not applicable – the permit requested is for land acquisition, not water withdrawals.

3. Why is the proposed water withdrawal quantity reasonable for the proposed use?

Not applicable – the permit requested is for land acquisition, not water withdrawals.

4. Why are the proposed water conservation measures environmentally sound and economically feasible?

Not applicable – the permit requested is for land acquisition, not water withdrawals.

5. Is the proposed water supply adequate?

The existing water supply quantity is adequate; the City is seeking to renew the current Water Supply Permit to continue LAP, a core element of its Long-Term Watershed Protection Program and requirement of its FAD.

6. Is the proposed project just and equitable to other municipalities and their inhabitants in regards to present and future needs for sources of potable water?

The LAP focuses on acquiring and maintaining lands for watershed protection rather than on creating new (or expanding existing) sources of water supply; it will not result in additional consumption, impoundment, or use of upstate water resources. Accordingly, the LAP does not affect any community's access to surface or groundwater, in fact it provides added protection for such local sources and uses, and therefore is just and equitable to all affected municipalities and their inhabitants with regard to their present and future needs for sources of water supply.

In addition, pursuant to the Water Supply Act of 1905, municipalities in Ulster, Greene, Delaware, Schoharie, Sullivan, Orange, Westchester, and Putnam Counties may take and receive water from the City's system (L. 1905, ch. 724, § 40; see also Ad. Code § 24-360). New York City presently supplies water from its system to approximately one million residents of these upstate counties. The LAP will not affect the supply of New York City water provided to these communities, and can only serve to protect its quality.

Finally, to the extent that a community may identify property held by the City as essential for infrastructure for its own water supply system, the community has the opportunity to raise that concern during the local consultation process before the City closes on any parcel under the LAP,⁶ or at the public hearing held by the City for each acquisition (see Ad. Code § 358).

7. Will the proposed withdrawal result in significant individual or cumulative adverse environmental impacts?

Not applicable – the permit requested is for land acquisition, not water withdrawals.

8. Will the proposed withdrawal be consistent with all applicable municipal, state and federal laws as well as regional interstate and international agreements?

Not applicable – the permit requested is for land acquisition, not water withdrawals.



Land
Acquisition
Program

Exhibit D1

Summary of Signed and Closed Deals Between 01/01/2010 and 06/01/2022
Grouped by County and R.E. Type; System(s): CAT-DEL

Delaware

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City CE	39	6,540	\$13,360,429
City FBO	1	0	\$110,000
City Fee	256	24,279	\$75,666,815
FEMA	5	4	\$74,000
WAC CE	60	10,241	\$17,403,477
WAC FE	7	2,714	\$2,430,111
Delaware Sub-Totals	368	43,778	\$109,044,832

Dutchess

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City Fee	2	19	\$435,960
Dutchess Sub-Totals	2	19	\$435,960

Greene

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City CE	16	3,118	\$7,611,509
City FBO	8	29	\$1,396,469
City Fee	147	10,684	\$56,909,114
FEMA	15	31	\$42,000
SAP	32	239	\$1,809,259
WAC CE	4	560	\$1,957,715
WAC FE	1	155	\$365,284
Greene Sub-Totals	223	14,817	\$70,091,350

Putnam

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City CE	3	414	\$3,732,383
City Fee	21	521	\$7,371,646

Schoharie		Putnam Sub-Totals	24	935	\$11,104,028
<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>		
City CE	3	286	\$589,454		
City FBO	3	4	\$213,100		
City Fee	17	972	\$2,230,896		
SAP	3	40	\$109,325		
WAC CE	2	292	\$404,415		
WAC FE	1	113	\$95,940		
Schoharie Sub-Totals:	29	1,707	\$3,643,129		
Sullivan					
<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>		
City CE	3	544	\$2,163,472		
City Fee	18	865	\$3,753,735		
Sullivan Sub-Totals	21	1,409	\$5,917,206		
Ulster					
<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>		
City CE	6	553	\$1,745,333		
City FBO	14	30	\$2,701,500		
City Fee	61	3,278	\$14,868,526		
FEMA	16	25	\$112,500		
WAC CE	1	164	\$378,449		
Ulster Sub-Totals:	98	4,051	\$19,806,307		
Westchester					
<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>		
City CE	2	115	\$14,157,000		



Land
Acquisition
Program

Exhibit D1

Summary of Signed and Closed Deals Between 01/01/2010 and 06/01/2022
Grouped by County and R.E. Type; System(s): CAT-DEL

City Fee	4	13	\$4,512,389
Westchester Sub-Totals	6	128	\$18,669,389
Watershed Totals	<u>771</u>	<u>66,843</u>	<u>\$238,712,201</u>



Land
Acquisition
Program

Exhibit D2

Summary of Signed and Closed Deals Between 01/01/2010 and 06/01/2022
Grouped by Priority Area and R.E. Type; System(s): CAT-DEL

1A

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City CE	2	158	\$871,759
City Fee	29	699	\$7,036,664
1A Sub-Totals	31	857	\$7,908,423

1B

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City CE	8	1,523	\$20,199,254
City Fee	53	1,895	\$13,577,500
WAC FE	1	1,051	\$604,411
1B Sub-Totals	62	4,469	\$34,381,165

2

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City CE	2	292	\$1,147,823
City FBO	15	52	\$3,045,500
City Fee	25	1,968	\$9,642,562
FEMA	18	26	\$137,500
2 Sub-Totals	60	2,338	\$13,973,384

3

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City CE	14	2,008	\$3,922,602
City FBO	4	4	\$377,100
City Fee	148	12,581	\$48,719,325
FEMA	3	2	\$0
SAP	9	71	\$427,416
WAC CE	22	3,166	\$5,888,603
WAC FE	5	846	\$785,054



Land
Acquisition
Program

Exhibit D2

Summary of Signed and Closed Deals Between 01/01/2010 and 06/01/2022
Grouped by Priority Area and R.E. Type; System(s): CAT-DEL

3 Sub-Totals		205	18,678	\$60,120,100
R. E. Type	# Contracts		Acres	Appraised Value / Final Value
City CE	46		7,589	\$17,218,142
City FBO	7		8	\$998,469
City Fee	271		23,488	\$86,773,029
FEMA	15		32	\$91,000
SAP	26		208	\$1,491,168
WAC CE	45		8,091	\$14,255,452
WAC FE	3		1,085	\$1,501,869
4 Sub-Totals	413		40,501	\$122,329,129
Watershed Totals		771	66,843	\$238,712,201

4

Delaware

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City CE	81	12,239	\$22,294,069
City FBO	1	0	\$110,000
City Fee	508	45,896	\$113,338,360
FEMA	33	19	\$299,075
WAC CE	136	24,639	\$33,728,791
WAC FE	7	2,714	\$2,430,111
Delaware Sub-Totals	766	85,506	\$172,200,406

Dutchess

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City Fee	26	1,058	\$15,889,920
Dutchess Sub-Totals	26	1,058	\$15,889,920

Greene

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City CE	29	5,541	\$12,794,951
City FBO	8	29	\$1,396,469
City Fee	236	19,533	\$83,462,131
FEMA	15	31	\$42,000
SAP	32	239	\$1,809,259
WAC CE	8	1,458	\$3,517,731
WAC FE	1	155	\$365,284
Greene Sub-Totals	329	26,986	\$103,387,826

Putnam

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value / Final Value</u>
City CE	7	1,043	\$5,203,202
City Fee	177	7,314	\$65,465,255



Land
Acquisition
Program

Exhibit D3

Summary of Signed and Closed Deals Between 01/01/1997 and 06/01/2022
Grouped by County and R.E. Type; System(s): CAT-DEL

Schoharie		Putnam Sub-Totals:	184	8,356	\$70,668,457
R. E. Type	# Contracts	Acres	Appraised Value / Final Value		
City CE	7	843	\$1,380,248		
City FBO	3	4	\$213,100		
City Fee	58	3,743	\$6,266,585		
SAP	3	40	\$109,325		
WAC CE	4	479	\$497,999		
WAC FE	1	113	\$95,940		
Schoharie Sub-Totals		76	5,222	\$8,563,197	
Sullivan					
R. E. Type	# Contracts	Acres	Appraised Value / Final Value		
City CE	7	1,489	\$2,892,632		
City Fee	62	3,645	\$9,873,413		
WAC CE	8	1,488	\$3,416,910		
Sullivan Sub-Totals		77	6,621	\$16,182,955	
Ulster					
R. E. Type	# Contracts	Acres	Appraised Value / Final Value		
City CE	34	4,554	\$11,365,065		
City FBO	14	30	\$2,701,500		
City Fee	296	15,929	\$43,856,898		
FEMA	16	25	\$112,500		
WAC CE	1	164	\$378,449		
Ulster Sub-Totals		361	20,703	\$58,414,411	
Westchester					
R. E. Type	# Contracts	Acres	Appraised Value / Final Value		



Land
Acquisition
Program

Exhibit D3

Summary of Signed and Closed Deals Between 01/01/1997 and 06/01/2022
Grouped by County and R.E. Type; System(s): CAT-DEL

City CE	5	225	\$16,299,106
City Fee	14	131	\$33,810,751
Westchester Sub-Totals	19	356	\$50,109,857
Watershed Totals	1,838	154,809	\$495,417,030

1A

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value /</u> <u>Final Value</u>
City CE	5	317	\$1,166,346
City Fee	131	4,887	\$33,382,713
1A Sub-Totals	136	5,204	\$34,549,058

1B

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value /</u> <u>Final Value</u>
City CE	20	2,789	\$25,662,274
City Fee	311	13,934	\$105,911,666
WAC CE	7	980	\$3,137,234
WAC FE	1	1,051	\$604,411
1B Sub-Totals	339	18,755	\$135,315,585

2

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value /</u> <u>Final Value</u>
City CE	15	2,179	\$7,154,775
City FBO	15	52	\$3,045,500
City Fee	158	9,500	\$28,267,798
FEMA	18	26	\$137,500
2 Sub-Totals	206	11,758	\$38,605,573

3

<u>R. E. Type</u>	<u># Contracts</u>	<u>Acres</u>	<u>Appraised Value /</u> <u>Final Value</u>
City CE	32	4,562	\$7,474,303
City FBO	4	4	\$377,100
City Fee	316	27,838	\$75,197,948
FEMA	4	4	\$17,400
SAP	9	71	\$427,416
WAC CE	63	9,902	\$13,236,890



Land
Acquisition
Program

Exhibit D4

Summary of Signed and Closed Deals Between 01/01/1997 and 06/01/2022
Grouped by Priority Area and R.E. Type; System(s): CAT-DEL

WAC FE	5	846	\$785,054
3 Sub-Totals	433	43,227	\$97,516,112
R. E. Type	# Contracts	Acres	Appraised Value / Final Value
City CE	98	16,086	\$30,771,576
City FBO	7	8	\$998,469
City Fee	461	41,088	\$129,203,188
FEMA	42	44	\$298,675
SAP	26	208	\$1,491,168
WAC CE	87	17,346	\$25,165,757
WAC FE	3	1,085	\$1,501,869
4 Sub-Totals	724	75,866	\$189,430,702
Watershed Totals	1,838	154,809	\$495,417,030



June 28, 2022

Chief Permit Administrator
Division of Environmental Permits
New York State Department of Environmental Conservation
625 Broadway, 4th Floor
Albany, New York 12233-1750

Rohit T. Aggarwala
Commissioner

Paul V. Rush, P.E.
Deputy Commissioner

P.O. Box 358
Grahamsville, NY 12740

Tel. (845) 340-7800
Fax (845) 334-7175
prush@dep.nyc.gov

Dear Permit Administrator:

Enclosed are four copies of New York City's initial application for a successor Public Water Supply Permit, as submitted by the City's Department of Environmental Protection (DEP). The Permit is being sought to continue the City's Land Acquisition Program in the upstate watershed, currently operated under Water Supply Permit #0-9999-00051/00001. The Permit Application sets forth the critical role that the Land Acquisition Program plays in ensuring the continued high quality of the City's drinking water supply.

The attached application consists of the Joint Application Form and the Water Withdrawal Application Supplement WW-1 Form, both of which were derived from DEC's website (<https://www.dec.ny.gov/lands/94327.html>). Also attached are numerous supporting documents as summarized in the List of Exhibits.

Below is current contact information for key parties on our team:

Paul V. Rush, Deputy Commissioner, Bureau of Water Supply
845-340-7800
prush@dep.nyc.gov

David S. Warne, Assistant Commissioner, Bureau of Water Supply
845-340-7802
dwarne@dep.nyc.gov

Daniel F. Mulvihill, Deputy General Counsel, Bureau of Legal Affairs
646-763-1862
dmulvihill@dep.nyc.gov

If you have any questions on the attached, please do not hesitate to contact me.

Sincerely,

David S. Warne
Assistant Commissioner

New York State Department of Environmental Conservation
Water Withdrawal Application Supplement WW-1

May 2013

Pursuant to [6 NYCRR Part 601](#)

READ THE INSTRUCTIONS ON PAGE 2 BEFORE COMPLETING THIS FORM

FOR DEPARTMENT USE ONLY

Application No.

WWA Number

1. APPLICANT NAME City of New York

2. FACILITY NAME New York City Water Supply System

3. PROJECT TYPE ☐ Water Withdrawal ☐ New Public Water Supply Service Area or Extension
☒ Land Acquisition for Public Water Supply ☐ Change in Use of Existing Water Withdrawal

4. WATER USE TYPE ☒ Public Water Supply ☐ Bottled/Bulk Water ☐ Commercial ☐ Cooling ☐ Industrial
☐ Institutional ☐ Mine Dewatering ☐ Oil/Gas Production ☐ Power Production ☐ Recreational
☐ Other:

5. WITHDRAWAL TYPE ☒ Existing ☐ New If this is an existing public water supply, provide the most recent WSA or WWA Number: 99,990,005,100,001
If other than public water supply, list other existing or pending related DEC permits (e.g., SPDES, Mining, Dam):

6. WATER WITHDRAWAL SOURCE ☒ Surface Water Water Body Name(s) various (19 reservoirs + 3 controlled lakes) - see Exhibit B
☐ Groundwater Nearest Surface Water Body Distance From Well (in feet)

7. WATER SUPPLY TO OTHER STATES Does this project involve the transport of any fresh water of NYS through pipes, conduits, ditches or canals to any other state?
☒ No ☐ Yes, describe:

8. TRANSPORTATION OF WATER BY VESSEL Does this project involve the transport by vessel of more than 10,000 gallons per day of surface water? (Excludes ballast water necessary for normal vessel activity. A vessel is defined as any floating craft propelled by mechanical power.) ☐ Yes ☒ No

9. WATER WITHDRAWAL AMOUNTS This project involves the withdrawal of up to: 0 gallons per day Source Name
Does the project include a MAJOR DRAINAGE BASIN TRANSFER of water? See map at <http://www.dec.ny.gov/lands/56800.html> ☒ No ☐ Yes
If yes, ☐ Existing ☐ New From Basin To Basin

10. REQUIRED EXHIBITS (6 NYCRR Part 601.10) Provide the names of the required exhibits applicable to this withdrawal:

601.10(a) PROJECT AUTHORIZATION FOR PUBLIC WATER SUPPLY SYSTEMS (e.g. Resolutions, Ordinances)

601.10(h) ACQUISITION MAPS (Map of any lands to be acquired as part of project)

See 601.10b and 601.10c

601.10(b) GENERAL MAP (e.g. Project Location, For Public Water Supplies - water service area boundary)

Exhibit B1

601.10(i) WATER ANALYSES (Public Water Supplies should submit chemical & bacterial analysis directly to NYSDOH)

601.10(c) WATERSHED MAPS (Topographic map with location of withdrawal and any return flow or interbasin diversions).

Exhibit B2

601.10(j) TREATMENT METHODS (Public Water Supplies - proposed methods to meet NYSDOH standards)

601.10(d) CONTRACT PLANS (Public Water Supplies should submit directly to NYSDOH for review and approval)

601.10(k) PROJECT JUSTIFICATION (Provide summary statement of answers to the eight justification questions)

Exhibit C

601.10(e) ENGINEER'S REPORT (Signed by NYS PE, includes project description, water source yields and demands, etc.)

601.10(l) CANAL WITHDRAWAL APPROVALS (If applicable, provide adequate proof of approval from Canal Authority)

601.10(f) WATER CONSERVATION PROGRAM (Completed Water Conservation Program Form)

601.10(m) TRANSMITTAL LETTER (Include all contact information for applicant, attorney, engineer, etc.)

Exhibit E

601.10(g) ANNUAL REPORTING FORM FOR EXISTING WITHDRAWALS (Most recent submitted annual report)

601.10(n) GREAT LAKES-ST. LAWRENCE RIVER WATER RESOURCES COMPACT PROCESS REQUIREMENTS (Only applicable to Public Water Supply diversions from Great Lakes Basin - no other diversion types are allowed).

Clear Form

Applicant Signature

Name Vincent Sapienza, P.E.

Date 6/28/2022

Title NYCDEP Chief Operating Officer

INSTRUCTIONS

Water Withdrawal Application Supplement Form (WW-1)

1. Before completing this form, please carefully review the Water Withdrawal Permit Program page located on the Department's website at <http://www.dec.ny.gov/lands/55509.html> (non-agricultural facilities) and <http://www.dec.ny.gov/lands/86747.html> (agricultural facilities). Note that applications by existing systems for an Initial Permit shall be submitted in accordance with the schedule established in NYCRR Part 601.7(b)2 as shown in Table 1 at <http://www.dec.ny.gov/lands/86935.html>.
2. This form is to accompany the [Joint Application Form](#). The Joint Application Form, Supplement WW-1 and their instructions are available on the Department's website at <http://www.dec.ny.gov/permits/6222.html>.
3. NYSDEC strongly encourages electronic submission of supporting documents. Submit 3 completed copies of the Joint Application Form, Supplement WW-1 and all attachments to the NYSDEC Regional Permit Administrator (refer to the Joint Application Instructions).
4. Applicant Name - Applications must be in the name of the owner of the water withdrawal system involved. For acquisitions of existing systems, the applicant should be the prospective owner.
5. All Water Withdrawal Applications must include a completed [Water Conservation Program Form](#) demonstrating that the applicant has developed and implemented a [Water Conservation Program](#) that incorporates environmentally sound and economically feasible water conservation measures. Information is available on the Department's website at <http://www.dec.ny.gov/lands/86945.html>.
6. Locate and describe all facilities and service areas on appropriate maps and plans to be submitted with this form. Choose a scale for this location map that allows you to accurately define all groundwater wellhead and surface water intake positions, and the overall project area within the county or town. Include coordinates for all wellheads and intakes on the Joint Application Form, Item 8, and on additional sheets if needed.
7. Water Withdrawal Amounts (Item 9) - Convert to gallons per day (GPD). In order to convert from gallons per minute (GPM) to GPD, multiply GPM x 1440.
8. All facts and opinions expressed in the application must be documented in appropriate legal, engineering, or other papers attached as exhibits and noted in Item 10 of this form.
9. If more room is needed to complete any item, provide the information as attachments.
10. All Water Withdrawal Applications must include the following items in a separate exhibit:
 - a) Names, titles, mailing addresses, and phone numbers of the Applicant's Attorney; Engineer; and other consultants (planners, geologists, etc.) serving the applicant.
 - b) A list of all maps and exhibits accompanying the application.

RESOLUTION NO. 34

TITLE: RESOLUTION OF THE COALITION OF WATERSHED TOWNS SUPPORTING THE DECEMBER 2022 REVISED FAD

WHEREAS, in the Spring of 2022 the New York State Department of Health (DOH) released for comment a draft Revised Filtration Avoidance Determination (FAD) as part of the mid-term review of the 2017 FAD; and

WHEREAS, the West of Hudson Communities (including, but not limited to, the Coalition of Watershed Towns, Delaware, Greene, and Schoharie Counties, the Towns of Windham, Ashland, Lexington, Prattsville, Jewett, Olive, Shandaken, Conesville, Gilboa, Roxbury, Middletown, Andes, Bovina, Stamford, Kortright, Tompkins, Harpersfield, Walton, Delhi,) submitted comments/Board resolutions to DOH (the “West of Hudson Communities Comments”) which focused upon

- (1) the need to end the core land acquisition program as recognized in the 2020 findings of the National Academies of Sciences, Engineering and Medicine (NASEM) of its study of the watershed protection program;
- (2) the need to revise the Streamside Acquisition Program (SAP) to require local governments consent for participation in the program;
- (3) support for a community based streamside protection program in which the land owners are compensated for stewardship;
- (4) a requirement that the Conservation Easement granted by the City to NYSDEC for all fee acquisitions be modified to incorporate the requirements and the objectives of the 1997 Memorandum of Agreement (“MOA”); and
- (5) assure greater compliance by New York City with its MOA obligations as exemplified by the 2022 dispute regarding the acceptance of septage waste at City-owned wastewater treatment plants and a sustainable contract administration process; and

WHEREAS, in December 2022 DOH issued the final Revised FAD (together with a Comment/Response Document) which directly incorporated and responded to the West of Hudson Comments and specifically stated as follows:

- (1) “NYSDOH agrees that strategic, well-reasoned acquisition of water quality protective parcels should be the focus of the LAP, while allowing future community growth to occur in a manner that is consistent with the existing character and planning goals of each of the Watershed communities.”
- (2) “NYSDOH agrees that changes to core LAP are necessary in the West of Hudson watershed, as guided by the recommendations of the NASEM expert panel. The

program should be focused on the most sensitive areas for water quality protection, including floodplains, riparian areas, wetlands, and steep slopes. NYSDOH agrees that both the Long-Term Land Acquisition Plan and the successor Water Supply Permit should be shaped by the NASEM Expert Panel recommendations and stakeholder input.”

- (3) “The reduction in LAP solicitation goal from 300,000 acres to 200,000 acres through 2024 is based on recommendations of the NASEM Expert Panel as well as stakeholder input. Solicitation beyond 2024 is contingent upon re-issuance of a WSP authorizing continuation of the LAP beyond 2025.”
- (4) NYSDOH understands that there are several areas of interest that stakeholders have regarding the current and future implementation of SAP. NYSDOH encourages stakeholders to engage in productive discussions with the City and CCCD to integrate common-sense program modifications which will position SAP to operate with wide-spread municipal support in the future. To encourage the resolution of these issues, the Revised 2017 FAD now includes a requirement for a dedicated SAP workgroup and a specific reporting requirement on the workgroup’s recommendations. While the determination for the expansion of the Pilot SAP to the remainder of the WOH watershed has not yet been made by NYSDEC, as described in Special Condition 29 paragraph (f), NYSDOH notes that paragraph (f) states that “Such written determination shall include addressing NYCDEP recommendations.”
- (5) “Under the Conservation Reserve Enhancement Program (CREP), administered by the US Department of Agriculture’s Farm Service Agency and the Watershed Agricultural Council, farmers can receive annual rental payments in exchange for removing environmentally-sensitive land from production and installing conservation practices like vegetated streamside buffers, exclusion fencing, and animal crossings. These rental agreements usually run for 10-15 years, unlike watershed conservation easements which run in perpetuity. The commentors are suggesting a similar program be explored as an option for owners of non-agricultural land. This potential program should be explored in the context of the streamside acquisition workgroup”
- (6) “NYSDOH and the City acknowledge the existing conservation easement language may need to be revised in light of some recent conflicts with public benefit projects. The City agrees to work with the communities to explore potential language changes to future conservation easements which would allow for such activities to take place. The Revised 2017 FAD has been updated to reflect this new activity”
- (7) NYSDOH supports the recreational use of protected land in the Catskill/Delaware Watershed where such use does not threaten to have an adverse impact on NYC water quality. Paragraph 72 of the 1997 Memorandum of Agreement included mountain bicycling as a recreational activity not likely to be allowed on City land. The City has opened over 135,000 acres of watershed lands to other recreational

opportunities, where it can be demonstrated that recreational use will not harm water quality. The City may consider requests to open specific City-owned parcels to connect existing or planned trail networks where municipal and organizational partners have the capacity to effectively steward the activities and ensure no threats to water quality.”

NOW, THEREFORE, LET IT BE RESOLVED that the Delaware County Board of Supervisors hereby thanks the Department of Health for carefully considering the comments of the West of Hudson Communities and incorporating those comments in the Revised FAD and accepts the Revised FAD as a reasonable compromise to assure the continued protection of New York City’s water supply while recognizing the needs of the watershed communities; and

LET IT BE FURTHER RESOLVED, that the Delaware County Board of Supervisors is committed to continuing to work with the other watershed stakeholders to develop a revised LAP and SAP that is consistent with the MOA, the NASEM findings, the Revised FAD and the evolving needs of the watershed communities.

State of New York
County of Delaware

I, Penny A. Bishop, Clerk of the Board of Supervisors of Delaware County, do hereby certify that the above is a true and correct copy of a resolution adopted by said Board on the 25th day of January 2023 and the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Board at Delhi, New York, this 25th day of January 2023.


Clerk, Delaware County Board of Supervisors



Resolution No. 132-23

Greene County Legislature Resolution In Support Of The December 2022 Revised Filtration Avoidance Determination (FAD)

WHEREAS, in the Spring of 2022 the New York State Department of Health (DOH) released for comment, a draft Revised Filtration Avoidance Determination (FAD) as part of the mid-term review of the 2017 FAD; and

WHEREAS, the West of Hudson Communities (including the Coalition of Watershed Towns, Delaware, Greene, and Schoharie Counties and nineteen Towns across those counties) submitted comments/Board resolutions to DOH (the "West of Hudson Communities Comments") which focused upon:

1. The need to end the core Land Acquisition Program as recognized in the 2020 findings of the National Academies of Sciences, Engineering and Medicine (NASEM) of its study of the watershed protection program;
2. The need to revise the Streamside Acquisition Program (SAP) to require local governments' coordination and consent for participation in the program and assurance the SAP will be coordinated with local Stream Management Programs as originally intended;
3. Support for a community-based SAP in which the landowners are compensated for stewardship;
4. A requirement that the Conservation Easement granted by the City to NYSDEC for all fee acquisitions be modified to incorporate the requirements and the objectives of the 1997 Memorandum of Agreement (MOA); and
5. Assure greater compliance by New York City with its MOA obligations as exemplified by the 2022 dispute regarding the acceptance of septage waste at City-owned wastewater treatment plants and a sustainable contract administration process; and

WHEREAS, in December 2022 DOH issued the final Revised FAD which directly incorporated and responded to the West of Hudson Communities Comments and specifically stated as follows:

1. "NYSDOH agrees that strategic, well-reasoned acquisition of water quality-protective parcels should be the focus of the LAP, while allowing future community growth to occur in a manner that is consistent with the existing character and planning goals of each of the Watershed communities."

2. "NYSDOH agrees that changes to core LAP are necessary in the West of Hudson watershed, as guided by the recommendations of the NASEM expert panel. The program should be focused on the most sensitive areas for water quality protection, including floodplains, riparian areas, wetlands, and steep slopes. NYSDOH agrees that both the Long-Term Land Acquisition Plan and the successor Water Supply Permit should be shaped by the NASEM Expert Panel recommendations and stakeholder input."
3. "The reduction in LAP solicitation goal from 300,000 acres to 200,000 acres through 2024 is based on recommendations of the NASEM Expert Panel as well as stakeholder input. Solicitation beyond 2024 is contingent upon re-issuance of a WSP authorizing continuation of the LAP beyond 2025."
4. "NYSDOH understands that there are several areas of interest that stakeholders have regarding the current and future implementation of SAP. NYSDOH encourages stakeholders to engage in productive discussions with the City and CCCD to integrate common-sense program modifications which will position SAP to operate with wide-spread municipal support in the future. To encourage the resolution of these issues, the Revised 2017 FAD now includes a requirement for a dedicated SAP workgroup and a specific reporting requirement on the workgroup's recommendations. While the determination for the expansion of the Pilot SAP to the remainder of the WOH watershed has not yet been made by NYSEDEC, as described in Special Condition 29 paragraph (f), NYSDOH notes that paragraph (f) states that "Such written determination shall include addressing NYCDEP recommendations."
5. "Under the Conservation Reserve Enhancement Program (CREP), administered by the US Department of Agriculture's Farm Service Agency and the Watershed Agricultural Council, farmers can receive annual rental payments in exchange for removing environmentally-sensitive land from production and installing conservation practices like vegetated streamside buffers, exclusion fencing, and animal crossings. These rental agreements usually run for 10-15 years, unlike watershed conservation easements which run in perpetuity. The commentors are suggesting a similar program be explored as an option for owners of non-agricultural land. This potential program should be explored in the context of the streamside acquisition workgroup."
6. "NYSDOH and the City acknowledge the existing conservation easement language may need to be revised in light of some recent conflicts with public benefit projects. The City agrees to work with the communities to explore potential language changes to future conservation easements which would allow for such activities to take place. The Revised 2017 FAD has been updated to reflect this new activity."
7. "NYSDOH supports the recreational use of protected land in the Catskill/Delaware Watershed where such use does not threaten to have an adverse impact on NYC water quality. Paragraph 72 of the MOA included mountain bicycling as a recreational activity not likely to be allowed on City land. The City has opened over 135,000 acres of watershed lands to other recreational opportunities, where it can be demonstrated that recreational use will not harm water quality. The City may consider requests to open specific City-owned parcels to connect existing or planned trail networks where municipal and organizational partners have the capacity to effectively steward the activities and ensure no threats to

water quality.”

NOW THEREFORE, BE IT RESOLVED, that the Greene County Legislature hereby thanks the Department of Health for carefully considering the comments of the West of Hudson Communities and incorporating those comments in the Revised FAD and hereby supports and accepts the Revised FAD as a reasonable compromise to assure the continued protection of New York City’s water supply while recognizing the needs of the watershed communities; and

BE FURTHER RESOLVED, that the Greene County Legislature is committed to continuing to work with the other watershed stakeholders to develop a revised LAP and SAP that is consistent with the MOA, the NASEM findings, the Revised FAD, and the evolving needs of our watershed communities.

Meeting History

04/05/23 County Resources **MOVED FOR ADOPTION**

RESULT:	MOVED FOR ADOPTION [UNANIMOUS]
MOVER:	James Thorington, Legislator
SECONDER:	Linda H. Overbaugh, Legislator
AYES:	Bulich, Overbaugh, Lucas, Thorington, True, Linger, Luvera
ABSENT:	Harry A. Lennon

Current Meeting

04/19/23 Greene County Legislature **ADOPTED**

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Thorington, Legislator
SECONDER:	Linda H. Overbaugh, Legislator
AYES:	Bloomer, Bulich, Davis, Handel, Hobart, Legg, Lennon, Lucas, Luvera, Martinez, Overbaugh, Thorington, True, Linger

(10,000)

Ayes 14 Noes 0 Absent 0

APPROVED AS TO FORM
EDWARD I. KAPLAN, ESQ.
GREENE COUNTY ATTORNEY

cc: All Departments via County Wide Sharepoint
1 - Economic Development, Tourism & Planning (Certified) - Via Email
1 - Soil & Water (Certified)
3 - File - Soil & Water (Water - FAD) (Electronic)
- Soil & Water - Resolutions (Electronic)
- Water (2023)

RESOLUTION NO. 162

**TITLE: DELAWARE COUNTY REQUESTS THAT A MORATORIUM
ON NEW PURCHASE CONTRACTS FOR FEE TITLE AND DEP
CONSERVATION EASEMENTS, BE IMPLIMENTED IN DELAWARE
COUNTY PENDING A COMPREHENSIVE REVIEW OF THE LAND
ACQUISTION PROGRAM TO IDENTIFY THE NEED FOR THE
CONTINUATION OF LAND ACQUISTION, THE BENEFITS OF LAND
ACQUISTION, THE IMPACT OF LAND ACQUISTION ON
COMMUNITY SUSTAINABILITY AND THE OTHER TOOLS
AVAILABLE TO ACHIEVE MOA LAND ACQUISTION OBJECTIVES
WATERSHED AFFAIRS**

WHEREAS, the fundamental principle of the 1997 New York City Watershed Memorandum of Agreement (the "**MOA Watershed Objective**") is the following: "[T]he parties recognize that the goals of drinking water protection and economic vitality within the watershed communities are not inconsistent and it is the intention of the parties to enter into a new era of partnership to cooperate in the development and implementation of a watershed protection program that **maintains and enhances** the quality of New York City drinking water supply and **the economic vitality and social character of the watershed communities**"; and

WHEREAS, the 1997 New York City Watershed Memorandum of Agreement ("MOA") also defined the MOA Land Acquisition Objectives as follows: "the parties agree that the City's Land Acquisition Program, the City's watershed regulations, and the other programs and conditions contained in this agreement, when implemented in conjunction with one another, **would allow existing development to continue and future growth to occur in a manner that is consistent with the existing community character** and planning goals of each of the watershed communities; and that the City's land acquisition goals **ensure that the availability of developable land in the watershed will remain sufficient to accommodate projected growth** without anticipated adverse effect on water quality **and without substantially changing future population patterns** in the watershed communities" (hereinafter "**Land Acquisition Objectives**"); and

WHEREAS, Section 1 of the New York City Water Supply Permit indicates that the "terms and conditions of this permit are authorized by, and designed to ensure that the project is consistent with section 15 -1503 (2)... of the Environmental Conservation Law." In 1997, when the permit was issued, Section 15-1503 (2) provided that "before granting a permit, a permit renewal or permit modification pursuant to this section, the Department shall ascertain the probable effect on the health, safety and welfare of the people of the state, and the effect on the natural resources of the state likely to result from the proposed project or work"; and

WHEREAS, the City's Land Acquisition Program is premised on the principle that surface runoff from impervious surfaces and concentrated human activity poses a contamination threat to the City's water supply. In developing the City Land Acquisition Program, the parties were concerned that the vast amount of open space within the West of Hudson Watershed created the potential for new significant adverse development in an unfiltered watershed. The City's Land Acquisition Program was a tool to prevent and control such development; and

WHEREAS, in 1997 when the parties executed the MOA, approximately 11% of the watershed lands within Delaware County were under New York City and/or New York State control. Twenty-three years later, according to the December 2020 Land Acquisition Report, 28.4 % of the watershed lands within Delaware County are under New York City and/or New York

State control and such control is closing in on the 30% benchmark (as suggested in the 2012- 2022 Long-Term Land Acquisition Plan) when memorandum of contract properties are included; and

WHEREAS, the past twenty-three years of post MOA activity have demonstrated that despite the vast amount of open space in the watershed lands within Delaware County, due in large part, to topography, climate, high/unsustainable cost of new infrastructure and general economic and social realities, there is little or no potential for new significant adverse development in the watershed lands within Delaware County (in other words, the threat that the City Land Acquisition Program was designed to address does not exist in the majority of watershed communities within Delaware County); and

WHEREAS, during negotiations of the 2017 Filtration Avoidance Determination (FAD), New York City Department of Environmental Protection (NYC) agreed to reevaluate the 2010 Water Supply Permit Environmental Impact Statement conclusions regarding whether the City's Land Acquisition Program "would allow existing development to continue and future growth to occur in a manner that is consistent with the existing community character and planning goals of each of the watershed communities; and [whether] the City's land acquisition goals ensure that the availability of developable land in the watershed will remain sufficient to accommodate projected growth without anticipated adverse effect on water quality and without substantially changing future population patterns in the watershed communities" ("NYC 2017 Individual Town Assessment"); and

WHEREAS, on October 31, 2017 as provided for in the 2017 Filtration Avoidance Determination and in response to NYC 2017 Individual Town Assessment, Delaware County and the other West of Hudson Counties, with support from the Coalition of Watershed Towns and financial and technical support from the Catskill Water Corporation, conducted an evaluation of the impacts from the City's Land Acquisition Program. Delaware County issued the following report: *New York Land Acquisition Town Level Assessment 2017: Delaware County Evaluation and Response* ("Delaware County 2017 Report"); and

WHEREAS, *Delaware County 2017 Report* concluded and demonstrated that in a substantial number of Delaware County towns the actual amount of developable land remaining is insufficient to "allow existing development to continue and future growth to occur in a manner that is consistent with the existing community character and planning goals" of those communities; and thus the "City's land acquisition goals for those communities did not ensure... the availability of developable land... will remain sufficient to accommodate projected growth" and thus the continuation of City's land acquisition could "substantially changing future population patterns..."; and

WHEREAS, at page 36 the 2017 FAD, DOH/EPA required a two-step review to the land acquisition program. The first review is in 2018 and applies to updating the 2012-2022 Long-Term Land Acquisition Plan. The 2017 FAD provides as follows:

The City provided new or updated Town Level Assessments for 21 WOH towns to NYSDOH, USEPA, NYSDEC, and WOH stakeholders. Following the release of those assessments, the City will accept stakeholder comments for 180 days. Based on the updated Town Level Assessments and its review of comments received, the City will evaluate the need for modification of its 2012-2022 Long-Term Land Acquisition Plan and discuss its conclusions with NYSDOH, USEPA, and NYSDEC. The City will share any proposed modifications to its solicitation plan, or the basis for a conclusion that no modifications are warranted, with the WOH stakeholders. During the period between February 14, 2017 and the City's adoption

of a modified solicitation plan or conclusion that no modifications are necessary, the City agreed to limit solicitations in certain towns.

WHEREAS, the second more comprehensive review begins in 2022 and requires the City to develop a new Long-Term Land Acquisition Plan for the period 2023-2033. Page 36 the 2017 FAD provides as follows:

The current WSP became effective December 2010 and expires in 2025. While the term of the 2017 FAD extends into 2027, solicitation and funding requirements for the LAP beyond 2024 are contingent upon reissuance of the WSP. Application for a WSP to succeed the 2010 WSP is required by June 2022 to ensure adequate time for stakeholder input on the conditions of the successor WSP. In addition, the FAD requires the City to develop a new Long-Term Land Acquisition Plan, which will cover the period 2023-2033 and will consider the findings of the National Academies Expert Panel review of the City's Watershed Protection Program. It is anticipated that the long-term plan and the Expert Panel findings will also help inform the conditions of the successor WSP; and

WHEREAS, the 2017 FAD calls for the continuation and funding for the City's Land Acquisition Program through 2027. In its consent to the 2017 FAD, in a letter dated December 27, 2017 to Howard Zucker, Commissioner New York State Department of Health, from Peter D Lopez, Region 2 Administrator, EPA stressed as important the "City and state efforts" in "the ongoing review of town-level assessments" and "City and state efforts" "to refine the program so as to ensure the City is soliciting parcels that will provide the highest value of watershed protection as well as address other important objective in the watershed"; and

WHEREAS, given the findings and conclusion above, in April, 2018, Delaware County Board of Supervisor passed Resolution No. 74 demanding that as part of the 2018 update to the 2012-2022 Long-Term Land Acquisition Plan, for those communities where the city's land acquisition goals do "not ensure ... the availability of developable land ... will remain sufficient to accommodate projected growth" and/or where the continuation of City's land acquisition could "substantially chang[e] future population patterns...(Special Condition 2, Water Supply Permit)", some form of relief be provided; and

WHEREAS, in order to provide that relief, with the assistance of the Coalition of Watershed Towns and CWC, Delaware County developed an Alternative Land Acquisition Program Option that will provide the impacted communities an opportunity to provide robust/enhanced protection of environmentally sensitive lands in a manner that will not "substantially chang[e]future population patterns...". The Option includes a fixed-term annual rental payment model that has proven to be effective in Delaware County. The Option focuses on environmentally sensitive lands (such as buffers) which directly contribute to water quality. This program would compensate landowners for the water quality protection provided by their land (including enhanced vegetated buffers) while still maintaining ownership. It will provide the balance between water quality and community sustainability and economic viability as required by the MOA. The impacted municipality would have to make a determination and a commitment to provide enhanced protection of sensitive lands in lieu and as a substitute for the continuation of the traditional DEP Land Acquisition Program. The municipal commitment would be for a period of years (e.g., 10 years); during that commitment period, DEP Land Acquisition Program would be suspended within that community; and

WHEREAS, in response to Resolution No. 74, in consultation with DOH, the DEP denied Delaware County's request. All of the government stakeholders, however, agreed that the

Delaware County Alternative Pilot Land Acquisition Proposal is a tool that will enhance the overall water quality protection from acquisition funds and that the proposal has merit and deserves further discussion. The government stakeholders concurred that the appropriate opportunities for the further discussion will be provided in the proceeding to amend the Water Supply Permit to expand the Stream Buffer Program and the City's development of a new Long-Term Land Acquisition Plan, which will cover the period 2023-2033 and will consider the findings of the National Academies Expert Panel. During those proceedings, Delaware County would have an opportunity to seek a permit modification adding the Delaware County Alternative Pilot Land Acquisition Proposal to the Water Supply Permit. All parties reserve whatever rights they have to oppose or support such a modification; and

WHEREAS, in August, 2020, the National Academies of Sciences published its report entitled, Review of the New York City Watershed Protection Program. In that report, NAS adopted a specific conclusion and recommendation to "reduce expenditures in the land acquisition program to fund other programs that will lead to more direct improvements to water quality". NAS Report, p.385. The recommendation to reallocate funds is based on "the seemingly small incremental contributions of the Land Acquisition Program to drinking water quality and its negative effects on community vitality, compared with the likely improvements to water quality from additional resources provided to these other programs." NAS Report, p. 385.

WHEREAS, NAS also recommended that the City be provided flexibility to implement an optimal variety of programs that would focus watershed management actions on the most valuable lands for water quality protection while recognizing legitimate concerns for community development. NAS Report, p. 220. Shifting funding and emphasis from acquiring large parcels in the fee-simple and New York City conservation easement programs to the protection of riparian lands on critical areas of tributary streams through the Flood-Buyout and Streamside Acquisition programs was one example that was recommended and encouraged. These programs were recommended because they "offer[] another opportunity to simultaneously address community needs and watershed protection" by providing a "financial mechanism" to promote community well-being and economic vitality in the watershed while promoting the protection of high potential water quality impact areas. See NAS Report p. 215-216 [discussing the NYC FBO program].

WHEREAS, as stated above, when DEP refused Delaware County's Resolution No. 74 request, the government stakeholders concurred that the appropriate opportunities for the further discussion will be provided in the proceeding to amend the Water Supply Permit to expand the Stream Buffer Program and the City's development of a new Long-term Land Acquisition Plan, which will cover the period 2023-2033 and will consider the findings of the National Academies Expert Panel. During those proceedings, Delaware County would have an opportunity to seek a permit modification adding the Delaware County Alternative Pilot Land Acquisition Proposal to the Water Supply Permit. All parties reserve whatever rights they have to oppose or support such a modification.

WHEREAS, DEC has announced that it will be making a determination to expand the SAP program to the entire watershed and that its determination is not subject to SEQRA and does not require any due process or permit modification. According to DEC, the town or village decision to allow SAP land acquisition in excluded hamlet areas, hamlet extension areas and villages can be made on a homeowner-by-homeowner basis for individual lots by Town Boards. According to the Water Supply Permit, both vacant lots and improved lots are eligible for acquisition (although DEC states that the purchase of improved lots is not intended). At the present time, SAP will focus on NYC fee purchases which will be subject to Section 82 of the MOA. That section requires "the City to grant to NYSDEC a conservation easement that shall run with the land on all lands acquired under the land acquisition program to ensure that such land is held in

perpetuity in an undeveloped state in order to protect the watershed and New York City's drinking water supply." The Conservation Easement required by DEC under Section 82 of the MOA prohibits in perpetuity the following activities on the acquired property:

- "construction of any new ... structures normally requiring a building code permit";
- "storage of petroleum ..., hazardous materials"
- "excavating, extraction, grading, or removal of soil, sand and gravel"
- "use of snowmobiles, dune buggies, motorcycles, all-terrain vehicles or other motorized vehicles recreation purposes"
- "the expansion of any existing or construction of any new paved driveways, roads, and parking lots"
- "the commercial, residential or industrial use"
- "except in accordance with Article 49 of the ECL, the siting or routing of any facilities required for ... the transmission, or distribution of **gas; electricity, water, telephone, or cable television services** on, over or under the Protected Property"
- "the commercial, residential or industrial use of the Protected Property(ies) in such a manner that: (i) causes the introduction of sediments, ... or other pollutants to any watercourse or wetland on the Protected Property(ies) that may adversely affect the quality of such watercourse or wetland; (ii) interferes with or disturbs open space, vegetated areas or steep slopes on the Protected Property(ies); or (iii) is otherwise inconsistent with the purposes of this Easement."

WHEREAS, the Delaware County Board of Supervisors requests that the DEC, the Catskill Center and DEP identify and evaluate the potential adverse impacts on the following municipal and private functions if the City owns and controls large sections of stream corridors throughout Delaware County in perpetuity:

- Installation and upgrade of electrical, water, gas, telephone, broadband/cable lines as needed to provide basic utilities
- Maintenance, upgrade, expansion, widening, safety improvements to existing roads and extension of existing roads.
- Installation, expansion, and replacement of communication towers (including the necessary utilities)
- The siting, maintenance, and expansion of stream crossings
- Flood mitigation projects
- Renewable Energy Projects

WHEREAS, Delaware County asserts that DEC's determination to expand the SAP to the entire watershed (regardless of whether it requires a permit modification proceeding) constitutes an Action under SEQRA. Under 6 NYCRR 617.9 (a) (7), a lead agency may require a supplemental EIS to address adverse environmental impacts not adequately addressed in the EIS that arise from a "change in circumstances related to the project." In order to implement the expanded SAP program, DEP would have to enter into a long-term program agreement with the Catskill Center (or some other vendor) to administer and steward the program. DEP has indicated that it would take approximately 18 months to negotiate, execute and register a program agreement. To the extent the program agreement commits DEP to fund SAP post 2025, the agreement is beyond the 2010 SEQRA process and triggers a new SEQRA review. The 2010 SEQRA process evaluated the impact of the Land Acquisition Program on the supply of developable land for community sustainability through the existing permit period. Since 2010, there has been multiple changes in circumstances (the "Change in Circumstances") that alter the need and potential supply of the developable land and the environmental and community impact:

- (i) the COVID epidemic and the demographic changes resulting from it;
- (ii) the need/demand for literally **millions** of acres of land in upstate New York for wind and solar farms to generate renewable energy to meet the 2019 Climate Act statutory mandate to power 100% of the grid by renewable energy by 2040 (e.g., in order to make up electricity generation loss due to the closure of the Indian Point Nuclear Power Plant will require wind farms occupying more than 329,000 acres; in order to make up electricity generation loss due to the closure of the fossil fuel plants and to address the transition from gasoline powered vehicles to electric vehicles will require wind farms occupying more than several millions acres). NYSERDA, in a press release, recently announced signing a contract for a “174 mile transmission line [running] from this Fraser substation in Delaware County to the Rainey Substation” in Queens “to create a modern transmission system capable of delivering... renewable electricity to high demand areas in downstate New York.” That transmission line (which is underground along the existing Marcy South right of way) will cross and be under a significant portion of City owned property, some of which may be subject to the DEC conservation easement prohibition on new electrical transmission lines. The conservation easement required by DEC on all of the land acquired by NYC under the Land Acquisition Program also prohibits solar generating facilities and battery storage facilities and associated transmission facilities. Neither the closure of the Indian Point Nuclear Power Plant, the enactment of the 2019 Climate Act nor NYSERDA’s decision to contract for the transmission line starting at Fraser substation in Delaware County nor DEC’s decision to prohibit utilities crossings and solar facilities on City acquired property were subject to any evaluation under SEQRA relating to the Land Acquisition Objectives;
- (iii) The 2020 legislative enactment of the Accelerated Renewable Energy Growth and Community Benefit Act which streamlined and expedited large scale renewable energy development in New York by establishing a general permit process, eliminating, and superseding local (including DEP) and other state agencies approvals including SEQRA review. By adopting this law, the Legislature acknowledged that the regulatory impediments to new development were prohibitive and were preventing needed projects from being implemented. This enactment substantiates and supports the reality that the regulatory impediments to new development within the NYC Watershed is overwhelming and has contributed to the total lack of large-scale new development with the Delaware County NYC Watershed during the 23 years since the execution of the MOA;
- (iv) DEC denied the water quality certification to the Constitutional Pipeline in April 22, 2016. That pipeline was going to provide natural gas to the Delaware County communities including the Village of Delhi (and its two industrial dairies). The pipeline would have allowed the community, its homes and its industries to reduce their dependence on fuel oil and propane. Given the low population density in Delaware County, the Constitutional Pipeline was an unique opportunity to obtain access to low cost clean energy supply. Instead, DEC made a determination that water quality considerations trumped community sustainability considerations.
- (v) DEC’s determination to prohibit in perpetuity on property acquired by the City under the MOA Land Acquisition Program “the siting or routing of any facilities required for ... the transmission, or distribution of **gas, electricity, water, telephone, or cable television services** on, over or under” such property violates the MOA. In negotiating the 1997 MOA and the Land Acquisition Program, Delaware County, among others,

was extremely concerned about the impact of City ownership of large quantities of vacant land on the ability of communities and the public to obtain utilities easements to cross such land to support their homes and infrastructure. The City agreed that in lieu of providing utilities easements, the City would continue (and expand) its revocable license permit program which allowed utilities crossings of City acquired property at an affordable rate without undue delay and bureaucracy. That agreement was incorporated into Section 153 of the MOA which requires the City to “continue its policy of granting permits allowing City property to be crossed for access to utility services” including, and, in particular, to the rural electric cooperatives. The Conservation Easement required by DEC prohibits such utilities crossings on land acquired under the MOA Land Acquisition Program, totaling frustrating DEP’s commitment in MOA Section 153;

- (vi) In the 2010 Land Acquisition Permit proceeding, the parties agreed that grantor’s reserved rights for certain activities were to be treated as permitted uses subject to certain conditions and determined through a due process procedure with a reasoned elaboration determination. Notwithstanding that agreement, the DEP and other stakeholders took the position that the reserved rights were in the discretion of the Grantee and that the Grantor lacked standing to challenge the Grantee’s decisions. DEP’s position was adopted by the Appellate Division Third Department in the following two cases: Matter of Darwak v. City of New York, 188 A.D.3d 1511 (2020); Argyle Farm & Props, LLC v. Watershed Agric. Council, 135 A.D. 3d 1262 (2016). Delaware County believes that it is against public policy and long-term community interest to grant unfettered control in perpetuity to a third-party entity over large sections of the county (and, in particular, stream corridors where the hamlets are located); and
- (vii) In a Notice of Incomplete Application dated March 3, 2021 for a proposed project in the Town of Roxbury, Delaware County, DEC determined that the proposed project site is within a “designated Potential Environmental Justice Area and is characterized as being located within an area with environmental justice factors.” The guidance document states “a potential environmental justice area means a minority or low-income community that may bear a disproportionate share of the negative consequences resulting from industrial, municipal and commercial operations or the execution of federal, state, local and tribal programs and policies”. The guidance goes on to state that under Commissioner Policy -29 (CP-29), Environmental Justice and Permitting, environmental justice concerns must be incorporated into the NYSDEC environmental review process and the DEC’s application of SEQRA. Based on the guidance document, it appears that large sections of the NYC Watershed within Delaware County are potential Environmental Justice Areas due to low income. As a result, Commissioner Policy -29 (CP-29), Environmental Justice and Permitting requirements should be incorporated into the NYSDEC’s determination to expand the SAP and to any water supply permit modification/renewal process.

WHEREAS, Delaware County Board of Supervisors have an obligation to ensure that the residents of Delaware County are entitled to live in communities that can sustain critical municipal services and that those residents have access to services necessary to maintain a reasonable quality of life. In other words, Delaware County Board of Supervisors has an obligation to ensure that the MOA Land Acquisition Objectives are implemented as agreed.

WHEREAS, the Land Acquisition Objectives are a continuing obligation – not a static obligation. Twelve more years of open space land acquisition and the fee acquisition of stream

corridors in Delaware County (after 23 years of open space land acquisition) will have an adverse impact on our residents' access to services necessary to maintain a reasonable quality of life and community sustainability with little or no water quality benefits in violation of the MOA Land Acquisition Objectives.

NOW, THEREFORE, BE IT RESOLVED the Delaware County Board of Supervisors petitions DEC, DOH and DEP for the following relief:

- (1) The FAD requires application for a WSP to succeed the 2010 WSP is required by June 2022 and that the City develop a new Long-Term Land Acquisition Plan, which will cover the period 2023-2033 and which will consider the findings of the National Academies Expert Panel review. Given the uncertainties created by the Change in Circumstances, effective January 1, 2022 and extending through completion of the permitting process, the City refrain from entering into new contracts to purchase fee title and/or conservation easements under the Land Acquisition Program within Delaware County;
- (2) The expansion of the SAP beyond the Schoharie Basin within Delaware County be addressed by DEC in a DEC-initiated permit modification proceeding under 6 NYCRR Part 624 and be subject to review under SEQRA and/or be consolidated with the permit renewal process.
- (3) By December 1, 2021, Delaware County staff prepare and submit to DEP and all of the stakeholders an updated Alternative Land Acquisition Program Option Plan for incorporation into the 2023-2033 Long-Term Land Acquisition Plan and its application for renewal of its WSP.
- (4) In developing the Long-term Land Acquisition Plan for the period 2023-2033 and the WSP renewal application due June, 2022, that DEP limit its land and conservation easement acquisition within Delaware County to WAC Conservation Easements, flood mitigation projects, stream protection/management, the Delaware County Alternative Pilot Land Acquisition Proposal and a voluntary SAP plan.

BE IT FURTHER RESOLVED that this resolution be sent to US Congressman Antonio Delgado, New York State Governor Kathy Hochul, State Senator Fred Akshar, State Senator Peter Oberacker, State Senator Mike Martucci, Assemblyman Brian D. Miller, Assemblyman Chris Tague, Assemblyman Joe Angelino, EPA Region 2 Acting Director Walter Mugdan, NYSDEC Commissioner Basil Seggos, NYCDEP Commissioner Vincent Sapienza and NYSDOH Commissioner Mary Bassett.

State of New York
County of Delaware

I, Christa M. Schafer, Clerk of the Board of Supervisors of Delaware County, do hereby certify that the above is a true and correct copy of a resolution adopted by said Board on the 27th day of October 2021 and the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Board at Delhi, New York, this 27th day of October 2021.


Clerk, Delaware County Board of Supervisors



Resolution No. 13-22

The Greene County Legislature Resolution In Support Of The Land Acquisition Reduction Recommendations In The 2020 August National Academies ("NAS") Expert Panel Report

WHEREAS, in August, 2020, the National Academies ("NAS") Expert Panel published its report entitled, *Review of the New York City Watershed Protection Program*, which recommended that expenditures in the land acquisition program be reduced to fund other programs that will lead to more direct improvements to water quality. NAS Report, p.385. NAS recommended that **the City be provided flexibility to implement an optimal variety of programs that would focus watershed management actions on the most valuable lands for water quality protection and that it shift funding and emphasis from acquiring large parcels in the fee-simple and conservation easement programs to the protection of riparian lands on critical areas of tributary streams through programs that provide an opportunity to simultaneously address community needs and watershed protection. Programs which provide a "financial mechanism" to promote community well-being and economic vitality in the watershed while promoting the protection of high potential water quality impact areas were specifically encouraged.** See NAS Report p. 215-216 [discussing the NYC Flood Buyout Program]

WHEREAS, the fundamental principle of the 1997 New York City Watershed Memorandum of Agreement (the "**MOA Watershed Objective**") is the following: "[T]he parties recognize that the goals of drinking water protection and economic vitality within the watershed communities are not inconsistent and it is the intention of the parties to enter into a new era of partnership to cooperate in the development and implementation of a watershed protection program that **maintains and enhances** the quality of New York City drinking water supply and **the economic vitality and social character of the watershed communities**"; and

WHEREAS, the 1997 New York City Watershed Memorandum of Agreement ("MOA") also defined the MOA Land Acquisition Objectives as follows: "the parties agree that the City's Land Acquisition Program, the City's watershed regulations, and the other programs and conditions contained in this agreement, when implemented in conjunction with one another, **would allow existing development to continue and future growth to occur in a manner that is consistent with the existing community character** and planning goals of each of the watershed communities; and that the City's land acquisition goals **ensure that the availability of developable land in the watershed will remain sufficient to accommodate projected growth** without anticipated adverse effect on water quality **and without substantially changing future population patterns** in the watershed communities" (hereinafter "**Land Acquisition Objectives**"); and

WHEREAS, the City's Land Acquisition Program is premised on the principal that surface runoff from impervious surfaces and concentrated human activity poses a contamination threat to the City's water supply. In developing the City Land Acquisition Program, the parties were concerned that the vast amount of open space within the West of

Hudson Watershed created the potential for new significant adverse development in an unfiltered watershed. The City's Land Acquisition Program was a tool to prevent and control such development; and

WHEREAS, in 1997 when the parties executed the MOA, a small percentage of the watershed lands within Greene County were under New York City control. Twenty years later, according to the October 12, 2017 Catskill Watershed Corporation Developable Land Analysis Report ("CWC 2017 Report"), a significant majority of the watershed land within Greene County are protected from development. Table 1 from the CWC 2017 Report indicated that the average percent of available developable land town wide in the following five towns: Ashland, Halcott, Hunter, Jewett, and Lexington was 5.2 %.

Town	A. Total Area {Acres}	B. Protected Land	C. Percent Land Protected	D. Non- Protected Land	E. Undevelopable Land	F. Percent Undevelopable	G. Developable Land (1)	H. Acres of Available Developable Land		I. Percent of Total Land Area (1)
								(1)	(2)	
Ashland	15,982	5,170	32%	10,812	7,913	73%	2,899	1,791		11.2%
Halcott	14,489	6,917	48%	7,572	6,568	87%	1,004	660		4.6%
Hunter	57,510	39,483	69%	18,027	13,795	77%	4,232	2,508	2,273	4.0%
Jewett	32,279	15,316	47%	16,963	13,032	77%	3,931	2,392		7.4%
Lexington	51,322	33,209	65%	18,113	15,154	84%	2,959	1,650		3.2%

Notes:

(1) Town-wide

(2) Watershed only

WHEREAS, the 2017 City of New York Filtration Avoidance Determination ("FAD") requires that an application for new Water Supply Permit to succeed the 2010 WSP be filed by June 2022. The City of New York must also develop a new Long-Term Land Acquisition Plan, which will cover the period 2023-2033 and consider the findings and recommendations of the National Academies ("NAS") Expert Panel review; and

WHEREAS, with the assistance of the Coalition of Watershed Towns and CWC, Delaware County has developed an Alternative Land Acquisition Program Option (the "Alternative Option") that provides an opportunity for impacted communities to provide robust/enhanced protection of environmentally sensitive lands in a manner that does not rely on one-time payments for fee title acquisitions of large parcels or conservation easements that burden land in perpetuity. The Alternative Option focuses on environmentally sensitive lands (such as riparian or stream buffers) which directly contribute to water quality and provides for a fixed-term annual rental payment to the landowner; a model that has proven to be effective in Delaware County; and

WHEREAS, the Alternative Option would allow landowners to retain ownership of their property while receiving periodic payments that reflect the water quality protection value their property provides. The Alternative Option provides a financial mechanism to promote community well-being and economic vitality while promoting water quality, thereby achieving the balance of interests required by the MOA and recommended in the NAS Report. The County envisions an impacted municipality would make a determination and a commitment to participate in the Alternative Option program as a way to provide enhanced protection of sensitive lands in lieu and as a substitute for the continuation of the traditional DEP Land Acquisition Program. The municipal commitment would be for a period of years (e.g., 10 years) during which time, Land Acquisition Program would be suspended within that community; and

WHEREAS, DEC recently announced it will make a determination to expand the Stream Corridor Acquisition Program ("SAP") beyond the Schoharie Basin to the entire watershed, that this determination is not subject to review under the State Environmental Quality Review Act ("SEQRA") and does not require due process or a modification to the 2010 Water Supply Permit. According to DEC, homeowners will have the ability to request that SAP acquisitions of individual parcels in excluded hamlet areas and hamlet expansion areas be approved on a case-by-case basis by making direct appeals to the Town/Village Board. This may include both vacant lots and improved lots, both of which are eligible for SAP acquisition under the 2010 Water Supply Permit (although DEC states that the purchase of improved lots is not intended); and

WHEREAS, the County maintains the potential impacts that could result from the continuation and potential expansion of SAP must be reviewed under SEQRA. There has been a significant change in circumstances since the SAP program was first envisioned and implemented under the 2010 Water Supply Permit. This change in circumstances requires the preparation of a supplemental Environmental Impact Statement (EIS) in order to identify and take a "hard look" at the impact this expansion of the land acquisition program would have on the environment and the sustainability of our community; and

WHEREAS, fee acquisitions under SAP are subject to Section 82 of the MOA which requires the City to grant to NYSDEC a conservation easement to ensure that such land is "held in perpetuity in an undeveloped state in order to protect the watershed and New York City's drinking water supply." The Conservation Easement required by DEC under Section 82 of the MOA prohibits in perpetuity the following activities on the acquired property:

- § "construction of any new ... structures normally requiring a building code permit";
- § "storage of petroleum ..., hazardous materials"
- § "excavating, extraction, grading, or removal of soil, sand and gravel"
- § "use of snowmobiles, dune buggies, motorcycles, all-terrain vehicles or other motorized vehicles recreation purposes"
- § "the expansion of any existing or construction of any new paved driveways, roads, and parking lots"
- § "the commercial, residential or industrial use"
- § "except in accordance with Article 49 of the ECL, the siting or routing of any facilities required for ... the transmission, or distribution of **gas, electricity, water, telephone, or cable television services** on, over or under the Protected Property"
- § "the commercial, residential or industrial use of the Protected Property(ies) in such a manner that: (i) causes the introduction of sediments, ... or other pollutants to any watercourse or wetland on the Protected Property(ies) that may adversely effect the quality of such watercourse or wetland; (ii) interferes with or disturbs open space, vegetated areas or steep slopes on the Protected Property(ies); or (iii) is otherwise inconsistent with the purposes of this Easement."

WHEREAS, the County requests that the DEC, the Catskill Center and DEP identify and evaluate the potential adverse impacts on municipal and private functions if the City encumbers large sections of stream buffer/ corridors with restrictive conservation easements in perpetuity. Specific areas of concern include impacts on the following:

- Installation and upgrade of electrical, water, gas, telephone, broadband/cable lines as needed to provide basic utilities
- Maintenance, upgrade, expansion, widening, safety improvements to existing roads and extension of existing roads.
- Installation, expansion, and replacement of communication towers (including the necessary utilities)
- The siting, maintenance, and expansion of stream crossings
- Flood mitigation projects

- Renewable Energy Projects

WHEREAS, on October 27, 2021, the Delaware County Board of Supervisor passed Resolution No. 162 entitled: **DELAWARE COUNTY REQUESTS THAT A MORATORIUM ON NEW PURCHASE CONTRACTS FOR FEE TITLE AND DEP CONSERVATION EASEMENTS, BE IMPLEMENTED IN DELAWARE COUNTY PENDING A COMPREHENSIVE REVIEW OF THE LAND ACQUISITION PROGRAM TO IDENTIFY THE NEED FOR THE CONTINUATION OF LAND ACQUISITION, THE BENEFITS OF LAND ACQUISITION, THE IMPACT OF LAND ACQUISITION ON COMMUNITY SUSTAINABILITY AND THE OTHER TOOLS AVAILABLE TO ACHIEVE MOA LAND ACQUISITION OBJECTIVES.** That resolution identifies and describes the "Change in Circumstances" since the SAP was first envisioned in the 2007 FAD. The County supports Delaware County Resolution No. 162.

NOW, THEREFORE, BE IT RESOLVED the County of Greene Legislature joins in the Delaware County Board of Supervisors petition to DEC, DOH and DEP requesting the following relief:

- (1) The FAD requires application for a WSP to succeed the 2010 WSP is required by June 2022 and that the City develop a new Long-Term Land Acquisition Plan, which will cover the period 2023-2033 and which will consider the findings of the National Academies Expert Panel review. Given the uncertainties created by the change in circumstances, effective January 1, 2022 and extending through completion of the permitting process, the City refrain from entering into new contracts to purchase fee title and/or conservation easements under the Land Acquisition Program within the County of Greene.
- (2) In developing the Long-term Land Acquisition Plan for the period 2023-2033 and the WSP renewal application due June, 2022, that DEP limit its land and conservation easement acquisition within the County to WAC Conservation Easements, flood mitigation projects, stream protection/management, the Delaware County Alternative Pilot Land Acquisition Proposal and a voluntary municipally approved SAP Program.

BE IT FURTHER RESOLVED that this resolution be sent to New York Governor Kathy Hochul, US Congressman Antonio Delgado, NYS Senator Mike Martucci, NYS Assemblymen Brian D. Miller, NYS Assemblymen Chris Tague, NYS Assemblymen Joe Angelino, EPA Region 2 Administrator Lisa Garcia, NYSDEC Commissioner Basil Seggos, NYCDEP Commissioner Vincent Sapienza and NYSDOH Commissioner Mary Bassett.

Meeting History

01/18/22 Government Operations **MOVED FOR ADOPTION**

RESULT:	MOVED FOR ADOPTION [UNANIMOUS]
MOVER:	Gregory Davis, Chairperson
SECONDER:	Daryl Legg, Legislator
AYES:	Davis, Martinez, Overbaugh, Hobart, Legg, Luvera, Lennon
ABSENT:	Patrick Linger

Current Meeting

01/19/22 Greene County Legislature

ADOPTED

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gregory Davis, Legislator
SECONDER:	Thomas Hobart, Legislator
AYES:	Bloomer, Bulch, Davis, Handel, Hobart, Lennon, Luvera, Martinez, Overbaugh, Thorington, True
ABSENT:	Daryl Legg, Patrick Linger

(7,823) (1,546) (631)
Ayes 11 Noes 0 Absent 2 Vacant 1

cc:

All Departments via County Wide Share Point
Real Property Tax Services
Soil & Water - Certified
Delaware County Board of Supervisors - Certified
Economic Development, Planning & Tourism - Certified 2
NYS Governor Kathy Hochul - Certified
US Congressman Antonio Delgado - Certified
NYS Senator Mike Martucci - Certified
NYS Assemblyman Brian D. Miller - Certified
NYS Assemblyman Chris Tague - Certified
NYS Assemblyman Joe Angelino - Certified
EPA Region 2 Administrator Lisa Garcia - Certified
NYSDEC Commissioner Basil Seggos - Certified
NYCDEP Commissioner Vincent Sapienza - Certified
NYSDOH Commissioner Mary Bassett - Certified
2 File - Digital/Watershed

APPROVED AS TO FORM
EDWARD I. KAPLAN, ESQ.
GREENE COUNTY ATTORNEY



East of Hudson Watershed Corporation

0 4,500 9,000 13,500 18,000 Feet
Coordinate System: NAD 1983 UTM Zone 18N
Central Meridian: 75°0'0"W
Data Sources: New York City Department of Environmental Protection, Bureau of Water Supply; NYS GIS Clearinghouse; ESRI; Tele Atlas North America, Inc.

Legend
East of Hudson Watershed
Watersheds
County Boundaries
Municipal Boundaries
FAD Watersheds
Member Municipality

EOHWC
PO Box 176
Patterson, NY 12563
Phone: (845) 319-6349 | Fax: (845) 319-6391
website: www.eohwc.org
Last Revised: July 1, 2014



TOWN OF RIDGEFIELD
Planning and Zoning Commission

RECEIVED BY

JUL 24 2023

Town Clerk
Town of Lewisboro

July 11, 2023

Janet Donahue, Town Clerk
Town House, 11 Main Street
P.O. Box 500
South Salem, NY 10590

Re: Referral under Section 8-7d of the Connecticut General Statutes: Application for Amendment to Section 2.2-Definitions; Section 7.16 Parking-Renewable Energy Systems

Dear Ms. Donahue:

Per Section 8-7d of the Connecticut General Statutes, "the zoning commission, planning commission, zoning and planning commission...shall notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which... any portion of the property affected by a decision of such commission, board or agency is within five hundred feet of the boundary of the adjoining municipality". Per Section 8-7d, "such notice shall be made by certified mail, return receipt requested, and shall be mailed *within seven days* of the date of receipt of the application, petition, request or plan."

This letter is to inform you, that on July 05, 2023, the Town of Ridgefield Planning and Zoning Commission (Commission) statutorily received the following Commission initiated amendments A-23-4 to amend Section 2.2; 7.16-Renewable Energy Systems

Please reference the attached material and access to our online permitting system for Amendment Application A-23-4: Section 2.2; 7.16
<https://ridgefieldct.view.pointcloud.com/records/92418>

Public hearings on the proposed amendment will be held on Tuesday, September 05, 2023, at 7:00 p.m. via hybrid model at the Ridgefield, Town Hall Annex, 66 Prospect St., Ridgefield CT 06877 or registering in advance for the webinar at below link.
https://us02web.zoom.us/webinar/register/WN_c8u2_G_RTAuLV9brUWjzIg

If you need additional information, please contact me at 203-431-2767.

Very truly yours,

Aarti Paranjape
Zoning Enforcement Officer

66 Prospect Street • Ridgefield, CT 06877
Phone: (203) 431-2766 • Fax: (203) 431-2737
www.ridgefieldct.org

CERTIFIED MAIL: 7021 1970 0000 9776 5379

cc: Janet Donahue, Town Clerk
Subject File

Renewable Energy – Energy that is collected from natural sources that are not depleted when used including but not limited to sunlight, wind, rain, waves and geothermal heat. ¹

RENEWABLE ENERGY RELATED TERMS:

Geothermal Energy System: An energy system that utilizes the production of energy from underneath the Earth's surface to generate heating and cooling for buildings through the use of ground source heat pumps and underground closed loop piping systems.

Solar Energy System: Any solar collector, module, or other solar energy device, or any structural design feature, mounted on a building or on the ground, and whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, water heating, or electricity.

Solar Energy System, Roof-Mounted: A solar energy system that is installed upon, or is part of, the roof of a building or structure. This shall include systems that are integrated as awnings or attached to the roofs of porches, ~~or sheds, carports, and covered parking structures and which consist of solar panels, shingles or tiles.~~

~~Solar Energy System, carport, bus shelter, ev charging station or similar covered parking structure which consist of solar panels, shingles or tiles.~~

Solar Energy System, Ground-Mounted: A solar energy system that is mounted on the ground to hold solar panels up at affixed angle as well as systems that enable tracking of the sun via manual or automatic methods.

Solar Energy System, Pole-Mounted: A solar energy system that elevates solar panels higher off of the ground than traditional ground-mounted solar energy systems. Pole-mounted systems may include tracking systems to manually or automatically tilt the solar panels to capture optimal amounts of sunshine.

Wind Energy System: A system of blades, slats, vanes, etc. and associated mechanical and electrical conversion components whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

Wind Energy System, Ground-Mounted: A wind energy system mounted on a pole, tower or other device that is connected to the ground.

Wind Energy System, Roof-Mounted: A wind energy system mounted to the roof of a building or structure.

7.16 - Renewable Energy Systems²

F. REQUIREMENTS FOR SOLAR ENERGY SYSTEMS

1. Roof-Mounted:

- a. A roof-mounted solar energy system and any portion thereof shall be located in compliance with minimum yard setbacks applicable to structures for the zoning district in which it is located.
- b. A roof-mounted solar energy system and any portion thereof affixed to a pre-existing legal non-conforming structure, as of the effective date of this regulation, shall not have to comply with the minimum yard setbacks applicable to structures for the zoning district in which it is located.
- c. A roof-mounted solar energy system or any portion thereof shall not extend or protrude further than any eaves, edges or outermost element.
- d. In all zoning districts, a roof-mounted solar energy system or any portion thereof shall not exceed the allowable total building height for that zoning district.

2. Ground-Mounted/Pole-Mounted Solar Energy System as an Accessory Structure/Use:

- a. Ground-mounted/pole-mounted solar energy systems may be permitted in the side or rear yard as long as the equipment is located outside the minimum required yard setbacks.
- b. On properties of less than 20,000 square feet in area, ground-mounted/pole-mounted solar energy systems shall cover no more than ten percent (10%) of the total lot area.
- c. On properties of less than 20,000 square feet in area, ground-mounted/pole-mounted solar energy systems shall not exceed four (4) feet in height from the ground to the highest point of the structure
- d. A ground-mounted/pole-mounted solar energy system and any portion thereof shall not exceed twelve (12) feet in height from the ground to the highest point of the structure when fixed or eighteen (18) feet in height from the ground to the highest point of the structure if a solar tracker is used. unless specifically approved by the Commission based on location, improvements and appropriate alteration of physical conditions.
- e. Applications shall include a landscaping plan showing adequate screening from neighboring properties, where appropriate.
- f. A ground-mounted/pole-mounted solar energy system shall conform to industry standards and shall be constructed in accordance with all applicable local, State, and Federal safety, construction, electrical, and communication requirements.

² A-21-3: Amendment effective 8/6/2021. Add new Section 7.16, "Renewable Energy Systems".

- g. All exterior electrical and/or plumbing lines must be buried below the surface of the ground and be placed in conduit.
- 3. Carport Solar System – As per Section 2, A carport solar energy system may act as a roof over a carport, bus shelter or ev charging station. The height may be a minimum of 12' with a maximum of 19' at the highest point. System can be ground mount/pole mount and with or without tracking.