



Board of Directors

July 19, 2024

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Chair

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Re: Comments on Draft Eligibility Guidelines for Open Space Conservation Acquisition

Dear Mr. Bridge,

Nancy Bernstein
John Caffry
Andy Coney
Dean Cook
James C. Dawson
Lorraine Duvall
Robert Glennon
Roger Gray
Evelyn Greene
Sidney Harring
Sheila Hutt
Dale Jeffers
Patricia Morrison
John Nemjo
Peter O'Shea
Philip Terrie
Chris Walsh

Protect the Adirondacks has reviewed the draft Eligibility Guidelines for Open Space Conservation Acquisition (“draft Guidelines”) prepared by the New York State Department of Environmental Conservation (DEC) and is pleased to submit these comments for your consideration. We largely support the eligibility criteria identified by the Department “to allocate funding under the Clean Water, Clean Air and Green Jobs Environmental Bond Act of 2022 (Bond Act) Sect 58-0503(1)(a) for the protection of open space lands statewide”.

Staff

Peter Bauer
Executive Director

Claudia K. Braymer, Esq.
Deputy Director

Christopher Amato, Esq.
**Conservation Director
and Counsel**

The Bond Act identifies numerous areas for potential use of funding for open space land protection in each of the Bond Act funding categories. The Bond Act’s Open Space category includes \$650 million of funding, with at least \$450 million allocated for open space land conservation projects and farmland protection and easements. In the category aimed at addressing Climate Change, the Bond Act including funding of \$300 million for projects such as open space protection and projects that use forests and farmlands to sequester carbon. To address flood risks, up to \$250 million is allocated for acquisition of property identified as at-risk to flooding and \$650 million for other projects including forest conservation and the acquisition of endangered and threatened species habitat. To address water quality, not less than \$200 million to support programs including land protection to establish riparian buffers. Taken together, the Bond Act includes potential funding of \$1.975 Billion for open space land protection.

Using the Open Space Bond Act funding wisely and quickly is critical to meeting the 30 by 30 Act’s goal of protecting 30% of the State’s lands and

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waters by 2030. The Bond Act, widely approved by the voters in 2022, includes substantial funding (as noted above, potentially \$1.975 Billion) for Open Space land acquisition and, together with the 30 by 30 Act (signed by Governor Kathy Hochul in 2022), these statutes provide both a land acquisition mandate and the funding necessary to fulfill that mandate. DEC has a clear directive from the People of the State of New York and from the Legislature that funding for land acquisition needs to be a top priority for many reasons, not the least of which is responding to the increasing threats posed by global climate warming.

The Bond Act defines an “open space land conservation project” as a “purchase of fee title or conservation easements for the purpose of protecting lands or waters and/or providing recreational opportunities for the public”. ECL § 58-0101(10). Thus, the Bond Act makes clear that eligible open space land conservation projects include only new acquisitions of fee title to lands or new acquisitions of conservation easements on private lands, and do not include assisting communities with comprehensive planning, smart growth initiatives, or tree planting projects.

Permanent Protection of Private Lands with Mature Forests for Carbon Sinks

The draft Guidelines criterion for acquiring land or conservation easements “to address global climate change by sustainable stewardship of forests for climate mitigation and adaptation” is a much-needed element of land protection. We suggest that this criterion also include the acquisition of conservation easements on private lands where mature existing forests will be preserved in perpetuity for carbon storage and carbon sequestration purposes, without the need for a working forest management plan that requires harvesting the timber on the property. Studies show that standing forests store much more carbon than young, managed forests, and that the rate of carbon sequestration in standing forests is just as high as, if not more than, the rate of carbon sequestration in managed forests.

For example, the Climate & Applied Forest Research Institute found that “working [forests] and [Forest Preserve] lands across the [Adirondack] Park have very similar average rates of [carbon] sequestration”.¹ Indeed, research shows that the “actual annual amount of carbon increase is small in the early years” of a growing tree, while carbon gain in an older tree is significant; forests with trees that are between 80 to 140 years old sequester more carbon than forests with trees 0-20 years old.² It has also been documented that mature forests “typically continue to sequester additional carbon for many decades or even centuries, and sequester significantly more carbon than younger and managed stands”.³

¹ *The New York Forest Carbon Assessment*, Beier, C., Presentation to the Adirondack Park Agency, June 20, 2024 available [online](#) (last accessed June 28, 2024).

² *Carbon Sequestered and Stored in Young Versus Old Forests in the Adirondacks*, Leverett, B., May 17, 2023 available [online](#) (last accessed June 28, 2024).

³ *Intact Forests in the United States: Proforestation Mitigates Climate Change and Serves the Greatest Good*, Moomaw, W., et al., June 11, 2019 available [online](#) (last accessed June 28, 2024).

Based on this research, DEC needs to “recognize that the way to maximize carbon storage and sequestration is to grow intact forest ecosystems where possible,”⁴ and that:

the climate mitigation value of forest carbon lies not in the sequestration rate but in the total amount that is accumulated and kept out of the atmosphere ([Mackey et al., 2013](#)). The power of forests in this process is unparalleled and far greater in old forests than in young forests, both above and below ground; carbon continues to accumulate for centuries...The amount of carbon lost when cutting a mature or old-growth forest is not recovered by fast-growing young forests for many decades to well over a century.⁵

Thus, the draft Guidelines should emphasize permanently protecting mature forests that are allowed to grow without timber harvesting to maximize carbon storage and carbon sequestration.

Protect Lands for Monitoring, Restoration, Recovery or Reintroduction of Listed Species

We fully support the draft Guideline criterion for acquiring land (fee or conservation easements) to “protect habitat for the diversity of plant and animal species to ensure the protection of healthy, viable, and sustainable ecosystems”. This criterion should also specifically include the broader language in the Bond Act that states that DEC is authorized “to acquire fee title or conservation easements in lands for monitoring, restoration, recovery, or reintroduction projects for species listed as endangered or threatened or listed as a species of special concern”. ECL § 58-0503(5).

Remove or Revise Criteria that Do Not Involve Open Space Land Acquisition

While several of the criteria in the draft Guidelines are laudable endeavors, they do not fall within the Bond Act’s definition of an eligible “open space land acquisition project” and should be removed or revised to state that they lead to direct acquisition of open space (fee title or conservation easements) for conservation purposes. The proposed criterion of “encouraging more compact community design patterns” should be removed if it solely related to community planning, or it should be revised to ensure that it meets the letter and spirit of the Bond Act’s allocation of funds for open space land conservation projects that acquire new land.

Additionally, “adding to the tree canopy in urban centers and urban communities to moderate temperature fluctuations, thereby lowering energy consumption” needs to be removed if it is meant to fund tree planting programs that do not include new land acquisition. Or, it should be revised to more clearly state that this criterion is for acquiring urban lands for afforestation purposes. Alternatively, these types of non-acquisition related projects could be funded under other parts of the “Climate Change Mitigation” category, or another relevant category of the Bond Act.

Additionally, the criterion in the draft Guidelines about supporting “Actions” identified in the current New York State Open Space Conservation Plan (Plan) should be revised to reflect that Bond Act funding will only be used for those “Actions” that result in land acquisition (fee title or

⁴ *Id.*

⁵ *Forest-clearing to create early-successional habitats: Questionable benefits, significant costs*, Kellett, M., et al., January 9, 2023, available [online](#) (last accessed June 28, 2024).

conservation easements). This is because not all of the “Actions” identified in the Plan relating to “promoting outdoor recreation . . . protecting, utilizing, and conserving the State’s natural resources and cultural heritage” are actually land acquisition projects. Some of the “Actions” identified include providing additional information on “state agency websites and social media”; providing outdoor recreation education “courses and fishing clinics”; and gathering “quantitative and qualitative information” about use of the Forest Preserve. Plan at 17. The “Actions” also include assessing “accessibility needs and plan for addressing them” (Plan at 19); “offering regularly scheduled public interpretation and outreach programs” (Plan at 20); providing “fishing/aquatic resource training” and fishing clinics (Plan at 21); and other actions that promote outdoor recreation and natural and cultural resource protection but are not land acquisition. It is essential that only Plan Actions that result in land acquisition will be eligible for Bond Act funding for Open Space projects that result in the “purchase of fee title or conservation easements for the purpose of protecting lands or waters and/or providing recreational opportunities for the public”. ECL § 58-0101(10).

On behalf of the Board of Directors of Protect the Adirondacks, please accept our gratitude for the opportunity to share our comments on these draft criteria.

Sincerely,



Claudia K. Braymer
Deputy Director

cc: Tom Berkman, Deputy Commissioner and General Counsel
Fiona Watt, Director, Division of Lands and Forests
Josh Clague, Adirondacks Coordinator
McCrea Burnham, Catskills Coordinator
Hon. Pete Harckham, Chair, Senate Environmental Conservation
Hon. Deborah Glick, Chair, Assembly Environmental Conservation