

Watershed Agricultural Council

Agriculture ♦ Forestry ♦ Conservation Easements ♦ Economic Initiatives

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Easement Program Conservation Easement Monitoring Guidelines

The following guideline establishes the standards and practices associated with routine monitoring of WAC easements purchased with funds provided by the NYCDEP.

A. Purpose of Monitoring

Routine monitoring of Watershed Agricultural Council (WAC) Conservation Easements (CE) is necessary to ensure that:

1. The terms and conditions of the easement and any Reserved Right approvals are upheld.
2. There is clear communication between WAC and Easement Landowners.
3. Monitoring requirements are met pursuant to the contract with NYCDEP.
4. The CE's conservation purposes are maintained consistent with Section 170(h) of the Internal Revenue Code.

B. Monitoring Schedules

1. Prior to commencing annual routine monitoring, Easement Program Staff will create an Annual Monitoring Calendar to help establish a monitoring schedule for all properties encumbered by a WAC CE.
 - a. The calendar will include monitoring visits for CEs expected to close in the first six months of the calendar year.
 - b. New CEs that close in the last sixth months of the calendar year may be scheduled for their first ground monitoring visit the following calendar year as long as the first ground monitoring visit occurs within six months of the closing date.
2. Within 20 days of the beginning of each calendar year, the Annual Monitoring Calendar will identify the monitoring visit type and anticipated inspection date by month/quarter. The calendar identifies properties to be monitored on a quarterly basis.
3. NYCDEP staff may accompany WAC staff on up to 20 percent of the annual inspections as indicated on the Annual Monitoring Calendar and described in the contract between WAC and DEP.

C. Number and Types of Monitoring Visits

1. All WAC CE Properties that have been purchased using DEP funds will be monitored twice annually. Of the two required monitoring visits for purchased easements, one must be a ground monitoring visit, and the second may be conducted via aerial fly-over or a second ground visit.
 - a. All easements shall have an initial ground monitoring visit within six months of the closing date.
 - b. For easements that close after July 1st, and appear on the annual monitoring calendar, only one visit is required and that shall be a ground monitoring visit.

- c. Easements with a history of violations or significant Reserved Right approvals may receive two ground monitoring visits annually determined at the discretion of the Easement Program Director or Stewardship Coordinator.

D. Monitoring Visits and Monitoring Reports

1. The purpose of monitoring is to ensure the terms and conditions of the easement and any Reserved Right approvals are upheld. Monitoring of the Whole Farm Plan (WFP) and determining if the landowner is farming in accordance with a WFP will be conducted independently of routine monitoring visits via an Annual Status Review (ASR) by WAP staff (see Section E).
2. Activities associated with inspections of the Easement Property shall include, but not be limited to; a review of the stewardship file, Baseline Documentation Report, applicable surveys and GIS maps, the Deed of Conservation Easement, previous monitoring reports, Reserved Right request approvals, past violations, and Whole Farm Plans; a ground traverse and visual examination of the Easement Property; and, where feasible, an interview with the Easement Landowner and any tenant operator of the Easement Property.
3. The details of each inspection shall be recorded in a Monitoring Report (Attachment "A").
4. Annually, and prior to each monitoring visit, Easement Program Staff shall:
 - a. Send letters to all landowners that will have their Properties' monitored in the upcoming calendar year, notifying them that they will be contacted prior to the ground monitoring visit.
 - b. Send a letter, make a telephone call or email landowners at least 1 week prior to conducting an actual monitoring visit, notifying them that a monitoring visit is scheduled for their property. Landowners will be invited to participate in the monitoring visit.
 - c. Prepare for monitoring inspections by reviewing all stewardship files and the Baseline Documentation Report as well as database information to ensure it is current and accurate (see Section D2).
5. During a Ground Monitoring Visit, WAC staff shall:
 - a. Physically inspect the Property to determine adherence to the terms and conditions of the Easement. Inspections shall include a ground traverse of use-areas and identification of boundary lines, as well as a meeting with each Easement Landowner, when possible, to discuss recent and planned activities and/or any other issues that may have arisen for the respective Easement Property.
 - b. Complete the Ground Monitoring Report (Attachment "A") for each WAC CE-encumbered property during all ground monitoring visits.
 - c. Complete an Allocation Tracking Form to ensure the landowners retained rights (additional tax Parcels, new residences, Agricultural Structure Square Footage, Recreational Structure Square Footage, FADAs) are current and accurate (Attachment C).
6. During an Aerial Monitoring Visit, WAC staff shall:
 - a. Visually inspect Easement Properties along flight path for compliance with the terms of the Deed of Conservation Easement.
 - b. Complete the Aerial Monitoring Report (Attachment "B") for each WAC CE-encumbered property observed during aerial monitoring flights.
7. Quarterly reports that summarize the respective monitoring visits will be submitted to the NYCDEP at each quarters end. Individual Property monitoring reports will be made available to the NYCDEP upon request.
8. Easement Landowners may be sent a follow-up letter that addresses any inquiries regarding notifications or reserved rights, potential issues, or violations identified during the monitoring visit

at the end of the quarter in which their Property was monitored. Landowners will not be routinely sent a copy of the monitoring report.

9. Copies of monitoring reports will be placed in the respective stewardship files.

E. Monitoring of Whole Farm Plans

1. On an annual basis, WAP staff shall review the status of the design and implementation of Whole Farm Plans for all Easement Properties.
2. Prior to the beginning of the calendar year, the Easement Program Director and Easement Program Agricultural Conservation Planner will coordinate with the Agricultural Program Manager to develop and schedule Annual Status Reviews to be conducted on farm properties with conservation easements.
3. The Agricultural Conservation Planner will create an Annual Status Review Calendar based on the calendar year that lists the Properties by quarter.
4. WAP Staff, utilizing the Agricultural Program's most current and approved Annual Status Review Form shall determine whether the most current Whole Farm Plan satisfactorily addresses all water quality issues or whether a revision or new Whole Farm Plan shall be necessary.
5. WAC shall update and/or revise a Whole Farm Plan whenever there is a significant change in the operation on an Easement Property resulting in a potential negative impact on water quality, or if there has been a change of ownership of the Easement Property.
6. The Agricultural Conservation Planner shall notify the Easement Program Director of any properties requiring WFP revisions, updates, or a new WFP. The Easement Program Director will notify the Agricultural Program Manager of easement-encumbered properties that require revisions or updates to the WFP, or require a new WFP. Both program managers will work with the Executive Director to allocate resources necessary to complete all revisions, updates or new WFPs.

F. Potential Violations Identified During Monitoring

1. WAC staff shall make reasonable efforts to resolve and correct any perceived, minor violations of the Easement.
2. WAC Staff will immediately notify the Easement Program Director and Easement Program Stewardship Coordinator of any actual or potential violations identified during a monitoring visit on a Property. The Easement Program Director and Easement Program Stewardship Coordinator shall determine the appropriate action necessary to resolve the violation as outlined in the Easement Landowner's Deed of Conservation Easement.
3. Violations of WFPs will be determined using the Enforcement Section of the Deed of Conservation Easement and via consultation with the WAP Whole Farm Planner as informed by the WAP Guideline: Farming in Accordance with a Whole Farm Plan (WFP).
4. WAC staff shall follow the process of notifying the Easement Landowner of a violation as identified in the Violation's clause of the Easement (see "Enforcement" as per the Deed of Conservation Easement).

G. Post Monitoring Visits – Reserved Right request and Updates to the BDR

1. All Reserved Right requests identified during monitoring visits will be processed consistent with the terms and conditions of the conservation easement and all relevant policies and guidelines of the Easement Committee when addressing Easement Landowner requests for approval of activities under the terms of a respective Easement.
2. All stewardship activities identified by WAC staff during monitoring visits, such as Reserved Rights requests, amendment requests, technical support, violations, notifications (such as conveyances, leases, as of right uses) will be tracked by property on a spreadsheet and/or database and compiled quarterly.
3. As per Section D(8) above, WAC Stewardship Staff may send landowners a letter at the end of each quarter in which a Property was monitored. The letter will review and describe any issues, violations, requests or notifications identified during the monitoring visit. Prescriptions and time frames meant to address potential or actual violations will be sent in a separate letter as per the resolution of the WAC Easement Committee.

H. Updating Baseline Documentation

1. WAC shall update baseline documentation whenever necessary, including but not limited to, when an Easement Property has been subdivided, sold, or amended.
 - a. In the event that a Property is subdivided and/or conveyed or an existing tax parcel restricted by a WAC Conservation Easement is conveyed from an original Grantor Easement, a new Stewardship Binder must be created for the new property and the Stewardship Binder for the original Grantor Easement must be modified to reflect the reduction of acreage to the original grantor Easement.
 - b. Content for Stewardship Binders for newly created properties restricted by an original grantor Easement shall include the following:
 - 8 ½" x 11" Original Grantor Survey Map
 - 8 ½" x 11" Topo map-with property location
 - 8 ½" x 11" Original Property Map-with all subdivision
 - 8 ½" x 11" Subdivided Property (Survey or Map)
 - 11" x 17" Photopoint Location Map
 - Baseline Document Report Text
 - Property Deed- _____
 - Deed of Conservation Easement
 - Whole Farm Plan or WFP-2
 - Forest Management Plan (if applicable)

- Bluestone Extraction Plan (if applicable)
 - Bluestone Quarry Photopoint Map
 - Photos of Bluestone
- Full Property Photopoint Map (plotter format)
- Photos of Property
- ADA Photopoint Map (plotter format)
- Photos of ADA
- Allocation Tracking Form (as day of conveyance)
- Reserved Right Reminder Form

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**WATERSHED AGRICULTURAL COUNCIL
EASEMENT PROGRAM MONITORING REPORT**

1. **AMV Date:** _____ **Previous AMV Date:** _____ **Total AMV Time (hours):** _____
2. **Easement Acres:** _____ **NYC DEP ID:** _____
4. **Current Owner(s):** _____ **Original Easement Grantor(s):** _____
Mailing Address: _____

Contact Number: ()
Email Address: _____

4. **Property Location (Town / Road):** _____
 (if different than mailing address)

5. **How was owner contacted prior to visit?**
 Letter *E-mail* *Phone*

6. **Did the owner attend the monitoring visit?** **Yes** **No**
 If no, who? _____

7. **Did NYC DEP staff attend the monitoring visit?** **Yes** **No**

8. **Is there an agricultural assessment on the easement property?** **Yes** **No**

Current Agricultural Uses

- Dairy* *Non-Dairy/Livestock* *Equine*
 Poultry *Hay/Pasture/Crops* *Produce* *Fallow/None*
 Other _____

Operator: _____

9. **The Whole Farm Plan (WFP) Annual Status Review (ASR) was completed on:**

Date: _____ By: _____

WAP Planner: _____

WFP Revision Date: _____

10. **Has the Property been transferred, conveyed, subdivided, or leased in any form since the last monitoring visit?** **Yes** **No**

11. **Do you have plans to transfer, convey, subdivide, or lease the Property?** **Yes** **No**

12. **Has there been construction or conversion of any Agricultural, Residential, Recreational, or Rural Enterprise structures on the Property?** **Yes** **No**

- | | | | |
|-----|---|------------|-----------|
| 13. | Do you plan to construct or convert any Agricultural, Residential, Recreational, or Rural Enterprise structures on the Property? | Yes | No |
| 14. | Has there been any application of domestic septic effluent, or has an individual subsurface sewage treatment system (SSTS) been installed on the Property? | Yes | No |
| 15. | Are there plans to apply domestic septic effluent, or install an individual subsurface sewage treatment system (SSTS) on the Property? | Yes | No |
| 16. | Are there any new, or proposed farm-related refuse/debris/equipment storage areas? | Yes | No |
| 17. | Has there been, or is there proposed Commercial Forestry on the Property? | Yes | No |
| 18. | Has there been, or is there proposed application of pesticide/fertilizer within FCEA? | Yes | No |
| 19. | Has there been, or is there proposed Mining (Bluestone) on the Property? | Yes | No |
| 20. | Has there been, or is there proposed stream work on the Property? | Yes | No |
| 21. | Has there been, or are there proposed rights of way or utility easements on the Property? | Yes | No |
| 22. | Has there been, or are there proposed Towers and Communication Devices on the Property? | Yes | No |
| 23. | Are you aware of any encroachment(s) on the Property? | Yes | No |

INSPECTOR CHECKLIST:

1. **Description of Monitoring Activities**
 Walked/Observed ADA Walked/Observed FA-ACEA Walked/Observed RPA Walked/Observed FCEA

 Other _____
2. **Potential Violations:**
3. **Comments/Discussion:**
4. **Description of Photos Taken:**
5. **Comments for Next Inspection:**

Stewardship Specialist Signature: _____ **Date:** _____

WATERSHED AGRICULTURAL COUNCIL
EASEMENT PROPERTY ALLOCATION TRACKING FORM

DEP ID #: _____

Current Easement

Property Landowner(s): _____

Original Easement

Grantor(s) to WAC: _____ (Recorded) L./Pg.-Date: _____

Easement Property Tax Parcels:

| County | S-B-L | Acres |
|--------|-------|-------|
| | | |
| | | |
| | | |
| | | |

| County | S-B-L | Acres |
|--------|-------|-------|
| | | |
| | | |
| | | |
| | | |

Underlying Chain of Title (Fee):

_____ to: _____ L./Pg.-Date: _____ Map #: _____
 _____ to: _____ L./Pg.-Date: _____ Map #: _____
 _____ to: _____ L./Pg.-Date: _____ Map #: _____
 _____ to: _____ L./Pg.-Date: _____ Map #: _____

| Property Allocations | Original Allocations | Utilized/Conveyed* | Remaining Allocations |
|--|----------------------|--------------------|-----------------------|
| Future Acceptable Development Areas (FADA) | | | |
| Agricultural Buildings and Improvements | | | |
| Residential Dwellings | | | |
| Recreational Buildings and Improvements | | | |
| Subdivisions (additional tax parcels) | | | |

*Notes: _____

Stewardship Specialist: _____ Date: _____

Landowner Signature: _____ Date: _____

Whole Farm Plan

Original Approval Date: _____

Revision # ___ Date: _____

Forest Management Plan

Original Approval Date: _____

Valid From: _____ to: _____

Ground Monitoring

Aerial

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

Date: _____ Date: _____

History of Reserved Rights

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____

History of Notifications

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____

History of Amendments

Date: _____ Status: _____

History of Violations

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____

Date: _____ Status: _____