

*Lackawanna County  
Agricultural Land Preservation  
Easement Purchase Program  
2006*

Recertified by the PA Department of Agriculture, April 21, 2005



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***Easement Purchase Program***

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## **Introduction**

Considering the economic importance of agriculture in Lackawanna County and the changing land use from farming to residential and commercial development, the Lackawanna County Agricultural Land Preservation Board was appointed by the County Commissioners in 1991 to implement the Agricultural Area Security Law. This provides the opportunity for owners of qualified farmland to sell or donate conservation easements that would prohibit the development of such land for uses other than commercial agriculture.

Currently the gross value of agricultural production in Lackawanna County is \$12.7 million according to the 1991 Statistical Summary of the Pennsylvania Department of Agriculture. Of this total, 45 percent comes from dairy farms and over 30 percent from horticultural crops including fruits and vegetables. This is a total of 75 percent of the total income from enterprises that rely heavily on a large acreage of productive cropland. In the last ten years there has been a definite shift away from the dairy enterprise and into vegetable crops that have a higher crop land requirement than dairy production because of the rotations needed for profitable production. However, according to the Census of Agriculture there has been a loss of 6,510 acres or 13.4 percent of the farmland in Lackawanna County from 1978 to 1987. Losses in cropland alone were over eight percent in the same period.

In 1988 the Soil Conservation Service through their National Resource Inventory study could identify only 3,000 acres in Lackawanna County that was potentially suitable for conversion to cropland and most of that was forested. Cropland losses far exceed the availability of other suitable land but even that would mean forest removal that may not be an acceptable alternative.

The expansion of vegetable production in the county has dramatically increased the need for cropland and all the acres released by fewer dairy farms have been used for these crops. However, these acres, in addition to cropland on farms no longer in production by the owner, are being rented by vegetable growers who are expanding these enterprises. Currently crop production on rented land is estimated at 75 percent of the cropland in the county.

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For these reasons -

- the economic importance of agriculture
- the loss of crop land to other land uses
- the changing trend from dairy to vegetable enterprises

The Lackawanna County Agricultural Land Preservation Board sees an urgent need to provide commercial farmers with a method for preserving viable crop land to sustain the agricultural industry in Lackawanna County.

### **Purpose**

The purpose of the Lackawanna County Agricultural Land Preservation Program is to protect and promote continued crop and livestock production on viable agricultural lands in Lackawanna County by acquiring through purchase and gift, Agricultural Conservation Easements on such land. This program should prevent the development or improvement of productive agricultural land for any purpose other than agricultural production and related activities.

It is also the purpose of this program to -

- encourage land owners to make a long term commitment to agriculture by offering them financial incentives and security of land use,
- protect normal farming operations in agricultural security areas from incompatible non-farmland uses that may render farming impracticable,
- protect normal farming operations from complaints of public nuisance against normal farming operations,
- assure conservation of viable agricultural lands in order to protect the agricultural economy of this County,
- provide compensation to landowners in exchange for their relinquishment of the right to develop their private property; and
- maximize Agricultural Conservation Easement purchase funds and protect the investment of taxpayers in the Agricultural Area Security Law.

The Lackawanna County Agricultural Land Preservation Program includes the policies and procedures to be used in accomplishing the objectives of the Agricultural Area Security Law, Act 43 of 1981 as amended.

### **Public Information Program**

The Lackawanna County Agricultural Preservation Board will publicize the County Program through the publication and dissemination of newsletters, information brochures, annual reports, press releases, and through public meetings, workshops, extension service mailings, and direct mailings to farmers participating in agricultural security areas.

All meetings of the County Board will be subject to the Act of July 3, 1986 (P.L. 388, No. 84), 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.

### **Significant Agricultural Areas In Lackawanna County**

Significant agricultural areas in Lackawanna County have been identified as special target areas for farmland preservation activities. These areas were chosen for their concentration of productive soils, large tracts of actively farmed land, and generally limited urban infrastructure. (See Appendix J)

### **Agricultural Conservation Easement Purchase Program**

Lackawanna County, through the Lackawanna County Agricultural Land Preservation Board, intends to acquire perpetual agricultural conservation easements in order to preserve viable farmland in Lackawanna County. Conservation easements may be acquired with county funds, local government unit funds, joint funds, or state funds. The county is responsible for monitoring and enforcement of all easements purchased with public funds.

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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 various site factors and the viability of the farming operation. An appraisal or appraisals of the conservation easement's value will be the determinant of the maximum compensable easement value.

Payment to the prospective landowner may be made in a lump sum, like-kind exchange, or in installment payments over a period up to five years.

The objectives of this approach to farmland preservation are to ensure the continued existence and protection of farmland in Lackawanna County by providing just compensation to landowners who voluntarily preserve their farm.

The Lackawanna County Agricultural Land Preservation Board has established a deadline for submission of applications for purchase of conservation easements as outlined in this report.

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

### **Minimum Eligibility Criteria**

In order for a farmland site to be prioritized for easement purchase, a landowner must submit a completed application form for the purchase of a conservation easement. The Lackawanna County Agricultural Land Preservation Board will accept all applications for further processing for the purchase of conservation easements if the application meets the minimum criteria listed below. Failure of the applicant to meet the minimum criteria will result in a rejection of that application. Therefore, the applicant will not receive the benefit of being prioritized. All 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, within sixty (60) days of the application deadline.



**The following state minimum criteria are prerequisites for a conservation easement sale. The farmland tract must:**

- Be located in an approved and duly recorded Agricultural Security Area consisting of at least 500 acres or more;
- Be 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.
- Be 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:
  - A mansion house is on the tract and located within the purchasing county.
  - When the mansion house on the tract is bisected by the dividing line between two counties, the landowner has chosen the purchasing county as the situs of assessment for tax purposes.
  - 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.
- Contain 50 percent of soils which are available for agricultural production and are of capability classes I through IV, as defined by the soil surveys published by the United States Department of Agriculture - NRCS;
- Contain the greater of 50 percent or 10 acres of harvested cropland, pasture or grazing lands;

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- Be contiguous acreage of at least 50 acres in size unless the tract is at least 10 acres in size and is either utilized for 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 171 (h) (3) of the Internal Revenue Code. 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, purports, 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.

### **In addition, the County minimum criteria include:**

- Only perpetual conservation easements will be purchased.
- The maximum easement price that the County Board will pay is \$2,500 per acre.
- Any offer to sell a perpetual easement at a price less than the appraised value may qualify as a conservation contribution.
- Be contiguous acreage of at least 50 acres in size unless the tract is at least 10 acres in size and is either utilized for 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 171 (h) (3) of the Internal Revenue Code. 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, purports, 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.

## **Planning Map To Guide Easement Purchases**

The Lackawanna County Agricultural Land Preservation Board has adopted a planning map to guide easement purchases (see Appendix J). The map identifies Significant Agricultural Areas within the county. Parcels located within existing Significant Agricultural Areas will be afforded higher priority than parcels located outside of these areas.

## **Procedures For Easement Evaluation and Purchase**

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

All conservation easement applications and other documentation shall be done in accordance with the model formats included in the state guidebook and any future revisions thereto. (§14.1 (a) (3) (xv) and (b) (2) (xiv)).

### **Deadline to Apply**

- Owners of qualified land may offer to sell a conservation easement by applying to the Board by March 1 or by July 1 of each year. This program becomes effective on January 1, 1998.
- Applications submitted by March 1 will have priority over applications submitted by July 1 according to an annual allocation of funds. July 1 applications will be considered if sufficient funds remain available in the Fund for the fiscal year or sufficient state funds are available.
- A separate application shall be required for each farmland tract offered for easement purchase. The farmland tract may be composed of non-contiguous parcels, parcels with different property tax numbers, or separately deeded properties. The farmland tract must meet the minimum criteria for acreage. The application must consist of a completed application form, location maps, a soils report and a crop report.
- The County Board will have two (2) years to complete the purchase of an easement with available funds.

**Application Form**

The County Board has developed an application form, as shown in Appendix C, requesting the following information to determine if the property meets the minimum eligibility criteria:

- Name, address, telephone number and signature of the owner of the property.
- County, municipality and agricultural security area in which the farmland tract is located.
- One of the following, as applicable:
  - If the farmland is eligible to be considered for easement purchase under §138e.16(a)(1)(i), the county, local government unit and agricultural security area in which the farmland tract is located.
  - If the farmland is bisected by a dividing line between two units of local government and is eligible to be considered for easement purchase under §138e.16(a)(1)(ii), the county and local government units in which the farmland tract is located, the agricultural security area in which a portion of that farmland tract is located, a breakdown of the acreage proposed for easement purchase in each local government unit and a breakdown of the number acres of viable agricultural land in the acreage proposed for easement purchase in each local government unit.
  - If the farmland tract is bisected by the dividing line between two or more counties and is eligible to be considered for easement purchase under §138e.16(a)(1)(iii), the counties and local government units in which the farmland tract is located, the agricultural security area in which a portion of that farmland tract is located, and one of the following:
    - If there is a mansion house on the farmland tract, an acknowledgement of this fact and a designation of the county in which the mansion house is located.
    - If there is a mansion house on the farmland tract, and the mansion house is bisected by the dividing line between two or more counties, an acknowledgement of

this fact and a designation of the county the landowner has chosen as the situs of assessment for tax purposes.

- o If there is no mansion house on the farmland tract, an acknowledgement of this fact and a breakdown of the acreage proposed for easement purchase in each county and a breakdown of the number of acres of viable agricultural land in the acreage proposed for easement purchase in each county.

- Total acreage of farm. Number of acres proposed for easement purchase.
- Crops grown on the land proposed for purchase.
- Numbers and kinds of livestock on the farm.
- Street location of farm, and directions from the nearest state route.
- Deed reference - book, volume and page.
- County tax map records, including tax parcel number, or account number of each parcel.
- The date of the USDA-NRCS conservation plan, if any.
- Name, address and telephone number of person to be contacted to view the farmland tract.
- The date of any nutrient management plan.
- The applicant must provide crop production information for the farmland tract for the most recent crop year that comparable statistics are available from the Pennsylvania Agricultural Statistics Service (PASS) as follows:

Commodity	Acres Grown	Yield Per Acre
1.		
2.		
3.		
4.		

- The applicant shall provide a livestock report for the farmland tract for the most recent calendar year that comparable statistics are available from the Pennsylvania Agricultural Statistics Service as follows:

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	Average	Product	Amount
Livestock	Numbers	Sold	Sold
1.			
2.			
3.			
4.			

- If the applicant grows crops or produces livestock that are of a type not reported by PASS, the county board shall obtain two years of production data from the applicant in order to determine if the application meets the minimum criteria as set forth in Section 138e.16(a) (5) (i) - (Appendix K).

**Location Map**

The following information must be provided indicating the location of the farm proposed for easement purchase:

- A USGS topographical map showing the location of the farmland tract;
- A tax map of the farmland proposed for protection with map reference and tax parcel number clearly indicated;

**Soils Report**

The applicant must provide a soils report, including a narrative description of each of the soil types found on the farm, and soils map for the farmland tract proposed for easement purchase, and a table showing the capability class and use of the land, as follows:

	Acres of Cropland/ Pastureland	Other	Total Acres
Class I			
Class II			
Class III			
Class IV			
Other			
TOTAL			

The soils map shall color code soil types as follows:

Class I	= Green
Class II	= Yellow
Class III	= Red
Class IV	= Blue
Class V-VIII	= Uncolored
Wetlands	= Cross-Hatch, or shown on a separate map

### **Evaluation and Ranking of Applications**

The Lackawanna County Agricultural Land Preservation Board will review each application to determine if it is complete and meets the minimum eligibility criteria.

The Lackawanna County Agricultural Land Preservation Board will evaluate all timely applications that meet the minimum criteria and then rank the applications according to the Farmland Ranking System. A representative of the County Board will visit the farm, gather information and discuss the County Program with the applicant.

A Farmland Ranking System has been devised to rank applications for conservation easement purchase. The criteria addressed within the ranking system are in addition to the minimum criteria required by the state. All qualified farms will be prioritized and ranked according to this system.

Following the LESA ranking system and priority ranking on each applicant, the County Board will determine an appraisal order for applicants. The application with the highest LESA ranking score will be appraised first, followed by the next highest LESA score and so on. The County Board reserves the right to limit the number of applicants it chooses to appraise.

### **Farmland Ranking System Criteria**

All properties considered for easement purchase would be evaluated in compliance with §14.1 (d) (1) (i-iv) regarding soil quality, likelihood of conversion, proximity to other eased lands, land stewardship, and fair and equitable procedures.

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### **Site Assessment Factors**

This component of the numerical ranking system consists of thirteen factors, grouped into three categories, which assess the farming operations based on: Development Potential, Farmland Potential, and Clustering Potential. Each factor is assigned a maximum point value that indicates its importance relative to all other factors. Each factor is then stratified into a range of possible point values. The total score for these factors accounts for fifty percent (50%) of the total Farmland Ranking score, with each potential weighted as follows: Development Potential (15%); Farmland Potential (20%); Clustering Potential (15%).

### **Land Evaluation Factors**

Each soil mapping unit found in Lackawanna 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 the other soils in the county have been assigned relative values less than 100. The total score for these factors accounts for fifty percent (50%) of the total Farmland Ranking score.

To determine the Total Point Value of a given farm, the point values for Site Assessment and Land Evaluation are added together to produce a Total Score, as shown in Appendix D.



**Site Assessment Factors**

**Development Potential Factors**

These factors are intended to identify the extent to which development pressures from urban areas cause conversion of agricultural land to non-agricultural uses. The greater a farm's likelihood of conversion to a non-farm use, the higher its score will be in this category.

**1. Availability of Sanitary Sewer and Public Water**

Explanation: A farm is more likely to be surrounded by incompatible land uses or be converted to non-agricultural uses if it is in an area that has access to public sewer and water service.

Public sewer and/or water adjacent to farm-----	30 points
Public sewer and/or water existing within 1/2 mile of farm -----	20 points
Public sewer and/or water existing within 1-2 miles of farm -----	10 points
Public sewer and/or water non-existing within 2 miles of farm ----	0 points

Score\_\_\_\_\_

**1a. For Municipalities Without a Public Sewer System (Alternative Factor)**

Percent of soils that would have slight to moderate limitations for on-lot sewage disposal.

A tract of land that has a higher percentage of soils that are suitable for on-lot sewage disposal (Class I and II Soils) shall receive a higher score.

61% to 100%-----	30 points
41% to 60%-----	20 points
21% to 40%-----	10 points
0% to 20%-----	0 points

Score\_\_\_\_\_

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**2. Amount of Road Frontage**

Explanation: This factor measures the capability of the farm to be developed or improved for non-farm use. Access to public roads increases the suitability of a parcel for subdivision and development.

Over 1000 feet of public road frontage -----	40 points
500 - 1000 feet of public road frontage -----	20 points
0 - 499 feet of public road frontage -----	0 points

Score\_\_\_\_\_

**3. Extent of Non-Agricultural Use in Area**

Extent of Non-Agricultural Use in area (1 mile radius). A tract with extensive non-agricultural uses in the area shall receive a higher score than a tract that is more distant from such non-agricultural uses.

Intensive development adjacent or in immediate vicinity (10 lots or more - commercial, industrial, residential uses)-----	30 points
Intensive or extensive scattered development within 1/2 mile radius (20 lots or more - commercial, industrial, residential uses)-----	15 points
Scattered non-agricultural development within 1 mile radius (20 lots or more)-----	7 points
No significant non-agricultural development in area-----	0 points

Score\_\_\_\_\_

**Total Development Potential Score\_\_\_\_\_**

**Farmland Potential Factors**

These factors measure the potential agricultural productivity or farming practices on the site.

**4. Percentage of Farm Used for Harvested Cropland, Pasture, and Grazing Land**

Explanation: The purpose of this program is to protect viable farmland. If a large percentage of a tract is devoted to other land uses, the tract will receive a lower score.

90 - 100% -----	20 points
80 - 89% -----	16 points
70 - 79% -----	12 points
60 - 69% -----	8 points
50 - 59% -----	4 points
49% or less -----	0 points

Score\_\_\_\_\_

**5. Stewardship of the Land and Use of Conservation Practices and Best Management Practices**

Explanation: This factor rewards those farms with active conservation and land management practices in effect. This is based on visual site inspection by the board or its designates.

75% to 100% -----	15 points
50% to 74% -----	10 points
Less than 50% or no conservation practices and/or poor management -----	0 points

Score\_\_\_\_\_

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**6. Acreage of Tract Proposed for Easement Purchase**

The acreage of farmland parcel offered for conservation easement purchase:

Over 100 acres -----	20 points
75 to 100 acres-----	15 points
50 to 74 acres-----	10 points
less than 50 acres but 10 acres or more contiguous to another perpetually eased tract or farm-----	5 points

Score\_\_\_\_\_

**7. Historic, Scenic, and Environmentally Sensitive Qualities**

Explanation: Environmentally sensitive and historical areas can buffer farmland from non-compatible land-uses.

The farm is adjacent to a tract declared or listed by local, state, or federal agencies as historic, scenic, open space, or cultural; AND/OR farm adjoins designated protected areas such as flood plains, wildlife habitats, parks, forests, and educational sites.

Yes -----	15 points
No -----	0 points

Score\_\_\_\_\_

**8. Capability of farm to generate annual gross receipts greater than \$25,000**

Gross annual receipts of \$50,000 or more-----	15 points
Gross annual receipts of \$25,000 to \$49,999-----	10 points
Gross annual receipts less than \$25,000-----	0 points

Score\_\_\_\_\_

**9. Farm Owner/Operator or leased/rented farmland**

Explanation: This factor acknowledges an applicant's contribution to preserving the agricultural potential of the county as the owner-operator or leased/sharecropped land to support another farming operation.

Owner-Operator -----	15 points
Farmland leased/rented 3 of previous 5 years -----	7 points
Farmland leased/rented less than 3 years -----	0 points

Score \_\_\_\_\_

**Total Farmland Potential Score \_\_\_\_\_**

**Clustering Potential Factors**

These factors measure the importance of preserving blocks of farmland that support commercial agriculture and help to shield the agricultural community against conflicts with incompatible land-uses.

**10. Located within a Significant Agricultural Area as desirable for agricultural use**

Explanation: This factor addresses the question of whether the subject parcel is located within a Significant Agricultural Area as designated by the Lackawanna County Agricultural Land Preservation Easement Purchase Program. These areas were chosen because they contain agricultural soils (capability classes I, II, III, and IV), large parcels actively being farmed and have little or no infrastructure (public water and sewer).

Yes -----	25 points
No -----	0 points

Score \_\_\_\_\_

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**11. Tract is adjacent to farms with existing conservation easements**

Explanation: Grouping agricultural conservation easement purchases in an area will help to develop a nucleus of farms which can support each other and reduce conflicts with incompatible land-uses. Tracts closer to restricted land shall receive a higher score than those that are not.

Adjacent to farm(s) with existing conservation easement-----25 points

Within 1/4 mile of farm(s)

with existing conservation easement----- 20 points

Within 1/2 miles of farm(s)

with existing conservation easement----- 15 points

Within 1 mile of farm(s)

with existing conservation easement----- 10 points

Further than 1 mile from farm(s)

with existing conservation easement----- 0 points

Score\_\_\_\_\_

**12. Percent of adjoining land in an Agricultural Security Area**

Explanation: Clustering of security area parcels are desirable since they allow for the convenience of farming and they also represent a farming community.

100%----- 25 points

75% to 99%----- 18 points

50% to 74%----- 12 points

25% to 49%----- 6 points

0% to 24%----- 0 points

Score\_\_\_\_\_

**13. Percent of Land within one-half (1/2) mile of the applicant's parcel (outside boundary) in agricultural or woodland uses**

Explanation: This factor is a major indication of the agricultural character of the area. The definition of "agricultural or woodland uses" should be interpreted to mean all agricultural and related uses that can be considered part of a farm operation. This would include farmlands, pastureland, woodlands, and drainage areas.

>75% -----	25 points
50% - 74% -----	18 points
25% - 49% -----	8 points
<25% -----	0 points

Score\_\_\_\_\_

**Total Clustering Potential Score\_\_\_\_\_**

## Land Evaluation Factors

Each soil mapping unit found in Lackawanna 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 the other soils in the county have been assigned relative values less than 100. See Table 1 for a listing of the relative values for all the soils in the county.

Soil values are to be taken from the Table 1 and assigned to the appropriate acreage on a farm as follows:

A Mapping Unit	B Acreage		C Relative Value	=	D
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____

Totals \_\_\_\_\_

Average Soil Value for Farm = \_\_\_\_\_  
(Total of D / Total of B)

**Total Land Evaluation Score** \_\_\_\_\_



**Table 1 - Relative Soil Values  
for Lackawanna County Soils**

<u>Map_</u> <u>Symbol</u>	<u>Value</u>	<u>Map</u> <u>Symbol</u>	<u>Value</u>	<u>Map</u> <u>Symbol</u>	<u>Value</u>
ArC	0				
AsB	0	McB	74		
AsD	0	McC	67	ReA	53
ASE	0	McD	50		
At	0	MfB	74	SwB	100
		MfC	67	SwC	67
BaB	100	MhB	0	SwD	50
BaC	67	MhD	0	SxB	0
BaD	50	MK	0	SxD	0
BbB	0	MrA	53		
BbD	0	MrB	53	UA	0
BcB	100	MrC	53	Ur	0
		MsB	53	Us	0
Da	0	MsC	53		
Db	0	MxB	0	VcA	53
DYD	0	MxD	0	VcB	53
DYE	0			VcC	53
		NcA	27	VfB	53
FA	0	NcB	27	VfC	53
		NxB	0	VxB	0
Hm	67			VxD	0
HO	0	OcB	67		
		OcC	67	WcB	74
LaB	100	OcD	50	WcC	67
LaC	67	OfB	67	WcD	50
LaD	50	OfC	67	WfB	74
LbB	0	OxB	0	WfC	53
LbD	0	OxD	0	WgB	0
LCE	0	OYE	0	WgD	0
LeB	74			WkB	74
LeC	67	Ph	100	WkC	67
LeD	50	PK	0	WxB	0
LfB	74	Po	100	WxD	0
LfC	67	Pp	100	WyA	67
LxB	0			WyB	67
LxD	0	Qu	0	WyC	50
				WyD	0
				WyE	0

## **Lackawanna County Ag Land Preservation**

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### **Appraisal of Easements**

Successfully ranked applications will be forwarded an Appraisal Deposit Form, as shown in Appendix E.

Applicants who wish to proceed with selling a farmland conservation easement will complete and submit the Appraisal Deposit Form to the Lackawanna County Agricultural Land Preservation Board. Submitted with the appraisal request form will be a deposit in the amount of \$500. This deposit is refundable if the applicant does not break an agreement of sale and the applicant accepts an offer equal to the appraised value of the easement. The applicant will also receive a refund of his deposit if the applicant agrees to sell an easement at less than the appraised value or if the county does not make an offer to purchase the easements. Finally, the applicant will receive a refund if the county offers to purchase an easement for less than the appraised value and the applicant is not willing to accept less than the appraised value. The deposit will be held in escrow. Determining the easement value may involve a second appraisal paid for by the applicant.

### **Easement Value**

Offers to purchase easements will be based upon one or more appraisal reports. The appraisal report will estimate both the market value and farmland value of the farmland tract. The difference is the easement value.

The market value and farmland value will be based primarily on an analysis of comparable sales. If comparable sales are not available for the agricultural value, the County Board, subject to approval by the State Board, may assign an agricultural value based on crop production.

The value of a building or other improvement on the farmland tract may not be considered in determining the easement value. The value of the building or other improvement shall appear separately in the appraisal report.

### **Choosing an Appraiser**

The appraiser will be an independent licensed real estate appraiser who is qualified to appraise properties for easement purchase. Appraisers shall be selected on the basis of experience, expertise, and professional designation.

The appraiser shall be a Pennsylvania State Certified Real Estate Appraiser in accordance with the standards set forth in Act 43.

**The Appraisal Report**

The appraiser will supply a narrative report that contains the following information and is in the following format:

Introduction

- Letter of Transmittal
- Table of Contents
- Certificate of Value
- Summary of Salient Facts and Conclusions
- Purpose of the Appraisal
- Definitions, including those definitions of market value, farmland value and easement value.

Description of Property

- Area or Neighborhood Description
- Description of Appraised Property
  - \* Legal Description
  - \* Property Data and Zoning
  - \* Description of Improvements
  - \* Color Photos of Subject Property
  - \* Tax Map of Subject Property
  - \* Sketch of Subject Property or Aerial Photograph
  - \* Location Map showing the location of subject farmland tract in a county or municipality.
  - \* Soils Map showing property boundaries.

Analyses and Conclusions

- Analysis of Highest and Best Use
- Valuation Methodology: Market Value
  - \* Comparable Sales Data
  - \* Adjustment Grid

## **Lackawanna County Ag Land Preservation**

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- \* Location Map of Comparable Sales
- Market Value Estimate
- Valuation Methodology: Farmland Value
  - \* Comparable Sales Data
  - \* Location Map of Comparable Sales
  - \* Farmland Value
  - \* Value of Improvements
  - \* Easement Value
  - \* Professional Qualifications of the Appraiser
  - \* An adjustment grid

### **Comparable Sales**

Appraisers will supply information concerning comparable sales as follows:

At least three comparable sales will be used for appraisals. If the appraiser cannot obtain sufficient comparable sales data within the same county as the subject, he may use comparable sales from other counties, after consultation with the County Board. The use of comparable sales that require adjustment of 50% or more is permitted only with the approval of the County Board.

All comparable sales must be completely described and include pertinent data, i.e., date of sale, purchase price, zoning, road frontage in feet, topographical information, soil conditions, soil series and an estimate of the range of slope in accordance with Section 138e.63(f)(2) of the Commonwealth Agricultural Conservation Easement Purchase Program and any other relevant information. The appraisal must include an analysis comparing the pertinent data for each comparable sale to the subject property.

The location of each comparable sale used in the appraisal report must be shown accurately on the comparable sales map and sufficiently identified and described so as to be located easily.

For comparable sales used to estimate the farmland value, the appraiser will 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 developmental value.

If comparable sales data is not available for farmland value, the County Board, subject to the approval of the State Board, will assign a farmland value based on crop production or a capitalization of rental income.

The appraiser will report whether the subject property has any land use restrictions, public or private, which limit the developmental capability of the land.

The appraiser will report whether the subject property is within a flood plain or has any other physical attributes that limit the developmental capability of the land.

Number of Copies - The appraiser will provide at least one original and two copies of each report to the County Board. Each report and all copies will be bound with rigid covers.

#### **Easement Value and Purchase Price**

Easements shall only be purchased in perpetuity.

The appraisal report provides the County Board with an estimate of the value of the easement purchased in perpetuity, which is the difference between the market value and the farmland value.

The County Board will not consider any conservation easement for purchase that will use more than \$10,000 per acre of state funds. Any amount over \$10,000 per acre will be considered county funds. The maximum easement purchase price for an easement that the County Board will pay is \$2,500 per acre.

The applicant may, at applicant's expense, retain another state-certified general real-estate appraiser to determine the easement value. This appraisal must be completed in accordance with these guidelines.

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If the applicant secures an independent appraisal, the easement value will be the difference between the non-agricultural value and the agricultural value, determined as follows:

- The agricultural value will 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.
  
- The non-agricultural value will 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 seller's appraiser and the market value determined by the County Board's appraiser, if the market value determined by the seller's appraiser exceeds the market value determined by the County Board's appraiser.

The price paid for purchase of an easement in perpetuity will be equal to or less than the easement value, as determined above.

### **Approval of Easement Purchase**

The Lackawanna County Agricultural Land Preservation Board, when determining whether to purchase an easement, will consider the following:

- Evaluation according to the farmland ranking system;
- Consistency with county map of priority agricultural areas;
- Cost relative to total allocations and appropriations; and
- Proximity to other lands subject to easements.

If a farmland tract is approved for easement purchase, the County Board, or a representative of the County Board, shall meet with the applicant to review the appraisal reports. Any offer to purchase an easement shall be submitted to the applicant in writing and accompanied by the appraisal report. The offer may be less than or equal to the appraised value of the easement.

Within 30 days of receipt of the written offer from the County Board an applicant may either:

- accept the offer;
- reject the offer, or
- secure an independent appraisal as set forth in Section 138e.66 (Appendix L).

Failure by the applicant to act within 30 days will constitute rejection of the offer.

If the offer of purchase is accepted, the County Board will prepare an agreement of sale. The agreement will be conditioned upon the approval of the State Board, see Appendix F, and be subject to the ability of the applicant to provide good title to the premises, free of any encumbrances such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interests, and other encumbrances which would adversely impact the county and state's interest in the property.

Settlement will be scheduled at a time and place convenient to both buyer and seller.

The owner is required to obtain a conservation plan before the County Board recommends approval of the easement purchase to the State Board in accordance with Appendix H, Section 200.

**Requirements of the Agricultural Easement Deed**

All owners of the subject real estate shall execute a deed, (refer to sample Deed in Appendix I) conveying the easement containing the following requirements:

## **Lackawanna County Ag Land Preservation**

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- The deed shall be in recordable form and contain an accurate legal description setting forth the metes and bounds of the farmland tract subject to the easement.
  - For purchases made entirely with state funds, the Commonwealth of Pennsylvania will be the sole grantee.
  - For purchases made entirely with local municipal funds, the municipality will be the sole grantee.
  - For purchases made using a combination of state and county funds, the grantees will be the Commonwealth of Pennsylvania and the county providing the funds under joint ownership as defined in the Act.
  - For purchases made using a combination of state, municipal, and county funds, the grantees will be the Commonwealth of Pennsylvania, the local municipality providing the funds, and the county under joint ownership as defined in the Act.
- 
- \* Neither the Commonwealth nor the county may sell, convey, extinguish, lease, encumber, restrict or otherwise dispose of their interest in the easement without the consent of the other.
  - \* Upon the sale, conveyance, extinguishment, lease, encumbrance or other disposition of the easement, the Commonwealth and the county will receive a pro rata share of the proceeds based upon their respective contributions to the purchase price.
- 
- A copy of the deed shall be submitted to the State Board for approval. All instruments and documents for the purchase of easements must be approved by the State Board prior to execution and delivery.

### Requirements of the agricultural easement deed.

- The owners of the subject farmland tract have certain responsibilities as easement which deed shall include the provisions of Section 100. (relating to deed clauses). (Appendix I)
- The deed shall be in recordable form (Appendix I) and contain:
  - \* A legal description setting forth the metes and bounds of the farmland tract subject to the easement.



- \* At least one course and distance referencing a fixed marker or monument of a type commonly placed in the field by a surveyor.
- The legal description shall not contain a closure error greater than one foot per 200 linear feet in the survey.
- The farmland tract on which an easement is to be purchased must be surveyed unless the legal description contained in the deed recorded in the land records of the county in which the farmland tract is located satisfies the requirements as stated above. A survey required by the provisions of this paragraph shall meet the requirements of Chapter 138e.73 (relating to survey requirements).

**Permitted Actions**

An agricultural easement shall not prevent the following:

- 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 or gas development or activities incident to the removal or development of such minerals;
- The granting of rights-of-way by the owner of the restricted land in and through the land for the installation of, transportation of, or use of water, sewage, electric, telephone, coal by underground mining methods, gas, oil or oil products lines;
- Construction and use of structures on the restricted land necessary for agricultural production;
- Construction and use of structures on the restricted land for the purpose of providing necessary housing for seasonal or full-time employees for the

## **Lackawanna County Ag Land Preservation**

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- landowner's principal residence, provided that only one such structure may be constructed on no more than two acres of the restricted land during the term of the easement; and
- Permitted Customary Part-time or Off-season Minor or Rural Enterprises. Directly associated uses are defined as customary, supportive and agriculturally compatible uses of farm properties in Lackawanna County, Pennsylvania, and are limited to the following:
    - i. The direct sale to the public or agricultural products produced principally on the farm, provided that at least 50% of such products are produced by the farm operator;
    - ii. Any and all structures contributing to the production, primary processing, direct marketing and storage of agricultural products produced principally on the farm;
    - iii. 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 waste;
    - iv. The provision of services or production and sale, principally by persons in residence, of 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 or adjoining 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;
    - v. Structures and facilities associated with irrigation, farm pond impoundment, wildlife habitat improvement, 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.

- vi. The accommodation of tourists and visitors within principally family residential and/or agricultural structures otherwise permitted under the law so long as the accommodation 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;
- vii. Other similar uses upon written approval of the Lackawanna County Agricultural Preservation Board and State Agricultural Land Preservation Board.

## **Additional Program Procedures**

### **Title Insurance**

The County Board will provide a title insurance commitment to the State Board upon submission of its recommendation for a purchase of an easement.

At settlement, the County Board will provide a title insurance policy issued by a title insurance company authorized to conduct business in the Commonwealth of Pennsylvania by the Pennsylvania Insurance Department. The cost of such title insurance will be a cost incident to the easement purchase payable or reimbursable from a county's allocation under the Act.

### **Statement Of Costs**

The County Board will submit a statement of the costs incident to the purchase of the easement to the State Board that shall include:

- Easement purchase price;
- County appraisal costs;
- Necessary legal fees for title search, preparation of documents, and attendance at closing;
- Recording fees;
- Survey costs;
- 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 state or both. These costs include the easement purchase price, reasonable costs of financing the purchase, appraisal costs, necessary legal costs, recording fees, and survey costs.
- The costs of providing adjoining landowners with required notices and of providing necessary advertisements.

The statement of costs must specify the amount of state funding requested for the purchase, and the amount of county funds allocated for the purchase.

**Summary Report**

Each recommendation to the State Board by the County Board for the purchase of an easement will be accompanied by a Summary Report stating the following:

- Description of the farm. Name, location, number of acres, type of farm.
- Quality of the farmland tract. Soil classification. The manner in which preservation will contribute to the agricultural productivity of the county.
- 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.
- The nature and scope of conservation practices and best land management practices.
- Discussion of the purchase price, summarizing the appraisals and negotiations for purchase.
- Statement of costs as described above.
- Certification. The County Board will certify that the information presented to the State Board is true and correct.
- Appendix. This shall include the:
  - \* Application form
  - \* Location maps, including tax, topographic and soil maps.
  - \* Soils report
  - \* Crop report
  - \* Evaluation of the application (ranking worksheet)
  - \* A subordination, release or letter approving purchase from a mortgagee, lien holder or owner or rights in surface mineable coal.
  - \* Other relevant documents and information.

**Lackawanna County Ag Land Preservation**

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**Appendix A**

**Lackawanna County Agricultural Land Preservation Board**

<b>Representation</b>	<b>Name/Address</b>	<b>Term Expires</b>
At Large Representative	Mary Liz Donato 302 Bear Brook Acres Drive Madison Twp, PA 18444	Chairman March 23, 2007
Farm Representative	James Corselius 2462 Milwaukee Road Clarks Summit, PA 18444	Vice-Chairman March 23, 2006
Farm Representative	Doug Johnson RR 1 Box 589 Jermyn, PA 18433	Treasurer March 23, 2006
Building Contractor	Michael Cestone 114 Prospect Street Dunmore, PA 18512	Secretary March 23, 2007
Elected Twp or Borough Official	Larry Seymour RR 2 Box 2363 Factoryville, PA 18419	Member March 23, 2005

**Appendix B  
Bylaws of County Board**

**BYLAWS  
OF THE  
COUNTY AGRICULTURAL LAND PRESERVATION BOARD  
  
LACKAWANNA COUNTY, PENNSYLVANIA**

**NAME:**

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

**PURPOSE:**

Administer a program for purchasing and receiving gifts of agricultural conservation easements on behalf of the county.

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 effect the purchase of such agricultural conservation easements in the name of the County and/or the Commonwealth of Pennsylvania.

Encourage the use of additional farmland preservation techniques through public and private organizations in the County.

Promote efforts to support the agricultural industry in the County.

Perform such other duties and responsibilities as may be authorized pursuant to the Agricultural Area Security Law.

**AUTHORIZATION:**

The Board was authorized to administer the County Program by resolution of the County Governing Body at a regularly scheduled meeting on January 28, 1992, and the Board was established on April 9, 1991.

## **Lackawanna County Ag Land Preservation**

### MEMBERSHIP:

Board members shall be appointed by the County Governing Body.

The Board shall be composed of five (5) members, to be appointed from the following groups:

1. Two shall be active resident farmers in Lackawanna County, and shall serve an initial term of three years after establishment of this Board.
2. One shall be a current member of a borough or township governing body that is located in the County, and shall serve an initial term of two years after establishment of this Board.
3. One shall be a commercial, industrial, or residential building contractor who resides in the County, and shall serve an initial term of one year after establishment of this Board.
4. Remaining members shall be appointed at the pleasure of the County Governing Body, and shall serve initial terms of one year after establishment of this Board.

### TERM OF OFFICE:

Upon expiration of the initial terms of office as set 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 Governing Body, 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.

### VACANCIES:

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

### 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.

### OFFICERS:

The Board will be directed by a Chairman. Additional officers shall be Vice-Chairman, Secretary, Treasurer.

A staff person may serve as Secretary but shall have no vote.



**ELECTION OF OFFICERS:**

The Chairman shall be appointed annually by the chairman of the County Governing Body.

Other officers shall be elected annually by members of the Board.

**DUTIES OF OFFICERS:**

The Chairman 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 Vice-Chairman shall preside at all meetings of the board in the absence of the Chairman.

The Secretary shall be responsible for seeing that all meetings are recorded, and for sending and receiving correspondence of the Board.

The Treasurer shall pay all bills authorized by the Board, maintain a record of all funds designated for easement purchase and for administration of the County Program.

**REMOVAL OF OFFICERS:**

The Chairman can be removed from his position by the County Governing Body.

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

**MEETINGS:**

Regular monthly meetings shall be held on the 3rd Tuesday of the month at 10:30 a.m. at a location designated by the Chairman of the Board, and subject to change. Special meetings shall be held at the call of the Chairman, or at the request of three (3) members of the Board, and shall require written notice of at least five (5) days.

## **Lackawanna County Ag Land Preservation**

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### CONDUCT OF MEETINGS:

At 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.

### 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.

### VOTING:

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

Board members must be present at meetings in order to vote.

Motions shall be passed by a majority vote of members present at a meeting, except as specified elsewhere in the By-laws.

### COMMITTEES:

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

Committees may include persons other than Board members.

### AGRICULTURAL SECURITY AREA ADVISORY COMMITTEES:

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.

### STAFF:

The Board may use moneys appropriated by the County Governing Body to hire staff and administer Act 149 in the County.

STAFF ASSISTANCE FROM OTHER AGENCIES:

The board may receive assistance from the staffs of the County Planning Commission, County Conservation District, other County departments or from other sources as are available.

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 Governing Body. Board members shall not receive salary or payment for their services of 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.

PUBLIC OFFICIAL AND EMPLOYEE ETHICS LAW:

All members and employees of the county board shall comply with 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.

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 Governing body, provided such amendments, along with a notice of the date of the meeting, shall have been circulated to all members of the Board and Governing Body at least ten (10) days prior to the meeting.

Adopted: March 15, 2005

\_\_\_\_\_  
Mary Liz Donato  
Chairman

\_\_\_\_\_  
Michael Cestone  
Secretary

**Appendix C**

**Agricultural Conservation Easement Application Form  
Lackawanna County Agricultural Land Preservation Board**

**I. General Information**

Name (s) \_\_\_\_\_

Address \_\_\_\_\_  
(street/RD) (city) (state) (zip code)

Social Security # (s) \_\_\_\_\_

Telephone Number (s) \_\_\_\_\_  
(also, please indicate the best times to call)

County \_\_\_\_\_

Township of Residence \_\_\_\_\_

Is your farm in an Agricultural Security Area? \_\_\_\_\_

If yes, which Security Area (Township)? \_\_\_\_\_ Bk \_\_\_\_\_ Page \_\_\_\_\_

Street or RD location of farmland tract. \_\_\_\_\_

Directions from nearest state route \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Total acreage of farmland tract. \_\_\_\_\_

Total acreage offered. \_\_\_\_\_

Crops grown on farmland tract. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Number and kinds of livestock \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Deed reference: Book \_\_\_\_\_ Volume and Page \_\_\_\_\_

Tax account numbers of each parcel \_\_\_\_\_

Date of USDA Soil Conservation Service Conservation Plan \_\_\_\_\_

Name(s), address and telephone number of person(s) to contact to view the  
farmland tract under consideration \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of any nutrient management plan \_\_\_\_\_

**II. Production Report**

Describe the farm tract (name, location, acres and type) and the farm operation it is a part of:

A. Crop Production Information for submitted tract

The applicant must provide crop production information for the most recent crop year that PASS data is available as part of this application.

Crop Report for the year \_\_\_\_\_

	Crop (Commodity)	Acres Grown	Average Yield (per acre)	County Average Yield	Gross Value
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					

Crop Report for the year \_\_\_\_\_

	Crop (Commodity)	Acres Grown	Average Yield (per acre)	County Average Yield	Gross Value
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					

**Lackawanna County Ag Land Preservation**

**III. Livestock Report - Production Information**

The applicant must provide livestock production information for the farmland tract for the most recent calendar year that PASS data is available as part of this application.

Livestock Report for the year \_\_\_\_\_

Kind of Livestock	Average Numbers	Sold	Product Sold	Amount Receipts	Gross Value
1.					
2.					
3.					
4.					
5.					

Livestock Report for the year \_\_\_\_\_

Kind of Livestock	Average Numbers	Sold	Product Sold	Amount Receipts	Gross Value
1.					
2.					
3.					
4.					
5.					

Total Farm Gross Receipts: \_\_\_\_\_, \_\_\_\_\_  
(indicate year) (indicate year)

**IV. Purchase/Selling Price**

I would consider selling an Agricultural Conservation Easement to the Lackawanna County Agricultural Land Preservation Board and/or the Commonwealth of Pennsylvania for not less than:

1. \$ \_\_\_\_\_ for the entire farm (or on the tract that is submitted for easement purchase consideration)

or

2. \$ \_\_\_\_\_ per acre,

or

3. \$ \_\_\_\_\_ an amount to be determined by appraisal and acceptable to (please check buyer and seller. if interested)

**V. Signature(s)**

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

Signed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Please submit this application to:

Lackawanna County Agricultural Land Preservation Board  
c/o Lackawanna County Conservation District  
1300 Old Plank Road  
Mayfield PA 18433

Questions? or need additional information - contact:

Ellie Hyde, Administrator  
570-281-9495

**Appendix D - Farmland Ranking System Worksheet**

**Farmland Ranking System Worksheet**

Name of Applicant \_\_\_\_\_ Date \_\_\_\_\_

Location of site \_\_\_\_\_ Acres \_\_\_\_\_

Application # \_\_\_\_\_ Prepared by \_\_\_\_\_

**SITE ASSESSMENT**

<b>Development Potential</b>	<b>Score</b>
1. Availability of sanitary sewer and public water	_____
1a. For Municipalities <u>without</u> public sewer systems	_____
2. Amount of road frontage	_____
3. Extent of non-agricultural use in area	_____

**Total Development Potential Score** \_\_\_\_\_

**Farmland Potential**

4. Percent of farm used for harvested cropland, pasture, and grazing land	_____
5. Stewardship of the land	_____
6. Acreage of tract proposed for easement purchase	_____
7. Historic, scenic, and environmentally sensitive qualities	_____



***Easement Purchase Program***

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8. Capability of farm to generate annual gross receipts greater than \$25,000

\_\_\_\_\_

9. Farm owner/operator or leased/rented farmland

\_\_\_\_\_

**Total Farmland Potential Score** \_\_\_\_\_

**Cluster Potential**

10. Located within significant agricultural area

\_\_\_\_\_

11. Tract adjacent to farms with existing conservation easements

\_\_\_\_\_

12. Percent of adjoining land in an Ag Security Area

\_\_\_\_\_

13. Percent of land within 1/2 mile of agricultural or woodland uses

\_\_\_\_\_

**Total Clustering Potential Score** \_\_\_\_\_

**Lackawanna County Ag Land Preservation**

**LAND EVALUATION**

A Mapping Unit	B Acreage		C Relative Value	=	D
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____
_____	_____	X	_____	=	_____

Totals \_\_\_\_\_

Average Soil Value for Farm = \_\_\_\_\_  
(Total of D / Total of B)

**Total Land Evaluation Score** \_\_\_\_\_



**Appendix E - Appraisal Deposit Form**

Lackawanna County Agricultural  
Land Preservation Board

I/we \_\_\_\_\_ landowners of farm property consisting of \_\_\_\_\_ acres, located on \_\_\_\_\_ in \_\_\_\_\_ Township, Lackawanna County, Pennsylvania, and a qualified and approved agricultural conservation easement sale applicant, hereby request an appraisal by the Lackawanna County Agricultural Land Preservation Board. A deposit of \$500.00 accompanies this form. I/we understand that this deposit is retained by Lackawanna County only if a contract of sale is broken.

Signatures of Landowner(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_ Date: \_\_\_\_\_

Please make check payable to: Lackawanna County Treasurer  
Please submit this form to: Lackawanna County  
Agricultural Land Preservation Board  
c/o Lackawanna Co. Conservation District  
1300 Old Plank Road  
Mayfield PA 18433  
570-281-9495

Office Use:  
File Name or Number: \_\_\_\_\_  
Date Received: \_\_\_\_\_

**Appendix F**  
**State Board Review of a Purchase Recommendation**

**100. 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.

- (1) Twenty-five (25) copies of the summary report prepared in accordance with §138e.69 (relating to summary report), including the following items:
  - (i) A cover letter from the county (optional).
  - (ii) A narrative summary report.
  - (iii) A legible United States Geological Survey (USGS) topographic map showing the subject property location and boundaries, location of neighboring easements, and exclusions withheld from the subject property.
  - (iv) The Soil Report Form "C" (a form provided by the Department), both pages.
  - (v) The list of soil mapping unit names, symbols and land capability classes on the subject property.
  - (vi) A legible, uncolored soil map of subject property.
  - (vii) A 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.

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- (viii) A 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.
  - (ix) A copy of Exhibit "B," from the agreement of sale, modified to include interest, total acres and per acre easement cost.
  - (x) Twenty-five (25) copies submitted shall be individually collated and three-hole punched, but not stapled.
- (2) The appraisal reports.
  - (3) 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.
  - (4) The title insurance commitment.
  - (5) A letter certifying that the 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 copy of the notification letter and a list of the adjoining landowners.
  - (6) A completed and signed IRS Form W-9, Request for Taxpayer Identification Number of Certification for individual grantors.
  - (7) A letter from the grantors stating the percent of ownership of each grantor for the purpose of issuing IRS Form 1099.

**Appendix G**  
**Procedure For Inspecting And Enforcing An Easement**

**100. Responsibility.**

(a) The county board shall have the primary responsibility for inspecting restricted land and enforcing an easement.

(b) The State Board or its designee will have the right to inspect restricted land and enforce an easement on its own behalf or in conjunction with the county board.

**200. Inspections.**

(a) The county board shall inspect all restricted land within the county at least annually to determine compliance with the applicable deed of easement.

(b) Written notice of an inspection to be conducted under subsection (a) shall be mailed by certified mail to the owner at least 10 days prior to the inspection.

(c) Any inspection conducted under subsection (a) shall be performed between the hours of 8 a.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.

(d) Within 10 days of conducting an inspection under subsection (a), the county board shall prepare a written inspection report setting forth the following information:

1. The identification of the land inspected.
2. The name of the owner of the land at the time the easement was originally acquired and the name of the current owner.
3. 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.
4. A description of deviations of the conservation practices being observed on the restricted land.
5. A statement of whether the provisions of the deed of easement are being observed.

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(e) A copy of the inspection report shall be mailed by certified mail to the owner.

(f) 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.

### **300. Annual report.**

The county board shall file the following with the State Board by March 1 of each year:

(a) A copy of inspection reports for inspections conducted during the prior year.

(b) An annual report that summarizes the number of inspections, violations detected, violations resolved and the circumstances surrounding unresolved violations.

### **400. Enforcement.**

(a) The county board shall enforce the terms of each easement purchased within the county under the act, whether it be a county, State or joint purchase.

(b) The State Board may enforce the terms of State or jointly purchased easements.

(c) 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.

### **500. Notification to owner.**

(a) Within 10 days of the discovery of a violation of the terms of an easement, either through an inspection or otherwise, 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.

(b) The written notice required by this section shall be sent by certified mail and shall set forth the following information:

1. A copy of the inspection report.
2. A copy of the deed of easement.
3. A description of the action or condition that constitutes the alleged violation.
4. A statement of the measures necessary to correct the alleged violation.



**600. Enforcement actions.**

601. (a) Sixty days after the mailing of a notice of violation under section 500. (relating to notification to owner), the county board shall commence and prosecute an action in the Court of Common Pleas of the county in which the restricted land is located seeking an order requiring correction of the violation, enjoining further violation of the terms of the easement, and other appropriate relief, unless the county board does one of the following:
1. Determines with the State Board that the violation has been corrected.
  2. Completes the following requirements:
    - (i) Determines that the owner of the restricted land has commenced the necessary corrective measures, or determines that the necessary corrective measures cannot reasonable be completed within the 60 day period described in subsection (a).
    - (ii) Establishes a period not to exceed 1 year within which the corrective measures shall be completed.
- (b) The county board shall commence and prosecute the enforcement action described in subsection (a) if the violation is not corrected within the time established under subsection (a) 2. (ii).
- (c) The owner of the restricted land shall bear all costs associated with the correction of a violation of the easement, including:
1. Costs of work required and materials used to correct the violation.
  2. Administrative costs incurred by the county board and the State Board.
  3. Court costs and reasonable attorneys' fees incurred by the County Board and the State Board in enforcing the easement.
- (d) If the County Board fails to institute and prosecute a timely enforcement action, the State Board may institute the action and recover costs incurred, including reasonable attorneys' fees, from the county board or the owner of the restricted land, or both.

**Appendix H - Responsibility Of Owner**

**100. Permitted acts.**

During the term of the easement the restricted land shall be used solely for agricultural production or other uses permitted by the act.

**200. Conservation plan.**

(a) The county board shall require the owner of land being considered for agricultural conservation easement purchase to do the following:

(1) Before the county board recommends approval of the easement purchase to the State Board, obtain a conservation plan approved by the county conservation district of the county board for the land that would be subject to the agricultural conservation easement.

(2) As part of the settlement documents described in §138e.93 (relating to postsettlement recording and reporting procedures), execute a conservation plan agreement form containing the following:

(i) The name, address and telephone number of the landowners.

(ii) The location of the land.

(iii) The acreage of the land.

(iv) An acknowledgment that the deed of agricultural conservation easement requires that all agricultural production on the subject land be conducted in accordance with the conservation plan.

(v) An acknowledgment that a conservation plan exists with respect to the land, together with the following:

(A) The source of the conservation plan (typically, the county conservation district).

(B) An identifying number given the conservation plan.

(C) The date of the conservation plan.

(vi) The signature of the landowners.

(b) In addition to the requirements established by the county conservation district or the county board, the conservation plan shall meet the definitional requirements of a conservation plan in §138e.3 (relating to definitions) and also require that:

(1) The use of the land for agricultural production, such as growing sod, nursery stock, ornamental trees and shrubs does not remove excessive soil from the restricted land.

(2) The excavation of soil, sand, gravel, stone or other materials for use in agricultural production on the restricted land is conducted in a location and manner that preserves the economic viability of the restricted land for agricultural production.

(3) The mining of minerals is conducted only through the use of methods authorized in the act.

**300. Construction of buildings; changes in use.**

The construction or use of a building or other structure on the restricted land other than a building or structure existing on the date of the granting of the easement is prohibited, except that:

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

2. The construction of one additional residential structure is permitted under section 500. (relating to construction of one additional residential structure).

3. The construction or use of a building or other structure for agricultural production is permitted.

4. The replacement of a residential structure existing on the restricted land on the date of the granting of the easement is permitted.

**400. Construction of Additional Structures and Subdivision**

A. Authority - Authority for the provisions and requirement of this article are granted by the Agricultural Area Security Law (3 P.S. Section 901-915) as amended.

B. Definitions - Unless otherwise and expressly stated the following definitions apply to words, terms and phrases used in this article.

**Act, The** - The Agricultural Area Security Law (3 P.S. Section 901-915) as amended.

**County Board** - The Lackawanna County Agricultural Land Preservation Board, its officers or others authorized to act on behalf of the Board.

**District** - The Lackawanna County Conservation District.

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**Eased** - Protected against uses other than agriculture through the purchase of a conservation easement.

**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 other criteria set forth in Appendix K (relating to minimum criteria for applications) of this document.

**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 in Appendix K (relating to minimum criteria for applications) of this document, or to create, through subdivision, a 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 employees is permitted pursuant to Section 14.1(c) (6) (iv) of the Act (3 P.S. Section 914.1 (c) (6) (iv)), that would fail to meet the aforescribed 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 nonresidential 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 two 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)).

**Parcel** - All land defined by a single tax parcel number.

**Pennsylvania Municipalities Planning Code** - The Act of December 21, 1988 (P.L. 1329, No. 170) (53 P.S. Sections 10101-1 1201).

**State Board** - The Pennsylvania State Agricultural Land Preservation Board.

**Subdivision** - The division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions 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.

**Utility** - Any surface, subsurface or aerial transmission medium for electricity, oil, gas, water, sewage.

**500. Construction of one additional residential structure**

(1 ) General - In addition to structures existing on the eased land at the date of the granting of the easement, one additional residential structure may be constructed subject to the following conditions:

- 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 eased 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 additional residential structure and its curtilage occupy no more than two acres of the eased land.

(2) Replacement of Structures - The replacement of an additional residential structure constructed under authority of Section 14.1(c) (6) (iv) of the Act and this Section is permitted.

(3) Reservation of Right to Construct After Subdivision - If the eased 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 upon which the right to construct and use such a residential structure is reserved.
- b) Ensure that the deed to the subdivided tract upon which the right to construct and use such a residential structure is reserved clearly sets forth the reservation of this right.

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- c) Ensure that all deeds to remaining subdivided tracts recite that no such residential structure may be constructed on such remaining subdivided tracts.

### **600. Subdivision of Eased Land.**

(1) General - The following conditions shall apply to subdivision of lands eased through the Lackawanna County Agricultural Land Preservation Program whether the easement be held solely by the State, solely by the County, solely by a local government unit, or held jointly.

- a) The prohibitions, restrictions and conditions of subdivision of eased land as set forth in Section 600. (2) of this appendix shall be recited verbatim in the deed for all subdivided and remaining parcels.
- b) No restriction, prohibition, or condition of this appendix shall prevent a landowner from subdividing eased lands for the purpose of constructing one additional residential structure as authorized by Section 14.1 (c) (6) (iv) of the Act (3 P.S. Section 914.1 (c) (6) (iv)). Provided that such a subdivision complies with the conditions of Section 500 (1) of this appendix.
- c) All costs associated with subdivision shall be the responsibility of the landowner.
- d) Nothing in this section shall relieve the landowner of any municipal, county or state regulations, procedures or requirements necessary for the subdivision of land.

(2) Subdivision Restrictions - Except as provided for in Section 600 (1) (b) of this appendix, no subdivision of eased land shall be permitted unless all of the following conditions are met:

- a) Approval of a subdivision shall be requested, in writing, of and granted by the County Board and by the State Board.
- b) Subdivision shall not harm the economic viability, as defined in Section 400 B. of this appendix, of any parcel created by or remaining after subdivision.
- c) Each parcel created or remaining as a result of subdivision shall have all of the following:
  - i) Fifty percent (50%) of its soils in USDA Soil Capability Class I - IV.
  - ii) Fifty percent (50%) of its area utilized for crop or pasture land.
  - iii) Site characteristics (including but not limited to slopes, topography, shape, location of roads, streams, wetlands, ponds, access) that allow for practicality and reasonable efficiency of agricultural activity.

d) No parcel of less than 52 acres may be created by subdivision or shall remain after subdivision of the original parcel. A parcel of 10 acres or more is acceptable if it adjoins another preserved tract.

(3) Procedures and Requirements of Subdivision - Landowners proposing to subdivide eased land shall be subject to the following procedures and requirements.

a) Requests for subdivision approval shall be submitted, in writing, to the County Board in care of the District. Requests shall include the following maps, information, etc.

i) Written request for subdivision approval including description of subdivision and reason for subdivision.

ii) A map or sketch, at a scale sufficient to clearly show the following:

1) Location of cropland, pasture land, woodland and other lands.

2) Roads, streets, driveways, utility right-of-way, streams.

3) Location of existing buildings, sheds, barns, dwellings, and other structures.

4) Delineation of proposed subdivision.

5) Indication of which parcel either created by subdivision or remaining after subdivision on which the additional residential structure permitted by Section 14.1 (c) (6) (iv) of the Act (3 P.S. Section 914.1 (c) (6) (iv)) and this appendix may be constructed.

b) The County Board will note receipt of the request for subdivision approval at the next regularly scheduled meeting following the submission of the request for subdivision approval to the District.

c) The County Board may agree to permit a parcel of land subject to an Agricultural Conservation Easement to be subdivided after the granting of such easement after appropriate review as follows:

i) Upon receipt of the application, the County Board shall cause to be forwarded written notification thereof to the County Planning Office and County Farmland Preservation Office, herein referred to as the reviewing agencies. Each reviewing agency shall have 60 days from receipt of such notification to review, comment, and make recommendations on the proposed application to the County Board.

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- ii) After reviewing the application and the comments and recommendations submitted by the reviewing agencies, the County Board shall approve or reject the application to subdivide within 120 days after the date of its filing unless the time is extended by mutual agreement of the landowner and reviewing agencies.
- iii) If the application to subdivide land is approved by the County Board, a copy of the application, along with the comments and recommendations of the reviewing agencies, shall be forwarded to the State Board for review and approval or disapproval. When reviewing an application to subdivide land subject to an Agricultural Conservation Easement, the State Board shall consider only whether the application complies with the conditions under which subdivisions are permitted by the approved county program. The State Board shall notify the County Board of its decision regarding the application.
- iv) If the application to subdivide is rejected by the County Board, the application shall be returned to the landowner with a written statement of the reasons for such rejection. Within 30 days after the receipt of the statement of rejection, the landowner may appeal the rejection in accordance with 2 PA. C.S. Chapter 5 Subchapter B (relating to practice and procedure of local agencies) and Chapter 7 Subchapter B (relating to judicial review of local agency action).
- d) Failure of the County Board to render a decision to approve or disapprove a subdivision within the time frame described in Section 600 (3) (c) of this appendix shall constitute approval of request to subdivide provided that the parcels created by and remaining after subdivision comply with Sections 600 (2) (b), D (2) (c) and D (2) (d) of this appendix.
- e) Approval of the County Board, or failure to act by the County Board as per Section 600 (3) (d) of this appendix shall not be construed to provide approval of the State Board or any other Governmental Unit with authority to approve or disapprove subdivisions.
- f) Subdivisions approved prior to the construction of additional residential structure.
  - i) If County Board and State Board approval is granted for subdivision of eased land prior to the construction of one additional residential structure as permitted by Section 14.1 (c) (6) (iv) of the Act and this appendix, the landowner must do the following:



- 1) Ensure that the deed to the parcel created by or remaining after subdivision upon which the additional residential structure may be constructed clearly reserves the right to construct this residential structure.
- 2) The parcel for which the right to construct the allowed additional residential structure shall be the same parcel indicated in Section 600 (3) (a) (ii) (5) of this appendix.
- 3) Ensure that the deeds to all other parcels created by subdivision or remaining after subdivision clearly state that no residential structure of any kind may be constructed on the eased parcels.
- 4) Prior to recording deeds to parcels created by subdivision or remaining after subdivision, the landowner requesting sub-division approval shall forward copies of the deed for each such parcel for County Board review and approval.
- 5) Within 15 days of recording deeds to tracts created by subdivision or remaining after subdivision, the landowner at the time of subdivision shall forward a copy of all recorded deeds to all parcels created by subdivision or remaining after subdivision to the County Board in care of the Conservation District.

g) Recording of Article

- i) Upon approval of this appendix, Appendix H of the Program, by the County Board and State Board, or upon approval of the Program by the State Board, in which this appendix is included, the County Board shall record this section at the Lackawanna County Recorder of Deeds Office.
- ii) All deeds conveying an Agricultural Conservation Easement to the County of Lackawanna, the State of Pennsylvania, or to both the County and State jointly shall incorporate, by referencing the location of such filing, the provisions of this appendix into the deed.

**700. Change in ownership.**

In accordance with 14.1 (j) (2) of the Act (3 P.S. 914.1 (j) (2)), the county program requires a person conveying or transferring land subject to an agricultural conservation easement to, within 30 days of the change in ownership, notify the

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county board and the Department 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.

In accordance with 14.1 (j) (1) and (3) of the Act (3 P.S. 914.1 (j) (1) and (3)), the County Program requires that:

(1) Whenever interest in land subject to an agricultural conservation easement is conveyed or transferred to another person, the deed conveying or transferring such land shall recite in verbatim the language of the easement as set forth in the deed executed in connection with the purchase of the agricultural conservation easement; and that,

(2) Notwithstanding any other provisions of law to the contrary, the restrictions set forth in a deed executed in connection with the purchase of an agricultural conservation easement shall be binding on any person to whom subsequent ownership of the land subject to the easement is conveyed or transferred.

## **Appendix I - Deed of Agricultural Conservation Easement**

### **100. 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, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than fifty percent of such processed or merchandised products are produced on the subject land (hereinafter "agricultural production"). For purposes of this Deed, "crops, livestock and livestock products" include, but are not limited to:

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

(ii) Fruits, including apples, peaches, grapes, cherries and berries;

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(iii) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms;

(iv) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers;

(v) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs and furs;

(vi) Timber, wood and other wood products derived from trees; and

(vii) Aquatic plants and animals and their byproducts.

Except as permitted in this Deed, neither Grantor nor his agents, heirs, executors, administrators, successors 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.

### Construction of Buildings and Other Structures

The construction or use of any building or other structure on the subject land other than as existing on the date of the delivery of this Deed is prohibited except that:

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

(ii) The construction of one additional residential structure is permitted if;

(A) The construction and use of the residential structure is limited to provide housing for persons employed in farming the subject land on a seasonal or full-time basis,

(B) No other residential structure has been constructed on the restricted land at any time since the delivery of the Deed,

(C) The residential structure and its curtilage occupy no more than two acres of the subject land, and

(D) The location of the residential structure and its driveway will not significantly harm the economic viability of the subject land for agricultural production.

(iii) The construction or use of any building or other structure for agricultural production is permitted.

(iv) The replacement of a residential structure existing on the restricted land on the date of the granting of the easement is permitted.

Subdivision

The subject land may be subdivided in accordance with Sections 400, 500, and 600 of Appendix H. If the subject land is subdivided, the Deeds to all of the subdivided parcels shall state on which of the subdivided parcels the residential structure permitted by this Deed may be constructed. Deeds to all other parcels shall recite no residential structure is permitted.

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

## **Lackawanna County Ag Land Preservation**

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owner of the subject land or the owner of the under-lying 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 coal, oil or gas are permitted.

Rural Enterprises - Customary part-time or off-season minor or rural enterprises and activities that 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:

(i) The use of the land for growing sod, nursery stock, ornamental trees, and shrubs does not remove excessive soil from the subject land, and

(ii) The excavation of soil, sand, gravel, stone or other materials for use in agricultural production on 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 Deed 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 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.

(5) 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 owner-ship of the subject land. Such notification shall set forth the name, address and telephone number of the Grantor and the party or parties to whom ownership of the subject land has been conveyed or transferred. This obligation shall apply to any change in ownership of the subject land.

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The restrictions set forth in this Deed shall be included in any Deed purporting to convey or transfer an ownership interest in the subject land.

(6) A habendum clause.



**Appendix J**  
**Significant Agricultural Areas in Lackawanna County**

Please refer to pocket for map illustrating the significant agricultural areas in Lackawanna County.

**Appendix K - Minimum Criteria for Applications (138e.16)**

(a) The county program shall consider the quality of the farmland tract, including the USDA-NRCS classification and productivity. The farmland tract shall:

- (1) Be located in an agricultural security area of at least 500 acres.
- (2) Be 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.
- (3) Be 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:
  - (i) A mansion house is on the tract and located within the purchasing county.
  - (ii) When the mansion house on the tract is bisected by the dividing line between two counties, the landowner has chosen the purchasing county as the situs of assessment for tax purposes.
  - (iii) 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.
- (4) Contain at least 50% of soils that are available for agricultural production and are of capability classes I through IV, as defined by the soil surveys published by the USDA-NRCS.
- (5) Contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing lands.
- (6) Be contiguous acreage of at least 50 acres in size unless the tract is at least 10 acres in size and is either utilized for 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 171 (h) (3) of the Internal Revenue Code. 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, purports, 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.

**County Minimum Criteria**

- (1) Only perpetual conservation easements will be purchased.
- (2) The maximum easement price that the County Board will pay is \$2,500 per acre.
- (3) Any offer to sell a perpetual easement at a price less than the appraised value may qualify as a conservation contribution.
- (4) The county program shall consider the likelihood that a farmland tract will be converted to nonagricultural use.
  - (a) In determining the likelihood of nonagricultural use, consideration shall be given to the following factors:
    - (i) The developmental pressures in the area.
    - (ii) Suitability of the farmland tract for development because of soil capabilities, location and configuration.
    - (iii) Preexisting perpetual restrictions against development.
    - (iv) Location in an area identified by the county board of the county or township comprehensive plan as desirable for agricultural use.
  - (b) A county program may contain standards that target easement purchases to areas given priority for farmland protection. If adopted, the standards shall be specified in the county program and reflected in the numerical ranking system.
- (5) The County program shall consider and address the extent to which the applicant has demonstrated good stewardship of the land, use of conservation practices and best management practices, including soil erosion and sedimentation control and nutrient management.

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(6) The county program may contain standards that consider the cost of the easement when selecting farmland tracts for easement purchase. If adopted, the standards shall be specified in the county program and reflected in the numerical ranking system.

(7) The county program may contain additional criteria to evaluate farmland tracts if the criteria are fair, objective, equitable, nondiscriminatory and emphasize the preservation of viable agricultural land that will make a significant contribution to the agricultural economy, and are approved by the State Board. The criteria may include:

(A) The amount of crops, livestock and livestock products supplied to the area food processing industry.

(B) The amount of crops, livestock and livestock products supplied to direct markets or farm markets.

(C) The adequacy of the water supply for crop irrigation, or presence or an irrigation system.

(D) The number of farms in a stipulated radius.

(E) The gross receipts of crops, livestock and livestock product sales from the farmland tract.

(F) The total acres of cropland and percentage of the total farm cropland offered for purchase.

(G) The total acreage in the application, and the percentage of the total acreage that is prime and important farmland as defined by the USDA-NRCS.

(H) The number of acres leased to support another farm.

(I) The availability of farm supplies and services.

(J) The proximity of the farmland tract to other land subject to limitations on development as a result of public regulation, such as zoning, land use restrictions or permanently protected open space.

(K) The importance of the farmland tract to the agricultural security area.

(L) The proximity of the farmland tract to other agricultural security areas.

**Appendix L - Offer of Purchase by County Board (138e.65)**

(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 or 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 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, a state-certified general real-estate appraiser to determine the easement value. The appraiser shall be qualified and the appraisal shall be completed, under this chapter. The appraisal shall be submitted to the county board within 120 days of receipt of the county board's offer to purchase. Upon completion, three copies of the applicant's appraisal shall be submitted to the county board. 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 (c)(3)(ii) or rejected by the applicant under subparagraphs (c)(3)(iii) or (c)(3)(iv).

(i) 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:

(A) The agricultural value shall equal the sum of:

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- (I) The farmland value determined by the applicant's appraiser.
- (II) 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.

(B) The nonagricultural value shall equal the sum of:

(I) The market value determined by the county's board's appraiser.

(II) 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.

(ii) Within 30 days of receipt of the applicant's appraisal, the county board shall:

(A) Submit a written offer to purchase in an amount in excess of the amount offered under subsection (B) to the applicant; or

(B) Notify the applicant, in writing, that the offer made under subsection (B) remains open and will not be modified.

(iii) The applicant shall, within 15 days of receipt of the county board's written offer under subsection (C)(ii)(A) or receipt of the county board's written notice under subsection (C)(ii)(B) notify the county board in writing that the applicant either:

(A) Accepts or rejects the offer made under subsection (c)(ii)(A); or

(B) Accepts or rejects the offer made under subsection (b).

(iv) The failure or the applicant to act as set forth in subsection (c)(iii) shall constitute a rejection of the county board's offer.

(v) If the offer of purchase is accepted, the county board and the applicant shall enter into an agreement of sale containing the same requirements and subject to the same conditions as set forth in Section 138.e.65(c)(1).

(4) The failure by the applicant to act within 30 days of receipt of a written offer under subsection (b) shall constitute rejection of the offer.

(d) An agreement of sale shall be in a form provided by the State Board.

**Appendix M - Resolution of County Commissioners**