

**Q22-7262NF ACE FISHING PROGRAM REQUEST FOR INFORMATION - TRACKER**

SUPPLIER QUESTION		NYPA RESPONSE
Monday, March 28, 2022		
1	<p>~ Signage</p> <p>Will the NYS DEC provide signage to clearly mark participating creek frontage? or- Will the NYS DEC place the burden of posting, and maintaining, of creek frontage signage on the backs of non-participating property owners?</p>	<p>DEC will provide signage for participating landowners and list participating properties on its website. Landowners are responsible for posting private property.</p>
2	<p>~Enforcement</p> <p>What plans does the NYS DEC have to update local law enforcement agencies on the distinction between the rights of property owners and sportsmen on participating and non-participating properties?</p> <p>What fines and other penalties can non-participating property owners expect local law enforcement agencies to place on sportsmen that disrespect the non-participating creek frontage?</p>	<p>Fines and penalties for trespassing do not change and enforcement is the responsibility of DEC conservation officers and local law enforcement.</p>
3	<p>Is there a set ACE size you are looking for or is a size required?</p>	<p>The program is flexible and not a boilerplate approach. The amount of land included in the easement and the rights conveyed will be negotiated for each property based on program priorities, property characteristics, and landowner priorities.</p>

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4	Will the public have access through my property, say they park in front of my house and cross my yard to reach the stream, is this allowed?	Each ACE will be different and is negotiated directly with the owner. The area we are focused on is along the stream. If you do not want anglers or DEC accessing the stream from your front or side yard, the easement can be limited to the stream frontage. If you are interested in providing access to the stream from another point on your property, we would be willing to discuss it. If prohibiting public access but allowing DEC access from another point on your property were of interest, we would be willing to discuss this as well.
5	How does the ACE program differ from DEC's existing Public Fishing Rights (PFR) program?	The existing PFR program has predetermined rights that convey with each PFR as well as a predetermined fee scheduled based on linear feet of stream frontage and square footage regardless of the location. The ACE program is different as the rights to be conveyed are negotiable. Additionally, the value of the easement under the ACE program will vary by property. Each easement will be appraised, with the value specific to the rights conveyed within each easement.
6	What if I have a mortgage on the property being offered for inclusion in the program?	The NY Attorney General's office provides final approval and title certification for every acquisition, and it is their standard process to ask the landowner to either resolve (pay off) a mortgage, so the lien is removed or for the bank to subordinate the mortgage to the state easement. We will discuss the options and requirements with any RFEI participant selected to advance in the ACE Program. In short, it can be a 'hiccup' in the process, but we will not exclude a property solely because there is mortgage on the property.

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7	Who is liable for public use of the easement, i.e., who is responsible if someone gets injured while using the easement?	Liability will be the same as all state lands in the sense New York State is self-insured and if there is someone using state property including where an access or conservation easement lies, or if NYS owns the property free and clear (such as a wildlife management area), so long as the individual was using the property for what it was intended for, the State would be the liable party. But every situation is different and the issue will be further discussed during negotiations. In general, the landowner who sells an ACE should not be held liable for things such as a trip and fall.
8	If we are not selected for inclusion in this RFEI, is this our only opportunity?	It is important to know this is a multi-year program, if you are not selected in this RFEI, you can submit on any future RFEIs. But please note, you will have to file a response to any new RFEI as we are not able to carry the responses into the next RFEI.
9	What protections are provided for trespassing either from the easement area or from a neighboring property participating in the ACE Program?	The general location of ACE Program easements will be provided on the DEC website so users will be able to locate them as well as their approximate limits. That said, use of an ACE Program easement does not entitle the public to use any other part of your property not included in the Program or to use any part of your property if you are not part of the Program. Enforcement of trespassing regulations will be addressed as any other trespassing issue, either through local law enforcement or DEC Conservation Officers.

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10	Will the easements involve 'hard' preservation methods such as rock walls, etc.?	Most likely walls would not be used for armoring streams from erosion. There are certain situations which require walls but we plan to avoid those methods wherever possible. We prefer to use methods that improve habitat; much more 'soft' methods for armoring.
11	What other environmental rights are you looking to include in the easements?	It will depend on the land use. For example, in agricultural areas, we will be looking at a buffer for agricultural spray applications between the field and the stream. If fields are plowed right up to the bank, we would anticipate adding a buffer between the plowed field and the stream. Buffers would likely include tree planting to firm up the shoreline and provide shade to the stream. If the slope is steep, we might look at plantings or other stream bank stabilization methods to reduce erosion potential.
12	The RFEI mentions timber rights, are you anticipating timber rights for the entire property?	No, each property would be looked at individually, but we do not anticipate requesting timber rights for the whole property. We may buy timber rights to a section where cutting trees would impact the stream health, such as on a steep slope.

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13	Is there a duration to the easement or is it perpetual?		The easement is a permanent easement and will be recorded on the title and deed, running with the property.
14	Can a landowner with property in the easement still use the stream and associated lands privately?		The area conveyed as an easement will be open to the public, including the landowner. The remainder of the property not conveyed in the easement is owned by the landowner and retains all rights for private use.
15	Who hires the appraiser?		NYSDEC will hire the appraiser and the appraisal will be paid for by the Program.

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16	What happens if the program does not go well?	The RFEI is the first of, potentially, several. We have had significant interest shown so far and anticipate having multiple properties advance to negotiations/discussions from this RFEI. Should the program not receive sufficient response or easements being acquired, we have the ability to make minor changes to address those issues.
17	If there is no walkway or existing path by the water, who pays to have one installed?	The plan is to use the 'rustic' approach. There will be areas that are tended but we prefer not to install anything like a walkway that would require ongoing maintenance.
18	We know the one time payout varies by property, but what is an example of a one time payment amount?	The Program is brand new, so at this point we do not have an example payment amount. We anticipate the payments will be higher than those paid through the PFR program, but this is the first RFEI so we do not have any properties that have advanced that far in the program.

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19	Do you have any areas that you are targeting with this RFEI?	Other than the areas described in the RFEI, we are not targeting specific areas or properties. We will review all RFEI responses and select properties individually.
20	What is the timeframe to complete the easement and for the landowner to receive the payment?	It depends on the terms and title review but generally we anticipate 16 to 18 months from the time negotiations begin.
21	On our property the stream is pretty far back, so is the public access limited to the water or are other parts of our property included, i.e. would people be able to walk across our property all the way to the creek?	If the easement negotiated to and agreed to is just along the stream, anyone using any other part of your property not included in the easement would be trespassing. Since the program is flexible and if your frontage can only be accessed through another part of your property and you are agreeable, the easement could extend to the nearest public right of way and could include public access or just DEC access depending on what the landowner is willing to discuss.

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22	Will you be managing the current effluent sources of pollution?	If this is related to point sources such as factories, wastewater treatment plants, and things like that, they are currently managed by DEC's Division of Water. For erosion or sediment coming in over a large area that is also regulated and protected by DEC's Division of Water, so this program would not have anything to do with either source. If the ACE includes a steep slope which sees a lot of stormwater runoff, we would be looking to do some conservation work to better stabilize the bank by planting trees and shrubs so in a sense the Program can help with some of these areas.
23	We have been told that people have historically hunted deer and other game on our property, does the Program impact that?	The Program will not change any use legal on the property outside of the ACE. It would be up to the landowner to police their property if they do not want to allow uses such as hunting.
24	Can the public moor a boat on the waterway adjacent to the easement property?	Mooring rights are not being considered in this Program, it is more directed to stream bank fishing.



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25	If access is allowed, will the stream banks be cleaned up from debris?	Cleanup of downed trees, etc. unless there are extenuating circumstances will remain the responsibility of the landowner. DEC will have the right but not the obligation to remove downed trees. Litter along the ACE can be reported to DEC Conservation Officers. You would be encouraged to post private property signs at the edge of the ACE to reduce or prevent trespassing on your property, anyone trespassing outside of the ACE can be reported to DEC Conservation Officers.
26	Do you know the typical property tax impact as it relates to the property assessment?	Property Taxes are determined through the assessment process. How an ACE impacts the property tax liability is a direct result of the assessment process. Typically, if you agree to an ACE, some of your rights would either be extinguished or diminished and therefore would impact value and the value would have to be determined by the assessor potentially changing your tax liability.
27	Is the amount you receive from the State for the ACE taxable and do you have an approximate number for that?	It depends on your filing status for the amount. If you sell your land in fee, any income generated is taxed accordingly but that is specific to the individual filer.

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28	If a landowner does not want to include all of their stream frontage in the ACE Program, would it still be possible to participate in the Program?	Each landowner will be part of a separate negotiation, the rights or frontage they are willing to sell will be negotiated. Rights to only a portion of frontage will not preclude a landowner from participating in the Program. It should be noted the main goal of the Program is to secure public access to the stream and provide habitat protection or improvement and is not contemplating an easement over the entire property. Other ancillary access such as parking can be part of the negotiation but are not the Program's main objective.
29	What is the general dimensions of the ACE you will be looking to obtain?	In the standard PFR program it is 33 feet but the ACE program is different and the width requested will be different. The ACE will look at the topography and habitat. If it is really steep slopes with bare ground, we may ask for a wider buffer. If it is a flat and heavily wooded riparian area, it may be less. It will also be dependent on what the landowner is willing to negotiate.
30	How does the Program treat items that are already installed that would be in the easement area such as a staircase down to the waterway and/or docks?	Existing uses can be a reserved right to the landowner, it would not be in our interest to deny access to the stream. It would be discussed on a case by case basis.

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31	We enjoy walking along the edge of the creek, would our ability to walk the creek change with the Program.	No, if you are part of the Program, all the public, the current landowner included, will have access to the streambank. If it is not part of the Program, your rights as a landowner remain.
32	My neighbor on one side owns the stream corner on the other side of my property, do I have to give people access to my yard to fish?	If you are part of the Program, the public will only have access to the property an easement is provided for, the remainder of your property remains your private property. If you choose not to participate in the Program, the public does not have the right to cross your land to access an ACE.
33	At our property, we shoot guns off the deck so we watch for people coming onto our property and do not allow hunting or fishing unless they ask permission because we do not want to be responsible for somebody getting hurt on our property. Does this change things?	This is a public fishing rights program and includes rights to do certain conservation activities within the stream. The public access is meant for someone fishing past the property on or in the stream. It is designed to allow the angler the ability to get out of the stream to land a fish or take a break. Unless an ancillary use is included such as a footpath from a road to a stream or a parking lot, the public does not have the right to access any other portion of the property. We encourage all private landowners to post your property as such to keep the public within the ACE.