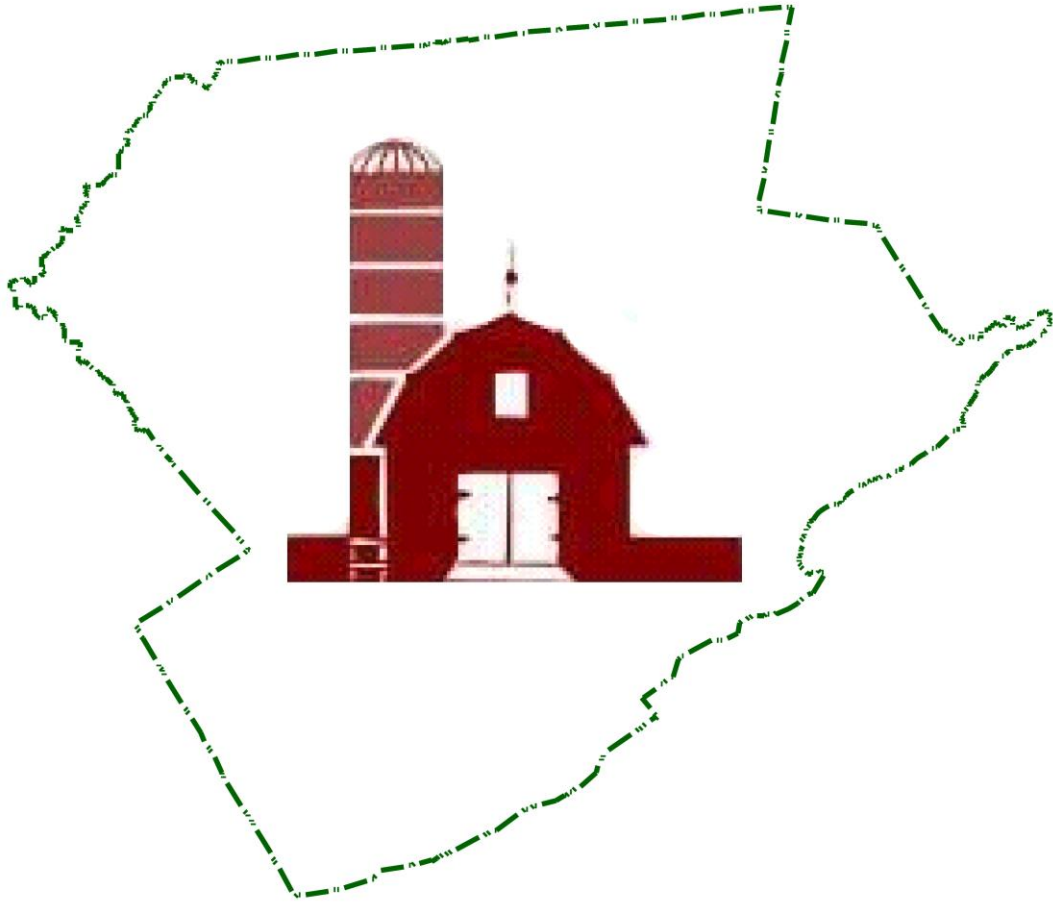


# **MONROE COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM MANUAL**



**Monroe County Agricultural Land Preservation Board**

Revised April 2019  
State Board Approved October 2019



## **INTRODUCTION**

The creation of the Monroe County Agricultural Land Preservation Board (MCALPB) in March 1990 signifies the county's commitment to Pennsylvania's farmland preservation program (see Appendix A). The Monroe County Commissioners appointed 5 members to the Board in accordance with the provisions contained within the Agricultural Area Security Law (3 P.S. ss 901-915), as amended by Act 149 in 1988 (see Appendix B).

The Monroe County Agricultural Land Preservation Board's primary goals and objectives are to:

- Administer a program for purchasing agricultural conservation easements in accordance with Act 149.
- Promote efforts to support the agricultural community in Monroe County.
- Encourage the use of additional farmland preservation techniques through public and private organizations in Monroe County.
- Adopt rules of procedures and bylaws governing the operation of the county board (see Appendix C).
- Purchase agricultural conservation easements within Agricultural Security Areas in the name of the county, or jointly, with the Commonwealth, or a local government unit.

The Monroe County Agricultural Land Preservation Board submits its Agricultural Land Preservation Easement Purchase Program to the Pennsylvania State Agricultural Land Preservation Board. This program represents policies and procedures to be used in preserving farmland in Monroe County both now and in the future.

## **BACKGROUND**

Monroe County, while geographically diverse, contains many acres of productive farmland. This farmland contains fertile soils, adequate water, and favorable climate. These favorable agricultural features have shaped the agrarian history that has dominated the culture of the West End section of the County. While the historical aspect of farming is of great value to the County's citizens, Monroe County farming remains a productive resource which contributes to the local economy, maintains groundwater recharge areas, and provides open space valued by residents and tourists.

As the County's prime agricultural soils become increasingly scarce, the importance of protecting the future value of farmland as a food producing resource for generations of Monroe County citizens cannot be overemphasized.

Monroe County has been among the fastest growing areas in the state over the past few decades and is located within the drawing area of New York City and Philadelphia. While this growth and development has been beneficial to the County's economy, much of it has occurred on prime agricultural soils which were once farmland. Beginning with the vacation home rush of the 1960's and 1970's and continuing to the influx of permanent residents in the 1990's and 2000's, productive farmland has been reduced annually. This reduction of farmland corresponds directly to the increase in the amount of residential development in the County. While other natural factors such as attrition of the farm community and degradation of productive soils have been felt in Monroe County, the growth of residential communities represents the major threat to the agriculture industry.

Because residential areas have been developed in a manner that can be described as suburban sprawl, farming areas in Monroe County have become fragmented. Most farmland in the County is located on relatively flat land, which presents few impediments to construction. This situation has led to even faster growth in farmland areas because of the diverse geography in the County which limits development in areas of steep slopes. Because this is a high growth area and only a marginal amount of land can be considered prime for development, increased pressures fall on the farmland. In upcoming years, the Monroe County agricultural community will be faced with severe monumental impediments. Rising costs of farm operation, fluctuating market prices and demand, steadily increasing property taxes and the continued pressure from development are anticipated in the next decade. These factors reduce the competitive position of the Monroe County farmer in regional markets and further contribute to the decline of the agricultural community.

## **OBJECTIVES**

The Monroe County Commissioners have acknowledged the great importance of preserving and maintaining the County's prime agricultural lands. In order to successfully implement this policy, the Commissioners have established the Monroe County Agricultural Land Preservation Board. The major purpose of this board is to assist in the preservation of areas of actively farmed land in protected agricultural districts. By creating agricultural districts, the County can retain the most productive areas for farming while promoting farming as a long-term sustainable land use.

Along with the creation of agricultural preservation districts, the creation and implementation of proper zoning is recommended in areas of intense development pressure. As of January 1, 1990, there were no exclusively agriculturally zoned areas in Monroe County. In order to maintain agricultural areas, proper zoning and land use strategies must be implemented as a means of channeling future growth into development districts while limiting extensions of sprawl into significant agricultural areas.

The preservation of remaining farmland and agricultural industry will require a great effort by the County, municipal governments and all residents. While in all likelihood growth and development will continue to threaten the farmland of Monroe County, it is in the best interest of the County's future to act immediately towards achieving preservation of the valued agricultural resources of the land. Failure to act will surely mean the devastating loss of a continual source of food, economic productivity, environmental and cultural qualities and the heritage of one of Monroe County's prime assets.

## **PURPOSE**

It is the purpose of the Monroe County Agricultural Land Preservation Program to protect and promote the continued agricultural use of valuable agricultural lands by acquiring agricultural conservation easements which prevent the development or improvement of the land for any purpose other than agricultural production and related agricultural activities.

Further, it is the purpose of this program to:

- To administer a program for purchasing and receiving gifts of agricultural conservation easements on behalf of the County. It is the purposed of this program to protect and promote continued productive agricultural use on viable agricultural lands by acquiring agricultural conservation easements which prevent the development or improvement of the land for any purpose other than agricultural production and allowed related agricultural activities. (The Board was authorized to administer the County Program by resolution of the County Commissioners at a regularly scheduled meeting held on March 13, 1990.)
- To adopt rules and regulations for the administration of a county program for the purchase of agricultural conservation easements within agricultural security areas. The Board shall execute all agreements or other documents necessary to affect the purchase of such agricultural conservation easements in the name of Monroe County and/or the Commonwealth of Pennsylvania.
- To establish minimum criteria for eligibility of viable agricultural land a portion of which may be used for commercial equine activity.
- To encourage the use of additional farmland preservation techniques through public and private organizations in Monroe County.
- To promote efforts to enhance the agricultural industry in Monroe County.
- To protect normal farming operations in agricultural security areas from incompatible non-agricultural uses that may render farming impractical.
- To protect normal farming operations from complaints of public nuisance.
- To assure conservation of viable agricultural land in order to protect the agricultural economy of this Commonwealth.
- To maximize agricultural easement purchase funds and protect the investment of taxpayers in agricultural conservation easements.
- To concentrate resources in a manner that will ensure the purchase of easements for the protection of the largest amount of farmland possible.
- To encourage financial partnerships between State and local governments with nonprofit entities in order to increase the funds available for agricultural conservation easement purchases.
- To perform such other duties and responsibilities as may be authorized pursuant to the Agricultural Area Security Law

## ELIGIBILITY FOR EASEMENT PURCHASE PROGRAM

Monroe County, through its Agricultural Land Preservation Board, intends to acquire agricultural conservation easements. Conservation easements may be acquired either jointly or separately with State, county, and/or municipal funds. The county is responsible for monitoring and enforcement of all easements purchased with public funds.

Conservation easements will be accepted only through voluntary sale within existing **Agricultural Security Areas**. Those landowners who are interested in applying for conservation easement sales on qualified land will be ranked and prioritized based on locational and site factors and the viability of the farming operation. An appraisal or appraisals of conservation easement value will be the determinant of the maximum compensation which can be offered.

The purchase price paid for an agricultural conservation easement in perpetuity will be equal to or less than the easement value as determined by the appraisal process. Payment of the prospective landowner may be made in a lump sum or in installments or other deferred basis. The objectives of preserving farmland by purchasing conservation easements is to ensure the continued existence and protection of farmland in Monroe County while at the same time providing just and attractive compensation to the landowner.

### EASEMENT DESCRIPTION

A conservation easement secured through acquisition is a legally binding document which is filed with the recorder of deeds, restricting its use to agricultural and directly related uses, for which compensation is paid. Restrictions are binding upon the owner and future owners, running with the land.

### MINIMUM ELIGIBILITY CRITERIA

In order for a site to be prioritized for easement purchase, a landowner must submit a completed application form for the purchase of conservation easements. The Monroe County Agricultural Land Preservation Board will accept all applications for the purchase of conservation easements if the application meets the minimum criteria listed below. Failure by the applicant to meet the minimum criteria will result in rejection of that application. Applicants that have been rejected by the board for the reason of not meeting the minimum criteria will be given written notice of the rejection along with an explanation of the reason(s) why the application was rejected.

Election by County Board: The Agricultural Area Security Law (at 3 P.S. Section 914.1(d)(1)(v)(II)) affords the county the option to acquire an agricultural conservation easement on farmland tracts of as few as 20 contiguous acres (for county funded purchases) under certain circumstances. The County Board elects to exercise this option.

## **Minimum Criteria for State Funded Easements:**

- 1) To receive state funding, the farm tract must meet one or more of the following conditions:
  - a) Be located in an agricultural security area consisting of 500 acres or more.
  - b) Bisected by the dividing line between two local government units, having the majority of its viable agricultural land within an agricultural security area of 500 acres or more and the remainder in another local government unit outside of an agricultural security area.
  - c) Bisected by the dividing line between the purchasing county and an adjoining county, having the land located in the purchasing county within an agricultural security area of 500 acres or more and the remainder in another county outside of an agricultural security area, and with respect to which one of the following applies:
    1. A mansion house is on the tract and located within the purchasing county.
    2. When the mansion house on the tract is bisected by the dividing line between the two counties, the landowner has chosen the purchasing county as the site of assessment for tax purposes.
    3. When there is no mansion house on the farmland tract, the majority of the tract's viable agricultural land is located within the purchasing county.
- 2) The farmland tract shall be one or more of the following:
  - a) Contiguous acreage of at least 35 acres or more in size.
  - b) Contiguous acreage of at least 10 acres in size and utilized for production of a "crop unique to the area"\*\*\*
  - c) Contiguous acreage of at least 10 acres in size and contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization," as that term is defined at Section 170(h)(3) of the Internal Revenue Code.
  - d) A minimum weighted value of 20% shall be required when prioritizing applications for agricultural conservation easement purchase when implementing the provisions of 914.1(d)(ii.1) for easements 35 to 50 acres in size.
  - e) Only 50% of State funds shall be utilized to purchase agricultural conservation easements 35 to 49 acres in size unless the property qualifies under section 2(b) or 2(c) indicated above.
- 3) Contain at least 50% of soils which are available for agricultural production and are in



capability class I through IV, as defined by the USDA-Natural Resource Conservation Service.

4) Contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.

### **Minimum Criteria for County Funded Easements:**

1) To receive County funding the farm tract must meet one or more of the following conditions:

a) Located in an agricultural security area consisting of 500 acres or more.

b) Bisected by the dividing line between two local government units, having the majority of its viable agricultural land within an agricultural security area of 500 acres or more and the remainder in another local government unit outside of an agricultural security area.

c) Bisected by the dividing line between the purchasing county and an adjoining county, having the land located in the purchasing county within an agricultural security area of 500 acres or more and the remainder in another county outside of an agricultural security area, and with respect to which one of the following applies:

1. A mansion house is on the tract and located within the purchasing county.

2. When the mansion house on the tract is bisected by the dividing line between the two counties, the landowner has chosen the purchasing county as the site of assessment for tax purposes.

3. When there is no mansion house on the farmland tract, the majority of the tract's viable agricultural land is located within the purchasing county.

2) Be "contiguous acreage"\* of at least 20 acres in size unless the tract is at least 10 acres in size and is either utilized for production of a "crop unique to the area"\*\* or is contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization," as that term is defined at Section 170(h)(3) of the Internal Revenue Code.

3) Contain at least 50% of soils which are available for agricultural production and are in capability class I through IV, as defined by the USDA-Natural Resource Conservation Service.

4) Contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.

## **Applicants who qualify for the County-only funds will follow the same ranking system and procedure as indicated in Sections V and VI.**

In addition: The purchase price of conservation easements cannot exceed \$10,000 per acre if purchased using a single funding source, i.e. Municipal, County, or State Funds. Any farm that has an appraised value exceeding \$10,000 per acre will be considered for conservation easement purchase if the landowner is willing to accept \$10,000 per acre and the purchase is singly funded. If the easement is purchased jointly, using a combination of two or more funding sources, then the purchase price cannot exceed \$20,000 per acre. Any farm that has an appraised value exceeding \$20,000 per acre will be considered for conservation easement purchase if the landowner is willing to accept \$20,000 per acre and the easement is jointly funded.

\*Contiguous Acreage - Contiguous acreage is defined as all portions of one operational unit as described in the deed, or deeds, whether or not the portions are divided by streams, public roads, bridges, and whether or not described as multiple tax parcels, tracts, purparts, or other property identifiers. It includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

\*\*Crops Unique to the Area - The MCALPB has determined that crops unique to Monroe County include, but are not limited to, the crops which historically have been grown or have been grown within the last five years in the County, including the following crops produced for commercial purposes:

1. Grapes – commercial agricultural enterprise
2. Tobacco – ranks 10<sup>th</sup> in the nation in crop production
3. Speltz – a grain grown as an alternative to federally regulated feed grains under programs
4. Orchard crops – commercial agricultural enterprise
5. Mushrooms – commercial agricultural enterprise
6. Tomatoes – commercially grown for fresh market or processing
7. Cantaloupes – commercially grown for fresh market
8. Snap Beans – commercially grown for processing
9. Pumpkins – commercially grown for fresh market
10. Strawberries – commercially grown for fresh market or processing
11. Potatoes – commercially grown for fresh market or processing
12. Sweet Corn – commercially grown for fresh market or processing
13. Christmas trees – grown as a rotation crop with a management plan for cultivation, harvesting, and replacement of Christmas trees
14. Floriculture crops – grown as a commercial agricultural enterprise
15. Maple Syrup – commercial agricultural enterprise
16. Sod, nursery stock, ornamental trees and shrubs – grown for commercial agriculture enterprise with the Deed of Easement restriction that removal of excess soil is prohibited.
17. Hemp – grown subject to state and federal regulation

Other crops may qualify as unique if the crop possesses saleable traits superior to other varieties grown in the county.

## **PUBLIC INFORMATION**

The Monroe County Agricultural Land Preservation Board will publicize the county program through the publication and dissemination of newsletters, information brochures, annual reports, and press releases, and through public meetings, workshops and invited presentations.

The County Board will be subject to the Act of June 30 2011, No. 56 65 PaC.Ss.701, known as the Sunshine Act, and the Act of June 21, 1957 (P.L. 390, No. 212) referred to as the Right-To-Know Law, relating to the inspection and copying of public records.

# **LAND EVALUATION SITE ASSESSMENT (LESA)**

## **APPLICATION RANKING SYSTEM**

The Ranking System is to be used to rank and prioritize for the purchase of Agricultural Preservation Easements. The system is designed to take the total accumulative points of the entire ranking system to determine which farmland should be appraised for Agricultural Preservation Easements. The system shall address conditions at the same time the application is processed.

### **LAND EVALUATION (LE)**

This part of the LESA system is based on soils data obtained from the Monroe County Soil Survey. The Soil Survey was published by the USDA Soil Conservation Service in cooperation with the Pennsylvania State University and the Pennsylvania Department of Agriculture. Each soil mapping unit found in Monroe County has been assigned a score based on its land capability classification, important farmland classification, and productivity for corn. Based on these factors, each soil has been assigned a relative value with 100 being assigned to the best soils for agricultural production in the County. All other soils in the County have been assigned relative values less than 100 (See pages 15-18). Using the worksheet found on page 14, each farm under consideration will be assigned an average relative value for the soil types making up the tract. To obtain the weighted LE score the average relative value is then multiplied by the weighted value assigned to the Land Evaluation score.

### **SITE ASSESSMENT (SA)**

The site assessment portion of the LESA system consists of factors which relate to the viability of the site for present and future agricultural use. These factors consider development pressures in the area and the likelihood of future development impacting farm operations. The site assessment considers factors that affect the relative importance of the site for agriculture. These factors are grouped into three categories for evaluation and rating:

1. Farmland Potential - Factors which measure the potential agricultural productivity and the farmland stewardship practiced on the tract.
2. Clustering Potential - Factors which measure the importance of preserving blocks of farmland to support commercial agriculture and help shield the agricultural community from conflicts with incompatible land uses.
3. Development Potential - Factors which measure the extent to which development pressures are likely to cause the conversion of agricultural land to non-agricultural uses.

Each of the above potentials have factors which rank tracts on a 100 point scale. The score for the three categories is then multiplied by the weighted values assigned to each potential. The sum of these three weighted values is the weighted Site Assessment score.

**LAND EVALUATION AND SITE ASSESMENT WORKSHEET**

Name of Farm \_\_\_\_\_

Date \_\_\_\_\_

Application # \_\_\_\_\_

Prepared by \_\_\_\_\_

**Land Evaluation (LE) (Weighted Value = 50%)**

A Mapping Unit	B Acerage	C Relative Value		D Soil Value
			=	
			=	
			=	
			=	
			=	
			=	
			=	
			=	
			=	
			=	
			=	
			=	
			=	
			=	
			=	
			=	
			=	
			=	
<b>Totals</b>				
<b>Average Soil Value For Farm (Total of D / Total of B)</b>				

**SITE ASSESMENT (SA) (Weighted Value = 50%)**

<u>Farmland Potential Factors</u>		
1	Acerage of prime/state soils on tract	
2	Amount of acerage offered for easement purchase	
3	Percent of tract used for cropland, pasture, grazing	
4	Soil and water conservation practice used	
5	Buffering of parks and environmentally sensive areas	
<b>Total</b>		
Farmland Potential Score (Total X 20%)		
<u>Clustering Potential Factors</u>		
1	Percentage of land adjacent to farm in Agricultural Security Area	
2	Proximity to permanantly protected farmland	
3	Proximity of farm from a significant Agricultural Area	
4	Proximity to farm with an easement application in same round	
<b>Total</b>		
Clustering Potential Score (Total X 20%)		
<u>Development Potential Factors</u>		
1	Extent of non-agricultural use in area	
2	Distance from public sanitary sewer system	
3	Distance from public water distribution system	
4	Amount of road frontage	
<b>Total</b>		
Clustering Potential Score (Total X 10%)		
<b>Farmland Score + Clustering Score + Development Score</b>		

**TOTAL L.E.S.A. SCORE**

Total Land Evaluation Score	
Total Site Assesment Score	
<b>TOTAL L.E.S.A. SCORE</b>	

# LAND EVALUATION

## Monroe County Soil Rating

**Group No.1** **Relative Value = 100**

<b>Map Symbol</b>	<b>Soil Name</b>
AnA	Allenwood gravelly silt loam
CpA	Clymer loam
MeA	Meckesville gravelly loam
Po	Pope silt loam
Pp	Pope silt loam, high bottom

**Group No.2** **Relative Value = 84**

<b>Map Symbol</b>	<b>Soil Name</b>
AnB	Allenwood gravelly silt loam
CpB	Clymer loam
LkB	Leck Kill channery silt loam
ChA	Chenango gravelly loam
ChB	Chenango gravelly loam
BrA	Braceville gravelly loam
BrB	Braceville gravelly loam
Lh	Lawrenceville silt loam
Ph	Philo silt loam

**Group No.3** **Relative Value = 62**

<b>Map Symbol</b>	<b>Soil Name</b>
BaB	Bath channery silt loam
BuB	Buchanan loam
HaB	Hartleton channery silt loam
KaB	Kedron silt loam
LaB	Lackawanna channery silt loam
LsB	Lordstown channery silt loam
MeB	Meckesville gravelly loam
SwB	Swartswood channery silt loam
WmB	Wellsboro channery loam
WsB	Wurtsboro channery loam

**Group No.4****Relative Value = 61****Map Symbol****Soil Name**

MaB	Mardin channery silt loam
WaB	Watson silt loam
AnC	Allenwood gravelly silt loam
BaC	Bath channery silt loam
ChC	Chenango gravelly loam
CpC	Clymer loam
KaC	Kedron silt loam
LaC	Lackawanna channery loam
LkC	Leck Kill channery silt loam
MeC	Meckesville gravelly loam
SwC	Swartswood channery sandy loam
WyA	Wyoming gravelly sandy loam
WyB	Wyoming gravelly sandy loam
AvB	Alvira gravelly silt loam
Hy	Holly silt loam
Wb	Wayland silty clay loam

**Group No.5****Relative Value = 41****Map Symbol****Soil Name**

OkB	Oquaga-Lackawanna channery loams
HaC	Hartleton channery silt loam
KvB	Klinesville channery silt loam
LsC	Lordstown channery silt loam
MaC	Mardin channery silt loam
OkC	Oquaga-Lackawanna channery loams
WeB3	Weikert channery silt loam
WhB	Weikert-Hartleton channery silt loams
WmC	Wellsboro channery loam
BeB	Benson-Rock outcrop complex
MgB	Morris channery silt loam
ReA	Rexford gravelly silt loam
ReB	Rexford gravelly silt loam
Sh	Sheffield silt loam
VoA	Volusia gravelly silt loam
VoB	Volusia gravelly silt loam

**Group No.6****Relative Value = 38****Map Symbol****Soil Name**

BaD	Bath channery silt loam
LaD	Lackawanna channery loam
LkD	Leck Kill channery silt loam
LsD	Lordstown channery silt loam
RuC	Rushtown shaly silt loam
WyD	Wyoming gravelly sandy loam
WyC	Wyoming gravelly sandy loam
SmA	Shelmadine silt loam

**Group No.7****Relative Value = 0****Map Symbol****Soil Name**

KvC	Klinesville channery silt loam
OkD	Oquaga-Lackawanna channery loams
WeC3	Weikert channery silt loam
WhC	Weikert-Hartleton channery silt loams
CmA	Chippewa and Norwich silt loams
BeC	Benson-Rock outcrop complex
KvD	Klinesville channery silt loam
RuD	Rushtown shaly silt loam
WeD3	Weikert channery silt loam
WhD	Weikert-Hartleton channery silt loams
AwB	Alvira and Watson very stony loams
BbB	Bath very stony silt loam
BbC	Bath very stony silt loam
BxB	Buchanan extremely stony loam
BxC	Buchanan extremely stony loam
CxB	Clymer extremely stony loam
CxC	Clymer extremely stony loam
DxB	Dekalb extremely stony loam
DxC	Dekalb extremely stony loam
ExB	Empeyville extremely stony sandy loam
HxB	Hazleton extremely stony sandy loam
KdB	Kedron very stony loam
LbB	Lackawanna extremely stony loam
LbC	Lackawanna extremely stony loam
LxB	Lordstown extremely stony silt loam



LxC	Lordstown extremely stony silt loam
MbB	Mardin very stony silt loam
MbC	Mardin very stony silt loam
MfB	Meckesville very stony silt loam
MfC	Meckesville very stony loam
MoB	Morris extremely stony loam
MoC	Morris extremely stony loam
OkB	Oquaga-Lackawanna extremely stony loams
OxC	Oquaga-Lackawanna extremely stony loams
SxB	Swartswood extremely stony sandy loam
SxC	Swartswood extremely stony sandy loam
WpB	Wellsboro extremely stony loam
WpC	Wellsboro extremely stony loam
WrB	Worth extremely stony sandy loam
WrC	Worth extremely stony sandy loam
WxB	Wurtsboro extremely stony loam
WxC	Wurtsboro extremely stony loam

#### **Group No.8**

#### **Relative Value = 0**

#### **Map Symbol**

#### **Soil Name**

BeF	Benson-Rock outcrop complex
WKE	Weikert and Klinesville soils
WyE	Wyoming gravelly sandy loam
As	Alluvial land
CnB	Chippewa and Norwich extremely stony soils
DxE	Dekalb extremely stony loam
HxC	Hazleton extremely stony sandy loam
LBE	Lackawanna and Bath extremely stony soils
LgB	Laidig extremely stony loam
LgC	Laidig extremely stony loam
LYE	Lordstown and Oquaga extremely stony soils
SpB	Shelmadine very stony silt loam
VxB	Volusia extremely stony silt loam
Ad	Alden mucky silt loam
Cy	Cut and Fill land
VaC	Very stony land and rock outcrops, sloping
VaE	Very stony land and rock outcrops, steep
Mp	Mucky peat, deep
Ms	Mucky peat, shallow

## **SITE ASSESMENT (SA)**

### **1. FARMLAND POTENTIAL FACTORS (Weighted value = 20%)**

- a. Acreage of Prime Farmland and/or State Importance Soils on Tract. See Appendix D.
  - (20) 80 acres or more
  - (15) 60-79 acres
  - (12) 40-59 acres
  - ( 9) 20-39 acres
  - ( 6) 5-19 acres
  - ( 0) 0-4 acres
- b. Amount of acreage offered for easement purchase.
  - (20) 125 acres or more
  - (15) 100-124 acres
  - (12) 75-99 acres
  - ( 9) 50-74 acres
  - ( 6) 30-49 acres
- c. Percent of Tract Used for Cropland, Pasture, or Grazing.
  - (20) 92-100%
  - (15) 84-91%
  - (12) 76-83%
  - ( 9) 68-75%
  - ( 6) 60-67%
  - ( 0) less than 60%
- d. Soil and Water Conservation Practices Used on the Tract.
  - (25) SCS Conservation plan fully implemented
  - (20) SCS Conservation plan 75% < 100% implemented
  - (10) SCS Conservation plan 50% < 74% implemented
  - ( 0) SCS Conservation plan < 50% implemented
- e. Buffering of Parks, Environmentally Sensitive Areas, Historic Structures or Districts.
  - (15) Tract is adjacent to a park or environmentally sensitive area.
  - (10) Tract is adjacent to historic structures or districts.
  - ( 0) Tract is not adjacent to parks, environmentally sensitive areas, historic structures or district.

Explanation: Farmland can buffer environmentally sensitive and historical areas from non-compatible land uses. The following areas will be considered environmentally sensitive.

-Lakes, ponds, reservoirs, rivers, streams, floodplains, marshes, swamps and other wetlands, Public and quasi-public parks, forests, game lands and wildlife preserves, Areas with unique geological, botanical or wildlife features.

Important historical areas and buildings adjacent to a farmland tract must be documented.

### **2. CLUSTERING POTENTIAL FACTORS (Weighted value = 20%)**

a. Percentage of Land Adjacent to Farm in Agricultural Security Area (ASA)

- (25) 100%
- (20) 75% - 99%
- (15) 50% - 74%
- (10) 25% - 49%
- ( 5) 1% - 24%
- ( 0) less than 1%

b. Proximity to Permanently Protected Farmland

- (25) Two or more farms within 2 miles of the tract has and easement
- (15) One farm within 2 miles of the tract has an easement
- ( 0) No farms within 2 miles of the tract have easements

c. Proximity of Farm from Significant Agricultural Area

- (25) Farm is in a significant agricultural area
- (20) Farm is within 1/4 mile of a significant agricultural area
- (15) Farm is within 1/2 mile of a significant agricultural area
- (10) Farm is within 3/4 mile of a significant agricultural area
- ( 5) Farm is within 1 mile of a significant agricultural area
- ( 0) Farm is over 1 mile from a significant agricultural area

d. Proximity to a farm with an Easement Sale Application submitted in the Same Round

- (25) Two or more farms within 2 miles have submitted an easement sale application.
- (15) One farm within 2 miles has submitted an easement sale application.
- ( 0) No farms within 2 miles have submitted applications.

**3. DEVELOPMENT POTENTIAL FACTORS (Weighted Value = 10%)**

a. Extent of Non-Agricultural Use - Proximity of farm to 10 or more developed lots

- (25) Adjacent to 10 or more developed lots.
- (20) within 1/4 mile of 10 or more developed lots.
- (15) within 1/2 mile of 10 or more developed lots.
- (10) within 3/4 mile of 10 or more developed lots.
- ( 5) within 1 mile of 10 or more developed lots.
- ( 0) over 1 mile from 10 or more developed lots.

b. Distance from Public Sanitary Sewer System.

- (25) Sewer line adjacent to site.

- (20) Sewer line within 1,000 feet.
- (15) No sewer line within 1/4 mile.
- (10) No sewer line within 1/2 mile.
- ( 5) No sewer line within 1 mile.
- ( 0) No sewer line within 2 mile

c. Distance from Public Water Distribution System

- (25) Water lines adjacent to site.
- (20) Water line within 1,000 feet.
- (15) No water lines within 1/4 mile.
- (10) No water lines within 1/2 mile.
- ( 5) No water lines within 1 mile.
- ( 0) No water lines within 2 miles.

d. Amount of State and Municipal Road Frontage with the Tract.

- (25) Over 2,000 feet of road frontage
- (20) 1,000 - 1,999 feet of road frontage
- (15) 500 - 999 feet of road frontage
- ( 0) Less than 500 feet of road frontage



# Monroe County Agricultural Land Preservation Program Application Form

For office use only      App # \_\_\_\_\_      Date Received \_\_\_\_\_

### Landowner Information

Name: \_\_\_\_\_ SSN \_\_\_\_\_  
 (Please Print)

Name: \_\_\_\_\_ SSN \_\_\_\_\_  
 (Please Print)

Name: \_\_\_\_\_ SSN \_\_\_\_\_  
 (Please Print)

Name: \_\_\_\_\_ SSN \_\_\_\_\_  
 (Please Print)

Address: \_\_\_\_\_  
 (Street/Rd or PO Box)      (City)      (State)      (Zip)

Property Address: \_\_\_\_\_  
 (If different from mailing address)      (City)      (State)      (Zip)

Phone # \_\_\_\_\_      Cell # \_\_\_\_\_

Email \_\_\_\_\_

Person actively farming tract

	Name	Phone
Is this operation a:	<input type="checkbox"/> Corporation	<input type="checkbox"/> Partnership
	<input type="checkbox"/> Sole Proprietorship	
	Submit Articles of Incorporation with Application	Submit copy of Partnership Agreement with Application

### Property Information

1 Total Number of Parcels       2 Municipality(s) \_\_\_\_\_

3 Total Acreage of Parcel(s)       4 Agricultural Security Area \_\_\_\_\_

3 Acreage being excused from easement       6 Deed Book & Page of ASA \_\_\_\_\_ / \_\_\_\_\_  
 If you are excusing acreage outside of the existing building envelope, you must attach a detailed map showing exculsions. Applications without this map will be rejected  
 Book / Page

7 Parcel ID Number (PIN) and Acreage for each

PIN: \_\_\_\_\_ Acreage: \_\_\_\_\_ Deed Book & Page: \_\_\_\_\_ / \_\_\_\_\_

PIN: \_\_\_\_\_ Acreage: \_\_\_\_\_ Deed Book & Page: \_\_\_\_\_ / \_\_\_\_\_

PIN: \_\_\_\_\_ Acreage: \_\_\_\_\_ Deed Book & Page: \_\_\_\_\_ / \_\_\_\_\_

PIN: \_\_\_\_\_ Acreage: \_\_\_\_\_ Deed Book & Page: \_\_\_\_\_ / \_\_\_\_\_

8 Total Acreage offered for easement:       Deed Book & Page: \_\_\_\_\_ / \_\_\_\_\_  
 (Enter the amount of acreage you are preserving: This figure cannot change more than 5% after the application has been submitted)

## Overview of Farm Operation

**9** How many years has the property been owned by the family? (Circle One)      Less than 50      51-99      Over 100  
 (Please attach copy of Century Farm Certificate)

**10** How is your land zoned? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**11** Do you have public water or sewer? If so how close? \_\_\_\_\_  Yes       No

**12** Are there any cemeteries located on this property?  Yes       No

**13** Are there any railroads located on the property?  Yes       No

**14** Are there any underground storage tanks located on the property?  Yes       No

**15** Are there any equine activities on the property?  Yes       No

**16** Is the property located adjacent to:  Yes       No

Scenic, open space, historical or cultural significant land  
 Flood plains, wildlife habitat, Exceptional Value (EV) watersheds/stream

Park/Recreation area owned by Federal/State/County/Local  Yes       No

Please describe: \_\_\_\_\_  
 \_\_\_\_\_

**17** Are there any right of ways or easements through this property?  Yes       No

Please describe: \_\_\_\_\_  
 \_\_\_\_\_

**18** Based on Act 38 of 2006, are you required to have a Nutrient Management Plan  Yes       No

Plan Date: \_\_\_\_\_

**19** How many acres of land proposed is reserved in Act 319 Clean and Green? \_\_\_\_\_

**20** Do you have a USDA/NRCS Conservation Plan?  Yes       No

Plan Date: \_\_\_\_\_ Plan #: \_\_\_\_\_ Name on Plan: \_\_\_\_\_

**21** What % of the plan is currently implemented? \_\_\_\_\_ %

**22** List all conservation practices currently in use (For land submitted for preservation) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**23** Crops and Livestock Report

	Pasture/Crops	Acerage	Yeild	Livestock	Amount

## Other Important Information

**24** List property owners with preservation easement that are contiguous to your property:

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**25** What businesses other than agricultural production are located on the farm?

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**26** Please list information regarding any current agreements to sell the property:  
Please Note: We will not except applications on properties that are currently under an agreement of sale

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**27** Please list any mortgages or leins held against the property: (List name of mortgage(s) or lein holder and type of lein)

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**28** Please give a list of buildings existing on the property:

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**28** Please specify any historical or environmental features found on the property:

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**29** Street location of farmland tract (include CLEAR directions from nearest State Route):

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## Signature Page

**It is necessary for all owners of the farmland tract to give their approval and consent to this application**

*"I,/We hereby, authorize the Conservation Plan preparer to release copies of the Conservation Plan and Nutrient Management Plan (Act 38, if applicable), to the Monroe County Farmland Preservation Board and the Bureau of Farmland Preservation as required under Act 43 criteria for easement purchase.*

*I/We acknowledge that I am fully aware if there is a deviation from the original amount of submitted acreage listed on this application, The Monroe County Farmland Preservation Board or their designee has the right to disqualify my application and it will be withdrawn.*

*I /We, authorize Monroe County Farmland Preservation to release and forward a copy of this application to officials in my municipality for possible consideration of an easement purchase at the municipal level.*

*I/We, do hereby verify that I/We have reviewed the application. I/We further verify that the application correctly and accurately depicts the condition of the land and that such statements are true and correct to the best of my/our knowledge, information and belief. These statements are being given by me/us to induce official action on the part of the Monroe County Farmland Preservation Board, its agents, officers, servants, and employees. I/We understand that any false statements made herein are being made subject to the penalties of 18 P.A.C.S Section 4904 relating to unsworn falsification to authorities."*

Thank you for taking the time to complete this application as accurately as possible.

Print Name	Signature	Date
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Print Name	Signature	Date
------------	-----------	------

Print Name	Signature	Date
------------	-----------	------

Print Name	Signature	Date
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(If additional signatures are needed, please copy this page)

Please Submit this application to: Monroe County Agricultural Land Preservation Board  
c/o County Administrator

**Monroe County Planning Commission**  
**Administrative Center**  
**1 Quaker Plaza Room 106**  
**Stroudsburg, PA 18360**

Please contact the Monroe County Planning Commission at (570)-517-3100 if you have any questions or require assistance in completing this application



## **POLICY AND PROCEDURES FOR EASEMENT PURCHASE**

This section details the **policy and** procedures for conservation easement purchase. The majority of this text is derived directly from the regulations promulgated by the Pennsylvania Department of Agriculture.

- Owners of qualified land may offer to sell a conservation easement by applying to the Board by July 1 of 1997 and by the first Friday in April in each year thereafter.
- The Board may, at its discretion, open, close, or extend any application period.

### **FUNDING**

Clean and Green Roll-Back Tax – In accordance with Act 156 of 1998, §5490.8(b.1)(b.2), the interest collected by Monroe County from Clean and Green (Act 319) roll-back tax penalties in the previous calendar year will be in addition to other local money appropriated by the county or municipalities for the purchase of Agricultural Conservation Easements.

## **EVALUATION OF APPLICATION**

- A. The county board shall review the application to determine if it is complete and meets the minimum criteria set forth in this Program.
- B. If the application is complete and the minimum criteria are met, an agent or member of the county board shall view the farmland tract and discuss the county program with the applicant.
- C. The county board shall evaluate timely applications which meet the minimum criteria and rank them according to the county numerical ranking system. The county board shall then determine whether to appraise the farmland tract.

## **APPRAISAL**

- A. An offer to purchase an easement shall be based upon one or more appraisal reports which estimate the market value and the farmland value of the farmland tract.
- B. An appraisal shall be based primarily on an analysis of comparable sales.
- C. The value of a building or other improvement on the farmland tract should not be considered in determining the easement value. The value of the building or other improvement shall appear separately in the appraisal report.
- D. The appraiser shall be:

1. A State Certified general real estate appraiser, in accordance with the Act and its attendant regulations and guidelines.
  2. A member or candidate member of an organization which subscribes to the "Uniform Standards of Professional Appraisal Practice" published by the Appraisal Standards Board of the Appraisal Foundation, and shall follow the ethical and professional standards.
- E. The appraiser shall supply a narrative report which contains the following information and is in the following format:
1. Introduction
    - (a) Letter of transmittal.
    - (b) Table of contents.
    - (c) Summary of salient facts and conclusions.
    - (d) Purpose of the appraisal.
    - (e) Easement value definition.
    - (f) Appraiser's certificate value as to market, farmland and easement value.
  2. Description of property
    - (a) Area or neighborhood description
    - (b) Description of appraised property
      - (1) Legal description
      - (2) Property data and zoning
      - (3) Description of improvements
      - (4) Color Photos of subject property
      - (5) Tax map of subject property. In instance where the county does not have tax maps available, the sketch map required under (F) shall include boundary lines and acreage of properties adjoining the subject property and the names of all adjoining property owners.
      - (6) Sketch (or aerial photo) of subject property
      - (7) Location map
      - (8) Soils map
  3. Analyses and conclusions
    - (a) Analysis of highest and best use.
    - (b) Valuation methodology: Market Value.
      - (1) Comparable sales data
      - (2) Adjustment grid

- (3) Locational map of comparable sales
- (c) Market value estimate
- (d) Valuation methodology: Farmland Value.
  - (1) Comparable sales data
  - (2) Locational map of comparable sales
  - (3) Adjustment grid
- (e) Farmland value
- (f) Value of improvements
- (g) Easement value
- (h) Professional qualifications of the appraiser

F. The appraiser shall supply information concerning comparable sales as follows:

1. At least four comparable sales shall be used for an appraisal. If the appraiser cannot obtain sufficient comparable sales data within the same municipality or county as the subject farmland tract, the appraiser may use comparable sales from other municipalities or counties, after consultation with the county board. The use of comparable sales which require adjustment of 50% or more is permitted only with the approval of the county board.
2. Pertinent data for each comparable sale used in the preparation of the appraisal shall be stated in the appraisal report, including date of sale, purchase price, zoning, road frontage in feet, soil series, an estimate of the range of slope and other relevant information. The appraisal shall include an analysis comparing the pertinent data for each comparable sale to the subject farmland tract. Approximate dollar values to adjustment shown on adjustment grid.
3. The location of each comparable sale used in the appraisal report shall be shown accurately on the comparable sales map and sufficiently identified and described so as to be located easily.
4. For comparable sales used to estimate the farmland value, the appraiser may use sales of land that are confined to agricultural use because of legal restrictions or physical impairments that make the land valuable only for agricultural use. Data may also be gathered from farm real estate markets where farms have no apparent development value. Comparable sales shall be in primarily agricultural use.
5. If comparable sales data is not available for farmland value, the county board, subject to the approval of the State Board, may assign a farmland value based on crop production or a capitalization of rental income.
6. The appraiser shall report whether the farmland tract has public or private land use restrictions, is within a flood plain, or has other physical attributes which limit its development capability.

7. The appraiser shall provide at least one original and two copies of each report to the county board. The original of each report and all copies shall be bound with rigid covers.

## **LOCAL GOVERNMENT UNIT PARTICIPATION**

Any local government unit that has created an agricultural security area may participate along with Monroe County and the Commonwealth, in the preservation of farmland through the purchase of agricultural conservation easements.

- A. The local government unit, in conjunction with a county board, may participate with the State Board in the purchase of agricultural conservation easements.
- B. The local government unit shall recommend to the County Board the purchase of agricultural conservation easements by the eligible county and the local government unit as joint ownership.
- C. The local government unit shall recommend to the County Board the purchase of agricultural conservation easements by the local government unit and the Commonwealth as joint ownership.
- D. The local government unit may purchase an agricultural conservation easement, provided that all of the following apply:
  1. The agricultural conservation easement is located within an agricultural security area of at least 500 acres or the easement purchased is a joint purchase with either the County or both the County and the Commonwealth, pursuant to the criteria set forth for the purchase of agricultural conservation easements crossing local government unit boundaries and crossing county boundaries including any portion of an agricultural conservation easement extending into an adjoining county.
  2. The deed of agricultural conservation easement is at least as restrictive as the deed of agricultural conservation easement prescribed by the State Board for agricultural conservation easements purchased by the Commonwealth.
  3. The local government unit shall participate with the County Board in complying with paragraph (E) for recording any agricultural conservation easement purchased by the local government unit.
- E. The County Board shall be responsible to record agricultural conservation easements where a local government unit is a party to the purchase of the easement. The easement shall be recorded by the County Board in the office of the recorder of deeds of Monroe County. The

County Board shall submit to the State Board a certified copy of the agricultural conservation easement within 30 days after recording. The County Board shall attach to all certified copies of the agricultural conservation easements submitted to the State Board a description of the farmland subject to the agricultural conservation easement. The local government unit may incur debt pursuant to 53 PA C.S. Pt. VII Supbt.S (related to indebtedness and borrowing) for the purchase of agricultural conservation easements.

## **Nonprofit Entity Participation**

Counties have the option to work with eligible nonprofit entities for purchasing conservation easements. At this time, the County Board has decided not to include this provision as an option for the County program. If the County Board decides in the future to choose to work with these entities, the County program will be revised to include the standards and procedures for eligible nonprofit entity participation.

## **EASEMENT VALUE AND PURCHASE PRICE**

A. An easement will only be purchased in perpetuity.

1. The maximum value of an easement in perpetuity for purposes of making an offer to purchase an easement under Chapter 138e, Offer of Purchase by County Board, shall be the difference between the market value and the farmland value contained in the county appraisal report.

B. The purchase price offered for the purchase of an easement under Chapter 138e, Offer of Purchase by County Board, may not exceed, but may be less than, the value of the easement. An easement shall not be purchased for more than \$10,000/acre if purchased using a single funding source, i.e. Municipal, County, or State funds. If the easement is purchased jointly, using a combination of two or more funding sources, than it shall not be purchased for more than \$20,000/acre.

## **OFFER OF PURCHASE BY COUNTY BOARD**

A. In determining whether to offer to purchase an easement following receipt of the county appraisal report, the county board shall consider the following:

1. Evaluation according to the numerical ranking system.
2. Consistency with county map of priority agricultural areas.
3. Cost relative to total allocations and appropriations.

4. Proximity to other lands subject to easements.
- B. If the county board determines to offer to purchase an easement on the farmland tract, the county board, or a representative of the county board, shall meet with the applicant to review the county appraisal report. An offer to purchase an easement shall be submitted to the applicant in writing and be accompanied by the county appraisal report.
- C. Within 30 days of receipt of the written offer from the county board an applicant may do one of the following:
1. Accept the offer in which case the county board and the applicant shall enter into an agreement of sale. The agreement shall be conditioned upon the approval of the State Board and be subject to the ability of the applicant to provide good title to the premises, free of encumbrances such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interest, and other encumbrances which would adversely impact the county and Commonwealth's interest in the farmland tract.
  2. Reject the offer and advise the county board that the application is withdrawn.
  3. Advise the county board that the applicant is retaining, at applicant's expense, an independent State-certified general real estate appraiser to determine the easement value. The appraiser shall be qualified, and the appraisal shall be completed in accordance with the procedure in Chapter 138e, Appraisals. Upon completion, three copies of the applicant's appraisal shall be submitted to the county board within 120 days of receipt of the county board's offer to purchase. The applicant's decision to obtain an independent appraisal under this paragraph shall not constitute a rejection of the county board's offer. The county board's offer shall remain open unless increased by the county board under subparagraph (b) or rejected by the applicant.
    - a. If the applicant retains an independent appraiser, the easement value shall be the difference between the agricultural value and the nonagricultural value, determined as follows:
      - (1) The agricultural value shall equal the sum of the farmland value determined by the applicant's appraiser and one-half of the difference between the farmland value determined by the county board's appraiser and the farmland value determined by the applicant's appraiser, if the farmland value determined by the county board's appraiser exceeds the farmland value determined by the applicant's appraiser.
      - (2) The nonagricultural value shall equal the sum of the market value determined by the county board's appraiser and one-half of the difference between the market value

determined by the applicant's appraiser and the market value determined by the county board's appraiser, if the market value determined by the applicant's appraiser, exceeds the market value determined by the county board's appraiser.

- b. Within 30 days of receipt of the applicant's appraisal, the county board shall submit a written offer to purchase in an amount in excess of the amount offered under subsection (b) to the applicant; or notify the applicant, in writing, that the offer made under subsection (b) remains open and will not be modified.
- c. The applicant shall, within 15 days of receipt of the county board's second written offering, notify the county board in writing that the applicant either accepts or rejects the offer made under subsection (b) or accepts or rejects the offer made under subsection (b).
- d. The failure of the applicant to act as set forth in subsection (c) shall constitute a rejection of the county board's offer.
- e. If the offer of purchase is accepted, the county board will prepare an agreement of sale. The agreement shall be conditioned upon approval of the State Board and be subject to the ability of the applicant to provide good title to the premises, free of encumbrances such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interest, and other encumbrances which would adversely impact the county and Commonwealth's interest in the farmland tract.

If circumstances prohibit settlement within six (6) months of acceptance, the Monroe County Agricultural Land Preservation Board reserves the right to make null and void the original offer.

- D. An agreement of sale shall be in a form provided by the State Board.

## **REQUIREMENTS OF THE AGRICULTURAL EASEMENT DEED**

- A. The owners of the subject farmland tract shall execute a deed conveying the easement. This deed shall include the provisions of Appendix F (relating to deed clauses).
- B. The deed shall be in recordable form and contain:

1. A legal description setting forth the metes and bounds of the farmland tract subject to the easement.
  2. At least one course and distance referencing a fixed marker or monument of a type commonly placed in the field by a surveyor. Fixed markers may include iron pins, PK nails, spikes, concrete monuments or stones.
- C. The legal description shall not contain a closure error greater than 1 foot per 10,000 linear feet in the survey.
- D. The farmland tract on which an easement is to be purchased must be surveyed. A survey required by these provisions must comply with the Survey Requirements section.
- E. For purchases made using a combination of State and county funds, the grantees shall be the Commonwealth and the county providing the funds under joint ownership as defined in the act.
- F. For purchases made using a combination of State, County, and local municipality funds, the grantees shall be the Commonwealth, the county, and the local municipality providing the funds under joint ownership as defined in the act.
- G. For purchases made entirely with county funds, the county shall be the sole grantee.
- H. For purchases made entirely with local municipal funds, the municipality shall be the sole grantee.
- I. For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.
1. Neither the Commonwealth nor the county may sell, convey, extinguish, lease, encumber, restrict or otherwise dispose of its interest in the easement without the consent of the other.
  2. Upon the sale, conveyance, extinguishment, lease, encumbrance or other disposition of the easement, the Commonwealth and the county shall receive a pro rate share of the proceeds based upon their respective contributions to the purchase price.
  3. Any person conveying or transferring land subject to an agricultural conservation easement will, within 30 days of the change in ownership, notify the county board and the Commonwealth of the name and address of the person to whom the subject land was conveyed or transferred and the price per acre or portion thereof received by the landowner from such person.



4. The deed conveying or transferring such interest shall recite in verbatim the language of the easement restrictions as set forth in the deed executed in connection with the purchase of the agricultural conservation easement.

## **SURVEY REQUIREMENTS**

- A. A survey of the land being considered for an Agricultural Easement is required. The survey shall have a closure error of no greater than 1 foot per 10,000 linear feet in the survey, and shall otherwise comply with the boundary survey measurement standards published by the Pennsylvania Society of Land Surveyors in its "Manual of Practice for Professional Land Surveyors in the Commonwealth of Pennsylvania," adopted July 10, 1998, or its most current successor document.

- B. A survey described in (A) shall also contain the following:
1. The footprint of any building structures (residential structures, agricultural buildings, out buildings, etc.) located on the property at the time of the survey will be excluded from the easement. The remaining acreage as determined by the survey will be the final acreage listed on the deed of easement
  2. Once the survey is submitted to the Monroe County Planning Commission, it will be considered final. No changes to exclude additional acreage will be permitted
  3. A recordable legal description setting forth the metes, bounds, monumentation, exceptions, easements, and rights-of-way with respect to the farmland tract or other subject of the survey.
  4. A copy of the final boundary survey in digital electronic format that complies with the conservation easement Geographic Information System (GIS) technical standards maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the act (3 P.S. Section 914.1(a)(3)(xv)). The digital format shall show the bearings and distances between each monument and contain the northing and easting of each monument.
  5. Coordinates of all property corners located sequentially along the boundary survey, with latitude and longitude expressed in decimal degrees with an accuracy of 6 recorded decimal places. These coordinates shall be based on the "North American Datum of 1983," or its most current successor document, and shall be obtained through field observation or verification of datum.
  6. A paper copy of the plotted final survey map from the digital file showing the course bearings and distances and other annotations and symbols as maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the act.
- C. The surveyor shall establish monumentation for all property corners required under (B)(4). This monumentation shall consist of permanent concrete markers of substantial length and width containing ferrous or other materials detectable by an electromagnetic locator. The identity of the surveyor who places a monument shall be affixed or marked upon the monument so that it can be ascertained by inspection of the monument in the field.

## **TITLE INSURANCE**

- A. The county board shall provide the following to the State Board upon submission of its recommendation for the purchase of an easement:

1. A title insurance commitment.
  2. Copies of all recorded or unrecorded documents listed on the title insurance commitment as exceptions to the title insurance policy.
- B. At settlement, the county board shall provide a title insurance policy issued by a title insurance company authorized to conduct business in the Commonwealth by the Insurance Department. A marked up title commitment may serve as a policy until the final policy is issued. The amount of title insurance coverage shall equal or exceed the higher of the following amounts:
1. The difference between the appraised market value and the appraised farmland value, as described in the Easement Value and Purchase Price section.
  2. The difference between the agricultural value and the nonagricultural value, as described in the Offer of Purchase by County Board section, if the values are used to calculate the easement value.
- C. The cost of such title insurance shall be a cost incident to the easement purchase payable or reimbursable from a county's allocation under the act.

## **STATEMENT OF COSTS**

- A. The County Board shall submit a statement of the costs incident to the purchase of the easement to the State Board which may include:
1. The easement purchase price
  2. The county appraisal costs
  3. The necessary legal fees for title search, preparation of documents and attendance at closing.
  4. The recording fees
  5. The survey costs
  6. Reimbursements to a nonprofit land conservation organization that has acquired an easement at the request of the county board, for the purpose of transferring the easement to the county or the Commonwealth, or both. The costs include the easement purchase

price, reasonable costs of financing the purchase, appraisal costs, necessary legal costs, recording fees and survey costs.

7. The costs of providing adjoining landowners with required notices and of providing necessary advertisements.
- B. The statement of costs shall specify the amount of funding requested from the Commonwealth for the purchase, and the amount of county funds allocated for the purchase.
- C. After settlement, the county board shall submit a revised statement of cost in the event that actual costs were greater or less than the costs estimated in the initial statement of costs.

## **SUMMARY REPORT**

A recommendation by the county board for the purchase of an easement shall be accompanied by a summary report stating the following:

- A. A description of the farm, including the name, location, number of acres and type of farm.
- B. The quality of the farmland tract, including soil classification and percent harvest cropland, pasture, or grazing land.
- C. The manner in which preservation will contribute to the agricultural productivity of the county.
- D. The likelihood of conversion to other uses if the easement is not purchased. Discussion of the nature and scope of developmental pressure in the municipality or area shall also be provided.
- E. The nature and scope of conservation practices and best land management practices.
- F. A discussion of the purchase price summarizing the appraisals, including the agricultural and nonagricultural value and negotiations for purchase.
- G. The farmland ranking score, including a statement of the relative ranking of the farmland tract among other tracts considered by the county in the same round of applications.
- H. A statement of costs as described in Chapter 138e, Statement of Costs.
- I. A certification by the county board that the information presented to the State Board is true and correct.

- J. An appendix which includes:
1. The application form
  2. Locational maps
  3. A soils report
  4. A crop report
  5. A Survey
  6. An evaluation of the ranking worksheet
  7. A subordination, release, or letter approving purchase from a mortgagee, lienholder or owner of rights in surface mineable coal.
  8. Other relevant documents and information

## **APPLICATION FOR REVIEW**

Application for State Board review of a proposed purchase of an easement is made by submitting the following documents to the Director, Bureau of Farmland Preservation, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408.

- A. Copies of the summary report prepared in accordance with Chapter 138e, Summary Report, include the following items:
1. Cover letter from County (optional)
  2. Narrative Summary Report
  3. Legible United States Geological Survey (USGS) topographic map showing the boundaries, location of neighboring easements, and exclusions withheld from the subject property.
  4. Soil Report Form "C" (a form provided by the Department), both pages.
  5. List of soil mapping unit names, symbols and Land Capability Classes on the subject property.
  6. Legible, soil map of subject property with correct soil class colors.
  7. Tax map showing the subject property location and boundaries, exclusions withheld from the subject property, utility rights-of-way, and access road rights-of-way.
  8. Summary table showing the individual ranking scores by category for applications selected for county appraisal, including an indication of the easement purchase status of higher ranking applicants.
  9. Copy of Exhibit "B", from the Agreement of Sale, modified to include interest, total acres,

and per acre easement cost.

10. Copies shall be submitted via PA Farmland using [services.agriculture.pa.gov](http://services.agriculture.pa.gov)

- B. The appraisal report or reports.
- C. The signed agreement of sale, including the proposed legal description, a statement of cost, the proposed deed of agricultural conservation easement, a contractor integrity clause, and a nondiscrimination clause.
- D. A certification of county funding.
- E. The proposed agricultural easement deed and proposed legal description.
- F. The title insurance report or commitment.
- G. A letter certifying that all adjoining landowners were provided with notice and opportunity to be heard in a manner consistent with administrative agency law with respect to the proposed easement purchase, including one (1) copy of the notification letter and a list of all adjoining landowners.
- H. A completed and signed IRS Form W-9, Request for Taxpayer Identification Number and Certification for individual grantors.
- I. A letter from the grantors stating the percent (%) ownership of each grantor for the purpose of issuing IRS Form 1099.
- J. A copy of the approved soil conservation plan that is required to be in place with respect to the land under Chapter 138e.241(2) relating deed clauses.
- K. A copy of the nutrient management plan that has been developed, certified, reviewed, and approved in accordance with the Nutrient Management Act.
- L. Survey with survey description.

## **PERMITTED ACTIONS**

Pursuant to State Guidelines - Appendix F, The County Board intends that agricultural conservation easements shall not prevent "customary part-time or off-season minor or rural enterprises and activities." These services and activities are permissible as long as they remain incidental to the agricultural and open space character of the farm. No excavating, paving,

gravelling, construction of permanent structures, or other activities that would diminish the productive capacity of the soils are permitted in connection with such activities. The County Board reserves the right to review and approve these activities on a case-by-case basis. This provision is retroactive to March 28, 1991 when the County Program was approved by the State Board. For purposes of definition, these are limited to the following:

1. Direct sale to the public of agricultural products produced principally on the farm, provided that at least 50% of such products are produced by the farm operator;
2. Any and all structures contributing to the production, primary processing, direct marketing and storage of agricultural products produced principally on the farm or a structure(s) used for a commercial equine activity.
3. Structures associated with the production of energy for use principally on the farm including wind, solar, hydroelectric, methane, wood, alcohol fuel and fossil fuel systems and structures and facilities for the storage and treatment of animal wastes;
4. Structures and facilities associated with irrigation, farm pond improvements, and soil and water conservation practices including but not limited to Wetland Development or Restoration, Wildlife Wetland Habitat Management, Wildlife Upland Habitat Management and Riparian Forest Buffer Resource Management Systems used for erosion and sediment control and water quality improvement.
5. The provision of services or production and sale, by persons in residence, of incidental agricultural goods, services, supplies, and repairs and/or the conduct of traditional trades and the production and sale of home occupation goods, arts and crafts, so long as these uses remain incidental to the agricultural and open space character of the farm and are limited to occupying residential and/or principally agricultural structures of the property; limited in site coverage to one-half of one percent of the area of the property;
6. The accommodation of tourists and visitors within principally family residential and/or agricultural structures otherwise permitted under the law so long as the accommodations of tourists and visitors is undertaken as a part-time or off-season minor or rural enterprise and is incidental to the agricultural and open space character of the property.
7. Other similar uses upon approval by the Monroe County Agricultural Land Preservation Board and the State Agricultural Land Preservation Board.

## **INSPECTION AND ENFORCEMENT PROCEDURES**

### A. Inspections

1. The county board shall inspect all restricted land within the county at least annually to determine compliance with the applicable deed of easement. The first inspection shall be completed within 1 year of the date of easement sale, and shall be included in the annual report described in Chapter 138e, Annual Report, no later than the first annual report following that 1-year period.
2. Written notice of an inspection to be conducted under paragraph (1) shall be mailed by certified mail to the owner at least 10 days prior to the inspection.
3. An inspection conducted under paragraph (1) shall be performed between the hours of 8a.m. and 5 p.m. on a weekday that is not a legal holiday recognized by the Commonwealth, or a date and time agreeable to the county and the landowner.
4. Within 10 days of conducting an inspection under paragraph (1), the county board shall prepare a written inspection report setting forth the following information:
  - a) The identification of the land inspected.
  - b) The names of the owner of the farmland at the time the easement was originally acquired and the name of the current owner of the land inspected.
  - c) A description of modifications in the number, type, location or use of any structures on the land since the date of the filing of the deed of easement.
  - d) A description of deviations from the conservation plan observed on the restricted land.
  - e) A statement of whether the provisions of the deed of easement are being observed.
  - f) A statement indicating whether a structure permitted under section 14.1(c)(6)(iv) of the act (3 P.S. Chapter 914(c)(6)(iv)) has been constructed on the restricted land and, if such a structure has been constructed, the month and year construction was completed and a description of the structure and its location on the land.
5. A copy of the inspection report shall be mailed by certified mail to the owner.
6. The county board and the State Board may inspect the restricted land, jointly or severally, without prior notice if they have reasonable cause to believe that any provision of the easement has been or is being violated.

#### B. Enforcement

1. The county board shall enforce the terms of each easement purchased within the county under the act, whether it be local government unit, county, State, or joint purchase.
2. The State Board may enforce the terms of State or jointly purchased easements.
3. The right of the State Board to enforce the terms of an easement may be exercised either jointly with the county board or by the State Board acting on its own behalf.



C. Notification to Owner

1. Within 10 days of the discovery of a violation of the terms of an easement, the county board shall send written notice of the violation to the owner of the restricted land, the county governing body and the State Board.
2. The written notice required by this section shall be sent by certified mail and shall set forth the following information:
  - a) A copy of the inspection report.
  - b) A copy of the deed of easement.
  - c) A description of the action or condition which constitutes the alleged violation.
  - d) A statement of the measures necessary to correct the alleged violation.

## **APPENDIX A**

### **MONROE COUNTY AGRICULTURAL LAND PRESERVATION BOARD**

The following are excerpts from the minutes of the Monroe County Commissioner's meeting of February 13 and March 13, 1990. The motions establish the Agricultural Land Preservation Board and appoint the initial members of the Board.

#### Meeting of February 13, 1990

Chairman Cadue addressed the issue of forming an Agricultural Land Preservation Board.

**M-90-167** Motion by Vice-Chairman Joyce, seconded by Commissioner Katz, and carried to appoint the following to the Monroe County Agricultural Land Preservation Board:

- A. Neal Murphy (Farmer) for a three year term to expire 2/13/93
- B. Dale Bartholomew (Farmer) for a three year term to expire 2/13/93
- C. Alan Everett (Municipal Officer) for a two year term to expire 2/13/92
- D. Clinton Frantz III (Builder) for a one year term to expire 2/13/91
- E. Don Pope (Banker) for a one year term to expire 2/13/91

#### Meeting of March 13, 1990

Vice-Chairman Joyce presented an item regarding the County's Agricultural Land Preservation Program.

**M-90-246** Motion by Commissioner Katz, seconded by Vice-Chairman Joyce, and carried to authorize the administration of the Monroe County Agricultural Land Preservation Program by the previously appointed Monroe County Agricultural Land Preservation Board

**APPENDIX B**  
**MONROE COUNTY**  
**AGRICULTURAL LAND PRESERVATION BOARD**

<b>Representatives</b>	<b>Name/Address</b>	<b>Contact</b>
Elected Official	<b>Carl Heckman</b> P.O. Box 10 Kresgeville, PA 18333	(C) 570-778-7435
Farmer	<b>Mark Heckman</b> 2964 Route 115 Effort, PA 18330	570-350-6341
Farmer	<b>Russell Gould</b> P.O. Box 5072 Kunkletown, PA 18058 Email-denrus@ptd.net	(H) 610-681-4619 (C) 570-656-2611

Farmer	<b>Glenn Beers</b> 174 Mid Hill Dr. Kunkletown, PA 18058 Email-gwbeers@ptd.net	(H) 610-381-2110 (W) 610-381-3058 (C) 610-216-0735
Farmer	<b>Mark Green</b> 467 Silfies Rd. Kunkletown, PA 18058 Email-markrg@ptd.net	(H) 610-381-3288 (C) 610-657-4903
Builder	<b>Robert Serfass</b> 298 Schellerhill Rd. Kunkletown PA, 18058 Email-serfass1@ptd.net	(H) 610-681-3058 (C) 570-350-1903
Banker	<b>Richard Snyder</b> P.O. Box 31 Effort, PA 18330 rsnyder@1stnorthernbank.com	(W) 610-824-2308 (H) 610-681-5917 (C) 610-554-0395

## APPENDIX C

### BYLAWS OF THE MONROE COUNTY AGRICULTURAL LAND PRESERVATION BOARD MONROE COUNTY, PENNSYLVANIA

#### ARTICLE I - NAME:

The name of this (non-profit) organization shall be the Monroe County Agricultural Land Preservation Board, hereinafter referred to as the "Board."

#### ARTICLE II - PURPOSE:

1) To administer a program for purchasing and receiving gifts of agricultural conservation easements on behalf of the County. It is the purpose of this program to protect and promote continued productive agricultural use on viable agricultural lands by acquiring agricultural conservation easements which prevent the development or improvement of the land for any purpose other than agricultural production and allowed related agricultural activities. (The Board was authorized to administer the County Program by resolution of the County Commissioners at a regularly scheduled meeting held on March 13, 1990.)

- 2) To adopt rules and regulations for the administration of a county program for the purchase of agricultural conservation easements within agricultural security areas. The Board shall execute all agreements or other documents necessary to affect the purchase of such agricultural conservation easements in the name of Monroe County and/or the Commonwealth of Pennsylvania **and/or local government unit.**
- 3) To encourage the use of additional farmland preservation techniques through public and private organization in Monroe County.
- 4) To promote efforts to enhance the agricultural industry in Monroe County.
- 5) To protect normal farming operations in agricultural security areas from incompatible non-farmland uses that may render farming impracticable.
- 6) To protect normal farming operations from complaints of public nuisance.
- 7) To assure conservation of viable agricultural land in order to protect the agricultural economy of this Commonwealth.
- 8) To maximize agricultural easement purchase funds and protect the investments of taxpayers in agricultural conservation easements.
- 9) To concentrate resources in a manner that will ensure the purchase of easements for the protection of the largest amount of farmland possible.
- 10) To encourage financial partnerships between State and local governments with nonprofit entities in order to increase the funds available for agricultural conservation easement purchases.
- 11) Perform such other duties and responsibilities as may be authorized pursuant to the Agricultural Area Security Law.

**ARTICLE III - MEMBERSHIP:**

Board members shall be appointed by the County Commissioners.

The Board shall be composed of seven members, to be appointed from the following groups:

1. Two shall be active resident farmers in Monroe County, and shall serve an initial term of three years after authorization of this Board by the County Commissioners.
2. One shall be a current member of a borough or township governing body which is located in

the County, and shall serve an initial term of two years after authorization of this Board by the County Commissioners.

3. One shall be a commercial, industrial, or residential building contractor who resides in the County, and shall serve an initial term of two years after authorization of this Board by the County Commissioners.

4. The remaining member shall be appointed at the pleasure of the County Commissioners, and shall serve an initial term of one year after authorization of this Board by the County Commissioners.

ARTICLE IV - TERM OF OFFICE:

Upon expiration of the initial terms of office as set forth under Membership, all terms of office shall be three years.

REMOVAL FROM COUNTY BOARD:

Any Board member may be removed from the Board for malfeasance, misfeasance, or nonfeasance in office or for other just cause by the majority vote of the County Commissioners, after the member has received fifteen days advance notice of the intent to take such vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

ARTICLE V - VACANCIES:

Any appointment to fill any vacancy created by removal, resignation or otherwise shall be only for the unexpired term of the vacant position.

ARTICLE VI - ATTENDANCE BY BOARD MEMBERS:

The Board members shall attend a minimum of sixty percent of all Board meetings, whether regular or special. Any member who is unable to attend a meeting should notify the Chairman prior to the meeting.

ARTICLE VII - OFFICERS:

The Board will be directed by a Chairperson. Additional officers shall be a Secretary. A staff person may serve as Secretary but shall have no vote.

ARTICLE VIII - ELECTION AND DUTIES OF OFFICERS:

The Chairperson shall be appointed annually by the County Commissioners.

The Secretary shall be appointed annually by members of the Board.

The Chairperson shall preside at all meetings of the Board, call special meetings, establish committees, appoint committee chairmen, and delegate other tasks and assignments as may be appropriate.

The Secretary shall be responsible for seeing that all meetings are recorded.

ARTICLE IX - REMOVAL OF OFFICERS:

The Chairperson can be removed from his/her office by majority vote of the County Commissioners.

Other officers can be removed from office at any time for just cause by a majority vote of the Board.

ARTICLE X - MEETINGS:

Regular meetings shall be held on the first Thursday of every month at a time and location to be specified. Special meetings shall be held at the call of the Chairperson, or at the request of 3 members of the Board, and shall require written notice of at least 20 days.

ARTICLE XI - CONDUCT OF MEETINGS:

All Board meetings shall be open to the public in accordance with the sunshine Act (Act of July 3, 1986, P.L. 388, No. 84), and with the Right-To-Know Law (Act of June 21, 1957, P.L. 390, No.212). Robert's Rules of Order shall apply to all events not otherwise covered by the Bylaws.

ARTICLE XII - QUORUM:

A majority of the total Board membership shall constitute a quorum for the conduct of business.

A quorum of members is required to vote on any motion before the Board.

ARTICLE XIII - VOTING:

Each member of the Board shall be allowed to cast one vote.

Board members must be present at a meeting in order to vote.

Motions shall be passed by a majority vote of members present at meetings, except as specified elsewhere in the Bylaws.

ARTICLE XIV - COMMITTEES:

The chairperson may appoint such committees as are desirable for accomplishing the purpose of the Board.

Committees may include persons other than Board members.

ARTICLE XV - AGRICULTURAL SECURITY AREA ADVISORY COMMITTEES:

The County Board may form an advisory committee composed of representatives of local, county, state, and federal agencies and private groups who have experience with the county's agriculture industry and land use concerns. Members of this advisory committee shall not have voting privileges on the County Board.

The Board may consult with and seek the advice of Agricultural Security Area Advisory Committees with respect to the prospective purchase of easements within their respective municipalities and with respect to such other matters as the Board deems appropriate.

ARTICLE XVI - STAFF:

The Monroe County Planning Commission shall provide primary staff support to the Board. The Monroe County Conservation District shall also provide staff assistance as necessary.

ARTICLE XVII - FINANCES:

All monies received from State, County, or other sources shall be used for the purpose of protecting viable agricultural land in the County.

The Board shall operate within a budget as approved annually by the County Commissioners. Board members shall not receive a salary or payments for their services on the Board, but may be reimbursed for expenses incurred in the course of their service on the Board.

No member of the Board shall be liable for the debts of the Board.

ARTICLE XVIII - PUBLIC OFFICIAL AND EMPLOYEE ETHICS LAW:

All members and employees of the Board shall comply with provisions of the act of October 4, 1978 (P.L. 883. No. 170) (65 P.S. Sections 401-413), known as the Public Official and Employee Ethics Law.

ARTICLE XIX - AMENDMENTS:

The Bylaws may be amended at a Board meeting by a majority vote of the entire membership of

the Board, subject to the approval of the County Commissioners, provided such amendments, along with a notice of the date of the meeting, shall have been circulated to all members of the Board and Commissioners at least 20 days prior to the meeting.

## **APPENDIX D**

### **LIST OF SOIL MAPPING UNITS THAT QUALIFY AS PRIME FARMLAND**

#### **Monroe County**

<u>Manuscript Symbol</u>	<u>Mapping Unit Name</u>
AnA	Allenwood gravelly silt loam, 0 to 3 percent slopes
AnB	Allenwood gravelly silt loam, 3 to 8 percent slopes
BaB	Bath channery silt loam, 3 to 8 percent slopes
BrA	Braceville gravelly loam, 0 to 3 percent slopes
BrB	Braceville gravelly loam, 3 to 8 percent slopes
BuB	Buchanan loam, 3 to 8 percent slopes
ChA	Chenango gravelly loam, 0 to 3 percent slopes
ChB	Chenango gravelly loam, 3 to 8 percent slopes
CpA	Clymer loam, 0 to 3 percent slopes
CpB	Clymer loam, 3 to 8 percent slopes
KaB	Kedron silt loam, 2 to 8 percent slopes
LaB	Lackawanna channery loam, 2 to 8 percent slopes
Lh	Lawrenceville silt loam
LkB	Leck Kill channery silt loam, 2 to 8 percent slopes
LsB	Lordstown channery silt loam, 3 to 8 percent slopes
MaB	Mardin channery silt loam, 2 to 8 percent slopes
MeA	Meckesville gravelly loam, 0 to 3 percent slopes
MeB	Meckesville gravelly loam, 3 to 8 percent slopes



Ph	Philo silt loam
Po	Pope silt loam
Pp	Pope silt loam, high bottom
SaB	Swartswood channery sandy loam, 3 to 8 percent slopes
WaB	Watson silt loam, 2 to 8 percent slopes
WmB	Wellsboro channery loam, 3 to 8 percent slopes
WsB	Wurtsboro channery loam, 2 to 12 percent slopes

This land can also be identified as all land in SCS Soil Capability Classes I, II, III. Areas colored green, yellow or red on the farm's soil map can be measured to evaluate this factor.

### LIST OF SOIL MAPPING UNITS THAT QUALIFY AS ADDITIONAL FARMLAND OF STATEWIDE IMPORTANCE

#### Monroe County

<u>Manuscript Symbol</u>	<u>Mapping Unit Name</u>
AnC	Allenwood gravelly silt loam, 8 to 20 percent slopes
AvB	Alvira gravelly silt loam, 3 to 8 percent slopes
BaC	Bath channery silt loam, 8 to 15 percent slopes
ChC	Chenango gravelly loam, 8 to 15 percent slopes
HaB	Hartleton channery silt loam, 2 to 8 percent slopes
HaC	Hartleton channery silt loam, 8 to 20 percent slopes
KaC	Kedron silt loam, 8 to 15 percent slopes
KvB	Klinesville channery silt loam, 3 to 8 percent slopes
LaC	Lackawanna channery loam, 8 to 15 percent slopes
LkC	Leck Kill channery silt loam, 8 to 15 percent slopes
LsC	Lordstown channery silt loam, 8 to 15 percent slopes
MgB	Morris channery silt loam, 2 to 10 percent slopes
MaC	Mardin channery silt loam, 8 to 15 percent slopes
MeC	Meckesville gravelly loam, 8 to 15 percent slopes
OkB	Oquaga-Lackawanna channery loams, 3 to 8 percent slopes
OkC	Oquaga-Lackawanna channery loams, 8 to 15 percent
slopes	
ReA	Rexford gravelly silt loam, 0 to 3 percent slopes
ReB	Rexford gravelly silt loam, 3 to 8 percent slopes
RuC	Rushtown shaly silt loam, 5 to 15 percent slopes
Sh	Sheffield silt loam
SwC	Swartswood channery sandy loam, 8 to 15 percent slopes

VoA	Volusia gravelly silt loam, 0 to 3 percent slopes
VoB	Volusia gravelly silt loam, 3 to 8 percent slopes
WeB3	Weikert channery silt loam, 3 to 8 percent slopes
WhB	Weikert-Hartleton channery silt loam, 3 to 8 percent slopes
WhC	Weikert-Hartleton channery silt loam, 8 to 15 percent slopes
WmC	Wellsboro channery silt loam, 8 to 15 percent slopes
WyA	Wyoming gravelly sandy loam, 0 to 3 percent slopes
WyB	Wyoming gravelly sandy loam, 3 to 8 percent slopes
WyC	Wyoming gravelly sandy loam, 8 to 15 percent slopes

This land can also be identified as all land in SCS Soil Capability Classes I, II, III. Areas colored green, yellow or red on the farm's soil map can be measured to evaluate this factor.

## APPENDIX F

### DEED OF AGRICULTURAL CONSERVATION EASEMENT

#### Deed Clauses

The Deed of Agricultural Conservation Easement delivered in connection with the purchase of an easement shall identify the owner of the farmland tract as grantor and either the Commonwealth or the county, or both, as grantee and contain the following provisions and additional, consistent provisions approved by the State Board:

1) A granting clause stating:

NOW THEREFORE, in consideration of the sum of \_\_\_\_\_ Dollars, the receipt and sufficiency of which is hereby acknowledged, Grantor does voluntarily grant, bargain and sell, and convey to the Grantee, its successors and assigns, and Grantee voluntarily accepts, an agricultural conservation easement in the subject land, under and subject to the Act and the following terms and conditions: \_\_\_\_\_

2) A clause restricting use of the land to specific permitted acts as follows:

Permitted Acts-During the term of the agricultural conservation easement conveyed herein, the subject land shall be used solely for the production for commercial purposes of crops, equine, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than fifty percent of such processes or merchandise products are produced on the subject land (hereinafter "agricultural production"). For purposes of this Deed, "crops, equine, livestock and livestock products" include, but are not limited to:

- (a) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans;

- (b) Fruits, including apples, peaches, grapes, cherries and berries;
- (c) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms;
- (d) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers;
- (e) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs;
- (f) Timber, wood and other wood products derived from trees; and
- (g) Aquatic plants and animals and their byproducts.
- (h) Commercial equine activity including boarding of equine, training of equine, instruction of people in handling, driving or riding equines, use of equines for riding or driving purposes, pasturing equines all of where a fee is collected. The term does not include activity licenses under the act of December 17, 1981 (p.L. 435, No. 135), known as the "Race Horse Industry Reform Act."

Except as permitted in this Deed, neither Grantor nor his agents, heirs, executors, administrators, successor and assigns, nor any person, partnership, corporation or other entity claiming title under or through Grantor, or their agents, shall suffer, permit, or perform any activity on the subject land other than agricultural production.

Constructing of Buildings and Other Structures:

In addition to the structures existing on the restricted land at the date of the granting of the easement, one additional residential structure may be constructed on the restricted land if the following apply:

- (A) The residential structure is constructed and used as the landowner's principal residence or for the purpose of providing necessary housing for seasonal or full-time farm employees.
- (B) No other residential structure has been constructed on the restricted land, under authority of Section 14.1 (c)(6)(iv) of the Act(3 P.S. Section 914.1(c)(6)(iv)) and this section, after the date of the granting of the easement.
- (C) The residential structure and its curtilage occupy no more than 2 acres of the restricted land.
- (D) The location of the residential structure and its driveway will not significantly harm the economic viability of the subject land for agricultural production.

(E) The replacement of a residential structure constructed under authority of Section 14.1 (c)(6)(iv) of the Act and this section is permitted.

The following are also permitted:

(A) The construction or use of any building or other structure for agricultural production or a commercial equine activity is permitted.

(B) The erection of fences for agricultural production and protection of watercourses such as lakes, streams, springs and reservoirs is permitted.

#### Reservation of Right to Construct After Subdivision

If the restricted land is subdivided prior to the construction of a residential structure under authority of Section 14.1 (c)(6)(iv) of the Act and this section, the landowner shall do the following:

(A) Inform the County Board of the specific subdivided tract with respect to which the right to construct and use such a residential structure is reserved.

(B) Ensure that the deed to the subdivided tract with respect to which the right to construct and use such a residential structure is reserved clearly sets forth the reservation of this right.

(C) Ensure that all deeds to the remaining subdivided tracts recite that no such residential structure may be constructed on the remaining subdivided tracts.

#### Subdivision of Restricted Land

General - The following conditions shall apply to subdivision of lands eased through the Monroe County Agricultural Land Preservation Program whether the easement be held solely by the State, solely by the County, or held jointly by the State and County.

(A) Authority to prohibit subdivision. The Monroe County Agricultural Land Preservation Program prohibits the subdivision of restricted land if the landowner can accomplish the construction and use of a principal residence or housing for seasonal or full-time farm employees in accordance with Section 14.1 (c)(6)(iv) of the Act (3 P.S. Section 914.1 (c)(6)(iv)), under the applicable subdivision and land development ordinance, by land development other than subdivision.

(B) Discretion to allow subdivision. The Monroe County Agricultural Land Preservation Program allows the subdivision of restricted land, and places restrictions or conditions upon subdivision in those instances where the conditions of subsection (A) above cannot be accomplished without

applicable subdivision of land under the municipal land development and subdivision ordinances.

(C) Requisite: Preservation of economic viability for agricultural production. Subsection (B) notwithstanding, a county program shall not permit a subdivision which would harm the economic viability of the farmland for agricultural production.

(D) Requisite: Prevention of conversion to non-agricultural uses; exception. Subsection (B) notwithstanding, a county program shall not permit a subdivision which would convert land which has been devoted primarily to agricultural use to another primary use except that, without regard to this requirement, the Monroe County Agricultural Land Preservation Program permits one tract to be created by subdivision for the purpose of the construction of a principal residence for the landowner.

(E) The prohibitions, restrictions and conditions of subdivision of eased land as set forth in Subsection (D) of this section shall be recited verbatim in the deed for all subdivided and remaining parcels.

(F) All costs associated with subdivision shall be the responsibility of the landowner.

(G) Nothing in this section shall relieve the landowner of any municipal, county or state regulation, procedures or requirements necessary for the subdivision of land.

(H) Notice to landowner. The Monroe County Agricultural Preservation Board shall do at least one of the following:

a) File its county program, or that portion setting forth any prohibitions or restrictions with respect to subdivision of restricted land, at the Office of the Recorder of Deeds for Monroe County, and reference the place of filing of these prohibitions or restrictions in the deed of agricultural conservation easement.

b) Recite the prohibitions or restrictions with respect to subdivision verbatim in the deed of agricultural conservation easement.

### Utilities

The granting of rights-of-way by the Grantor, his heirs, executors, administrators, successors and assigns, or any person, partnership, corporation or other entity claiming title under or through Grantor in and through the subject land for the installation of, transportation of, or use of, lines for water, sewage, electric, telephone, coal by underground mining methods, gas, oil or oil products is permitted. The term "granting of rights-of-way" includes the right to construct or install such lines. The construction or installation of utility lines other than of the type stated in this paragraph is prohibited on the subject land.

## Mining

The granting of leases, assignments or other conveyances or the issuing of permits, licenses or other authorization for the exploration, development, storage or removal of coal by underground mining methods, oil and gas by the owner of the subject land or the owner of the underlying coal by underground mining methods, oil and gas or the owner of the rights to develop the underlying coal by underground mining methods, oil and gas, or the development of appurtenant facilities related to the removal of coal by underground mining methods, oil and gas development or activities incident to the removal or development of such minerals is permitted.

## Rural Enterprises

Customary part-time or off-season minor or rural enterprises and activities which are provided for in the County Agricultural Conservation Easement Purchase Program approved by the State Board are permitted.

## Soil and Water Conservation

All agricultural production on the subject land shall be conducted in accordance with a conservation plan approved by the County Conservation District or the County Board. Such plan shall be updated every ten years and upon any change in the basic type of agricultural production being conducted on the subject land. In addition to the requirements established by the County Conservation District or the County Board the conservation plan shall require that:

- (A) The use of the land for growing sod, nursery stock, ornamental trees and shrubs does not remove excessive soil from the subject land, and
- (B) The excavation of soil, sand, gravel, stone or other materials for use in agricultural production of the land is conducted in a location and manner that preserves the viability of the subject land for agricultural production.

(3) An enforcement clause stating that:

Annually, Grantee(s), its/their successor(s), assign(s), or designee(s) shall have the right to enter the subject land for the purpose of inspecting to determine whether the provisions of this Deed are being observed. Written notice of such annual inspection shall be mailed to the Grantor, his heirs, executors, administrators, successors or assigns at least ten days prior to such inspection. The annual inspection shall be conducted between the hours of 8 a.m. and 5 p.m. on a weekday that is not a legal holiday recognized by the Commonwealth of Pennsylvania or at a date and time agreeable to the county and the landowner.

Grantee(s), its/their successor(s), assign(s) or designee(s) shall also have the right to

inspect the subject land at any time, without prior notice, if it/they has/have reasonable cause to believe the provisions of this Deed have been or are being violated.

Grantor acknowledges that any violation of the terms of this Deeds shall entitle Grantee(s), its/their successor(s), assign(s) or designee(s) to obtain an injunction against such violation from a court of competent jurisdiction along with an order requiring Grantor, his heirs, executors, administrators, successors or assigns to restore the subject land to the condition it was in prior to the violation, and recover any costs or damages incurred including reasonable attorney's fees. Such relief may be sought jointly, severally, or serially.

(4) A clause setting forth the duration of the easement which must be in perpetuity.

(5) A clause stating that:

Every provision of this Deed applicable to Grantor shall apply to Grantor's heirs, executors, administrators, successors, assigns, agents, and any person, partnership, corporation or other entity claiming title under or through Grantor.

(6) A clause setting forth the obligation of the Grantor upon conveyance of the farmland tract as follows:

Conveyance Or Transfer of The Subject Land - Grantor, his heirs, executors, administrators, successors or assigns, and any person, partnership, corporation, or other entity claiming title under or through Grantor, shall notify Grantee in writing of any conveyance or transfer of ownership of the subject land within 30 days. Such notification shall set forth the name, address and telephone number of the Grantor and of the person to whom the subject land was conveyed or transferred and the price per acre or portion thereof received by the landowner from such person. This obligation shall apply to any change in ownership of the subject land.

The deed conveying or transferring such interest shall recite in verbatim the language of the easement restrictions as set forth in the deed executed in connection with the purchase of the agricultural conservation easement.

(7) A habendum clause.

## **APPENDIX G**

### **DEFINITIONS**

**Economic viability of farmland for agricultural production** - The capability of a particular tract of restricted land, other than a tract of two acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. Section 914.1 (c)(6)(iv)), to meet all of the criteria set forth at Section 138e.16(a)(2), (3), (4) and (5) (relating to minimum criteria for applications) of this chapter.

**Harm the economic viability of the farmland for agricultural production** - To cause a particular tract of restricted land to fail to meet the criteria set forth at Section 138e.16(a)(2), (3), (4) and (5) (relating to minimum criteria for applications) of this chapter, or to create, through subdivision, a tract of restricted land, other than a tract of 2 acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. Section 914.1(c)(6)(i)), that would fail to meet the before described criteria..

**Land Development** - either of the following activities:

- (1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving a group of two or more residential buildings, whether proposed initially or cumulatively, or
- (2) A subdivision of land.

**Land which has been devoted primarily to agricultural use** - That acreage which is a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing non-residential structures used for agricultural production, or other acreage immediately available for agricultural production, and which excludes any acreage upon which immediate agricultural production is impracticable due to residential structures and their curtilages, wetlands, soil quality, topography or other natural or man-made features, and which further excludes any tract of 2 acres or less designated as the site upon which the landowner's principal residence or housing for seasonal or full-time employees is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. Section



914.1(c)(6)(iv)).

**Pennsylvania Municipalities Planning Code** - The Act of December 21, 1988 (P.L. 1329, No. 170) (53 P.S. ss 10101-11201).

**Subdivision** - The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other division of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

**Commercial Equine Activity** – The term includes the following activities where a fee is collected: the boarding of equine, training of equines, the instruction of people in handling, driving or riding equines, the use of equines for riding or driving purposes, the pasturing of equines. The term does not include activity licenses under the act of December 17, 1981 (P.L. 435, No. 135), known as the “Race Horse Industry Reform Act.”

**Eligible Nonprofit Entity** – an entity that provides the State board or an eligible county satisfactory proof of all of the following:

- 1) That the entity is tax exempt under section 501©(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C § 501 (c)(3)). That the entity has experience acquiring, whether through purchase, donation or other transfer, an agricultural or other conservation easement.