

Maryland Agricultural Land Preservation Foundation



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Five-Year Annual Report
Fiscal Years 2003-2007

The Maryland Agricultural Land Preservation Foundation

Five-Year Report for FY 2003 through FY 2007

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MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

January 10, 2008

The Honorable Martin O'Malley, Governor
The Honorable Thomas V. Miller, Jr., President of the Senate
The Honorable Michael E. Busch, Speaker of the House

Gentlemen:

We are pleased to present the Five-Year Report of the Maryland Agricultural Land Preservation Foundation for Fiscal Years 2003 through 2007. Maryland is a national pioneer and leader in land preservation, and the Foundation's program represents the core of the State's preservation efforts. The Foundation was created thirty years ago in 1977 to implement one of the first state farmland preservation programs in the country. Combining the Foundation's and other State programs and the local programs of county partners, Maryland has preserved more prime farmland than any other state in the Union. Maryland continues to make progress towards its land preservation goals.

As of September 30, 2007, the Maryland Agricultural Land Preservation Foundation purchased or has offers pending to purchase perpetual preservation easements on 1,933 farms, totaling 265,691 acres. Since the FY 2002 Annual Report, the Foundation purchased or acquired an option to purchase an additional 382 perpetual preservation easements on approximately 48,230 acres.

The Foundation's mission is to perpetuate a viable agricultural industry and help curb sprawl development by preserving a critical mass of Maryland's productive farmland. With the strong support of the Governor's Office, the General Assembly, the agricultural community, and Maryland's citizenry, we will continue our efforts by focusing on protecting the best quality farms, building on existing preservation areas to increase the size of contiguous blocks of preserved farmland, and finding additional incentives to bring critical farms into the Program. With the Foundation's county partners, we will work to maintain the agricultural support structure and direct development away from agricultural areas.

Your continued support allows us to protect more of this precious land as development pressures increase. Once farmland and woodland are lost to development, they are unlikely ever to return to productive agricultural use. We thank you for your past support, and we ask for your continued support into the future.

Sincerely,

Daniel W. Colhoun
Chair, MALPF Board of Trustees

Roger L. Richardson
Secretary of Agriculture

James A. Conrad
Executive Director

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The map of Maryland's protected lands was produced by Graham Petto of the Maryland Department of Planning; both maps are provided for illustrative purposes only.	

Updated and Supplemental Information Online

Current Fact Sheets about the MALPF Program http://www.malpf.info/facts.html
Maryland Annotated Code Applying to MALPF http://www.malpf.info/laws.html
Code of Maryland (COMAR) Applying to MALPF http://www.malpf.info/laws.html
Schedule and Agendas for MALPF Board Meetings http://www.malpf.info/agendas.html
Minutes of MALPF Board Meetings http://www.malpf.info/minutes.html
MALPF Model Deeds of Easement http://www.malpf.info/laws.html
MALPF-related Reports http://www.malpf.info/reports.html
MALPF Forms http://www.malpf.info/forms.html
Rural Legacy Program, Department of Natural Resources http://www.dnr.state.md.us/rurallegacy/index.asp
Farm and Ranch Lands Protection Program, USDA http://www.nrcs.usda.gov/programs/frpp/
Maryland Agriculture and Resource Based Industry Development Corporation http://www.marbidco.org
Maryland General Assembly – Information on Legislation http://mlis.state.md.us

Maryland Department of Natural Resources Maryland's Protected Lands Data
<http://dnrweb.dnr.state.md.us/gis/plreports/report.asp>

Maryland StateStat
<http://www.gov.state.md.us/statestat/index.asp>

Maryland BayStat Chesapeake
<http://www.baystat.maryland.gov/>

MALPF County Program Certification Reports
<http://www.malpf.info/certification.html>*

Most Recent MALPF Easement Participation and Acquisition Data
<http://www.malpf.info/data.html>

Current Board of Trustees Membership
<http://www.malpf.info/board.html>

Current MALPF County Program Administrator Contact Information
<http://www.malpf.info/PAcontact.html>

Maryland Environmental Trust
<http://www.dnr.state.md.us/met/>

The Maryland Environmental Trust's Land Conservation Center
<http://www.conservemd.org>

* Still to be implemented as of the publication of this report.

Program Overview

Introduction

The Maryland Agricultural Land Preservation Foundation (MALPF) was created in 1977 by the Maryland General Assembly and is an agency within the Maryland Department of Agriculture. The Foundation purchases agricultural preservation easements that forever restrict development on prime farmland and woodland. MALPF settled on its first easement in October 1980. In 2007, MALPF celebrates its 30th year since it was created by an Act of the General Assembly and approved by the Governor of Maryland.

Including FY 2007 funds, MALPF has now cumulatively purchased or has a pending contract to purchase permanent conservation easements on 1,933 farms with 265,691 acres. The Foundation has preserved farmland in each of Maryland's 23 counties. Today, the Foundation manages a public investment of almost \$500 million dollars in permanently preserved land, valued at over \$1.5 billion at current acquisition costs. The Maryland Agricultural Land Preservation Foundation is one of the oldest and most successful programs of its kind in the nation. Through MALPF, the State's Rural Legacy and GreenPrint Programs, and the county farmland preservation programs, Maryland has preserved more productive farmland in perpetuity than any other state in the country (now approaching 500,000 acres, 8% of the State's land base).

The mission of the Foundation is to preserve productive farmland and woodland for the continued production of food and fiber for all present and future citizens of the State. The preservation of agricultural land helps to curb the expansion of random urban development, protects wildlife habitat, and enhances the environmental quality of the Chesapeake Bay and its many tributaries.

Program Administration

The Maryland Agricultural Land Preservation Foundation is governed by the Agriculture Article, §§2-501-2-515 of the Annotated Code of Maryland. A twelve-member Board of Trustees and a staff of seven administer the Program. The Board includes the Secretaries of Agriculture and Planning and the State's Treasurer and Comptroller, all of whom serve as *ex-officio* members. The other eight members of the Board serve "at-large" and represent various regions of the State. These eight members are appointed by the Governor and serve a term of four years. At least five of the at-large members are farmer representatives of whom three represent the Maryland Agricultural Commission, the Maryland State Grange, and the Maryland Farm Bureau. The Governor appoints the Chair of the Board of Trustees from among the eight "at-large" Board members.

Responsibilities of the Foundation's Board of Trustees include providing information to landowners and other Maryland citizens; offering assistance to the twenty-three Agricultural Land Preservation Advisory Boards; developing, applying, and evaluating Program rules, regulations and procedures; reviewing and approving District Agreements; and acquiring, by purchase or donation, agricultural land preservation easements on productive agricultural land.

The Program is based on a partnership with local governments. Each local government appoints a five-member (in Worcester County, a seven-member) agricultural land preservation advisory board to assist the Foundation by providing information about the Program; assisting with the creation of Program rules, regulations and procedures; creating agricultural land preservation districts, and setting priorities in the purchase of perpetual

easements. No district petition or easement purchase is approved by MALPF that has not already been reviewed and approved by the county in which the property is located.

Each county also has a county employee designated to be the program administrator to act as the primary contact with and liaison between the agricultural community and the Foundation. County program administrators also have day-to-day responsibility for monitoring MALPF properties, helping landowners prepare applications and subsequent requests, and advising landowners on MALPF and other programs available to help landowners seeking to preserve their properties.

Eligibility Requirements

The central long-term objective of the Program is to preserve enough prime farmland in perpetuity to guarantee the continuing vitality of Maryland's agricultural industry. Landowners voluntarily offer restrictive easements to be purchased by the Foundation on their properties.

To qualify for participation in the program, a property must meet minimum size, soil productivity, and location criteria.

- The property must be at least fifty contiguous acres in size. A property smaller than fifty acres may qualify to participate if it meets certain requirements or is adjacent to land already enrolled in the Foundation's Program or a program with similar restrictions, and together they compose a contiguous block of protected land of fifty acres or more.
- The property must contain at least fifty percent of its soils classified as USDA soil capability Class I, II, or III and/or Woodland Group 1 or 2. Soils with these classifications are considered prime and are capable of producing agricultural commodities with reasonable yields and returns to ensure continuing profitability.
- The property must be outside any ten-

year water and sewer service plan, unless it is documented to have extraordinary productive capability and is of significant size.

Until July 1, 2007, a landowner with an eligible parcel would petition the county to create an *agricultural preservation district*. A district is land on which the owner is willing to commit to agricultural use for a minimum of five years by recording a District Agreement with the Foundation recorded among the county land records restricting the subdivision and development of the land and preventing commercial, industrial, or residential use during the term of the Agreement. Under the Agreement, farm and forestry production is encouraged and protected.

The district commitment established the property's eligibility and was a precondition for the owner to sell a permanent agricultural conservation easement to the Foundation until July 1, 2007. With House Bill 1331 (2007 Legislative Session), counties now have the option to require a two- to ten-year county District Agreement as a precondition for approval of an application to the Foundation or require no district commitment at all. State agricultural districts are being phased out and will no longer be a requirement for participation in the MALPF Program unless required by the county in which the farming property is located.

Some county partners also offer tax credits for landowners who record District Agreements on their land. Recognizing agriculture as the preferred use of the property by the county in a document recorded among the county land records may bolster any case a landowner undertaking normal agricultural activities can make against nuisance suits.

Landowners in the Program

Owners of eligible farmland and/or woodland can sell an agricultural conservation easement (also known as an agricultural land preservation easement) on their properties to ensure that the properties remain in agriculture

forever.

A *conservation easement* is a legal contract between a landowner and a public agency such as MALPF or a private land trust or conservancy that provides for the perpetual preservation of the landowner's property by restricting or prohibiting certain activities and structures. After signing, the agreement is recorded in the local county courthouse so that all future owners of the property will be aware of the easement and will be bound by its terms and provisions.

Selling an easement primarily extinguishes the right to develop the property, with some exceptions. Landowners continue to own the property. It may be bought, sold, leased or inherited without interference, as with all other land, but always subject to the recorded restrictions. MALPF, in purchasing the easement, agrees to monitor the property forever to ensure compliance with the terms of the easement. No public access is required by such an easement.

Landowners have sold their easements for many purposes, including:

- To finance the purchase of the farm or additional farmland;
- To fund retirement;
- For estate planning and settlement;
- To finance the improvement of an existing farming operation;
- To invest in the production and marketing of new farm products;
- To finance the restoration of an historic home; and/or
- To pay down existing debt.

Selling an Easement

Once the agricultural land preservation district has been established, the landowner is eligible to apply to sell a permanent easement to the Foundation. (After July 1, 2007, a landowner may apply without having established an agricultural land preservation district, depending on county requirements.) Easement purchases are made through a com-

petitive application process. MALPF and local governments rank properties relative to other properties applying to the Program and makes offers based on available funding.

When applying to sell an easement to the Foundation, landowners must include their *asking price*. The maximum amount that MALPF can pay for an easement is the landowner's asking price or the easement value, whichever is lower. A property's *easement value* is determined by subtracting its *agricultural value* from the appraised fair market value. (See the Easement Value Formula text box below.)

Depending on the location of the property, the Foundation has in recent years paid from \$800 to more than \$10,000 per acre for agricultural preservation easements. Those who sell an easement for less than the full easement value may qualify for certain tax benefits.

Until the 2005 easement acquisition cycle, counties could choose whether to have their applicant pool ranked by a local prioritization method approved by the Foundation or by the traditional ranking methodology based on discounting used by the Foundation. Starting with FY 2005 easement acquisition cycle, county ranking systems follow State guidelines emphasizing the quality of the property and the importance the preservation of that property may be to a county's land-use plan. While counties can still incorporate discounting as an element of local ranking system, discounting alone cannot be the basis for ranking applications. (See the State ranking guidelines in a later section of this report.)

The Foundation continues to use the traditional ranking method based on a discount ratio for any offers made during the second statewide round, when the county allocation of funds has been exhausted. Properties are ranked by a ratio determined by dividing the landowner's asking price by the appraised easement value. A ratio of less than 1.0 indicates that the landowner is willing to sell an easement for less than the appraised easement

value, letting MALPF purchase the easement at a discount. The landowner who offers the best discount to the State is ranked first. Discounting maximizes the number of easement acres the State can acquire during the second round.

The Foundation's offer to purchase an agricultural land preservation easement on any property depends on county approval and prioritization of the application to sell an easement, available funds, and approval from the Maryland Board of Public Works.

Offers are generally made to landowners starting March or April to the end of the fiscal year, following the application deadline of the first day of that fiscal year, July 1. Settlement generally takes place two to eight months after is accepted by the landowners. Settlement may take longer if survey work is needed, acreage must be verified, additional owner signatures are needed, financial institutions or third party interests are discovered, or unforeseen title problems are identified. The Foundation continually evaluates ways to shorten the time to go to settlement.

Since 1985, the Foundation has required a Soil Conservation and Water Quality Plan for each property submitted for easement sale. The required plan identifies existing erosion and water quality problems on the land and recommends best management practices or other conservation measures necessary to address them and a schedule for implementation. The landowner is responsible for implementing the plan according to the schedule contained within the plan if an easement is purchased on the property. The implementa-

tion responsibility is included in the recorded Deed of Easement as a special condition. The amount of land protected from erosion is increased, potential yield is protected, and the flow of sediment into neighboring streams, rivers, and ultimately the Chesapeake Bay is reduced or eliminated.

A Forest Stewardship Plan is required prior to settlement of the easement on properties having 25 or more contiguous acres in woodland. Though properties are not currently required to be in compliance with the Nutrient Management Program before an agricultural preservation easement is settled, such a requirement could be adopted in the near future.

Once an agricultural land preservation easement is purchased by the Foundation, the property is protected from further development. The landowner who originally sold the easement may retain certain rights on the property. This landowner can construct a house for his or her personal use and/or the use of the children, subject to certain restrictions (such as location review), density requirements, and county approval. Easements sold by non-family corporations retain the right to construct an owner's house on the property as long as the corporation or the property does not transfer. Non-family corporations do not retain the right to construct houses for the use of children. As of October 1, 2003, a landowner may choose one unrestricted lot whose dwelling right will survive the sale of the farm, or up to three family lots (owner and children), dwelling rights that do not survive the sale or transfer of the property.

Easement Value Formula:

Appraised Fair Market Value (less) Agricultural Value (equals) Easement Value		
The appraised fair market value is determined by the better quality of at least two appraisals conducted by the State and any appraisal submitted by the landowner if included with the application.	The agricultural value is determined by a statutory formula that calculates a land rent based on soil productivity OR the 5-year average cash rent in the county, whichever is lower.	The easement value establishes the maximum compensation a landowner can be offered by the Foundation to purchase an agricultural land preservation easement.

Applications to Sell Easements

The Maryland Department of General Services contracts with two independent fee appraisers to estimate the fair market value of each approved applicant's property, not including improvements. Properties with fewer than 50 acres were appraised as if they were part of a 50-acre parcel.

The Office of Real Estate in the Department of General Services reviews each appraisal and recommends to the Foundation the appraisal that best represents the property and adheres to the appraisal specifications set by the Foundation and included in its contract agreement with the appraiser.

The number of applications submitted to sell easements to MALPF varied widely over the five years of this report, FYs 2003-2007. The number of applications was particularly affected by the limited availability of funding during most of this period. Landowners were less willing to commit to a five-year District Agreement limiting the options available for their farms when so much funding uncertainty existed because of the State's fiscal problems.

As a result of the 2006 Legislative Session, MALPF Program funding returned to normal. Foundation staff held meetings statewide to solicit potential applicants. Applications returned to the high pre-fiscal crisis levels, reaching a projected record for the FY 2008 easement acquisition cycle of 462 applications. These applications are currently under review.

FY 2003 Easement Offers

The Foundation received 356 applications to sell an easement for the FY 2003 Easement Acquisition Program. Of the properties submitted for consideration, 304 farms were approved and appraised for possible easement sales.

In FY 2003, the Foundation made 122 easement offers accepted by landowners ap-

plying in the FY 2003 Easement Acquisition Program. Of those offers, 117 were standard MALPF offers and five were offers funded by the GreenPrint program.

The Foundation acquired these easements at a combined discount of \$12,756,514 below the total combined easement values due to competitive bidding for FY 2003. The total acquisition cost for the 122 easement offers was \$33,685,193, with an average per acre acquisition cost of \$2,199.

FY 2004 Easement Offers

The Foundation did not accept new applications for FY 2004. Carroll County accepted new applications for the FY 2004 easement acquisition cycle based on 100% county funding of offers made to Carroll County applicants by the Foundation. Nine Carroll County applicants were funded for co-held easements for FY 2004.

An additional ten offers were accepted by applicants from the FY 2003 applicant pool based on additional 100% county funding, uncommitted State GreenPrint funds, and offers made with State funds from FY 2003 late offer rejections.

The Foundation acquired these nineteen easements at a combined discount of \$3,127,720 below the total combined easement values due to competitive bidding and the 70% of fair market value limitations used by Carroll County for 100% county-funded offers. The total acquisition cost for these easement offers was \$7,315,417, at an average per acre acquisition cost of \$2,982. This per acre value should not be considered comparable to values from other years because it is based on a narrow and skewed population.

FY 2005 Easement Offers

The Foundation received 153 applications for FY 2006. MALPF approved and appraised 135 of these applications and ranked them for possible easement purchase. Applicants accepted 64 easement offers.

MALPF acquired these 64 easements at a combined discount of \$13,749,682 below the total combined easement values due to competitive bidding. The total acquisition cost of these easement offers was \$22,246,850, at an average statewide per acre acquisition cost of \$2,802 per acre.

FY 2006 Easement Offers

The Foundation received 123 applications to sell an easement for the FY 2006 Easement Acquisition Program. Of the properties submitted for consideration, 122 farms were approved and appraised for possible easement sales.

MALPF made 66 easement offers accepted by landowners applying to the FY 2006 Easement Acquisition Program. The Foundation acquired these easements at a combined discount of \$27,591,821 below the total combined easement values because of competitive bidding. The total acquisition cost for FY 2006 was \$39,443,428, with an average per acre acquisition cost of \$4,492.

FY 2007 Easement Offers

The Foundation received 325 applications to sell an easement for the FY 2007 Easement Acquisition Program, of which all were approved and appraised for possible easement sales.

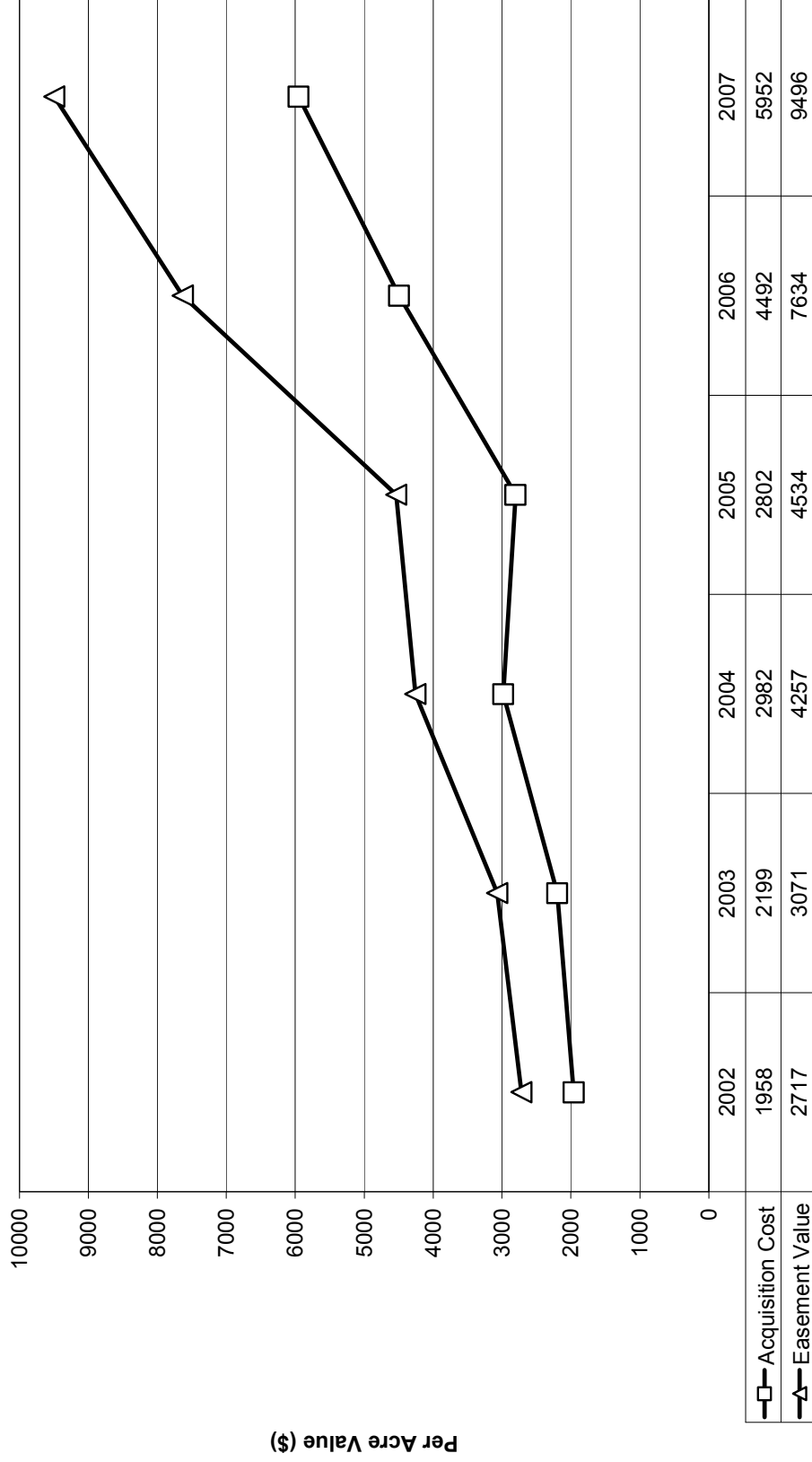
The Foundation made 116 easement offers accepted by landowners applying in the FY 2007 easement acquisition cycle. The Foundation acquired these easements for \$54,188,476 less than the total combined easement values because of competitive bidding. The total acquisition cost for FY 2007 was \$90,980,431, with an average per acre acquisition cost of \$5,951.63.

Increase in Per Acre Acquisition Costs

The rapid increase in Maryland real estate market values can clearly be seen in the jump that took place over the five years covered by this report. The statewide average per acre acquisition costs increased threefold in five years. In FY 2002, average per acre acquisition costs were \$1,958. By FY 2007, acquisition costs had risen to an average of \$5,952 per acre statewide.

Comparing the increase in acquisition costs to the increase in easement values over the same period shows that easement values, the maximum that MALPF could pay for an easement, increased at a greater rate than actual acquisition costs: 350% versus 300%, as seen in the chart that follows where the spread between the two values can be seen to increase. Given the reduced emphasis given discounting in the ranking process, this differential suggests that acquisition costs are likely to continue to increase somewhat, even after real estate values flatten out.

Per Acre Easement Value and Acquisition Costs
(FYs 2002-2007)



**Applications by Landowners to Sell an Agricultural Conservation Easement to the
Maryland Agricultural Land Preservation Foundation**
(FYs 2003-2007)*

County	FY 2003		FY 2005		FY 2006		FY 2007		TOTALS (FYs 2003-2007)	
	Received	Approved	Received	Approved	Received	Approved	Received	Approved	Received	Approved
Allegany	0	0	0	0	0	0	1	1	1	1
Anne Arundel	3	3	0	0	0	0	1	1	4	4
Baltimore	29	29	17	8	11	11	20	20	77	68
Calvert	3	3	0	0	0	0	0	0	3	3
Caroline	37	35	13	13	12	11	41	41	103	100
Carroll	22	21	16	15	13	13	23	23	74	72
Cecil	15	15	6	6	3	3	24	24	48	48
Charles	10	9	3	3	13	13	12	12	38	37
Dorchester	33	23	8	8	8	8	7	7	56	46
Frederick	21	21	8	7	2	2	20	20	51	50
Garrett	3	3	4	4	2	2	5	5	14	14
Harford	12	8	2	2	2	2	5	5	21	17
Howard	2	2	3	3	0	0	1	1	6	6
Kent	17	17	12	11	12	12	25	25	66	65
Montgomery	3	3	0	0	1	1	3	3	7	7
Prince George's	1	1	2	2	0	0	3	3	6	6
Queen Anne's	33	33	5	5	1	1	20	20	59	59
St. Mary's	33	26	12	10	15	15	33	33	93	84
Somerset	7	5	2	2	0	0	22	22	31	29
Talbot	22	22	13	13	10	10	21	21	66	66
Washington	36	11	20	16	12	12	24	24	92	63
Wicomico	6	6	3	3	0	0	5	5	14	14
Worcester	8	8	4	4	6	6	9	9	27	27
TOTALS	356	304	153	135	123	122	325	325	957	886
AVERAGE NUMBER OF RECEIVED AND APPROVED APPLICATIONS (not including FY 2004):									239	221

* No applications were accepted in FY 2004. "Received" applications are all applications submitted by landowners by the July 1 deadline. "Approved" applications are the applications that met all conditions for participation in the program and received approvals by county and State authorities to be considered for funding. An "approved" application does not represent an easement purchase. Please consult the easement acquisition tables later in this report for the actual number of easements acquired. Please note that each year's number includes reapplications from landowners not receiving an offer or rejecting an offer from a previous year or years.

Program Funding

The Maryland Agricultural Land Preservation Foundation is primarily funded through dedicated revenues from the State's Real Estate Transfer Tax and its Agricultural Transfer Tax. The State Transfer Tax is a tax assessed on all real estate property transfers. The Foundation receives 17.05% of the State Transfer Tax remaining after certain funds are set aside by the State for long-term obligations and allocations. The Foundation receives additional State Transfer Tax revenue from the creation and funding of the Rural Legacy Program in the Department of Natural Resources.

The Agricultural Transfer Tax is collected when farmland is sold and converted to another land use. The Foundation receives two-thirds of the Agricultural Transfer Tax collected by each county, while one-third is retained by the local jurisdiction for agricultural land preservation purposes. A county with a local agricultural land preservation program certified by the Foundation and the Maryland Department of Planning may retain 75% of the Agricultural Transfer Tax collected to spend for local land preservation purposes.

Because of State budget shortfalls in FYs 2003-2006, much of the dedicated revenue was redirected to the State's General Fund, including almost \$9 million taken from the Foundation's FY 2002 funding already committed to offers. A proportion of the lost revenue was replaced with State-issued General Obligation Bonds.

Many of the Foundation's county partners commit Local Matching Funds to help acquire easements. Most of these funds are derived from the individual county's share of the agricultural transfer tax, but some add other county funds. The total county commitment is used to make easement offers to landowners within that county on a 40% county and 60% State matching fund basis. The total of Local Matching Funds committed in FY 2003 was \$7,387,923.51.

Federal funding through grants from the Federal Farm and Ranch Lands Protection Program (FRPP) increased both in absolute terms and relative to State funding during this five-year period, though settlements on easements with federal funding commitments were put on hold by the federal government after December 31, 2005. MALPF had to replace its outstanding federal funding commitments with State funds in Spring 2006 so affected easements could go to settlement. Though Maryland has received and spent more federal funding from FRPP than any other State in the country during the history of the federal program, MALPF was unable to commit federal funds again to easement offers until late in the FY 2007 easement acquisition cycle.

Funds for FY 2003 and 2004 offers were also derived through a cooperative arrangement with the GreenPrint Program of the Maryland Department of Natural Resources (DNR). These funds were not incorporated into the annual allocation of funds among the county participants, but were used to purchase easements on MALPF district properties that ranked high on GreenPrint criteria as defined and provided by DNR. These funds were from State-issued General Obligation Bonds that the Foundation received through DNR.

Finally, the Foundation acquires funds for its activities from special grants, donations and the reimbursement for acres released for lot exclusions. Some counties have provided funds to supplement insufficient funds offers and/or to make 100% county-funded offers to purchase easements to be processed and administered by the Foundation. In FY 2004, the Foundation did not operate its regular program, but made a number of easement purchase offers based on funds provided by its county partners to landowners already with pending applications in the FY 2003 easement acquisition cycle.

The following information (starting with the graph below) is taken from the "Allocation of Funds Report" produced at the beginning of each offer cycle (usually in March or April) estimating the actual funds available

for easement offers. These estimates should not be taken as absolute. For example, one particular county's funding commitment may not be completely fulfilled because of the impact of one or more rejected offers in the county. Also, the Foundation was unable to

settle easements that incorporated federal funding commitments from January 1, 2006, through the end of the reporting period, June 30, 2007. However, the federal funds have been included in the total available funds.

Funds Available for Easement Offers, FY 2003

The General Assembly approved the FY 2004 budget and authorized FY 2004 appropriations to be used both for completing FY 2002 and earlier easements and to make offers to applicants from the FY 2003 cycle. The Budget Reconciliation and Financing Act of 2003 eliminated the Foundation's entire allocation of State transfer taxes in FY 2004, requiring MALPF to revert \$10,000,000 in transfer taxes from FY 2003 and requiring a reversion of \$8,800,000 of funds pledged for FY 2002 and earlier easements. At the March 25, 2003, meeting of the Foundation's Board of Trustees, the Foundation's staff was instructed to use all funds remaining after providing for the FY 2002 and earlier easements for applicants applying for the FY 2003 cycle of easement offers. It was also voted at that meeting not to have a general statewide application cycle for FY 2004. The following is the calculation of the funds available for FY 2003 easement offer acquisition cycle, not including GreenPrint funds.

Projected Revenues:

FY 2004 Bond authorization	\$ 21,160,000.00
Estimated Agriculture Transfer Tax, FY 2004	3,000,000.00
Estimated Agriculture Transfer Tax, FY 2003	1,500,000.00
Estimated "3-year old" Funds	0.00
<u>Total Revenues</u>	<u>\$ 25,660,000.00</u>

Projected Expenditures:

Operating expenses, FY 2004	\$ 1,300,000.00
Operating expenses, FY 2003	1,292,472.00
FY 2002 and earlier pending easement settlements	5,598,035.00
<u>Indirect cost allocation, FY 2003 / FY 2004</u>	<u>300,000.00</u>
<u>Total Expenditures</u>	<u>\$ 8,490,507.00</u>

State funds available for FY 2003 easement offers (Total Projected Revenues less Total Projected Expenditures):	\$ 17,169,493.00
Local funds available for FY 2003 easement offers (Commitments to the Matching Funds Program):	7,387,923.51
Federal Farm and Ranch Lands Protection Program funds (FY 2002 grant):	1,870,000.00
Projected Federal Farm and Ranch Lands Protection Program funds (FY 2003 grant):	1,500,000.00

**Total funds available
for FY 2003 easement offers:.....\$ 27,927,416.5**

Funds Available for Easement Offers, FY 2004 (estimate)

The Foundation did not hold a statewide acquisition cycle for FY 2004 and no new State funds were provided. The following is a rough estimate of the source of the funds used to acquire easements in FY 2004. Rolled over State funds created by rejected offers from previous cycles provided \$1,748,918; federal funds provided \$180,304; and county funds provided \$4,796,814. An estimated total of \$6,726,036 was used to acquire easements in FY 2004 using the existing application pool from FY 2003 and new applications submitted to Carroll County.

Funds Available for Easement Offers, FY 2005

The General Assembly approved the FY 2005 budget and authorized the FY 2005 appropriations to make offers to applicants from the FY 2005 easement acquisition cycle. The Budget Reconciliation and Financing Act of 2004 eliminated the Foundation's entire allocation of State transfer taxes in FY 2005, replacing the dedicated real estate transfer tax revenues with \$5,000,000 in general obligation bonds. The following is the calculation of the funds available for FY 2005 easement offer acquisition cycle.

Projected Revenues:

Pre-FY 2004 Available Bond Funds	\$ 1,737,000.00
FY 2004 Bond Authorization (for FY 2005).....	5,000,000.00
Estimated Agriculture Transfer Tax, FY 2005.....	8,000,000.00
Estimated Miscellaneous Revenues	15,000.00
Estimated "3-year old" Funds.....	0.00
Total Revenues.....	<u>\$ 14,752,000.00</u>

Projected Expenditures:

Operating expenses, FY 2005	\$ 1,065,000.00
Indirect cost allocation, FY 2005	150,000.00
Total Expenditures	<u>\$ 1,215,000.00</u>

State funds available for FY 2005 easement offers (Total Projected Revenues less Total Projected Expenditures):.....	\$ 13,537,000.00
Local funds available for FY 2005 easement offers (Commitments to the Matching Funds Program):	13,405,793.67
Federal Farm and Ranch Lands Protection Program funds (FY 2004 grant):	4,380,700.00
Projected Federal Farm and Ranch Lands Protection Program funds (FY 2005 grant):	<u>4,076,400.00</u>

**Total funds available
for FY 2005 easement offers:.....** **\$ 35,399,893.67**

Funds Available for Easement Offers, FY 2006

The General Assembly approved the FY 2006 budget and authorized the FY 2006 appropriations to make offers to applicants from the FY 2006 easement acquisition cycle. The Budget Reconciliation and Financing Act of 2005 reduced the Foundation's statutory allocation of State transfer taxes in FY 2006 by \$15,345,000. The Foundation no longer received new general obligation bonds, but returned to its traditional dedicated funding sources. The following is the calculation of the funds available for FY 2006 easement offer acquisition cycle.

Projected Revenues:

Pre-FY 2005 Available Bond Funds	\$ 0.00
FY 2006 State Transfer Tax (appropriation after BRFA reduction)	19,134,000.00
Estimated FY 2006 Agriculture Transfer Tax	8,080,000.00
Estimated Miscellaneous Revenues	60,000.00
<u>Estimated "3-year old" Funds</u>	<u>0.00</u>
Total Revenues	<u>\$ 27,274,000.00</u>

Projected Expenditures:

Operating expenses, FY 2006	\$ 1,140,000.00
<u>Indirect cost allocation, FY 2006</u>	<u>175,000.00</u>
Total Expenditures	<u>\$ 1,315,000.00</u>

State funds available for FY 2006 easement offers
(Total Projected Revenues less Total Projected Expenditures):.....\$ 25,959,000.00
Local funds available for FY 2006 easement offers
(Commitments to the Matching Funds Program):.....13,245,080.47

**Total funds available
for FY 2006 easement offers:.....\$ 39,204,080.47**

Funds Available for Easement Offers, FY 2007

The General Assembly approved the FY 2007 budget and authorized the FY 2007 appropriations to make offers to applicants from the FY 2007 easement acquisition cycle. The Foundation has now returned completely to its traditional dedicated funding sources. The following is the calculation of the funds available for FY 2007 easement offer acquisition cycle.

Projected Revenues:

Pre-FY 2006 Available Bond Funds	\$ 1,114,075.00
Past County Funding Commitments Billed by MALPF (Easements settled, with county reimbursing commitments).....	422,878.00
Net Special Fund Balance (net cash on books on 03/20/2007)	12,327,000
FY 2007 State Transfer Tax (FY 2007 appropriation)	61,552,000.00
Estimated FY 2007 Agriculture Transfer Tax.....	4,250,000.00
Estimated Miscellaneous Revenues	60,000.00
Estimated "3-year old" Funds.....	0.00
Total Revenues.....	<u>\$ 79,715,953.00</u>

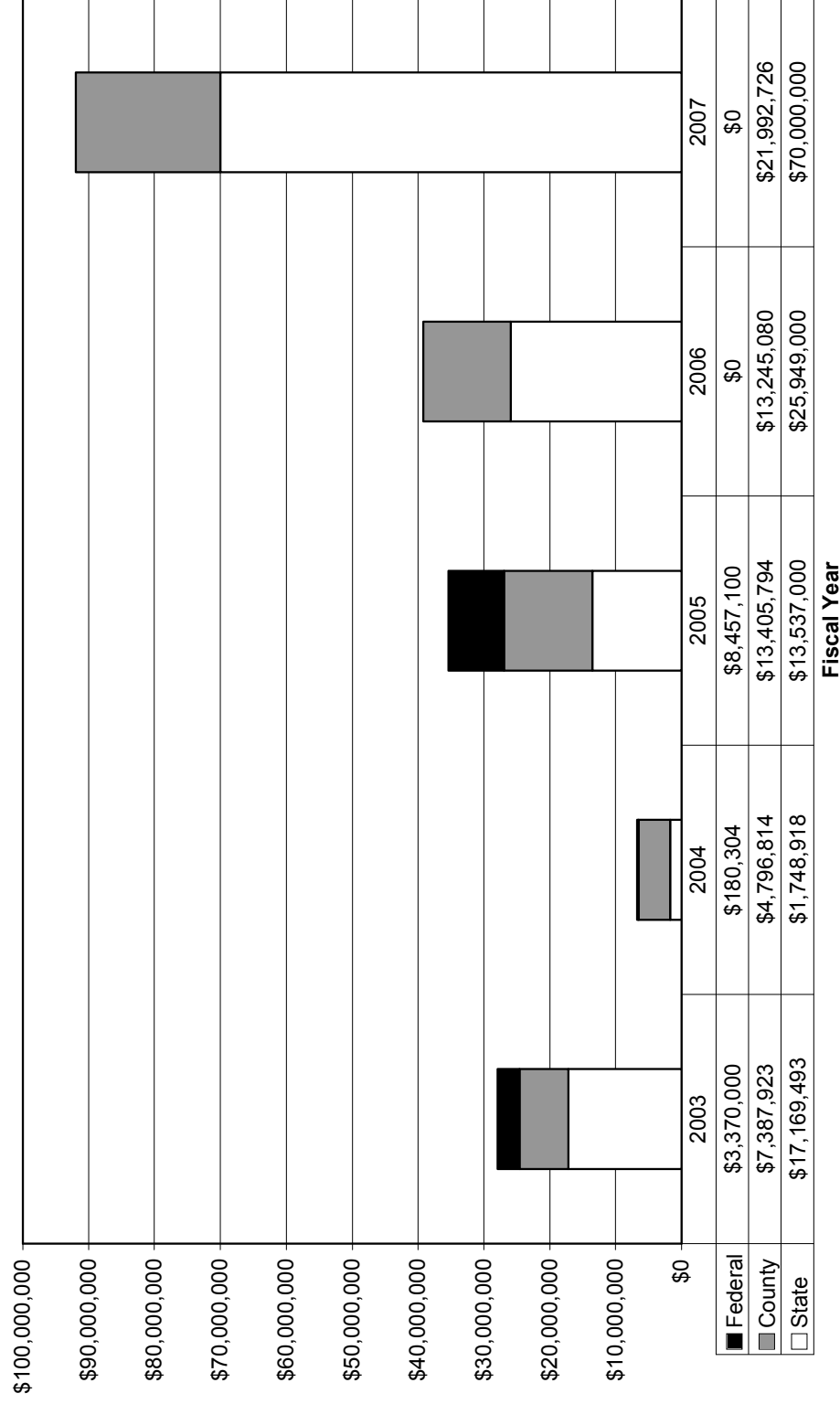
Projected Expenditures:

Encumbered Bond Funds (committed to pending settlements).....	\$ 766,457.00
Encumbered State Special funds (committed to pending settlements).....	7,097,055.00
Operating expenses, FY 2007	\$ 1,652,441.00
Indirect cost allocation, FY 2007	200,000.00
Total Expenditures	<u>\$ 9,715,953.00</u>

State funds available for FY 2007 easement offers (Total Projected Revenues less Total Projected Expenditures):.....	\$ 70,000,000.00
Local funds available for FY 2007 easement offers (Commitments to the Matching Funds Program):	21,992,726.21

**Total funds available
for FY 2007 easement offers:.....****\$ 91,992,726.21**

Funds Available for Easement Offers (FYs 2003-2007)



* No new applications were accepted in FY 2004. FY 2004 "funding availability" is not strictly comparable to other years, but provides an estimate based on the fund sources of actual acquisitions. No new State funds were available in FY 2004; the State funds available for easements represent funds rolled over from late rejections of offers made during previous easement acquisition cycles.

New Regulations and Policy Recommendations and Changes

Introduction

The Maryland Agricultural Land Preservation Foundation (MALPF) Program has changed significantly in the last few years, and the MALPF staff and Board continue to implement new and modified policies and processes. A brief summary of some recent important changes is provided in tabular form at the end of this section. Program review and recommendations for change come from a range of different sources. Many of these changes are a result, whether direct or indirect, of recommendations made during the five-year Program review carried out by the Task Force to Study the Maryland Agricultural Land Preservation Foundation created by the General Assembly in 2000 and renewed in 2002. The Task Force produced three reports to the Governor and the General Assembly, with the last report issued in December 2004. Other sources for changes and recommendations over the period of this report have included members of the General Assembly, the Governor's Office, MALPF staff and Board members, program administrators, the American Farmland Trust, program participants, and other interested parties.

Some changes have required new statutory language be adopted by the General Assembly. Other changes have been the result of policy adopted by the Board of Trustees, many eventually confirmed by changes in the regulations governing the Program. Some changes have only required modified office procedures or structures. Finally, some recommendations and changes were considered, but not adopted; are still under review; or are still being implemented at the end of this report period, FYs 2003-2007.

Reports: General Program Reviews with Policy Recommendations

Interim Report of the Task Force to Study the Maryland Agricultural Land Pre- servation Foundation (January 2003)

During the 2000 Maryland General Assembly, HB 740 created a Task Force to study the Maryland Agricultural Land Preservation Foundation and make recommendations to improve the program's policies, practices, and financial standing. The Task Force submitted its final report to the Governor and the General Assembly on August 21, 2001. The recommendations from that report were detailed in the Foundation's 2001 Annual Report.

The Task Force recommended that some of the recommended changes be implemented immediately or in the short term through legislative action by the General Assembly in the 2002 Legislative Session or through administrative actions of the Foundation. Other recommendations required additional research and evaluation. The Task Force also sought to extend its own existence to complete the research and analysis of the range of issues it has been addressing. For a summary of all three of the Task Force Reports' recommendations and the result of those recommendations, see the table below.

During the 2002 Legislative Session, Senate Bill 544 and House Bill 810 renewed the Task Force to Study the Maryland Agricultural Land Preservation Foundation with a two-year extension taking effect June 1, 2002 and to continue to May 31, 2004. The Task Force began its work again in the summer of 2002.

That legislation outlined that the Task Force shall study and make recommendations for:

- (1) Guidelines for farmland preservation acreage goals for each county that complement the State goal;
- (2) Guidelines for designation by counties and certification by the State of priority preservation areas;
- (3) Increased funding from new sources for the farmland preservation program that is targeted to priority preservation areas and that enables the program to achieve its legislative goals;
- (4) Other revenue sources for the farmland preservation program that enable the program to achieve its legislative goals;
- (5) A schedule to focus new funding increasingly over a 4-year period to priority preservation areas;
- (6) The creation and funding of a statewide critical farms program and methods to encourage the creation of county critical farms programs;
- (7) Changes in provisions about tenant houses;
- (8) Current and alternative easement valuation systems under the farmland preservation program, including appropriate recommendations for changes and improvements;
- (9) An installment purchase option; and
- (10) Other appropriate changes to help strengthen the State agricultural preservation program.

With the re-establishment of the Task Force, four major subcommittees were formed: funding, strategy, land-use issues, and easement valuation. The tasks with which these committees were charged and recommendations of the Task Force were set forth in the Interim Report of the Task Force to Study the Maryland Agricultural Land Preservation Foundation, presented to the Governor and the General Assembly in January, 2003.

The recommendations in the Interim Report were as follows:

- Clarify Program guidelines to allow farm- and forest-related economic activities and home occupations to supplement farm income, encourage participation in the Program, and support land preservation;
- Modify the lot exclusion policy to give landowners a choice between family lots and one unrestricted lot and limit the total number of lots consistent with the Program's purpose;
- Change the Program's easement valuation system to level the playing field for farms with good soils and farms in rural areas, and eliminate acquisition costs that approach the in-fee fair market value of the land;
- Clarify the Program's policy on land withheld from proposed agricultural districts to ensure that there are legitimate reasons to withhold land that do not diminish the State's investment in preserving the property;
- Utilize bond funds to replace diverted dedicated funds whenever possible during the current State fiscal crisis; and
- Focus acquisition on good farmland in areas protected by adequate zoning by:
 - changing the easement ranking procedures to emphasize the quality of the farm and its strategic location and
 - creating Priority Preservation Areas where the protection of prime farmland is targeted by preference, the county adopts supporting measures to control the impacts of development and stabilize land use, and new funding is directed.

Final Report of the Task Force to Study the Maryland Agricultural Land Preservation Foundation (December 2004)

In the Final Report, the Task Force addressed the remaining issues assigned to it by the General Assembly to study and address

in recommendations to improve the MALPF Program. The Task Force addressed issues related to what it perceived as the two major shortcomings in MALPF's ability to achieve its statutory goals. First, local zoning and related land-use management tools in many areas of the State do not adequately support MALPF preservation goals. Second, current levels of public funding, projected into the future, will be inadequate to achieve the statutory goals set by the General Assembly.

The problems faced by the Foundation that led to the identification of these two shortcomings were development near easement properties that increasingly is coming into conflict with agricultural operations; the loss of critical farms; an increase in easement values; an increase in fragmentation and degradation of the State's remaining resource land; a lack of funding to reach the Program's goals; diversions of funds dedicated to preservation to balance the budget during the State's fiscal crisis; and a persistent shortage of staff.

To address these problems, the final recommendations of the Task Force were as follows:

- Better target easement acquisitions county-by-county by counties establishing Priority Preservation Areas in comprehensive land-use plans, and create additional incentives for landowner participation in these targeted Areas with additional funding dedicated to easement purchase in approved Areas (this Report develops

the recommendation first made in the 2003 Interim Report);

- Supplement land preservation revenues by placing additional costs on the conversion of rural land for non-agricultural purposes;
- Adopt the installment purchase agreement easement settlement option to make land preservation more attractive for landowners and dedicate a funding stream to leverage additional easement purchases now against future revenues;
- Develop and implement a Critical Farms Program to enhance MALPF's ability to acquire quickly easements on farms critical to State and county goals and at high risk of development; and
- Create and fund two additional senior level administrative positions to meet the demands of an increasing workload.

A significant number of the recommendations made by the Task Force over its five-year review of the MALPF Program have been or are in the process of being adopted by MALPF. While the specifics of some of these policy and process recommendations and their adoption and implementation will be discussed later in this section, the following table provides a summary of the Task Force recommendations made over this five-year period and the results of those recommendations as of June 30, 2007.

Recommendations of the 2001, 2003, and 2004 Reports of the Maryland Agricultural Land Preservation Foundation Task Force

RECOMMENDATION	RESULT AS OF JUNE 30, 2007
Meeting the Goals of the Program and Long-term Funding	
Creation of a Statewide farmland preservation acreage goal (2001).	SJ 010/HJ 022 (2002). Goal is to preserve 1,030,000 acres by 2022 using MALPF, GreenPrint, Rural Legacy, and county preservation programs.
Creation of county farmland preservation acreage goals (2001).	This recommendation had only limited success. Certified counties are expected to set acreage goals as part of the certification process; uncertified counties are not required to do so.
Creation of a process to designate and certify Priority Preservation Areas (PPAs) (2001, 2003, 2004).	HB 2 (2006) and HB 1354 (2007). Counties applying for certification or recertification of local farmland preservation programs are required to develop a PPA and incorporate it into the county's comprehensive land-use plan. The Maryland Department of Planning and MALPF must review and certify the PPA for any new or renewed certifications after June 30, 2008. Uncertified counties are not required to create PPAs, though they are encouraged to do so voluntarily. Legislative efforts to create a more rigorous PPA program failed – HB 1530 (2005) and HB 1272 (2006).
Targeting of new funding to preservation areas (2001, 2003, 2004).	HB 2 (2006). Under the Agricultural Stewardship Act of 2006, any new funding source for the MALPF easement program or any change in the allocation formula from existing funding sources creating additional revenues can only be spent in designated PPAs. Legislative efforts to restrict some existing funding to acquisitions in PPAs failed – HB 1530 (2005) and HB 1272 (2006).
New funding sources (2001, 2004).	Because of the State's budget shortfalls and fiscal crisis since 2002, this recommendation has had very limited success, though these recommendations were the original purpose for which the Task Force was created. The only successful bill creating a new funding source was HB 2 (2006 legislative session) that gave the Governor so far unused discretionary authority to include up to \$20 million annually from the General Fund in the MALPF budget. Unsuccessful legislative efforts to increase MALPF funding included HB 1, HB 317, and HB 470 (2004); HB 1 and HB 1530 (2005); and HB 475, HB 1220, SB 616, and SB 901 (2007) (the HB1220/ SB 901 effort was by proposed amendment of the original bills).
Increase funding to \$1 billion over 20 years, with \$60 million per year for the first decade (2001, 2004).	Without the creation of new funding sources, this recommendation on funding levels cannot be addressed. See comments on the previous recommendation.
Utilize bond funds to replace diverted dedicated funds during the State's fiscal crisis (2003).	Bond funds were used to replace some of the diverted dedicated funds from FYs 2002-2005. Because of the diversion of dedicated funds to other purposes, MALPF on balance lost from \$60 to \$100 million from FYs 2002-2006.
Change the easement ranking system to emphasize the quality and strategic location of the property over the discount offered by the landowner (2003).	SB 564 (2003). MALPF has developed statewide ranking guidelines that have been implemented by individual counties emphasizing the quality and strategic location of the property over the discount starting the FY 2005 easement acquisition cycle.
Evaluate the creation and funding of a statewide Critical Farms Program, and methods of encouraging the creation of such programs on the county level (2001); implement and fund a Critical Farms Program (2004).	SB 502 (2005) authorizes the establishment of a State Critical Farms Program and specifies general criteria to be used to determine if a property qualifies for such a program. This bill requires a report to be written on options to fund and any additional legislative authorization necessary to implement the Program. The report was submitted in January 2007. Legislation may be submitted to implement this Program fully in 2008.
Establish and fund an installment purchase agreement (IPA) program (2001); provide dedicated funding to an IPA program to leverage additional purchases (2004).	Initial legislation failed (HB 827 (2003)). HB 606 and HB 625 (2004) were successful, providing authorization to develop an IPA program including both direct State IPAs and grants to county IPA programs; HB 1041 (2007) facilitated a self-funded IPA program through the Maryland Agriculture and Resource Based Industry Development Corporation. An IPA program is expected to be available for the FY 2008 easement acquisition cycle. Dedicated funding has not yet been secured, but legislation may be introduced in 2008 to this end.
Extend the charge of the Task Force until September 30, 2002 (2001).	SB 544 (2004). Task Force extended until May 31, 2004.

Allowed and Restricted Uses of District and Easement Property	
Revision of statute and adoption of policies and procedures to allow farm- and forest-related and supporting activities and home occupations on district and easement property (2001; 2003).	SB 626 (2003) was successful, after HB 998 and SB 435 (2002) failed. This additional discretion in uses has been applied on a case-by-case basis. The MALPF Board of Trustees created three committees to evaluate the more systematic implementation of this legislation on general uses, equine uses, and winery and vineyard uses by developing guidelines. As of September 1, 2007, these guidelines are pending review and approval in general and equine uses.
Prohibition on the subdivision of lots from district or easement property in favor of reservation of lots by withholding acreage from the district (NOT retroactive) (2001).	Unsuccessful. This recommendation was superseded in subsequent discussions of the Task Force by the recommendation below to modify the lot exclusion policy.
Revision of the law prohibiting the subdivision of principal dwellings from a farm under easement (2001).	HB 1384 (2002) was unsuccessful. This recommendation was implemented indirectly with SB 626 (2003) which made it more difficult to subdivide principal dwellings from a farm under easement.
Modification of the lot exclusion policy to give landowners a choice between family lots and one unrestricted lot and limit the total number of lots (2003).	SB 626 (2003) was successful. Landowners can choose one unrestricted lot for a full twenty acres or up to three family lots, with the first for a full twenty acres and an additional family lot for the next full fifty acres, and a third for the next full fifty acres. Preexisting houses can be subdivided only by using any retained lot rights on the property.
Creation of a policy requiring the MALPF Board to consider, before purchasing an easement, the degree to which development rights on the land withheld from the district may compromise agricultural production on easement land (2001).	HB 1384 (2002) was unsuccessful. This recommendation was, instead, implemented by guidelines developed by the MALPF Board of Trustees and approved on February 24, 2004.
Clarify MALPF policy on land withheld from proposed districts and applications to sell an easement to ensure legitimate reasons exist for the exclusion (2003).	This recommendation, related to the immediately preceding recommendation, was implemented by guidelines developed by the MALPF Board of Trustees and approved on February 24, 2004.
Prohibition of the subdivision of MALPF easement properties except for agricultural or silvicultural use (2001).	MALPF Board of Trustees adopted new agricultural subdivision policy put into interpretive regulations effective August 16, 2001.
Current Procedures of the MALPF Program	
Revise procedures so that easement applications are sent to and approved first by individual counties before submission to the Foundation (2001).	Change in policy and procedures adopted by the Foundation for the FY 2002 easement acquisition cycle.
Revise procedures so that easement offers are made to applicants as soon as their appraisals are completed, instead of when all appraisals are completed (2001).	Change in policy and procedures adopted by the Foundation for the FY 2002 easement acquisition cycle.
Revise procedures so that application and offer deadlines are staggered over the course of a year to distribute workload for staff across time (2001).	HB 999 (2002) was successful. However, this change in procedures has proven difficult for MALPF staff to implement successfully.
Hire more staff at Maryland Department of Agriculture to process easement applications and at the Department of General Services to appraise properties and process settlements (2001); create and fund two additional senior-level administrative positions at MALPF (2004).	One additional position was created and filled at MDA in 2001; two additional positions were created and filled at DGS in 2001. Since then, MALPF found it difficult to replace departing staff members because of the statewide hiring freeze. MALPF staffing levels have now returned to the staff levels of 2001, and MALPF expects to hire one additional administrative position in September 2007 to administer the stewardship program and to implement and manage a new database.
Evaluate alternative approaches to the appraisal system, such as a point system or easement valuation system now being used by several counties and the Rural Legacy Program (2001).	The Task Force evaluated the current easement valuation system and potential alternatives in committee after the 2001 Report. Based on this evaluation, the Task Force recommended changing the easement valuation system in the 2003 Report (see the next recommendation).
Change the easement valuation system producing acquisition costs approaching the appraised fair market value of the land (2003).	The adoption of the general recommendation has been unsuccessful to date; however, administrative procedures were adopted in 2007 that will allow individual counties to put a cap on the amount of an offer to purchase easements based either on a percent of fair market value or a maximum per acre acquisition payment. Counties can adopt these administrative procedures to apply first to the FY 2009 easement acquisition cycle. The MALPF Board has also established in 2007 an Easement Valuation Committee to evaluate this issue.

Change the Declaration of Intent that is signed by buyers of agricultural land into a contract and make it binding for ten years instead of five years (2001).

Unsuccessful. This recommendation was superseded by the changes to the role of agricultural districts in MALPF created by HB 769 (2006) and HB 1331 (2007) which eliminated State districts as an eligibility requirement to apply to sell an easement to MALPF.

**Maryland's Land Conservation Programs:
Protecting the Chesapeake Bay Watershed – Governor Robert Ehrlich's Report on Maryland's Land Conservation Policy (December 2003)**

Maryland's Land Conservation Programs: Protecting the Chesapeake Bay Watershed is a report commissioned by Governor Robert L. Ehrlich, Jr., in 2003. Following the Governor's directive, this Report was written under the leadership of the Department of Natural Resources with substantial participation from other agencies in Maryland with interests in land preservation. After being reviewed by the Governor's Office, the Report was issued as a statement of the Governor's priorities to be pursued by Maryland's land conservation programs. This Report provides an overview of the range of State land conservation programs, a summary of their accomplishments, and a statement of the Governor's principles to guide and focus the implementation of the State's land conservation programs on preserving the Chesapeake Bay and land critical to the State's most important resource-based industries, such as agriculture.

The principles to guide and focus the implementation of the State's land conservation programs on preserving the Bay were identified as follows:

- Focus State land conservation priorities and investments on permanently preserving the most important land resources, building on areas where the State has already made significant investments in land conservation.
- Use the best available information and technology to identify the most important parcels of land based on ecological and economic value, contribution to Chesapeake Bay restoration, and vulnerability to land-use changes.

- Emphasize cooperation and collaboration among state and local land conservation programs in cooperation with local governments, landowners, and private conservation groups.

The implementation recommendations specific to MALPF were as follows:

- Develop easement acquisition guidelines in consultation with local governing bodies, the Department of Planning, and the Natural Resource Conservation Service to identify the best quality and best managed farms consistent with local growth management goals as the priority for easement purchases.
- Retain MALPF's focus on the preservation of the land resource base of the agricultural industry and responsible stewardship of its district and easement properties.
- Use the most current soil survey data to determine the most productive farmland; apply as needed the data from the Department of Planning on development pressure in setting local priorities; and incorporate GIS and other mapping data into the ranking and targeting process.
- Continue and enhance collaboration and coordination among MALPF, other state land preservation programs, and local programs, both through formal and informal mechanisms.
- Evaluate funding needs and potential revenue sources to meet farmland preservation objectives
- Consistent with legal sufficiency, reduce the time delay and uncertainty in the State acquisition process by reducing the number of approvals of each transaction.

Most of these recommendations were incorporated into Task Force recommendations or echo actions already underway to improve the MALPF Program.

25 Years of Protecting Farmland: An Evaluation of the Maryland Agricultural Land Preservation Foundation – American Farmland Trust (October 2003)

The American Farmland Trust conducted a study of MALPF to find out if MALPF has met its statutory goals set by the Maryland General Assembly (provide sources of agricultural products within the State, control urban expansion, curb the spread of urban blight, and protect agricultural land and woodland as open space) and to provide recommendations to help it become more effective in meeting these goals in the future.

The study concluded that MALPF has overall met its goals, but the economics of farming have changed. In particular:

- MALPF has been, and continues to be, essential to the future of Maryland agriculture;
- MALPF plays an important role in balancing growth in Maryland; and
- Maryland needs additional policies and programs outside the scope of MALPF to sustain the viability of the State's agriculture.

The study recommended that for MALPF to continue to meet its goals:

- MALPF must receive a significant increase in State funding of at least \$26 million annually;
- MALPF needs at least two more senior-level staff to administer the Program effectively;
- Maryland needs to plan for agriculture and directly support agriculture as an important State economic engine; and
- Maryland needs to reach a middle ground on environmental issues and reach consensus on environmental goals that includes both the environ-

mental and agricultural communities.

The two MALPF-specific recommendations are dealt with explicitly in the Task Force Reports. The broader planning for agriculture has taken place in recent years with initiatives from the Governor's Office implemented by the Department of Agriculture. Among other innovations, the General Assembly created the Maryland Agriculture and Resource Based Industry Development Corporation to directly support the agricultural economy. In recent years, the Chesapeake Bay Foundation and the farming community have significantly improved their relations and agreed to cooperate to address the impact of farming operations on the environment. This cooperation has already produced a major piece of legislation in the Agricultural Stewardship Act of 2006.

Reports: Specific Policy Reviews Required by Law

Sand and Gravel Pilot Program: Report of the Steering Committee to the Board of Trustees of the Maryland Agricultural Land Preservation Foundation – as required by SB 572 (1999) (February 2004)

In 1999, Senate Bill 572 was enacted to authorize MALPF to establish a pilot program to determine the impact of sand and gravel extraction on agricultural practices and after-mining productivity. A Steering Committee was convened in August of 1999 with representatives from MALPF, the aggregate industries, Maryland Department of the Environment, local Soil Conservation Districts, Maryland Natural Resources Conservation Services, and the University of Maryland.

The questions that the Steering Committee sought to answer were: (1) Can land used for sand and gravel extraction be reclaimed to productivity levels at least as great as pre-mining levels? What are the issues involved, both scientific and practical, with the undertaking? (2) Is sand and gravel appropriate on MALPF districts and easements? If so,

with what parameters, processes, and practices?

Without additional staff and funding specifically for a pilot program study and because of the untimely death in 2001 of the Executive Director of MALPF who also chaired the Steering Committee, a true pilot program with scientific monitoring of the results was not possible. In its place, this study was based on the collection of information from a sample of farms already engaged in sand and gravel mining. The study drew on both quantitative and anecdotal information on six sites – four in Charles County and two in Queen Anne's County. The Steering Committee, working with Donna Mennitto, AICP, as consultant, issued its final Report in February 2004.

In response to the first question, the Steering Committee concluded that it was possible to document the productivity of land reclaimed for agriculture. While the soil structure cannot be returned to its previous soil type and capability class, a "made" soil *can* be classified and its capability determined. However, the effort requires a soil scientist to examine the made material and observe its interaction with weathering elements. In addition, several years of crop yield data are necessary to confirm the assessment of the new soil. Soil Conservation Districts are not currently staffed to do such a task routinely. Successful reclamation requires planning before mining to optimize agricultural production after reclamation. Best Management Practices (BMPs) or guidelines do not currently exist to help those involved in extraction optimize agricultural production at the end of the process.

In response to the second question, the Steering Committee concluded that gravel and sand extraction could theoretically be blended with discretion to the MALPF Board of Trustees to consider limited sand and gravel extraction on a case-by-case basis under narrowly defined parameters on MALPF properties.

Second, the Steering Committee recommended that monitoring, research, and

development continue on field reclamation BMPs from sand and gravel extraction and that their application be broadened beyond the MALPF Program. The Committee concluded that BMPs on field reclamation from sand and gravel extraction to bring land back to productive agricultural use would be of significant importance to the aggregates industry and the agricultural industry more generally farmland protection, but that this can be done only with clear parameters and guidelines. Additional research should be conducted before large-scale dual use of MALPF properties is recommended blending agriculture with resource extraction.

The Committee's first major recommendation was that State law be amended and regulations clarified to allow discretion to MALPF Trustees to consider limited sand and gravel mining on a case-by-case basis under highly restricted circumstances. The Committee's second major recommendation was that MALPF conduct on-going monitoring, research, and development of field reclamation best management practices (BMPs) and broaden their application beyond the MALPF Program.

The MALPF Board of Trustees voted to accept this Report at its February 2004 Board meeting. The Foundation did not have the resources to continue monitoring field reclamation BMPs once the Report was submitted. The Board chose not to pursue legislation for additional discretion from the Maryland General Assembly to allow sand and gravel extraction on MALPF properties.

Creating and Funding a Critical Farms Program within the Maryland Agricultural Land Preservation Foundation, Maryland Department of Agriculture: A Report Presented to the Office of the Governor of Maryland and the Maryland General Assembly – as required by SB 502 (2005) (January 2007)

In Senate Bill 502 (2005), the General Assembly and Governor directed MALPF and the Maryland Department of Planning to de-

velop a full proposal for a statewide Critical Farms Program to provide interim or emergency financing for easement acquisition or fee simple acquisition and resale with easement to permanently protect critical farms otherwise likely to be sold for non-agricultural purposes. This bill to develop and implement a Critical Farms Program was inspired by one of the central Task Force recommendations from its Final Report.

The recommendations from *Creating and Funding a Critical Farms Program* were as follows:

- Approve the included proposed legislative language to authorize, fund, and staff a Critical Farms Program based on using easement option contracts for emergency and interim or bridge financing and for fee-simple purchases of critical farms and their resale with an easement in place to facilitate the permanent preservation of land critical to county and State land preservation objectives;
- Adopt the primary purpose of the Critical Farms Program to be the ability to act as quickly as possible to protect highly productive farms in strategic locations at high risk of being lost to non-agricultural use;
- Adopt the recommendation made by the Agricultural Stewardship Commission for up to a \$20 million annual commitment from general funds for MALPF, using \$4 million annually for four years to create the revolving fund needed for the Critical Farms Program to operate;
- Provide in legislation the possibility of providing additional funds to the Program in the future in response to a documented need based on increased demand and/or increased acquisition costs;
- Create and fund a permanent senior staff position PIN in MALPF for the increased workload requirements associated with the development, implementation, and administration of the

Critical Farms Program; and

- If the recommendations of the Agricultural Stewardship Commission are not accepted and funding is not available from the General Fund, consider alternative funding mechanisms to create the Revolving Fund, such as:
 - Any overattainment revenues (revenues beyond the budget appropriations for the Program) could be directed to the Fund;
 - The supplemental funding sources recommended by the MALPF Task Force in its Final Report (December 2004), pages 19-26.
 - Any additional funding sources established by the Governor and General Assembly.

Because this Report was issued after the 2007 Legislative Session had started, it was too late for all of its recommendations to be considered during the 2007 Legislative Session. Nonetheless, some elements of the Critical Farms Program were adopted in HB 1041 (2007). Critical Farms Program legislation may be introduced in the 2008 Legislative Session.

Elimination of Districts from the Maryland Agricultural Land Preservation Program: Report to the Office of the Governor of Maryland and the Maryland General Assembly – as required by HB 769 (2006) (January 2007)

In House Bill 769 (2006), the General Assembly and Governor directed MALPF to develop a full proposal outlining the procedures and laws necessary to eliminate agricultural districts from the MALPF Program, which was completed and adopted in 2007 by House Bill 1331. The elimination of districts is a major change in the MALPF program and was the eventual result of comments made by Ed Thompson (then counsel for the American Farmland Trust, a Task Force member, and a former member of the Montgomery County Agricultural Land Preservation Advisory Board) at the last Task Force meeting that produced the 2001 Final Report. He asked why

the MALPF Program still required a district agreement, because he could no longer see its purpose. Being the last meeting at that time for the Task Force, such a fundamental change to the Program could not be taken up.

Bill Powel, Carroll County Program Administrator at the time, reintroduced the possible elimination of districts at subsequent Task Force meetings. Though the Task Force chose not to pursue this issue, the MALPF Board of Trustees asked Mr. Powel to explain the issues at its October 2005 meeting. Based on his presentation, the Board created a committee to study district issues more systematically and present its work and recommendations to the Board. The initial report was made at the January 2006 Board meeting, and a follow-up report presented at the February 2006 Board meeting. The following summarizes some of the general points made by those involved in the discussion of the issues surrounding the elimination of districts from the MALPF Program.

The Functions and Benefits of 5-Year Districts

Districts were a statutory prerequisite for easement application since the start of the MALPF Program. The process by which district petitions were approved was public (including a public hearing), required county participants to adopt a "right to farm" ordinance for district petition approval, and involved reviews and recommendations or approvals by the county Agricultural Land Preservation Advisory Boards, Planning Commissions, and the county governing body. As a result of this broad review, the county had to decide if the permanent preservation of a particular farm was consistent with the county's comprehensive land-use plan and long-term strategic land-use objectives, and the Program received useful exposure.

Districts proved to be an asset in county growth management – it did not require an investment of funds, but provided some control over the rate and location of development. From the outset of the MALPF Program, it was never the intent of State Gov-

ernment to purchase easements on every prime farming parcel in Maryland.

Districts were also a useful part of the process to sell an easement to the State. The review and approval process forced county and State administrators to document properties prior to easement sale, shortening and reducing the administrative burden during the easement application process. Title, property description, and other areas of potential problems may become evident before receiving an easement application. The District Agreement insures a property will not be developed or subdivided while an easement application is pending, and secures non-development by its recordation among the county land records. The creation of agricultural districts provided a "pre-approved pool" of applicant candidates for each year's easement sale. Eventually a number of counties tied district establishment to county programs to provide property tax credits or enable the registration and sale of transferable development rights (TDRs).

Landowner Perspectives on 5-Year Districts

Agricultural districts also served positive functions or provided benefits to the landowners who petitioned to establish them. Of course, they allowed landowners to apply to sell easements to the State. In many counties, they secured tax benefits or enabled participation in TDR programs. A District Agreement reinforced a landowner's "right to farm" by the county's recognition that farming was the preferred use of the property. Finally, the five-year commitment not to develop a property gave landowners a trial period as MALPF program participants without permanent consequences were they to decide that the Program was not for them.

Disadvantages and Costs of 5-Year Districts

MALPF has been the only State program to require landowners to make a five-year commitment not to develop their land a precondition to the State purchasing an easement. No county purchase of development rights (PDR) program uses district creation

as a prerequisite, though the Charles County TDR program has used district creation as a precondition for TDR registration and sale (something the County could do on its own). When State land preservation funds are short and property values uncertain, some owners appear unwilling to make a five-year commitment not to develop a property without being able to anticipate the likely value of an easement offer, the likely ranking of their property relative to other applicants, and/or whether adequate funding would be available to purchase an easement.

Some landowners feel a district commitment, though limited to five years, devalues their property in the market should they wish to sell it before the commitment has been fulfilled. Because of this reluctance, many discussants felt that critical farms were likely to be lost forever to non-agricultural uses. If an easement is not sold, some felt that the staff time spent establishing and enforcing District Agreements would be wasted.

Alternatives to the Current 5-Year District

Rather than requiring a five-year District Agreement for new applicants, MALPF (with new legislation) could completely remove the district requirement, alter the length of time landowners must commit not to develop their properties, and/or make districts solely a county function, allowing each county to determine the length of the commitment and whether or not to make it a requirement for offering an easement for sale to MALPF. All program administrators agree that eliminating or shortening the district commitment with either make no difference or increase the number of applications.

A general observation made by several participants in the discussion was that a one- to two-year district commitment would probably serve the same purpose as a five-year commitment, but would require as much or more administrative work to establish and terminate. Some counties may choose to extend the required length of the district commitment to be greater than five years if the county de-

termines the time commitment. Because a number of counties have relied on the establishment of State agricultural districts for local property tax credits, TDR programs, and other purposes, any elimination of State agricultural districts must provide for counties to develop their own district programs to substitute for the role played by State districts.

Recommendations

Bill Powel's recommendation was to eliminate MALPF districts, allow counties to establish districts at the county level if they choose, and pre-qualify properties for easement sale based on MALPF criteria. If the district is eliminated or the term reduced by a county, the change should apply retroactively, not just to new applicants. However, an informal poll of county program administrators showed a lack of clear consensus. Seven preferred to eliminate districts altogether or reduce the time commitment; four preferred to leave the district commitment requirement alone; one preferred to make districts optional; and two did not care what recommendation was made and adopted.

Despite this lack of clear consensus among county program administrators, by the time the final Committee report was presented at the February 2006 Board meeting, House Bill 490 had been introduced by the Carroll County delegation under the primary sponsorship of Delegate Stocksdales, in part inspired by the discussions taking place at MALPF. This bill to some degree took the decision out of the hands of the Board and proposed a compromise designed to give individual counties flexibility in choosing the length of time of the district commitment, from 1 to 10 years, and provided no retroactivity.

Foundation staff, Ralph Robertson (the new Carroll County Program Administrator), and Vera Mae Schultz (vice-chair of the MALPF Board), met with Delegate Stocksdales to discuss the bill and proposed the following amendment, which Delegate Stocksdales agreed to add to her bill:

"On or before January 31, 2007 the Maryland Agricultural Land Preservation Foundation shall provide to the General Assembly a report outlining procedures and regulations that the Foundation shall adopt to implement the elimination of agricultural districts from the program. The report shall include: an implementation timeline; statutory language for the repeal and re-enactment of §2-509 and §2-510, including the removal of the requirement for districts from the easement application process and the elimination of districts from the program; a process for county and state approval of easement applications; a provision for optional county districts; a provision that requires participating counties to establish a right-to-farm ordinance; a provision that properties shall not be developed or subdivided during the easement application process; and a provision that allows for the continuation of tax credits for existing districts."

In the District Committee report to the MALPF Board, the Committee did not ask the Board to support or approve the proposed legislation. The District Committee, nonetheless, chose to support HB 490 with the amendment and asked the Board to approve the following recommendations.

First, MALPF should transfer the district process to those counties that wish to continue districts. These districts would be established using the same criteria that MALPF currently uses: size, soils, and location. This seems a reasonable alternative as virtually all of the items listed in the pros and cons could be addressed at the county level. Also, by administering their own districts, counties would have a "pre-application" process for easement applicants. Those counties who wish not to hold districts would still be responsible for the properties meeting the pre-application criteria prior to easement application.

Second, the General Assembly should change the commitment time for MALPF districts from the current five years to one-to-ten years to be determined by each county while MALPF works out the process to eliminate

MALPF districts and transfer the district process to the counties.

The Board unanimously adopted the Committee's recommendations. After discussion, the Board recommended the Committee review the legislation again to make recommendations to the sponsor concerning the effective date of the legislation and its retroactivity. On the recommendation of the Committee, no changes were sought to make the legislation retroactive, but its effective date was recommended to be moved forward so any changes in the district commitment would apply to new applicants for the FY 2007 easement acquisition round.

The Results of District Legislation

HB 490 (2006) received an unfavorable report from the Environmental Matters Committee. The substance of the proposed legislation was added to House Bill 769 which was adopted. The bill included the elements of the original bill with the changes recommended by the District Committee, with the exception that the term allowed for the district agreement was changed from one-to-ten years to three-to-ten years.

As required by HB 769, the Foundation submitted a report to the General Assembly written by Elizabeth Weaver, MALPF Administrator, with proposed legislation to implement the elimination of agricultural districts from the MALPF program. This legislation was adopted by the General Assembly by House Bill 1331 (2007).

MALPF will no longer require the establishment of an agricultural district as a prerequisite to sell an easement as of July 1, 2007; district petitions will no longer be accepted by MALPF as of July 1, 2008; and all MALPF districts will be terminated as of June 30, 2012. MALPF District Agreements in effect as of July 1, 2007, will continue until the commitment of the Agreement is fulfilled and the landowner terminates the agreement, or until June 30, 2012, whichever occurs first. Legislation to remove district references from

the Maryland Code will be submitted to the General Assembly by January 31, 2008.

Policy Reviews, Recommendations, and Changes Undertaken by the MALPF Staff and Board of Trustees

Tenant House Policy

As discussed in the 2002 MALPF Annual Report, the MALPF Policy Review Committee recommended clarification and amendments to the tenant house policy to the Board of Trustees. MALPF's legal counsel advised the Board that some uncertainty existed over the enforceability of the Foundation's review process for requests to construct tenant houses on district and easement properties. Specifically, under statutory, regulatory, and easement language in 2001, the Board may only have had the right to verify that the property met the minimum acreage requirements and determine that the tenant house will only be occupied by a tenant fully engaged in the farming operation.

Based on reviews and comments by Board members, program administrators, legal counsel, and the MALPF Task Force, MALPF staff completed recommendations to change tenant house policy in late 2002. In addition to drafting regulations to clarify the tenant house policy, staff drafted the necessary statutory language to establish the Board's clear authority over new tenant houses. House Bill 770 was passed in the 2004 Legislative Session giving the Board of Trustees explicit review and approval authority over new tenant houses on MALPF properties and requiring a full 100 acres per tenant house allowed except in exceptional cases where a farming operation had a compelling need for a tenant house on less than a full 100 acres. This change in law went into effect on October 1, 2004.

The clarified tenant house policy is now fully adopted in COMAR 15.15.03. It reads as follows.

Tenant House Approval for a Farm Subject to an Agricultural Land Preservation Easement

15.15.03.01

.01 Scope.

This chapter establishes the criteria and eligibility for the approval of a tenant house on a farm subject to an agricultural land preservation easement held by the Maryland Agricultural Land Preservation Foundation.

15.15.03.02

.02 Definition.

- A. In this chapter, the following term has the meaning indicated.
- B. Term Defined.
 - (1) "Tenant" means an individual fully engaged in the operation of a farm.
 - (2) "Tenant" does not include a landowner or a person who has a financial interest in the landowner, including a shareholder interest, partnership interest, or membership interest, full, limited, or otherwise.

15.15.03.03

.03 Eligibility.

- A. The approval for the construction of a tenant house by the Maryland Agricultural Land Preservation Foundation is not an absolute right of a landowner, and requests shall be reviewed by the Foundation on a case-by-case basis. Each request shall be reviewed to determine if a proposed tenant house is necessary based on the nature of the farming operation. A tenant house shall be of appropriate size and located on a farm consistent with this chapter and its purpose as housing for a tenant fully engaged in the operation of the farm.
- B. Farm Size.
 - (1) A request for a tenant house may not be considered by the Foundation for any farm of less than 100 acres.
 - (2) Not more than one tenant house per full 100 acres may be considered by the Foundation for a farm, for example, one house for 100—199.99 acres, two houses for 200—299.99 acres.
- C. A tenant house may be approved for and occupied only by tenants in which one or more is fully engaged in the operation of the farm.
- D. The Foundation shall approve the location and size of a tenant house as an accessory

structure. Unless the Foundation approves otherwise a tenant house:

- (1) Shall be located in the vicinity of other farm buildings; and
 - (2) May not be located on a farm field.
- E. A tenant house, including its size and location, may not be approved by the Foundation unless it conforms with local planning and zoning regulations.
- F. A tenant house and the land where it is constructed may not be subdivided and separately conveyed from the farm subject to the easement.
- G. The Foundation may not approve the construction of a tenant house solely for the purpose of producing rental income.

15.15.03.04

.04 Application Procedure.

Before the Foundation may consider a request for the construction of a tenant house, all of the following information shall be submitted:

- A. An application for construction of a tenant house, which has been completed and signed by all titled landowners;
- B. An unmarked copy of the tax map, which outlines the entire district or easement property;
- C. A second copy of the tax map, which shall include the following:
 - (1) Property boundaries of the district of easement property;
 - (2) Location of, and access to, the proposed tenant house; and
 - (3) Location of, and access to, all preexisting dwellings, lot exclusions, tenant houses, and farm buildings;
- D. A written statement from the landowner indicating how much the tenant will be compensated for the tenant's work;
- E. Written verification from the county program administrator describing:
 - (1) The current overall farm operation; and
 - (2) The need for the proposed tenant housing to support the current operation;
- F. A letter of recommendation from the local agricultural land preservation advisory board; and
- G. A written statement from the local planning and zoning office or the county program administrator indicating that the proposed tenant house may be constructed under current local regulations.

Lot Location Guidelines

The MALPF Board has, since the beginning of the Program, reviewed and approved applications for the release of owners', children's, and (more recently) unrestricted lots from easement restrictions. These releases represent the limited development rights retained by the original grantor (only unexercised optional unrestricted lots convey to subsequent owners of the property).

Part of the review process is for the landowner to locate the proposed lot on the property and the county advisory board and the MALPF Board to review the location to ensure that it minimizes to the extent possible the impact of residential development on current and future farming and forestry operations.

Locational review is critical to protecting the primary conservation value for which public funds have been invested. Locational review also helps the landowner establish and retain the deductibility of any charitable contribution claimed on tax filings from a bargain sale of the easement to MALPF. Finally, locational review helps MALPF fulfill the requirements of the grant agreement that commits federal funds to the purchase of easements through the Federal Farm and Ranch Land Protection Program.

Alternative ways to meet these objectives can be seen in other land preservation programs. For example, the Rural Legacy Program within the Maryland Department of Natural Resources typically requires the explicit delineation of a "development envelope" in the Deed of Easement for a preserved property on which any retained development rights must take place.

The Maryland Environmental Trust typically requires the grantor to agree in the Deed of Easement to the specific location where any retained dwelling rights would be exercised on the property, with that location subject to discussions and approval from the Trust based on the conservation values the

landowner and the Trust are seeking to protect.

For both of these State programs, if the landowner wishes to relocate that dwelling right elsewhere on the property, it can only be done through a cumbersome easement amendment process in which the program staff and Board must evaluate both the impact of the relocation on the conservation values on the property and the monetary value of the State's interests in the property.

Until the Board approved a lot location policy making explicit the criteria on which the review would be based, the Board reviewed the proposed location for each lot request on a case-by-case basis. While many criteria made explicit in the final policy were part of the Board discussion evaluating these requests, the Board risked treating requests differently over time as the composition of the Board changed or simply as a result of the dynamic of discussion during the Board's review.

To improve the consistency and quality of locational reviews and approvals, the Board appointed a committee in summer of 2005 to develop an explicit policy to provide explicit guidance to landowners, program administrators, MALPF staff, and Board members. The final policy, approved at the February 2006 Board meeting, but not yet put into COMAR as of June 30, 2007, is as follows.

GUIDELINES FOR LOT LOCATIONS on MALPF District/Easement Properties

The Maryland Agricultural Land Preservation Foundation (MALPF) allows landowners to apply for the release of an owner's lot, child's lot, or an unrestricted lot under certain conditions. Lot locations on properties with MALPF districts and easements should be selected so that there is minimal impact on the current and future agriculture and forestry operations on the property.

An application for the release of a lot is first made to the local agricultural advisory board. If approved, the application is submitted to the MALPF staff for review and recommendation to the MALPF Board of Trustees.

When applying for the release of a lot from a district or easement property, the landowner should consider the following location criteria:

- A. Impact on agriculture and forestry operations:
 - 1. Current – operations and designation (both MALPF and County) of existing residential units;
 - 2. Future – operations and residential units
- B. Options for geographical location (in priority order from most to least desirable):
 - 1. Along public roadway and (if they exist) clustered with other dwellings;
 - 2. Along boundary lines, natural boundaries, or the edge of tillable land, and clustered with other dwellings (if they exist);
 - 3. Clustered with farmstead dwellings and buildings; and
 - 4. Other.
- C. Options for Access (in priority order from most to least desirable):
 - 1. Direct road frontage access from public roadway;
 - 2. Use of an existing access, e.g., farm lane or right-of-way. If other dwellings exist, access should be on a shared drive if feasible;
 - 3. Along property boundary lines, natural boundaries, or the edge of tillable land. If other dwellings exist, access should be on a shared drive if feasible.

If the proposed location or access is not the most desirable option listed above (see B and C), the landowner should explain how more desirable alternatives were considered, and why they were not feasible:

When reviewing a request to release a lot from a district/ easement property, the local Agricultural Advisory Board, MALPF staff, and the MALPF Board of Trustees shall consider the following guidelines:

- A. Lots allowed under MALPF statute and regulations must be a maximum of 1.0 acre unless county regulations or the Health Department requires additional acreage. When this happens, MALPF statute and regulations allow for the lot to be increased by such acreage as is necessary, up to a maximum lot size of 2.0 acres, with appropriate documentation. Therefore, all requests for

lot exclusions should be for **up to 2.0 acres** to minimize the possibility of the lot request coming back to the Board at a later date to receive approval for an increase in size. After MALPF Board approval, the specific lot size will be reflected in the legal description (if an easement property) that is provided by the landowner to MALPF staff. The legal description will be recorded with the preliminary release document.

- B. Program Administrators are required to provide property outlines, e.g. tax maps which show the location of the proposed lot and its access, and are encouraged to provide documents that will identify the requested lot location clearly (preferably color aerial maps that show the proposed lot location, its access, the dimensions from property lines, and the location of failed perc tests, if any). Photographs and site plans (may be hand drawn) also help identify the lot location and should be provided when available.
- C. When a lot is proposed to be located in an area that is not optimal but is the only place an acceptable perc can be located, the application must be accompanied by a site plan (showing failed locations) from the Health Department, a licensed sanitarian, or an engineer who is authorized to conduct perc tests or site preparation for perc tests.
- D. If direct road frontage access to a public road is not possible, the county should encourage right-of-way access unless the county has regulations that require lots to have fee-simple access. [NOTE: If fee simple access is required by County regulation, it must be included in the allowable acreage of the lot.] If access is to be in fee, and not along a property line, MALPF will 1) approve the lot only with the condition that "the owner grants a right-of-way back to the farm over top of the access to the lot" and 2) list a requirement on the approval letter to the landowner that the plat (survey or legal description) must include this right-of-way before it can be recorded.
- E. If an approved lot area does not perc after MALPF Board approval, as long as the new location overlaps the approved lot area, and the new location will not significantly interfere with farming or forestry more than the approved lot location, the new location can be reviewed and approved administratively by MALPF staff after it receives local agri-

cultural advisory board approval. MALPF staff reserves the right to refer any request to the Board of Trustees for their review.

- F. If, just prior to a MALPF Board of Trustees meeting it is determined that a lot location must be changed, the request will be withdrawn from the agenda until such time as the local agricultural advisory board and MALPF staff have had an opportunity to review the new location.
- G. The MALPF Board of Trustees will not attempt to change the location or review any request that changes the location of a lot during the meeting. The application will be withdrawn to allow the local agricultural advisory board and MALPF staff to first review the new location. However, the Board can make suggestions on where the lot should be located and the new location must be resubmitted at a subsequent meeting. To avoid a resubmission, when initially applying for a lot, a property owner may submit two locations for approval by the local agricultural advisory board, MALPF staff, and the MALPF Board of Trustees, designating one as the primary preference. Upon receiving a successful perc, the landowner will notify MALPF staff of which location will be used.
- H. The landowner and Program Administrator are **strongly encouraged** to be present at the MALPF Board meeting when the lot application is presented to answer any questions that may arise. Both landowners and Program Administrators must recognize that if they are not present, circumstances might arise that will require the request be tabled until they can be present.

Lot Relocation Policy

Before 2005, MALPF's policy on the relocation of lots and/or dwellings on one of its properties was the record of its past decision making. The Foundation understands the necessity to allow the original or subsequent owners the ability to relocate a house because either there may be compelling circumstances that require relocation (for example, an approved lot (released or withheld) may not perc, an existing dwelling may experience septic failure, or an existing dwelling may be destroyed by fire), or the farming operation and

the conservation values on the property in which the State invested to preserve may be enhanced by relocation.

The Foundation and its legal counsel had looked at the law and concluded that, if the relocation had no impact on the farm, if the landowner gave up more than he or she was receiving in monetary and conservation values, if the original house was destroyed and its location restored it to agricultural use, relocating a dwelling may be allowed as an extraordinarily narrow exemption to accommodate compelling circumstances.

However, by 2005, landowner requests to relocate existing dwellings were becoming increasingly common; the justifications offered for such requests were much less likely to be compelling; and the balance of costs to the conservation values, farming operations, and the monetary value of the State's interests was more likely to outweigh any benefits. For example, it is now not unusual to receive a request to relocate a dwelling because the non-farming landowner preferred the view at another location, irrelevant of the impact on the farming operation or conservation values. Other requests have been made to relocate an existing dwelling, but retain that structure and redesignating it to be a tenant house or farm structure, independent of the demonstrated need for a tenant house or an additional farm structure.

Nothing in the law or regulations at the time sanctioned the practice of relocation. However, increasingly landowners have perceived relocation of a dwelling incorrectly as a right.

In response to this developing problem with relocation requests, reviews, and approvals, Foundation staff worked with the Office of the Attorney General to propose new regulations based on the record of MALPF's past practice in reviewing and approving relocation requests. These regulations were originally presented to Board members and program administrators in April 2005 for com-

ment, suggestions, and consideration to establish clear guidelines and to maintain consistency in approvals. After comments and revisions, the following regulations were adopted at the June 2005 Board meeting and became effective permanently in COMAR 15.15.04 as of November 7, 2005.

**RELOCATION OF THE SITE
OF AN EXISTING DWELLING
on a Farm Subject to an
Agricultural Land Preservation Easement**

15.15.04.01

.01 Scope.

This chapter establishes the criteria and eligibility for the approval of the relocation of the site of an existing dwelling on a farm subject to the Maryland Agricultural Land Preservation Program.

15.15.04.02

.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
 - (1) "Existing dwelling" means a building, structure, trailer, or mobile home that was designated by the landowner and recognized by the Foundation and the county as an existing dwelling at the time of the establishment of an agricultural land preservation district or sale of the Agricultural Preservation Easement, whether or not the dwelling was occupied at the time of the sale.
 - (2) "Farm" means any land subject to an agricultural land preservation easement or district agreement.
 - (3) "Foundation" means the Maryland Agricultural Land Preservation Foundation.
 - (4) Restoration to Agricultural Use.
 - (a) "Restoration to agricultural use" means to alter the land to open space so that it may produce a crop or be used for livestock.
 - (b) "Restoration to agricultural use" does not include altering an existing dwelling to another use as an accessory farm building.

.03 Eligibility.

- A. Requests for Approval.
 - (1) The approval to relocate the 1-acre site of any dwelling by the Foundation is not an absolute right of a landowner.
 - (2) Requests shall be reviewed on a case-by-case basis, and approved if consistent with the guidelines established by this chapter.
 - (3) Each request shall be reviewed to determine if:
 - (a) The proposed new site for any new dwelling will adversely affect farming operations; and
 - (b) The site where the dwelling exists at the time of the request may be restored to agricultural use.
- B. Dwelling Relocation Criteria.
 - (1) A request to relocate the site of an existing dwelling on a farm may not be approved by the Foundation if it increases the residential development or the number of dwellings on the farm.
 - (2) The proposed new site for a new dwelling:
 - (a) Is subject to the Foundation's approval; and
 - (b) May not be located in an area that interferes with any agricultural use.
 - (3) The Foundation's approval for a new site for an existing dwelling shall be conditioned upon the removal of the existing dwelling, and restoration of the existing dwelling site to agricultural use, within 60 days after the use and occupancy permit is issued for the new dwelling, or sooner, if required under county law.
 - (4) A request to relocate the 1-acre site of any proposed new dwelling may not be approved unless the landowner can demonstrate to the Foundation that the existing dwelling site can be restored to agricultural use.
 - (5) A landowner's request to relocate the site of an existing dwelling may not be approved if its purpose is solely for aesthetic reasons.

.04 Application Procedure.

Before the Foundation may consider and approve a landowner's request to relocate the site of an existing dwelling, all of the following shall be filed with the Foundation:

- A. A written application for the relocation of a dwelling which has been completed and signed by all titled landowners, which shall include the following:
 - (1) A map that clearly indicates:
 - (a) The property boundaries of the easement property;
 - (b) The location of, and proposed access to, the new site of the proposed dwelling;
 - (c) The location of and access to the existing dwelling; and
 - (d) The location of Class I, II, and III soils;
 - (2) Photographs of the property showing views of the property from the nearest roads;
 - (3) A description of the farm operation;
 - (4) A written statement from the landowner, that the existing dwelling shall be removed at the landowner's expense and the existing dwelling site restored to agricultural use within 60 days after a use and occupancy permit is issued for the new dwelling, subject to the Foundation's inspection; and
 - (5) A detailed description showing how the landowner proposes to restore the site of the existing dwelling to agricultural use;
- B. A written review from the county program administrator of the applicant's proposal, based upon the "Dwelling Relocation Criteria", in accordance with Regulation .03B of this chapter, and any other information that may assist the Foundation in making its decision;
- C. A letter from the local soil conservation district on the feasibility of the landowner's plan to restore the 1-acre site to agricultural use;
- D. A letter of recommendation from the local agricultural land preservation advisory board; and
- E. A written statement from the local planning and zoning office or the county program administrator stating that the landowner's

proposal to tear down a dwelling in exchange for a new dwelling on the 1-acre construction site is allowed under local regulations.

15.15.04.05

.05 Agreement.

If the Foundation approves a landowner's request to relocate a dwelling, the landowner shall enter into a written agreement with the Foundation, to be recorded among the county land records, describing the terms and conditions of the Foundation's approval for the site for the relocation of the dwelling.

On the recommendation of the Board and MALPF legal counsel, departmental legislation was developed for the 2006 Legislative Session to make explicit the Foundation's authority to review and approve relocation requests as long as the new location does not interfere with the property's agricultural use. As a condition of approval, the existing dwelling must be demolished or, under exceptional and compelling circumstances, converted to an agricultural use integral to the farming operation. The existing structure approved for relocation elsewhere on the property could not be redesignated as a "tenant house" for purposes of the MALPF program. This proposed legislation was passed as House Bill 90, effective October 1, 2006.

Lot Transfer Policy (5-Year Restriction)

Under statute, any owner's or child's lots created on MALPF district or easement property are strictly for the personal use of the original owner who placed the property under the district agreement or sold the easement and/or the child of that owner. Such rights are not counted against the value of the property during the appraisal process that determines the easement value of the property because the use of these rights is narrowly restricted and cannot be transferred or sold in the marketplace.

These rights do not represent potential lots for development and sale for commercial profit to unrelated third parties, but are to benefit the family farm by encouraging the chil-

dren of the original seller of the easement to live and work on the family farm and to ease the intergenerational transfer of farming properties.

The Foundation identified two problems resulting from the restriction of the development and use of these lots to the eligible recipient. First, the statutory restriction of the dwelling to the personal use of the eligible recipient created a cloud over the title for any subsequent sale or transfer of the dwelling. No mechanism or statutory authorization existed to allow the sale or transfer of a lot released from easement or district property, whatever the reason for the sale or transfer.

Second, while the overwhelming majority of program participants understands and respects the restrictions on the development rights that are retained, for a few, the potential commercial profits are a significant incentive to build a house as a speculative investment to be sold to a third party once the house is ready for occupancy.

After discussion among MALPF staff, Board members, and legal counsel, departmental legislation was developed and passed by the General Assembly in the 2004 Legislative Session. House Bill 164 authorizes the sale or transfer of a lot excluded from the district or easement of the Maryland Agricultural Land Preservation Foundation for the exclusive use of eligible family members to third parties any time after five years of the construction of the dwelling. If the sale or transfer takes place before five years of the release, the transaction must be reviewed and approved by the MALPF Board of Trustees.

This statutory change creates a benefit for program participants by providing a mechanism and clear guidelines for the subsequent sale or transfer of dwellings on released lots. The Foundation can verify that the transfer is for a legitimate reason, such as death, job transfer, divorce, severe financial hardship, etc., and not the product of commercial development for profit. This will improve the enforceability of the statutory intent of the pro-

gram, uphold the public purpose the Foundation serves, protect the investment of public funds, and creates a mechanism to allow the subsequent sale or transfer of these properties that will remove any cloud from the title.

The Foundation has no desire to interfere with legitimate property transfers, but wishes to have the ability to verify the legitimacy of such transfers for a reasonable period of time after the lot has been released from the restrictions of an easement or district agreement and to provide landowners a means to secure a clear title when the property is sold or transferred. This statutory change does not apply to the exercise of the unrestricted lot option provided in §2-513(b)(3).

The Board of Trustees approved the following regulations (COMAR 15.15.06) under the authority of House Bill 164 at its May 2006 meeting. The regulations became permanently effective November 6, 2006.

**TRANSFER OF A LOT
RELEASED FROM EASEMENT
for Landowner or Child**

15.15.06.01

.01 Scope.

- A. This chapter applies to any lot released by the Foundation to a landowner or landowner's child for the landowner's or landowner's child's use and occupancy on a farm, and explains when the lot may be transferred to another person under the Maryland Agricultural Land Preservation Program.
- B. The lots permitted to be released from the deed of easement under this chapter are:
 - (1) Restricted under the terms of each agricultural land preservation easement; and
 - (2) Intended only for the limited purpose of constructing a dwelling for the landowner who transferred an easement to the Foundation or for the landowner's child, thereby allowing that landowner's immediate family to live on the farm.
- C. Except as provided by this chapter, these dwellings or lots may not be transferred to

any other person.

15.15.06.02

.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
 - (1) "Child" means the child of the landowner who sold or transferred an agricultural land preservation easement to the Foundation.
 - (2) "Dwelling" means the dwelling house, including lot acreage, allowed to be released under Agriculture Article, §2-513, Annotated Code of Maryland, and under the terms of an agricultural land preservation easement, for the use and occupancy of a landowner or landowner's child on the farm.
 - (3) "Farm" means the land encumbered by the agricultural land preservation easement.
 - (4) "Landowner" means the landowner who sold or transferred an agricultural land preservation easement to the Foundation.

15.15.06.03

.03 Lot Eligibility.

Upon approval and release by the Foundation, only a landowner who sold or transferred an easement to the Foundation has the right to construct a dwelling on a lot on the farm for the bona fide use and occupancy of the landowner or a child.

15.15.06.04

.04 Lot Approval and Release.

- A. The Foundation may not approve a landowner's request for the release of a lot for the construction of a dwelling unless the landowner complies with the requirements of COMAR 15.15.01.17C that include the submission of a declaration to the Foundation that the dwelling to be constructed or already constructed will be occupied by the landowner, in the case of the landowner's lot, or by a child, in the case of a child's lot.
- B. After Foundation approval, the release of the lot shall consist of two parts, a preliminary release and a final release, as specified in Agriculture Article, §2-513, Annotated Code of Maryland.

.05 Lot Transfer Restrictions.

- A. A landowner or child who has a lot released under the terms of the easement shall occupy the dwelling constructed on the lot and may not transfer or lease the lot to any person except after the expiration of 5 years from the date of the Foundation's final release for the lot. Before the expiration of the 5-year period, the Foundation may only approve a landowner's or child's request to transfer a lot upon the occurrence of the following events:
 - (1) Notice to the Foundation of a transfer pursuant to:
 - (a) A bona fide foreclosure of a mortgage or deed of trust; or
 - (b) A deed in lieu of foreclosure;
 - (2) The death of the landowner or landowner's child;
 - (3) A decree of divorce where the landowner or child is ordered to sell or transfer the lot as part of a bona fide property settlement;
 - (4) A change of employment location of the landowner or child where the Foundation determines that it would be impractical for the landowner or child to commute to the new work location; or
 - (5) Any other circumstance, as determined by the Foundation, where it would be impossible for the landowner or child to continue to occupy the dwelling.
- B. A landowner or child who has a lot released under the terms of the easement may not transfer or lease the lot if a dwelling has never been constructed on the lot.

.06 Easement Violation.

A person who transfers a lot in violation of this chapter is in violation of the agricultural land preservation easement applicable to the farm.

Requests for HB 131 Lots – Carroll County

House Bill 131 was introduced by the Carroll County delegation and passed by the General Assembly in the 2003 Legislative Session. The bill allowed a subsequent purchaser of a MALPF-preserved property to obtain a one-acre lot to construct a dwelling.

The original easement had to be sold prior to January 1, 1990, the lot created could not be subdivided from the property, the easement property must be at least 50 acres, no dwelling house could have existed at the time of the easement sale, the original grantor could not have exercised the right to construct a dwelling house, the easement property still contains all of the land described in the deed or deeds of record at the time of sale of the easement, and the lot request would have to be made by the original grantor, not the subsequent owner. The legislation only applied to Carroll County. All requests for qualifying properties would have to be made within one year of the effective date of the legislation, October 1, 2003.

MALPF's Board of Trustees voted unanimously to support this legislative proposal based on revisions made to the text of an earlier proposed bill that was unsuccessful. The judgment of the Board was that this bill corrected issues specific to Carroll County that arose early in the history of the Program, the impact would be limited to five potential properties, and it created only a limited window of opportunity for requests to be submitted to the Foundation. The Foundation's Board of Trustees reserved the right for normal review of location and other criteria considered in processing lot exclusion requests. This bill proposed a limited remedy to a problem for easement properties dating before 1990 without a dwelling house on the property.

Between November 2003 and September 2004, during the one-year window of opportunity created by HB 131, MALPF approved all five eligible properties in Carroll County to create an owner's dwelling on the easement property that will convey perpetually with the farming property.

Retention of Lot Rights

In early 2004, county program administrators requested a policy be developed to clarify the conditions under which family lot rights are retained where property is transferred to family entities, such as trusts, family

corporations, partnerships, etc., for estate planning and farm financing purposes. Because such entities have become more common in recent years, program administrators would like to avoid the current practice of examining each entity to determine lot rights, which can be quite onerous and may cause undue delay all involved.

MALPF staff, in consultation with the Office of the Attorney General, developed the following clarification of policy to address the concerns raised by program administrators. This written clarification, presented to the Board of Trustees in May 2004, was adopted in June 2004 after an opportunity for review and comment by Board members and program administrators.

**RETENTION OF LOT RIGHTS
When Property Is Transferred to
Family Corporations, Partnerships, Trusts, etc.**

***Transfer of less than 100% of the ownership of
the property to family members:***

When the original landowner transfers less than 100% of the ownership interest in land, e.g., a parent transfers a percentage of the ownership to his or her children, where the original owner retains partial ownership, the original landowner will retain the lot eligibility, i.e., the eligibility to request an owner's lot and the eligibility to request lots for his or her children. However, the owner's lot eligibility expires upon the death of the original owner(s), regardless of whether or not the original owner requested a lot. If the original owner documented his or her intent to create lots for his/her children before his/her death, the children may request child's lots for as long as the family maintains ownership of the easement property. The Foundation recommends the original owner also document intent to create lots in his or her will, along with provisions necessary to facilitate the execution of the intent. A preliminary and/or final release may be requested at any time subsequent to the Foundation's approval of the lot, for as long as the family maintains ownership of the easement property.

***Transfer of part or all of ownership to a "family
controlled entity" (defined as a corporation,
limited liability company, partnership, or
limited partnership in which all the share-
holders, members, or partners are family
members):***

When a landowner transfers all or part of his or her ownership interest in land to a family-controlled entity, where the original owner either retains partial ownership in the land, or at least has partial ownership in the family-controlled entity, the original landowner will retain the lot eligibility, i.e., the eligibility to request an owner's lot and the eligibility to request lots for his or her children, for as long as the original owner is living. The owner's lot eligibility expires upon the death of the original owner(s), regardless of whether or not the original owner requested a lot. If the original owner documented his or her intent to create lots for his/her children before his/her death, the children may request child's lots for as long as the family-controlled entity maintains ownership of the easement property. The Foundation recommends the intent also be documented in the original landowner's will, along with provisions necessary to facilitate the execution of the intent. A preliminary and/or final release may be requested at any time subsequent to the Foundation's approval of the lot, for as long as the family-controlled entity maintains ownership of the easement property.

Transfer of part or all of ownership to a trust:

In this situation, a landowner transfers the property from himself/herself to a trust that names him or her as the sole trustee (or husband and wife as co-trustees). The successor trustee(s) becomes the owner of the property immediately upon the death of the trustee, and there is no estate settlement period with regard to property owned by the trust. The original owner will retain lot eligibility (owner's lot and child's lot) until his or her death. The owner's lot eligibility expires upon the death of the original owner(s), regardless of whether or not the original owner requested a lot. If the original owner documented his or her intent to create lots for his/her children before his/her death, the successor trustee may request children's lots for as long as the Trust (or beneficiaries of the Trust) maintains ownership of the easement property. The Foundation recommends the intent also be documented in the original landowner's will, along with provisions necessary to facilitate the execution of the intent. A preliminary and/or final release may be requested at any time subsequent to the Foundation's approval of the lot, for as long as the Trust (or beneficiaries of the Trust) maintains ownership of the easement property.

Testate or Intestate Inheritance:

Upon the death of the original owner(s), the owner's lot eligibility expires, regardless of whether or not the original owner requested a lot. If the ori-

ginal owner documented his or her intent to create lots for his or her children before his or her death (whether by Last Will and Testament or otherwise), the personal representative of the estate (or the heirs if the estate is closed) may request child's lots for as long as the estate or heirs of the estate maintain ownership of the easement property. The Foundation recommends the intent also be documented in the original landowner's will, along with provisions necessary to facilitate the execution of the intent. A preliminary and/or final release may be requested at any time subsequent to the Foundation's approval of the lot, for as long as the estate or heirs of the estate maintain ownership of the easement property.

Conveyance of a "remainder" interest to children, or "joint interest with right of survivorship":

In this situation, a landowner conveys a "remainder" interest to his or her children, or a "joint interest with right of survivorship." Under the landowner's deed, the children become owners of the property instantly upon his or her death. There is no estate settlement time period for the lot rights to be exercised. If the original landowner documented his or her intent to create lots for his/her child(ren), the child(ren) may request child's lots for as long as the children maintain ownership of the easement property. The Foundation recommends the intent also be documented in the original landowner's will, along with provisions necessary to facilitate the execution of the intent. A preliminary release may be requested at any time subsequent to the Foundation's approval of the lot, for as long as the children maintain ownership of the easement property.

Lot Eligibility Policy: Multiple and/or Corporate Owners of One or More Properties and Multiple Properties for a Single Owner

In finalizing the new easement document being prepared for the FY 2003 easement acquisition cycle, the Policy Review Committee was given the task to make recommendations on one of last unresolved issues on lot eligibility policy for multiple and/or corporate owners and for multiple properties. These recommendations were to be made within the scope of existing statute and regulation.

The draft policy is intended to meet the following objectives:

- To create greater flexibility in addressing family needs while reducing the incentives to create lots for sale to unrelated third parties.
- To clarify lot eligibility for non-family corporations to one owner's lot.
- To limit the ability of owners of multiple district or easement properties to increase lot eligibility by owning multiple properties.
- To create clear guidelines for MALPF staff, program administrators, Board members, and current and potential program participants.

The Policy Review Committee initially circulated the draft policy to members of the Board of Trustees and to program administrators for comments in preparation for the initial presentation with those comments at the December 2002 meeting. After this review and discussion, the Board approved the policy to be incorporated into the FY 2003 Deed of Easement language at the January 2003 Board meeting.

**POLICY ON LOT ELIGIBILITY –
Multiple and Corporate Owners
and/or Multiple Properties**

1. To determine lot eligibility in the case of multiple owners:

The maximum number of lots on a property or properties is the maximum for which any one of the joint owners is eligible, as chosen at district establishment by the owners. Thus, if the property is owned by three brothers:

- | | |
|------------|-------------------------|
| Brother 1: | single, no children |
| Brother 2: | married, two children |
| Brother 3: | divorced, five children |

If the owners choose Brother 3, the maximum number of lots for which the owners and children are eligible is six, if possible under state and county density rules, because Brother 3 is eligible for one owner's lot and five children's lots.

Once the maximum number of lots has been established, any special needs within the

immediate family of the owners may be addressed by Board approval. For example, if Brother 1 is actually the person working the farm, he could be granted the owner's lot, while the children's lot eligibility will continue to apply to the children of Brother 3. However, any lot eligibility transferred within the ownership structure must be offset by a net loss of lot eligibility elsewhere. The owner's lot can only be used by one of the three owners. The children's lots can only be used by the children of one of the three owners. Another way of saying this is that the owner's lot cannot be excluded for a child, and a child's lot cannot be excluded for an owner.

Alternatively, consider if the property is owned by parents and two of four children:

Parents:	still married, four children, of whom two are co-owners
Child 1:	married, two children
Child 2:	single, no children

If the parents are deemed to be the owners, there will be three, not four, lots total, with one owner's lot for the parents and two lots for the two non-ownership children. If the parents are deemed owners, Child 1 and Child 2 are not counted as children, because they are owners, though they may get lots through the lot eligibility transfer discussed above. For purposes of calculating total lot eligibility, a child cannot be both an owner and a child. If Child 1 is deemed to be the owner, there will be three lots total, with one owner's lot for Child 1 and two lots for that child's children.

2. Lot eligibility for a corporate owner where the corporation is clearly a family corporation follows the same guideline as above.
3. Lot eligibility for a corporate owner where the corporation is composed of unrelated shareholders is restricted to one owner's lot. The corporation is not entitled to any children's lots, because corporations cannot have children. This applies, for example, to traditional corporations, "S" corporations, limited liability corporations, and limited liability partnerships, when composed of unrelated shareholders.
4. Lot eligibility for single or multiple owners of multiple district or easement properties shall be the same as for a single property. In

other words, multiple district or easement properties cannot be used to multiply the number of lots for which their ownership is eligible. However, if there is good reason for an owner or child to have a principal dwelling in more than one location that can be established to the Board's satisfaction, such as managing the farming operation where there is significant geographical distance between easement properties, the Board may approve a second owner's or child's lot for the same owner or child on the geographically distant property.

Discussions taking place at the same time among members of the MALPF Task Force resulted in a new lot exclusion policy being recommended to the General Assembly for legislative change adopted in the 2003 Legislative Session through Senate Bill 626 and going into effect on October 1, 2003. The new lot exclusion policy did not apply to the easement language used for the 2003 easement acquisition cycle, but to subsequent easement documents.

Among other changes, this bill limits the total number of lots allowed on a property to three (down from ten), decreases density (from 1:20 per lot to 1:20 for the first lot and 1:50 for the subsequent two lots), allows easement applicants to opt for one unrestricted lot that carries with the land rather than the three family lots, and makes the exclusion of dwellings existing at the time of easement sale a function of lot exclusion limits.

The implications of this statutory change for the subdivision of preexisting dwellings will be discussed below. However, for the lot eligibility policy discussed in this section, offering program applicants the option of family lots or one unrestricted lot may have important implications if an applicant owns multiple properties.

As of the end of FY 2007, the policy has not been systematically readdressed to consider these implications, but easement language and interpretation have followed the formal policy as far as it remains consistent with the change in statute in October 1, 2003.

To the extent that the new statutory changes diverge from the language of this policy, the new statutory language takes precedence in easement language and interpretation. This policy is expected to be revisited and addressed more systematically and explicitly in the near future.

Withheld Acreage Policy

The MALPF Task Force's "Interim Report for the 2003 Legislative Session" (issued in January 2003) recommended that the Board of Trustees clarify its policy on landowners establishing districts who exclude acreage from the district, particularly in anticipation of applying to sell an easement to MALPF.

The Task Force recommended that the Board establish and begin using appropriate guidelines to address this issue, recognizing both that there are legitimate reasons to exclude land from a district and that the potential exists for commercial, industrial, or residential development to take place on excluded acreage that could diminish any State investment in the remaining acreage.

Because of the new lot exclusion policy adopted on the recommendation of the Task Force in the 2003 Legislative Session (SB 626), the need for a clear policy on withheld acreage during district establishment is even more compelling. The maximum number of lots that can be excluded from an easement property has been reduced from ten to three. Landowners who do not need family lots will likely choose the unrestricted lot option, even more restrictive of development. Further, landowners with preexisting houses on potential district property will have a strong incentive to exclude them at district establishment or risk not being able to subdivide them in the future or only being able to subdivide them by using family lot rights. Therefore, withheld acreage guidelines need to be very clear for the Board, program administrators counseling potential program participants, and to landowners considering establishing agricultural districts.

The Board of Trustees took up the Task Force recommendations at its November 2003 meeting. After hearing and discussing the proposed withheld acreage policy, the Board directed staff to distribute the proposal and solicit comments from program administrators and other potentially interested parties and report the comments and feedback to the Board at a subsequent meeting.

After soliciting and compiling comments, staff brought back the proposed policy with a final report to the February 2004 Board meeting. The policy was approved to provide guidance to the Board, staff, and program administrators, after including the phrase, "Such other legitimate reasons as the Maryland Agricultural Land Preservation Foundation may determine" as one of the conditions to address concerns expressed by program administrators.

WITHHELD ACREAGE POLICY (approved by the MALPF Board of Trustees: February 24, 2004)

Traditionally, relatively few landowners wishing to establish a MALPF district have proposed withholding part of the farm from the district. Most such requests are made for one of several reasons: to meet qualifying soils criteria, to exclude land used to store landscaping equipment, or to develop one or two lots. Most counties consider these legitimate reasons, in terms of the purpose of the Program. Some counties do not allow land to be withheld from the establishment of a district.

If the land is to be withheld for the development of more than a few lots, it may undermine the purpose of the Program and result in substantial residential subdivision next to an easement. Residential neighbors can view the noise and odors as nuisances and attempt to alter or stop agricultural and forestry operations, thereby compromising public investment in the land for productive agriculture and forestry.

Finally, when land is withheld and the district is valued for easement purchase, it can be impossible to ensure that the State is extinguishing the number of development rights for which it pays. The result is that development rights may be purchased with public funds, but those rights may subsequently be used for development on withheld land, undermining the public investment.

The Foundation's policy to guide the approval of districts from which contiguous acreage is being excluded or withheld is as follows:

- In general, the Foundation should accept district applications if the withheld land poses little or no potential risk to future agriculture and forestry on the district.
- The Foundation should reach agreements with each county to ensure that development rights the State pays to extinguish are not retained for private use by the original or a subsequent owner of withheld land.

Legitimate Reasons for Exclusion of Land from Districts:

- To meet qualifying soils criteria.
- Land excluded is zoned for development.
- Land is planned for a non-agricultural public purpose.
- Land is not developable, e.g., wetlands.
- Excluded land contains existing commercial or residential development.
- Withheld land poses little or no potential risk to investment in the district for agriculture.
- Land is under local agricultural zoning and will allow three or fewer lots.
- To allow the owner of a farm with no dwelling on it to withhold up to two acres for a dwelling for the current or a subsequent owner; such withheld acreage must not be subdividable from the farm.
- Such other legitimate reasons as the Maryland Agricultural Land Preservation Foundation may determine.

In practice since the approval of these guidelines, the Board of Trustees has only approved district petitions requesting to withhold acreage that could allow the development of three or fewer dwellings under county zoning and any existing restrictions on the acreage. Since the elimination of districts as of July 1, 2007, as an eligibility criterion for applying to sell an easement to MALPF, the Withheld Acreage Policy has been applied to easement applications that include requests for withheld acreage.

Partial Termination Policy

Because Foundation staff believed that the logical extension of the policy on withheld acreage would be to apply its concepts to requests for partial termination, staff presented a proposed partial termination policy that parallels the earlier withheld acreage policy to the Board at its July 2004 meeting.

After program participants have fulfilled their five-year district agreement, they may partially terminate their district agreement, resulting in the functional equivalent of withholding acreage when their district was originally established. The reasons for requests for partial termination are generally similar to those for withheld acreage. For example, partial termination requests have been received to develop residential lots for commercial purposes, to develop lots for relatives not eligible under the district agreement or easement, or to allow activities that are not generally acceptable on district and easement property. The potential for problems to be produced by partial terminations is similar to the problem potential for withheld acreage.

In July 2004, partial terminations were not reviewed by the Board of Trustees, but rather were approved administratively as long as the district continued to meet minimum eligibility requirements. Staff recommended that, if a partial termination request does not meet the following guidelines that parallel the withheld acreage guidelines, the request would be returned to the county for review and a recommendation by the agricultural land preservation advisory board and then brought to the Board for consideration.

Based on discussion at the Board meeting, the Board amended the proposal to require all requests for partial termination be reviewed both at the level of the county by the local agricultural land preservation advisory board and by the MALPF Board of Trustees based on these guidelines to insure that local

and state concerns and knowledge are taken into account. No partial termination requests will be administratively approved. Because the district is established by local ordinance, the county logically should have a role in the partial termination of any district. The following partial termination policy was approved by the Board on July 27, 2004.

PARTIAL TERMINATION POLICY

General Guidelines

- In general, the Foundation should allow the administrative approval of a partial termination request if the excluded land poses little or no potential risk to future agriculture and forestry on the district.
- The Foundation should reach agreements with each county to ensure that, if an easement is purchased on a district from which land has been excluded by partial termination, any development rights the State pays to extinguish are not retained for private use by the original or a subsequent owner of the excluded land.
- The remaining district property resulting from a partial termination must continue to meet minimum eligibility criteria to remain in the Program.

Legitimate Reasons for Partial Termination of Land from Districts

- To exclude land zoned for development.
- To exclude land planned for a non-agricultural public purpose.
- To exclude land that is not developable.
- To exclude land with (an) existing residential structure(s) that cannot be further subdivided.
- To exclude land posing little or no potential risk to investment in the district for agriculture.
- To exclude land that, under local agricultural zoning, will allow only three or fewer lots.
- To allow the owner of a farm with no dwelling on it to exclude up to two acres for a dwelling for the current or a subsequent owner; such excluded acreage must not be subdividable from the farm.

All partial termination requests must first be reviewed by the county agricultural land preservation advisory boards and then must go to the Board for approval.

Preexisting Dwellings and Subdivision Rights (after SB 626, 2003)

The new lot exclusion policy recommended by the MALPF Task Force to the General Assembly was adopted in the 2003 Legislative Session through Senate Bill 626. The new lot exclusion policy had a significant impact on the right of those selling their easement to MALPF after October 1, 2003, to subdivide preexisting dwellings, making it more difficult to subdivide those dwellings from the easement property.

The implications of SB 626 were not completely understood by MALPF Board members, staff, or program administrators. The implications were discussed and clarified at the September 2003 and subsequent Board meetings in anticipation of the law becoming effective on October 1, 2003.

Those selling easements approved by the Board of Public Works before October 1, 2003, and any subsequent owner of the easement property may exclude a one-acre or smaller lot surrounding any dwelling that existed at the time of easement purchase (up to two acres if required by the local health department for septic needs or by county regulations). Outside of the size and no further subdivision of the lot limitations, no restrictions existed on such subdivisions and requests and releases from the easement are approved administratively.

The right to subdivide dwellings in existence at the time of easement settlement for those selling easements approved by the Board of Public Works after October 1, 2003, is fundamentally different because of HB 626 (2003). To release a preexisting dwelling from easement restrictions and subdivide it is now tied to the development rights chosen by the easement seller to be retained after settlement. This has the following implications.

An original grantor who retained rights to family lots:

- Requesting that a lot be released

- around a preexisting dwelling and subdivided will use up a family lot right retained at the density that lot releases are allowed on the property: one for the first full twenty acres and one for each full fifty acres to a total of three lots for a property of 120 or greater acres.
- The release and subdivision of a lot around a preexisting dwelling can only be requested for the personal use of an eligible lot recipient, that is, for the owner or an eligible child. Therefore, the release and subdivision of a preexisting dwelling cannot be for commercial sale.
 - The right to the release from easement and subdivision of a lot around a preexisting dwelling is retained only by the original seller(s) of the easement. Upon sale or transfer of the easement property, all rights to family lots, including the release and subdivision of preexisting dwellings, are extinguished.
 - The final release from the easement will, as of October 1, 2004, contain the five-year restriction on the transfer of the dwelling to an unrelated third party, as a result of HB 164 (2004) discussed earlier. [This point was clarified at a later time.]

An original grantor who retained a right to one unrestricted lot:

- Requesting that a lot be released around a preexisting dwelling and subdivided will use up the only unrestricted lot right retained by the original easement seller. To release this dwelling from the easement, the easement property must be a full twenty acres.
- The release and subdivision of a lot around a preexisting dwelling can be for anyone as the final beneficiary, and is not restricted in the way family lots are restricted. Therefore, the release and subdivision of a preexisting dwelling as the exercise of an unre-

stricted lot right can be for commercial sale.

- The right to the release from easement and subdivision of the lot around a preexisting dwelling is not extinguished if the easement property is transferred or sold. In other words, if the original seller of the easement does not exercise the right to an unrestricted lot, a subsequent owner of the property retains and can exercise this right.
- The release from the easement will not contain any restrictions on the transfer or use of this lot and dwelling, with the exception of the restriction on any further subdivision of the lot.

An original grantor who waived all lot rights:

- By waiving the right to family lots or an unrestricted lot, the easement seller is also permanently waiving the right to release from easement and subdivide any dwellings existing on the property at the time of settlement for him/herself and all subsequent owners.

The broader implication of this statutory change is that the subdivision of dwellings existing on the property at the time of easement sale will be more difficult in the future, making it less likely that a farming parcel will end up with no dwelling on it in perpetuity, though not impossible. Applicants to sell easements to MALPF must be better informed by program administrators and MALPF staff about the implications of that sale for subdividing existing dwellings from the farm in the future. If this is a concern of the potential applicant, it should be addressed before the application by withholding or subdividing the acreage around the existing dwelling(s) of concern.

Preexisting Dwellings and Appraisals

With the statutory change making the subdivision and release from easement restrictions of preexisting dwellings more difficult

as of October 1, 2003, issues concerning the treatment of dwellings already in existence on applicant properties in the appraisal process were raised both as a result of Carroll County appraisals done for FY 2004 and in anticipation of the July 1, 2004 deadline for MALPF's FY 2005 easement acquisition cycle. The Policy Review Committee and the Board of Trustees took up this discussion in April 2004.

The first issue discussed was how appraisals take into account subdivision lot rights. The legal requirements for appraisals are as follows:

- The appraiser must appraise the value of the property at the time of application (July 1).
- The appraisal value must be the Fair Market Value (FMV) of the property, that is, the highest and best use of the property that a seller would accept and a purchaser would offer for the property.
- The appraisal cannot take into consideration restrictions that will be imposed on the property later by the easement or currently by the district agreement.
- Development rights represent dwelling units, not subdividable lot rights.
- One acre must be subtracted from the appraisal for each existing dwelling.
- Some counties (e.g., Baltimore) treat certain preexisting dwellings in excess of one as "tenant houses," not as dwelling units using up development rights, provided the landowner forfeits the right to subdivide. This is taken into account by appraisers when they are given information concerning how many development rights are available and how many are used.

The Easement Value (EV) is then calculated by subtracting the agricultural value determined by a formula required by statute (based on soil productivity, rental rate, and distance from the major markets) from the FMV.

In the short term, landowners who applied to sell their easements for the FY 2005 easement acquisition cycle did not have a full understanding of the implications of having multiple preexisting dwellings under the district agreement or easement either in terms of the impact on the appraisal value or the limited future subdivision potential of those dwellings, and they could not have been adequately informed by the program administrators, because MALPF staff was still sorting out the impact of the change in lot exclusion rights from SB 626 (2003).

No matter when landowners established their districts, they have limited options to change the configuration of their properties in light of the change in the statutory treatment of preexisting dwellings because MALPF does not allow landowners with pending easement applications to amend their districts or easement applications because it interferes with the processing of those applications, extends the time it takes to complete and review appraisals, and it complicates the work of the appraisers and appraisal reviewers. Landowners who established their districts after October 1, 2003, fall under the new rules and were particularly ill-served by the lack of knowledge and counseling about the impact of this statutory change.

The limited future subdivision potential for dwellings already existing at the time the district agreement or easement goes into effect was discussed earlier. The impact on the FMV is subtler, but related to the limited ability to subdivide such houses. If the easement seller chooses the unrestricted lot option, subdividing a preexisting house will use this unrestricted lot right, but the resulting subdivided house and lot could be transferred to anyone and the right to that subdivision would convey with the property if sold or transferred if the right had not yet been exercised. If the easement seller chooses the family lot option, subdividing a preexisting house will use one of the family lots for which the Grantor is eligible, and the resulting subdivided house and lot could only be approved for an eligible family member.

In calculating development rights on a property, an appraiser cannot take into account the fact that preexisting houses on a property could in effect change their status upon easement sale from being subdividable subject to local zoning to only being subdividable at the expense of either a highly restricted lot right or the one unrestricted lot right. Such dwellings will count against development rights because development rights must, under statute, be calculated based on actual and potential dwelling units, not subdividable lots, even if those dwellings are no longer realistically subdividable under the district agreement and/or easement, available to sell in the commercial market, or their subdivision extinguishes another potential dwelling on the property. Appraisers under law can only take into account the actual conditions at the time of application, and not what might happen should the property sell an easement to MALPF.

A landowner in some counties (such as Baltimore) can make a preexisting dwelling beyond the main house into a non-subdividable tenant house for the purposes of the appraisal. Such a change must be permanent, and the county must recognize the dwelling as having not used a dwelling right. This treatment must be supported by unambiguous language in county ordinances and/or regulations.

By doing this, a landowner removes some of the value embodied in this dwelling by making it non-subdividable because its disposition is now limited. In return, the landowner increases the appraised value of the property and, in some cases, may create development rights for MALPF to purchase that otherwise did not exist under county zoning. However, there is no guarantee that an acceptable offer will be forthcoming from MALPF. Thus, an action taken to retain value in a property being offered for permanent preservation could result in additional development that otherwise would not have occurred.

Such dwellings are tenant houses only in terms of county requirements for their non-subdividability and to fulfill MALPF appraisal requirements, but are not tenant houses for the

MALPF program. They escape MALPF tenant house regulations on acreage, the need for a tenant, occupancy only for a person fully engaged in the farm, and the restriction on occupancy by a person with an ownership interest in the property. While some of these dwellings house true tenants, others serve as guesthouses, rental units, or are occupied by someone with an ownership interest in the farm. The Foundation has chosen not to seek enforcement of its tenant house provisions on dwellings that preexist the easement.

On the one hand, owners of preexisting dwellings remaining on the property after the easement is sold may be undercompensated by this appraisal-based easement valuation system. On the other hand, owners of preexisting dwellings that are redesignated as tenant houses by the county under an acceptable county ordinance or otherwise assigning preexisting dwellings conveying with the easement no development rights value may end up overcompensating applicants under this valuation system.

This change in the treatment of preexisting dwellings also creates an incentive for easement applicants to withhold and/or subdivide preexisting dwellings prior to application to keep them from being covered by the easement. This contradicts the program goals of minimizing the subdivision of farming properties and (when a landowner keeps out all preexisting dwellings) seeking to retain at least one dwelling on the farm that will permanently convey with the property.

Under these unusual circumstances, with a statutory change that was poorly understood, landowners who were inadequately counseled, and the preferred property configurations for many of those with already approved district petitions and easement applications being affected, MALPF staff and legal counsel proposed a short-term solution specific to the FY 2005 easement acquisition cycle.

- For those who submitted district petitions since October 1, 2003, and who fall under the new statutory language,

allow them to amend their district agreement based on the concept of a "mistake" to withhold acreage around preexisting dwellings if the request is submitted for approval to the MALPF Board no later than the August 2004 meeting so appraisers can be properly instructed.

- For those who submitted district petitions before October 1, 2003, but who have not fulfilled their five-year district commitment, and who fall under the old statutory language, allow them to exclude acreage around preexisting dwellings under the lot exclusion guidelines with MALPF administrative approval, should they wish to do so. Such exclusions for those with pending easement applications must be completed no later than the August 2004 Board meeting so appraisers can be instructed. If and when they sell their easements, they will move to the new statutory language making the exclusion of these dwellings more difficult.
- For those who have fulfilled their five-year district commitments and fall under the old statutory language, allow them to exclude acreage around preexisting dwellings under the lot exclusion guidelines by administrative approval. Alternatively, they may partially terminate the acreage around the dwellings by approval of MALPF. Either must be done before the August 2004 Board meeting so the appraisers can be properly instructed. If and when they sell their easements, they will move to the new statutory language making the exclusion of those dwellings more difficult.

These recommended short-term solutions were adopted as being the most equitable to address the immediate problems faced by those affected by the change in the statutory language on the treatment of preexisting dwellings, without requiring a change in statute or withdrawing pending easement applications. The Board took up a discussion

of longer-term solutions at the August 2004 Board meeting when some of the requests for changed configurations were presented.

The longer-term solutions proposed and accepted were as follows.

- The Foundation should continue as it has done since 1995 to allow counties to designate preexisting structures beyond the main house as tenant houses as long as the dwellings are made permanently non-subdividable and not defined by the county as a dwelling unit that has used up rights. This must be stated explicitly in county ordinance or regulation, provided in hard copy to the Foundation, and verified to meet the necessary standards by the Office of the Attorney General.
- County program administrators must in the future do a better job counseling program applicants on the implications on value and potential future residential subdivision of the configuration of their properties with multiple preexisting dwellings.

After discussing other permanent long-term solutions to this problem, the Board acknowledged that those solutions would require legislation to change the appraisal methodology and/or the easement valuation system, and neither is likely to occur in the foreseeable future. Currently no consensus exists on an alternative appraisal methodology or valuation system, and changes often have the potential to create additional dilemmas.

The Board passed a motion instructing the Department of General Services, Office of Real Estate, to appraise all properties as it has done in all the previous easement acquisition cycles, under all the laws that exist, including the Baltimore County ordinance allowing the designation of a preexisting house to be a non-subdividable tenant house. If the problems appraising properties with multiple preexisting dwellings are shown to be widespread, the Foundation will address the issue in the future.

Acreage and Payment Adjustments Policy – Board of Public Works

At the time of district petition for an applicant property, MALPF has had to rely traditionally on the acreage reported in the existing deeds, tax records, and surveys. Because there is often disagreement in existing records or, in some cases, a verifiable survey has not been produced in modern times, the Department of General Services staff cannot always verify the acreage of the property from existing descriptions unless a survey is completed prior to settlement, or the acreage verified from existing descriptions differs from the acreage reported in the district petition and easement application.

Through the end of calendar year 2002, MALPF addressed differences between the original reported acreage on which the easement offer was based and the verified acreage from existing descriptions or a new survey as follows.

- If the change in final acreage was within 2% of the initial reported acreage on which the easement offer was based, the value of the easement offer would not be adjusted to take into account the acreage difference.
- If the verified acreage was greater than 2% of the initial reported acreage on which the easement offer was based, the value of the easement offer would be adjusted up or down based on the per acre value of the initial easement offer. If the acreage adjustment raised questions about the value of the offer, the Office of Real Estate, Department of General Services, would be consulted.
- Any adjustment where additional acreage was identified resulting in an increased offer amount would be re-submitted for approval to the Maryland Board of Public Works, made up of the Governor, Comptroller, and Treasurer.
- Adjustments downward in easement offers resulting from less acreage be-

ing verified than on what the easement offer was based would not need to be resubmitted for approval to the Board of Public Works, but could move forward to settlement.

At the January 2003 MALPF Board meeting, MALPF staff reported that the Board of Public Works will no longer accept requests to increase easement offers based on acreage adjustments. Landowners with more acreage than originally reported (beyond the 2% margin of error) will now have three options: they can accept the original offer based on the original reported acreage, they can withdraw their application and reapply for the next easement acquisition cycle with the greater acreage, or reject the offer and not reapply.

25-year Termination Requests

As noted in the Final Report of the MALPF Task Force (December 2004), the Task Force worked with its legislative members to pass legislation during the 2004 Legislative Session based on Task Force recommendations, including House Bill 777 that eliminated the 25-year easement termination provision from future easements purchased by the Foundation, effective October 1, 2004.

For easements approved by the Board of Public Works before October 1, 2004, the landowner has the right to request that the easement be reviewed for possible termination twenty-five years after the date of easement purchase. Upon that request, MALPF must conduct an inquiry to determine the feasibility of profitable farming on the land. MALPF must conclude the inquiry and reach a decision within 180 days of the request, including a site inspection and a public hearing in the county where the land is located.

Easement termination also requires the approval of the governing body of the county in which the land is located. County government must receive the recommendation of the county agricultural land preservation advisory board and conduct a public hearing. The county governing body must notify

MALPF of its decision within 30 days of the public hearing.

Upon county approval, an affirmative vote of the MALPF Board of Trustees members-at-large, approval by the Maryland State Treasurer and the Maryland Secretary of Agriculture, and approval by the Maryland Board of Public Works, the request for termination would be approved and the landowner notified. If the request is denied or the landowner fails to repurchase the easement within 180 days of its appraisal for repurchase, the landowner may not request termination of the easement again for five years after the last request.

The legislative intent of the MALPF program has always been to purchase perpetual easements. MALPF was one of the country's first two State farmland preservation programs. The termination clause was originally included to make the easement more acceptable because few landowners knew or understood the program in 1977 at its creation. The termination clause is only to apply in extraordinary circumstances. The chance to get out of an easement has always been intended to be "slim to none."

Based on the Program's experience, the termination of easement clause is neither necessary nor desirable. The effect of eliminating the termination clause can be summarized as follows.

- There will be little or no impact on the number of properties whose easements are offered for sale to the State.
- The cost of easements to the State will not increase because the valuation is already based on the easement being perpetual.
- The qualification of easement sellers for tax deductions or credits will be reinforced by the explicitly perpetual nature of the easement.
- Easement language will be more standardized across MALPF easements and Maryland State land preservation programs more generally.

- Eliminating the termination language will eliminate misunderstandings and misperceptions about the program in the future and will reduce the anticipated administrative and legal burden of processing termination requests and defending the integrity of easements purchased in support of the public interest.
- Ultimately, easements are purchased and held by a sovereign power; *in extremis*, what the State can do, the State can undo, whether or not there is a termination clause in the deed of easement.

The first MALPF easement was purchased in October 1980. The first possible request for easement termination would, therefore, occur in October 2005. In preparation for the first request, HB 777 slightly modified the review procedures for 25-year easement termination requests.

- An opportunity for a hearing must be provided to any landowner requesting easement termination.
- MALPF must conclude an inquiry and reach a decision concerning a request for easement termination within 180 days of the request unless a hearing is requested.
- The landowner whose request is denied by the Foundation may appeal directly to the circuit court in the county where the land is located.
- The circuit court shall hear and determine the appeal on the record.

This change in the statutory language on procedure was the product of an ongoing systematic review of the current statutory and regulatory language on the 25-year termination clause and, thus, part of the planning process that Foundation staff has been undertaking in anticipation of the date of the first possible termination request. Having the necessary language in place in statute and regulation will make the processing of such requests significantly easier for staff and more understandable for landowners requesting easement

termination. MALPF staff reviewed the regulatory and statutory language with staff of the Office of the Attorney General and the program administrators and attorneys of counties from which the first termination requests will most likely be made.

With the recommended statutory language changes adopted by the General Assembly, this informal group worked to develop, clarify, and expound on the easement termination request in generating updated regulations. Craig Nielsen, Assistant Attorney General at the Maryland Department of Agriculture, presented the updated regulations on easement termination at an informal policy meeting with Board members and program administrators before the June 2005 Board meeting. The draft regulations on easement termination were then submitted to the *Maryland Register* for public comment before submission to the Joint Committee on Administrative, Executive, and Legislative Review (AELR). The new regulations went into effect on November 7, 2005. As of late 2007, no easement termination requests have been received. The regulations follow.

EASEMENT TERMINATION REQUESTS

15.15.05.01

.01 Purpose.

- A. This chapter provides the eligibility criteria for a landowner to request that the Maryland Agricultural Land Preservation Foundation terminate an agricultural land preservation easement. Each easement granted to the Foundation is of perpetual duration and may be terminated only under extraordinary circumstances. The easement's broad purpose is to:
 - (1) Provide a present and future source of agricultural products within the State for the citizens of the State;
 - (2) Control urban expansion, which is consuming the agricultural land and woodland of the State;
 - (3) Curb the spread of urban blight and deterioration; and
 - (4) Protect agricultural land and woodland as open-space land.
- B. Before an easement is purchased by the Maryland Agricultural Land Preservation

Foundation, a county shall first provide approval, based on whether the farm acreage to be preserved is compatible with existing and approved county plans and overall county policy.

- C. If any easement was approved for purchase by the Board of Public Works before October 1, 2004, it may be reviewed for possible termination 25 years after the purchase, unless the right to apply to terminate was specifically waived in the deed of easement.
- D. As each easement, and Agriculture Article, §2-514, Annotated Code of Maryland, provides, the termination shall be approved by the Foundation and by the county governing body where the land is located. Similar to when an easement is purchased, the Foundation and the county have separate duties and responsibilities when reviewing an easement for possible termination. In the case of easement termination, the Foundation's responsibility is to determine whether future profitable farming is feasible on the land under easement. The Foundation may only approve the termination if it finds that future profitable farming is not feasible. A county's separate responsibility is to consider factors relating to local land use policies. If either the Foundation or the county fails to agree, an easement may not be terminated.

15.15.05.02

.02 Definitions

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
 - (1) "Agricultural product" includes, but is not limited to, livestock and crops.
 - (2) "Agricultural value" means the price as of the valuation date which a vendor willing, but not obligated to sell, would accept, and which a purchaser willing, but not obligated to buy, would pay for a farm unit with land comparable in quality and composition to the property being appraised, but located in the nearest location where profitable farming is feasible.
 - (3) "County governing body" means the board of county commissioners or, in a charter county, the county executive and the county council of a county.
 - (4) "Easement" means an agricultural land preservation easement held by

the Maryland Agricultural Land Preservation Foundation, solely or jointly with any other entity or local government, and approved for purchase by the Board of Public Works prior to October 1, 2004.

- (5) "Foundation" means the Maryland Agricultural Land Preservation Foundation.
- (6) "Landowner" means the fee simple owner of the land that is subject to easement restrictions.
- (7) "Profitable farming is feasible on the land" means that an agricultural product can be produced on the land that can be sold to realize an excess of return over expenditures, excluding the cost of constructing farm structures, the cost of acquisition of the land itself, and debt service relative to the financing of the acquisition of the land.
- (8) Public Hearing.
 - (a) "Public hearing" means a meeting conducted by the Foundation to give the public the opportunity to express its views on a landowner's application to terminate an easement.
 - (b) "Public hearing" does not mean a contested case hearing, as defined by the Administrative Procedure Act.

15.15.05.03

.03 Landowner's Request for Review.

- A. Request. A landowner whose farm is subject to an easement may make a written request to the Foundation for a review of the easement for termination, as provided by this chapter.
- B. Restriction. A landowner's request for review may not be considered by the Foundation unless 25 years have passed from the date that the Foundation purchased the easement.
- C. Form. A landowner's request shall be submitted on a form provided by the Foundation that explains, as defined by this chapter, why profitable farming is not feasible on the land under easement.

15.15.05.04

.04 Foundation Review.

- A. Notice to County of Landowner's Request. Upon receipt of a landowner's request for review to terminate an easement on the form provided by the Foundation, the Foundation shall notify the governing body of the county where the land is located of the landowner's request.
- B. Inquiry. The Foundation shall conduct an inquiry to determine whether profitable farming is feasible on the land, and issue a decision within 180 days after receiving the landowner's request for termination, unless:
 - (1) The parties mutually agree in writing to extend the 180-day period; or
 - (2) The landowner requests a hearing under §E of this regulation.
- C. In determining whether profitable farming is feasible on the land, the Foundation's inquiry shall include:
 - (1) An on-site inspection of the subject land;
 - (2) A public hearing, conducted by the Foundation, after adequate public notice within the county where the land is located;
 - (3) A determination of the productive capacity of the land;
 - (4) A consideration of the effect of any nonagricultural development contiguous to the land;
 - (5) An assessment of the extent to which markets exist for any agricultural products that can be produced on the land;
 - (6) A determination of the profitability of nearby farms, if this information is readily available to the Foundation;
 - (7) An opinion of an expert as to the future feasibility of profitable farming on the land; and
 - (8) Any other information that the Foundation considers relevant in determining whether future profitable farming is feasible on the land.
- D. Standard of Review.
 - (1) In determining the feasibility of profitable farming, the lack of ability of the particular landowner seeking termination of the easement to profitably farm may not be the standard by

which feasibility of profitable farming is measured.

- (2) The standard by which feasibility of profitable farming is measured shall be whether the land of the farm in question could be profitably farmed.

E. Hearing Notice.

- (1) In accordance with Agriculture Article, §2-514(h)(2), Annotated Code of Maryland, the Foundation shall provide the landowner with notice of the opportunity for a contested case hearing, as defined by the Administrative Procedure Act, before issuing any final decision to terminate.
- (2) A landowner's opportunity for a hearing is waived if the landowner fails to request a hearing within 30 days of the Foundation's hearing notice.

15.15.05.05

.05 County Review.

- A. County Agricultural Advisory Board Recommendation. Upon receipt of a landowner's request for review to terminate an easement from the Foundation, the county governing body shall notify and ask for the recommendation of the county agricultural preservation advisory board, established under Agriculture Article, §2-504.1, Annotated Code of Maryland, or any other appropriate county agency or board. The advisory board or other county agency shall recommend to the county governing body the approval or disapproval of the termination of the easement based on current land regulations, local comprehensive planning, and any local priorities for the preservation of agricultural land to the county governing body.
- B. County Decision.
 - (1) Upon receipt of the recommendation of the county agricultural preservation advisory board and, as determined by the county, any other appropriate county agency or board, and after the Foundation's public hearing, as required by Regulation .04C(2) of this chapter, the county governing body shall approve or disapprove the termination of the easement based on local regulations, local patterns of development, comprehensive planning, and any local priorities for the preservation of agricultural land.

- (2) The county governing body shall notify the Foundation of its decision within 90 days after the Foundation's public hearing, as required by Regulation .04C(2) of this chapter. The county's decision is not the final decision that is subject to appeal.

15.15.05.06

.06 Foundation Decision.

- A. County Approval Required. After receipt of the county's decision, as provided under Regulation .05B of this chapter, the Foundation shall inform the landowner of the county's decision and the Foundation's proposed decision and, if the request was denied, provide the landowner with the opportunity for a contested case hearing, as defined by the Administrative Procedure Act. The Foundation may not approve a landowner's request for termination unless it is approved first by the governing body of the county containing the land.
- B. Foundation Approval. After county approval under Regulation .05B of this chapter, and the landowner's opportunity for a hearing under Regulation .04E of this chapter, the Foundation may approve a request for termination only upon a finding by an affirmative vote of a majority of the Foundation members at-large, and upon the approval of the Secretary of Agriculture and the State Treasurer that profitable farming is not feasible on the land. The Foundation shall notify the landowner and the county governing body of the Foundation's decision.

15.15.05.07

.07 Landowner Repurchase of Easement.

- A. Appraisal at Landowner's Expense. The landowner shall remit good funds as instructed by the Foundation within 10 days of approval to pay for the cost of an appraisal, which shall then be ordered by the Foundation within 20 days of the receipt of the funds. The date of valuation shall be the date of approval.
- B. Repurchase. The landowner has a maximum of up to 180 days following the date of the completion of the appraisal set forth in §A of this regulation to repurchase the easement by paying to the Foundation the difference between the fair market value and the agricultural value of the subject land, as de-

terminated by the appraisal, pursuant to Agriculture Article, §2-514(f), Annotated Code of Maryland, and subject to Board of Public Works Approval, as set forth in State Finance and Procurement Article, §10-301 et seq., Annotated Code of Maryland.

- C. Upon receipt of payment of all required funds as specified in §§A and B of this regulation, the Foundation shall prepare, execute, and deliver to the landowner for recording, a Termination of Easement.

15.15.05.08

.08 Subsequent Request for Termination after Denial or Failure to Repurchase.

If the request for termination is denied, or if the landowner fails to repurchase the easement within 180 days of the date of the completion of the appraisal, the landowner may not again request termination of the easement until 5 years after his last request for termination.

15.15.05.09

.09 Appeal.

- A. After a contested case hearing is conducted, the Foundation's decision is the final decision that is subject to judicial review. Subject to the requirements of the Maryland Rules of Civil Procedure, a landowner may appeal the Foundation's final decision disapproving a request to terminate an easement directly to the circuit court of the county where the land is located.
- B. The circuit court shall hear and determine the appeal on the record, pursuant to State Government Article, §10-222, Annotated Code of Maryland.

Forest Stewardship Policy

The Foundation includes forestry operations as part of its understanding of active agriculture on district and easement properties and potential participant properties in the Program. As long as the location and minimum size and productivity (or soils) criteria are met, MALPF does not differentiate or rank properties by the agricultural operation that exists. A crop or dairy operation, a mixed farming operation (for example, 50% crops and 50% forestry), or a 100% forestry operation are all equally acceptable. The only exception is that the federal Farm and Ranch Land Protection

Program will not allow federal matching funds to be committed to properties with 50% or greater forested area (or 60% for the FY 2006 grant agreement).

MALPF does not keep systematic track of its properties' forested acreage (though this is being corrected in the new database currently being implemented). However, several different sources suggest the scope of forested acreage on MALPF properties. According to Lloyd C. Irland, *Forest Production, Industry and Forest Retention Assessment: Report to the Maryland Center for Agro-Ecology, Inc.* (Queenstown, MD, January 2004, table 55), forests make up 24.4% of total MALPF-preserved acreage in 2000. This 63,847 acres of forest preserved under MALPF was more acreage than that preserved by any other Maryland easement program and composed 41.58% of all easement-protected forested acreage in Maryland.

An internal survey of 208 new districts established from July 2001 to June 2003 showed that approximately 29% of the total acreage was forested (6,797 of 23,239 acres). A survey of 99 new districts established between May 2004 and June 2005 showed that approximately 30% of the total acreage was forested (3,599 of 12,147 acres). (These surveys were completed for the MALPF Policy Review Committee.) In 2006, 32% of new district acreage established by MALPF was forested, and 13 of the 163 new districts established were 100% forested (joint letter from the Governor's Commission on Sustainable Forestry and the Maryland Agricultural Land Preservation Foundation, April 9, 2007).

Because one of the purposes of purchasing agricultural preservation easements is to preserve and protect in perpetuity the land's agricultural value, character, use, and utility, and to prevent any use or condition of the land that would impair or interfere with its agricultural value, character, use, or utility (paraphrasing language in the current Deed of Easement, Section I, "Purpose"), improving the quality and productivity of Maryland's forestry resources is an important goal of the Founda-

tion, encourages the continued profitability of MALPF-preserved farms, and contributes to the ongoing health of Maryland's forestry industries.

At the beginning of the period addressed by this report (July 2002), the Foundation's policy to this end was to require a forest management plan on properties on which easements are purchased where 50% or more of the farm is forested. In the August 2002 Board meeting, in the course of a discussion on revisions to the standard Deed of Easement, the forestry representative to the Board at the time, Robert Wolf, raised the issue of the limitations of this policy, given that a large property may have significant forested acreage that should be under a forest management plan, but is not because it is less than 50% of the total acreage. At the September 2002 Board meeting, this issue was referred to the Policy Review Committee for consideration.

After meetings of the Policy Review Committee on this issue through 2003 and concerns expressed by members of the forestry community that forested lands on MALPF properties were not adequately protected, the report of the group specifically studying forestry policy (chaired by Vera Mae Schultz, the new forestry representative on the MALPF Board, and including representatives from various forestry groups in the State, the Department of Natural Resources (DNR), Chesapeake Bay Foundation, MALPF program administrators, MALPF Board of Trustees, and the MALPF Task Force) was approved by the Policy Review Committee and submitted to the Board of Trustees at the June 2004 meeting. The two major recommendations were:

1. Require forest stewardship plans on all MALPF properties with 25 or more contiguous forested acres irrelevant of the property's size; the plan should be developed within the past ten years of settlement on the easement; and
2. Because of concerns about the potential cost of developing a forest stewardship plan on a property, applicants to sell an easement to MALPF do not

need to have the plan in place at time of application, but may develop the plan after accepting an offer to purchase the easement and before settlement.

For years, forest stewardship plans were available from DNR at no cost to the landowner. Decreases in staff and budgets in recent years have necessitated fees for forest stewardship plans and other DNR services. Private licensed foresters can also prepare forest stewardship plans for a fee. This fee may create resistance to requiring additional easements to have a forest stewardship plan, particularly because soil erosion and water quality plans are developed at no cost to landowners. However, the Committee and the study group felt that the cost of the forest stewardship plan can be justified because:

- Depending on availability, cost-sharing can cover a major portion of the cost of the plan;
- A forest stewardship plan can help a landowner realize potential for additional benefits, including greater profits, from an existing resource; and
- Taxpayers of the State expect good stewardship of the resources protected by the conservation easements they fund.

The Board of Trustees approved the proposed policy at the September 2004 meeting to take effect for the FY 2006 easement acquisition cycle. In the meantime, the new language will be adopted in regulation and put into the deed of easement starting in FY 2006. As developed in regulation, the final policy reads as follows.

COMAR 15.15.01.05.04.b

- (b) For land with 25 acres or more of contiguous forest land, the landowner agrees, before the easement is acquired, to provide the Foundation with a certification from a forester licensed in this State, that:
 - (i) A forest stewardship plan has been prepared or revised for the land within the last 10 years; and

- (ii) The landowner agrees to implement the practices stated in the plan.

New Statewide Rankings Guidelines

According to the MALPF Task Force in its 2003 Interim Report, the ranking system based primarily on a competitive bidding strategy (the relative willingness of program applicants to discount their easement offer prices) combined with the easement valuation system based on subtracting the agricultural value from the fair market value tends to favor land with the most development value, farms with lower agricultural values (based on productivity, distance from markets, and land rents), well-to-do applicants who can fully benefit from the tax advantages of a discount sale, and applicants who very much need to sell their easements for pressing financial reasons.

While the Foundation may seem to be able to extend its funding to purchase as many acres as possible under the competitive bidding system, the current ranking and easement valuation methodology systematically works to the disadvantage of landowners whose farms have better soils and is unlikely to secure the farms most consistent with a county's strategic land-use and economic development objectives and the State's statutory objectives. And it is not clear that the State is necessarily maximizing the number of acres acquired, given the system favors expensive properties with high development values located in more developed areas of the State over less expensive properties with lower development values located in less developed areas of the State where preservation costs would be lower per acre and larger blocs of preserved farmland could be created or extended, making the long-term preservation of Maryland agriculture more likely.

While the Task Force recommendation in this Interim Report to change the easement valuation system has not been acted on, the recommendation to change the ranking system has been adopted and implemented. The specific recommendation follows.

"The Foundation's easement ranking system should be changed to give higher ranking to farms with better soils in Priority Preservation Areas. At the same time, the benefits of discount bidding procedures, so essential in limiting the acquisition costs of the Program, should be preserved.... The Task Force recommends the following steps. In consultation with counties, the Foundation should:

- Develop new guidelines for county ranking systems for Round One offers in FY 2005. The guidelines should rank properties based on: location in a Priority Preservation Area of the county; soil and other land characteristics associated with productivity; agricultural production and contribution to the agricultural economy; and any other unique county considerations that support the Program's goals.
- Work to establish ranking systems consistent with the new guidelines.
- Retain the benefits of discount bidding. This might be done by adjusting original rankings according to the ratio of the asking price to the easement value or cap. For example, if the number of applicants is sufficient, properties might be placed in higher and lower priority groups, and then ranked by ratio within groups."

This recommendation was pursued in the 2003 Legislative Session. Senate Bill 564 was passed effective October 1, 2003, with language closely following the Task Force recommendations to establish statewide guidelines for county ranking systems.

MALPF staff worked with staff from the Maryland Department of Planning and the U.S. Department of Agriculture's Natural Resource Conservation Service through the rest of 2003 and early 2004 to produce an initial draft of new statewide guidelines for ranking applicant properties for offers. The preliminary draft of the new statewide guidelines was presented to the Board of Trustees at the April 2004 meeting. The Board approved the draft for circulation to program administrators and other interested parties for comment before the Board would discuss it.

MALPF staff and others who worked on the proposal presented it to program admin-

istrators, Board members, and other interested parties at a workshop after the end of the May 2004 Board meeting. Based on that discussion and subsequent comments received, a revised proposal was circulated at the October 2004 meeting, with the Board of Trustees approving the statewide ranking guidelines at the November 2004 meeting for use in FY 2005 easement acquisition cycle. The Board also agreed that counties whose current ranking systems are consistent with the approved guidelines, counties who adopt the existing

ranking system used by the Natural Resources Conservation Service (NRCS) in administering the Farm and Ranch Land Protection Program that provided basis for MALPF's guidelines, and counties who adopt the "barebones" ranking system provided by the Foundation can receive administrative approval for those ranking systems for FY 2005 to simplify the transition. The new approved statewide rankings guidelines and the associated report follow.

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

RANKING GUIDELINES SUMMARY

RANKING GUIDELINES: INTRODUCTION

Background for New Guidelines

The purpose of the ranking prioritization guidelines is to ensure that county ranking systems:

- identify and acquire easements on land that best support the goals of the Program;
- address the four considerations recommended by the MALPF Task Force and prescribed in law (SB 564, 2003) to accomplish the first objective; and
- preserve the fiscal benefits of discount bidding.

Part of the impetus for new ranking guidelines is that subdivision and development around easements are increasingly compromising the goals of the MALPF program. The Task Force's legislative recommendation was to develop guidelines for easement acquisition that would prioritize offers to the best farms in areas that are better protected from development. The Task Force specifically recommended the following four considerations be addressed by the guidelines:

- 1) location in a priority preservation area of the county;
- 2) soil and other land characteristics associated with agricultural productivity;
- 3) agricultural production and contribution to the agricultural economy; and
- 4) any other unique county considerations that support the goals of the program.

Characteristics associated with soils, productivity, agricultural production, and contribution to the agricultural economy, numbers 2 and 3 above, are often used in other agricultural land ranking systems. The Task Force envisioned priority preservation areas as areas that rank highly in these considerations, and in which counties use effective measures to control the impacts of development, stabilize land use, and make possible the achievement of State and local goals for productive agriculture. This was to be accomplished in two steps: first, by establishing the concept of priority preservation areas in these ranking guidelines; and, second, by providing supplemental funds to purchase easements in these areas.

Basis for the Guidelines in LESA

These guidelines are modeled on a version of the Land Evaluation and Site Assessment (LESA) system that was modified for use in Maryland by the U.S. Department of Agriculture. LESA was developed and is widely used by the USDA nationally to evaluate and help identify the best farmland for a variety of purposes. The system provides an objective and consistent tool for evaluating the relative importance of specific sites for continued agricultural use.

There are two components to the LESA system: the Land Evaluation (LE) portion of the system, based on soil characteristics; and the Site Assessment (SA) portion of the system, which is used to evaluate other attributes of the land and its surroundings that affect the site's relative importance for agriculture. Each portion of the system assigns points for various characteristics that are added to compute a total score, which is then used to rank properties.

Land Evaluation Considerations (Soils)

The Land Evaluation (LE) portion of the calculation will take soil productivity, capability class, and (forest tree) site index into account. The highest potential raw score for the LE portion of LESA is 80 points. (Points are provided for purposes of calculation; however, their actual weighting and, thus, their impact on ranking are determined by the individual county within State guidelines.)

In doing the LE portion of the LESA calculation, you will need to reference Land Capability Classes, Yield (corn) per Acre information, and the Forest Productivity/Site Index information for your county. The references are available on-line at <http://www.md.nrcs.usda.gov> in Section II of the eFOTG.

Before you begin your LESA calculations, inventory all the soil-mapping units on the parcel and note the acres in each unit. The LE portion of the evaluation system will require two tabulations.

For the capability class portion, class 1 (I) soils will earn 40 points, class 2 (II) soils will earn 30 points, class 3 (III) soils will earn 20 points, and class 4 (IV) soils will earn 10 points.¹ Class 5, 6, and 7 soils will not earn any points.

Soil productivity for all the soil mapping units will be based on either corn yield (bushels per acre) or the highest site index for the soil mapping unit. Each mapping unit that has a corn yield will be compared with the highest yielding mapping unit in the county. Soil mapping units that lack a corn yield will be evaluated on a (forest productivity) site index basis. The highest listed site index for the soil mapping unit will be compared with the highest listed site index for the county. For both corn yield and site index, the highest yielding soil mapping unit in the county will be valued at 40.

EXAMPLES

Example #1: Calculating a Land Evaluation (LE) score – The example farm will be a 200-acre farm in Kent County, Maryland. The maximum corn yield in Kent County is 140 bushels per acre.

An inventory of the soil-mapping units finds the following units along with the acres of each.

Map Symbol	Soil Series	Acres	Yield (non-irrigated corn) or SI (site index)	Capability Unit
MnA	Matapeake	20	140 (Y)	1 (I)
MnB	Matapeake	53	140 (Y)	2E (IIe)
MnC3	Matapeake	7	110 (Y)	3E (IIIe)
MtA	Mattapex	34	135 (Y)	2W (IIw)
MtC2	Mattapex	12	130 (Y)	3E (IIIe)
Bs	Bibb	32	100 (SI)	5W (Vw)
Fh	Fallsington	42	70 (Y)	4W (IVw)
TOTAL		200		

To calculate the soil productivity of the individual mapping units:

- Put the soil's yield as the numerator and the highest yield as the denominator
- Multiply that value by 40 and by the # of acres of that mapping unit
- Do it for each of the mapping units, add all points for each of the mapping units
- Divide the total by the total number of acres in the parcel

The formula for this calculation is as follows:

$$\frac{[Yield/(Maximum\ County\ Yield)] \text{ or } (Unit's\ Highest\ SI)/(Highest\ SI\ for\ County)] * [40(Total\ Points)]}{(Acre(s))} = Points\ per\ map\ unit$$

SOIL PRODUCTIVITY SCORE CALCULATION			
Map Symbol	Calculation	Subtotal	Score
Mna	$(140/140)*40*20$	800	
MnB	$(140/140)*40*53$	2,120	
MnC3	$(110/140)*40*7$	220	
MtA	$(135/140)*40*34$	1,311	
MtC2	$(130/140)*40*12$	446	
Bs	$(100/105)*40*32$	1,219	
Fh	$(70/140)*40*42$	840	
TOTAL		6,956 / 200	34.8

¹ In some of the older soils surveys, some "C" slopes, in a severely eroded state, are classified as Class 4 soils. Consult with your resource soil scientist if a review of the soils finds this situation on the parcel you evaluate.

To calculate the capability class score, assign 40 points to class 1, 30 points to class 2, 20 points to class 3, and 10 points for class 4. If a soil mapping unit has a land capability class of 5, 6, 7, or 8, it will not earn any points in the following table.

CAPABILITY CLASS SCORE CALCULATION					
Map Symbol	Capability Class	Acres	Calculation	Subtotal	Score
Mna	1	20	40*20	800	
MnB	2	53	30*53	1,590	
MnC3	3	7	20*7	140	
MtA	2	34	30*34	1,020	
MtC2	3	12	20*12	240	
Bs	5	32	0*32	0	
Fh	4	42	10*42	420	
TOTAL		200		4,210 / 200	21.1

The total LE score for this parcel is $34.8 + 21.1 = 55.9$ (of a possible 80).

Example #2: Calculating a Land Evaluation (LE) score – The example farm will be a 200-acre farm in Washington County, Maryland.

An inventory of the soil-mapping units finds the following units along with the acres of each.

Map Symbol	Name of Soil	Acres	Yield (non-irrigated corn)	Site Index (SI)	Capability Unit
BaD	Bagtown STX	20		85	7s
DeC	DeKalb-RO	20		50	6s
HaA	Hagerstown	35	135	95	1
HaB	Hagerstown	35	35	95	2e
HaD	Hagerstown	20	125	95	4e
HcB	Hagerstown-RO	30	100	95	6s
MsB	Murrill	40	120	95	2e
TOTAL		200			

CAPABILITY CLASS SCORE CALCULATION					
Map Symbol	Capability Class	Acres	Calculation	Subtotal	Score
BaD	7s	20	0*20	0	
DeC	6s	20	0*20	0	
HaA	1	35	40*35	1,400	
HaB	2e	35	30*35	1,050	
HaD	4e	20	10*20	200	
HcB	6s	30	0*30	0	
MsB	2e	40	30*40	1,200	
TOTAL		200		3,850 / 200	19.2

Soil Productivity is based on corn yield for Capability Classes I-IV and on the Site Index for Capability Classes V, VI, and VII.

SOIL PRODUCTIVITY SCORE CALCULATION				
Map Symbol	Yield or Site Index	Productivity Index Calculation	Subtotal	Score
BaD	SI	(85/105)*40*20	648	
DeC	SI	(50/105)*40*20	381	
HaA	Y	(135/140)*40*35	1,350	
HaB	Y	(135/140)*40*35	1,350	
HaD	Y	(125/140)*40*20	714	
HcB	SI	(95/105)*40*30	1,086	
MsB	Y	(120/140)*40*40	1,371	
TOTAL			6,900 / 200	34.5

The total LE score for this parcel is $34.5 + 19.2 = 53.7$ (of a possible 80)

Site Assessment

The Site Assessment portion of LESA rates non-soil factors affecting a site's relative importance for agricultural use. These include the following factors: Farm Quality and Potential of Property, Priority Preservation Area Status, and Development Pressure and Potential.

Farm Quality and Potential of Property

The purpose of this category is to identify farms that have more importance for sustaining long-term profitable agriculture. It is also intended to increase the relative rankings of farms that are environmentally sound and important to maintaining the rural character of the area in which they exist.

There are four criteria evaluated in this section, two are required (F1, F3), one is optional (F4), and one is required, but may be replaced with County-specific consideration (F2). An optional measure may be excluded if not strategically important in a county; or, may be replaced with a County-specific consideration that better addresses the intent of the guideline for the particular measure. Other measures may be replaced with other County-specific recommendations that better address the intent of the guideline, with approval of the Foundation. Additional County-specific considerations that fulfill the intent of this category may also be added at the discretion of the County, with approval of the Foundation.

- [F1] Farm Size is a required factor, proposed easement sites as large, or larger than the average sized farm unit within the county. Preference is given to larger than the average sized farms and are given a relatively higher score value than smaller ones. More points shall be received for farms that are as large as or larger than the average size farm in County, according to the most recent USDA Census of Agriculture. The data is available to all Maryland Counties through the U.S. Department of Agriculture, Census of Agriculture Highlights:
<http://www.nass.usda.gov/census/census97/highlights/md/md.htm>.
- [F2] On-Site Production takes advantage of actual production as an indicator of long-term potential. More points shall be received if more of the farm is being farmed. A measure that better addresses the intent of the guideline for the particular measure may replace this measure.
- [F3] The Stewardship/Conservation of Natural Resources indicator is a required measure that recognizes the importance to the State of land managed by owner-operators who practice sound stewardship of their land. More points shall be awarded for a greater percentage of the farm under a management plan. All resource conservation objectives and practices addressed under NRCS's Total Resource Management Planning guidelines shall be considered under this measure.

- [F4] The Farm Ownership and Operation status of an applicant property is an optional measure. Owner- and family-operated farms should receive more points than those which are leased. Farms owned by absent landowners, in which neither the landowner(s) nor family members reside on the property, and those where family members are not involved in the farms daily operation of the farm shall be given fewer points.

Priority Preservation Area Status

This category is intended to implement the Task Force's long-term recommendation to develop priority preservation areas in which counties use effective measures to control the impacts of development, stabilize land use, and make it possible to achieve State and local goals for productive agriculture. It measures the degree to which local land use plans and authority, as well as easement acquisition efforts, support the preservation of agricultural land in the surrounding area.

There are four measures for the category, P1 through P4. P1 is a required measure. P2 is a required measure, but may be replaced with County-specific considerations that better address the intent of the guidelines for the particular measure and/or better address the County's agricultural land preservation strategy, with the approval of the Foundation. P3 and P4 are optional and may be excluded if not strategically important in a county; or either may be replaced with a County-specific measure that better addresses the intent of the guideline for the particular measure. Additional County specific considerations that address the intent of this category may also be added at the discretion of the County with approval of the Foundation.

- [P1] Protection of Surrounding Area. This required indicator measures how well the subject property is protected by surrounding lands that are permanently protected or restricted by zoning.
- [P2] Distance from a PFA. This indicator seeks to measure the strategic importance of the subject property in the land use/preservation plan(s) of the County.
- [P3] Boundary and Buffer Properties. This indicator seeks to measure the degree to which adjacent properties are protected by zoning, subdivision, and development ordinances, and permanent easements that limit development and its associated impacts on land and production.
- [P4] Historic, Scenic, or Habitat Value of Site is an optional measure, but should be included if there are farms that fit any of the criteria established for this measure. National and local Recognized Historic sites, properties in a Rural Legacy Area, and sites with identified rare, threatened or endangered species shall be given more points than those sites with few or none of these attributes.

Development Pressure & Potential

The purpose of this category is to identify properties and areas of a county at greatest risk of subdivision and/or conversion and to rank them more highly when they support MALPF's goals.

The three indicators for this category measure the degree to which the development pressure and the potential for development exist on a site.

D1, D2, and D3 may be replaced with County-specific considerations that better address the intent of the guideline for the particular indicator with the approval of the Foundation. County-specific criteria that better reflect development potential may also be added at the discretion of the County with approval of the Foundation.

- [D1-a] Road Access increases the suitability and potential of a tract for subdivision or development, and indicates the ability of a tract to be developed or improved for non-agricultural use. A site with adequate public road access to allow the maximum amount of development under county zoning and subdivision regulations shall receive more points than a site with less public road frontage that is unable to support development.

- [D1-b] The Potential Lots indicator is expressed as the maximum number of lots allowed on the applicant property based on the county's zoning ordinance and development regulations. A county must calculate the number of lots permitted by right, estimating that number through base zoning, family conveyance lot rights, and off-conveyance lot allowances on the applicant property. The most points shall be awarded to sites with more development rights.
- [D2] Environmental or Physical Limitations of Site is an indicator of physical constraints such as Steep Slopes and Wetlands. Sites with few limitations will receive more points as they have greater development potential than sites that are physically limited from intensive development. The extent of the limitations can be determined from the most accurate maps available to the county. These can include: Surveys, recorded plats, County GIS data, USGS Grid Map, USGS Digital Ortho Quarter Quadrangle maps, DNR Wetlands and the National Wetlands inventory. Much of this data can be obtained free of charge through the Internet, the Department of Natural Resources, and/or the Department of Planning.
- [D3] Projected Development Pressure is intended to measure the threat of development in the area around the farm based on the most reliable available estimates. An applicant property with more development pressure shall receive more points than one with less pressure. The Foundation will consider each county's proposed means for this measurement. If the county does not have a measure to use, the Foundation offers the following standard measures:
 - For counties within the Baltimore Metropolitan Council or Washington Council of Governments planning areas, counties may utilize small area forecasts from the most recent cooperative forecasts, in conjunction with the capacity for subdivision and development on rural land within the small area (Transportation Analysis Zone). If a county is unable to produce a reliable estimate of capacity, and wishes to use this approach, estimates are available from the Maryland Department of Planning.
 - All counties may use measures of recent subdivision and development within the area around a farm. A standard measure available from the Maryland Department of Planning is the percentage of the area comprised of small (< 20 acres) parcels that have been developed during a specified period.

Other Considerations

Though not explicitly included in the following LESA ranking criteria, several other attributes may be taken into consideration in the operation of a county's own prioritization of applicant properties, with approval of the Foundation. These property attributes may include:

1. location in an approved formal Priority Preservation Area (PPA);
2. discount bidding;
3. participation in or identification for participation in a local or State Critical Farms Program; and/or
4. eligibility for Federal Farm and Ranch Land Preservation Program funding.

**Land Evaluation Site Assessment (LESA) Ranking Guidelines for the
Maryland Agricultural Land Preservation Foundation**
(Senate Bill 564 – 2003 Legislative Session)

LAND EVALUATION (LE)	SITE ASSESSMENT (SA)					
Soil Productivity Index & Woodland Capability Index	Farm Quality & Potential		Priority Preservation Area Status		Development Pressure & Potential	
	F1	Farm Size (compared to average size farm)	P1	Protection of Surrounding Area	D1 a&b*	Road Access & Potential Lots
Capability Class score + Soil Productivity score = Land Evaluation score	F2	On-Site Production	P2	Distance from a PFA (Priority Funding Area)	D2*	Environmental or Physical Limitations of Site
	F3	Stewardship/Conservation of Natural Resources	P3*	Boundary & Buffer Properties	D3*	Projected Development Pressure
	F4*	Farm Ownership & Operation	P4*	Historic, Scenic, or Habitat Value of Site		
	**	County Specific Considerations	**	County Specific Considerations	**	County Specific Considerations

All measures are required unless otherwise indicated.

- This measure is required, but may be replaced with County-specific considerations that better address the intent of the guideline for the particular measure, with the approval of the Foundation.
 - * This measure is optional, i.e., it may be excluded if not strategically important in a county; or, it may be replaced with a County-specific consideration that better addresses the intent of the guideline for the particular measure, with the approval of the Foundation.
 - ** County-specific measures that address the intent of the guidelines for the category may be added with the approval of the Foundation.
- All other measures are required.

MALPF STATEWIDE RANKING APPLICATION
(sample form)

OWNER NAME(S) _____ FARM NAME _____ COUNTY _____

STREET ADDRESS _____ TOWN _____ MD _____ ZIP CODE _____

TAX ID NUMBER _____ NUMBER OF ACRES _____ LIBER/FOLIO _____ / _____

TAX MAP _____ PARCEL # _____ GRID _____ REGIONAL TRANSPORTATION ZONE _____

MALPF FILE # _____ (RTZ) _____ CENSUS TRACT _____

EASEMENT CYCLE _____

LAND EVALUATION SCORE _____ SITE ASSESSMENT SCORE _____ TOTAL POINTS THIS CYCLE _____

RANK _____ NUMBER OF APPLICANTS _____ DATE _____

AGRICULTURAL SITE ASSESSMENT

No.	Farm Quality and Potential of Property	Points: _____ (____ pts. max.)
F1	Farm Size (compared to the average size farm) <i>How large is the proposed easement site compared to the average sized farming unit in the County?</i> (Average size is based on the latest available Census of Agriculture). A suggested way to calculate scoring range is the following: • Greater than 10% above the County average _____ points • Within 10% of County average _____ points • Greater than 10% below County average _____ points <i>Average farm size in _____ County is _____ acres. (Source: most recent Census of Agriculture).</i>	Points: _____ (____ pts. max.)
F2	On-Site Production <i>What percentage of the site is being farmed for income (managed for a scheduled commercial harvest) or managed as woodland with a forest management plan that emphasizes wood product production?</i> This land includes crop fields, pastureland, livestock operations, forest, agricultural buildings, etc.) This does not include lawns, home areas, or wetlands. The local Soil Conservation District, Forest Conservation Plan can be used as a reference in determining the correct calculations. • More than 90 percent _____ points • 75 to 89 percent _____ points • 60 to 74 percent _____ points • 40 to 59 percent _____ points • Less than 40 percent _____ points	Points: _____ (____ pts. max.)
F3	Stewardship/Conservation of Land, Water, and Natural Resources To promote the protection of the Chesapeake Bay and its tributaries, MALPF requires that all easement properties have an implemented soil and water conservation plan. <i>Has the landowner implemented one of four types of conservation plans developed by the Natural Resource Conservation Service (NRCS) or the local soil and water conservation district (SWCD)? Or, has the NRCS or local SWCD determined that the farm does not need any conservation plan?</i> • A Resource Management System (RMS) is in place on all of the farm (large animal operation). _____ points • A Resource Management System (RMS) is in place on all of the farm (non-large animal operation). _____ points • Acceptable Conservation System (ACS) for soil erosion is sustainable (i.e. $\leq$ T) on existing cropland (meets HEL requirements); property has a Nutrient Management Plan. _____ points • Acceptable Conservation System (ACS) for soil erosion on existing cropland (meets HEL requirements). _____ points	Points: _____ (____ pts. max.)

	Farm Quality and Potential of Property (continued)	
F4	Farm Ownership and Operation <i>Is the landowner a resident full-time farmer, retired with the farm operated by family members, or does the landowner live on the farm and lease to a full-time farmer or does a part-time resident farmer operate the farm?</i> • Applicant/owner lives on the farm and is either a full-time or retired farmer. If applicant is retired, family member(s) handles the farming operation. _____ points • Applicant/owner does not live on the farm and is either a full-time farmer who operates this farm as part of a larger farming operation or is retired from full-time farming and family member(s) operate(s) this farm as part of a larger farming operation. _____ points • Applicant/owner lives on the farm and is a part-time farmer or leases farmland to a full- or part-time farmer keeping land in active production. _____ points • Applicant does not live on the farm, but is a part-time farmer or leases farmland to a full- or part-time farmer keeping land in active production. _____ points • Applicant does not live on the farm or farm the property, and does not lease the land to keep the farm in active production. _____ points County Specific Considerations Additional County-specific considerations that fulfill the intent of this category may also be added at the discretion of the County, with approval of the Foundation.	Points: _____ (____ pts. max.)
		Points: _____ (to be determined)

No.	Priority Preservation Area Status	Points: _____ (____ pts. max.)
P1	Protection of Surrounding Area State and county policies have always emphasized the need to preserve large blocks of farmland for the continuance of agricultural operations. <i>How well is the subject property protected by surrounding lands that are permanently protected by easements or protective zoning, or temporarily protected as agricultural districts?</i> Determine the Total Land Acreage of parcels within the county within a one-mile radius of the property's boundary. Exclude the acreage that lies in another county, is underwater, in a PFA, or in a development zoning district within the radius from this number. Next, compute the total acreage of parcels within the county that meet each of the criteria below and express this number as a percentage of the Total Land Acreage computed above. Multiply the percentages computed for each type of land by the appropriate points. Add the resulting three numbers together to determine the total points for this score. For parcels that qualify for several of the criteria below, count the parcel acreage only towards the criteria that receives the most points – do not double count the acreage of a property with both an easement and protective zoning. Definitions of terms are provided in the footnotes. (Percent of Total Land Acreage in easements¹) * .50 = _____ points (Percent of Total Land Acreage with protective zoning²) * .35 = _____ points (Percent of Total Land Acreage in Agricultural Districts³) * .15 = _____ points	Points: _____ (____ pts. max.)
P2	Distance from a Priority Funding Area (PFA) <i>Is the property near a PFA such that it serves as a buffer between a PFA and a conservation zone; or is it sufficiently distant from a PFA or designated growth area to form part of a larger contiguous block of farmland?</i> Identify the correct distance and assign the indicated points. The applicant property can receive point for only one distance range. • The applicant property is adjacent to a PFA. _____ points • The applicant property is less than ½ mile, but is not adjacent to a PFA _____ points • The applicant property is more than ½ miles, but less than 1 mile from a PFA _____ points • The applicant property is more than 2 miles, but less than 5 miles from a PFA _____ points • The applicant property is 5 miles or more from a PFA _____ points	Points: _____ (____ pts. max.)

¹ Easement Property: a property on which growth is permanently restricted by a recorded deed, for example, the Maryland Agricultural Land Preservation Foundation, the Rural Legacy Program, the Maryland Environmental Trust, the Maryland Historical Trust, county land preservation programs, national and local private land trusts, or other programs or organizations imposing similar restrictions. Government-owned properties used for resource conservation should be included.

² Protective Zoning Property: a property with a potential lot yield of one unit or less per twenty acres.

³ Agricultural District Property: a property that is protected by a State or county agricultural district agreement with at least a five-year restrictive covenant.

Priority Preservation Area Status (continued)		Points: _____ (____ pts. max.)
P3	Boundary and Buffer Properties <i>How well is the subject property protected from potential development by adjacent protected land?</i> Determine the Total Land Perimeter of the applicant property by excluding the portions of the property's perimeter adjacent to another county, water, a PEA, or development zoning district. Next, calculate the percent of the property's Total Land Perimeter next to parcels of the types of land listed below. Add the resulting numbers together to determine the total points for this score. Do not double count the portion the perimeter next to a property with both an easement and protective zoning or other combination of attributes, but count once only for the most highly valued attribute. Definitions of terms are provided in the footnotes. (% of Total Land Perimeter with agricultural districts¹ on the adjacent parcel) * .05 = _____ points (% of Total Land Perimeter with min. 200' farmland/open space buffer² on the adjacent parcel) * .10 = _____ points (% of Total Land Perimeter with protective zoning³ on the adjacent parcel) * .15 = _____ points (% of Total Land Perimeter with permanent restrictive easements⁴ on the adjacent parcel) * .25 = _____ points TOTAL POINTS (add the point totals above together – not to exceed 25 points) = _____ points	
P4	Historic, Scenic, or Habitat Value of Site <i>Does the subject property have non-agricultural site-specific attributes highly valued by the County?</i> An applicant property shall receive the points indicated for each of the qualifying designations below. If a property contains several of the designations, the points for each shall be added together for a total score which shall not be greater than 25 points. Do not count historic designations more than once. To verify if a site contains these attributes, an evaluator may need to consult with the appropriate State or County representative or agency, such as the designated local Historic Preservation Planner, the Maryland Historical Trust, or the Department of Natural Resources.⁵ • National or Local Historic Landmarks _____ points • Located in a Rural Legacy Area _____ points • Rare, Threatened or Endangered Species Habitat _____ points • National Register of Historic Places Site or Located in Designated Historic District _____ points • Maryland Inventory of Historic Properties and Archeological Sites _____ points • Property is part of a designated Scenic Viewshed _____ points	
	County Specific Considerations Additional County-specific considerations that fulfill the intent of this category may also be added at the discretion of the County, with approval of the Foundation.	Points: _____ (to be determined)

¹ Agricultural District Property: a property that is protected by a State or county agricultural district agreement with at least a five-year restrictive covenant.

² Farmland/Open Space Buffer: a property that is subject to the requirement of a minimum of a 200' farmland or open space buffer under County Development Regulations to protect adjacent farmland.

³ Protective Zoning Property: a property with a potential lot yield of one unit or less per twenty acres.

⁴ Easement Property: a property on which growth is permanently restricted by a recorded deed, for example, the Maryland Agricultural Land Preservation Foundation, the Rural Legacy Program, Maryland Environmental Trust, Maryland Historical Trust, county land preservation programs, national and local private land trusts, or programs or organizations imposing similar restrictions. Government-owned properties used for resource conservation should be included

⁵ These values must be referenced with a recognized and specific source to qualify for these points. (a) National or Historic Landmarks – Listed or eligible to be listed on the National Historic Register. Eligibility established by local historic preservation officer. (b) Rural Legacy Area – Located within the boundary of an approved Rural Legacy Area. (c) National Historic Places Site or Designated District – Established by Federal, State, or local authority. (d) Maryland Inventory of Historic Properties and Archeological Sites – Listed or eligible to be listed on the Maryland Inventory of Historic Properties and Archeological Sites. Eligibility established by local historic preservation officer. (e) Scenic Viewshed – Scenic View area protected from encroachment by County zoning and subdivision regulation.

No.	Development Pressure and Potential	Points: _____ (____ pts. max.)
D1: a&b	Road Access and Potential Lots (a) Road Access <i>Does the site have adequate public road access for development to accommodate the potential lot yield using existing county subdivision regulations and guidelines? (Yes / No) (circle one)</i> If you answered yes to this question proceed to answer question (b) regarding potential lot yield. If answer is no, assign 0 points and proceed to D2. (b) Number of Potential Lots <i>What is the estimated lot yield on the subject property under the County's zoning ordinance and development regulations, including family conveyance or lot allowances and considering the environmental constraints? (In other words, determine the lot yield on the subject property and assign the appropriate number of points.)</i> • Total number of Potential Lots (Range 1) _____ points • Total number of Potential Lots (Range 2) _____ points • Total number of Potential Lots (Range 3) _____ points • Total number of Potential Lots (Range 4) _____ points	Points: _____ (____ pts. max.)
D2	Environmental or Physical Limitations of the Site <i>What percentage of the site contains environmental or physical limitations on development of the site (at minimum, steep slopes and/or wetlands), according to the most accurate available data? (Sources could include Soil Survey, recorded plat, County GIS or USGS Grid Map maps or in accordance with County Site Plan or development regulations.) Other environmental factors can be included at the County's discretion.</i> Identify the correct distance and assign the indicated points. The applicant property can receive point for only one distance range. • Equal to or less than 25% of the site. _____ points • Equal to or greater than 26%, and equal to or less than 50% of the site. _____ points • Equal to or greater than 51%, and equal to or less than 75% of the site. _____ points • Greater than 75% of the site. _____ points	Points: _____ (____ pts. max.)

Development Pressure and Potential (continued)		
	Projected Development Pressure <i>How intense is the development pressure in the area of the subject property?</i> Using a tax map of appropriate County map, identify land within 2 miles of the subject property's boundary that has been developed or platted for development purposes during the past 5 years but not constructed. If the 2-mile radius includes part of a property, include the entire property in your calculations. Add the total acreage that has been developed or platted and calculate it as a percentage of the total acreage within 2 miles of the subject property's boundaries. If the 2-mile radius includes land outside of the County boundaries, that land should be included in the calculations. • Less or equal to 5% of land area has been subdivided for development purposes _____ points • Less or equal to 10% of land area has been subdivided for development purposes _____ points • Less or equal to 15% of land area has been subdivided for development purposes _____ points • Less or equal to 20% of land area has been subdivided for development purposes _____ points	Points: _____ (_____ pts. max.)
	County Specific Considerations Additional County-specific considerations that fulfill the intent of this category may also be added at the discretion of the County, with approval of the Foundation.	Points: _____ (to be determined)

GUIDELINES: MALPF RANKING

LAND EVALUATION (SOIL POTENTIAL RATING)		ASSESSMENT OF PROPERTY & SURROUNDING AREA			
Soil Productivity Index & Woodland Capability Index (20-60%)	Farm Quality and Potential (20-60%)		Priority Preservation Area Status (20-60%)		Development Pressure & Potential (0-40%)
	F1	Farm Size (compared to average size farm) (25-33%)	P1	Protection of Surrounding Area (25-50%)	
A1	Capability Class Score (0-100%)	F2 <i>On-Site Production (25-33%)</i>	P2	<i>Distance from a PFA (25-50%)</i>	<i>D1</i> <i>A&B* (0-100%)</i>
		F3 <i>Stewardship/Conservation of Natural Resources (25-33%)</i>	<i>P3*</i>	<i>Boundary & Buffer Properties (0-33%)</i>	<i>D2*</i> <i>Environmental or Physical Limitations of Site (0-100%)</i>
		<i>F4*</i> <i>Farm ownership & operation (0-25%)</i>	<i>P4*</i>	<i>Historic, Scenic, or Habitat Value of Site (0-25%)</i>	<i>D3*</i> <i>Projected Development Pressure (0-100%)</i>
A2	Soil Productivity Score (0-100%)	** County Specific Considerations (can alter above percentage distribution)	**	County Specific Considerations (can alter the above percentage distribution)	** County Specific Considerations (can alter the above percentage distribution)

* This measure is optional, i.e., it may be excluded if not strategically important in a county; or, it may be replaced with a County-specific consideration that better addresses the intent of the guideline for the particular measure, with the approval of the Foundation.

▪ This measure is required, but may be replaced with County-specific considerations that better address the intent of the guideline for the particular measure, with the approval of the Foundation.

** County-specific measures that address the intent of the guidelines for the category may be added with the approval of the Foundation. Land Evaluation must be included, but the County may choose how to combine capability class and soil productivity scores.

Required measures are **bolded** and their cells are double-lined. Measures that may be replaced by County specific considerations that better address the intent of the guideline for the particular measure are *italicized*, whether they are required or optional.

FEDERAL FARM AND RANCH LAND LESA RANKING SYSTEM

LAND EVALUATION (SOIL POTENTIAL RATING)		ASSESSMENT OF PROPERTY & SURROUNDING AREA					
Soil Productivity Index & Woodland Capability Index (42.1%)		Farm Quality and Potential (28.9%)		Priority Preservation Area Status (21.1%)		Development Pressure & Potential (7.9%)	
A1	Capability Class Score (50%)	F1	Farm Size (compared to average size farm) (18.2%)	P1	Protection of Surrounding Area (62.5%)	D3	Projected Development Pressure (100%)
		F2	On-Site Production (36.4%)				
		F3 & F4	Stewardship/ Conservation of Natural Resources/Farm Ownership & Operation (36.4%)	P2	Distance from a PFA (37.5%)		
A2	Soil Productivity Score (50%)	Op- tional	Availability of Farm Services (9.0%)				

FRPP LESA is compatible with the State guidelines except that the specific language used by the State guideline measures differs somewhat from the language used in the FRPP LESA measures. Further, F3 and F4 are collapsed into a single measure for FRPP LESA. The A1 & A2 measures are identical in both ranking systems. The F1 measure is marginally different in the two ranking systems. The F2 measure in the state guidelines is more finely differentiated. The F3 and F4 measures in the state guidelines are more finely differentiated in the state guidelines than the single question for FRPP. The P1 measure is more inclusive in state guidelines by including protective zoning in addition to easements and districts. The P2 measure is worded differently, but achieves the same goal; counties can better specify county goals in state guidelines. The D3 measure is worded differently for each of the two ranking systems and each is probably getting at slightly different things. In the state guidelines, the focus is on subdivision for development purposes within a 2-mile radius; in FRPP LESA, the measure is urban vs. non-urban use within a 1-mile radius.

BAREBONES COUNTY/MALPF RANKING SYSTEM

Land Evaluation (Soil Potential Rating)		Assessment of Property & Surrounding Area				
Soil Productivity Index & Woodland Capability Index (50%)		Farm Quality and Potential (25%)		Priority Preservation Area Status (25%)		Development Pressure & Potential (0%)
A1	Capability Class Score (50%)	F1	Farm Size (compared to average size farm) (33%)	P1	Protection of Surrounding Area (50%)	
A2	Soil Productivity Score (50%)	F2	On-Site Production (33%)	P2	Distance from a PFA (50%)	
		F3	Stewardship/Conservation of Natural Resources (33%)			
Measure Not Used						

A1 – already done for FRPP
 A2 – already done for FRPP
 F1 – already done for FRPP (slightly differently)
 F2 – already done for FRPP & MALPF (somewhat differently)
 F3 – already done for FRPP & MALPF (somewhat differently)
 P1 – already done for FRPP (slightly differently)
 P2 – already done for FRPP (could change, based on county preferences)

TDRs on Early MALPF Easements in Montgomery County

At the June 2005 MALPF Board meeting, an informational item was presented to and discussed by the Board of Trustees concerning a policy incongruity that resulted when Montgomery County adopted its transferable development rights (TDR) program in the early 1980s. The MALPF Program purchased its first easements at the end of 1980. Neither the Montgomery County nor the MALPF program staff and legal counsel at the time anticipated the interaction between the two programs. MALPF and Montgomery County are now seeing, hopefully, the last of the fallout from the gap between the start of the TDR program and the revision by MALPF in 1985 of its easement document to extinguish all development rights in language that kept landowners from regaining development rights that, while not usable on the preserved property, could be transferred to enable development elsewhere through a local TDR program.

This agenda item was the result of a request by a Montgomery County attorney (and two more requests expected at the time) to "serialize" TDRs on three MALPF properties whose easements date before 1985 and the easement language revision. In other words, these landowners were seeking to establish their right to TDRs on these properties so the TDRs can be removed and sold, even though the landowners already sold their development rights on the properties to the Foundation.

In consulting with the Office of the Attorney General, the following advice was provided and conclusions reached:

- 1) *Early MALPF easements do not control transferable development rights.*

Current MALPF deeds of easement control TDRs on Foundation properties in two ways.

- a) Deed of easement language requires approval from the Foundation's Board of Trustees before

any overlay easement can be placed on the property (the TDR process requires a restrictive covenant be placed on the property). The current language states: "Unless written approval is first obtained from the Grantee, no easement or other restriction may be granted to any person or government agency in the land subject to this deed of easement."

- b) Deed of easement language explicitly extinguishes the possibility of transferring development rights from the property. The current language states: "Except as provided in Section IV herein, all development rights associated with the land are hereby extinguished. No development rights from the land may be transferred to another area, or to another person, or to a political subdivision, notwithstanding any prior agreement to the contrary; nor may the land be used for the purpose of calculating permissible lot yield of any other property. In addition, Grantor agrees that it shall not be permitted to develop the within described property based on any existing, retained, or after acquired Development Rights, except for that which the Grantee has given approval in accordance with Section IV herein."

Prior to 1985, MALPF deeds of easement did not include this language. Thus, the Foundation has neither approval authority over a landowner of such a property acquiring TDRs to sell, nor is it clear that the Foundation has in fact acquired TDRs. As has often been stated, if it is not in the deed of easement, you do not get it. The easement has always clearly regulated any development that takes place on a property.

Prior to 1985, it was not clear what the interaction was between the local

TDR program and MALPF easements, because TDRs in essence were making development possible in the receiving area off the property. Both MALPF and the Montgomery County TDR program were in their pioneering days in the early 1980s. The County and Foundation only learned over time what the interaction was between the two programs.

- 2) *The local governing authority must determine if such early MALPF properties qualify for TDRs under the County program.*

In cases where the early MALPF easements did not provide for the authority of MALPF to review overlay easements and/or did not regulate or extinguish the transfer of development rights (and the easements must be read individually to be certain what is addressed in each), the establishment and sale of TDRs is an issue between the landowner and the local governing authority. MALPF may not and probably does not have review authority. It is *not* MALPF granting TDRs to landowners of such properties; it is not up to MALPF if TDRs can or cannot be taken from these properties, but up to the local governing authority.

- 3) *TDR restrictions are subordinate to MALPF's deed of easement.*

If any incompatibility exists between TDR restrictions and the MALPF easement, the Foundation's easement takes precedence because the Foundation will not subordinate its interests.

- 4) *If TDR restrictions and MALPF's deed of easement apply to the same property, the more restrictive provisions will apply.*

If any provisions of the TDR overlay are more restrictive than the Foundation's easement, and the overlay is compatible with the MALPF easement, the County may still seek

enforcement of those more restrictive provisions, even if MALPF would not be opposed to the activity being restricted.

Similarly, if any provisions of the Foundation's easement are more restrictive than the TDR overlay, the Foundation may still seek to enforce those more restrictive provisions, even if the County's TDR program would ordinarily permit the activity being restricted.

A TDR overlay cannot create rights that are not granted under the MALPF easement. This may mean that development rights retained under MALPF could be extinguished by the grantor's decisions related to TDRs (for example, one or more child's or owner's lots could be extinguished). The TDR overlay easement is perpetual with no termination provision or possibility.

- 5) *The Foundation reserves the right to assert approval authority over TDR transactions upon further review.*

MALPF advised these landowners that the Foundation may choose to exercise approval authority upon further review. In such a case, or simply to remove any doubt of the Foundation's position in this matter, the Grantors should submit a written request to MALPF for consideration and approval. Such a request would go through the normal review channels of submission to the local agricultural land preservation advisory board to review for recommendations before forwarding the request to the MALPF Board of Trustees.

After 1985, the Foundation had the right to approve overlay easements. In the easement document, MALPF extinguishes any ability to transfer rights of the property. In both ways, MALPF now protects itself against this kind of situation in the future.

- 6) *Approximately ten MALPF properties*

may be able to serialize TDRs.

Montgomery County has estimated that there are maybe ten early MALPF easements (pre-1985) that could serialize TDRs under this loophole. These TDRs were created at a rate of 1 per 5 acres; some TDRs must be retained on the property if the landowner wishes to exercise his/her eligibility for child's and/or owner's lots.

The TDRs taken off a property are generally going for \$40,000 per TDR in the current marketplace, according to Montgomery County. With a total of ten easements carrying 322 TDRs valued at \$40,000 per TDR at the current market value, the monetary value of the transfer may be close to \$20 million.

John Zawitoski, Program Administrator for Montgomery County, shared with MALPF Board members some of the discussion from the June 2005 meeting of the Montgomery County Agricultural Land Preservation Advisory Board (APAB) about this issue, noting that this also affects the County's Agricultural Easement Program (AEP). Among the sentiments expressed were as follows:

- Landowners who sold easements should have known that TDRs were considered among the bundle of rights extinguished by the preservation easement.
- These acquisitions likely involved appraisals valuing the TDRs as a part of the bundle of development rights and that value represented part of the consideration in what was paid for the easement.
- In the County's AEP, each applicant received a copy of the Executive regulations stipulating that TDRs were extinguished by an agricultural easement. This stipulation should have been understood as applying to the MALPF easement.
- While legally a loophole may be identified that allows taking the TDRs off

pre-1985 MALPF properties, doing so should be considered morally wrong.

- Landowners considered these TDRs extinguished 20 years ago and have only challenged the sale of TDRs because of real estate brokers who approached them having discovered this legal technicality.
- Nonetheless, the APAB recognizes that there may have been a legal deficiency in the construction of the easement, allowing the TDRs to be claimed.
- Given that the extinguishment of the TDRs under the pre-1985 easement may not be defensible against a legal challenge, a compromise may be in order to avoid a costly and lengthy legal case.
- Some positive outcomes achieved by removing TDRs from pre-1985 MALPF easements include:
 - This assists developers in the Priority Funding Areas locate needed TDRs.
 - TDR sales increases income opportunities in the private sector for a few owners of preserved farms (no monetary loss is incurred by the public sector).
 - The State and County gain from an additional layer of protection paid by the private sector, making easement termination much more difficult.
- Some negative outcomes that may occur by removing TDRs from pre-1985 MALPF easements include:
 - Owners of MALPF-preserved parcels unable to benefit from this loophole may perceive inequity in the system.
 - The perception of inequity may create additional legal challenges among post-1985 Program participants.

MALPF and Montgomery County should be able to explain the legal constraints in the early documents that have made it im-

possible to prevent the "serialization" of TDRs off pre-1985 MALPF-preserved properties. The level of understanding of the interactions of these programs has evolved with these programs' development.

Jurisdictions with TDR programs or that are planning to set up a TDR program must be certain to extinguish them explicitly when an easement is purchased by or donated to a county, State, or private program. Where TDR programs already exist, the relevant staff should consult legal counsel about past documents, as was done in Montgomery County.

Overlay Easement Issues and Policy

Introduction

The MALPF overlay easement policy is stated in regulations:

"After a landowner has sold an agricultural preservation easement to the Foundation, the landowner may not grant or permit another to establish an easement, right-of-way, or other servitude in that land without the Foundation's written permission.... The Foundation may permit an easement or right-of-way to be granted in land subject to a preservation easement under the following circumstances: (a) If it is to service a lot released from preservation easement restrictions under Agriculture Article, Section 2-513, Annotated Code of Maryland; (b) If it is to service a neighboring farm, provided, however, that its use is restricted to the movement of farm equipment or other items associated with farming" (COMAR 15.15.01.17).

General overlay easement policy, approved by the Board of Trustees on March 25, 1997, follows.

OVERLAY EASEMENTS ON DISTRICT AND EASEMENT PROPERTIES

Purpose:

To allow the placement of overlay easements on top of district/easement properties with certain restrictions to protect and maintain the agricultural potential of farm properties, so as not to interfere with present or potential agri-

cultural operations. Examples of overlay easements may include, but not be limited to:

- Forest Mitigation Easements
- Cable Company Easements
- Wetland Mitigation Easements
- Historical Preservation Easements
- Utility Easements
- Environmental Easements
- Gas
- Cultural Easements
- Oil
- Septic Reserve Easements
- Electric
- Telephone

Conditions:

The overlay easement shall not prohibit any agricultural operation within the proposed easement area, unless otherwise approved by the Board.

The overlay easement should have minimal interference on the overall operation of the farm. Access shall be defined as to its location and potential uses. The overlay easement shall clearly list all activities that may be permitted.

Criteria for Review:

- Landowner's request in writing.
- Planning and Zoning concurrence to coincide with zoning regulations.
- Local Agricultural Land Preservation Advisory Board approval to ensure the overlay easement is consistent with MALPF Program and that it does not interfere with the agricultural operation.
- Copy of the actual overlay deed of easement (not a generic copy).
- Locational map outlining the entire farm, overlay easement area and access.
- A survey is preferred on district property.
- If the overlay easement is to be placed on an easement property, a survey will be required prior to settlement.

This general policy statement does not intend to imply that the examples cited are those regularly approved, but rather those that will be considered by the Board. Three of the five easement overlay issues for which formal policy was considered by the Board during the period of this report were new issues: wastewater spray irrigation, groundwater recharge, and dry hydrant easements.

Forestry and wetland mitigation easements were approved in the past on a case-by-case basis. With these requests becoming more common and increasingly problematic, the Board wished to develop more explicit criteria for mitigation requests in the future, both to guide landowners, developers, program administrators, and staff and to create greater consistency in Board decision-making.

Wastewater Spray Irrigation Easement Overlay

At the January 2002 Board meeting, the Board considered a request for guidance concerning a Queen Anne's County proposal to use district and easement properties for the disposal of treated water (so-called "gray water") from sewage treatment plants by spray irrigation. Because of the number of issues raised by this request, the Board tabled taking any decision or providing substantive guidance until additional information had been collected and evaluated.

During FY 2003, MALPF received additional requests from Eastern Shore for guidance on using district and easement properties for wastewater spray irrigation. Under State regulations administered by the Maryland Department of the Environment, spray irrigation with wastewater can only be used on feed crops and cannot be applied to crops for direct human consumption, such as tomatoes or strawberries. Wastewater spray irrigation also requires establishing buffers between the area where the irrigation takes place and adjacent properties and activities. Residences require 400' buffers, and property lines require 200' buffers (or half that distance if the buffer is wooded rather than open).

The central question was whether this is an acceptable use of MALPF easement property. If deemed to be an acceptable use, the Foundation must determine a process by which a project using easement property for wastewater spray irrigation can be reviewed and approved.

Some of the primary concerns ex-

pressed by Board members were as follows.

- 1) Using wastewater for irrigation on MALPF properties should not create growth patterns contrary to State, county, and/or municipal objectives. The impact on growth could be consistent with the Smart Growth initiative or could undercut it. Growth management considerations must be part of any approval process.
- 2) The state has a significant investment in easement properties. The purpose of the public investment is to guarantee the long-term viability of each property in profitable agricultural production. While wastewater spray irrigation is not necessarily incompatible with this purpose (it can provide a useful input for agricultural production), such a use affects the range of what can be produced on easement property and, thus, can affect the value of the State's investment. This suggests each case may be unique, and a blanket approval should not be given.
- 3) Any disposal of effluent has the potential to damage the soil or diminish its productivity with contaminants, oversaturate the soil leading to effluent run-off, and/or result in the over-application of nitrogen. Spray application is necessarily driven more by the need to dispose of waste than by the crop's need for irrigation or nutrients. The potential for soil damage, oversaturation, and overfertilization implies a careful review in advance of approval and an ongoing monitoring requirement. The review process should identify: (a) the source of effluent, the content of groundwater discharge, and any possible contaminants; (b) a nutrient management plan developed and implemented in the context of wastewater spray irrigation; and (c) an understanding of the absorption capabilities of the spray area based on soil structure and water table

levels. Thus, a review process should include an environmental evaluation and/or incorporate the existing permitting processes of State and county agencies and the plans for ongoing monitoring.

Wastewater spray irrigation raises some fundamental questions for MALPF. For example, what is the nature of the relationship between the landowner and the supplier of wastewater for irrigation? Is it a temporary solution to development constraints that will be resolved in the long term in other ways requiring only a short-term contract, or is this part of a permanent solution to disposal that will continue indefinitely requiring an overlay easement? Is this a commercial or even industrial activity restricted by law and the deed of easement (dumping of an industrial waste), or is this an agricultural activity seen as the application of a necessary agricultural input (the application of irrigation water that contains some nutrient content)? Is the related equipment, such as the creation of on-site storage capacity, creating an industrial facility, or is it no different than an irrigation pond or water tank?

Wastewater spray irrigation would not be a temporary solution, but would be a permanent arrangement allowing additional development to take place in areas designated for growth while ensuring that the additional effluent produced would not go into the Chesapeake Bay. MALPF properties were targeted for wastewater spray irrigation because the location of existing treatment plants is near significant concentrations of MALPF properties. To be effective and cost efficient, the wastewater must be distributed by pipe, limiting its distribution area. Owners and operators of MALPF properties have expressed interest in wastewater spray irrigation because of the recent drought, ongoing income potential, and free irrigation equipment.

Several members of the Foundation's Board and MALPF staff toured the wastewater treatment and spray irrigation facilities at the Town of Ridgely in Caroline County and at

Allen Family Foods in Cordova, Talbot County on August 9, 2002. The field trip observations and discussions proved valuable and positive in the evaluation of the pending requests for guidance.

The Board asked Joe Tassone, the Board representative for the Maryland Secretary of Planning, a policy proposal on wastewater spray irrigation with the participation of relevant government agencies, including the Maryland Department of the Environment and the Department of Planning. This group worked throughout FY 2003, with several presentations to the Board for discussion.

The policy proposal was recommended by the Board at its November meeting to be distributed to program administrators and other interested parties for review and comment, and then submitted for review to the Office of the Governor. The policy was finalized with approval by the Governor's Office in May 2003.

The first request for a wastewater spray irrigation system on a MALPF property was submitted to the August 2003 Board meeting. The town of Cecilton in Cecil County asked for approval of a spray irrigation area of 60-75 acres of a 277 acre easement property. The project had the support of the County and the Town of Cecilton. After review by the Board of Trustees, this project was approved with the following conditions:

- (1) MALPF shall be a party to the agreement between the landowner and the Town of Cecilton.
- (2) 2) Any future industrial discharge to the system shall be reported to the Foundation and an impact analysis completed prior to acceptance of the industrial wastewater.
- (3) 3) The agreement shall have a provision for renewal as part of the MDE permitting process, which is conducted every five years. The renewal will be reviewed by MALPF staff. Should

MALPF find that the Town or the landowner is in breach of the agreement, MALPF may terminate the agreement.

- (4) 4) A statement in the agreement will address the repair of any damage to the soils as a result of an accident or malfunction or other circumstances related to the application of the wastewater.
- (5) 5) A statement will be included in the agreement that the application of the wastewater shall be conducted in such a manner to prevent bodily injury or endangerment to human health.
- (6) 6) Cecil County shall adopt a Water and Sewer Plan, including the Cecilton wastewater spray irrigation project.

The second request for a wastewater spray irrigation project was made by Kent County on behalf of the unincorporated Town of Worton at the January 2007 Board meeting. The spray area would cover 81.14 acres of a 194 acre easement property. The project proposed to locate the storage lagoon on the easement property (the Cecilton project located the storage on an adjacent parcel). The surface area of the lagoon would be approximately two acres with a depth varying from 3 to 6 feet.

Because the original wastewater spray irrigation policy group did not consider the issue of on-site lagoon storage during the development of the policy, the Board tabled the request and assigned it to a policy committee for resolution. A committee headed by Board member Robert Stahl brought back a revised policy to the February 2007 Board meeting. The Board approved the revised policy. The Worton proposal was approved at the May 2007 meeting based on this revised policy and an agreement with language approved by the Office of the Attorney General taking the Foundation's interests into account.

WASTEWATER SPRAY IRRIGATION POLICY

(Final – Revised 2/27/2007)

General Perspective:

Property owners, or their designated representatives, shall apply for approval from the Foundation to use wastewater spray irrigation on MALPF district or easement properties. An approval is not an absolute right, but shall be reviewed by the Foundation on a case-by-case basis. Each request will be reviewed to determine the proposed operation's impact on the soils and agricultural operation of the farm, and for consistency with State and local preservation and Smart Growth goals. The Maryland Department of the Environment shall apprise the Foundation of its determination of the impact of the proposed project on the property's soils. The Maryland Department of Planning shall apprise the Foundation of its determination of the proposed request's consistency with State and local preservation and Smart Growth goals. In considering whether to approve the request, the agricultural benefit that the project would provide to the operation of the farm shall be the primary concern of the Foundation. A request that merely provides an area for disposal of municipal wastewater, without providing a significant benefit to the agricultural operation, should not be approved.

Criteria:

- A. The wastewater spray irrigation shall not promote development in a way that is inconsistent with the State's Smart Growth objectives, as determined by Maryland Department of Planning.
- B. The wastewater shall come from development in non-comment Priority Funding Areas only. Any increased sewerage capacity resulting from spray irrigation will enable growth and development consistent with the orderly development pattern envisioned in the local comprehensive plan and with smart growth principles.
- C. The wastewater operation shall be part of a local water and sewer plan and shall provide planned capacity in a defined service area.
- D. The wastewater shall contain no significant pollutants that would adversely affect the quality of the soils for future agricultural use, as determined by MDE.
- E. The application shall be approved by the local Agricultural Land Preservation Advisory Board.

- F. The operation shall conform to local planning and zoning regulations.
- G. If a pond is proposed to be located on the easement property, the following guidelines shall apply:
 - i. The pond shall be located in an area not useable for production agriculture.
 - ii. The construction of the pond shall be subject to an updated, revised soil and water quality conservation plan that takes into consideration the construction of the pond.
 - iii. The pond shall be constructed in a manner to minimize negative impacts on current crop production.
 - iv. The pond/reservoir should be no larger than that which would be required to provide adequate storage capacity to meet production needs including during drought periods. To determine appropriate storage capacity, the Foundation will consider the recommendations of the University of Maryland Cooperative Extension Service.

Application Procedures:

Before the Foundation will consider a request for the use of wastewater spray irrigation on MALPF district or easement properties, all of the following information shall be submitted:

- A. An application for the use of wastewater spray irrigation which has been fully completed and signed by all titled landowners.
- B. An unmarked copy of a tax map which outlines the entire district or easement property and the affected area.
- C. A written statement from the local Agricultural Land Preservation Advisory Board indicating a recommendation of approval or denial.
- D. A written statement from the local Planning and Zoning office or County Program Administrator that the proposed use of wastewater spray irrigation is permitted under current local regulations.
- E. Description and map of the current and future planned sewershed (service area) of the wastewater treatment plant from which the effluent comes. The map should also show the relevant PFA boundaries.
- F. A written statement from the landowner indicating how the use of wastewater

spray irrigation will alter the operation of the farm. The statement should address the limitations placed on types of crops that can be grown.

- G. A summary of the wastewater characteristics, which includes source of wastewater, flow rate, size of irrigation area, and concentrations of the following elements in the wastewater: arsenic, boron, cadmium, chromium, copper, iron, lead, manganese, mercury, nickel, zinc, calcium, magnesium, sodium and chloride.
- H. If a pond is to be constructed on the easement property, a detailed description of the size and capacity of the proposed pond.

Dry Hydrant Access Easement Overlay

At the July 2003 Board meeting, the Volunteer Fireman's Association of Baltimore County requested permission to install pipes for dry hydrants on MALPF properties for the purpose of fire suppression. This organization received a grant to install dry hydrants in the rural areas of Baltimore County to supply water for fire suppression. Dry hydrants require an infrastructure of pipes buried underground to connect water sources, such as irrigation ponds, to the road where they can be accessed by firefighting equipment. Some farmland across which these pipes would be located is under MALPF easement and district agreements. Consideration of this request was deferred while MALPF staff sought additional information and developed a policy for this issue.

At the October 2003 Board meeting, the request was again reviewed. A representative of the Natural Resources Conservation Service (NRCS), Mark Rose, assured Board members that work such as the laying of pipes for dry hydrants would be done under the supervision of the Resource Conservation Development Office with NRCS standards and specifications being utilized. Strict guidelines on erosion control make sure that the land will not be graded. The hydrants or water supply must supply water sufficient for the fire department's use, even in a 50-year drought. Mr. Rose concluded that the proposed MALPF

policy appeared workable. The Board approved the proposed policy for dry hydrants and the general request for dry hydrant installation within the policy's stated conditions. Approvals of individual properties may be made administratively unless the request is outside the policy's guidelines. The policy follows.

POLICY FOR DRY HYDRANTS

The installation of dry hydrants shall be allowed on MALPF district and easement properties subject to the following conditions:

1. The installation shall be within 100 feet of the water supply normal pool level elevation, that is, the edge of the pond's normal water line. Installations at a distance greater than 100 feet from the normal water elevation shall be subject to Board approval.
2. Engineering plans for each installation shall be developed in cooperation with the Soil Conservation District and the NRCS office.
3. The engineering and installation shall follow NRCS Dry Fire Hydrant Standard 432, including, but not limited to, specifications for erosion control, before, during and after construction, referring to Maryland NRCS Standard 342 B Critical Area Planting.
4. Topsoil shall be separated from subsoil during construction and replaced after construction. Seed and mulch are applied as per NRCS Standard 342.
5. The job site and installation shall be inspected and approved by the Soil Conservation District/ NRCS representative.

Wetland Mitigation Easement Overlay

At the February 2006 meeting, the Board of Trustees heard a presentation and inquiry by William Clark, District Manager of the Calvert County Soil Conservation District, concerning the Foundation's policy of allowing the overlay of wetland mitigation easements on program properties.

Wetland mitigation is the process by which the impact of converted wetlands on

lost wetland functions and values from various development activities, from road construction to residential housing, is mitigated or offset by the restoration, enhancement, or creation of wetlands elsewhere, preferably as near to the site of wetlands disruption as possible or, more generally, within the same watershed as the disturbed area. Typically, a landowner receives compensation for the wetland mitigation easement from the owner or developer of the site where the wetlands were disturbed. Such easements are perpetual, and the projects generally range in size from two to four acres.

The MALPF policy on wetland mitigation easements at the time was a case-by-case application of the general overlay easement policy (discussed earlier) to requests for wetland mitigation. No formal policy specific to wetland mitigation or mitigation requests more generally had been developed. However, past implementation of the general overlay easement policy was characterized by the following elements:

- Wetland mitigation easement overlays were restricted to those areas where the soil conservation district said the mitigation represented "best management practices" (BMPs). Appropriate areas included steep slopes subject to erosion, along stream beds to promote water quality, etc.;
- Mitigation should not take place in an area currently farmed or on prime soils that could be productive if farmed;
- The scope or size of the wetland mitigation project relative to the total farming operation on a property must be taken into account, with an overlay easement having a minimal impact on any agricultural operation. Thus, the calculation of the impact must take into account the additional 25' grassland buffer beyond the area of the mitigation project; and
- The impact of the development enabled by mitigation must be taken into account, particularly in rural areas where the value of the investment

made by the State in farmland preservation could be diminished by that development.

Marginal lands on which wetland mitigation projects are usually located are defined for wetland mitigation purposes as:

- Croplands that cannot be cultivated two out of every five years due to wet conditions;
- Croplands that maintain standing water at least two weeks out of the year;
- Croplands containing Fallsington, Elkton, or Othello soils that have not been previously drained or other prior converted wetlands; or
- Croplands that may have inclusions of strongly contrasting non-Class I soils within the soils series.

Wetland mitigation easements necessarily prohibit farming and forestry activities forever on the wetland, so are more restrictive than forest mitigation easements which can allow harvesting wood products. Further, wetland mitigation does not necessarily involve only marginal land unsuitable for productive farming, but has at times included land used for productive farming.

MALPF had in the past (1997) denied at least one request for a wetland mitigation easement overlay under the Federal Wetland Reserve Program because of the scope of the project (80 acres on a 236-acre farm) and disagreement over the language in the overlay easement. This denial and the related discussion raised the awareness of MALPF staff and Board members of the limitations of such easement requirements when put as an overlay on existing MALPF easement properties.

Joe Tassone, Board member representing the Secretary of Planning, was appointed to chair a committee to make recommendations to the Board on a formal policy for wetland mitigation easement overlay requests. Mr. Tassone worked over the next year with committee members and regular

Board and program administrator input before the Board approved the committee's final report and policy recommendations.

The primary criteria directing the development of the policy recommendations were:

- The mitigation must serve a legitimate resource conservation purpose;
- The size, extent, and effects on production potential must be appropriate to the conservation purposes and must not compromise the Foundation's interests in the property; and
- The development project being mitigated must be compatible with the Foundation's goals and objectives.

The Final Report and policy recommendations were presented and approved at the February 2007 Board meeting.

FINAL REPORT: WETLAND MITIGATION EASEMENTS POLICY

February 27, 2007

Overview

As development pressure spreads throughout the State and more land is converted to development, wetlands are increasingly impacted. Consequently, there are increasing needs to mitigate for wetland impacts in locations away from development sites. The Foundation expects to receive increasing numbers of requests from easement landowners to allow mitigation on their farms for off-site wetland impacts.

The Foundation's statutory goals are an important context for Board policy and procedure for wetland mitigation. They are:

To preserve agricultural land and woodland in order to:

1. provide sources of agricultural products within the state for the citizens of the state;
2. control the urban expansion which is consuming the agricultural land and woodland of the state;
3. curb the spread of urban blight and deterioration; and
4. protect agricultural land and woodland as open space.

Wetland mitigation on land under MALPF easement can compromise or undermine the Foundation's goals in two ways: by prohibiting active agriculture and forestry in perpetuity on land under wetland mitigation; and by facilitating and supporting more, rather than less, development and associated impacts on farmland and farming, in areas designated for agricultural land preservation, where the Foundation invests public money to that end.

At the same time, the Board recognizes that wetland mitigation can serve legitimate resource enhancement and conservation purposes that are compatible with the Foundation's goals and objectives; can provide MALPF easement landowners with supplemental income to further that purpose; in appropriate circumstances, can help landowners pay for good stewardship of their land and water resources, as a legitimate part of a Soil Conservation and Water Quality Plan; and can support development in planned areas designated for non-agricultural uses, which supports the Foundation's goals.

Based on these considerations, and the January 9, 2007, Final Report of the Wetland Mitigation Policy Committee, the Foundation establishes the policies and procedures described herein. The Board reserves the right to modify these policies and procedures as it gains experience in and learns more about the business of wetland mitigation and its implications for the Foundation's interest in preserved land.

Policy and Procedures

The Foundation discourages wetland mitigation on MALPF easements and districts, but will consider mitigation proposals from landowners on a case-by-case basis. The following procedures are designed to be efficient for everyone involved, including landowners, staff, sister agencies asked to provide assistance, and the Board; and ensure that, when wetland mitigation is allowed, it will be a legitimate means to practice good stewardship that complements the Foundation's interest in farm and forest production, and will facilitate development that supports and does not compromise the Foundation's goals.

County Agricultural Advisory Board Approval

A proposed mitigation project must be approved by the appropriate county agricultural land preservation advisory board before it will be considered by the Foundation's Board of Trustees. Advisory boards should consider the same factors established in this policy and procedure statement, and should convey to the Foundation the basis for their deci-

sion and the sources of information on which it is based.

Eligible Mitigation Practices

The Foundation will consider proposals for the following wetland mitigation practices (as defined by the USDA NRCS) or their equivalent: Wetland Restoration (NRCS practice code 657), Wetland Creation (NRCS practice code 658), and Shallow Water Area for Wildlife (NRCS practice code 646, if designed to meet the criteria for wetlands (practice codes 657 and 658).

Resource Conservation Purpose, Size, and Soils

It is the policy of the Board that a mitigation proposal must pass several screening tests with regards to the proposed mitigation practice, its resource conservation purposes, its size, and the soils it will affect, in order to be considered by the Board. The Board will depend on Foundation staff, in coordination with the Soil Conservation district, to verify each of the following:

- The primary resource conservation purpose of the proposed mitigation practice must be to reduce discharge of sediment, nutrients, and/or other pollutants from the farm. In addition, the proposed mitigation practice must:
 - Be an appropriate and necessary best management practice (BMP) to achieve the resource conservation objectives for the farm, based on NRCS standards and estimates.
 - Contribute substantially to good land and environmental resource stewardship on the farm.
 - Treat discharge generated primarily from the farm, and include no more than a minor percentage of treated drainage derived from neighboring land.
 - Be sized to manage discharge from a 25-year (or smaller) storm.
 - Be no larger than is necessary to achieve the stated resource conservation purposes of the practice, particularly the desired hydrologic /water quality functions of the wetland, based on the size of the drainage basin, and the slopes, soils, and hydrology of the drainage basin.
 - Be included in the Soil Conservation and Water Quality Management Plan and/or a Forest Stewardship Plan for the farm.
 - Not reduce the percentage of qualifying soils on the farm below the 50% threshold for eligibility as a MALPF easement.

- MDA's Resource Conservation Operations (RCO) Program will be requested to review Soil Conservation District findings on these matters, advise the Foundation if it agrees with them or not, and if not, explain why.
- When it has received the advice of Staff, the District, and RCO, the Board will consider the following to determine if it approves of the resource conservation purposes and size and soils implications of a proposed wetland mitigation project:
 - The wetland itself, exclusive of the vegetative buffer, must be no larger than 5 acres or 5% of the total acreage of the farm, whichever is smaller, and must be limited to land comprised of hydric or other non-qualifying soils (according to the Foundation's soil eligibility criteria).
 - The vegetative buffer must be limited to the 35-foot minimum required by NRCS standards for Wetland Restoration, Wetland Creation, and Shallow Water Area for Wildlife.
 - The total amount of land removed from production (wetland + buffer) must not, in the opinion of the Board, compromise the capacity of the farm to support sufficiently diverse forms of profitable production of food and fiber.

Development Activity and Its Implications for the Foundation's Goals

It is the policy of the Board that the development project(s) facilitated by a mitigation proposal must pass several screening tests to be considered by the Board. The Board will depend on Foundation staff, in coordination with the developer seeking mitigation, local government, and the Maryland Department of Planning, to verify each of the following:

- The developer must provide written verification that satisfies Foundation staff that a search for mitigation sites on non-easement properties has been conducted within the eligible geographic area, and that the search has not produced sufficient suitable sites;
- The local government (program administrator or responsible party, at the discretion of the county) must identify in writing the type of development activity for which mitigation is required, inform the Foundation if the development activity is subject to their approval and, if it is, verify that the county either has approved the project or believes that the development project is consistent with the plans,

ordinances, and regulations governing its approval; and

- The Maryland Department of Planning must provide a written opinion stating that the development project is in a Priority Funding Area recognized by the State, is consistent with the local comprehensive plan and State Planning Policy, and is not likely to encourage or support substantial further development in areas the Foundation is attempting to preserve.
- When it has received the appropriate information, the Board will determine if the development project facilitated by the proposed mitigation is compatible with the Foundation's goals and objectives, and, in conjunction with the other criteria recommended herein, approve or reject the mitigation proposal accordingly.

Wetland Mitigation Overlay Easements

Unless it determines that the State's interest in the land is somehow compromised by the doing so, if the Board approves a wetland mitigation proposal, it will generally:

- Not concern itself about mitigation payments from the developer to the landowner; and
- Maintain the Foundation's easement on the mitigation acreage, making appropriate adjustments in the easement as needed to facilitate the regulatory requirements for mitigation.

The Board approved its first wetland mitigation easement overlay under this new policy at the March Board meeting for a request for a 4.3-acre easement on an 85.7 acre farm in Calvert County. The mitigation was to offset wetland disturbance that resulted during the construction of a one-mile section of roadway in Calvert County to provide a more direct and safer route for school bus traffic accessing Patuxent High School.

The Board judged that this proposed wetland project was consistent with the Foundation's new Wetland Mitigation Easements Policy. Calvert County provided written evidence on the nature of the development being mitigated and the search that had been conducted for a suitable mitigation site. According to information provided by the Calvert County Soil Conservation District:

- The primary resource conservation purpose of the proposed mitigation practice of the wetlands being constructed on the property is to reduce discharge of sediment, nutrients, and/or other pollutants from the farm.
- The proposed mitigation practice is an appropriate and necessary best management practice (BMP) to achieve the resource conservation objectives for the farm, based on NRCS standards and estimates.
- The wetland is no larger than 5% or five acres of the property and is comprised of hydric or non-qualifying soils.
- The vegetative buffer conforms to the NRCS standards for Wetland Restoration, Wetland Creation, and Shallow Water Area for Wildlife.
- The proposed mitigation practice treats discharge generated from the subject farm only. None of the treated drainage is derived from neighboring lands.
- The project is sized to manage discharge from a 25-year (or smaller) storm.
- The wetlands are sized to be no larger than necessary to achieve the resource conservation purpose of improving water quality and reducing water quantity (heavy flow events) in the Patuxent River. Factors taken into consideration in the design include hydrologic/water quality functions, drainage basin, slopes, soils, and hydrology. The final plans are reviewed and approved by a NRCS Area Engineer.
- The wetlands are included in the Soil Conservation and Water Quality Management Plan for the farm.
- Construction of the wetlands will not reduce the percentage of qualifying soils on the farm below the 50% threshold for eligibility as a MALPF easement. Removal of the 4.3 acres would leave a remaining total of 61 acres or 71% qualifying soils.

Forest Mitigation Easement Overlay

Forest mitigation is the process by which the impact of converted forested land from various development activities, from road construction to residential housing, is mitigated or offset by the restoration, enhancement, or creation of forested land elsewhere. Typically, a developer meets the legal obligation for offsets on the property being developed or may seek off-site mitigation by purchasing a perpetual forest mitigation easement from another landowner where a forest would provide protection to other natural resources, such as streams or wetlands.

In Maryland, the Forest Conservation Act of 1991 mandates most forest mitigation (additional mandates may be created at the local level). The Forest Conservation Act was enacted to reduce the number of forested acres cleared when land is changed from forests or agriculture to residential, commercial, or industrial development. The Act allows development to occur while assuring that some portion of neighboring forest communities remains viable. According to the Act, developers must address forest resource issues as part of the review process for most land development proposals with 40,000 square feet or more of clearing or grading.

The Forest Conservation Act provides guidelines for the amount of forested land retained or planted after the completion of development projects. These guidelines vary for each development site and are based on land-use categories. These categories include agricultural and resource, medium-density residential, institutional development, high-density residential, mixed use, planned-units development, and commercial and industrial use areas.

The Act encourages the retention of existing forests by mandating ratios for replacement of forests cleared during land development (reforestation), and requires certain minimum percentages for afforestation on land that has little or no forest cover. Permanent easements protect forests retained or planted

under the Act. The Maryland Department of Natural Resources, Forest Service administers the program statewide. Each local jurisdiction administers and enforces its own forest conservation program that may be stricter than the statewide program. For example, the Act does not circumscribe the use of already preserved land from being used to meet forest mitigation requirements through an easement overlay (such as on MALPF properties), though certain individual counties do not allow the use of already preserved properties to meet forest mitigation requirements.

The primary goal of the program is to encourage retention of forests in sensitive environmental areas. Priority retention areas include critical habitats of rare, threatened, or endangered species; streams, wetlands and their buffers; steep slopes with easily erodible soils; 100-year floodplains; and large contiguous forest corridors. Garrett and Allegany Counties are exempted from the Act.

At the November 2003 Board meeting, the owners of a 318-acre property in Charles County requested permission to place forest conservation easements sold to enable development off-site. MALPF had recently settled an easement on the property. During the settlement process, it was discovered that over 72 acres were under permanent forest conservation easements. MALPF reduced its payment acreage by the acreage already under easement. The owners wish to continue to sell additional forest conservation easements on all of the remaining 245 acres under MALPF easement.

After consulting with legal counsel, MALPF staff recommended approval of the request, and the Board granted approval, based on the following:

- The requirements of this forest conservation easement are consistent with the MALPF easement, continuing to allow harvesting of timber from the area under the forest conservation easement.
- This easement request is consistent

with the policy adopted by the Board of Trustees on overlay easements allowing forest conservation easements over agricultural conservation easements as a management decision by the landowner with approval by the Foundation, and consistent with past forest conservation easement requests approved by the Board.

- Whether such an easement fulfills the requirements for mitigation under the Forest Conservation Act is a decision of individual counties and the Department of Natural Resources.

Though not considered critical to this decision, staff recommended that the Board direct the staff to make official inquiry with the Department of Natural Resources as to the appropriateness of using forest conservation easements on MALPF properties to meet the requirements of the Forest Conservation Act. Staff believes this issue should be discussed for a better understanding of how such easements can and should work together to increase the public good and further the interests of the State in land conservation. The critical issue for this specific decision was whether or not the request is consistent with the terms of the MALPF easement, which the staff judged, in this case, to be consistent.

The primary concern of the Board for this kind of overlay easement is that no restriction be placed on the ability to timber the forested land, unless it is in narrowly-defined areas of the property where harvesting is restricted by the soil erosion and water quality plan. Forestry operations are considered agricultural by MALPF. The same as any other crop, the resulting product must be harvested. The past position of the MALPF Board has been that MALPF will not tell a farmer what commodities to grow on a property. Growing trees may or may not be a wise management decision, but the Board has not gotten involved in operational decisions. However, some concern was expressed because such a decision may or may not be a management or operational decision if it permanently limits future landowners and operators to forestry

operations.

In June 2007, not long after the approval of the new wetland mitigation easements policy, the Board heard a request from a landowner in Howard County to allow a forest mitigation easement overlay on a 213-acre parcel. The easement overlay would be located within 100' of either side of a stream on the property, the exact acreage will only be known after a forester prepares a plan. While Howard County generally places a "no-cut" provision in its forest conservation easements (unless part of a soil erosion and water quality plan), the County has proposed alternative language to allow harvesting in accordance with an approved Forest Management Plan. This language had been accepted in 1999 for a similar request to MALPF.

Based on past precedent and the staff recommendation for approval based on acceptable easement language, the Board approved in concept the request of the landowners for an overlay forest conservation easement on easement property with the condition that the actual easement document must include language reviewed by the Department of General Services, Assistant Attorney General, and approved by the MALPF Board. The Board also chose to appoint a committee to develop a systematic forest mitigation easement overlay policy parallel to the wetland mitigation easement overlay policy for future Board, staff, and landowner guidance to address explicitly some of the concerns that are regularly expressed when forest mitigation requests come before the Board:

- Because landowners are limiting to some degree what can be grown on their property and because MALPF's older easements have the 25-year termination clause based on the profitability of the property, which could be affected with less flexibility in moving from one kind of production to another, perhaps the approval of anything on the property that limits production flexibility should be done only if the landowner waives the 25-

year termination clause as a condition for such an approval.

- In the situation of wetland mitigation, land is removed from production. In this case, the practice maintains agricultural production, but limits production to a small sub-set of production. At what point does an overlay easement move from being an operational decision to one that keeps future owners from making operational and management decisions about what commodities to produce on a preserved property?
- Should the kind of development being facilitated off-site by forest mitigation easements be considered relevant to the approval for such overlay easements? This was a consideration in the wetland mitigation easement overlay policy. Should it not also be a consideration in forest mitigation easement overlay approvals?
- Is it appropriate, given the purposes of the Forest Conservation Act, to allow the use of MALPF properties for forest mitigation purposes enabling off-site development?

Vera Mae Schultz, Vice-Chair of the Board of Trustees and the Board's forestry representative, was appointed to chair a committee to develop a formal forest mitigation easement overlay policy. The final Board decision on this policy will be reported in a subsequent annual report.

Groundwater Recharge Easement Overlay

A groundwater recharge easement is an easement placed on a property within a given watershed that will permanently limit the amount of water that can be withdrawn from the land and the amount of impervious surface that can be placed on the property. The purpose of such an easement is to transfer the withdrawal and use of the water restricted on one property to be withdrawn and used elsewhere within the same watershed or water recharge area, usually to support a development project.

Despite, or perhaps because of, the growing interest of developers, MALPF program participants, county and municipal governments, the Maryland Farm Bureau, legislators, and the agricultural community more generally in water policy, this particular issue has proved to be one of the most intractable of all of those engaged by the Foundation during the period of this report.

Carroll County asked the Board at its December 2002 meeting to take a position on whether or not such easements would be allowed as overlays on MALPF properties. A development project within the corporate limits of the Town of Union Bridge was seeking additional water recharge area to meet the requirements imposed on the project by the Maryland Department of the Environment. The majority of the land in the relevant watershed from which the water recharge easements had to be secured is in the MALPF program. Landowners had been approached by the developer seeking to meet MDE requirements for a groundwater appropriation permit required of wells drawing more than 10,000 gallons a day.

On the one hand, this is an opportunity for landowners in the MALPF program to profit from the sale of an overlay easement that may have little effect on the farming operation. The easement restriction would be based on allowing the continued withdrawal of the current volume of water on the property. Further, in this case, the development enabled is within the town limits and, therefore, support growth management objectives. The greater development density within the designated Priority Funding Area would be more consistent with Smart Growth guidelines.

On the other hand, permanently restricting the water withdrawal for existing and future farming operations based on past usage will limit the flexibility of farming activities on these properties, increasing the likelihood that such properties could become unprofitable and seek easement termination. These properties currently depend on rain for crops. Well-based irrigation may not be

possible, for example, in response to future drought conditions. Dairy or other livestock herds would be limited by current water usage.

The Foundation does not wish to infringe on farmers' rights to manage their farms and make ongoing operational decisions. However, MALPF is also obliged to protect the public investment to preserve farming resources. Water is a critical input for farming, and the Foundation has to be very careful to protect resources necessary to future Maryland agriculture.

After this presentation, the Board tabled discussion of this issue pending a review by program administrators of a groundwater recharge easement overlay proposal and additional information to be provided by the Maryland Department of the Environment, Maryland Department of Planning, and the Office of the Attorney General.

At Board and committee meetings and workshops from 2003 to 2006, MALPF solicited the opinions of specialists, assembled information, and reviewed policy options on groundwater recharge easements. A committee was created, chaired by MALPF Board member and Farm Bureau representative, Pat Langenfelder, devoted to this issue. Its report and recommendations were presented at the January 2006 Board meeting, echoing some of the same concerns first raised in 2002.

Water Recharge Committee Report to the MALPF Board (January 24, 2006)

The Water Recharge Committee includes representatives from Maryland Department of the Environment (MDE), Maryland Department of Planning (MDP), Frederick County, Carroll County, Harford County, two representatives from Maryland Farm Bureau, and three Maryland Agricultural Land Preservation Foundation (MALPF) Board members. During committee meetings, an MDE representative explained how water recharge easements (WRE) are used by MDE as a water resource management tool. MDE, which manages water resources in Maryland, is charged with securing future water availability to the citizens of Maryland.

MDE allows the use of water recharge easements as one of the methods available to offset the groundwater demand of residential and commercial development in the Piedmont region. Due to geology and hydrogeology, only the Piedmont region (areas located generally north and west of Interstate 95) of the state is affected. Unlike other regions of the state, the groundwater in the Piedmont region is stored in unconfined aquifers. The region relies on rain to recharge the aquifers to compensate for water that is extracted by wells in the region. The amount of water extracted from an aquifer must not exceed the amount recharged. Developed areas produce a high level of impervious surface, preventing recharge. Only open spaces with pervious surface allow sufficient absorption of groundwater to recharge the aquifers.

When determining water appropriations for new development projects, MDE calculates the amount of water a development will require. The developer or town must demonstrate to MDE that sufficient groundwater will be available in the region to support the proposed development. If the water requirement is being offset through water recharge easements, sufficient undeveloped land must be set aside to recharge the aquifer. While the amount of land required to be reserved to guarantee sufficient recharge varies, it is usually calculated at a rate of one acre of undeveloped land for each residential unit. Withdrawal of the water on the undeveloped land is permanently restricted to its current level of use. Additionally, a limit is placed on the amount of impervious surfaces allowed on the property. The water recharge easement areas are generally required to be located within approximately two miles of the area to be developed.

Representatives from Frederick County and Carroll County described the circumstances where WREs are currently being considered in their counties. In Frederick County, officials from the Town of Middletown want to allow additional development within the town's development area. The eligibility criteria for infrastructure funding from the State, under Maryland's Smart Growth laws,¹ require a minimum density of 3.5 units per acre. The State's MDE water appropriations regulations require the town to set aside adequate groundwater to offset the water required for the additional development. To meet its water appropriations in the Piedmont region, MDE is requiring a set aside rate of approximately one acre per unit. One of the tools the town is considering to satisfy the water requirement is the use of water recharge easements. A farmer whose property is permanently protected for agricultural use through the Maryland Agricultural

Land Preservation Foundation (MALPF) Program proposes to sell a water recharge easement to the Town of Middletown. A similar situation occurs in Carroll County in the Town of Union Bridge.

The committee weighed the positive and negative impacts to the Program of allowing water recharge easements on MALPF properties. The anticipated positive impacts to the Program include: 1) additional income to the farmer; and 2) the development resulting from the WREs would occur in designated growth area, consistent with state and county land use policies. The obvious negative impact is the limitation on future water use for agricultural purposes placed on properties with WREs.

Positive and negative impacts of WREs on the MALPF Program

Positive impacts:

1. *Economic benefit to farmers.* It was the consensus of the committee that the WREs present a potential economic benefit for farmers with land in the Program. Farmers can obtain financial compensation from developers or other entities seeking WREs. During recent years, farmers are finding it increasingly difficult to make farming economically viable. The sale of WREs would help ameliorate the financial difficulties facing farmers.
2. *Directing growth to designated growth areas or Priority Funding Areas.*² Allowing WREs would permit development to take place in areas defined in a county's comprehensive plan as areas where future growth will be directed. Where WREs are readily available, developers could build in designated growth areas, at higher density levels. When WREs are not available, and no other water source is available to satisfy MDE's water requirements, developers must develop land outside of growth areas where they can build at a lower density level. The Frederick County and Carroll County representatives on the committee pointed out that in their counties, when development occurs outside of designated growth areas, significant loss of farmland results. As an example of the effect of growth and development in agricultural areas, in Frederick County, during the time period 1997-2003, the average residential lot size located in the Priority Funding Areas (PFA) of the County was 0.32 acres. During that same time period, the average residential lot size outside the

PFA was 3.06 acres. Given these data, a 200-unit development located within a PFA would use 64 acres; the same number of units located outside the PFA would result in the loss of 612 acres of farmland.

Negative impact:

Water recharge easements require the landowner to forever limit the use of water on his or her land. The future agricultural operations of the land are limited. It is difficult to predict how agriculture will develop in the future, and it is also impossible to accurately predict climate. It is likely that limiting the water availability on the land will limit the type of agricultural use in the future.

Committee's Recommendations

The committee came to consensus that the positive impacts outweighed the negative impact. While the committee believes that water availability is a serious issue and warrants serious consideration by the Foundation, water availability is currently not the major threat to agriculture in the Piedmont region, particularly in the areas currently under consideration, Carroll and Frederick counties. Of the total farmed acres in Frederick County, only 0.3% is irrigated. In Carroll County, only 0.9% is currently irrigated. For comparison, the Eastern Shore accounts for more than 80% of agricultural withdrawals of water, with an increasing trend.³

The committee members believe that the counties' intention to direct growth to designated growth areas is consistent with the intent of the MALPF Program. MALPF's enabling legislation states:

"It is the intent of the Maryland General Assembly to preserve agricultural land and woodland in order to: provide sources of agricultural products within the State for the citizens of the State; control the urban expansion which is consuming the agricultural land and woodland of the State; curb the spread of urban blight and deterioration; and protect agricultural land and woodland as open-space land" (Annotated Code of Maryland, § 2-501. Legislative intent).

The committee was advised by Maryland Department of Planning that at this time there is no evidence that the expansion of growth in small municipalities reduces sprawl development. However, some counties in Maryland favor expanded development in municipalities as it may ameliorate less dense development in areas designated in comprehensive plans as agricultural. The rural municipi-

palities are designated as future growth areas in the counties' comprehensive plans.

Additionally, the committee believes that the opportunity to supplement farmers' income with proceeds from the sale of WREs is a desirable outcome. The committee discussed ways to ensure that future farmers will be able to benefit from the financial proceeds of the WRE.

Recommended conditions of approval of WRE overlays

The committee recommends that the Foundation adopt a policy of allowing water recharge easement overlays on MALPF properties with the following conditions:

1. Allow only a partial restriction of the future water use of the farm. To ensure, to a reasonable degree of certainty, the continued viability of farming the land in the future, it is necessary to retain for future agricultural use, a reasonably sufficient amount (yet to be determined) of the water appropriated to the property. The committee discussed two methods to accomplish this outcome. One method would allow a WRE on a portion of the area of the farm. The second method would allow only a portion (percentage based) of the water to be appropriated for a WRE. The farmer would retain the remainder of the water for agricultural use. It was the consensus of the committee that the second alternative provides better flexibility for agricultural use. Additionally, the committee recommends instituting a minimum water amount per acre that a farm would retain. The committee recommends that the WRE deed (or separate legal agreement) contain specific language that guarantees that the portion being retained for farm use is retained even during drought years. The committee believes that in some areas, due to limited water availability and the projected future agricultural use of the land, some farms may not be eligible for WRE overlays.
2. The overlay should be approved only when development resulting from the WRE is located within a Priority Funding Area.

(The committee considered a third recommendation that payment for the WRE should be made over time rather than a one time lump sum. The intent was to attempt to provide for a predictable

income stream to the farmer into the future, rather than a one time payment to a landowner who may sell the farm soon after the WRE is in place. Upon further consideration, however, the committee decided that there may be constraints that would make this recommendation difficult to institute. Additionally, the committee believed that this requirement may unnecessarily infringe on the rights of the farmer. The committee decided to withdraw this recommendation.)

Proposed methodology to ensure the protection of the water resource and future viability of agricultural use of the land

The committee recommends that the Board assemble a follow-up committee for the purpose of providing guidelines to the MALPF Board and other entities considering allowing WREs on land preserved for agricultural use. The guidelines should provide a method, based on data related to agricultural operations' water use, trends in agriculture, climate variability, projected water availability, water demand forecasting, etc., to determine, with a reasonable degree of certainty, the quantity of water that should be retained for future agricultural use. The committee should be comprised of members with specific knowledge of the agricultural industries and individuals with technical expertise in areas related to the WRE issue, as well as other stakeholders. Among the entities the committee recommends to be included are:

1. Cooperative Extension
2. Natural Resource Conservation Service (NRCS)
3. Resource Conservation (Maryland)
4. MDE
5. MDP
6. DNR
7. Carroll County Agricultural Land Preservation Advisory Board
8. Frederick County Agricultural Land Preservation Advisory Board
9. Hydrogeologist
10. Maryland Farm Bureau
11. Maryland Agriculture Commission
12. MALPF Board member(s)
13. Assistant Attorney(s) General

Recommended data to assist the follow-up committee

To determine an acceptable amount of water to retain for farm use, the committee will require technical resources and data from several sources. Among the data the committee will require are the following:

Data	Source
Water recharge rates for specific locations	MDE
Specific crop/animal operations' water requirements/crop water-use estimates	Resource Conservation/ USDA Agricultural Research Service/ MD Cooperative Extension
Trend in agriculture in Maryland and nationally, i.e., types of agricultural operations projected to increase/decline in the future	Resource Conservation/ NASS/ UMD College of Agriculture and Natural Resources
Water Demand Forecasting	MDE/ US Department of the Interior/ USDA
Climate change/ forecasting	NOAA/ National Weather Service

¹ Maryland's Smart Growth law took effect on October 1, 1998. Under the law, most growth-related projects located outside Priority Funding Areas (PFAs) are prohibited from receiving state financial assistance except in rare instances or when a formal exception is granted. The intent of the law was to encourage more development within PFAs by making state financial and technical assistance available for growth-related projects located in areas designated as Priority Funding Areas and discourage development by denying state resources to almost every growth-related project located outside PFAs. Examples of state support include: business expansion loans, highway improvement funds, housing assistance programs, brownfield cleanup assistance, job creation tax credits, park improvement funds, historic preservation tax credits. Statistics collected by Maryland Department of Planning demonstrate that in the time period 1999-2003, development located outside PFAs consume 8.5 times more land than development located inside PFAs.

² Priority Funding Areas (PFA) are geographic areas designated by counties in concert with the state to which state funding is targeted. Funding includes capital investments and grant and loan programs administered by various state agencies. Counties may designate areas as Priority Funding Areas if the areas meet guidelines for intended use, availability or plans for water and sewer systems, and permitted residential density of 3.5 dwelling units per acre. In general, areas eligible for county designation are existing communities, industrial areas, and planned growth areas. The Priority Funding Areas Program is administered by the Maryland Department of Planning. More information is available at: <http://www.mdp.state.md.us/fundingact.htm>.

³ Advisory Committee on the Management and Protection of the Maryland's Water Resource Report, 2004.

The chair of this committee, Pat Langenfelder, met with representatives from the Maryland Center for Agro-Ecology. They discussed the possibility of securing the necessary technical information for this project,

sought the help of the Agro-Ecology Center in the development of these guidelines, and asked for the Center's feedback as to whether water recharge easements are desirable on lands in which the State has an interest. The Center's representatives expressed interest in helping with the project, possibly funding the research necessary to complete policy development and evaluate individual requests.

Following-up the presentation of this report to the MALPF Board, Elizabeth Weaver (MALPF), Saeid Kasraei (MDE), and Dan Rosen (MDP) applied in December 2006 for an Agro-Ecology Center research grant to obtain usable research to determine how much water should be retained to ensure the future viability of agriculture on individual MALPF properties if the Board approved the sale of water recharge easements. At the February 2007 Board meeting, Ms. Weaver reported that the grant application was unsuccessful, evidently because the Center believed that the State agencies do not have the resources to secure such difficult research.

The more that the Board dealt with the issue of water recharge easements, the more evident it has become that the issue is much bigger than MALPF, because it has implications about the long-term viability of Maryland agriculture and patterns of development across Maryland. MALPF easement properties can be considered a subset of Maryland farms.

As an example of how the issue is now spreading beyond MALPF, Senate Bill 499 (2007) was introduced on behalf of the Maryland Municipal League and others. This bill would alter the requirements for obtaining an MDE permit for the appropriation and use of State ground-water to include preserved farmland as lands considered under the control of a municipal corporation for purposes of calculating a water recharge area for a water appropriation permit.

This bill would eliminate the power the MALPF Board to control water recharge

on its preserved properties. Such recharge would be automatically incorporated in the calculation of a municipality's right to withdraw water from the water table. The bill would also take the right to withdraw ground-water from owners of MALPF properties with no compensation.

MDE took the lead in opposing this bill. Maryland Department of Agriculture also testified against the bill. The following issues were noted in the written testimony.

WRITTEN TESTIMONY

Senate Bill 499 (2007)

The restrictive easement that the Maryland Agricultural Land Preservation Foundation purchases on farming properties requires the approval of the MALPF Board of Trustees for the landowner to commit the property's water recharge resources to off-property uses. MALPF preserves and restricts land for agricultural use in perpetuity. To approve the sale of a water recharge overlay easement by a Program participant is not viewed by the Board of Trustees simply as an operational decision on the part of the landowner, nor should it be based on an expedient political decision to co-opt the review and oversight the role of the MALPF Board of Trustees as represented by this legislation.

Water is one of the fundamental inputs into every kind of agricultural activity. Committing a portion of the water resources on a farming property to off-property uses may be possible, but it should only be done taking into account the possible long-term constraint on the kinds of agriculture that could take place on the property. Such decisions should be made based on adequate knowledge, not on political expediency or a landowners' short-term calculation, because the decisions could have a significant impact on the future of Maryland's agricultural industry.

Water recharge commitments for an individual property should be based on adequate knowledge of water hydrology and supply from recharge on the property, potential future water usage on the property by different kinds of agricultural activities, and the potential water use on the property from retained development rights (family lots, tenant housing, and/or unrestricted lots). Because the older MALPF easements have language included that allows for termination and buyback of an easement if profitable farming is no longer feasible on a property, to make a decision to redirect that proper-

ty's water recharge rights elsewhere by sale or, in the case of this proposed bill, the functional equivalent of expropriation or condemnation would in effect create the possibility that profitable agriculture might become no longer feasible because of the shortage or expense of water, one of the most critical inputs for production. This could result in the wholesale exit of preserved farming properties from the Program.

The Department of Agriculture recommends an unfavorable consideration of SB 499 for the following reasons:

- Commitments from water recharge on preserved properties in calculating water withdrawal volumes should be based on the actual supply and demand for water on individual preserved properties and the likely range of water demand based on the range of potential agricultural activities on the property in the future.
- Rather than seeking to secure water resources for municipalities by political fiat, the General Assembly and/or the affected municipalities should provide the financial and other necessary resources to obtain the necessary scientific knowledge on which water recharge commitments can be made. While the bill states that calculations of the water recharge resources will be made taking into account existing and reasonably foreseeable groundwater uses on the land have been served, such appropriation, once made, cannot easily be reversed. Therefore, such calculations must be based on the best information that can be obtained, and so far the quality of information necessary is not available.
- The State should not risk any diminishment of its investment in the preservation of farms or any increased likelihood that affected preserved properties could use water recharge commitments as a basis to seek the termination of their easements.
- Commitments from water recharge on preserved properties should not be subject to political appropriation, expropriation, or condemnation, but should be voluntary on the part of the owner of a preserved property and fully compensated by those who benefit.
- Any commitments from water recharge on preserved properties should not co-opt the existing role of the MALPF Board of Trustees in reviewing and approving any

water recharge easement overlay on its properties.

- The issue of water recharge allocations is an issue of importance to the Piedmont region. This bill applies statewide and is likely to create unintended consequences in the non-Piedmont areas of Maryland.

SB 499 was not successful in the 2007 Legislative Session. MALPF has been unable to complete the development of a groundwater recharge overlay easement policy because it lacks the necessary research on which that policy must be based. Further, because this issue, as noted above, has broader implications about the long-term viability of Maryland agriculture and the allocation of water resources more generally, MALPF Board members and staff seem to believe that the issue should be addressed in a broader context of access to and allocation of Maryland's water resources.

The Implementation Committee of the Statewide Plan for Agricultural Policy and Resource Management requested that MALPF monitor "...the issue of transferring water rights on MALPF protected farmland. This issue will have an impact on growth constraints of towns located close to protected farmland and on future operations of the protected farm" (letter, December 11, 2007).

Certain municipalities are now asking for the inclusion of State forests and other public open space as lands under the control of municipalities in the same watershed for purposes of calculating a water recharge area for a water appropriation permit, similar to what was proposed in SB 499. The State of Maryland should engage this discussion at a higher level, drawing on substantive research that could only be procured by resources unavailable to individual State agencies.

The Advisory Committee on the Management and Protection of the State's Water Resources is probably the most appropriate venue where this general issue should be engaged. The importance of this discussion would be reinforced if the Governor and the General Assembly make it a priority and are

willing to provide the resources for the necessary research on which good policy must be based. The MALPF Board will be asked to approve a letter to the Governor and the leadership of the General Assembly to this end.

Policy on Acceptable Uses of MALPF Properties

General Uses

In its 2001 Report, the MALPF Task Force addressed the allowed and restricted uses of district and easement properties. The Annotated Code prohibits "commercial or industrial" operations on MALPF properties. MALPF's regulations allow the sale of items raised on the farm and of limited items raised on other local farms. The Task Force believed that it would benefit farms and the goals of agricultural land preservation if limited, non-agricultural commercial uses were allowed on MALPF properties. Its recommendation was to change the law to allow limited, non-agricultural, commercial uses that will supplement farmer income, while ensuring that allowed activities will not compromise production or rural character of MALPF properties. The Task Force developed legislative language introduced in the 2002 Legislative Session as House Bill 998 and Senate Bill 435. Both HB 998 and SB 435 received unfavorable committee reports.

This legislative recommendation was returned to a renewed Task Force for reevaluation. The Task Force spent a significant amount of time rethinking its recommendations on acceptable uses policy for the MALPF Board of Trustees and the General Assembly. The Task Force concluded that the ability to supplement farm income with other activities can affect the landowners' willingness to enter the MALPF program. If these activities can take place without compromising the State's investment in the land for agricultural production, the Task Force believes that it is in the State's interest to allow them on a case-by-case basis. Landowners will then have a greater incentive to preserve their farmland and a potential supplemental source of

income beyond farming to help in years of poor production or low prices.

Landowners, staff, and the MALPF Board do not have clear policy and guidelines that will allow farmers to earn supplemental income from farm- and forestry-related uses on MALPF properties and from home occupations. Such policy and guidelines should ensure that allowed activities do not affect the value of the land for production or interfere with farm and forestry operations. The Task Force drafted sample guidelines for a range of commonly requested activities for the Foundation's consideration and as an example to the General Assembly of the intentions of any legislative change. In general, the Task Force recommended the following:

- Activities must be limited in nature and in the amount of land used, so that use of the farm for active production is not compromised.
- Activities must be limited to those that have no damaging effect on soil productivity.
- If use of buildings is required, that use must be limited to existing farm structures and have no permanent effect on their value for agricultural use.
- Allowed activities must be compatible with the rural character of the preserved farm and its surroundings.

The Foundation already believed it had the authority under existing law to implement these recommendations on economic activities compatible with farming and forestry. However, the Task Force proposed a minor legislative change, in the form of clarifying language, for consideration during the 2003 Legislative Session. House Bill 805 and Senate Bill 626 were introduced with Task Force-recommended language and both bills passed the General Assembly in 2003. The Governor signed SB 626, effective October 1, 2003. The clarifying language adopted into law states:

"A landowner whose land is subject to an easement may not use the land for any commercial, in-

dustrial, or residential purpose except as determined by the Foundation, for farm and forest related uses and home occupations...." (Agriculture Article §2-513(b)(1), Ann. Code of MD).

The Foundation originally took two parallel tracks to implement the allowable use legislation. First, in anticipation of the October 1, 2003, effective date for SB 626, regulatory language was developed to place this policy in COMAR. The proposed regulation establishes the eligibility, decision-making criteria for possible farm- and forestry-related uses and home occupations, and the application procedure by which an owner of district or easement property can request consideration for specific uses of or activities on district or easement property.

Second, this proposed regulation would allow the Foundation to adopt a list of specific "pre-approved" activities on and uses of easement property which would not be necessary for the Board to approve on a case-by-case basis, as long as they take place within the conditions set forth in the list. This list could use as its starting point the sample guidelines drawn up by the Task Force and be developed by a committee made up of staff, program administrators, and interested Board members and eventually approved by the Board of Trustees. This list would be of significant help in implementing the policy, answering landowner questions, and controlling the number of agenda items for the Board to consider. Activities and uses not on the list or that take place beyond the limitations set in such a pre-approved list could still be permitted, but only by review of the local advisory board and approval of the Foundation's Board of Trustees.

Members of the Board, staff, and program administrators discussed the proper role of this list of accepted uses and activities. No general agreement was reached on whether a list of accepted uses should be put into regulations, be restricted for use only by staff and Board members, be distributed to program ad-

ministrators and/or landowners, or should be developed at all. No general agreement was reached either on whether approval would imply that the list would address activities that would be automatically allowed by right, would be those activities subject only to administrative review and approval, if all requests would be submitted to the Board using the list as guidance for review, or if multiple lists would be developed for different purposes. The Board members primary concern was for the Board to maintain flexibility in reviewing and approving use requests. Staff's primary concern was the difficulty in giving guidance to and answering questions from landowners when every request must go to the Board of Trustees and developing a list that takes the ease with which monitoring could be done to ensure compliance with the conditions of approved uses.

The Board reviewed and approved the new uses regulations based on SB 626 at its September 2003 meeting, with the following revisions: (a) add a clause to the regulation that "the Foundation may establish procedures to allow administrative approval of certain uses if conducted within limits defined by the Foundation," and (b) remove any redundancies and ambiguities in the original proposed regulation. The unrevised proposed regulations are as follows.

APPROVAL FOR USES OF OR ACTIVITIES ON FARMLAND SUBJECT TO AN AGRICULTURAL LAND PRESERVATION DISTRICT OR EASEMENT

.01 Scope

This chapter establishes the criteria and eligibility for the approval of allowable uses or activities on a farm subject to an agricultural land preservation district or easement held by the Maryland Agricultural Land Preservation Foundation.

.02 Eligibility

The Maryland Agricultural Land Preservation Foundation may approve the uses or activities of eligible landowners on a farm subject to district or easement restrictions even though the use or activity does not strictly fall within the definition of traditional agricultural use. Each request shall be reviewed by the Foundation on a case-by-case

basis, based on the criteria provided by this chapter to determine if a landowner's requested use or activity conflicts with the overall purpose of the district or easement to preserve the farm for agricultural use and as open-space land.

03. Criteria to be Considered

The Foundation shall consider the following criteria in determining whether to approve or disapprove any use or activity. The Foundation may approve any use or activity if the Foundation determines that:

- A. it does not have any adverse effect and is compatible with farm or forest production;
- B. it will not damage soil productivity;
- C. it involves minimal use of farm or forest land and will not interfere with farm or forest production;
- D. it is limited to existing farm structures or buildings and has no effect on any agricultural or forest use;
- E. it is compatible with the rural character of the farm and the surrounding area;
- F. it complies with local zoning;
- G. it does not interfere with the implementation or maintenance of a best management practice provided in a soil conservation and water quality plan for the farm; and
- H. it does not adversely impact sensitive natural resources on the farm, such as steep slopes, highly erodible soils, wetlands or stream buffers.

.04 Application Procedure

Before the Foundation may consider a request for approval of any use or activity provided by this chapter, all of the following information shall be submitted by the landowner:

- A. an application for approval that has been completed and signed by all titled landowners that fully and completely describes the use or activity on the farm;
- B. a letter of recommendation from the local agricultural land preservation advisory board;
- C. a written statement from the local planning and zoning office or the county program administrator indicating that the proposed use or activity is allowed under local zoning;
- D. a written statement from the local soil conservation district that the use or activity does not (1) interfere in the implementation or maintenance of a best management practice for the farm provided in its soil conservation and water quality plan or (2) adversely impact sensitive natural resources on the farm.

.05 Violation

Any landowner who violates an approval by the Foundation for any use or activity may also be in violation of that landowner's district agreement or agricultural land preservation easement. This violation may result in the rejection of the landowner's offer to sell an easement or in the enforcement of easement restrictions.

The Board chose not to provide guidance on the development of the list of pre-approved uses, despite an explicit request by staff for guidance. Planning and MALPF staff working to develop the list chose to continue to develop a list for the Board to be reviewed and discussed in the future. Without the list, the policy implied by the adoption of this proposed regulation as Board policy on use for requests to be heard on a case-by-case basis by the Board with conditions established by individual approvals and provided to the landowner in the approval letter until the Board decides differently.

Staff work on further development of the pre-approved uses list continued through 2004 and 2005, but did not resolve the content or purpose of the list. As of late 2007, the proposed regulations approved in 2003 had not yet been submitted to the AELR Committee of the General Assembly for adoption, though they continued to be revised. The policy represented by these regulations became the *de facto* policy for the implementation of SB 626, and requests for non-standard uses of MALPF properties were reviewed by the Board on a case-by-case basis until the end of this reporting period. Finalizing the language of the proposed regulations was deferred until the uses committees complete their work and the final uses policy is formally accepted by the Board.

In July 2005, after substantial turnover in Board members, the Board created three formal committees to reinvigorate the effort to complete the implementation of SB 626 with an explicit list of approved uses. The General Uses Committee, under the chairmanship of Vera Mae Schultz, Vice-Chair of the Board of Trustees, included three program administrators, three Board members, two MALPF staff

members, and a representative of the Department of Planning. Two specialty uses committees were created: the Equine Uses Committee under the direction of Howard Freedlander, *ex officio* Board member representing the Maryland Treasurer, and the Winery and Vineyard Uses Committee under the direction of Dr. James Pelura, at-large Board member.

The General Uses Committee made its first report to the Board at the February 2007 meeting for discussion. The Committee set up the following conditions that would apply to "secondary" uses of land in the MALPF program:

1. All secondary uses are first subject to local zoning.
2. All secondary uses must not interfere with the primary agriculture or forestry operation.
3. All secondary uses must not affect the future agriculture or forestry productivity of the land.
4. All parking related to the secondary uses must be pervious.
5. The landowner must submit a letter detailing his/her proposed secondary use to the county agricultural land preservation program administrator and, if approved by the county, to MALPF. The administrator may refer the use request to the county agricultural advisory board. All secondary use requests require approval by the county agricultural program administrator and by MALPF staff while others also require the approval of the MALPF Board of Trustees. Upon review and approval, MALPF will send a letter to the landowner detailing the proposed secondary use. In agreement, the landowner will sign the letter and return it to MALPF for permanent placement in his/her file.

Board members and staff suggested that some additional criteria that should be employed in evaluating individual requests include the relative scale of the proposed activity or use, the number of proposed sec-

dary activities or uses because the accumulation of secondary uses could result in traditional agriculture becoming a secondary use of the property, the location of the use or activity on the property, the enforceability of conditions for certain activities, and the need for new construction on a property for secondary uses or activities. Certain uses and activities listed in the draft table under "other uses" remain controversial among Board members, staff, and program administrators, such as veterinary hospitals, boutique butcher shops, hunting clubs, private air strips, etc. Because of the increased difficulty in excluding pre-existing dwellings from the easement, the one-acre curtilage around a dwelling will take on increased importance for the approval of home occupations, cottage industries, and particular uses such as a "bed and breakfast" operation which are likely to be limited to take place inside the curtilage.

The specific purpose and the distribution of the table of acceptable uses remained a source of disagreement among Board, staff, and program administrators. The General Uses Committee intends the table to be used only by MALPF staff and by county program administrators, when it is finally approved. It would not be widely distributed. Others believe that, once available in a form with which everyone is comfortable, the table is public information and should be distributed for anyone who would find it helpful.

The General Uses Committee presented a revision of the first part of the report dealing with "farm- and forest-related uses" at the April 2007 Board meeting. The Board approved this section of the uses table with some minor revisions and accepted the recommendation of the Committee on which items need Board approval and which do not. The Board also asked that the title of the table be changed to "Guidelines for Non-traditional Uses." Revisions of two additional sections of the full report were presented and approved at the May 2007 Board meeting: uses associated with normal agricultural and silvicultural operations, and uses conducted in pre-existing dwellings.

At the June 2007 Board meeting, the Committee presented the final section of the report dealing with "other uses." This set of recommended uses and activities proved to be more controversial. The Board recommended that those with concerns about this section meet with the Committee Chair to address the few remaining issues. As of the end of FY 2007, the Committee is continuing its work on the remainder of its recommendations on "other uses." The final policy on non-traditional uses will be made available in a subsequent annual report after it has been approved by the Board of Trustees.

Equine Uses

The Equine Uses Committee was established because the Board felt that many uses related to horse farms create unique issues that should be discussed separately from general use issues. At the May 2004 Board meeting, Rob Burk, Executive Director of the Horse Industry Board, and Crystal Kimball from the Maryland Horse Council addressed the issue of allowable equine uses on MALPF properties from the perspective of the horse industry. As described by Mr. Burk, the horse industry is integral to Maryland's agricultural industry more generally. 685,000 acres are in horse farms, composing 10% of Maryland's land. Of that acreage, 206,000 acres are used only for horses. Finding ways for farmland preservation to work better with the horse industry will both help preserve farmland and support the horse industry. The Horse Industry Board had recently completed a Task Force to study the horse industry and make recommendations. One of the Horse Industry Task Force's recommendations was to find ways for farmland preservation to support the horse industry.

Mr. Burk made some observations on how the MALPF program currently works with the horse industry. First, he noted that the different equine uses and their treatment by MALPF necessarily discriminates against some horse operations. Commonly, horse farms are made up of a number of interrelated and interdependent uses, some of which are

acceptable and others unacceptable or only acceptable with conditions to the program. Differentiating among and categorizing these uses necessarily serves to keep certain horse farms out of the program. Second, the small size of many horse operations could pose problems, both in terms of qualifying for the program (50 acres minimum are necessary) and because of size-related use restrictions. For example, the use condition based on limitations on impervious parking could pose problems, as could the restriction on what percentage of the property could be covered by structures such as a riding and show arena. Third, the proposed restriction on the number of shows allowed each month may be a problem for some horse operations.

At the time of this presentation, draft guidelines for administrative approvals of equine uses were handed out. This draft does not intend to imply that nothing can be done on horse farms beyond the uses and activities set forth in the guidelines, but that anything that goes beyond the guidelines could not be approved administratively and would have to be approved by the Board. The discussion was still early in the process, so the guidelines were provided only to give a general idea of the status of the discussion. Other equine use requests outside the scope of these draft guidelines may be approved by the Board, depending on the nature of the operation. There has been a long history of horse operations on MALPF easement properties. The very first MALPF easement was on a horse farm in Frederick County.

The key issue for equine uses has always been at what point a horse farm crosses from being a horse-raising and training operation – essentially a livestock operation – clearly agricultural in nature, to being a commercial and/or recreational operation. The new guidelines will almost certainly be based on a much broader conception of acceptable equine uses to include additional recreational activities, such as horseback riding lessons, within the scope of what is allowable. Some people are not aware that horse-boarding operations

have been allowed on MALPF properties for many years.

At the March 2007 Board meeting, the Equine Use Committee, including representatives of the horse industry and under the chairmanship of Howard Freedlander, presented its first report. The Equine Use Committee was seeking to agree on recommendations that would be consistent with the work and recommendations of the General Uses Committee. The Committee would develop tables of uses similar to those being circulated by the General Uses Committee and circulate them in draft form for comments by Board members, program administrators, and staff. As of the end of FY 2007, the equine uses policy remains under development. The final policy will be made available in a subsequent annual report once it has been approved by the Board of Trustees.

Winery and Vineyard Uses

At the informational session before the July 2005 Board meeting, Jim Conrad, Executive Director of MALPF, made a presentation on MALPF use policy for vineyards and wineries as a follow-up to a Board request at the previous meeting for the establishment of a new district in Frederick County that included the withholding of acreage from the district for a winery and associated activities, as an initial response to the report presented by the Maryland Wine and Grape Advisory Committee to the Governor and Secretary of Agriculture to "identify strategies to facilitate the growth of Maryland's commercial vineyards and wineries and to offer recommendations to strengthen and expand Maryland's grape and wine economics and their markets" (*Maryland Wine: The Next Vintage*, 2005), and to extend the consideration of expanded uses on MALPF properties as authorized by SB 626 (2003).

One of the Maryland Wine and Grape Advisory Committee's recommendations was that the "Maryland Agricultural Land Preservation Foundation ... should add the Maryland wine and grape industries to the list of ap-

proved commercial activities on agricultural land, including: vineyards and grape production; wineries and wine production, storage and sales; and all related activities." When an existing property that includes a winery and related agricultural tourism uses (or the landowner anticipates a future winery) comes into the program, issues of incompatibility can be addressed through withheld acreage, as long as the landowner has a good idea of what the winery operation is likely to entail. Most of the problems MALPF has had related to vineyard and winery operations deal with properties already in the MALPF program whose owners then wish to use for winery operations.

What is allowed now on MALPF properties?

- Processing (winery operations) of grapes grown on the property or on land under control of the proprietor or person leasing the farming property. An issue that should be addressed is whether vineyards and the grapes produced under contract to a winery would be considered to be land under control of the proprietor.
- Storage and sale of the final product (wine).
- Retail operations, including tasting room, of wine and grapes produced on the property.
- Special events that do not interfere with the farming operation (case-by-case by permission).

What is not allowed on MALPF properties?

- Processing of grapes grown from other vineyards (over 25% of total crushed).
- Storage, tasting, and sale of wine from other wineries (over 25% of total).
- Catering and/or restaurant or restaurant-like facilities and activities.
- Retail operations that include non-agricultural items, such as t-shirts; commercial food products (such as jelly, jams, etc.) produced off the property; wine-related items (such as art, cork pullers, wine glasses, etc.).

What are the gray areas of what is allowed on MALPF properties?

- Special events that may interfere with farming operation, require temporary or permanent parking access, create significant traffic, and/or be non-agriculture related such as music, fairs, or theater performances.
- Tour operations of the winery and/or vineyard because of traffic and parking issues.

Under SB 626 (2003), the Foundation shall consider the criteria found in section 3 of the proposed new use regulations above to determine whether to approve or disapprove any use or activity. Some of the unique and difficult issues being addressed include:

- Maryland-based wineries require more grapes than are available from Maryland-based vineyards, requiring the purchase of grapes or juice from California, New York, and elsewhere.
- Even wineries that intend to produce only estate wines (grown only from vineyards on the proprietor's property or properties) need to supplement their own production during the development of their vineyards and as a result of short harvests from weather, insect, or animal damage.
- Some Maryland wineries rely on wine tourism, special events that may include catering, and other efforts to bring the public onto their properties for retail sales, supplemental income,

and to improve brand awareness.

- Some Maryland wineries rely on retail sales of non-agricultural, though usually wine-related items to supplement income.

The starting point for the discussion of potential changes in use policy for wineries and vineyard operations includes the following proposed conditions for use:

- Consider the relative acreage devoted to agriculture-related and agriculture-supporting activities, such as the winery and wine-tourism activities (for example, 1-5%).
- Consider the relative acreage devoted to parking and the pervious versus impervious nature of the parking surfaces (for example, 1-5%).
- Consider the number of special or large public events per month or per year.
- Consider the percent of off-site production allowed to be sold on-site (for example, 50-75% of the grapes crushed).

The Winery and Vineyard Uses Committee is developing recommendations that are consistent with the work and recommendations of the General Uses Committee. As of the end of FY 2007, the winery and vineyard uses policy remains under development. The final policy will be made available in a subsequent annual report once it has been approved by the Board of Trustees.

Some Important Ways the MALPF Program Has Changed in Recent Years:

Policy \ Year	2001	2007 (as of July 1, 2007)
Easement Termination Possibilities	Perpetual easements with a 25-year termination opportunity based on potential profitability of the land.	Explicitly perpetual easements with no termination opportunity.
Nature of Retained Rights for Building Lots	1. Original easement seller retained up to ten child's lots and/or owner's lot at a rate of one per 20 acres, all or part of 20 acres. 2. No lot location guidelines in place, though Board had locational review. 3. Pre-existing dwellings can be subdivided and sold separately with no restrictions. 4. Owner had no legal authorization to sell or transfer the dwelling on an approved owner's or child's lot.	1. Original easement seller can retain up to three family lots at a rate of one for the first full 20 acres; and one for each subsequent 50 full acres to a total of three; or one unrestricted lot with a full 20 acres (the unrestricted lot is taken into account in the appraisal). Unrestricted lots carry forward to future owners if not developed by the original easement sellers. 2. Lot location guidelines in place. 3. The subdivision of pre-existing homes more difficult because it uses retained lot rights. 4. Any released family lots cannot be sold or transferred to an ineligible third party for 5-years after the lot release unless approved by MALPF.
Role of Districts	Five-year district commitment was required to be eligible to offer an easement for sale to MALPF.	No district commitment is now required to be eligible to sale an easement to MALPF, unless the county requires the property be in a county district.
Ranking of Properties for Making Offers	Ranking was based solely on discounting in both Round 1 and 2 unless an alternative county-specific ranking system is approved by MALPF for round one.	Round 1 ranking is now based on the quality of the property and its strategic importance to the county (a county-specific ranking system based on state guidelines). Round 2 ranking is still based on discounting.
County Certification Policy (certified counties retain 75% of their agricultural transfer taxes; uncertified counties retain 33% of their agricultural transfer taxes; in both cases, retained revenues must be spent by the county within 3 years on land preservation).	Certification of county farmland preservation programs was based on MD Department of Planning and MALPF reviews of the effectiveness of the local farmland preservation program goals and supporting policies and mechanisms.	As a result of House Bill 2 (2006), effective July 1, 2008, certification of county farmland preservation programs will be based on reviews of the effectiveness of the local farmland preservation program goals and supporting policies and mechanisms, an approved Priority Preservation Areas (PPAs) with a higher standard for supporting policies, and non-interference in normal agricultural activities in PPAs. Funding based on new fund sources can only be spent in approved PPAs.
Agricultural Subdivision	An agricultural subdivision required a 20-acre minimum and approval by the MALPF Board.	An agricultural subdivision now requires a 50-acre minimum, resulting parcels must continue to meet minimum eligibility requirements, each resulting parcel must be capable of being a standalone farming operation, and the request must be Board approved.
Tenant Houses	A new tenant house required approval by the Board and is allowed at a rate of one house per 100 acres (full or partial), with no limitations on the size of the dwelling, and no lot location guidelines in place, though the Board had locational review.	A new tenant house requires Board approval and is allowed at a rate of one house per full 100 acres or, one house if the property has fewer than 100 acres if there is a compelling and proven need; the resulting dwelling has a 2,000 sq. ft. size limitation; and lot location guidelines are in place to support the Board's locational review authority.
Uses of the Easement Property	Agricultural use only.	Agriculture, agriculture-related & agriculture-supporting uses, and home occupations are allowed. Uses beyond traditional agriculture require MALPF approval, but MALPF has greater flexibility in the uses allowed, including for horse and winery uses.
Forestry Requirements	A Forest Management Plan was required if 50% or more of the farm was forested.	A Forest Stewardship Plan is required if the farm has 25 acres or more of contiguous woodland.
Settlement Mechanisms	Easement seller can take the amount of the offer at settlement as a "lump sum" payment or choose the installment payments option to spread payments out from one to ten years.	Easement seller can take the amount of the offer at settlement as a "lump sum" payment, choose the installment payments option to spread payments out from one to ten years, or (as of FY 2008) choose the tax-advantaged installment purchase agreement from ten to thirty years.
Monitoring Policy	MALPF relied on county program administrators to monitor MALPF properties for easement compliance.	MALPF now relies (as of October 2007) on an in-house full-time monitor to coordinate monitoring activities of county and State staff and review and redesign monitoring policies for the future.
Tax Treatment of Bargain Sales	Landowners could regain some value of bargain sales by claiming a State and federal deduction for the value of any charitable contribution.	Landowners can regain some value of bargain sales by claiming a State income tax credit and a federal deduction for the value of any charitable contribution.

Cooperative Arrangements with Other Agencies and Programs

Rural Legacy Program

In 1997, the Maryland General Assembly approved the Rural Legacy Program as a major component of then Governor Parris N. Glendening's Smart Growth and Neighborhood Conservation Initiative.

Located in the Maryland Department of Natural Resources and administered by the Rural Legacy Board, made up of the Secretaries of the Maryland Department of Agriculture, Department of Natural Resources and Department of Planning, the Program was established to protect natural resources, farms, forests and other sensitive environmental areas while maintaining the viability of resource-based economies and the proper management of tillable and wooded areas. The Program provides funds to local governments and land trusts to purchase interests in real property, as well as to purchase property in fee-simple, in designated Rural Legacy Areas (RLAs).

TOTAL ACREAGE PRESERVED BY THE RURAL LEGACY PROGRAM

(Based on Board of Public Works approvals
as of 6/30/2007)

Fiscal Year	Rural Legacy Preserved Acreage
1999	376
2000	1,036
2001	13,844
2002	14,498
2003	10,376
2004	9,126
2005	1,345
2006	1,576
2007	1,823
TOTALS	54,000

Source: RLP, DNR

On February 23, 1999, the Maryland Agricultural Land Preservation Foundation's Board of Trustees approved the concept of co-holding Rural Legacy easements on properties

whose focus is primarily agricultural and that generally meet the minimum qualifications of the Foundation's Program. Final approvals are given on a case-by-case basis and are contingent upon the Rural Legacy easements not having any language that could potentially conflict with MALPF program restrictions. Further, the Board requires a Memorandum of Agreement between the Rural Legacy sponsor and MALPF to outline easement monitoring and enforcement responsibilities.

Settlement of Rural Legacy easements is the financial responsibility of the Rural Legacy sponsor. There is no cost to MALPF other than administrative costs associated with ensuring easement monitoring and enforcement when accepting a co-held Rural Legacy easement. Co-held Rural Legacy easement acreage is not counted in MALPF's acreage totals, but is rather credited to the Rural Legacy Program as the State funding agency.

During FYs 2003-2007, the Foundation voted to co-hold five new Rural Legacy easements with three sponsors. By July 1, 2007, the Foundation had voted to co-hold a cumulative total of 49 Rural Legacy easements with four sponsors. As of June 30, 2007, the Rural Legacy Program had permanently preserved a total of 54,000 acres statewide.

Of the newly approved applications for co-held easements, one is located in the Little Pipe Creek Rural Legacy Area of Carroll County, covering 124 acres. Three are located in the Piney Run Rural Legacy Area of Baltimore County, covering 604 acres. And one is located in the Long Green Valley Rural Legacy Area of Baltimore County, covering 112 acres.

Successful Rural Legacy Areas are establishing greenbelts of forests and farms

UPDATE: FY 2003-2007 CO-HELD RURAL LEGACY EASEMENTS

(Status as of July 1, 2007)

	Number of Easements	Total Acreage	Average Farm Size (acreage)	Direct Cost of Easement Acquisition	Average Cost of Easement Acquisition per Property	Average Easement Acquisition Cost per Acre
Gunpowder River Rural Legacy Area (Baltimore County)						
Total approved	1	116.190	116.190	\$580,989.33	\$580,989.33	\$5,000.34
Total settled	1	116.190	116.190	\$580,989.33	\$580,989.33	\$5,000.34
Long Green Valley Rural Legacy Area (Baltimore County)						
FY 2007 approved	1	111.493	111.493	\$464,369.34	\$464,369.34	\$4,165.01
FY 2007 settled	0	0	0	0	0	0
Total approved	4	348.048	87.012	\$1,411,121.08	\$352,780.27	\$4,054.39
Total settled	3	236.555	78.851	\$946,751.74	\$315,583.91	\$4,002.25
Piney Run Rural Legacy Area (Baltimore County)						
FY 2003 approved	1	97.988	97.988	\$317,960.23	\$317,960.23	\$3,244.89
FY 2003 settled	1	97.988	97.988	\$317,960.23	\$317,960.23	\$3,244.89
FY 2004 approved	1	330.29	330.29	\$1,263,732.50	\$1,263,732.50	\$3,826.13
FY 2004 settled	1	330.29	330.29	\$1,263,732.50	\$1,263,732.50	\$3,826.13
FY 2007 approved	1	175.267	175.267	\$728,418.79	\$728,418.79	\$4,156.05
FY 2007 settled	1	175.267	175.267	\$728,418.79	\$728,418.79	\$4,156.05
Total approved	18	2,285.117	126.951	\$8,243,249.65	\$457,958.31	\$3,607.36
Total settled	18	2,285.117	126.951	\$8,243,249.65	\$457,958.31	\$3,607.36
Little Pipe Creek Rural Legacy Area (Carroll County)†						
FY 2003 approved	1	123.57	123.57	\$303,925.00	\$303,925.00	\$2,459.54
FY 2003 settled	1	123.57	123.57	\$303,925.00	\$303,925.00	\$2,459.54
Total approved	26	2,526.548	97.174	\$5,894,345.65	\$226,705.60	\$2,332.96
Total settled	26	2,526.548	97.174	\$5,894,345.65	\$226,705.60	\$2,332.96
TOTALS – All Rural Legacy Areas						
FY 03-07 approved	5	838.608	167.722	\$3,078,405.86	\$615,681.17	\$3,670.85
FY 03-07 settled	4	727.115	181.779	\$2,614,036.52	\$653,509.13	\$3,595.08
Total approved	49	5,275.903	107.671	\$16,129,705.71	\$329,177.67	\$3,057.24
Total settled	48	5,164.41	107.592	\$15,665,336.37	\$326,361.17	\$3,033.33

† Carroll County figures include one easement over a 49.336-acre property which is 100% funded with County Rural Legacy funds.

Rural Legacy easements co-held by the Maryland Agricultural Land Preservation Foundation are not included in the acreage totals of easements held by MALPF. Such easements are counted in the protected lands totals for Maryland under the Rural Legacy Program's protected acreage.

The acreage and cost of easement acquisition reported for approvals are those given at the time of Board approval. The acreage and cost of easement acquisition reported for easement purchases which settled are those recorded at closing.

around rural communities, protecting critical native wildlife and plant habitats, strengthening natural resource based economies, and protecting riparian forests, wetlands and greenways buffering Maryland's valuable tributaries and bays from pollution run-off.

Interest in the Rural Legacy Program continues to be strong as shown by the number of applications for each grant cycle and the approval of five new Rural Legacy Areas. However, funding continues to lag far behind demand. Over the five application cycles, there have been \$467.3 million in requests for \$101.7 million (22%) in available grant funds. Rural Legacy Areas are located in 21 of Maryland's 23 counties.

The goal of the Rural Legacy Program is to preserve 225,000 acres of land during a 15-year period, at an estimated cost of about \$600 million (estimated cost per acre from the original grant cycle). This Rural Legacy Program goal would only be achievable with the higher levels of funding proposed by then Governor Glendening when the Program was approved by the General Assembly in 1997 and continued by the Maryland General Assembly each year thereafter.

For more and updated information about the Rural Legacy Program, please consult the website at the Department of Natural Resources, specifically:

<http://www.dnr.state.md.us/rurallegacy/>

GreenPrint Program

In 1990, an Executive Order by former Governor William Donald Schaefer created the Maryland Greenways Commission and a long-term State commitment to protect greenway corridors primarily for ecological and recreational purposes. The work of the Commission on greenway planning led eventually to the green infrastructure assessment and the realization that Maryland needed to take a more strategic approach to the conservation of critical undeveloped land.

In May 2001, then Governor Parris

Glendening signed into law a \$35 million per year program for an initial five-year period designed to protect lands critical to long-term ecological health of the State. GreenPrint supported efforts to steer growth to appropriate areas while preserving the more environmentally-sensitive areas. These lands, referred to as Maryland's "green infrastructure," provide the natural foundation needed to support a diverse plant and animal population and enable valuable natural processes like filtering water and cleaning the air to occur.

The Department of Natural Resources (DNR) has identified over two million acres of Green Infrastructure lands. The GreenPrint program boosted the State's ability to preserve this critical acreage by easement acquisition or direct purchase over the five-year period for which the program was authorized.

The GreenPrint program authorized two state agencies to undertake activities to conserve identified lands: the Department of Natural Resources and the Maryland Agricultural Land Preservation Foundation. Under statute, 25% of the funds allocated on green infrastructure land acquisitions and easements were to be spent to protect properties within MALPF-approved agricultural districts that contain green infrastructure lands.

These easement purchases followed the normal administrative procedures by which landowners apply to sell their easements to the Foundation. MALPF drew on the existing pool of applicants to sell easements to the Foundation. Applicants who did not receive standard MALPF easement offers had their properties ranked by the Department of Natural Resources based on the following:

- 1) the number of acres of green infrastructure;
- 2) the percent of the property containing green infrastructure;
- 3) the position of the property relative to other protected lands;
- 4) the ecological value of the resources contained on the property and within the larger green infrastructure in which the

- property is located; and
- 5) the vulnerability of the property to development pressure.

The easements purchased with GreenPrint funds were substantially the same as the Foundation's regular easements except they were all perpetual with no 25-year termination clause and the easement contract highlights the sensitive environmental resources on the properties and the State and federal laws that protect those resources.

Two major developments affected the GreenPrint Program after its creation. First, the State's budgetary shortfall starting in FY 2002 quickly limited available funding. Even the first-year bond authorization of \$35 million was reduced by \$5 million to \$30 million. Based on the allocation of 25% of the funds to MALPF, the Foundation received \$7,500,000 for FY 2002. Funding was increasingly limited each year afterwards, with no GreenPrint funding requested in the FY 2006 budget. The Program expired after its five-year initial authorization and is not expected to be resurrected. GreenPrint funding over the life of the Program is shown in the table below, labeled "GreenPrint Funding."

Second, Governor Ehrlich placed the principles underpinning GreenPrint at the center of the formal statement of his land conservation policy and goals, *Maryland's Land Conservation Programs: Protecting the Chesapeake Bay Watershed* (December 3, 2003). Specifically, the Administration stated its objectives to be to:

- Focus state land conservation programs on the most strategic lands to protect the Chesapeake Bay and its tributaries as well as the most significant natural and agricultural resources;
- Apply the best scientific information and technology to identify resource lands that are most important, the potential threats to these lands, and areas in which preservation goals can be maximized; and

- Establish a process for collaboration and coordination among state and local land conservation programs to identify geographic and natural resource areas (pages 1-2).

According to this policy report and statement:

"The State will use DNR's Green Infrastructure and Strategic Forest Lands Assessments to prioritize land conservation. This will prioritize watersheds according to their impact on the Bay and the ecological values of forestry lands. Protecting lands in both categories enhances efforts to protect the Bay because each category of land directly impacts the Bay's water quality.... This prioritization will be applied to land and easement purchases" (page 3).

In effect, the GreenPrint Program as a separate program was no longer necessary under Ehrlich's land preservation policy, because the criteria on which it is based were incorporated into State purchases of land and easements, particularly by the Department of Natural Resources. Under the goals set out in this report, MALPF would continue to pursue prime agricultural and forestry lands within new easement acquisition guidelines developed in consultation with the Department of Planning, the Natural Resource Conservation Service of USDA, and local jurisdictions (page 3). New GreenPrint funds were no longer available to MALPF after FY 2005.

Under Governor O'Malley, DNR is developing and refining a modified version of the Green Infrastructure and Strategic Forest Lands under the direction of BayStat with additional green infrastructure elements, such as rare species habitat, aquatic life hotspots, and water quality protection. This will provide better direction in ranking State acquisitions of land and easements. BayStat is an initiative of the Governor to coordinate State programs directed at improving the health of the Chesapeake while ensuring their maximum efficiency. For more information on the modified Green Infrastructure ranking criteria, please consult the DNR website.

SUMMARY: GREENPRINT-FUNDED EASEMENTS PURCHASED BY MALPF
(FY 2002-2005)

County	Number of Easements	Total Acreage	Average Farm Size (acreage)	Direct Cost of Easement Acquisition	Average per Acre Easement Acquisition Cost
Baltimore	4	764.6002	191.1501	\$2,383,953.08	\$3,260.92
Calvert	1	203.3000	203.3000	*1,030,048.50	5,066.64
Caroline	8	1,043.8090	130.4761	692,034.05	644.47
Cecil	5	779.4695	155.8939	1,156,946.94	1,638.12
Charles	1	244.0550	244.0550	622,340.25	2,550.00
Dorchester	21	3,659.7889	174.2756	†3,387,243.06	925.53
Harford	2	214.1020	107.0510	796,893.50	3,574.55
Queen Anne's	4	522.766	130.6915	553,392.28	1,058.59
St. Mary's	2	369.2950	184.6475	536,176.88	1,887.70
Somerset	2	223.6760	111.8380	184,117.50	874.38
Talbot	2	249.6090	124.8045	‡387,901.00	1,554.03
Washington	4	686.3300	171.5825	1,319,368.40	1,922.35
TOTALS	56	8,960.8006	160.0142	\$13,050,415.44	\$1,456.39

All GreenPrint offers have settled. This is the final accounting. Unlike co-held Rural Legacy easements that are reported by the State of Maryland under the totals for the Rural Legacy Program, MALPF/GreenPrint easements are included in the MALPF totals reported later in this report.

* Calvert County funded \$150,000 of these direct costs; the balance (\$880,048.50) was funded by GreenPrint.

† Dorchester County funded \$77,471.36 of these direct costs; the balance (\$490,260.64) was funded by GreenPrint.

‡ Talbot County offer was partially funded by State Bond funds in the amount of \$36,272.40; the balance (\$24,181.00) was funded by GreenPrint.

GreenPrint Funding
(FYs 2002-2005)

Fiscal Year	GreenPrint Funding Totals	MALPF/ GreenPrint Funding (25% of Total Funding)
2002	\$30,000,000	\$7,500,000
2003	16,000,000	4,000,000
2004	3,000,000	750,000
2005	3,000,000	750,000
TOTALS	\$52,000,000	\$13,000,000

MALPF/GreenPrint Offers
(FYs 2002-2005)

Fiscal Year	Number of Offers	Value of Offers
2002	37	\$ 7,202,128.66
2003	14	3,160,486.86
2004	2	1,310,365.17
2005	3	1,377,434.75
Total Value of GreenPrint Offers:		\$13,050,415.44
Non-GreenPrint Funds	Calvert	150,000.00
	Dorchester	77,471.36
	Bond funds	36,272.40
Non-GreenPrint Funds:		\$26,364,574.64
* State GreenPrint Funds:		\$26,364,574.64

* The balance between the total GreenPrint funding available (\$13,000,000) and the direct costs of GreenPrint offers from that funding (\$12,786,671.68) was \$213,328.32. This funded the indirect costs of easement acquisition, that is, appraisal, title review, and settlement costs.

The final status report on MALPF/GreenPrint-funded easements is provided in tabular form immediately above. In summary, MALPF received \$13 million over the life of the GreenPrint Program and used this to acquire 56 additional easements totaling 8,961 acres preserved based on GreenPrint criteria. MALPF committed a total of \$13,050,415.44 to easement offers. Of that, \$12,786,671.68 were GreenPrint funds; \$36,272.40 were State Bond funds; and \$227,471.36 were county funds. MALPF spent the balance of the GreenPrint funds, \$213,328.32, on appraisals, title work, and settlement costs. Of the 56 easements purchased, 21 were located in Dorchester County. The vast majority of easements were purchased on properties located on the Eastern Shore.

Maryland Department of General Services

The Maryland Department of General Services (DGS) is contracted to provide support services to the MALPF Program's easement acquisition process. The DGS Office of Real Estate contracts for two independent appraisals to be done on each applicant property to establish its fair market value. The appraisals are then reviewed by DGS review appraisers who recommend, based on the quality of the appraisals, the better value for MALPF staff to use in calculating the property's easement value (the maximum that can be offered to purchase the conservation easement).

The Office of the Attorney General at DGS also provides support by reviewing title, property descriptions, and arranging for title insurance and settlements. Nancy Forrester, Assistant Attorney General at DGS, has become an important advisor on these issues and more general legal issues before the Foundation. Since she has been dedicated to processing MALPF easement settlements, the problems that the Foundation had in the past with a backlog of easement settlements have been resolved.

The Foundation no longer has a backlog of pending easement settlements. Though offers continue to be approved by the Board of Public Works (the last offers are expected to be approved in January 2008), the Department of General Services has already requested checks to go to settlement on over 30% of the FY 2007 easement acquisition cycle offers (40 of 117) as of October 30, 2007. Only two FY 2006 offers remain unsettled; both are waiting for surveys to be provided by the landowners. When issues clearly will not be resolved in a reasonable time, the Foundation is much more willing today to withdraw an offer than letting the issues remain unresolved indefinitely.

Surveys are required when deed records do not accurately define the property, and when the acreage reflected on the deed

does not correspond to the acreage calculations made based on deed references.

**Number of Pending
Easement Settlements**
(as of October 30, 2007)

Fiscal Year	2006	2007
Number of Offers	66	*117
Check Request Issued or Settled Easement	63	40
Survey or Other Title Issue	2	27
Waiting for Title Work	0	14
Withdrew	1	3
Waiting for Board of Public Works Approval	0	8
Currently Under Review	0	26

* Does not include one outstanding offer that has not yet been accepted.

The Maryland Department of Agriculture and the Foundation are very pleased with the elimination of the backlog of pending settlements and improvement in the rate at which current pending settlements go to closing.

***Federal Farm and Ranch Lands
Protection Program***

In the 1996 Farm Bill, a new farmland protection program was created, the Federal Farmland Protection Program. This program was renewed in the 2002 Farm Bill under the new name of the Federal Farm and Ranch Lands Protection Program (FRPP). Over the history of this federal grants program (through FY 2007), Maryland has received more grant funds from FRPP than any other state. These grant funds must be matched on a 50/50 basis, spent within two years (with the possibility of extensions), and additional land-use restrictions are incorporated into the standard deed of easement used by MALPF.

The Foundation acquired 72 easements during the period of this report with federal funding commitments, bring to 126 easements acquired using federal matching funds since the beginning of FRPP. These 72 easements encompass 9,712 acres, of which 3,605 acres were acquired with federal funds. To acquire these 72 easements, MALPF matched \$15,583,740 of State and local funds to \$7,678,943 of federal funds.

Midway through MALPF's commitment of its FY 2004 federal grant funds, during the Foundation's FY 2005 easement acquisition cycle, the United States Department of Agriculture (USDA), through the Natural Resources Conservation Service (NRCS), chose to reinterpret its requirements for acquiring a contingent interest in easements with federal funding commitments. By doing so, USDA/NRCS substantially raised the administrative costs to MALPF for using FRPP funds, lengthened the time to go to settlement by more than three months, and imposed additional restrictive requirements in the easement (such as a limitation on impervious surfaces) for no additional compensation.

Because the unexpected accumulation of these issues made it very difficult to make the federal program work with the statutory constraints within which MALPF operates, NRCS stopped processing MALPF easements at the end of calendar year 2005, alleging that MALPF's deed of easement incorporating federal language lacked a written approval.

NRCS took so long to identify its issues with the MALPF Program, MALPF substituted State for federal funds in April 2006 so easement applicants with federal funding commitments whose easements were delayed could finally go to settlement. This substitution of funds required the option contracts for these easement offers to be resubmitted for approval to the Board of Public Works.

Fifteen properties were brought back to the Board of Public Works for substitution of State funds for settlement. Two more properties did not need to be reviewed for funding substitution. The federal funding commitments for which State funding was substituted totaled \$2,926,886. The replacement funds came from FY 2005 State funds and some GreenPrint funds that became available because of the relatively high rate of rejections during that easement acquisition cycle. Those funds would otherwise have rolled over to be committed to FY 2006 offers. No FY 2006 funds were committed to resolve this problem.

The primary FRPP administrative and policy changes creating problems for MALPF were as follows.

Appraisals

Problem: MALPF appraisals are completed to the Uniform Standards of Professional Appraisal Practice, traditionally accepted by FRPP. FRPP requires, as of the FY 2006 grant agreement, appraisals to conform to the Uniform Appraisal Standards for Federal Land Acquisition (the so-called "yellow-book" appraisal standards). Additionally, for all MALPF FRPP grant funds available now, appraisals must be dated within six months of settlement and undergo federal review.

Impact: (1) A federal appraisal review duplicates the appraisal review done for MALPF by the Maryland Department of General Services. (2) Requiring yellow-book appraisals increases costs by \$3,500-\$5,000 per easement transaction. (3) This requirement will increase the time needed to go to settlement by at least 13 weeks. (4) This requirement contradicts the intent of Congress as expressed in section 1119(o) of Public Law 109-59 enacted in 2005 as H.R. 3. (5) The "within six months of settlement" requirement makes it difficult for MALPF to schedule the appraisal if there are title, property description, or subordination problems. (6) FRPP has not demonstrated that the benefits from yellow-book appraisals justify the additional costs in time and money. Additional costs are at the expense of land that could have been preserved.

Easement Valuation

Problem: As required under Maryland statute, MALPF determines an easement's value by subtracting a formula-based agricultural value from an appraisal-determined fair market value. Until December 31, 2005, FRPP matched up to 50% of MALPF's easement value. FRPP now requires a "before-and-after" appraisal incorporating a new definition of fair market value that adjusts values for the impact of the easement on adjacent parcels owned by the seller to calculate the value of the federal match.

Impact: (1) The new FRPP easement valuation system contradicts Maryland statute and is incompatible with the Maryland Rural Legacy Program's and Montgomery County's easement valuation systems. (2) To meet the new FRPP requirements, MALPF must contract for an additional otherwise unnecessary appraisal, duplicating the existing process and increasing expenses and settlement time.

(3) The FRPP easement valuation system creates administrative problems for MALPF because the amount of the federal match cannot be determined at the time of the offer, but only after a third appraisal is completed close to the time of settlement, increasing the difficulty of allocating funds among funding sources.

Forestry Requirements

Problem: MALPF focuses on the quality of a property's soils and their protection, not on the kinds of agricultural activities on a property. Most Maryland farms are mixed farming operations, including timber harvesting. As long as soil eligibility requirements are met, MALPF will purchase an easement on 100% forested properties. FRPP now restricts federal matching funds to properties with less than 50% forested acreage (or less than 60% in one year's grant agreement).

Impact: (1) This requirement limits the properties eligible for federal matching funds, making funding allocations more difficult. (2) MALPF considers forestry a normal agricultural activity; restricting normal agricultural activities on easement property contradicts Maryland statute and contradicts USDA's existing responsibility for forestland preservation. (3) If the owner of a federally-funded easement chooses to expand woodland to over 50% of the acreage, the landowner may become out of compliance with FRPP forestry requirements. MALPF could be required to treat this as an easement violation, contradicting State statute.

Impervious Surface Requirements

Problem: MALPF does not currently regulate impervious surfaces under its easements. FRPP now requires impervious surface limits of 2%, with a sliding scale up to 6% based on size of the farm and its proximity to developed areas, only if approved by NRCS. Landowners are not compensated for this additional restriction.

Impact: (1) This restriction, like forestry requirements, limits the pool of properties that can receive federal matching funds, making it more difficult for MALPF to allocate its funds. (2) Dairy, horse, and chicken operations, vineyard and winery operations, and nursery operations are among the properties that may be excluded from receiving federal funds or advised not to accept such an easement because of the limitations on future flexibility to adjust to the changing agricultural economy. (3) Because of historical circumstances, many Maryland farms include ownership of the land under county roads. Federally-funded easements over properties with significant road frontage may not

be possible or would pose serious future limitations on the construction of farm structures necessary to support farm operations. (4) FRPP has not demonstrated that the benefits from strict national impervious surface standards justify the additional costs of the loss of flexibility in farming operations to adjust to changing market conditions, the increased staff time developing and managing new administrative procedures to regulate the construction of farm structures and other impervious surface changes, and delays for farmers in building needed farm structures. Any guidelines limiting impervious surfaces on preserved properties should be developed and implemented at the state level to take into consideration local conditions, such the quirk in Maryland of private ownership and easement coverage of county roadbeds and the smaller-than-average size of Maryland's farms.

Title Review

Problem: Title review establishes clear title and an acceptable property description. The requirement for Office of General Counsel title review for every easement transaction is unnecessary because title is already reviewed by the Maryland Office of the Attorney General. No question has ever been raised concerning the legal sufficiency of the results of Maryland's title review.

Impact: (1) This requirement is duplicative. No cost-benefit analysis has justified this requirement. (2) This review's increased settlement time is optimistically estimated at 3-4 weeks. (3) The absolute requirement for subordination of all interests as part of the title review is unrealistic and counter-productive. For example, prior utility easements in Maryland are typically blanket easements to save survey costs and will rarely be subordinated.

Indemnification

Problem: Indemnification is now required in the deed of easement. Any environmental problems identified in the future are indemnified by the easement seller to the easement holder(s).

Impact: (1) A Phase I Environmental Review is not a federal requirement; however, MALPF feels that it may be necessary for landowners to feel comfortable signing indemnification. An environmental review could raise issues landowners are required to address, though they may have no impact on the farming operation or the prime farming soils. (2) MALPF estimates a review costs about \$5,000 and requires 7 weeks from soliciting bids to the review report. MALPF does not know the scope required of such a review, or the minimum acceptable results necessary for a landowner to

sign the indemnification provision. (3) It is unclear if the indemnification provision is enforceable after the transfer of the property to a new owner and, if so, against whom it would be enforced. (4) FRPP has not demonstrated a favorable cost-benefit analysis for this requirement.

Easement Ownership

Problem: Until FY 2006, NRCS had a "contingent" interest in the ownership of the easement. As of FY 2006, NRCS will be an easement "co-holder." With a contingent interest, NRCS focuses on insuring that the easement holder continues to do its job. This is a proper delegation of responsibilities. As an easement holder, NRCS becomes as equally responsible with MALPF for dealing with the landowner directly and enforcing the terms of the easement as MALPF, an awkward, inefficient, duplicative, and unnecessary responsibility. NRCS has been obsessed with securing its property rights, rather than focusing on improving the protection of conservation values on easement properties.

Impact: (1) NRCS and FRPP do not have the staff to exercise stewardship responsibility in an efficient and effective manner. Creating that staff is unnecessary and duplicative. (2) NRCS has not produced written direction or procedures on how MALPF would share stewardship responsibilities for standard requests on uses, lot releases, or other business in managing easement properties. MALPF cannot inform potential participants of the implications of federal funding necessary for an informed decision concerning an offer with federal funds. (3) MALPF is unable to judge the additional staff time and decision time that will be necessary to incorporate NRCS in ongoing stewardship responsibilities that it is assuming under the new ownership arrangement. (4) NRCS has never exercised its enforcement rights under the contingency clause, nor taken title to any FRPP-funded easements. No cost-benefit analysis justifies this change in easement ownership.

The resolution of these issues has been taking two tracks. The first track has been to try to resolve the incompatibilities between the federal easement requirements and MALPF's deed of easement. MALPF and NRCS established a workable resolution of these incompatibilities midway through MALPF's FY 2007 easement acquisition cycle and now have an agreed-upon deed of easement incorporating federal language that is acceptable to both parties, at least through the

end of the commitment of funds covered by the FY 2005 grant agreement

In the FY 2007 easement acquisition cycle, MALPF has made six formal offers using federal matching to make up insufficient funds offers in participating counties and for properties approved for the FRPP program by NRCS. Landowners receiving these offers have been allowed to decide whether to accept the insufficient funds offer using only State and local funds or to accept a full offer with federal funds, additional federal restrictions, and the additional time it will take to go to settlement. Of these six offers, five have been accepted and one rejected as of late 2007; all five have been approved by the Board of Public Works. The amount of federal funding committed to these offers cannot be determined until the third appraisal, as required by FRPP, has been completed.

The second track to resolve these issues has been to work with sympathetic members of Congress to recreate the FRPP within the 2007 Farm Bill. These recommended legislative changes to FRPP have been included in Maryland's Federal Priorities. FRPP would become a true grants program working with existing state farmland preservation programs to certify their competence as a prerequisite for participation. As of late 2007, this concept was adopted into legislation by the United States House of Representatives, and was being considered for the pending Senate bill.

MALPF should be able to spend its FYs 2004 and 2005 backlog of unspent federal grant funds (approximately \$8.8 million). MALPF still must work out incompatibilities between the additional requirements imposed by NRCS in the FY 2006 grant agreement and its own Program requirements. This may be prove to be more difficult than the resolution of the earlier issues.

Approximately \$1.717 million in federal funds are at stake in the FY 2006 grant agreement. Because of the problems with the FY 2006 grant agreement, MALPF did not apply for FRPP grant funds in the FY 2007 ap-

plication cycle. Maryland's limited allocated funding for FY 2007 (less than \$2 million) went, rather, to private land trust and county sponsored projects in Maryland.

In the longer term, if FRPP is recreated and restructured in the 2007 Farm Bill consistent with the House version already approved, MALPF will have no problem spending its past and future grant allocations. However, the future impact and importance of federal funding depend on both the commitment of federal funds to FRPP and the demand for those funds by other state and private land preservation programs.

FRPP and MALPF have made other policy changes during the period of this report that affect the interaction of the two programs and how they both operate. First, FRPP now requires annual inspections be made of all properties with federal funding commitments, starting with easements acquired under the FY 2003 grant agreement. This requirement applies to 48 MALPF properties in late 2007.

In October 2007, MALPF hired a monitoring, enforcement, and database coordinator to guarantee that this new responsibility is met in conjunction with MALPF's existing easement inspection policy that requires site inspections and reports on 10% of easement properties each year. To date, MALPF has relied on its county partners to monitor MALPF properties and report in a timely manner. Many counties have been reliable in completing and reporting on these inspections. Some counties have not been as reliable.

With the increased number of easements and changing national stewardship standards, MALPF is very aware of the need to take direct responsibility to insure that monitoring is done regularly and its monitoring policy is reviewed and brought up to date. The review of the monitoring program is now underway to insure effective stewardship of MALPF properties, whether or not including federal funding commitments, into the future.

A second policy change by FRPP has

been to change its strategy on how to distribute its funding among eligible easement properties. Until recently, FRPP sought to spread its funding among as many properties as possible to increase the impact of federally-specific restrictions and to increase federal participation in state and local programs.

FRPP now directs its efforts to apply a larger amount of funding to fewer individual offers to reduce its administrative expenses and to be more selective in the properties chosen for funding. For offers made with federal funding commitments, the average of federal funds went from 20-26% during the first four grant agreements (federal FYs 1996-2002) to an average of approximately 35% since the change in policy (federal FYs 2003-2004).

MALPF supports this policy change because of the impact of federal funds on administrative costs to process easements in terms of money and time and the ongoing additional costs of stewardship for federally-funded easements.

A third, and related, policy change is that, starting with the FY 2006 grant agreement, the NRCS allocation of funding among MALPF's county partners in the consolidated application is no longer based on distributing the grant award among the participating counties. The allocation is now based on allocating funding among the eligible properties from their relative priority ranking, with no effort to distribute the grant funds among the participating counties.

All thirteen county partners in the FY 2005 grant agreement received funding allocations, ranging from \$225,550 for Anne Arundel County to \$506,500 for Frederick County. In the FY 2006 grant agreement, the top ranked eligible properties were located in only three of the seven participating counties. Frederick County received \$1.188 million; St. Mary's received \$404,160; and Charles County received an allocation of \$125,000 earmarked for specific properties. Kent, Washington, Anne Arundel, and Cecil Coun-

ties received no initial allocation. Properties in those Counties could receive FRPP funds only if easement offers with federal fund commitments in the other three counties are either not forthcoming or are rejected by landowners.

Finally, until recently, a major problem in making the MALPF program work with FRPP has been the disconnect between MALPF's system for ranking properties for making offers and FRPP's ranking system for selecting eligible properties. Properties ranked high by FRPP for matching funds often did not receive an offer from MALPF because the landowner was not willing to discount. It was not unusual for MALPF to have to work closely with FRPP to substitute properties actually made offers by MALPF for properties preferred by FRPP, but not receiving offers.

In the 2003, the MALPF Task Force recommended that the ranking system emphasizing discounting be replaced by a ranking system emphasizing the quality of the property. This recommendation was put into statute by Senate Bill 546 (2003), and adopted for the FY 2005 easement acquisition cycle. MALPF developed statewide ranking guidelines implemented by individual counties emphasizing the quality and strategic location of each property over the discount.

The starting point for the development of the statewide ranking guidelines was the already existing Land Evaluation – Site Analysis (LESA) ranking system used by FRPP. The LESA system is based on the quality of a farm's soils and a site analysis. The site analysis examines the areas surrounding the property, taking into consideration factors such as the amount and type of development in the area of the farm and contiguity with other preserved land.

MALPF guidelines diverged moderately from the specifics of the FRPP ranking system. Because of the similarity and compatibility of the approaches taken by both ranking systems, the MALPF Board of Trustees automatically approved county partners adopting the existing FRPP LESA system to fulfill

the statutory ranking systems requirement. MALPF's ranking system to make offers is now generally consistent with the rank order selection of eligible properties for FRPP. The origins and implementation of the new MALPF ranking guidelines are discussed in an earlier section of this report.

The problems faced in working with FRPP were not specific to MALPF, but to differing degrees shared by many state farmland preservation programs nationally, particularly in the Northeast where the first established state programs are located. At the end of 2007, MALPF staff is hopeful that a solution will soon be reached that will make this important source of land preservation funds more accessible. For three years of this reporting period, FYs 2003, 2005, and 2006, FRPP

funding came to make up a critical share of funding available for offers, offsetting to some degree the significant drop in State funding because of State budget problems. For these three easement acquisition cycles, FRPP funds provided 12-21% of available funds.

The tragedy, looking at the table below, is that, at the end of 2007, MALPF still had \$10,559,105 in federal grant funds unspent from the FYs 2004-2006 grant agreements that could have made a significant difference during the period when funds were scarce and easement costs were lower. MALPF could only spend less than 25% of the \$13.8 million awarded during this report period because of the policy and implementation roadblocks unnecessarily created by FRPP.

Federal Farm and Ranch Lands Protection Program Grant Funds as a Percentage of Total Funds Available to the Maryland Agricultural Land Preservation Foundation
(FYs 2003-2007)

FRPP Grant Year	FRPP Grant to MALPF (\$ million)	MALPF Easement Offer Cycle	Total MALPF Funds Available (with FRPP) (\$ million)	FRPP as a Percent of Total Funds
FY 2002	*\$1.9	FY 2003	*\$27.9	*21.4%
FY 2003	*\$4.0	FY 2004	n/a	n/a
FY 2004	\$4.6	FY 2005	\$31.3	14.7%
FY 2005	\$6.0	FY 2006	\$45.2	13.3%
FY 2006	\$1.7	FY 2007	\$93.7	0.2%
TOTALS	\$18.2		†\$198.1	†9.2%
			‡\$204.8	‡8.9%

* FRPP grants for FYs 2002 and 2003 were both applied to the FY 2003 MALPF easement acquisition cycle (because no statewide acquisition cycle took place in FY 2004). \$6.7 million of new county and rolled over State funds were used to make offers in FY 2004.

† Totals excluding the FY 2004 MALPF easement acquisition cycle.

‡ Totals including the FY 2004 MALPF easement acquisition cycle.

Source: Annual MALPF allocation reports adjusted by FRPP grant awards as represented by the final revision of the grant agreement. The actual amount committed to easement offers will be somewhat less than the amount available at the beginning of the easement acquisition cycle. FRPP stopped processing easement offers on January 1, 2006, in the middle of committing the federal funds covered by the FY 2004 grant agreement. MALPF did not commit federal funds to easement offers again until late into its FY 2007 easement acquisition cycle.

**MALPF EASEMENTS WITH FEDERAL FUNDING COMMITMENTS FROM THE
FEDERAL FARM AND RANCH LANDS PROTECTION PROGRAM BY GRANT AGREEMENT**
(Federal FYs 1996-2006/ MALPF FYs 1997-2007)

Federal Grant Agreement	MALPF Fiscal Year	Number of Easements Acquired	Total Direct Cost of Easement Acquisition	Total FRPP Funding Commitment	FRPP Funds as a Percent of Total Easement Cost	Total FRPP Award	Total Acreage Acquired	Acreage Acquired with FRPP Funding
1996	1997	29	\$4,927,815.04	\$1,000,000.02	20.29%	\$1,000,000.00	4,322.3720	1,029.2940
1998	1999	18	\$4,392,359.79	\$1,166,666.56	26.56%	\$1,666,666.66	2,386.1065	781.7136
2001	2002	7	\$1,936,558.17	\$452,935.80	23.39%	\$452,935.80	1,087.3500	306.4136
2002	2003	24	\$6,777,833.49	\$1,741,260.00	25.69%	\$1,870,000.00	2,523.7450	825.7939
2003	2003	32	\$11,473,558.78	\$4,164,348.15	36.30%	\$4,040,301.00	4,822.9719	1,846.3024
2004	2005	16	\$5,011,291.10	\$1,773,334.81	35.39%	\$4,575,303.00	2,365.2400	933.0945
SUB-TOTALS		126	\$34,519,416.37	\$10,298,545.34	29.83%	\$13,605,206.46	17,507.7854	5,722.6120
PENDING EASEMENT OFFERS AND UNSPENT GRANT FUNDS		Number of Easements with FRPP Funding Commitments	Total Direct Cost for Pending Easement Offers	Total FRPP Funding Commitment to Pending Easement Offers	FRPP Funds as a Percent of Total Pending Easement Offers	Total FRPP Award	Total Acreage with Pending Easement Offers	Acreage Proposed for Acquisition with FRPP Funding
2004	2007	5	\$7,356,812.19	*\$2,287,557.03	31.09%	see above	763.0200	281.8340
2005	n/a	0	0	0	n/a	\$6,035,274.00	0	0
2006	n/a	0	0	0	n/a	\$1,717,160.00	0	0
TOTALS		131	\$41,876,228.56	\$12,586,102.37	30.06%	\$21,357,640.46	18,270.8054	6,004.4460

All FRPP offers included in the "Sub-Totals" have settled. All FRPP offers included below the "Sub-Totals" have been accepted by the landowner and approved by the Board of Public Works, but have not yet settled. One offer made in MALPF's fiscal year 2003 had its federal funding commitment split between the 2002 and 2003 FRPP grant awards. The funding from the 2002 grant award (\$128,740.00) is included in this table only under the 2003 FRPP grant award. Another offer made in MALPF's fiscal year 2005 had its federal funding commitment split between the 2003 and 2004 FRPP grant awards. The funding commitment from the 2003 grant award (\$4,702.85) is included in this table only under the 2004 FRPP grant award. Easements purchased in part with federal funds are counted in the MALPF totals reported later in this document.

* The amount, \$2,287,557.03, is the minimum amount of federal funding committed to these pending offers. The amount, \$3,678,406.10, is the maximum amount of federal funding committed to these pending offers. The final amount will be determined once a third appraisal is secured, as discussed in the text of this section.

**MALPF EASEMENTS WITH FEDERAL FUNDING COMMITMENTS FROM THE
FEDERAL FARM AND RANCH LANDS PROTECTION PROGRAM BY COUNTY**
(Federal FYs 1996-2005/ MALPF FYs 1997-2007)

County	Number of Easements Acquired	Total Direct Cost of Easement Acquisition	Total FRPP Funding Commitment	FRPP Funds as a Percent of Total Easement Cost	Total Acreage Acquired	Acreage Acquired with FRPP Funding
Anne Arundel	4	\$2,817,055.83	\$428,959.35	15.23%	685.9500	100.2994
Baltimore	7	\$5,236,154.32	\$1,553,967.53	29.68%	1,210.6688	335.1017
Calvert	3	\$2,510,488.45	\$362,867.77	14.45%	398.8400	60.0301
Caroline	9	\$1,338,911.50	\$506,855.55	37.86%	1,417.1960	546.3328
Carroll	5	\$1,555,060.09	\$485,078.18	31.19%	648.0217	197.9273
Cecil	10	\$1,983,386.44	\$460,198.51	23.20%	1,116.8805	236.5858
Charles	2	\$1,184,315.45	\$427,927.77	36.13%	640.8025	222.9290
Dorchester	10	\$1,043,045.20	\$422,649.23	40.52%	1,148.7160	456.5933
Frederick	9	\$2,029,615.94	\$774,337.77	38.15%	1,022.6110	375.8717
Garrett	1	\$153,435.00	\$52,631.58	34.30%	102.2900	35.0877
Harford	7	\$1,004,072.50	\$464,685.00	46.28%	335.2990	156.9777
Howard	1	\$331,875.00	\$77,777.00	23.44%	23.1250	5.4195
Kent	8	\$2,683,412.92	\$865,444.20	32.25%	1,325.6070	454.1336
Queen Anne's	15	\$2,371,411.90	\$1,005,752.47	42.41%	2,294.5360	931.1059
St. Mary's	9	\$2,244,730.08	\$678,233.77	30.21%	920.0500	284.0270
Somerset	6	\$542,172.82	\$231,749.16	42.74%	783.9900	330.8636
Talbot	4	\$985,474.90	\$289,390.93	29.37%	749.2150	205.7586
Washington	7	\$2,922,672.93	\$600,659.31	20.55%	1,265.0669	272.9256
Wicomico	5	\$476,535.43	\$172,719.38	36.24%	409.0500	127.6267
Worcester	4	\$1,105,589.67	\$436,660.88	39.50%	1,009.8700	387.0149
SUB-TOTALS	126	\$34,519,416.37	\$10,298,545.34	29.83%	17,507.7854	5722.6119
*Currently Pending Easement Offers:						
Caroline	1	\$1,207,800.00	\$516,172.09	42.74%	366.0000	156.4158
Cecil	1	\$1,966,500.08	\$844,433.95	42.94%	57.1200	24.5279
Harford	1	\$502,512.11	\$212,691.61	42.33%	49.9000	21.1205
St. Mary's	1	\$2,280,000.00	\$127,581.29	5.60%	115.0000	6.4350
Talbot	1	\$1,400,000.00	\$586,678.09	41.91%	175.0000	73.3348
SUB-TOTALS	5	\$7,356,812.19	\$2,287,557.03	31.09%	763.0200	281.8340
TOTALS	10	\$41,876,228.56	\$12,586,102.37	30.06%	18,270.8054	6,004.4459

* The federal funding commitments for currently pending easement offers represent the minimum amount of federal funding committed to these pending offers. The final amount will be determined once a third appraisal is secured, as discussed in the text of this section.

Installment Purchase Agreement Program – Maryland Agriculture and Resource Based Industry Development Corporation

In 2001, the MALPF Task Force recommended that the General Assembly establish and fund an installment purchase agreement (IPA) program for MALPF. An IPA is an additional payment option for those selling easements to MALPF in addition to the current options: (1) a lump-sum payment of the amount of the offer at the time of settlement; or (2) an installment payments plan that divides the principal amount unpaid at settlement into equal amounts to be paid annually from two to ten years; the unpaid balance is invested in annually laddered certificates of deposit with each certificate's interest earned payable (and taxable) with the annual payment.

An IPA program would provide a third alternative. An installment purchase agreement is typically for a much longer period than the installment payments plan, from a minimum of 10 years up to 30 years. At settlement on the easement, the unpaid principal would be deferred for payment as a balloon payment until the end of the period of the agreement. During the period of the agreement, the IPA owner would receive tax-free interest on the principal.

The two elements of an IPA are the interest installment payments and the payment of the principal. The payment of the principal is usually funded by investing in long-term stripped-coupon or zero-coupon U.S. Treasury obligations (zeros) where the amount of the principal is secured at a discount contingent on the length of the obligation: the longer the term of the investment, the deeper the discount. Taken out to 25 or 30 years, the principal payment can be funded with an investment in zeros of 20 to 30 cents on the dollar. The obligation to pay interest on the principal during the period of the agreement is usually met either by the investment of the balance of the principal ("a self-funded IPA," in other words, an IPA completely funded by the

amount of the offer) or by pledging either future revenues or making obligation a general obligation of the State ("a leveraged IPA," in other words, an IPA that is at least in part funded out of future revenues).

For certain easement sellers, an IPA can be very attractive.

- The seller defers capital gains taxes until the payment of the principal at the end of the period of the agreement. Capital gains taxes are payable in the dollar value at the time the principal is paid, not at the dollar value at the time of settlement.
- The seller receives a tax-free income stream during the period of the agreement.
- The IPA interest payments that provide the tax-free income stream are based on the full value of the original offer (less any payment made at settlement) before capital gains taxes are paid. If, alternatively, the seller took a lump-sum payment at settlement and invested those funds for an ongoing income stream, the amount available to invest would be the amount left after capital gains taxes; the income stream resulting from this investment would be taxable. Therefore, the seller would be more likely to realize more from the IPA payment option than from the lump-sum or installment payments options at settlement.
- The IPA creates a negotiable instrument that could be sold to settle an estate, thereby helping with estate planning.

For sellers who wish to reduce debt, invest in updating a farming operation, have minimal capital gains taxes, need to settle an estate, or who otherwise need access to the funds they are paid for the sale of the easement would be likely to prefer the other payments options.

For MALPF, an IPA can also be a useful instrument.

- Using IPAs creates the potential for MALPF to purchase additional easements with the same funds or the same number of easements with less funding if MALPF is able to dedicate a share of future revenues to service the interest payments. The longer the agreement, the greater the leverage to purchase additional easements with the same funding.
- Such leveraging would allow MALPF to purchase additional easements at current prices when the properties are still available, rather than paying higher prices later and risk losing important farming properties to development.
- Whether or not MALPF is able to leverage its IPA funding, because the IPA payments option is likely to be very attractive to certain easement sellers (such as owners of properties subject to large capital gains taxes or those seeking an ongoing income stream), MALPF may be able to increase participation in the Program. Increased participation increases competition for offers, likely resulting in greater discounting by applicants.

The original 2001 MALPF Task Force recommendation was extended to include dedicated funding to allow MALPF to leverage additional purchases now against future revenues. The first IPA legislation in the General Assembly (HB 827 in 2003) failed. HB 606 and 625, sponsored by Delegate Glassman, were passed by the General Assembly in 2004, authorizing the development of an IPA program, including both IPAs

directly offered by MALPF and offered indirectly by grants to county IPA programs.

Because the Maryland Constitution limits the assumption of debt by government agencies to 15 years, MALPF could not offer IPAs for a term greater than 15 years. However, the Maryland Agriculture and Resource Based Industry Development Corporation (MARBIDCO) was created during this period. MARBIDCO does not have the 15-year constitutional limitation on its activities, allowing MALPF to develop a relationship with MARBIDCO that would allow MALPF to offer IPAs through MARBIDCO for periods longer than 15 years. HB 1041 (2007) facilitated a self-funded IPA program through MARBIDCO.

Between 2005 and 2007, MALPF and MARBIDCO have contracted for the services of a financial consultant (Evergreen Capital Advisors) and legal counsel (McKennon Shelton and Henn LLP) to set up the IPA program. As of late 2007, MARBIDCO is working with the Treasurer's Office to contract for the necessary banking services. The IPA program is expected to be available for the FY 2008 easement acquisition cycle.

The initial implementation of the program will be based on the self-funding IPA model, as defined above. The General Assembly also directed MALPF to report on the possibility of dedicated funding to provide leveraging to purchase additional offers in the near term by committing future funding to pay the interest installments during the life of the agreements. Legislation for dedicated funding may be introduced in 2008 or 2009.

Legislation – 2003 through 2007 Legislative Sessions

Relating to Agricultural Land Preservation Issues

Unlike most land preservation programs and organizations, the Maryland Agricultural Land Preservation Foundation's program is very closely tied to Maryland State statute and regulations. The five Legislative Sessions, 2003-2007, saw in particular, a number of Task Force recommended bills introduced into the General Assembly, of which many were successful. Among the statutory changes successfully recommended by the Task Force were as follows.

1. County prioritization of potential easement properties will follow State-developed guidelines.
2. More discretion is provided to the Foundation's Board of Trustees in determining allowable agriculture-related and agriculture-supporting activities and home occupations on easement and district properties.
3. The total number of residential lots allowed on easement and district properties has been reduced from ten to three and the density of allowable development has been reduced.
4. The minimum acreage required for tenant house approval on easement and district properties increased to a full 100 acres per dwelling with discretion provided the Board of Trustees to consider compelling circumstances for a tenant house on fewer than 100 acres.
5. The twenty-five year termination clause for MALPF easements was replaced by a perpetuity clause to clarify the original intent of the General Assembly in the creation of the MALPF program.
6. Initial Critical Farms Program legislation defined the criteria of a "critical farm" and directed MALPF and the Department of Planning to submit a report on the specifics of the Program and the legislation necessary to implement it.
7. For counties to remain certified in MALPF's certification program for effective county agricultural land preservation programs, they will have to create and have approved by MALPF and the Department of Planning Priority Preservation Areas (PPAs) with a Priority Preservation Area Element explicitly in their comprehensive land-use plan by FY 2009.

Other important statutory changes to the Program during the 2003-2007 Legislative Sessions include the following.

1. An installment purchase agreement (IPA) option for landowners selling easements to the Foundation, a grants program to help fund county IPA programs were authorized to be developed, and the Maryland Agricultural and Resource Based Industry Development Corporation was established that will provide an institutional structure for a State IPA program.
2. The legitimate owner of a released lot can now sell that dwelling five years after it was released with no restrictions or sooner than five years with permission of the Foundation's Board of Trustees.
3. Program funding was temporarily altered because of State budget shortfalls. From FY 2003 through FY 2005, the Program's dedicated revenues from the real estate transfer tax were diverted to the General Fund and a percentage of the diverted revenues was replaced by general obligation bonds.
4. The Foundation's Board of Trustees is explicitly authorized to approve the relocation

of a dwelling on district and easement properties. The existing dwelling is explicitly restricted from being redesignated as a tenant dwelling.

5. The cap on the maximum amount the State can provide as a match in the MALPF matching funds program was raised from \$1 million to \$2 million per county participant.
6. State agricultural districts will be phased out as an eligibility requirement for applying to sell an easement to the Maryland Agricultural Land Preservation Foundation. Districts will no longer be created as of July 1, 2007; existing districts will be terminated by July 1, 2012.

During the first three years of this five-year period, the most important general legislative discussion and actions affecting MALPF were the capital budget bills and the budget reconciliation and finance legislation. MALPF had a significant amount of its dedicated funding transferred to the General Fund because of the State budget shortfalls. Some portion of this funding was returned in the form of bond funding. As of FY 2007, MALPF is receiving its full dedicated funding.

During the 2005 Legislative Session, much of the legislative discussion and debate affecting the context in which MALPF operates focused on a set of bills on the disposition of public land. A section below is included specifically on land disposition legislation.

During the 2006 Legislative Session, MALPF devoted a great deal of staff time to the Agricultural Stewardship Act (HB 2/SB 5) that resulted in two important changes for MALPF: (1) Priority Preservation Areas are now a key part of the certification program, and (2) the Governor has been authorized, at his discretion, to include up to \$20 million in additional funding for MALPF from the General Fund.

During the 2007 Legislative Session, MALPF staff devoted much of its legislative efforts to promoting the removal of districts from the program and responding to groundwater recharge issues. Two general issues addressed during the 2007 Session that have the potential to affect the context in which MALPF operates are the Chesapeake Bay Green Fund legislation and eminent domain legislation.

Legislation – 2003 Legislative Session

Relating to Agricultural Land Preservation Issues

Task Force recommended legislation is indicated with an asterisk (*).

Task Force inspired legislation (at least some part of the bill) is indicated with a cross (†).

House of Delegates legislation only:

HB 091 – Maryland Agricultural Land Preservation Foundation – Allegany and Garrett Counties – Natural Gas Rights

Sponsors: Delegates Edwards, Kelly, and Myers.

Department position: support.

Legislative result: successful: passed by the House of Delegates and the Senate and signed by the Governor.

This bill would prevent regulations and procedures adopted by the Maryland Agricultural Land Preservation Foundation (MALPF) for the establishment and monitoring of agricultural districts from requiring a natural gas rights owner or lessee to subordinate its interest to MALPF's interest in Allegany or Garrett counties if MALPF determines that the exercise of

those rights will not interfere with an agricultural operation conducted on the land. MALPF must submit a report to the Governor and the General Assembly on the impact of the bill by October 1, 2006.

HB 131 – Carroll County – Agricultural Land Preservation – Easements – Dwelling House

Sponsors: Delegates Stocksdale, Amedori, and Elliott.

Department position: support.

Legislative result: successful: passed with amendments by the House of Delegates and the Senate and signed by the Governor.

This bill would allow a subsequent purchaser of agricultural land, under a Maryland Agricultural Land Preservation Foundation (MALPF) easement, to obtain a one-acre lot for construction of a dwelling if the original seller of the easement made the request to the Foundation. There are several conditions that apply to these lot requests. The original easement had to be sold prior to January 1, 1990, the lot would not be able to be subdivided from the property, the easement property must be at least 50 acres, and no dwelling house could have existed at the time of the easement sale. The legislation only applies to Carroll County. All requests for qualifying properties must be received within one year of the effective date of the legislation. The legislation would apply to 5 properties.

HB 157 – Calvert County – Agricultural Land Preservation Program – General Obligation Installment Purchase Agreements – Maximum Aggregate Purchase Price

Sponsor: Calvert County Delegation.

Department position: the Department takes no position on bills that are not statewide and do not directly affect MALPF.

Legislative result: successful: passed by the House of Delegates and the Senate and signed by the Governor.

This bill would renew the ability of Calvert County to assume debt to fund its installment purchase agreement program to acquire transfer of development rights on agricultural and forested properties as part of the County's Agricultural Land Preservation Program.

HB 406 – Maryland Agricultural Land Preservation Foundation – Acreage Requirements

Sponsors: Delegates Costa, V. Clagett, Dwyer, Elmore, Leopold, Love, Smigiel, Sophocleus, and Sossi.

Department position: oppose.

Legislative result: unsuccessful: the bill received an unfavorable report from the House Environmental Matters Committee.

This bill would decrease the minimum acreage requirement from 50 to 25 acres that must be met to qualify for a parcel to be eligible to be established as an agricultural district under the Maryland Agricultural Land Preservation Foundation (MALPF) qualifying on its own merits.

†HB 804 – Maryland Agricultural Land Preservation Foundation – Guidelines for Easement Rankings

Sponsor: Delegate James.

Companion bill: SB 564 (SB 564 was not officially cross-listed because HB 804 originally included provisions on easement valuation that were not included in SB 564).

Department position: support.

Legislative result: successful with related Senate bill: HB 804 passed with amendments by the House of Delegates and the Senate and vetoed by the Governor who signed the related bill, SB 564.

This bill would require the Foundation establish statewide ranking guidelines to review easement ranking systems of the counties for use in the First Round of easement offers to better meet program objectives. The bill would also end the use of the agricultural value formula in calculating easement values, and rather calculate easement values based on a percentage of fair market value. Change in easement ranking system was successfully passed; change in easement valuation system was excluded from the proposed legislation in committee at the request of the sponsor.

HB 826 – Maryland Agricultural Land Preservation Foundation – Termination of Easements

Sponsors: Delegates Glassman and Parrott.

Department position: oppose as unnecessary.

Legislative result: unsuccessful: withdrawn by sponsors because of a written opinion provided by the Office of the Attorney General that stated that counties already have the ability to ask grantors to waive the 25-year termination clause under existing statute and regulation and to make commitment to a perpetual easement a condition of approval for easement applications.

This bill would allow counties to require new easement applicants to commit to a perpetual easement and to ask current owners of easement property to consider a waiver of the 25-year termination clause.

HB 827 – Maryland Agricultural Land Preservation Foundation – Installment Purchase Agreements

Sponsors: Delegates Glassman and Parrott.

Department position: oppose, but supportive of the objective of the bill if acceptable language can be worked out.

Legislative result: unsuccessful: the bill received an unfavorable report from the House Environmental Matters Committee.

This bill would create an installment purchase agreement option payable over 20 years to supplement the existing lump-sum and installment payments options for landowners selling agricultural land preservation easements to the Maryland Agricultural Land Preservation Foundation.

HB 827 – Worcester County – Agricultural Preservation Advisory Board – Membership

Sponsors: Delegates Bozman and Conway.

Department position: the Department takes no position on bills that are not statewide and do not directly affect MALPF.

Legislative result: successful: passed by the House of Delegates and the Senate and signed by the Governor.

The bill increases the membership of Worcester County's agricultural preservation advisory board from five to seven, increases the number of farming members from three to four, and shortens the length of the appointment from five years to four.

HB 1084 – Tax Incentives and Benefits – Credits and Subtraction Modification

Sponsors: Delegates Gordon, Jones, Kaiser, McKee, and Ross.

Department position: oppose.

Legislative result: unsuccessful: not reported out of the House Ways and Means Committee.

This bill would repeal a range of tax credits allowed against specified State taxes and would alter those tax benefits provided under law by converting them to income tax subtraction modifications in determining Maryland taxable income. This bill would modify the income tax credit to which landowners who donate or offer bargain sales of easements to the Maryland Environmental Trust or the Maryland Agricultural Land Preservation Foundation may be entitled to an income tax deduction based on subtraction modifications, significantly reducing tax benefits from the donation of development rights or restrictive easements to the State land preservation programs.

Senate legislation only:

****SB 564 – Maryland Agricultural Land Preservation Foundation – Guidelines for Easement Rankings***

Sponsors: Senators Middleton and Dyson.

Related bill: HB 804 (because HB 804 originally included additional provisions on easement valuation, these bills were not officially cross-listed).

Department position: support.

Legislative result: successful: passed with amendments by the Senate and the House of Delegates and signed by the Governor.

This bill would require the Foundation establish statewide ranking guidelines to review easement ranking systems of the counties used for the Round One of easement offers to better meet program objectives.

House of Delegates and Senate legislation (cross-listed bills):

HB 140 – Creation of a State Debt – Maryland Consolidated Capital Bond Loan of 2003, the Maryland Consolidated Capital Bond Loans of 1995, 1996, 1997, 1998, 1999, 2000, and 2002, the General Construction Loans of 1988 and 1989, Arthur G. Murphy, Sr. Youth Services Center Loan of 1986, and Southern Maryland Regional Strategy-Action Plan for Agriculture Loan of 2003

SB 146 – Creation of a State Debt – Maryland Consolidated Capital Bond Loan of 2003, the Maryland Consolidated Capital Bond Loans of 1995, 1996, 1997, 1998, 1999, 2000, and 2002, and the General Construction Loans of 1988 and 1989

*Sponsor: The Speaker of the House of Delegates (by request of the Administration).
The President of the Senate (by request of the Administration).*

Department position: support the Administration's position.

Legislative result: successful: passed with amendments by the House of Delegates and then passed with incompatible amendments by the Senate; sent to conference committee to reconcile; and then signed by the Governor; bill originating in the Senate did not leave committee.

These cross-listed bills are Maryland's capital budget legislation and would authorize the creation of a State Debt in the amount of \$742,470,000 for the purposes specified in the bill. Specific to the Maryland Agricultural Land Preservation Foundation, the legislation authorized \$21,160,000 in bonds to replace the real estate transfer tax revenues diverted for FY 2003 and FY 2004 by the Budget Reconciliation and Finance Acts and to cover outstanding

obligations (already signed option contracts approved by the Board of Public Works) that were defunded by an earlier diversion of revenues. The legislation also provides \$3,000,000 in GreenPrint funding, of which \$750,000 will be used to purchase easements on MALPF agricultural districts.

***HB 805/SB 626 – Maryland Agricultural Land Preservation Foundation – Easements – Lot Exclusions and Allowable Economic Activity**

Sponsors: Delegate James.

Senators Middleton, Dyson, and Colburn.

Department position: support.

Legislative result: successful: passed with amendments by the House of Delegates and the Senate; the Governor signed SB 626.

These cross-listed bills would give more flexibility to the Foundation's Board to allow farm- and forestry-related activities and home occupations on easement properties, if there is no impact on the land and the investment of the State in land preservation is protected. This legislation would also limit the total number of lots allowed on a property to 3 (down from 10), decrease density (from 1:20 per lot to 1:20 for the first lot and 1:50 for the subsequent 2 lots), allow easement applicants to opt for one unrestricted lot that carries with the land rather than the 3 family lots, and make the exclusion of dwellings existing at the time of easement sale a function of lot exclusion limits.

HB 935/SB 657 – Budget Reconciliation and Financing Act of 2003

Sponsor: The Minority Leader (by request of the Administration).

The President of the Senate (by request of the Administration).

Department position: support the Administration's position.

Legislative result: successful: passed with irreconcilable amendments by the House of Delegates and the Senate; passed after a conference committee addressed the differences; the Governor signed HB 935.

These cross-listed bills would alter grants and programs, alter the permissible uses of funds, repeal required appropriations, and transfer funds to the General Fund, as specified in the bill. Specific to the Maryland Agricultural Land Preservation Foundation, the real estate transfer tax revenues dedicated to the purchase of agricultural conservation easements would be transferred to the General Fund. Those revenues would be, to some extent, offset by bonds authorized in HB 140 (2003).

Legislation – 2004 Legislative Session

Relating to Agricultural Land Preservation Issues

House of Delegates legislation only:

HB 001 – Public School Construction Assistance Act of 2004

Sponsors: The Speaker and Delegates Hixson, Conway, Healey, Barkley, Benson, Bobo, Bromwell, Bronrott, Busch, Cadden, Cane, G. Clagett, V. Clagett, Conroy, Cryor, D. Davis, DeBoy, Doory, Dumais, Franchot, Goldwater, Griffith, Harrison, Howard, Hurson, James, Jones, Kaiser, Kelley, King, Kirk, Krysiak, Lee, Love, Madaleno, Malone, Mandel, Marriott, McHale, McIntosh, Menes, Minnick, Moe, Montgomery, Pendergrass, Proctor, Quinter, Ramirez, Rosenberg, Sophocleus, Taylor, V. Turner, Vallario, Vaughn, Aumann, Edwards, Hammen, Stocksdales, F. Turner, and Hubbard.

Department position: no position.

Legislative result: unsuccessful: passed the House of Delegates, but was not reported out of the Senate Budget and Taxation Committee.

This bill would impose recordation and transfer taxes on the transfer of controlling interest in an entity that owns interests in real property in Maryland that constitute at least 80% of the value of the entity's assets and have an aggregate value of at least \$1,000,000. Further, local recordation tax revenues and State transfer tax revenues for fiscal years 2005 through 2008 would be dedicated to public school construction and renovation, as specified in the bill. This bill proposes to close a number of loopholes in the payment of real estate transfer taxes and to use the increased tax revenues to fund public school construction. This bill proposes to alter the funding formula for Program Open Space so that, if tax revenues devoted to public school construction fall below a certain level, the difference will be made up by taking funding away from other programs dependent on the real estate transfer tax, such as the Maryland Agricultural Land Preservation Foundation.

HB 098 – MALPF – Arbitration of Easement Values

Sponsor: Chairman, Environmental Matters Committee (Departmental bill).

Department position: support.

Legislative result: unsuccessful: passed the House of Delegates with minor amendments, but was not reported out of the Senate Education, Health, and Environmental Affairs Committee.

This bill would establish a deadline for appealing for arbitration of the appraised fair market value of a property for applicants to the Maryland Agricultural Land Preservation Program.

HB 164 – MALPF [– Resale of Released Lot]

Sponsor: Chairman, Environmental Matters Committee (Departmental bill).

Department position: support.

Legislative result: successful: passed the House of Delegates and the Senate with amendments and signed by the Governor.

This legislation would require a statement on specified agricultural land preservation easement releases that an owner's or owner's child's lot on an easement may not be transferred to an unrelated third party until after five years unless approved by the Foundation's Board of Trustees, unless the lot is subject to *bona fide* foreclosure proceedings.

HB 317 – MALPF – Income Tax Check-off

Sponsor: Delegate Rudolph.

Related bill: HB 470.

Department position: support.

Legislative result: unsuccessful: not reported out of the House Ways and Means Committee.

This bill would require the Comptroller to include a check-off on individual income tax return forms for voluntary contributions to the Maryland Agricultural Land Preservation Fund. The Comptroller would be required to include information in each individual income tax return package concerning the Maryland Agricultural Land Preservation Fund and would be required to collect and account for contributions made through the check-off system and credit the proceeds to the Fund after deducting the amount necessary to administer the check-off.

HB 470 – Income Tax Check-offs – MALPF and Rural Legacy

Sponsors: Delegates Jennings, Boteler, Boutin, Cane, Cluster, Elmore, Frank, Glassman, Hogan, Impallaria, James, McComas, McConkey, McDonough, McKee, Myers, O'Donnell, Owings, and Shank.

Related bill: HB 317.

Department position: support.

Legislative result: unsuccessful: not reported out of the House Ways and Means Committee.

This bill would require the Comptroller to include a check-off on individual income tax return forms for voluntary contributions to the Maryland Agricultural Land Preservation Fund or the Rural Legacy Program. The Comptroller would be required to include information in each individual income tax return package regarding the Maryland Agricultural Land Preservation Fund and the Rural Legacy Program and to collect and account for contributions made through the check-off system.

HB 606 – MALPF – Installment Purchase Agreements and Termination of Easements

Sponsors: Delegates Glassman, Barkley, Bartlett, Bobo, Boutin, Cadden, Cane, V. Claggett, Eckardt, Edwards, Frush, Hogan, Impallaria, James, Jennings, Kach, McComas, Owings, Parrott, Rudolph, Shank, Sossi, Stull, Weir, and Weldon.

Department position: support.

Legislative result: successful: passed the House of Delegates and the Senate with amendments and signed by the Governor.

This bill would authorize the Maryland Agricultural Land Preservation Foundation to purchase agricultural easements through installment purchase agreements. The installment purchase agreement would be created so that the Foundation would make annual payments of interest on the outstanding balance and pay the balance at the end of the term. Easements purchased under an installment purchase agreement would be perpetual.

HB 607 – Income Tax – Gain Recognized on Sale of Agricultural Land Preservation Easement

Sponsors: Delegates Smigiel, Boteler, Cluster, Costa, Dwyer, Eckardt, Haddaway, Kach, Shank, Sossi, and Stocksdale.

Department position: support.

Legislative result: unsuccessful: the bill received an unfavorable report from the House Ways and Means Committee.

This proposed bill creates a subtraction modification under the Maryland income tax for income resulting from the gain realized on the sale of an agricultural land easement to MALPF. This bill would apply to all taxable years after December 31, 2003.

HB 625 – MALPF – Grants – Installment Purchase Programs

Sponsors: Delegates Glassman, Barkley, Bartlett, Bobo, Boutin, Cadden, Cane, V. Claggett, Eckardt, Edwards, Frush, Hogan, Impallaria, James, Jennings, Kach, McComas, Owings, Parrott, Rudolph, Shank, Sossi, Stull, Weir, and Weldon.

Department position: support.

Legislative result: successful: passed the House of Delegates and the Senate with amendments and signed by the Governor.

This bill would authorize the Maryland Agricultural Land Preservation Foundation to make grants to purchase easements on specified properties to counties with approved installment purchase programs. The Foundation's Board of Trustees would review and approve only

installment purchase programs that purchase easements using installment purchase agreements with specified characteristics, including that such an easement purchased using a specified grant may not terminate. Any easements purchased under this grants program must be at least co-held with the Maryland Agricultural Land Preservation Foundation.

HB 849 – Tax Incentives and Benefits – Credits and Subtraction Modifications

Sponsors: Delegates Gordon, Hixson, Goodwin, Healey, Heller, Kaiser, and Ross.

Department position: no position.

Legislative result: unsuccessful: not reported out of the House Ways and Means Committee.

This bill would repeal a range of tax credits allowed against specified State taxes and would alter those tax benefits provided under law by converting them to income tax subtraction modifications in determining Maryland taxable income. This bill would modify the income tax credit to which landowners who donate or offer bargain sales of easements to the Maryland Environmental Trust or the Maryland Agricultural Land Preservation Foundation may be entitled to an income tax deduction based on subtraction modifications, significantly reducing tax benefits from the donation of development rights or restrictive easements to the State land preservation programs.

HB 880 – Transfer Tax Special Fund – Repayment of Transfers to the General Fund

Sponsors: Delegates James, Barkley, Bobo, Cardin, G. Clagett, Conroy, Heller, Howard, Hubbard, Kaiser, Leopold, Madaleno, Mandel, Nathan-Pulliam, Ramirez, Ross, Rudolph, and F. Turner.

Department position: no position.

Legislative result: unsuccessful: not reported out of the House Appropriations Committee.

This bill would require the repayment of State transfer tax revenues that were diverted from special funds to the General Fund in fiscal years 2004 and 2005. Beginning in fiscal year 2006, the annual repayment must be the lesser of \$20 million or an amount equal to the difference between the cumulative amount of the repayments and the total amount of State transfer tax revenues diverted to the General Fund. In addition, beginning in fiscal year 2006, the General Assembly must approve a repayment schedule prior to diverting special fund revenues to the General Fund.

Senate legislation only:

SB 713 – State Finance – State Projects or Programs – Funding

Sponsor: Senator Middleton.

Companion bill: none.

Department position: support.

Legislative result: successful: passed by the Senate and the House of Delegates and signed by the Governor.

This bill would provide that State projects or programs funded by Program Open Space, the Agricultural Land Preservation Fund, the Rural Legacy Program, or the Heritage Conservation Fund are not subject to specified provisions of law (HB444 – 2003) terminating the authority to spend appropriations by the State.

SB 930 – Agricultural Land Preservation – Termination of Agricultural Districts

Sponsor: Senator Klausmeier.

Department position: oppose.

Legislative result: unsuccessful: not reported out of the Senate Education, Health, and Environmental Affairs Committee.

This bill would authorize a landowner to terminate the landowner's property from an agricultural district after 30 months (2½ years) if the Maryland Agricultural Land Preservation Foundation has not purchased an agricultural preservation easement on the property and the landowner provides a 30-day notice of the intent to terminate to the Foundation, providing that a specified termination is not effective until the landowner executes and records the termination.

House of Delegates and Senate legislation (cross-listed bills):

HB 121/SB 144 – Office of Legislative Audits – Audit Requirements

*Sponsor: Delegate Mitchell (Chairman, Joint Audit Committee).
Senator McFadden (Chairman, Joint Audit Committee) and Senators Astle, Hafer, Hogan, Kramer, Lawlah, and Stoltzfus.*

Department position: support.

Legislative result: unsuccessful: the bill passed the House of Delegates, but received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

In conjunction with similar changes for several State agencies, these cross-listed bills would alter the period of the Maryland Agricultural Land Preservation Fund audit conducted by the Office of Legislative Audits; authorizing the Office of Legislative Audits to conduct its audit every two years, rather than each year.

HB 300 – Creation of a State Debt – Maryland Consolidated Capital Bond Loan of 2004, the Maryland Consolidated Capital Bond Loans of 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1999, 2002, and 2003, the General Construction Loan of 1989, the Water Quality Loans of 1974 and 1975, and the Chesapeake Bay Water Quality Loans of 1986, 1987, 1988, and 1989

SB 191 – Creation of a State Debt – MCCBL of 2004 and other Consolidated Capital and Bond Loans

*Sponsors: The Speaker and the Minority Leader of the House of Delegates (by request of the Administration).
The President and the Minority Leader of the Senate (by request of the Administration).*

Department position: support the MALPF bond proposal.

Legislative result: successful: SB 191 passed with amendments by the Senate and then passed with incompatible amendments by the House of Delegates; agreement was reached in conference committee; SB 191 was signed by the Governor; HB 300 received an unfavorable report from the House Appropriations Committee, so did not pass out of committee.

These cross-listed bills would authorize the creation of a State Debt in the amount of \$624,792,000 for the purposes specified in the bill; altering provisions of prior capital budgets. Specific to farmland preservation, this bill would authorize \$5,000,000 in bonds for FY 2005 for MALPF to replace the real estate transfer tax revenues that are being diverted to the General Fund through the Budget Reconciliation and Finance Acts. This legislation also authorizes \$3,000,000 in GreenPrint funds, of which 25%, or \$750,000 will be used to purchase easements on agricultural districts under MALPF.

HB 768/SB 479 – Income Tax Credit for Preservation and Conservation Easements – Transferability

*Sponsors: Delegates Bobo, V. Clagett and Glassman.
Senators Dyson, Munson, and Stoltzfus.*

Department position: support.

Legislative result: unsuccessful: the bills received unfavorable reports from the House Ways and Means Committee and the Senate Budget and Taxation Committee.

These cross-listed bills would allow an individual to transfer tax credits for preservation and conservation easements to another individual under limited circumstances and would authorize an individual to whom a credit for preservation or conservation easements is transferred to claim a credit against the Maryland income tax under limited circumstances.

***HB 770/SB 367 – MALPF – Tenant Houses – Construction**

*Sponsors: Delegates Cane, Stull, Conway, Eckardt, Glassman, Rudolph, and Sossi.
Senators Dyson and Middleton.*

Department position: support.

Legislative result: successful: HB 770 passed the House of Delegates and the Senate and was signed by the Governor; SB 367 passed the Senate and the House of Delegates, but was vetoed by the Governor who signed the cross-listed bill, HB 770.

These cross-listed bills would make the construction of tenant houses on farms subject to an agricultural land preservation easement subject to the review and approval of the Maryland Agricultural Land Preservation Foundation. The legislation would also require that a property have a full one-hundred acres per tenant house on the property and would authorize the Foundation to grant an exception to this acreage requirement, based on the landowner showing a compelling need.

***HB 777/SB 327 – MALPF – Easement Termination**

*Sponsors: Delegates Cane, Stull, Conway, Eckardt, Glassman, Rudolph, and Sossi.
Senators Dyson and Middleton.*

Department position: support.

Legislative result: successful: HB 777 passed the House of Delegates and the Senate with amendments and was signed by the Governor; SB 327 passed the Senate and the House of Delegates, but was vetoed by the Governor who signed the cross-listed bill, HB 777.

These cross-listed bills would require that the Maryland Agricultural Land Preservation Foundation provide a landowner with the opportunity for a public hearing before deciding on a request for termination of an agricultural land preservation easement whose purchase is approved by the Board of Public Works on or before September 30, 2004, and would require that easements whose purchase is approved by the Board of Public Works on or after October 1, 2004, be held by the Foundation in perpetuity.

HB 871/SB 510 – Budget Reconciliation Act of 2004

*Sponsors: The Speaker and the Minority Leader of the House of Delegates (by request of the Administration).
The President of the Senate (by request of the Administration).*

Department position: support the Administration's position.

Legislative result: successful: SB 510 passed the Senate with amendments, and passed the House with incompatible amendments; differences were reconciled in

conference committee; SB 510 was signed by the Governor; HB 871 did not pass the House because it received an unfavorable report from the House Appropriations Committee.

These cross-listed bills would alter grants and programs, alter the permissible uses of funds, repeal required appropriations, and transfer funds to the General Fund, as specified in the bill. Specific to the Maryland Agricultural Land Preservation Foundation, the real estate transfer tax revenues dedicated to the purchase of agricultural conservation easements would be transferred to the General Fund. Those revenues would be, to some extent, offset by bonds authorized in SB 191 (2004).

***HB 1086/SB 481 – Income Tax Credit for Preservation and Conservation Easements –
County Tax Credit Authorized***

*Sponsors: Delegates James, Bobo, Heller, McComas, and McIntosh.
Senators Dyson, Currie, Munson, and Stoltzfus.*

Department position: support.

Legislative result: unsuccessful: passed the Senate, but was not reported out of the House Ways and Means Committee.

These cross-listed bills would authorize the governing body of a county to permit a credit against the county income tax for preservation and conservation easements. Each county governing body would be authorized to determine the amount of that credit and to place any limitations determined to be appropriate on the credit. Any county that adopts a credit against the county income tax for preservation and conservation easements must notify the Comptroller prior to the taxable year in which the credit is applicable.

HB 1106/SB 480 – Property Tax – Assessment of Conservation Property

*Sponsors: Delegates James, Bobo, Cardin, Elmore, and Stull.
Senators Dyson and Munson.*

Department position: no position.

Legislative result: unsuccessful: the bill passed the Senate, but received an unfavorable report from the House Ways and Means Committee.

These cross-listed bills would alter the valuation and assessment for property tax purposes of property subject to specified perpetual conservation easements. The legislation would provide for a new subclass of real property for assessment purposes; and would provide for the application of the Act to taxable years beginning after June 30, 2004. While this legislation is primarily important to properties preserved by the Maryland Environmental Trust, it could have applied to a small number of early MALPF easements, keeping them in agricultural assessment, even if the landowner ceased to qualify.

Legislation – 2005 Legislative Session
Relating to Agricultural Land Preservation Issues

House of Delegates legislation only:

†HB 001 – Public School Construction Assistance Act of 2005

Sponsors: The Speaker and Delegates Hixson, Conway, Healey, Barkley, Bobo, Bohanan, Bozman, Burns, Cane, G. Clagett, V. Clagett, Conroy, Donoghue, Feldman, Frush, Gutierrez, Haynes, Heller, Howard, Hubbard, Jones, Kaiser, King, Krysiak, Levy, Love, Madaleno, Malone, Mandel, Menes, Montgomery,

Niemann, Patterson, Pendergrass, Petzold, Quinter, Rosenberg, Stern, Val-lario, Vaughn, Zirkin, Barve, Branch, Bronrott, Cardin, Cryor, C. Davis, Doory, Franchot, Gaines, Goodwin, Gordon, Griffith, James, Lee, Marriott, Moe, Nathan-Pulliam, Paige, Proctor, Ramirez, Ross, and F. Turner.

Department position: no position.

Legislative result: unsuccessful: the bill was passed by the House of Delegates with amendments, but was not reported out of the Senate Budget and Taxation Committee.

This bill would impose recordation and transfer taxes on the transfer of real property with a value of \$1 million or more when the transfer is achieved through the sale of a "controlling interest" in a specified corporation, partnership, limited liability company, limited liability partnership, or other form of unincorporated business. A controlling interest is defined as more than 80 percent of the total value of the stock or the interest in capital and profits. This bill would also require specified amounts of local recordation taxes to be dedicated to school construction for fiscal years 2006 through 2009. State transfer taxes collected under the bill would be dedicated to land preservation programs and distributed by the formula as provided under current law.

HB 074 – Maryland Agricultural Land Preservation Easement Termination – County Notification

Sponsor: Chairman, Environmental Matters Committee (Departmental bill).

Department position: support.

Legislative result: successful: passed by the House of Delegates and the Senate; final bill signed by the Governor.

This legislation increases the time from 30 days to 90 days that a county government has to notify the Foundation of its recommendation when a landowner applies to have a MALPF easement terminated. This change in the timeline is to allow the county sufficient time to consult its county Agricultural Land Preservation Advisory Board, hold public hearings, and have the request considered by the county's governing authority. Easement termination requests are only available to landowners whose easement purchases were approved by the Board of Public Works prior to September 30, 2004, whose easements have been held by MALPF for 25 years, and whose properties can no longer support profitable farming of any kind for any farmer. All easements purchased after that date have no termination possibility.

HB 075 – Maryland Agricultural Land Preservation Foundation – Board of Trustees

Sponsor: Chairman, Environmental Matters Committee (Departmental bill).

Department position: support.

Legislative result: successful: passed by the House of Delegates and the Senate; final bill signed by the Governor.

This legislation brings the membership of the Maryland Agricultural Land Preservation Foundation's Board of Trustees up-to-date by adding the Secretary of Planning as an *ex officio* member to the MALPF Board of Trustees, allowing the Secretary of Planning to appoint a designee from within the Maryland Department of Planning (MDP), and repealing the provision that requires a representative of MDP to be an at-large member of the Board. Also, this legislation reduces the number of at-large members from nine to eight. The existing law was written before Planning was a cabinet-level department and required the representative of the Office/Department of Planning to go through the entire appointments process to fill the at-large position.

HB 078 – Maryland Agricultural Land Preservation Foundation – Local Land Use

Sponsor: Chairman, Environmental Matters Committee (Departmental bill).

Department position: support.

Legislative result: successful: passed by the House of Delegates and Senate with amendments; final bill signed by the Governor.

This legislation authorizes a county to defer to MALPF land-use restrictions, allowing them to supercede local land-use regulations, on land subject to a MALPF agricultural conservation easement. If the county chooses to do so, the local government can reject approvals for subdivision plats or plans, building permits, conditional use or special exceptions, or any other activity on MALPF easement or district land without the Foundation's approval. The bill is intended to protect MALPF restrictions when county zoning laws have not been updated to reflect those restrictions.

HB 079 – Maryland Agricultural Land Preservation Foundation – Arbitration of Easement Values

Sponsor: Chairman, Environmental Matters Committee (Departmental bill).

Department position: support.

Legislative result: successful: passed by the House of Delegates and Senate with amendments; final bill signed by the Governor.

This bill sets a deadline for requesting an appeal of an appraisal of land offered for easement sale to the Foundation. If either the landowner or the Foundation do not agree on the value of the easement as determined by the State, either party must request the appeal by September 30 of the year following the determination of value.

HB 140 – St. Mary's County – Agricultural Land Preservation Program – General Obligation Installment Purchase Agreements

Sponsor: St. Mary's County Delegation.

Department position: the Department takes no position on bills that are not statewide and do not directly affect MALPF.

Legislative result: successful: passed by the House of Delegates and Senate with amendments; final bill signed by Governor.

This legislation authorizes St. Mary's County to enter into "installment purchase agreements" (IPAs) for an aggregate purchase price of up to \$20 million plus interest to acquire the development rights for agricultural or forestry land. Under such an agreement, St. Mary's County will acquire development rights from landowners of agricultural or forestry land located in St. Mary's County. In doing so, the county will be required to pay the purchase price for that land either in installments or at the maturity of the agreement, and interest on the unpaid balance.

HB 172 – Program Open Space – Conversion of Land – Easements

Sponsors: Delegates Morhaim and Kach.

Department position: no position.

Legislative result: unsuccessful: the bill was not reported out of the Environmental Matters Committee of the House of Delegates.

This bill would provide that placing an easement on land acquired or developed under a State grant from Program Open Space (POS) does not constitute a conversion restricted under current law.

HB 904 – Land Preservation Protection Act

Sponsors: Delegates James, Barkley, Bobo, Bohanan, Branch, Cadden, Cane, Cardin, G. Clagett, V. Clagett, Conroy, Conway, DeBoy, Franchot, Frush, Glassman, Griffith, Haynes, Heller, Hubbard, Jones, Kach, Kaiser, Krysiak, Leopold, Madaleno, Mandel, McIntosh, Menes, Montgomery, Niemann, Paige, Parker, Pendergrass, Proctor, Ramirez, Rosenberg, Sophocleus, Trueschler, F. Turner, and Weir.

Department position: no position.

Legislative result: unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.

This bill would require the Administration to repay diverted real estate transfer taxes at a rate of approximately \$20 million per year back into the Program Open Space fund either by general obligation bonds, repayment from the State's General Fund, or a combination of the two. This repayment would be accomplished by a reasonable plan submitted by the Governor or, in the absence of a reasonable plan, by a \$20 million annual transfer from the State's General Fund. In the future, transfers from the Special Fund to the General Fund would (1) be restricted to the fiscal year following a report that shows that expenditures exceed revenues, (2) be limited to no more than 50 percent of special fund revenues that can be transferred to the General Fund, and (3) require that a reasonable repayment plan be submitted by the Governor to the General Assembly.

HB 933 – Maryland Agricultural Land Preservation Foundation – Request for Release by Landowner's Estate

Sponsors: Delegates Stocksdales and Aumann.

Department position: oppose.

Legislative result: unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.

This bill would require MALPF to release a child's lot upon written application submitted by the estate of a deceased landowner whose land is under a permanent agricultural preservation easement within one year after the death of the landowner.

HB 934 – Maryland Agricultural Land Preservation Foundation – Child's Lot – Notice

Sponsors: Delegates Stocksdales and Aumann.

Department position: oppose.

Legislative result: unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.

This bill would require, as a condition of release of a child's lot from easement property by MALPF and at the time of the easement settlement, that the original grantor who sells the easement to the Foundation disclose on a form supplied by the Foundation that the grantor will be seeking the release of a lot for that child.

HB 1294 – Resource Conservation Planning Act of 2005

Sponsors: Delegates Trueschler, Bobo, Cardin, V. Clagett, Heller, Kach, and Quinter.

Department position: oppose.

Legislative result: unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.

This bill would require that local entities develop land and energy conservation plans and adopt particular zoning regulations. A statutory register of easements would be created. The allocation of revenue from the State real estate transfer tax would be modified by tying it to

the budget prepared by the Governor and by severing the link to the statutory dedicated allocation of funds (currently 17.05% to MALPF). The Department of Planning is directed to coordinate certain aspects of the resource conservation program.

†**HB 1530 – Maryland Agricultural Land Preservation Fund – Priority Preservation Areas – New Funding Sources**

Sponsors: Delegates Stull, Cane, Bartlett, Elliott, Hogan, McKee, Myers, Shank, Sossi, Walkup, and Weldon.

Department position: no position.

Legislative result: unsuccessful: the bill was not reported out of the Environmental Matters Committee of the House of Delegates.

This bill would require charter counties that develop a comprehensive land-use plan to include a Priority Preservation Areas Element as part of that comprehensive plan. A designated Priority Preservation Area must meet certain criteria, such as having productive agricultural or forest soils, being capable of supporting profitable agricultural or forestry enterprises, and being large enough to support agricultural activities. The Priority Preservation Area would have to be certified by the Maryland Department of Planning and the Board of Trustees of the Maryland Agricultural Land Preservation Foundation. Further, this bill would create additional funding sources for the Maryland Agricultural Land Preservation Foundation in the State property tax surcharge, by closing the loophole that allows corporate entities to avoid the real estate transfer tax when property is transferred by selling interest in the corporate entity rather than selling the property directly, and by increasing the agricultural transfer tax. Finally, 50% or more of the revenues MALPF receives from the real estate transfer taxes collected from the transfer of property other than agricultural land or property located in a Priority Funding Area, 50% or more of the revenues MALPF receives from the agricultural transfer tax, and all of the revenues it receives from the new property tax surcharge and the closing of the corporate loophole funds available to purchase agricultural conservation easements would be restricted to being spent only in certified Priority Preservation Areas.

Senate legislation only:

None

House of Delegates and Senate legislation (cross-listed bills):

HB 148/SB 127 – Budget Reconciliation Act of 2005

Sponsors: The Speaker of the House of Delegates (by request of the Administration).
The President of the Senate (by request of the Administration).

Department position: support the Administration's position.

Legislative result: unsuccessful: HB 148 was not reported out of the Appropriations Committee of the House of Delegates; agreement was reached in conference committee; SB 127 was not reported out of the Senate Budget and Taxation Committee.

These cross-listed Administration bills compose one of three omnibus bills required under the Governor's budget plan. The bill supports that plan primarily by providing relief from mandated funding levels for several programs throughout State government. Changes in these provisions of law would effectuate \$73.6 million in contingent general fund reductions in the fiscal 2006 budget bill (HB 150/SB 125). Some of the provisions have a one-time effect and some are ongoing. Additional budget benefits result from deferring or eliminating other

funding requirements, expanding the uses of existing special funds, and transferring a portion of transfer tax revenues to the general fund for a multi-year period. The legislation includes a severability clause. This legislation affects MALPF as follows. It would redirect real estate transfer tax revenues to the General Fund for four years, phasing in the amount of the transfer from 75% in FY 2006, to 66.67% in FY 2007, to 50% in FY 2008, and to 25% in FY 2009. Any revenue attained over the amount estimated in the budget would go to the General Fund on a permanent basis. The immediate impact on MALPF is that its allocation from transfer tax revenues would go from \$35,879,015 down to \$8,041,515 in FY 2006. Because this legislation did not pass, MALPF ended up receiving the full amount of its allocated transfer tax revenues for FY 2006.

HB 150/SB 125 – Budget Bill (Fiscal Year 2006)

*Sponsors: The Speaker of the House of Delegates (by request of the Administration).
The President of the Senate (by request of the Administration).*

Department position: support the Administration's position.

Legislative result: successful: HB 150 was passed with amendments by the House of Delegates and then passed with different amendments by the Senate; the House refuses to concur, and the Senate refuses to recede; agreement was reached in conference committee; HB 150 became law without the Governor's signature. SB 125 was not reported out of the Senate Budget and Taxation Committee.

This Administration legislation composes one of three omnibus bills required under the Governor's budget plan. The budget bill for FY 2006 is created to make the proposed appropriations contained in the State Budget for the fiscal year ending June 30, 2006, in accordance with Article III, Section 52 of the Maryland Constitution; and generally relating to appropriations and budgetary provisions made related to that section. Because the budget reconciliation legislation (HB 148/SB 127) did not pass, the operational budget legislation, including programs funded under special funds such as MALPF, determined the available funding for FY 2006. Under this legislation, MALPF was appropriated \$64,240,113 from all sources, less \$15,345,000, for a total of \$48,895,113 for both program operation expenses and the purchase of easements.

HB 340/SB 274 – Creation of a State Debt – Maryland Consolidated Capital Bond Loan of 2005 and the Maryland Consolidated Capital Bond Loans of 1998, 2000, 2002, 2003, and 2004

*Sponsors: The Speaker of the House of Delegates (by request of the Administration).
The President of the Senate (by request of the Administration).*

Department position: support the Administration's position.

Legislative result: successful: HB 340 passed with amendments by the House of Delegates and then passed with incompatible amendments by the Senate; agreement was reached in conference committee; HB 340 was signed by the Governor; SB 274 was not reported out by the Senate Budget and Taxation Committee.

These cross-listed bills would authorize the creation of a State Debt of \$665,443,000 for the purposes specified in the bill. The legislation alters the provisions of prior capital budgets. Specific to farmland preservation, this legislation no longer authorizes the creation of bond funding for MALPF to make up for the transfer of its dedicated real estate transfer tax revenues to the General Fund. Also, GreenPrint program funding has been ended.

***HB 517/SB 293 – Income Tax Credit for Preservation and Conservation Easements –
County Tax Credit Authorized***

*Sponsor: Delegate James.
Senators Dyson and Forehand.*

Department position: no position.

Legislative result: unsuccessful: HB 517 received an unfavorable report from the Ways and Means Committee of the House of Delegates; SB 293 passed the Senate, but was not reported out of the Ways and Means Committee of the House of Delegates.

These cross-listed bills would allow, subject to the approval of a county governing body, an individual to claim a credit against the county income tax for an easement conveyed to MALPF or the Maryland Environmental Trust (MET). This legislation states that the credit allowed could not exceed the lesser of the State income tax for a particular taxable year or \$5,000, though it allows a county governing body to determine the exact amount of a credit and place any additional limitations that it deems appropriate.

HB 518/SB 295 – Property Tax – Assessment of Conservation Property

*Sponsor: Delegate James.
Senator Dyson.*

Legislative result: unsuccessful: HB 518 received an unfavorable report from the Ways and Means Committee of the House of Delegates; SB 295 passed the Senate, but was not reported out of the Ways and Means Committee of the House of Delegates.

These cross-listed bills would establish conservation property as a separate sub-class of real property and provide that it be valued at a rate equivalent to the lowest rate used for agricultural use land. Conservation property includes land that is subject to a perpetual conservation easement approved by the Board of Public Works before June 30, 1986, and land that currently receives a property tax credit for conservation land. Conservation property would not be required to be actively farmed to be eligible for this assessment. This legislation would apply to a small number of MALPF easement properties.

***HB 532/SB 294 – Income Tax – Credit for Preservation and Conservation Easements –
Refundability***

*Sponsor: Delegate James.
Senator Dyson.*

Department position: no position.

Legislative result: unsuccessful: HB 532 received an unfavorable report from the Ways and Means Committee of the House of Delegates; SB 294 was not reported out of the Budget and Taxation Committee of the Senate.

These cross-listed bills would expand the existing Preservation and Conservation Easement tax credit by making the credit refundable. If the tax credit in any taxable year exceeds the state income tax payable by an owner of property with a MALPF or Maryland Environmental Trust (MET) easement for that taxable year, then the owner would be able to claim a refund in the amount of the excess.

HB 561/SB 325 – Agricultural Land Preservation – Termination of Agricultural Districts

*Sponsor: Delegate Weir
Senator Klausmeier.*

Department position: oppose.

Legislative result: unsuccessful: HB 561 received an unfavorable report from the Environmental Matters Committee; SB 325 received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

These cross-listed bills would reduce agricultural district agreements from the current 60-month (five-year) commitment to permit landowners to terminate district agreements after 30 months (two-and-a-half years), reducing the required notification time for such termination by the landowner to MALPF from one year to 30 days. However, this can occur only if certain conditions are met, including (1) the Foundation has not purchased an agricultural preservation easement on the property, (2) the Foundation has made an offer that has been rejected by the landowner, and (3) the landowner reimburses the state for all appraisal and recording costs associated with any easement processed during the time the property was subject to a district agreement.

***HB 1334/SB 502 – Agriculture – Critical Farms Program**

Sponsors: Delegates Cane, Stull, Bartlett, Bozman, Conway, Donoghue, Eckardt, Elliott, Elmore, Haddaway, Hogan, McKee, Rudolph, Shank, Sossi, Walkup, Weldon, Bobo, V. Clagett, Glassman, Jennings, Montgomery, Parker, and Weir.

Senators Dyson, Middleton, Colburn, Harris, and Greenip.

Department position: support.

Legislative result: successful: HB 1334 was passed by the House of Delegates and the Senate with incompatible amendments worked out in conference committee; HB 1334 was vetoed by the Governor as duplicative; SB 502 was passed by the Senate and the House of Delegates with incompatible amendments; Senate refuses to concur, but the House recedes and adopts the Senate version of SB 502; SB 502 was signed by the Governor.

These cross-listed bills would require MALPF and the Maryland Department of Planning (MDP) to establish a Critical Farms Program to provide interim or emergency financing for the acquisition of agricultural preservation easements on critical farms that would otherwise be sold for non-agricultural uses. MALPF and MDP must develop criteria to be used by counties to consider when determining whether a property qualifies for the program. This legislation would provide for specified evaluation criteria, such as location, productivity, and the consistency of the proposed acquisition with county goals. MALPF and MDP must examine options for easement acquisition on critical farms and identify those that will enable the critical farms program to succeed. MALPF and MDP are authorized to jointly establish regulations to implement the provisions of the bill. This legislation would also require MALPF and MDP to conduct a thorough study of the options available to fund the Critical Farms Program established under the bill and submit a report to the Governor and the General Assembly by January 1, 2006.

HB 1533/SB 738 – Governor's Budget – Land Preservation Programs – Funding

Sponsors: Delegates Cane, Bobo, Bozman, Conroy, Glassman, Holmes, Hubbard, Kirk, Marriott, Nathan-Pulliam, Petzold, and Stull.

Senators Middleton, DeGrange, Dyson, and Frosh.

Department position: no position.

Legislative result: unsuccessful: HB 1533 was not reported out of the Environmental Matters or the Appropriations Committee of the House of Delegates; SB 738 was not reported out of the Senate Budget and Taxation or the Education, Health, and Environmental Affairs Committees.

These cross-listed bills would require, beginning in fiscal year 2007, repayment of recent transfers totaling \$390 million in State real estate transfer tax revenues to the General Fund by including the transfer tax special fund in the provisions relating to the disposition of any unappropriated General Fund surplus. This legislation would also establish provisions regarding the future transfer of State transfer tax revenues to the General Fund and provides for the replacement of any transferred funds. This legislation would specifically repay State land preservation programs, including MALPF, Program Open Space, Rural Legacy, and the Heritage Conservation Fund.

HB 1594/SB 1006 – Maryland Agricultural and Resource-Based Industry Development Corporation – Annual State Funding and Duties

Sponsors: Delegates Rudolph, Conway, McKee, Bartlett, Boutin, Bozman, Cane, G. Clagett, Donoghue, Eckardt, Edwards, Elliott, Elmore, Glassman, Had-daway, Hogan, Jennings, Kelly, Myers, Shank, Smigiel, Sossi, Stull, Walkup, Weldon, Bohanan, Branch, Franchot, Griffith, James, Jameson, Krebs, Kullen, Leopold, Levy, McComas, O'Donnell, Parrott, Proctor, Stocks-dale, Vallario, and Wood.

Senators Munson, Middleton, Brinkley, Colburn, Dyson, Hafer, Haines, Hooper, Jacobs, Kittleman, Mooney, Pipkin, and Stoltzfus.

Department position: support.

Legislative result: successful: HB 1594 was passed by the House of Delegates and the Senate with amendments; HB 1594 was signed by the Governor; SB 1006 received a favorable report with amendments from the Senate Budget and Taxation Committee, but did not go to third reader in the Senate.

This legislation authorizes the Governor to include each year in the budget bill an appropriation to the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) in an amount up to \$5 million in order to capitalize MARBIDCO. If the State provided \$12 million or less from fiscal years 2006 through 2010, the Governor could include an appropriation of up to \$6.5 million annually. MARBIDCO could be useful to MALPF by providing an institutional structure that could provide installment purchase agreements as a settlement option to landowners selling easements to MALPF (and other State agencies).

Land Disposition Legislation (2005):

In the 2005 Legislative Session, a number of bills were introduced in both chambers of the General Assembly on the issue of the disposition of State-owned land and land in which the State of Maryland had a real interest. The intent of these bills was to require that the disposition of State land would require the review and approval of the General Assembly or a committee of the General Assembly delegated that responsibility. With some exceptions, these bills did not differentiate between State-owned land and land in which Maryland had purchased certain rights, such as agricultural conservation easements of the sort purchased by the Foundation. These bills also did not differentiate between the sale of State-owned parcels as opposed to the normal process of straightening property lines, relocating residences on easement properties, lot releases, or other normal administrative tasks undertaken by a State agency such as MALPF.

The Maryland Department of Agriculture supported the general objective of these bills, but successfully testified orally and in writing at the consolidated hearings on these bills that easement properties should be exempted from the land disposition requirements. A strict interpretation of the language of some of the initial proposed legislation could have resulted in requiring the approval of the General Assembly for private landowners to sell or transfer MALPF district or easement proper-

ties, to complete a lot release, to take out a mortgage or lien on the property, etc. Such a requirement would have imposed a significant and unnecessary burden on MALPF program participants and significantly increased the administrative burden on MALPF and its partners at the Department of General Services and in the counties.

Though the following bills are related, none were cross-listed. Those that were successful were amended to remove easement properties from the land disposition requirements. However, because the constitutional amendment that was adopted has broad language, MALPF is still waiting for a final opinion from the Office of the Attorney General on its applicability to easement properties.

HB 004 – Land Preservation and State Asset Protection Act

Sponsors: Delegates Busch, James, McIntosh, Griffith, Barve, Barkley, Bobo, Bohanan, Bozman, Burns, Cane, G. Clagett, V. Clagett, Conroy, Conway, Donoghue, Frush, Glassman, Gutierrez, Haynes, Healey, Heller, Holmes, Hubbard, Jones, Kach, Kaiser, King, Krysiak, Levy, Love, Madaleno, Mandel, Menes, Montgomery, Niemann, Patterson, Pendergrass, Petzold, Quinter, Rosenberg, Ross, Stern, Vallario, Vaughn, Zirkin, Arnick, Bronrott, Hogan, McConkey, Parker, Sossi, Weir, Nathan-Pulliam, F. Turner, Branch, Cadden, DeBoy, Franchot, Paige, Proctor, Ramirez, Sophocleus, Trueschler, Cardin, Kullen, Lee, Hixson, Moe, Stocksdale, Aumann, Gaines, Eckardt, Bates, Leopold, and Edwards.

Legislative result: unsuccessful: passed with incompatible amendments by both the House of Delegates and the Senate; the Senate refused to recede to the House version of the bill; incompatibilities were resolved in conference committee, but the bill never went forward from the conference committee; the bill signed by the Governor was the related bill, SB 306.

This bill would establish new requirements for the disposition of State-owned outdoor recreation, open space, conservation, preservation, park, or forest real property. This bill would also establish new requirements relating to the determination of such property as excess, establish provisions governing the declaration of property as surplus, and modify provisions governing disposition approval by the Board of Public Works (BPW). This bill would further provide for the repayment of State transfer tax revenues transferred after fiscal year 2005, expedite the use of transfer tax revenue over-attainment under specified conditions, and provide that a minimum of \$1.5 million of the State's share of funds under Program Open Space (POS) must be used to provide grants to Baltimore City.

HB 067 – Board of Public Works – Disposition of Park Lands – General Assembly

Approval Required

CONSTITUTIONAL AMENDMENT

Sponsor: Delegate Franchot.

Legislative result: unsuccessful: passed with amendments by the House of Delegates, but not reported out of the Senate Rules Committee.

This bill would amend the State Constitution to prohibit the Board of Public Works (BPW) from approving the sale, transfer, exchange, grant, or other disposition of any State-owned outdoor recreation, open space, conservation, preservation, forest, or parkland without the express approval of the General Assembly or of a committee that the General Assembly designates by statute, resolution, or rule. This proposed constitutional amendment would be submitted to the qualified voters of the State of Maryland for their adoption or rejection.

SB 102 – Board of Public Works – Disposition of Park Lands – General Assembly

Approval Required

CONSTITUTIONAL AMENDMENT

Sponsors: Senators Frosh, Dyson, Green, Astle, Britt, Brochin, Conway, Currie, De-Grange, Della, Exum, Forehand, Garagiola, Gladden, Grosfeld, Hogan, Hollinger, Hughes, Jimeno, Jones, Kasemeyer, Kelley, Klausmeier, Lawlah, McFadden, Miller, Pinsky, Ruben, Stone, Teitelbaum, Brinkley, Greenip, Hafer, Haines, Harris, Hooper, Jacobs, Kittleman, Mooney, Munson, Pipkin, Schrader, and Stoltzfus.

Legislative result: successful: passed with amendments by the Senate and by the House of Delegates; became law without the Governor's signature per Maryland Constitution.

This legislation amends the State Constitution to prohibit the Board of Public Works (BPW) from approving the sale, transfer, exchange, grant, or other permanent disposition of any State-owned outdoor recreation, open space, conservation, preservation, forest, or parkland without the express approval of the General Assembly or of a committee that the General Assembly designates by statute, resolution, or rule. This proposed constitutional amendment would be submitted to the qualified voters of the State of Maryland for their adoption or rejection.

SB 103 – Board of Public Works – Disposition of State Lands – Legislative Approval

Sponsors: Senators Dyson and Frosh.

Legislative result: unsuccessful: the bill received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

This proposed bill would prohibit the Board of Public Works (BPW) from approving the sale, lease, transfer, exchange, grant, or other disposition of any State-designated recreation, open space, conservation, preservation, forest, or parkland without the approval of the General Assembly through legislation.

SB 104 – Board of Public Works – Disposition of Public Lands – Review by Legislative Policy Committee

Sponsor: Senator Middleton.

Legislative result: unsuccessful: the bill received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

This proposed bill would establish new requirements for the determination and reporting of excess State-owned real property, including a review of the social, community, and environmental value of the real property. Also, this bill would prohibit the Board of Public Works (BPW) from approving the disposition of property owned by the State or in which the State has an interest unless the BPW determines that the monetary value or other benefit received by the State is the same or greater than the value of the public features on the property. Further, this bill would make the Legislative Policy Committee (LPC) part of the review process for proposals to sell, lease, transfer, exchange, grant, or other disposition of certain state-owned property or property in which the state has an interest.

SB 306 – Land Preservation and State Asset Protection Act

Sponsors: Senators Dyson, Astle, Britt, Brochin, Conway, Currie, DeGrange, Della, Exum, Forehand, Frosh, Garagiola, Gladden, Green, Grosfeld, Hogan, Hughes, Jimeno, Jones, Kelley, Klausmeier, Lawlah, McFadden, Miller, Pinsky, Ruben, Stone, Teitelbaum, and Middleton.

Legislative result: successful: passed with different amendments by the Senate and by the House of Delegates; Senate concurred by the House-originated amendments; final bill signed by the Governor.

This legislation establishes new requirements for the Board of Public Works to fulfill before State-owned or State-designated outdoor recreation, open space, conservation, preservation, forest, or other parkland can be sold, leased, transferred, exchanged, granted, or otherwise disposed. New requirements include a public hearing with two weeks notice, determination that the property is not wanted by another State or local government entity, two independent appraisals, and several others.

Legislation – 2006 Legislative Session

Relating to Agricultural Land Preservation Issues

House of Delegates legislation only:

HB 090 – Agricultural Land Preservation Foundation – Dwelling Relocation

Sponsor: Chair, Environmental Matters Committee (Departmental bill).

Department position: support.

Legislative result: successful: passed with amendments by the House of Delegates and by the Senate; signed by the Governor.

This legislation would grant explicit authority to MALPF's Board of Trustees to review and approve program participants' requests to relocate dwellings on Foundation property as long as the new location does not interfere with the property's agricultural use. As a condition of approval, the existing dwelling must be demolished or, under exceptional and compelling circumstances, converted to an agricultural use integral to the farming operation.

HB 459 – Maryland Agricultural Land Preservation Foundation – Easements – Funds and Released Lots

Sponsors: Delegates Stocksdales, Aumann, Boschert, Bozman, Elliott, Elmore, Gilleland, Kach, Kohl, Krebs, Parker, Shewell, and Stull.

Related bills: HB 460 (on lot size); HB 769 (on matching funds cap).

Department position: support with amendments.

Legislative result: unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates; the substance of the bill passed in HB 460 and HB 769.

This bill would increase the cap on the maximum amount the State can provide as a match in the MALPF matching funds program from \$1 million to \$2 million and increases county discretion in approving lot sizes greater than one acre (to a maximum of two acres) when landowners exercise the rights they retain under a MALPF easement for an owner's, child's, or unrestricted lot.

HB 460 – Maryland Agricultural Land Preservation Foundation – Restrictions of Released Lots

Sponsors: Delegates Stocksdales, Aumann, Boschert, Elliott, Elmore, Gilleland, Kach, Kohl, Krebs, Parker, Shewell, and Stull.

Related bill: HB 459.

Department position: support with amendments.

Legislative result: successful: passed with amendments by the House of Delegates and

the Senate; signed by the Governor.

This legislation would authorize MALPF to waive specified restrictions governing the maximum size of released lots of one acre, so that the maximum lot size could be two acres if: (1) MALPF receives a recommendation to allow a maximum lot size of more than one acre from the county agricultural preservation advisory board and the planning and zoning authority of the jurisdiction where the land is situated; and (2) MALPF makes a determination that a lot size greater than one acre will not interfere significantly with the agricultural use of the land under easement. Previously, exceptions to one-acre lots were made only if county regulations required a lot to be larger than one acre and/or if septic requirements could only be met with a lot greater than one acre.

HB 483 – Income Tax – Subtraction Modification – Amounts Received for Agricultural Preservation

Sponsors: Delegates Smigiel, Costa, Dumais, Dwyer, Eckardt, Elmore, Haddaway, Jameson, McConkey, Quinter, Rosenberg, Sossi, and F. Turner.

Department position: support.

Legislative result: unsuccessful: the bill received an unfavorable report from the Ways and Means Committee of the House of Delegates.

This bill would create a subtraction modification under the State income tax for income derived from the sale of agricultural easements to the Maryland Agricultural Land Preservation Foundation (MALPF), the Rural Legacy Program, or Program Open Space. In addition, any income received from these agencies for the purpose of preserving agricultural land may also be exempted from State taxation.

HB 490 – Maryland Agricultural Land Preservation Foundation – District Agreement – Time Requirement

Sponsors: Delegates Stocksdales, Elliott, Krebs, and Shewell.

Related bill: HB 769.

Department position: support with amendments.

Legislative result: unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates; substance of the bill was included in HB 769.

This bill would repeal the five-year time requirement to which a landowner must agree to be eligible for inclusion into an agricultural preservation district under the Maryland Agricultural Land Preservation Program. Also, this bill provides that, in the ordinance that establishes a district, the county governing body must establish the length of time required for a district agreement from one to ten years.

HB 699 – Agriculture – Preservation of Historic Structures

Sponsors: Delegates Stull, Aumann, Bartlett, Bobo, Bohanan, Boteler, Bozman, G. Claggett, Cluster, Conway, Edwards, Elliott, Elmore, Frank, Glassman, Haddaway, Jameson, Krebs, Kullen, Levy, Mayer, McComas, McConkey, McKee, Montgomery, Myers, O'Donnell, Rudolph, Shank, Smigiel, Sossi, Stocksdales, and Wood.

Department position: no position.

Legislative result: successful: passed by the House of Delegates and the Senate with different amendments; the House of Delegates concurs with the Senate amendments; bill signed by the Governor.

This legislation establishes a 10-member Maryland Advisory Committee on Historic Agricultural Structure Preservation and creates a new Barn Preservation Fund to provide grants to preserve historic barns and agricultural structures.

HB 769 – Maryland Agricultural Land Preservation Foundation – Easements – Program Requirements

Sponsors: Delegates Jennings, Cane, Glassman, Lawton, Montgomery, Sossi, Stull, and Weir.

Related bills: HB 459 (on matching funds cap); HB 490 (on agricultural districts).

Department position: support with amendments.

Legislative result: successful: passed by the House of Delegates and the Senate with different amendments; the House of Delegates concurred with the Senate amendments; bill signed by the Governor.

This legislation would decree that on or before January 31, 2007, MALPF shall submit to the General Assembly, in accordance with § 2-1246 of the State Government Article, a report outlining procedures, laws, and regulations that the Foundation determines to be necessary in order to implement the elimination of agricultural districts from the Maryland Agricultural Land Preservation Program. The report would include: (a) an implementation timeline, and (b) statutory language for the repeal and reenactment of §§ 2-509 and 2-510 of the Agriculture Article, including the removal of the requirement for districts from the easement application process to become effective July 1, 2007, and the elimination of districts from the program to become effective June 30, 2008. Also, this legislation would increase the maximum State match for MALPF's matching funds program from \$1 million to \$2 million. Further, this legislation would change the voluntary commitment required of program applicants not to develop from five years statewide to three-to-ten years, with the commitment length determined by individual counties. And additionally, this legislation would change the provision that keeps applicants who reject full offers from reapplying to the Program for two years to allow those applicants to reapply immediately to the Program to sell their easements. However, an applicant who rejects an easement offer from the Foundation for two consecutive years could not then reapply for the following two consecutive years.

HB 829 – Maryland Agricultural Land Preservation Foundation – Use of Land for Existing Easements

Sponsors: Delegates Bates and Miller.

Department position: oppose.

Legislative result: unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.

This bill would (1) increase the maximum number of lots available on a property from three to six, (2) release these lots as unrestricted lots that could be developed for commercial sale, (3) for each unrestricted lot developed, reduce by one the landowner's right to an owner's or child's lot, (4) reduce the density at which lots could be developed from one lot for the first full twenty acres and one lot each for the next two full fifty acre increments to a density of one lot per fifty acres, and (5) would subject the location of the lots to be subdivided to the approval of the local agricultural advisory board or MALPF.

HB 1254 – Maryland Agricultural Land Preservation Foundation and Rural Legacy

Program – Bonus Density – Prohibition

Sponsors: Delegates Smigiel, Rosenberg, and Sossi.

Department position: oppose.

Legislative result: unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.

This bill would prohibit MALPF from purchasing an easement in a zoning district in which the county grants "bonus density." This bill also would prohibit a county from using specified MALPF funds for the purchase of an easement in a zoning district in which the county grants bonus density. Furthermore, this bill would prohibit funds under the Rural Legacy Program within the Department of Natural Resources (DNR) from being used for the purchase of an easement or the acquisition of property in a zoning district in which the county grants bonus density. "Bonus density" is allowing, after the purchase of an easement on a property, more subdivisions on an adjacent property than would otherwise be allowed under the zoning ordinance for the adjacent property.

HB 1268 – Land Use – Transfer of Development Rights – Restriction

Sponsor: Delegate Smigiel.

Department position: oppose.

Legislative result: unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.

This bill would provide that development rights transferred under a transfer of development rights (TDR) program may not be transferred to a zoning district for which the local legislative body sanctions preservation easements.

†HB 1272 – Maryland Agricultural Land Preservation Foundation and Rural Legacy Program – Priority Preservation Areas – Protecting Public Investment in Land Preservation

Sponsors: Delegates Smigiel, Kelley, Rosenberg, and Sossi.

Similar bills: HB 002 and SB 005.

Department position: oppose.

Legislative result: unsuccessful: the bill received an unfavorable report from the Environmental Matters Committee of the House of Delegates.

This bill, similar to HB 002 and SB 005, would establish a Priority Preservation Area (PPA) certification program to be evaluated and certified by MALPF and the Maryland Department of Planning (MDP). Unlike the program set up in the agricultural stewardship bills, this program would be freestanding, not made a required (or voluntary) element of a county's comprehensive land-use plan. Also, unlike the program set up in the agricultural stewardship bill, this certification would directly affect the allocation of existing funds to MALPF's county partners. Beginning in 2008, counties with certified PPAs would receive an amount three times the general allocation of counties with uncertified PPAs. The term of certification would be two years, parallel to the existing certification program for local agricultural land preservation programs.

HB 1274 – Land Preservation Programs – Repayment of Transfers to the General Fund

Sponsors: Delegates James, Barkley, Bobo, Bronrott, Cane, Hubbard, Lee, Madaleno, Montgomery, Petzold, and Stern.

Related bill: HB 815.

Legislative result: unsuccessful: the bill received an unfavorable report from the Appropriations Committee of the House of Delegates.

This proposed bill would alter provisions of Chapter 473 of 2005 to: (1) require the repayment of State transfer tax revenues transferred to the General Fund for fiscal year 2004 and subsequent years, thereby requiring an additional \$292.1 million to be repaid; and (2) repeal as obsolete a provision that provides that the repayment would only take effect once the Transportation Trust Fund has been fully repaid. However, the bill would not otherwise modify the current repayment schedule. State transfer taxes fund different land conservation programs, including MALPF, Program Open Space, Rural Legacy, and the Heritage Conservation Fund.

HB 1276 – Income Tax Credit for Preservation and Conservation Easements – County Tax Credit Authorized

Sponsors: Delegates James, Boschert, Heller, Howard, Ramirez, and Ross.

Related bill: SB 360.

Department position: support.

Legislative result: unsuccessful: the bill was not reported out of the Ways and Means Committee of the House of Delegates.

This proposed bill would allow, subject to a county governing body's approval, the State income tax credit for preservation and conservation easements to be applied against a county income tax.

HB 1423 – Income Tax – Credit for Preservation and Conservation Easements – Refundability

Sponsor: Delegate James.

Related bill: SB 337.

Department position: support.

Legislative result: unsuccessful: the bill was not reported out of the Ways and Means Committee of the House of Delegates.

This proposed bill would expand the existing Preservation and Conservation Easement tax credit by making the credit refundable. The amount of refundable credit claimed in each year would not exceed \$5,000, and any excess amount of credit would be carried forward as provided under current law.

Senate legislation only:

SB 337 – Income Tax – Credit for Preservation and Conservation Easements – Refundability

Sponsor: Senator Dyson.

Related bill: HB 1423.

Department position: support.

Legislative result: unsuccessful: the bill received an unfavorable report from the Senate Budget and Taxation Committee.

The bill would allow property owners who convey an easement to MALPF or the Maryland Environmental Trust (MET) to receive a refund for any unused portion of their allowable State income tax credit. The amount of refundable credit claimed in each year would not exceed \$5,000. Any excess amount of credit would be carried forward as provided under current law.

SB 360 – Income Tax Credit for Preservation and Conservation Easements – County Tax Credit Authorized

Sponsors: Senators Dyson, Currie, Hogan, Lawlah, and Munson.

Related bill: HB 1276.

Department position: support.

Legislative result: unsuccessful: the bill passed with amendments in the Senate, but was not reported out of the Ways and Means Committee of the House of Delegates.

This bill would allow, subject to the approval of a county's governing body, an individual to claim a credit against the county income tax for an easement conveyed to MALPF or the Maryland Environmental Trust (MET). The credit allowed under this section may not exceed the lesser of the State income tax for that taxable year or \$5,000, though a county's governing body may determine the exact amount of a credit and place any further limitations that it deems appropriate. In addition, a county may provide for a credit against the county income tax for an easement conveyed to the Department of Natural Resources (DNR) that is donated in full under the Rural Legacy Program or Program Open Space.

House of Delegates and Senate legislation (cross-listed bills):

†HB 002/SB 005 – Agricultural Stewardship Act of 2006

Sponsors: The Speaker and Delegates McIntosh, Conway, Hixson, Aumann, Barkley, Bartlett, Barve, Bates, Bohanan, Bobo, Bozman, Branch, Bromwell, Bronrott, Brown, Burns, Cadden, Cane, Cardin, G. Clagett, V. Clagett, Cluster, Conroy, D. Davis, DeBoy, Donoghue, Doory, Dumais, Eckardt, Edwards, Elliott, Elmore, Feldman, Franchot, Frush, Gaines, Glassman, Goodwin, Gordon, Griffith, Gutierrez, Hammen, Harrison, Haynes, Healey, Heller, Holmes, Hogan, Howard, Hubbard, James, Jameson, Jennings, Jones, Kaiser, Kelley, King, Krebs, Krysiak, Kullen, Lawton, Lee, Leopold, Levy, Love, Madaleno, Malone, Mandel, Marriott, Mayer, McComas, McConkey, McHale, McKee, Menes, Moe, Montgomery, Morhaim, Murray, Nathan-Pulliam, Niemann, O'Donnell, Paige, Parker, Patterson, Pendergrass, Petzold, Proctor, Pugh, Quinter, Rosenberg, Smigiel, Sophocleus, Sossi, Stern, Stocksdale, Stull, Trueschler, F. Turner, V. Turner, Vallario, Vaughn, Weir, and Zirkin.

Senators Miller, Hollinger, Middleton, Brinkley, Colburn, Conway, Dyson, Klausmeier, Garagiola, Brochin, and Munson.

Similar bill: HB 1272.

Department position: support with amendments.

Legislative result: successful: SB 5 was passed by the Senate with amendments and by the House of Delegates with different amendments; a conference committee was appointed after the Senate refused to concur and the House refused to recede; the bill was not reported out of the conference committee; HB 2 was passed by the House of Delegates with amendments and passed by the Senate with different amendments; a conference committee was appointed after the House refused to concur and the Senate refused to recede; the conference committee report was adopted, and HB 2 was signed by Governor.

This legislation would require counties to develop a Priority Preservation Area (PPA) Element and to incorporate it into each county's comprehensive land-use plan. The PPA must be capable of supporting profitable agricultural activities, be governed by local policies to stabilize the land base to limit development, and be large enough to support the kind of agricultural enterprises that the county is seeking to preserve. MALPF and the Maryland Department of Planning (MDP) must review and certify the PPA. Each comprehensive plan revi-

sion and/or update is subject to PPA certification renewal. Effective July 2009, counties must include a Priority Preservation Area Element when applying for certification and recertification of effective county agricultural land preservation programs. By December 31, 2006, MALPF and MDP must jointly adopt regulations for the administration of county priority preservation area certification. This legislation also states the intent of the General Assembly for the Governor to include in the budget \$20 million from the General Fund as well as MALPF dedicated funding from Special Funds. These additional revenues would fund the Critical Farms Program, the Installment Purchase Agreement Program, the Priority Preservation Areas Program, and/or the regular easement acquisition program. MALPF shall distribute funds among these programs to meet the programs' demand.

HB 150/SB 110 – Budget Bill (Fiscal Year 2007)

*Sponsors: The Speaker of the House of Delegates (by request of the Administration).
The President of the Senate (by request of the Administration).*

Department position: support the Administration's position.

Legislative result: successful: HB 150 was not reported out of the House Appropriations Committee; SB 110 passed with amendments by the Senate and then passed with incompatible amendments by the House of Delegates; agreement was reached in conference committee; SB 110 became law without the Governor's signature.

This Administration legislation composes one of three omnibus bills required under the Governor's budget plan. The budget bill for FY 2007 is created to make the proposed appropriations contained in the State Budget for the fiscal year ending June 30, 2007, in accordance with Article III, Section 52 of the Maryland Constitution; and generally relating to appropriations and budgetary provisions made related to that section. MALPF funding appropriations returned to normal for FY 2007; no bond bills were issued on behalf of the MALPF program. Under this legislation, MALPF was appropriated \$92,166,792 from all sources, less \$2,415,000 taken from MALPF appropriations and given to the Tri-County Council for land preservation projects, for a total of \$89,751,792 for both program operation expenses and the purchase of easements.

HB 236/SB 658 – Maryland Estate Tax – Exclusion for Family Farms Subject to Agricultural Preservation Easements

Sponsors: Delegates Glassman, Aumann, Barkley, Cluster, Conroy, Cryor, Dumais, Elliott, Frank, Haddaway, Hogan, Impallaria, James, Jennings, Kach, Kohl, Krebs, Mayer, McComas, McConkey, McDonough, Rudolph, Shank, Shewell, Smigiel, Sossi, Stocksdales, Stull, and Weldon.

Senators Hooper, Brinkley, Colburn, Dyson, Garagiola, Hafer, Haines, Harris, Jacobs, Kittleman, Middleton, Mooney, Munson, Pipkin, and Stoltzfus.

Department position: support.

Legislative result: unsuccessful: HB 236 not reported out of the Ways and Means Committee of the House of Delegates; SB 658 not reported out of the Budget and Taxation Committee of the Senate.

These cross-listed bills would alter the determination of the Maryland estate tax by excluding from the gross estate's value the value of the real property that: (1) is subject to either a perpetual agricultural preservation easement that has been granted to MALPF or a MALPF-approved local agricultural land preservation program, and (2) passes from the decedent to or for the use of a specified relative of the decedent.

HB 815/SB 493 – Land Preservation – Repayment of Transfers to General Fund

Sponsors: Delegates James, Cadden, Barkley, Barve, Bohanan, Cane, Cardin, G. Clagett, V. Clagett, C. Davis, DeBoy, Edwards, Franchot, Frush, Gaines, Holmes, Hubbard, Jennings, Leopold, Madaleno, McIntosh, Montgomery, Niemann, Proctor, Quinter, Stern, F. Turner, and Weir.

Senators Hogan, Astle, Britt, Brochin, DeGrange, Della, Dyson, Exum, Forehand, Frosh, Garagiola, Giannetti, Gladden, Green, Grosfeld, Hollinger, Hughes, Jimeno, Klausmeier, Kramer, Lawlah, McFadden, Middleton, Munson, Pinsky, Ruben, Stone, and Teitelbaum

Related bill: HB 1274.

Department position: no position.

Legislative result: unsuccessful: HB 815 received an unfavorable report from the Appropriations Committee of the House of Delegates. SB 493 was never reported out of the Budget and Taxation Committee of the Senate.

These cross-listed bills would accelerate, from fiscal years 2008 to 2012, the provisions established by Chapter 473 of 2005 regarding the repayment of State transfer tax revenues transferred to the General Fund after fiscal year 2005.

HB 1273/SB 359 – Real Property – Recordation of Deeds – Conservation Easements

Sponsors: Delegates James, V. Clagett, Frush, Holmes, Lawton, Montgomery, and Stern.

Senators Dyson, Forehand, Hughes, Jimeno, and Stone.

Department position: support.

Legislative result: unsuccessful: HB 1273 withdrawn from the Environmental Matters Committee of the House of Delegates; SB 359 received an unfavorable report from the Judicial Proceedings Committee of the Senate.

These cross-listed bills would require that, when property encumbered by a conservation easement or an agricultural easement is sold, the deed transferring ownership must (1) reference the liber and folio where the easement is located, (2) contain a description of the grantor and grantee, and (3) contain the date of the reference deed.

HB 1275/SB 361 – Property Tax – Assessment of Conservation Property

Sponsors: Delegates James, Boschert, Bozman, Cardin, Heller, Howard, Ramirez, Ross, Bartlett, Cryor, C. Davis, Elmore, Gilleland, Goodwin, Gordon, Healey, Hixson, Kaiser, King, Marriott, McKee, Myers, and Patterson.

Senators Dyson, Currie, Hogan, Lawlah, Munson, Brinkley, DeGrange, Jones, Kasemeyer, Kramer, McFadden, Ruben, Schrader, and Stoltzfus.

Department position: support.

Legislative result: successful: HB 1275 was passed with amendments by the House of Delegates and the Senate; HB 1275 was signed by the Governor; SB 361 was passed with amendments by the Senate and the House; SB 361 was vetoed by the Governor as duplicative.

This legislation establishes conservation property as a separate subclass of real property and provides that it be valued at a rate equivalent to the highest rate used for agricultural use land. This legislation says that conservation property is not required to be actively used for farm or agricultural purposes to be eligible for valuation. This legislation is primarily directed at including pre-1986 donated Maryland Environmental Trust (MET) easements under the 1986 changes in State tax laws. By its wording, it would also apply to pre-1986 MALPF easements.

HB 1640/SB 1013 – Maryland Growth Management Act of 2006

Sponsors: Delegates Bozman, Healey, Barkley, Conroy, Conway, D. Davis, Donoghue, Eckardt, Elliott, Elmore, Gaines, Gordon, Haddaway, Hixson, Hubbard, Jones, King, Lawton, McComas, McHale, Menes, Moe, Montgomery, Ross, Rudolph, Shank, Sossi, and Weldon.

Senators Pinsky, Britt, Colburn, Currie, Exum, Forehand, Giannetti, Green, and Jacobs.

Legislative result: unsuccessful: HB 1640 not reported out of the Environmental Matters Committee of the House of Delegates; SB 1013 not reported out of the Education, Health, and Environmental Affairs Committee of the Senate.

These cross-listed bills would require local jurisdictions exercising planning and zoning authority to develop growth boundaries and include them in their local comprehensive plans. This legislation would also establish a process to address disagreements regarding proposed growth boundaries, with the Maryland Department of Planning (MDP) serving as an arbitrator. Before a local jurisdiction could approve development of land outside established growth boundaries, the local jurisdiction would have to submit the plan to MDP for approval. This legislation would, further, authorize a county and a municipal corporation to enter into a joint planning agreement (JPA) to coordinate future growth both inside and outside established growth boundaries.

Legislation – 2007 Legislative Session

Relating to Agricultural Land Preservation Issues

House of Delegates legislation only:

†HB 475 – Public School Construction Assistance Act of 2007

Sponsors: Delegates Healey, Cardin, G. Clagett, V. Clagett, Davis, Gaines, Gilchrist, Haynes, Heller, Hixson, Howard, Hubbard, Ivey, James, Kaiser, N. King, Love, Montgomery, Niemann, Pendergrass, Rice, Ross, Stukes, F. Turner, and Walker.

Similar bill: SB 616

Legislative result: unsuccessful: the bill passed the House of Delegates with amendments; the bill was not reported out of the Budget and Taxation Committee of the Senate.

This bill would impose recordation and real estate transfer taxes on the transfer of a controlling interest in an entity that owns interests in real property in Maryland that constitute at least 80% of the value of the entity's assets and have an aggregate value of at least \$1,000,000. The local recordation taxes revenues and State real estate transfer taxes would be dedicated to public school construction and renovation for FYs 2008-2011. After FY 2011, the revenues would be distributed according to the standard formula, with MALPF receiving its 17.05% share of the additional real estate transfer tax revenues collected. This bill is related to SB 616, but is not cross-listed because the bills differ slightly on the minimum aggregate value that applies.

HB 812 – State Property Tax – Homestead Property Tax Assessment Cap Increase

Sponsor: Delegate Hixson.

Department position: no position.

Legislative result: unsuccessful: the bill was not reported out of the House Ways and Means Committee.

This bill would increase from 110% to 115% the homestead property tax credit percentage for State property tax. The bill applies to tax years beginning after June 30, 2008. The Homestead Property Tax Credit caps the annual increase in taxable assessed value for homes and the one acre of property immediately surrounding the home if the owner resides there. So, under current law, even if the assessed value of the house doubles in the three year cycle of reassessment, the state and county can only raise the taxable value by about 10% per year. This bill would allow increases of 15% per year for the state portion of the tax.

HB 974 – Agricultural Land Preservation – Easements – Future Dwelling House

Sponsors: Delegates Stocksdale, Bartlett, Bates, Beitzel, Elliott, George, Jennings, Krebs, Kullen, McKee, Shewell, Sossi, and Wood.

Department position: opposed as unnecessary to meet purposes of the bill.

Legislative result: unsuccessful: the bill received an unfavorable report from the House Environmental Matters Committee.

This bill would allow the reservation of a non-subdividable dwelling house on property where no existing house now exists in addition to any retained development rights when an easement is sold to the Maryland Agricultural Land Preservation Foundation. The purpose of this bill is to address the problem when a landowner withholds a lot for a dwelling before easement sale and finds that the lot cannot get a successful perc test or must include more acreage than was withheld to meet septic requirements. In such a case, the landowner must request that the lot be relocated on the property, pay for another survey, and retains the right to subdivide the lot permanently from the farm, assuming that enough acreage was withheld to meet septic requirements.

HB 1041 – Maryland Agricultural Land Preservation Fund – Foundation Grants

Sponsors: Delegate Rudolph.

Related bill: HB 1353.

Department position: support with amendments.

Legislative result: Successful: the bill is passed with amendments by the House of Delegates and passed with different amendments by the Senate; the House concurs with the Senate version; the Governor signs the bill.

This bill would authorize MALPF to make grants to its county partners and to the Maryland Agriculture- and Resource-Based Industry Development Corporation (MARBIDCO) from the Maryland Agricultural Land Preservation Fund to implement fully the installment purchase agreement (IPA) program that provides grants to counties for landowners applying to sell the easements on their farms to MALPF who wish to settle using a county IPA program, and provides grants to MARBIDCO to settle easements purchased using the State IPA program under development. Counties that commit to purchasing agricultural conservation easements through MALPF by issuing county bonds would be able to take future general allocations from the Foundation as grants to service the resulting indebtedness for the MALPF easements purchased with those bond funds. This authorization would take effect on October 1, 2007.

HB 1331 – Maryland Agricultural Land Preservation Foundation – Removal of Districts

Sponsors: Delegates Cane, Conway, Eckardt, Elmore, Glassman, Haddaway, Jennings, Mathias, Rudolph, Smigiel, Stull, and Weldon.

Department position: support.

Legislative result: successful: this bill was passed by the House of Delegates; an amended version was passed by the Senate; the House concurred with the Senate version; the Governor signed the bill.

This bill would remove the requirement that landowners seeking to sell an agricultural conservation easement to the Maryland Agricultural Land Preservation Foundation must first be in an agricultural district requiring a commitment not to develop for five years. As of July 1, 2007, landowners can apply directly without the district commitment to sell an easement to the Foundation unless the county in which the land is located requires a district agreement as a condition for participating in the agricultural land preservation program. All State-level districts will be phased out within five years.

HB 1353 – Maryland Agricultural Land Preservation Fund

Sponsors: Chair, Environmental Matters Committee (Departmental bill).

Related bill: HB 1041.

Department position: support

Legislative result: unsuccessful: the bill was not reported out of the Environmental Matters Committee of the House of Delegates; substance of the bill was amended into HB 1041.

This bill would authorize MALPF to make grants to its county partners and to the Maryland Agriculture- and Resource-Based Industry Development Corporation (MARBIDCO) from the Maryland Agricultural Land Preservation Fund to implement fully the installment purchase agreement (IPA) program that provides grants to counties for landowners applying to sell the easements on their farms to MALPF who wish to settle using a county IPA program, and provides grants to MARBIDCO to settle easements purchased using the State IPA program under development. This authorization would take effect on October 1, 2007.

HB 1354 – Certification of County Priority Preservation Areas

Sponsors: Chair, Environmental Matters Committee (Departmental bill).

Department position: support.

Legislative result: successful: this bill was passed by the House of Delegates and the Senate; the bill was signed by the Governor.

This bill would alter the requirements for county priority preservation areas (PPAs) to require them to be large enough for and the county not to adopt or maintain policies, ordinances, regulations, or rules that interfere with normal agricultural and silvicultural activities as part of the certification and recertification requirements for county agricultural land preservation programs. This bill eliminates the requirement that counties explicitly target in their comprehensive land-use plan the kinds of agriculture that will be supported and the kinds of agriculture that will not be supported as part of the certification requirements adopted in the Agricultural Stewardship Act of 2006.

Senate legislation only:

SB 003 – Real Property – Condemnation – Procedures and Compensation

Sponsors: Senators DeGrange, Miller, Astle, Currie, Della, Garagiola, Gladden, Hogan, Kasemeyer, Kelley, Kramer, Pugh, Raskin, and Stone.

Related bill: SB 294.

Legislative result: successful: this bill was passed with amendments by the Senate and in a different amended version by the House of Delegates; the Senate concurred with the House's amendments; the bill was signed by the Governor.

This bill requires the government to make certain findings about a project before it can condemn private property for economic development or urban renewal purposes. Some of these findings include that it is part of a comprehensive land-use plan, that it is necessary to carry

out the plan, that it is not condemned solely to benefit a private party and that the plan could not be accomplished by private developers. The bill establishes that it is the intent of the General Assembly that a viable business should be preserved whenever reasonably practical and should not be acquired by condemnation for urban renewal or economic development purposes unless other alternatives are shown not to be reasonably practicable. When it is necessary to take a private property, the bill sets up a rigid set of disclosures, analysis and compensation that must be followed. The bill requires that every effort be made to include the business in the development plan. If relocation is necessary funding for actual value, relocation costs and loss of “goodwill” relationships is mandated. The bill includes specific protection for farms by requiring that a government unit may not condemn private property used for a farm operation if the property will be sold, leased, transferred, or otherwise conveyed to or for the benefit of a private party for the purposes of urban renewal or economic development.

SB 294 – Property Protection Act of 2007

CONSTITUTIONAL AMENDMENT

Sponsors: Senators Kittleman, Brinkley, Edwards, Greenip, Haines, Harris, Hooper, Jacobs, Mooney, Munson, Pipkin, Simonaire, and Stoltzfus.

Related bill: SB 003.

Legislative result: unsuccessful: this bill was not reported out of the Judicial Proceedings Committee of the Senate.

This bill would amend the Maryland Constitution to exclude from the definition of the term "public use" in the context of the State's or a local government's exercise of the power of eminent domain: urban renewal; community revitalization or redevelopment; attracting new business or encouraging the expansion or retention of existing business; job creation; or generating tax revenue. The bill thereby would eliminate the State's or a local government's ability to condemn private property for these purposes. The bill also would expressly prohibit private property from being acquired by condemnation to carry out an urban renewal project and would repeal the authority of a county or municipal authority to condemn private property for that purpose. Finally, the bill would amend provisions authorizing Baltimore City to acquire property for development or redevelopment, off-street parking, and port development by prohibiting private property from being acquired by condemnation for an economic development purpose.

SB 499 – Environment – Water Appropriation Permits – Groundwater Recharge Area

Sponsors: Senators Brinkley, Haines, and Munson.

Department position: oppose.

Legislative result: unsuccessful: the bill received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

This bill would alter the requirements for municipal corporations for obtaining a permit for the appropriation and use of State groundwater. The Maryland Department of the Environment would be required to include specified lands, including preserved farmland, for lands to be considered under the control of the municipal corporation in calculating a groundwater recharge area for a water appropriation permit. This bill would have the effect of a takings of water rights from farms preserved under the Maryland Agricultural Land Preservation program if they are located within the water recharge area of municipalities seeking to expand their right to withdraw groundwater for new development.

†SB 616 – Land Preservation and School Construction Assistance Act of 2007

Sponsors: Senators Currie, Frosh, Middleton, Conway, Astle, Britt, Edwards, Exum, Forehand, Gladden, Hooper, Jones, Klausmeier, Lenett, Madaleno, McFadden, Muse, Pinsky, Pugh, Raskin, Robey, and Rosapepe.

Similar bill: HB 475.

Legislative result: unsuccessful: the bill was not reported out of the Senate Budget and Taxation Committee.

This bill would impose recordation and real estate transfer taxes on the transfer of a controlling interest in an entity that owns interests in real property in Maryland that constitute at least 80% of the value of the entity's assets and have an aggregate value of at least \$500,000. The local recordation taxes revenues and State real estate transfer taxes would be dedicated to public school construction and renovation for FYs 2008-2011. After FY 2011, the revenues would be distributed according to the standard formula, with MALPF receiving its 17.05% share of the additional real estate transfer tax revenues collected. This bill is related to HB 475, but is not cross-listed because the bills differ slightly on the minimum aggregate value that applies.

House of Delegates and Senate legislation (cross-listed bills):

HB 050/SB 055 – Budget Bill [Fiscal Year 2008]

Sponsors: The Speaker of the House of Delegates (by request of the Administration).
The President of the Senate (by request of the Administration).

Department position: support the Administration's position.

Legislative result: successful: HB 050 was passed with amendments by the House of Delegates and then was passed with incompatible amendments by the Senate; agreement was reached in conference committee; HB 050 became law under Article III, Section 52(6) of the Maryland Constitution; SB 055 was not reported out of the Senate Budget and Taxation Committee.

This Administration legislation composes one of three omnibus bills required under the Governor's budget plan. The budget bill for FY 2008 is created to make the proposed appropriations contained in the State Budget for the fiscal year ending June 30, 2008, in accordance with Article III, Section 52 of the Maryland Constitution; and generally relating to appropriations and budgetary provisions made related to that section. MALPF funding appropriations remained normal for FY 2008. No bond bills were proposed or issued on behalf of the MALPF program, and no funding was diverted to Tri-County Council or elsewhere. Under this legislation, MALPF was appropriated \$78,233,205 from all sources for a total of \$89,751,792 for both program operation expenses and the purchase of easements.

HB 137/SB 102 – State Agencies – StateStat

Sponsors: The Speaker of the House (by request of the Administration) and Delegates Busch and Haynes.

The President of the Senate (by request of the Administration).

Department position: support the position of the Administration.

Legislative result: successful: HB 137 passed the House of Delegates and the Senate with the same amendments; HB 137 was signed by the Governor; SB 102 passed the Senate without amendments and then passed House with amendments; the Senate concurred with the House amendments; SB 219 was vetoed by the Governor as duplicative.

These cross-listed bills would establish a StateStat management accountability process for the

Executive Branch agencies that replaces, for selected agencies, the existing strategic planning process.

HB 187 – Estates and Trusts – Conservation Easement – Governing Instrument

SB 219 – Estates and Trusts – Donation of Conservation Easements

*Sponsors: Delegate Rosenberg.
Senator Frosh.*

Legislative result: HB 187 passed the House of Delegates and the Senate with the same amendments; HB 187 was signed by the Governor; SB 219 passed the Senate and the House with the same amendments; SB 219 was signed by the Governor.

These cross-listed bills would clarify that personal representatives, trustees, and fiduciaries may donate a conservation easement on real property if the governing instrument authorizes the donation. The legislation would apply retroactively.

HB 319/SB 273 – Maryland Agricultural Land Preservation Foundation – Allegany County and Garrett County – Coal Rights

*Sponsors: Garrett County Delegation and Allegany County Delegation.
Senator Edwards.*

Department position: support with reservations.

Legislative result: unsuccessful: Senate bill passed, but both HB 319 and SB 273 received unfavorable reports from the House Environmental Matters Committee.

These cross-listed bills would authorize the Maryland Agricultural Land Preservation Foundation to purchase easements on eligible properties in Allegany and Garrett Counties without requiring the subordination of coal rights on those properties if the Board of Trustees judges that non-subordination poses minimal risk to the agricultural values of the properties. A report of the results of the bill would be required to be submitted by October 1, 2010.

HB 465 – Real Property – Sale of Property Encumbered by a Conservation Easement

SB 511 – Real Property – Conservation Easements – Notification of Buyers

*Sponsors: Delegate James.
Senator Dyson.*

Department position: support.

Legislative result: successful: HB 465 passed the House of Delegates with amendments and then passed by the Senate; HB 465 was signed by the Governor; SB 511 passed the Senate with amendments and then passed by the Senate; SB 511 was vetoed by the Governor as duplicative.

These cross-listed bills would require a seller of real property to provide copies of any conservation easements on the property to the buyer within a specified time. The contract for sale of the real property encumbered by a conservation easement would have to contain a notice of the easement or easements to be enforceable. The purchaser of real property encumbered by a conservation easement would be required to provide notice of the transfer to the holder of the conservation easement.

HB 466/SB 512 – Maryland Estate Tax – Exclusion for Qualified Conservation Easements

*Sponsors: Delegate James.
Senators Dyson, Madaleno, and Stoltzfus.*

Department position: no position.

Legislative result: unsuccessful: HB 466 was not reported out of the House Ways and Means Committee; SB 512 was withdrawn from the Senate Budget and Taxation Committee.

These cross-listed bills would significantly reduce the estate tax on land under a qualified conservation easement (as defined in the IRS Code at 2031c) by increasing the "applicable percentage" from 40% to 100% in the formula used to establish the exclusion amount. The bill raises the exclusion limit to \$1,000,000 for such property in Maryland. The current exclusion limit under federal law is \$500,000. The extension of this exclusion would apply to the estate of anyone who dies on or after January 1, 2007.

HB 633/SB 731 – Maryland Estate Tax – Exclusion for Family Farms Subject to Agricultural Preservation Easements

Sponsors: Delegates Glassman, Beidle, V. Clagett, Elmore, Impallaria, Jennings, J. King, McDonough, Smigiel, and Stifler.

Senators Hooper, Astle, Brinkley, Colburn, Dyson, Edwards, Garagiola, Greenip, Haines, Harris, Jacobs, Kittleman, Middleton, Munson, Pipkin, Robey, Simonaire, and Stoltzfus

Department position: support.

Legislative result: unsuccessful: HB 633 was not reported out of the House Ways and Means Committee; SB 731 was withdrawn from the Senate Budget and Taxation Committee.

These cross-listed bills would change the way the Maryland estate tax is calculated by excluding the value of the gross estate the value of real property subject to a perpetual agricultural preservation easement that has been granted to the Maryland Agricultural Land Preservation Foundation. This benefit passes from the decedent to or for the use of the specified relatives of the decedent. The legislation would apply to the estate of anyone who dies after December 31, 2006.

HB 657/SB 682 – Cecil County – Purchase of Development Rights Program – General Obligation Installment Purchase Agreements

Sponsors: Cecil County Delegation.

Cecil County Senators.

Department position: the Department takes no position on bills that are not statewide and do not directly affect MALPF.

Legislative result: successful: HB 657 was passed with amendments by the House of Delegates and then was not reported out of the Senate Education, Health, and Environmental Affairs Committee; SB 682 was passed with amendments by the Senate and passed with those amendments by the House of Delegates; SB 682 was signed by the Governor.

These cross-listed bills would authorize the Commissioners of Cecil County to enter into general obligation installment purchase agreements for a total of not more than \$4,000,000 plus interest to acquire development rights on farmland in Cecil County as part of the County's Purchase of Development Rights Program.

***HB 1220 – Chesapeake and Atlantic Coastal Bays Green Fund
SB 901 – Chesapeake Bay Green Fund***

Sponsors: Delegates McIntosh, Beidle, Bobo, Bromwell, Bronrott, Cane, V. Clagett, Frush, Haynes, Healey, Holmes, Hubbard, Lafferty, Lawton, Love, Malone,

Montgomery, Morhaim, Niemann, Rosenberg, Waldstreicher, Ali, Glenn, Hucker, Manno, and Stein.

Senators Conway, Frosh, and Pinsky.

Department position: support with amendments.

Legislative result: unsuccessful: HB 1220 was passed with amendments by the House of Delegates; HB 1220 was not reported out of the Education, Health, and Environmental Affairs Committee or Budget and Taxation Committee of the Senate. SB 901 was not reported out of the Education, Health, and Environmental Affairs Committee or the Budget and Taxation Committee of the Senate.

These cross-listed bills would establish a Chesapeake [and Atlantic Coastal] Bay[s] Green Fund, effective July 1, 2008, to provide funding to various State agencies and the Chesapeake Bay Trust for specified bay restoration and growth management activities. The fund, administered by the Comptroller, would be financed by an impervious surface fee assessed on “new impervious surface” development. Local governments would retain a portion of fee collections for specified purposes. The legislation also establishes a Chesapeake [and Atlantic Coastal] Bay[s] Green Fund Oversight and Accountability Committee.

HB 1386/SB 962 – Agricultural Ownership Entities – Homestead Tax Credit

Sponsors: Delegates Bartlett, Barve, Cardin, Doory, Elmore, George, Gilchrist, Hixson, Howard, Ivey, Jennings, Kaiser, N. King, Krebs, McKee, Murphy, Olszewski, Rice, Ross, Stukes, F. Turner, and Walker.

Senator Brinkley.

Department position: support.

Legislative result: successful: HB 1386 was passed with amendments by the House and passed with the same amendments by the Senate; HB 1386 was signed by the Governor; SB 962 was passed by the Senate and the House; SB 962 was signed by the Governor.

These cross-listed bills would alter the definitions under the Homestead Property Tax Credit law to extend the gradual staging in of higher property taxes resulting from an increase in property value to include shareholders in a family corporation and family partners in general partnerships. The legislation would take effect for tax years beginning June 30, 2007.

Farmland and Other Land Preservation in Maryland

From January 2003 to January 2008, Maryland protected more than an additional 140,000 acres through state, local, and private preservation programs and public ownership at an annual rate of 28,200 acres preserved. From July 1, 2001 to June 30, 2006, the most recent five-year period for which data is available (see the discussion on "Preservation versus Conservation" later in this report), Maryland lost about 96,000 acres to development, for an annual rate of a bit more than 19,000 acres. Maryland acreage protected through public ownership or easement as of January 2008 is now about 21.4% of the State's land area, up from 19% in January 2003. The acreage Maryland has developed composes approximately 20.2% of the State's land area, up from 18.5% in January 2003. The balance of Maryland's land area (58.4% of the total) is unprotected and in private ownership, down from 62.4% at the beginning of 2003. Despite recent State budget shortfalls and the strong demand for land for development, Maryland continues to make progress towards its land preservation goals. The greatest protected acreage gains during calendar years 2003-2008 was the increase in county easement acquisitions, from a cumulative total of 99,532 acres at the beginning of 2003 to about 153,000 acres at the beginning of 2008.

The first of the two primary State goals was established by agreement: the Chesapeake Bay Agreement – Chesapeake 2000. The second statewide goal was established by statute: Maryland General Assembly Joint Resolution 16 in the 2002 Legislative Session.

Conservation Goals and Accomplishments (through January 1, 2008)		
	Chesapeake Bay Agreement Chesapeake 2000	Joint Resolution 16 (2002) Prime Agricultural Land
Acreage Goal	1,241,605	1,030,000
Goal as a Percent of Total State Land Area	20.00%	16.59%
Target Date to Achieve Goal	2010	2022
Acres Protected, as of January 1, 2008 (MDP/DNR)	1,323,156 1,331,126	500,251 498,378
Percent of State Land Area, as of January 1, 2008 (MDP/DNR)	21.38% 21.44%	8.08% 8.03%
Additional Acres Needed to Achieve Goal (MDP/DNR)	Goal Achieved	529,749 531,622
Years Remaining after FY 2008	2	14
Annual Acreage Needed to Reach Goal (MDP/DNR)	0	37,839 37,973

Chesapeake Bay Agreement – Chesapeake 2000

Since 1983, the states of Maryland, Virginia, and Pennsylvania, the District of Columbia, the Chesapeake Bay Commission, and the U.S. Environmental Protection Agency representing the federal government have been signatories to historic agreements establishing the Chesapeake Bay Program partnership to protect and restore the Chesapeake Bay's ecosystem.

The signatories of the Chesapeake Bay Agreement agreed in 1987 that "there is a clear correlation between population growth and associated development and environmental degradation in the Chesapeake Bay system." The 2000 Agreement reaffirmed this concept and recognized that more needs to be done to manage growth and development by promoting sound land use. One of the provisions agreed upon in 2000 to support the goal of developing, promoting, and achieving sound land use practices that will protect and restore watershed resources and water quality, maintain reduced pollutant loadings for the Bay and its tributaries, and restore and preserve aquatic living resources is to:

"Strengthen programs for land acquisition and preservation within each state that are supported by funding and target the most valued lands for protection. Permanently preserve from development 20 percent of the land area in the watershed by 2010."

Since 93.8% of Maryland's land area lies in the Chesapeake Watershed, the State adopted the ambitious goal of protecting 20% of the entire State to meet the goal set by Chesapeake 2000. The State's total land area is about 6,208,025 acres (DNR). To protect 20% of the State and meet the objectives determined by the agreement, Maryland must protect 1,241,605 acres by 2010. As of January 1, 2008, Maryland has protected more than 1,320,00 acres, or more than 100% of its 2010 goal with over 21% of the State land area. MALPF easements comprise about 20% of Maryland's protected lands, or about 4.25% of the State land area. As of January 1, 2008, Maryland more than fulfilled the land protection goals of Chesapeake 2000.

Maryland General Assembly Joint Resolution 16 (2002 Legislative Session)

In the 2002 Legislative Session, the General Assembly passed Joint Resolution 16, entitled: "Preservation of Agricultural Land." This resolution was the product of a recommendation of the Maryland Agricultural Land Preservation Task Force and states:

"For the purpose of establishing a statewide goal to preserve agricultural land in Maryland whereas, agricultural land is an exhaustible resource of the State which, once removed from agriculture, is forever lost for crop and food production, and for open space uses; and whereas, although approximately 35% of Maryland's total land area is farmland, Maryland's agricultural land is still rapidly disappearing, with an estimated 18,000 acres of farmland annually being converted to urban, commercial, or other nonagricultural use; and whereas, global economic trends, continuing development pressures, the encroachment of strip and scattered development in rural areas and nearby cities, and growing urbanization, threaten the destruction of Maryland's rural environment and the disappearance of its valuable agricultural land for agricultural purposes; and whereas, Maryland should not become one large urban development without any balanced agricultural economy; and, whereas, it is generally essential to Maryland's economic and environmental stability and growth, and particularly to maintain an agricultural economy in the State, to preserve large, contiguous areas of prime and productive agricultural land; now, therefore, be it resolved by the General Assembly of Maryland, that the statewide goal is to triple the existing number of acres of productive agricultural land preserved by the Maryland Agricultural Land Preservation Foundation, GreenPrint, Rural Legacy, and local preservation programs by the year 2022...."

On the effective date of this resolution, April 6, 2002, 343,333 acres of Maryland's agricultural land were permanently preserved by MALPF, GreenPrint, Rural Legacy, and local preservation program easements. By extension, the General Assembly set as its goal to protect 1,030,000 acres of land by the year 2022, adding 686,667 acres over twenty years, or approximately 34,334 acres per year. Assuming full funding under current revenue sources for the relevant programs, and accounting for variation in the economy and diversion of easement funds to other budget items when necessary, the Task Force projected that the State would preserve another 500,000 acres by 2022, leaving it

about 187,000 acres short of its goal. An additional \$494 million beyond estimated revenues from existing sources dedicated to the preservation of productive agricultural land would be required to prevent this shortfall in the nineteen years beginning in FY 2004. That equated to approximately \$26 million per year in additional funds.

During the five years and nine months after effective date of the resolution, Maryland protected prime agricultural land at a rate slightly lower than the projected annual rate necessary to reach the 2022 acreage goal, adding approximately 27,000 new preserved acres per year, an annual shortfall of 7,300 acres. Whether Maryland can preserve prime farmland at the rate necessary to reach this statutory objective as the impact of the recent budget shortfalls and increased acquisition costs start to be felt will be evident over the next few years. Projecting this annual shortfall over the next fourteen years suggests that Maryland will be over 100,000 acres short of its goal with a funding shortfall of about \$613.2 million at current (FY 2007) acquisition costs, or \$43.8 million per year.

Maryland General Assembly Joint Resolution 16 (2002) – Prime Agricultural Land		
PROGRAM	Starting Acreage (April 6, 2002)	Current Acreage (January 1, 2008)
Maryland Department of Agriculture: Maryland Agricultural Land Preservation Foundation (MDA)	208,910	265,691
Maryland Department of Natural Resources: GreenPrint Program (MDP/DNR)	4,700	22,464 24,138
Maryland Department of Natural Resources: Rural Legacy Program (MDP/DNR)	29,740	57,786 55,548
Local preservation programs (MDP/DNR)	99,983	154,310 153,001
TOTALS (Goal: 1,030,000 acres in 2022)	343,333	732,938 498,378

The benchmark or starting acreage as of April 6, 2002, for JR 16 was calculated and agreed upon by the MALPF Task Force, the Maryland Department of Budget and Management, the Maryland Department of Planning, and the Maryland Department of Natural Resources.

A Note on Maryland's Protected Lands Data

The statewide data reported derive from two primary sources: (1) the ongoing compilation by Daniel Rosen at Maryland's Department of Planning, and (2) the Maryland Protected Lands Reporting web page and the Maryland Protected Lands Report compiled annually by the Maryland Department of Natural Resources under the direction of Ken Miller. Because these two sources are compiled in somewhat different ways and at different times, the data may not necessarily agree. The use of the data in this report is solely to gauge the progress Maryland is making towards its statewide land preservation goals. Because MALPF staff, as an end user of this data, is not in a position to reconcile differences among sources, little attempt will be made at reconciliation. What is provided in this report should not be considered an authoritative statement of Maryland's protected lands data. Instead, both sources are used concurrently in the tables, some data (for MALPF and Maryland Historical Trust) were obtained independent of these two primary sources, and the conclusions drawn and projections made derive from both sources with minor qualifications as discussed in the footnotes at the end of the following table. The table and charts on the following pages summarize the data on Maryland's protected lands through January 1, 2008.

SUMMARY OF MARYLAND'S PROTECTED LANDS

Lands Protected and Developed in Maryland (as of January 1, 2008)								
Protected Land:	MD Dept. of Planning Reported Acreage	MD Dept. of Natural Resources Reported Acreage	SUB-TOTALS (MD Dept. of Planning)	SUB-TOTALS (MD Dept. of Natural Resources)	SUB-TOTALS (percentages)		TOTALS (percentages)	
					Percent of Protected Land		Percent of State Land Area	
					MDP	DNR	MDP	DNR
Private conservation group protections	37,399	47,604			2.83%	3.58%	0.60%	0.77%
MALPF easements	265,691	265,691			20.08%	19.96%	4.29%	4.28%
MD Environmental Trust easements	87,137	85,575			6.59%	6.43%	1.41%	1.38%
Rural Legacy Program	57,786	55,548			4.37%	4.17%	0.93%	0.89%
DNR GreenPrint easements	22,464	24,138			1.70%	1.81%	0.36%	0.39%
ISTEA/CREP	9,634	4,449			0.73%	0.33%	0.16%	0.07%
Forest Legacy Program	-	1,171			-	0.09%	-	0.02%
Maryland Historical Trust easements	8,719	8,719			0.66%	0.66%	0.14%	0.14%
County PDR/TDR easements	154,310	153,001			11.66%	11.49%	2.49%	2.46%
Acreage Under Easement	643,140	645,896			48.61%	48.52%	10.39%	10.40%
County and municipal parkland	147,040	147,040			11.11%	11.05%	2.38%	2.37%
State lands (DNR)	440,712	451,393			33.31%	33.91%	7.12%	7.27%
Federal government protections	92,264	86,797			6.97%	6.52%	1.49%	1.40%
Publicly Owned Acreage	1,486,185	1,977,022			51.39%	51.48%	10.99%	11.04%
TOTAL LAND PROTECTED			1,323,156	1,331,126	100.00%	100.00%	21.38%	21.44%
Unprotected Land:					Percent of Unprotected Land			
Developed Unprotected Land	1,250,870	1,250,870			25.70%	25.65%	20.21%	20.15%
Private Unprotected & Undeveloped Land	3,616,167	3,626,029			74.30%	74.35%	58.42%	58.41%
TOTAL LAND UNPROTECTED			4,867,037	4,876,899	100.00%	100.00%	78.62%	78.56%
TOTAL LAND AREA			6,190,193	6,208,025			100.00%	100.00%

For documentation of this data, please see the next page.

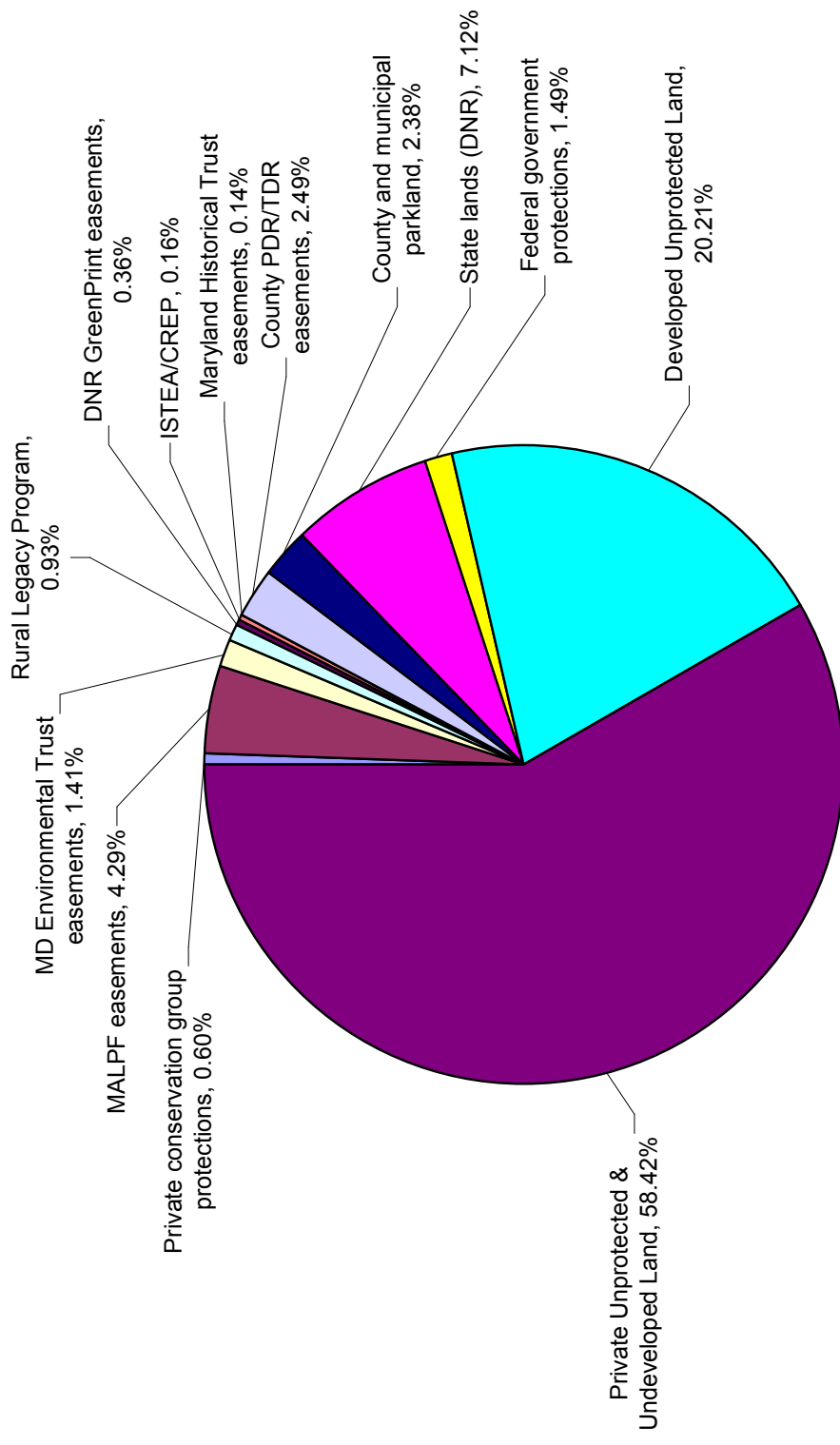
DATA DOCUMENTATION FOR PREVIOUS TABLE

Source:		MD Dept. of Planning (MDP)	MD Dept. of Natural Resources (DNR)	Other
Name:				
Private conservation group protections	06/2007 last updated; from MDP GIS preserved land coverages.		11/19/2007 last updated.	n.a.
MALPF easements	Data compiled, but not used here.		Data compiled, but not used here.	MALPF 09/2007 last updated.
MD Environmental Trust easements	06/2007 last updated; from MDP GIS preserved land coverages.		08/06/2007 last updated.	n.a.
Rural Legacy Program*	06/2007 last update from the Rural Legacy Program plus Board of Public Works approvals through 01/02/2008.		10/09/2007 last updated.	n.a.
DNR GreenPrint easements*	04/30/2003 last updated with data from DNR; MALPF easements acquired with GreenPrint funds are included with the MALPF acreage.		10/09/2007 last updated; MALPF easements acquired with GreenPrint funds are included with the MALPF acreage.	n.a.
ISTEA/CREP*	02/2005 last update for ISTEA, primarily using Land Use / Land Cover Statistics; updated as new information comes available through county reporting. CREP update date not provided.		10/09/2007 last updated; includes only CREP.	n.a.
Forest Legacy Program	MDP does not compile as a separate item.		11/13/2007 last updated.	n.a.
Maryland Historical Trust easements	MDP does not report.		Data compiled but not used here.	MHT 01/2008 last updated
County PDR/TDR easements	02/2005 last general update; individual counties updated since with Anne Arundel (FY 2006 Cert. Report), Calvert (FY 2007 Cert. Report), Caroline (2005 LPPRP), Carroll (2006 Cert Report), Charles (2006 Certification Report), Frederick (2007 Certification Report), Harford (2005 certification report), Montgomery (6/30/06, in Fall 2006 newsletter), Washington (04/11/2007 report), Worcester (MDP GIS data-base April, 2001). Howard's acres includes TDR's but not cluster remainders < 50 acres. Queen Anne's from 2006 LPPRP, include TDR and noncontiguous open space.		08/09/2007 last updated.	n.a.
County and municipal parkland	04/2006 last updated from LPPRPs, MEIRS and MDP GIS data.		12/05/2007 last updated.	n.a.
State lands (DNR)	04/2006 last updated from LPPRPs and MDP GIS data.		01/02/2008 last updated.	n.a.
Federal government protections	From MDP's protected land GIS data (does not include military lands).		11/13/2007 last updated (does not include military lands).	n.a.
Developed Unprotected Land	From MDP's 2002 Land Use / Land Cover Statistics.		DNR does not report.	n.a.
Private Unprotected & Undeveloped Land	Derived by subtracting "Developed Unprotected Land" and "Total Land Protected" from "Total Land Area."		DNR does not report.	n.a.
Total Land Area	Counties only; does not include Baltimore City.		08/29/2001 effective date.	n.a.

* Some programs or groupings used to calculate total easement acreage may hold some properties fee simple; similarly, some programs or groupings used to calculate total fee simple acreage may have some of their properties in easement with private ownership.

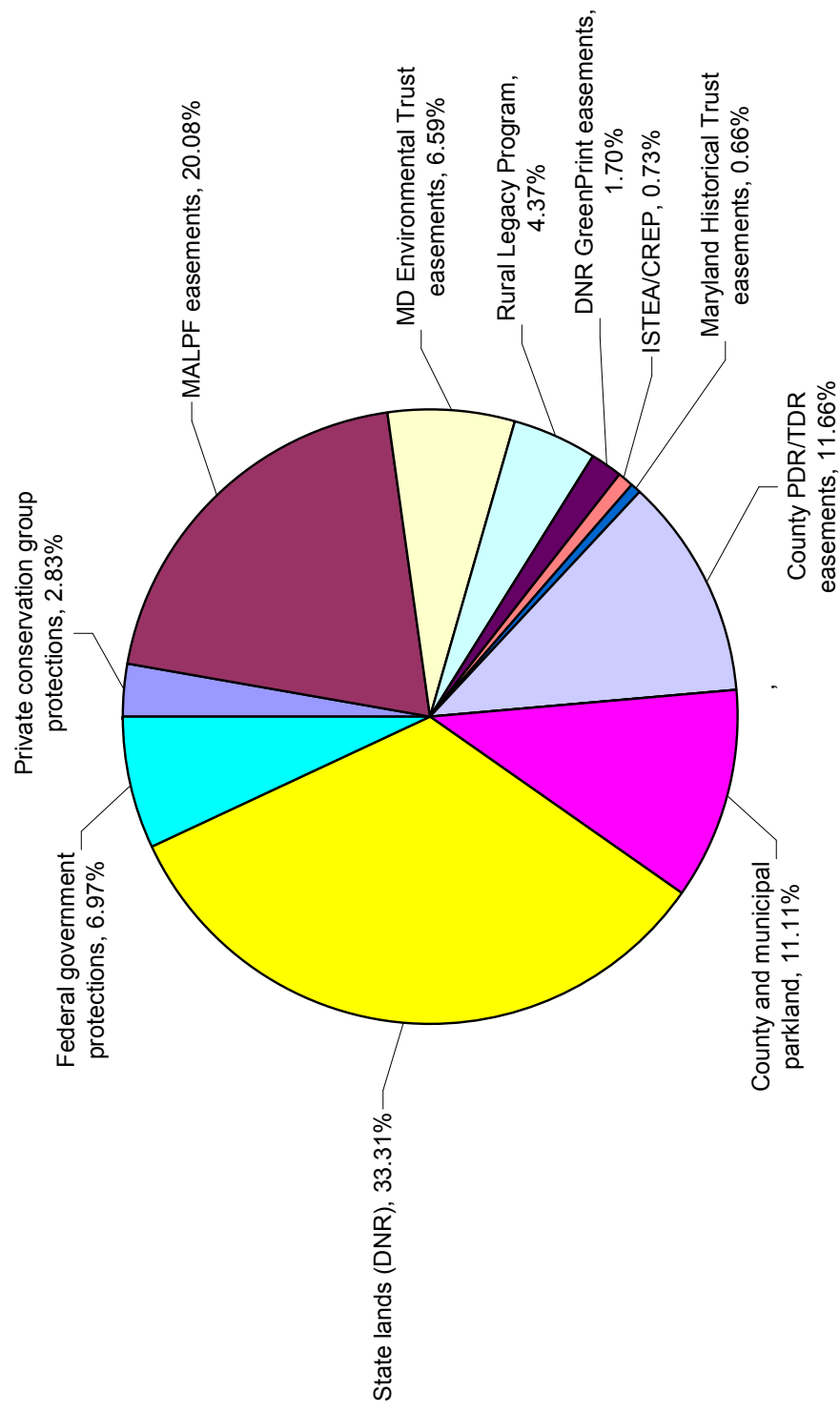
Protected, Developed, and Undeveloped Land in Maryland

(through January 1, 2008 - Using MDP Data)

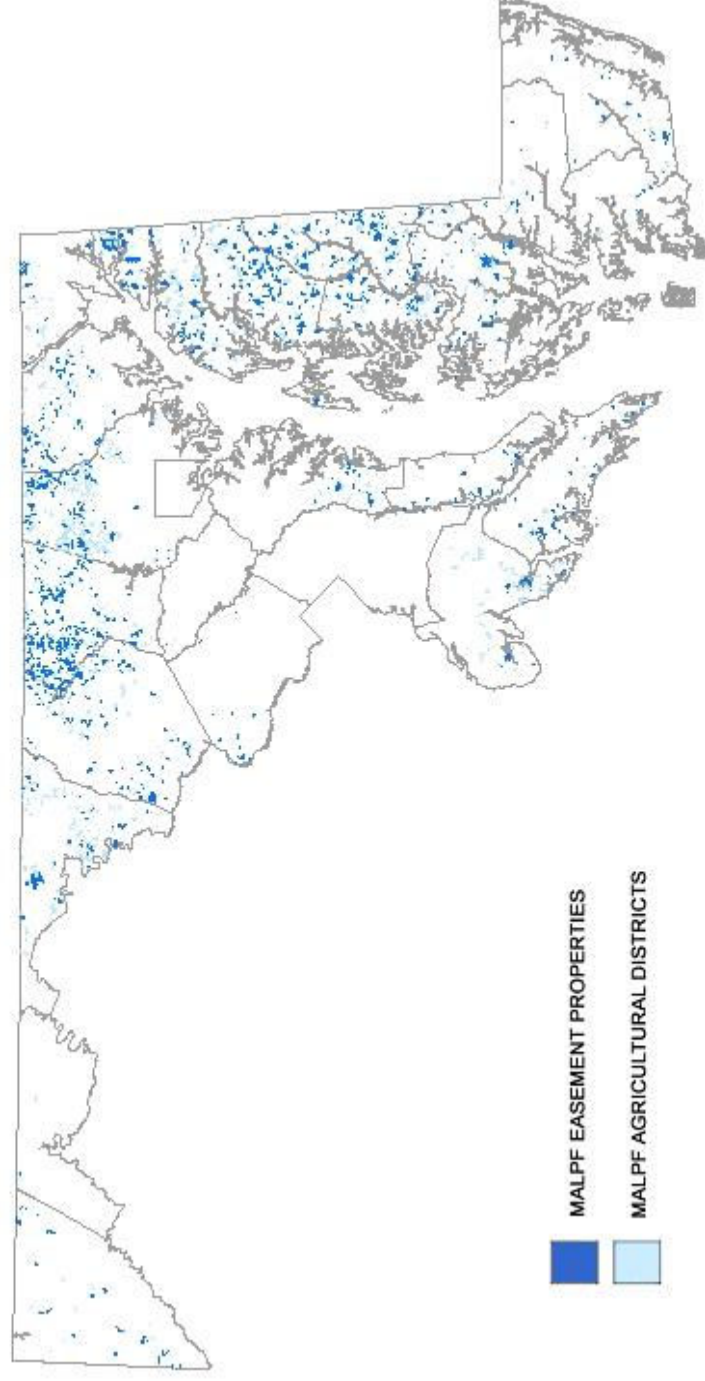


Total Protected Land, 21.38%

Protected Lands in Maryland
 (through January 1, 2008 - Using MDP Data)
 Total Acreage Protected: 1,323,156 acres



**Maryland Agricultural Land Preservation Foundation
Easements and Agricultural Districts**
(through January 5, 2005)



Map provided for illustrative purposes by the Maryland Department of Planning.

Certification of County Agricultural Land Preservation Programs

Certification of Local Agricultural Land Preservation Programs was created by the Maryland General Assembly in 1990 and is jointly administered by the Maryland Agricultural Land Preservation Foundation (MALPF) and the Maryland Department of Planning. Program participation by interested counties is voluntary. Counties with an effective local agricultural land preservation program who wish to be certified apply to both MALPF and Maryland Department of Planning for certification. Currently, sixteen (16) Maryland counties are certified under this program: Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Kent, Montgomery, Queen Anne's, St. Mary's, Talbot, Washington, Wicomico, and Worcester.

The Certification Program allows counties to retain greater portions of the Agricultural Transfer Tax if they are able to demonstrate that they have an effective program to preserve agriculturally viable farmland. Non-certified counties keep one-third of the Agricultural Transfer Tax they collect. These funds are to be used for agricultural land preservation purposes. Certified counties are allowed to keep 75% of the Agricultural Transfer Tax revenue (uncertified counties retain 33% of the revenue). The increase in a county's share of Agriculture Transfer Tax helps support its agricultural land preservation program. All retained funds must be spent or encumbered for land preservation purposes within three years or the funds revert to MALPF.

Certification allows counties to create a preservation program that best meets local goals and needs. In combination with easement purchases, counties use other preservation tools such as agricultural zoning, transfer of development rights (TDRs), right-to-farm policies, and the establishment of agriculture as the best use of designated land. Other important aspects of local programs include defined areas for preservation and established

acreage goals. In addition to the Maryland Agricultural Land Preservation program, certified counties have typically also preserved land through private land trusts, Maryland Environmental Trust (MET), the Rural Legacy Program, and the Federal Farmland Protection Program, among other organizations and programs.

Agricultural Stewardship Act of 2006

The Certification of Local Agricultural Land Preservation Program has recently been modified by legislation. Under the Agricultural Stewardship Act of 2006 (HB 2), effective Fiscal Year 2009 (July 2008), a county must develop a Priority Preservation Area Element and incorporate it into its comprehensive land-use plan to become or remain certified under the Certification Program.

A Priority Preservation Area (PPA) is an explicitly delineated area within the county capable of supporting profitable agricultural activities, governed by local policies to stabilize the land base to limit development, and large enough to support the kind of agricultural enterprises that the county is seeking to preserve. A PPA may consist of one parcel of land, multiple contiguous parcels of land, or multiple non-contiguous parcels of land, including designated Rural Legacy Areas.

The county's acreage goal within a PPA through easements and zoning must be equal to at least 80% of the remaining undeveloped areas of land in the PPA as calculated at the time of application for certification or recertification. Essentially, this is one area or more where agriculture will be the focus of long-term efforts and investment by the county to ensure its ongoing success and profitability.

For certified counties or counties seeking certification, each comprehensive plan

revision and/or update is/are subject to PPA certification renewal. Counties must include a Priority Preservation Area Element when applying for certification and recertification of effective county agricultural land preservation programs. Requesting recertification of a county's agricultural land preservation program is extended from every two years to every three years.

House Bill 1354 (2007)

House Bill 1354 (2007 Legislative Session), "Certification of County Priority Preservation Areas," modifies the requirements for PPAs to require them to be large enough for normal agricultural and forestry activities to continue. Further, the bill removes the requirement to define explicitly in the comprehensive land-use plan the kinds of agricultural industry that will be supported. Rather, the county is required as part of the certification evaluation to maintain policies, ordinances, regulations, and rules that, at minimum, do not interfere with normal agricultural and forestry activities and, preferably, support the ability of working farms to engage in normal agricultural and forestry activities.

This bill takes effect on October 1, 2007, but realistically will only apply to certification and recertification requests starting in FY 2009.

All but three certified counties – Kent, Frederick, and Wicomico – came up for certification or recertification during the period of this report. Their recertification requests are scheduled before the end of the 2007 calendar year. Worcester County is the one newly certified county during the period of this Report.

Howard County has chosen not to pursue recertification of its agricultural land preservation program, as of July 2007, and is no longer certified.

A joint stand-alone certification report will be issued a later date by MALPF and the Maryland Department of Planning to meet the statutory requirement for an Annual Report on certification activities met until now by the certification section of MALPF's Annual Report. Because of the fundamental change in the statutory requirements for certification resulting from the Agricultural Stewardship Act of 2006 and the increased attention on local policies, ordinances, regulations and rules that can interfere with normal agricultural and forestry activities resulting from HB 1354 (2007), the Department of Planning staff wishes to focus additional attention on certification issues in anticipation of PPA requirements going into effect on July 1, 2008.

Each certification and recertification review produces a Summary Report presented by the MALPF staff to the Board of Trustees and certification letter jointly signed by the Maryland Department of Planning and MALPF staff that outlines the strengths and weaknesses observed during the evaluation of the current status of the county agricultural land preservation program and suggests steps that could be taken to improve the program before the next certification review. For anyone interested in this information, the reports and summaries of the certification letters will be posted online at the MALPF website. Please see:*

<http://www.malpf.info/certification.html>

* Formatting and posting this material has not been completed as of the date of this Annual Report.

Data on the Maryland Agricultural Land Preservation Program

The Maryland Agricultural Land Preservation Foundation (MALPF) is between two database standards. The original Oracle database was designed and implemented many years ago and its purpose was to provide a reference source for staff and a base for generating offer letters and related form correspondence. This database was not intended to be used for program evaluation, research, or the production of data. As a result, the format in which data was entered was never standardized, the data fields were never fully populated (and some fields were abandoned), and the data were never systematically verified or updated. Any data produced beyond the original purpose were limited in reliability and utility.

The data provided in the tables and charts here and in past annual reports and provided on request to other State agencies and the General Assembly have not come from the MALPF database, but have been collected incrementally from primary sources, including district petitions, easement applications, offer approvals by the MALPF Board of Trustees and the Board of Public Works, staff reports, surveys, recorded documents (such as lot releases and deeds of easement), etc. Collecting data this way is subject to errors that, once introduced, are difficult to discover and correct.

Staff has been aware of this ongoing problem and started to redesign the database in early 2006. The new database has been coded and refined by the Information Technology division of the Department of Agriculture and is currently (November 2007) being tested by MALPF staff. Kimberly Hoxter was hired in October 2007 to coordinate the testing and implementation of this new database. The database has been transformed from a flat database into a relational database. The data collected will be relevant both to the tasks necessary for the daily operations of the Program (as before) and the long-term management of the Pro-

gram, including the ability to do research to answer policy and operational questions. The data fields have been updated to reflect the current status of the Program and the kinds of questions to which staff needs to respond. The data fields will be fully populated and verified against the material in the files. Information will be verified, maintained, and updated using a regular and systematic monitoring schedule, including on-site inspections and remote monitoring methods. Staff expects the new Oracle database to be fully operational for existing easement properties and new applications for FY 2009 applications by July 2008.

MALPF has maintained a related "spatial" database locating its properties on maps. Currently, this database is maintained in-house on ADC maps, though the Departments of Natural Resources and Planning have been maintaining MALPF properties in a Geographic Information Systems (GIS) database based on information provided to them by MALPF staff. The MALPF GIS layer will in the future be linked to the new Oracle database and MALPF staff will assume primary responsibility for maintaining its GIS layer when it has sufficient in-house staff, time, and expertise.

A number of issues inherent to the old database and the reporting of past data are expected to be resolved as the new database is implemented and populated and the data is verified. The issues can be identified as follows:

- (1) In the new database, acreage and other data that can be interpreted differently by those entering data and different final users will have clear operational definitions agreed upon and made explicit in a written metadata document.
- (2) Rather than adding new data onto the accumulation of past data that has

been reported, the new database will be the single source of data to be reported and it will have the flexibility to report the data in any form for any period of time. Any errors identified will be corrected in the database, so will not be lost in the accumulation of past data.

- (3) Ongoing past staff shortages have limited MALPF's ability to resolve problems that require systematic review and database maintenance. MALPF now has a dedicated staff member who has as part of her responsibilities to establish and maintain the integrity of the data.
- (4) In the old database, very few data controls were in place to improve the accuracy of data entry. The new database has built in a much more extensive system of data controls to improve data integrity. For example, certain data field choices are limited by drop-down menu options or other strictly delimited formats for data entry.
- (5) Differences exist between agencies and programs how data is reported. For example, MALPF has traditionally reported its protected acreage based on the MALPF Board's approval of offers to landowners. Very few offers are rejected, and funds from rejected offers are recycled into additional offers, so the reported data is quite accurate, though not perfect. Adjustments are made at the end of the fiscal year for lot exclusions, recycled offers, changes in reported acreage based on surveys, etc.

By comparison, Maryland Environmental Trust (MET) reports its protected acreage when it settles on easement donations, because a larger percentage of donated easements do not settle as compared to purchased easements. The Rural Legacy Program reports its protected acreage based on the approval of project agreements by

the Board of Public Works, because very few projects fail to be completed once approved by the Board of Public Works.

MALPF's new database will collect all of these potentially relevant dates (the dates of MALPF Board approval, Board of Public Works approval, and settlement), so MALPF's protected acreage can be reported based on whatever date the final user needs.

- (6) Duplicate reporting of protected acreage has the potential to be a problem, though State agencies have worked to eliminate this issue. For example, easements co-held by more than one organization are not unusual. Certain tax benefits for easement donors or sellers of discounted easements require an easement to be held or co-held by a specified State conservation agency or program, creating an incentive for local land trusts to grant an interest in an easement to MET. In turn, MET has traditionally sought to co-hold easements with local land trusts to help with monitoring compliance and with soliciting additional easement donations.

When a property is subject to an overlay or co-held easement, the data compiler must be careful how the acreage is reported to prevent double counting. The new database will provide information on co-held, overlay, and other additional easements on MALPF properties to insure that no double counting takes place.

By agreement with other State agencies, MALPF now incorporates the easement acreage it purchased with its share of Green-Print funds into its own reported acreage totals. Any co-held Rural Legacy easements are not included in MALPF acreage totals, but are included in the totals reported by the Rural Legacy Program in the Department of Natural Resources. All land protected by MALPF incorpo-

rating federal funds is included in MALPF's reported acreage totals.

- Finally, an ongoing reporting issue has been the difficulty for accounting for different kinds of protected lands. For example, just as not all land protected by MALPF is prime productive farmland, but includes forested land and environmentally-sensitive land, so the land protected by MET includes working farms and managed forests, not just environmentally-sensitive, ecologically-significant, or critical

habitat land.

Most protected properties encompass multiple uses and conservation values. The data currently available cannot easily distinguish among the uses and values protected on a single property. The new database will provide better and more accessible information on land use, soils, and values that can be used to address this issue, though the answers may never be complete because these will likely change over time on a single property.

Easement Participation

FYs 2003-2007

The adjusted total acreage base of agricultural conservation easements purchased or approved to be purchased, as of June 30, 2007, was 265,691 acres, covering 1,933 individual properties. Over the five-year period of this report (FYs 2003-2007), the Foundation purchased or approved for purchase a total of 382 new agricultural conservation easements, protecting an additional 32,924 acres with deeds of easement restricting the land to agricultural use. All easements approved by the Board of Public Works on or after October 1, 2004, are perpetual with no possibility of termination as a result of House Bill 777 (2004).

Acreage adjustments from recorded lot exclusions, option contracts not settling, and other changes in acreage, such as from a survey, resulted in a net decrease of 1,545 acres in the Program's acreage base. The acreage adjustments that were provided in separate tables in previous annual reports are now incorporated into these tables.

During this five-year period, Kent County had the largest net increase in district acreage with 5,232 acres. Other counties adding significant acreage included 3,644 acres in Caroline County, Carroll County with 3,283 acres, and 2,265 acres in Washington County.

The largest distribution of easement acreage is located in the Upper Eastern Shore (Queen Anne's, Talbot, Cecil, Kent and Caroline Counties). This area accounts for 93,876 easement acres, or 35.3% of all easement acreage statewide (as of June 30, 2007). The Upper Shore Region continues to surpass the Central Region of Maryland in the number of easement acres.

The Central Region (Baltimore, Carroll, Harford, Howard and Montgomery Counties) now has a total of 82,696 acres enrolled

in the easement program, accounting for 31.1% of the total easement acreage, declining from 33.5% of the total at the end of FY 2002.

The third largest area of easement properties is the Western Region (Allegany, Frederick, Garrett and Washington Counties) with a total of 35,552 acres, or 13.4% of the total easement acreage.

The Southern Region (Anne Arundel, St. Mary's, Prince George's, Charles, and Calvert Counties) continues to increase its share of total easement acreage, from 8.2% in FY 2002 to 9.3% of easement acreage at the end of FY 2007, with a total of 24,813 acres.

The Lower Eastern Shore (Dorchester, Wicomico, Worcester and Somerset Counties) now has 28,753 acres, 10.8% of total easement acreage.

State budget problems starting in late 2002 had a substantial impact on MALPF's funding and, therefore, MALPF's easement acquisitions. The acreage acquired during this period fluctuated from 15,316 acres in FY 2003 (already down from 19,192 acres in FY 2002) down to 2,453 acres in FY 2004. No new applications were accepted for FY 2004; therefore, the acreage acquired that year was funded either by county contributions or recycled State funding from rejected offers from the previous year using applications from the FY 2003 easement acquisition cycle.

The two charts at the end of this section show how, during the period MALPF had limited funding, the number of easements and acreage acquired dropped precipitously. With limited funding, easement applications also fell dramatically from 356 in 2003 to 123 in 2006; landowners appeared to be unwilling to tie up their properties voluntarily for five years when funding was so uncertain.

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION									
EASEMENT PARTICIPATION									
(Fiscal Year 2003)									
COUNTY	TOTAL EASEMENTS ACQUIRED OR WITH CONTRACT STATUS (as of June 30, 2002)		EASEMENTS OFFERED AND ACCEPTED (FY 2003)		LESS RECORDED LOT EXCLUSIONS FROM EASEMENTS		TOTAL EASEMENTS ACQUIRED OR WITH CONTRACT STATUS (as of June 30, 2003)		PERCENT OF TOTAL
	Number	Acreage	Number	Acreage	Acreage		Number	Acreage	
Allegany	1	183.2920	-	-	-		1	183.2920	0.08%
Anne Arundel	34	4,242.1192	2	262.7600	-		36	4,504.8792	1.94%
Baltimore	160	17,887.6336	5	937.9900	-		165	18,825.6236	8.09%
Calvert	33	4,262.9683	2	291.2470	-		35	4,554.2153	1.96%
Caroline	182	25,250.5022	5	952.9750	-		187	26,203.4772	11.26%
Carroll	293	36,164.1829	11	983.7040	-1.0000		304	37,146.8869	15.96%
Cecil	75	12,254.6642	6	511.0440	-		81	12,765.7082	5.48%
Charles	22	3,473.5123	3	890.1680	-		25	4,363.6803	1.87%
Dorchester	58	9,349.8420	13	2,196.6270	-4.0000		71	11,542.4690	4.96%
Frederick	96	15,465.4767	9	917.1610	-		105	16,382.6377	7.04%
Garrett	34	4,763.5260	3	380.3600	-		37	5,143.8860	2.21%
Harford	106	11,958.2228	7	347.6690	-2.0000		113	12,303.8918	5.29%
Howard	28	3,967.7802	2	45.3450	-		30	4,013.1252	1.72%
Kent	57	10,467.3752	2	353.2840	-		59	10,820.6592	4.65%
Montgomery	17	2,851.7330	3	491.5790	-		20	3,343.3120	1.44%
Prince George's	-	-	1	122.7400	-		1	122.7400	0.05%
Queen Anne's	119	20,604.1706	14	1,627.9230	-2.0000		133	22,230.0936	9.55%
St. Mary's	55	5,872.0200	12	1,311.1160	-		67	7,183.1360	3.09%
Somerset	22	3,229.7580	5	681.5700	-		27	3,911.3280	1.68%
Talbot	48	8,142.0800	4	367.2270	-		52	8,509.3070	3.66%
Washington	46	8,134.9790	5	861.7999	-		51	8,996.7789	3.87%
Wicomico	40	5,281.1020	2	143.8500	-		42	5,424.9520	2.33%
Worcester	25	3,652.7465	6	638.3500	-		31	4,291.0965	1.84%
TOTALS	1,551	217,459.6867	122	15,316.4889	-9.0000		1,673	232,767.1756	100.00%

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION										
EASEMENT PARTICIPATION										
(Fiscal Year 2004)										
COUNTY	TOTAL EASEMENTS ACQUIRED OR WITH CONTRACT STATUS (as of June 30, 2003)		EASEMENTS OFFERED AND ACCEPTED (FY 2004)		LESS RECORDED LOT EXCLUSIONS FROM EASEMENTS		TOTAL EASEMENTS ACQUIRED OR WITH CONTRACT STATUS (as of June 30, 2004)		PERCENT OF TOTAL	
	Number	Acreage	Number	Acreage	Acreage	Acreage	Number	Acreage		
Allegany	1	183.2920	-	-	-	-	1	183.2920	0.08%	
Anne Arundel	36	4,504.8792	-	-	-	-	36	4,504.8792	1.92%	
Baltimore	165	18,825.6236	1	108.6040	-	-	166	18,934.2276	8.05%	
Calvert	35	4,554.2153	1	218.0000	-1.00	-1.00	36	4,771.2153	2.03%	
Caroline	187	26,203.4772	-	-	-1.00	-1.00	187	26,202.4772	11.14%	
Carroll	304	37,146.8869	9	923.0974	-	-	313	38,069.9843	16.19%	
Cecil	81	12,765.7082	-	-	-	-	81	12,765.7082	5.43%	
Charles	25	4,363.6803	-	-	-	-	25	4,363.6803	1.86%	
Dorchester	71	11,542.4690	-	-	-	-	71	11,542.4690	4.91%	
Frederick	105	16,382.6377	-	-	-1.00	-1.00	105	16,381.6377	6.96%	
Garrett	37	5,143.8860	-	-	-	-	37	5,143.8860	2.19%	
Harford	113	12,303.8918	-	-	-	-	113	12,303.8918	5.23%	
Howard	30	4,013.1252	-	-	-	-	30	4,013.1252	1.71%	
Kent	59	10,820.6592	2	284.9400	-1.00	-1.00	61	11,104.5992	4.72%	
Montgomery	20	3,343.3120	1	272.8400	-	-	21	3,616.1520	1.54%	
Prince George's	1	122.7400	-	-	-	-	1	122.7400	0.05%	
Queen Anne's	133	22,230.0936	-	-	-1.69	-1.69	133	22,228.4036	9.45%	
St. Mary's	67	7,183.1360	2	147.6200	-	-	69	7,330.7560	3.12%	
Somerset	27	3,911.3280	-	-	-	-	27	3,911.3280	1.66%	
Talbot	52	8,509.3070	-	-	-	-	52	8,509.3070	3.62%	
Washington	51	8,996.7789	3	498.0000	-	-	54	9,494.7789	4.04%	
Wicomico	42	5,424.9520	-	-	-	-	42	5,424.9520	2.31%	
Worcester	31	4,291.0965	-	-	-	-	31	4,291.0965	1.82%	
TOTALS	1,673	232,767.1756	19	498	-5.69	-5.69	1692	235,214.5870	1.00%	

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION								
EASEMENT PARTICIPATION								
(Fiscal Year 2005)								
COUNTY	TOTAL EASEMENTS ACQUIRED OR WITH CONTRACT STATUS (as of June 30, 2004)		EASEMENTS OFFERED AND ACCEPTED (FY 2005)		LESS RECORDED LOT EXCLUSIONS FROM EASEMENTS AND CON- TRACTS NOT SETTLING	TOTAL EASEMENTS ACQUIRED OR WITH CONTRACT STATUS (as of June 30, 2005)		PERCENT OF TOTAL
	Number	Acreage	Number	Acreage		Number	Acreage	
Allegany	1	183.2920	-	-	-	1	183.2920	0.08%
Anne Arundel	36	4,504.8792	-	-	-	36	4,504.8792	1.86%
Baltimore	166	18,934.2276	6	481.4200	-1.6440	172	19,414.0036	8.03%
Calvert	36	4,771.2153	-	-	-	36	4,771.2153	1.97%
Caroline	187	26,202.4772	2	148.6000	-	189	26,351.0772	10.89%
Carroll	313	38,069.9843	7	574.3040	-6.5146	320	38,637.7737	15.97%
Cecil	81	12,765.7082	3	353.9000	-2.0000	84	13,117.6082	5.42%
Charles	25	4,363.6803	3	548.8500	-	28	4,912.5303	2.03%
Dorchester	71	11,542.4690	3	549.8900	-726.5900	72	11,365.7690	4.70%
Frederick	105	16,381.6377	5	707.5200	-1.4270	110	17,087.7307	7.06%
Garrett	37	5,143.8860	3	196.6850	-	40	5,340.5710	2.21%
Harford	113	12,303.8918	1	54.6300	-2.0000	114	12,356.5218	5.11%
Howard	30	4,013.1252	1	17.3300	-4.0000	31	4,026.4552	1.66%
Kent	61	11,104.5992	3	652.0900	-2.0000	64	11,722.3632	4.85%
Montgomery	21	3,616.1520	-	-	-	21	3,616.1520	1.49%
Prince George's	1	122.7400	1	132.0600	-	2	254.8000	0.11%
Queen Anne's	133	22,228.4036	3	390.2400	-329.2150	134	22,289.4286	9.21%
St. Mary's	69	7,330.7560	7	810.8900	39.3287	76	8,180.9747	3.38%
Somerset	27	3,911.3280	2	245.3800	-	29	4,156.7080	1.72%
Talbot	52	8,509.3070	7	802.5500	-10.5300	59	9,301.3270	3.85%
Washington	54	9,494.7789	3	448.5700	-6.3300	57	9,937.0189	4.11%
Wicomico	42	5,424.9520	2	152.5500	-1.1400	44	5,576.3620	2.31%
Worcester	31	4,291.0965	2	671.6600	-165.7370	32	4,797.0195	1.98%
TOTALS	1692	235,214.5870	64	7,939.1190	-1,252.1249	1751	241,901.5811	100.00%

The 2005 adjustments include 2 easements each in Dorchester County, 2 easements in Queen Anne's County, and 1 easement in Worcester County that failed to go to settlement.

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION									
EASEMENT PARTICIPATION									
(Fiscal Year 2006)									
COUNTY	TOTAL EASEMENTS ACQUIRED OR WITH CONTRACT STATUS (as of June 30, 2005)		EASEMENTS OFFERED AND ACCEPTED (FY 2006)		RECORDED LOT EXCLUSIONS, CONTRACTS NOT SETTLING, AND ACREAGE ADJUSTMENTS		TOTAL EASEMENTS ACQUIRED OR WITH CONTRACT STATUS (as of June 30, 2006)		PERCENT OF TOTAL
	Number	Acreage	Number	Acreage	Acreage		Number	Acreage	
Allegany	1	183.2920	-	-	-		1	183.2920	0.07%
Anne Arundel	36	4,504.8792	-	-	-1.0000		36	4,503.8792	1.80%
Baltimore	172	19,414.0036	8	779.4500	-2.5100		180	20,190.9436	8.06%
Calvert	36	4,771.2153	-	-	-16.7000		36	4,754.5153	1.90%
Caroline	189	26,351.0772	10	1,589.3300	8.0480		199	27,948.4552	11.16%
Carroll	320	38,637.7737	11	901.0500	-11.5780		331	39,526.2457	15.78%
Cecil	84	13,117.6082	1	333.7800	-		85	13,451.3882	5.37%
Charles	28	4,912.5303	4	594.4200	4.7140		32	5,511.6643	2.20%
Dorchester	72	11,365.7690	3	277.1900	0.5970		75	11,643.5560	4.65%
Frederick	110	17,087.7307	1	102.5900	6.4126		111	17,196.7333	6.86%
Garrett	40	5,340.5710	2	250.3400	-		42	5,590.9110	2.23%
Harford	114	12,356.5218	2	202.1800	-1.9920		116	12,556.7098	5.01%
Howard	31	4,026.4552	-	-	-0.0040		31	4,026.4512	1.61%
Kent	64	11,722.3632	8	1,451.8410	-10.1850		72	13,164.0192	5.25%
Montgomery	21	3,616.1520	1	140.0000	-		22	3,756.1520	1.50%
Prince George's	2	254.8000	-	-	0.3310		2	255.1310	0.10%
Queen Anne's	134	22,289.4286	1	114.3000	-5.0720		135	22,398.6566	8.94%
St. Mary's	76	8,180.9747	5	466.5300	-46.1760		81	8,601.3287	3.43%
Somerset	29	4,156.7080	-	-	-14.3800		29	4,142.3280	1.65%
Talbot	59	9,301.3270	2	322.7200	-57.8390		61	9,566.2080	3.82%
Washington	57	9,937.0189	3	576.2100	-5.9300		60	10,507.2989	4.19%
Wicomico	44	5,576.3620	-	-	-1.9120		44	5,574.2740	2.23%
Worcester	32	4,797.0195	4	679.1600	2.6160		36	5,478.7955	2.19%
TOTALS	1751	241,901.5811	66	679.160	-152.5594		1817	250,530.1127	100.00%

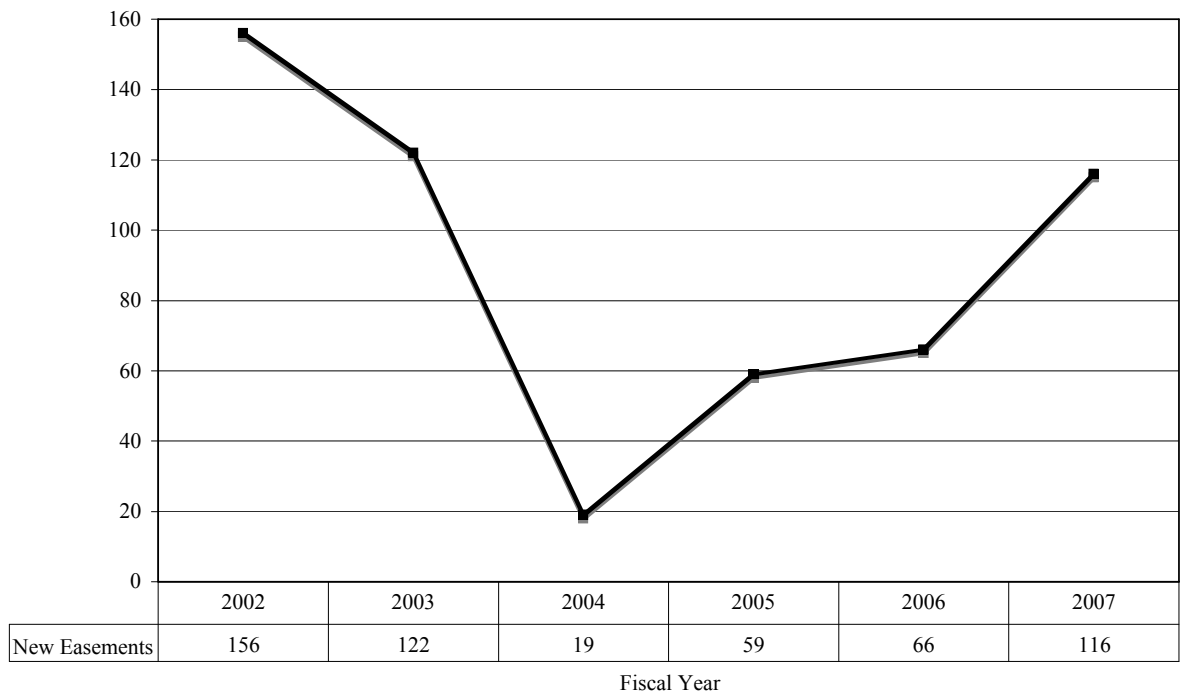
MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION								
EASEMENT PARTICIPATION								
(Fiscal Year 2007)								
COUNTY	TOTAL EASEMENTS ACQUIRED OR WITH CONTRACT STATUS (as of June 30, 2006)		EASEMENTS OFFERED AND ACCEPTED (FY 2007)		RECORDED LOT EXCLUSIONS, CONTRACTS NOT SETTLING, AND ACREAGE ADJUSTMENTS	TOTAL EASEMENTS ACQUIRED OR WITH CONTRACT STATUS (as of June 30, 2007)		PERCENT OF TOTAL
	Number	Acreage	Number	Acreage		Number	Acreage	
Allegany	1	183.2920	1	191.9200	-	2	375.2120	0.14%
Anne Arundel	36	4,503.8792	1	94.8500	-	37	4,598.7300	1.73%
Baltimore	180	20,190.9436	15	949.5660	-70.5654	195	21,069.9442	7.93%
Calvert	36	4,754.5153	-	-	-1.0000	36	4,753.5153	1.79%
Caroline	199	27,948.4552	12	1960.7540	-61.8047	211	29,847.4045	11.23%
Carroll	331	39,526.2457	7	905.9720	-3.2950	338	40,428.9227	15.22%
Cecil	85	13,451.3882	5	670.1400	-3.4070	90	14,118.1212	5.31%
Charles	32	5,511.6643	4	558.4400	3.8660	36	6,073.9703	2.29%
Dorchester	75	11,643.5560	3	450.0000	2.6700	78	12,096.2260	4.55%
Frederick	111	17,196.7333	5	770.9070	-7.1344	116	17,960.5059	6.76%
Garrett	42	5,590.9110	4	371.9900	-8.2030	46	5,954.6980	2.24%
Harford	116	12,556.7098	4	407.5200	1.7380	120	12,965.9678	4.88%
Howard	31	4,026.4512	-	-	-	31	4,026.4512	1.52%
Kent	72	13,164.0192	15	2894.6300	-5.7348	87	16,052.9144	6.04%
Montgomery	22	3,756.1520	3	447.9700	-0.5390	25	4,203.5830	1.58%
Prince George's	2	255.1310	3	282.2000	-	5	537.3310	0.20%
Queen Anne's	135	22,398.6566	10	1271.2600	-4.8230	145	23,665.0936	8.91%
St. Mary's	81	8,601.3287	3	262.2400	-13.6930	84	8,849.8757	3.33%
Somerset	29	4,142.3280	7	607.9400	-	36	4,750.2680	1.79%
Talbot	61	9,566.2080	3	554.9200	71.55	64	10,192.6780	3.84%
Washington	60	10,507.2989	4	758.6000	-4.0000	64	11,261.8989	4.24%
Wicomico	44	5,574.2740	4	551.2200	4.2200	48	6,129.7140	2.31%
Worcester	36	5,478.7955	3	323.6000	-25.6380	39	5,776.7575	2.17%
TOTALS	1817	250,530.1127	55	7954.580	46.132	1933	265,690.9584	100.00%

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
REGIONAL ANALYSIS:
PERCENTAGE OF TOTAL EASEMENT ACREAGE

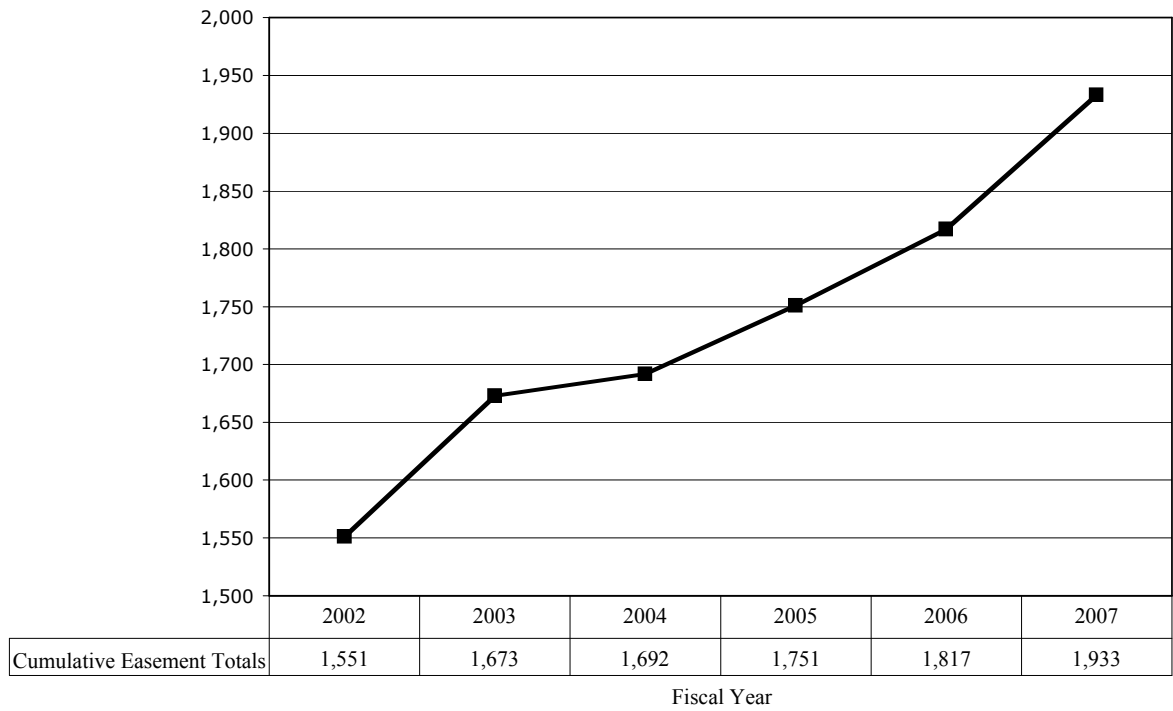
(Fiscal Years 2002-2007)

REGIONS	2002	2003	2004	2005	2006	2007
WESTERN: Allegany Frederick Garrett Washington	13.0% 28,547 acres	13.2% 30,707 acres	13.3% 31,204 acres	13.5% 32,549 acres	13.4% 33,478 acres	13.4% 35,552 acres
CENTRAL: Baltimore Carroll Harford Howard Montgomery	33.5% 72,830 acres	32.5% 75,633 acres	32.7% 76,937 acres	32.3% 78,051 acres	32.0% 80,058 acres	31.1% 82,696 acres
SOUTHERN: Anne Arundel Calvert Charles Prince George's St. Mary's	8.2% 17,851 acres	8.9% 20,729 acres	9.0% 21,093 acres	9.4% 22,624 acres	9.4% 23,627 acres	9.3% 24,813 acres
UPPER SHORE: Caroline Cecil Kent Queen Anne's Talbot	35.3% 76,719 acres	34.6% 80,529 acres	34.4% 80,810 acres	34.2% 82,782 acres	34.5% 86,529 acres	35.3% 93,876 acres
LOWER SHORE: Dorchester Somerset Wicomico Worcester	10.0% 21,513 acres	10.8% 25,170 acres	10.7% 25,170 acres	10.7% 25,896 acres	10.7% 26,839 acres	10.8% 28,753 acres
TOTAL ACREAGE	217,460 acres	232,767 acres	235,215 acres	241,902 acres	250,530 acres	265,691 acres

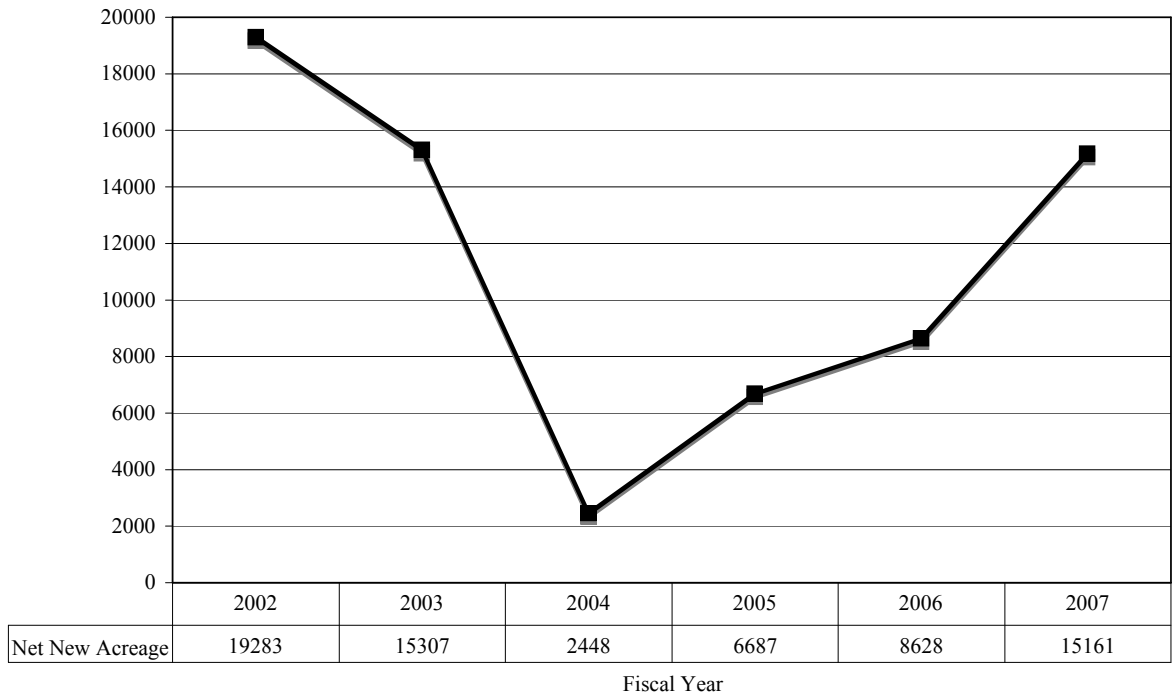
New Easements



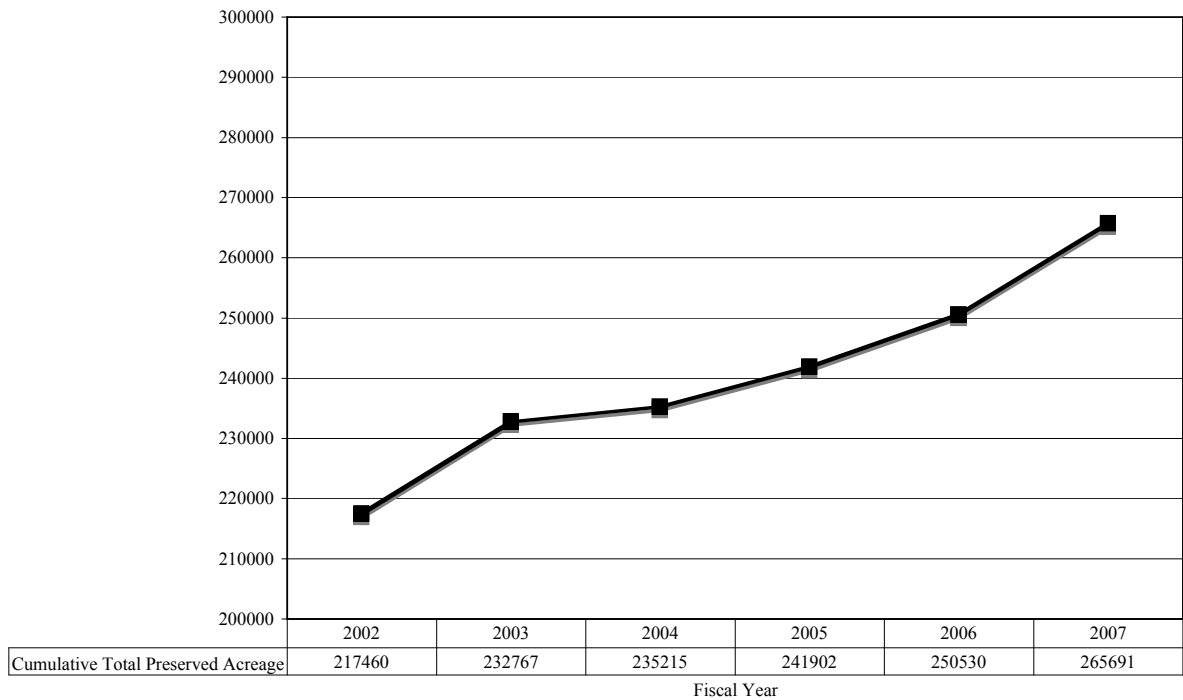
Cumulative Easement Totals (FYs 2002-2007)



Net New Easement Acreage
(FYs 2002-2007)



Cumulative Total Preserved Acreage
(FYs 2002-2007)



Easement Acquisition Program

FYs 2003-2007

At the end of this five-year period, FYs 2003-2007, the Foundation had protected or had a pending offer on a cumulative total of 265,691 acres. The average size of farms protected over the five-year period was slightly less than 129 acres.

Average Size of Newly Protected Farms (FYs 2002-2007)

Fiscal Year	New Easements	New Easement Acreage	Average Farm Size
2002	156	19,191.7875	123.0243
2003	122	15,316.4889	125.5450
2004	19	2,453.1014	129.1106
2005	64	7,939.1190	124.0487
2006	66	8,781.0910	133.0468
2007	116	15,286.6390	131.7814
2003-7	387	49,776.4393	128.6213

Note: FY 2004 figures are not representative because of the low number of new easements and their limited geographical concentration.

The average values of all accepted offers during this five-year period, FYs 2003-2007, increased dramatically, from \$2,199 per acre in FY 2003 to \$5,952 in FY 2007. Reflecting the rapid increase in real estate values, the average per acre acquisition cost increased over this five-year period by \$3,753 per acre.

The values listed in the tables in this section reflect average asking prices, fair market values, agricultural values, easement values, and the acquisition costs of properties within each county during each year of the five-year period, FYs 2003-2007. The averages reported apply exclusively to those properties on which easement offers were accepted by the landowners and should not be considered to be representative values of all farmland within any one county. Indeed, the fewer offers within a county, the more likely that the values reported are not representative of county values.

Nonetheless, some important trends can be identified within the data reported here.

First, as can be seen by the "Easement Acquisition Costs and Values: Per Acre Summary" table below, not only have acquisition costs tripled (up 204%), the appraised Fair Market Value has also almost tripled (up 198%) since FY 2002. Almost all of the change in value was accounted for in the increased development value of the land, represented by the formula-determined Easement Value (up 250%). Only a small portion of the increase in the Fair Market Value can be accounted for by the formula-determined agricultural use value of the land (up only 13%).

Easement Acquisition Costs and Values: Per Acre Summary (FYs 2002-2007)

Fiscal Year	Acquisition Cost	Easement Value (EV)	Fair Market Value (FMV)	Agricultural Use Value (formula)
2002	\$1,958	\$2,717	\$3,468	\$751
2003	2,199	3,071	3,756	686
2004	2,982	4,257	4,914	657
2005	2,802	4,534	5,293	759
2006	4,492	7,634	8,424	790
2007	5,952	9,496	10,341	845
6 yr % change	+204%	+250%	+198%	+13%

Note: FY 2004 figures are not representative because MALPF accepted no new applications; the offers made were based on county funding and funds from rejected offers from previous years.

In the next table, "Easement Acquisition Costs and Values (relative percentages)," the average acquisition cost as a percentage of Fair Market Value has remained relatively steady and at MALPF historic averages of about 60%. With the exception of the non-representative fiscal year 2004, the range of per acre acquisition costs as a percentage of per acre Fair Market Value was from 53% in FY 2005 to almost 59% in FY 2003. FY 2003, the high point, was the last regular easement acquisition round using primarily discounting as the basis for selecting properties on which to purchase easements.

This unexpected relationship is confirmed by the annual sequence shown by the decline in per acre acquisition costs as a percent of Easement Value, from approximately 70% in FYs 2002-2004 to about 60% in FYs 2005-2007. Despite the increase in acquisition costs, the development value of land is increasing faster than acquisition costs. Landowners applying to the MALPF Program are discounting about the same as the historic average as a percent of Fair Market Value. But, landowners are discounting more steeply since FY 2005 than before, if the acquisition costs are measured as a percentage of the land's development value, indicated by its formula-determined Easement Value. Agricultural values have remained substantially the same.

**Easement Acquisition Costs and Values:
Relative Percentages
(FYs 2002-2007)**

FY	Acquisition Cost as % of FMV	Acquisition Cost as % of EV	Agricultural Use Value as % of FMV	EV as % of FMV
2002	56.46%	72.06%	21.66%	78.34%
2003	58.74%	72.54%	18.26%	80.97%
2004	60.68%	70.05%	14.34%	86.63%
2005	52.94%	61.80%	14.34%	85.66%
2006	53.32%	58.84%	9.38%	90.62%
2007	57.56%	62.68%	8.17%	91.83%

Note: FY 2004 figures are not representative because MALPF accepted no new applications; the offers made were based on county funding and funds from rejected offers from previous years.

This trend is not likely to continue in the near-to-medium term for several reasons. First, agricultural use values are likely to increase with greater demand for field crops to support ethanol production. Second, the real estate market has weakened, leading to weakening land values. The development value of Maryland farmland may increase at lower rate or even decline marginally. Third, the increasing number of applications to sell easements to MALPF suggests that the supply of farmland on which to purchase easements will continue to be greater than the demand by MALPF because of the limitation on its funding. Should this relationship continue, selling easements

should become more competitive, putting pressure on landowners to lower their asking prices.

Landowners with very productive farmland that will rank well and are likely to get easement offers will increasingly realize that they can have high asking prices and capture the full easement value. These landowners will put pressure on the overall acquisition costs of easements. Offsetting this phenomenon to some degree, as long as MALPF has limited funds, landowners without high priority properties may be more willing to discount their asking prices to get offers in the second round or to improve their ranking in counties using discounting as one of their ranking criteria. As a result of these contradictory pressures, the average per acre acquisition cost as a percent of FMV may not change much, but greater variability may result among the offers made to purchase easements.

Because easement offers are based on the lower of either the asking price or the easement value (the appraised fair market value less the agricultural value), the Foundation purchases easements at a discounted value when the asking price is below the easement value. MALPF realized a total savings of \$111,985,966 as landowners accepted offers that were below the appraised easement value, FYs 2003-2007. As shown in the following table, the discount realized by the Program as a percent of the easement value and by individual offer has increased substantially since FY 2002. MALPF purchased an additional 33,789 acres due to the competitive bidding component of the program during the five-year period of this report.

Overall, the absolute and relative impact of discounting offers has increased since FY 2002. Relatively high offers as a percentage of fair market value seem to be specific to a few counties or even individual offers as a function of conditions in and/or characteristics of individual counties. High percentage costs relative to FMV seem to be more characteristic of Western Shore counties than Eastern Shore counties. High offer values relative to

the FMV seem more characteristic of counties without a competitive pool of applicants. High acquisition costs relative to fair market values seem more characteristic of counties under intense development pressure and with

relatively less restrictive zoning controls. Further study can show whether or not there is empirical support for these generalizations suggested by an initial review of the data.

**Value of Discounting in
Easement Acquisitions**
(FYs 2002-2007)

Fiscal Year	Discount Value	Acquisition Cost	Discount as a Percent of Easement Value	Discount Value per Offer
2002	\$14,551,881	\$37,582,057	27.91%	\$93,281
2003	13,328,266	33,687,626	28.35%	109,248
2004	3,127,721	7,315,417	29.95%	164,617
2005	13,749,682	22,246,850	38.20%	214,839
2006	27,591,821	39,443,428	41.16%	418,058
2007	54,188,476	90,980,431	37.33%	467,142

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
EASEMENT ACQUISITION PROGRAM
(Fiscal Year 2003)

COUNTY	NUMBER OF EASEMENTS	TOTAL NUMBER OF ACRES	AVERAGE FARM SIZE IN ACRES	AVERAGE ASKING PRICE PER ACRE	AVERAGE FAIR MARKET VALUE PER ACRE	AVERAGE AGRICULTURAL USE VALUE PER ACRE	AVERAGE EASEMENT VALUE PER ACRE	ACQUISITION COST		DISCOUNT
								PER ACRE	TOTAL	
Allegany	-	-	-	-	-	-	-	-	-	-
Anne Arundel	2	262.7600	131	\$7,500.00	\$5,850.00	\$400.49	\$5,449.51	\$4,642.87	\$1,234,795.83	\$255,754.17
Baltimore	5	937.9900	188	4,450.00	9,301.40	725.95	8,575.18	4,450.00	4,327,590.00	5,043,708.52
Calvert	2	291.2470	146	7,000.00	8,501.50	538.54	7,963.07	6,825.50	1,858,930.45	284,109.53
Caroline	5	952.9750	191	1,045.00	2,280.03	1,017.39	1,262.42	977.15	1,025,418.97	309,166.26
Carroll	11	983.7040	89	3,768.18	4,835.50	666.31	4,170.21	3,120.34	2,775,385.76	749,822.85
Cecil	6	511.0440	85	3,166.67	4,833.33	820.75	4,013.34	3,032.75	1,389,857.53	532,671.81
Charles	3	890.1680	297	3,183.33	3,458.95	589.11	2,870.20	2,753.58	2,267,068.82	101,402.72
Dorchester	13	2,196.6270	169	988.46	2,354.88	857.67	1,497.89	993.14	1,983,666.66	766,090.74
Frederick	9	917.1610	102	2,111.33	4,155.44	723.25	3,431.89	2,111.33	1,947,025.43	1,195,872.76
Garrett	3	380.3600	127	1,366.67	2,150.00	397.37	1,753.00	1,366.67	511,422.00	140,818.32
Harford	7	347.6690	50	3,621.43	6,624.87	745.61	7,308.70	3,621.43	1,281,970.00	667,683.56
Howard	2	45.3450	23	15,000.00	18,000.00	829.89	17,169.69	15,000.00	635,175.00	93,839.33
Kent	2	353.2840	177	3,375.00	7,100.00	762.55	6,337.52	2,751.48	934,955.21	1,041,896.11
Montgomery	3	491.5790	164	4,233.33	5,033.33	786.23	4,247.31	4,205.23	2,058,341.92	28,111.58
Prince George's	1	122.7400	123	5,500.00	6,000.00	395.85	5,604.64	5,500.00	669,570.00	12,739.33
Queen Anne's	14	1,627.9230	116	1,003.57	2,632.13	677.57	1,954.88	939.23	1,681,449.80	1,357,398.66
St. Mary's	12	1,311.1160	109	2,783.33	3,148.96	478.61	2,670.49	2,570.49	3,031,559.78	118,796.50
Somerset	5	681.5700	136	990.00	1,799.53	642.39	1,156.77	957.89	638,790.17	121,834.51
Talbot	4	367.2270	92	2,100.00	3,629.00	1,041.70	2,585.43	2,064.57	739,783.67	198,153.58
Washington	5	861.7999	172	3,330.00	2,976.22	688.20	2,288.10	2,288.10	1,953,817.24	42,686.62
Wicomico	2	143.8500	72	1,665.00	3,550.00	814.09	2,736.04	1,564.14	205,936.67	120,354.72
Worcester	6	638.3500	106	852.00	1,533.33	453.32	1,075.15	852.00	535,115.00	145,353.67
TOTALS	122	15,316.4889	126	\$2,400	\$3,756	\$686	\$3,071	\$2,199	\$33,687,626	\$13,328,266

The average asking price per acre, average fair market value per acre, average agricultural use value per acre, average easement value per acre, and average acquisition cost per acre for individual counties are calculated by summing the per acre price, cost, or value by property and dividing the result by the number of properties. Thus, the table's values may not be internally consistent. The reported discount is the maximum easement value for all properties less the actual acquisition cost, with the total representing the willingness of property owners to accept less than the full easement value of the properties in the competitive bidding process.

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION EASEMENT ACQUISITION PROGRAM (Fiscal Year 2004)										
COUNTY	NUMBER OF EASEMENTS	TOTAL NUMBER OF ACRES	AVERAGE FARM SIZE IN ACRES	AVERAGE ASKING PRICE PER ACRE	AVERAGE FAIR MARKET VALUE PER ACRE	AVERAGE AGRICULTURAL USE VALUE PER ACRE	AVERAGE EASEMENT VALUE PER ACRE	ACQUISITION COST		DISCOUNT
								PER ACRE	TOTAL	
Allegany	-	-	-	-	-	-	-	-	-	-
Anne Arundel	-	-	-	-	-	-	-	-	-	-
Baltimore	1	108.6040	109	\$3000.00	\$10,501.00	\$692.12	\$9,809.35	\$3,000.00	\$322,812.00	\$732,713.08
Calvert	1	218.0000	218	10,000.00	7,222.00	597.53	6,624.69	5,291.93	1,153,640.78	277,292.26
Caroline	-	-	-	-	-	-	-	-	-	-
Carroll	9	923.0974	103	3,638.89	5,890.72	667.36	5,220.16	3,522.24	3,238,103.95	1,344,170.73
Cecil	-	-	-	-	-	-	-	-	-	-
Charles	-	-	-	-	-	-	-	-	-	-
Dorchester	-	-	-	-	-	-	-	-	-	-
Frederick	-	-	-	-	-	-	-	-	-	-
Garrett	-	-	-	-	-	-	-	-	-	-
Harford	-	-	-	-	-	-	-	-	-	-
Howard	-	-	-	-	-	-	-	-	-	-
Kent	2	284.9400	142	925.00	3,850.00	809.12	3,041.10	925.00	260,976.00	593,599.46
Montgomery	1	272.8400	273	3,900.00	5,200.12	793.33	4,406.79	3,900.00	1,056,276.00	137,258.40
Prince George's	-	-	-	-	-	-	-	-	-	-
Queen Anne's	-	-	-	-	-	-	-	-	-	-
St. Mary's	2	147.6200	74	3,100.00	3,002.50	489.83	2,513.00	2,513.00	370,691.30	0
Somerset	-	-	-	-	-	-	-	-	-	-
Talbot	-	-	-	-	-	-	-	-	-	-
Washington	3	498.0000	166	3,000.00	2,566.67	603.96	1,962.74	1,863.93	912,916.67	42,686.62
Wicomico	-	-	-	-	-	-	-	-	-	-
Worcester	-	-	-	-	-	-	-	-	-	-
TOTALS	19	2,453.1014	129	\$3,779.21	\$4,914.02	\$656.91	\$4,257.12	\$2,982.11	\$7,315,416.70	\$3,127,720.55

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION EASEMENT ACQUISITION PROGRAM (Fiscal Year 2005)										
COUNTY	NUMBER OF EASEMENTS	TOTAL NUMBER OF ACRES	AVERAGE FARM SIZE IN ACRES	AVERAGE ASKING PRICE PER ACRE	AVERAGE FAIR MARKET VALUE PER ACRE	AVERAGE AGRICULTURAL USE VALUE PER ACRE	AVERAGE EASEMENT VALUE PER ACRE	ACQUISITION COST		DISCOUNT
								PER ACRE	TOTAL	
Allegany	-	-	-	-	-	-	-	-	-	-
Anne Arundel	-	-	-	-	-	-	-	-	-	-
Baltimore	6	481.4200	80	\$4,166.67	\$11,666.32	\$771.85	\$10,894.47	\$4,166.67	\$2,013,160.00	\$3,154,919.38
Calvert	-	-	-	-	-	-	-	-	-	-
Caroline	2	148.6000	74	937.50	3,550.91	991.74	2,559.18	937.50	140,460.00	246,798.69
Carroll	7	574.3040	82	5,014.29	6,300.00	753.93	5,546.06	4,117.14	2,297,882.90	719,265.31
Cecil	3	353.9000	118	5,400.00	5,998.34	735.75	5,262.59	3,958.39	1,568,148.76	310,552.70
Charles	3	548.8500	183	3,166.67	4,241.07	582.48	3,658.58	2,936.71	1,564,261.65	576,344.97
Dorchester	3	549.8900	183	1,333.33	3,358.03	1,111.47	2,246.56	1,333.33	826,361.00	557,117.34
Frederick	5	707.5200	142	2,810.00	4,580.53	843.48	3,737.06	2,429.18	1,900,248.14	851,233.31
Garrett	3	196.6850	66	2,200.00	2,600.42	523.29	2,077.13	1,986.78	404,342.72	29,272.74
Harford	1	54.6300	55	6,000.00	12,000.73	242.96	11,757.77	6,000.00	327,780.00	314,547.24
Howard	1	17.3300	17	20,000.00	33,006.35	667.84	32,338.51	20,000.00	346,600.00	213,826.39
Kent	3	652.0900	217	2,466.67	5,702.23	1,044.08	4,658.15	2,466.67	1,577,533.00	1,421,160.88
Montgomery	-	-	-	-	-	-	-	-	-	-
Prince George's	1	132.0600	132	7,800.00	12,759.59	629.17	12,130.42	7,800.00	1,030,048.50	571,864.58
Queen Anne's	3	390.2400	130	1,975.80	4,833.63	738.63	4,095.00	1,975.80	685,831.40	904,646.68
St. Mary's	7	810.8900	116	3,985.71	4,514.31	534.70	3,979.61	3,474.53	2,757,411.13	412,495.14
Somerset	2	245.3800	123	1,250.00	3,393.24	680.13	2,713.11	1,250.00	313,684.00	346,192.93
Talbot	7	802.5500	115	2,246.40	6,398.53	838.14	5,556.65	1,817.11	1,866,277.71	2,729,898.12
Washington	3	448.5700	150	4,666.67	3,999.95	789.70	3,210.26	3,210.26	1,354,673.11	0.00
Wicomico	2	152.5500	76	4,775.00	3,801.60	695.93	3,105.67	3,105.67	472,025.00	0.00
Worcester	2	671.6600	336	1,200.00	2,572.37	708.82	1,863.55	1,143.93	800,120.67	389,546.00
TOTALS	64	7,939,1190	124	\$3,189.45	\$5,293.13	\$759.09	\$4,534.07	\$2,802.18	\$22,246,849.69	\$13,749,682.40

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION EASEMENT ACQUISITION PROGRAM (Fiscal Year 2006)										
COUNTY	NUMBER OF EASEMENTS	TOTAL NUMBER OF ACRES	AVERAGE FARM SIZE IN ACRES	AVERAGE ASKING PRICE PER ACRE	AVERAGE FAIR MARKET VALUE PER ACRE	AVERAGE AGRICULTURAL USE VALUE PER ACRE	AVERAGE EASEMENT VALUE PER ACRE	ACQUISITION COST		DISCOUNT
								PER ACRE	TOTAL	
Allegany	-	-	-	-	-	-	-	-	-	-
Anne Arundel	-	-	-	-	-	-	-	-	-	-
Baltimore	8	779.4500	97	\$4,831.21	\$12,628.72	\$571.59	\$12,057.13	\$4,831.21	\$3,776,525.92	\$5,153,605.52
Calvert	-	-	-	-	-	-	-	-	-	-
Caroline	10	1,589.3300	159	2,291.50	4,225.88	1,096.51	3,129.37	2,154.40	3,403,861.24	1,516,451.67
Carroll	11	901.0500	82	6,456.12	9,311.90	546.15	8,765.74	6,113.22	5,438,131.27	2,446,735.27
Cecil	1	333.7800	334	5,500.03	10,000.06	462.10	9,537.96	5,500.03	1,835,801.00	1,347,780.33
Charles	4	594.4200	149	9,124.88	6,350.04	596.05	5,753.99	5,653.28	3,242,572.73	38,673.00
Dorchester	3	277.1900	92	1,943.00	4,566.97	1,213.11	3,353.86	1,773.85	539,243.11	334,000.23
Frederick	1	102.5900	103	8,700.00	9,942.49	754.75	9,187.74	8,700.00	892,533.00	50,037.59
Garrett	2	250.3400	125	1,975.00	3,150.02	477.33	2,672.69	1,975.00	493,353.00	168,557.22
Harford	2	202.1800	101	9,350.00	14,310.67	384.63	13,926.04	9,350.00	1,964,520.00	978,229.76
Howard	-	-	-	-	-	-	-	-	-	-
Kent	8	1,451.8410	181	3,046.25	10,028.91	979.56	9,049.35	3,039.82	4,268,952.06	7,420,416.63
Montgomery	1	140.0000	140	5,800.00	7,192.86	865.59	6,327.27	5,800.00	812,000.00	73,817.87
Prince George's	-	-	-	-	-	-	-	-	-	-
Queen Anne's	1	114.3000	114	4,450.00	5,200.35	674.66	4,525.69	4,450.00	508,635.00	8,651.80
St. Mary's	5	466.5300	93	11,000.04	9,357.49	565.84	8,791.66	8,790.59	4,707,403.20	0.00
Somerset	-	-	-	-	-	-	-	-	-	-
Talbot	2	322.7200	161	17,500.00	27,143.10	871.08	26,272.02	7,269.95	2,669,736.05	6,389,716.41
Washington	3	576.2100	192	10,000.04	7,033.39	805.68	6,227.70	5,812.59	3,364,650.81	234,498.63
Wicomico	-	-	-	-	-	-	-	-	-	-
Worcester	4	679.1600	170	2,223.95	4,919.85	723.00	4,196.86	2,178.06	1,525,510.00	1,430,648.67
TOTALS	66	8,781.0910	133	\$5,474.57	\$8,424.00	\$789.95	\$7,634.05	\$4,491.86	\$39,443,428.39	\$27,591,820.60

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION EASEMENT ACQUISITION PROGRAM (Fiscal Year 2007)										
COUNTY	NUMBER OF EASEMENTS	TOTAL NUMBER OF ACRES	AVERAGE FARM SIZE IN ACRES	AVERAGE ASKING PRICE PER ACRE	AVERAGE FAIR MARKET VALUE PER ACRE	AVERAGE AGRICULTURAL USE VALUE PER ACRE	AVERAGE EASEMENT VALUE PER ACRE	ACQUISITION COST		DISCOUNT
								PER ACRE	TOTAL	
Allegany	1	191.9200	192	\$10,000.00	\$2,800.13	\$478.67	\$2,321.45	\$2,321.45	\$443,212.00	\$0.00
Anne Arundel	1	94.8500	95	\$15,000.00	\$21,001.62	\$425.64	\$20,575.97	\$15,000.00	\$1,392,750.00	\$517,729.17
Baltimore	15	949.5660	63	\$6,174.97	\$17,057.91	\$565.45	\$16,492.45	\$6,174.97	\$6,087,117.00	\$8,265,080.94
Calvert	-	-	-	-	-	-	-	-	-	-
Caroline	12	1,960.7500	163	\$3,147.08	\$6,674.72	\$1,164.72	\$5,510.00	\$3,147.08	\$6,275,693.30	\$3,373,315.73
Carroll	7	905.9720	129	\$7,923.03	\$12,144.73	\$586.79	\$11,557.94	\$7,845.12	\$7,114,167.07	\$3,256,683.55
Cecil	5	670.1400	134	\$6,919.95	\$11,941.43	\$883.82	\$11,057.60	\$6,885.67	\$5,679,211.08	\$2,943,591.80
Charles	4	558.4400	140	\$12,875.00	\$8,876.01	\$582.34	\$8,293.67	\$8,293.67	\$4,612,735.72	\$0.00
Dorchester	3	450.0000	150	\$4,000.00	\$5,000.52	\$916.31	\$4,084.22	\$3,916.92	\$1,750,914.98	\$57,719.14
Frederick	5	770.9070	154	\$11,799.92	\$13,120.06	\$917.49	\$12,202.57	\$9,532.99	\$6,248,771.87	\$1,282,343.46
Garrett	4	371.9900	93	\$6,425.00	\$6,501.02	\$574.23	\$5,926.79	\$5,495.49	\$2,171,480.57	\$108,291.59
Harford	4	407.5200	102	\$15,625.00	\$12,499.85	\$671.63	\$11,828.22	\$11,828.22	\$5,059,764.08	\$0.00
Howard	-	-	-	-	-	-	-	-	-	-
Kent	15	2,894.6300	193	\$3,920.00	\$12,366.73	\$937.83	\$11,428.89	\$3,901.46	\$11,732,080.92	\$23,773,522.36
Montgomery	3	447.9700	149	\$9,533.33	\$10,666.67	\$594.16	\$10,072.50	\$8,329.12	\$3,688,216.00	\$769,335.77
Prince George's	3	282.2000	94	\$20,000.00	\$12,500.00	\$710.35	\$11,789.65	\$11,789.65	\$3,286,449.50	\$0.00
Queen Anne's	10	1,271.2600	127	\$3,599.95	\$8,492.26	\$724.29	\$7,767.96	\$3,599.95	\$5,360,162.60	\$5,184,039.38
St. Mary's	3	262.2400	87	\$21,666.67	\$16,733.33	\$591.30	\$16,142.03	\$16,006.06	\$4,335,380.42	\$46,503.05
Somerset	7	607.9400	87	\$3,842.86	\$8,090.60	\$829.75	\$7,260.85	\$3,842.86	\$2,081,905.00	\$2,298,601.69
Talbot	3	554.9200	185	\$11,833.33	\$13,272.68	\$1,109.65	\$12,163.02	\$11,776.39	\$5,474,817.22	\$264,076.14
Washington	4	758.6000	190	\$12,500.00	\$6,774.93	\$659.47	\$6,115.60	\$6,115.60	\$4,431,717.49	\$0.00
Wicomico	4	551.2200	138	\$4,125.00	\$8,446.21	\$906.44	\$7,539.77	\$4,125.00	\$1,914,384.13	\$1,715,550.20
Worcester	3	323.6000	108	\$5,666.67	\$7,900.87	\$1,222.65	\$6,678.22	\$5,666.67	\$1,839,500.00	\$332,092.51
TOTALS	116	15,286.6390	132	\$8,010.33	\$10,341.06	\$844.60	\$9,496.46	\$5,951.63	\$844,144,613.28	\$34,383,721.10

Easement Acquisition Program

HISTORICAL PERSPECTIVE

Two tables are provided for historical perspective on the MALPF easement acquisition program. The first, entitled "Historical Acquisition Program (Historical Perspective)," is a table that has been produced for past MALPF annual reports. It shows the history of easement acquisition values by year, summarizing the values to 1993 and then providing annual cumulative and per acre average asking price, fair market, agricultural, easement, and acquisition values starting in 1994. These figures do not include acreage adjustments such as lot releases and lot line adjustments, or acquisition cost adjustments such as lot paybacks.

An "Asking Price" is required by statute of all Program applicants. This Asking Price is the price the applicant would be willing to sell the property's easement to MALPF. Some counties rank their applicants in part based on the ratio between the Asking Price and the Easement Value representing the applicant's willingness to discount the sale of the easement to MALPF. Relative discounting may improve the probability of getting an offer in Round One in such counties. Round Two offers are based only on statewide ranking of discount ratios.

The Maryland Department of General Services (DGS) establishes Fair Market Values by contracting for two independent fee appraisals per property. These appraisals are reviewed to verify that the appraisals meet contracted standards, and DGS review appraisers recommend the preferred value to MALPF.

The Agricultural Value is the property's agricultural production value determined by a formula required by statute that calculates land rent based on soil productivity or the five-year average cash rent in the county, whichever is lower.

The Easement Value is derived from a property's Fair Market Value less the Agri-

cultural Value. The maximum price paid for an easement is either the Asking Price or the Easement Value, whichever is less.

The Acquisition Cost is the actual amount paid to the landowner for the easement. This Cost does not include administrative or other costs, such as title review or settlement expenses.

Over the history of the Program, a total of 1,941 applicants have accepted easement offers out of the 2,600 offers made by the Foundation, a 75% acceptance rate. The acreage preserved for agriculture totals over 265,000 acres. The average size of preserved farm properties is 138 acres.

The historic average asking price of landowners is \$2,185 per acre. The historic average easement value is \$2,628 per acre. The average historic acquisition cost is \$1,829 per acre. All of these averages are trending upward over time, with a steep increase in all but agricultural values since FY 2003.

MALPF no longer uses discounting as the sole or the primary basis for ranking properties. Round One offers are made primarily based on the quality of the applicant properties, including the relative amount of prime soils and the strategic locations of the properties. Some counties incorporate discounting as one element of county-specific ranking. Statewide Round Two offers continue to be based only on discount ratios.

The discount value shown in this table represents the total dollars saved by competitive bidding and the additional easement acres that the Foundation acquired each year with that savings. The total discount value divided by the average acquisition cost equals the additional acreage that the Foundation was able to protect under easement.

Because of competitive bidding and

the resulting discounted values, the Foundation purchased easements with a cumulative savings of \$214,170,425. The Foundation purchased an estimated 102,479 acres more than it could have had it paid the full value for easements. This competitive bidding mechanism continues to play a very important role for the Foundation in making easement offers.

The second table in this section, entitled "Acreage Preserved and Acquisition Funding: FYs 1980-2007," provides annual historical data from the beginning of the Program: the annual net new acreage, the cumulative acreage preserved, the annual new funding for easement acquisitions, and the cumulative funding for acquisitions.

MALPF has preserved 265,691 acres using \$490,411,450 in public funds. Based on the current average per acre acquisition cost, this investment is estimated to be worth approximately \$1.5 billion as of June 30, 2007.

The final two charts, derived from the first table in this section, show the change over time of acceptances and rejections of offers made by the Foundation. Over the history of the Program, the percentage of offers accepted was 75%. The ratio of acceptances was much lower in the early years of the Program, averaging 62% from 1977 through 1993. Since 1994, the percentage of acceptances has remained significantly above the early percentages, with one anomaly in FY 2005 when the percentage fell to 62% again.

Based on the evidence of this data and discussions with county program administrators and Program applicants, the primary cause for this high rejection rate in FY 2005 was the increase in the appraised Fair Market Values of farmland and the resulting easement values that were much greater than expected by Program applicants. MALPF did not accept new applications or contract for appraisals during FY 2004 because of funding issues. Asking Prices in FY 2005 were higher than FY 2003, but did not proportionately reflect the jump in values. As seen in this section's final chart, the Asking Price as a percentage of the Easement Value in FY 2005 was the lowest it had been since FY 1997.

Many applicants receiving offers in FY 2005 were concerned about the significant and unintended spread between their asking price on which their offer was based and a much higher easement value, the maximum that could have been paid for an offer. Some landowners were not aware of the impact that the changes in the real estate market had on the value of their farmland, particularly without the information that could have been provided by program administrators had MALPF had a normal easement acquisition cycle in FY 2004. Finally, in setting their Asking Price, some landowners had not fully taken into account the implications of the change from a ranking system based solely on discounting to a mixed ranking system in which Round One offers are based primarily on the relative quality of the applicant properties.

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

EASEMENT ACQUISITION PROGRAM

(Historical Perspective)

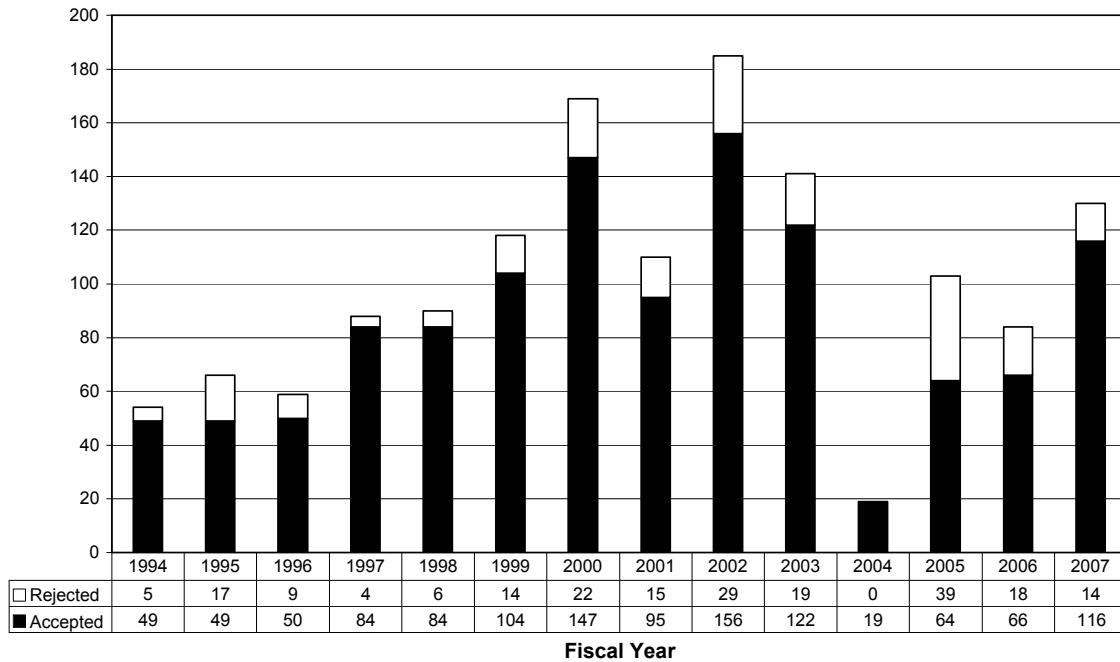
FISCAL YEAR	ACCEPTED OFFERS ACCEPTANCE RATE	TOTAL ACRES	AVERAGE FARM SIZE (acres)	ACCEPTED ASKING PRICE AVERAGE PER ACRE TOTAL AMOUNT	VALUES			ACQUISITION COST AVERAGE PER ACRE TOTAL AMOUNT	DISCOUNT VALUE ADDITIONAL ACRES TOTAL AMOUNT
					FAIR MARKET (appraised) AVERAGE PER ACRE TOTAL AMOUNT	AGRICULTURAL (formula) AVERAGE PER ACRE TOTAL AMOUNT	EASEMENT (appraisal & formula) AVERAGE PER ACRE TOTAL AMOUNT		
1977 to 1993	736 of 1,184 62%	106,976.5016	144	\$1,213 p/acre \$129,783,289	\$2,460 p/acre \$263,212,656	\$1,312 p/acre \$140,443,572	\$1,185 p/acre \$126,786,333	\$1,016 p/acre \$109,256,873	17,253 acres \$17,529,460
1994 Cycle One & Two	49 of 54 91%	6,805.0084	138	\$1,918 p/acre \$13,052,329	\$3,639 p/acre \$24,760,750	\$718 p/acre \$4,884,325	\$2,920 p/acre \$19,876,424	\$1,617 p/acre \$11,000,311	5,489 acres \$8,876,113
1995 Cycle One & Two	49 of 66 74%	7,868.7585	160	\$1,633 p/acre \$12,852,272	\$3,040 p/acre \$23,923,175	\$792 p/acre \$6,231,521	\$2,235 p/acre \$17,586,655	\$1,384 p/acre \$11,120,874	4,672 acres \$6,465,781
1996	50 of 59 85%	6,575.4135	132	\$1,697 p/acre \$11,156,156	\$2,977 p/acre \$19,577,300	\$773 p/acre \$5,081,222	\$2,205 p/acre \$14,496,078	\$1,537 p/acre \$10,109,481	2,854 acres \$4,386,597
1997	84 of 88 95%	11,808.4475	141	\$1,470 p/acre \$17,360,614	\$2,848 p/acre \$33,625,725	\$655 p/acre \$7,734,524	\$2,193 p/acre \$25,891,901	\$1,382 p/acre \$16,324,722	6,923 acres \$9,567,179
1998	84 of 90 92%	12,469.7617	148	\$1,688 p/acre \$21,047,013	\$3,027 p/acre \$37,741,650	\$666 p/acre \$8,305,238	\$2,364 p/acre \$29,481,412	\$1,634 p/acre \$20,378,116	5,571 acres \$9,103,296
1999	104 of 118 88%	14,274.4518	137	\$1,650 p/acre \$23,556,074	\$3,012 p/acre \$42,990,425	\$667 p/acre \$9,516,930	\$2,345 p/acre \$33,473,495	\$1,619 p/acre \$23,109,183	6,402 acres \$10,364,312
2000	147 of 169 87%	19,367.1352	132	\$1,818 p/acre \$35,212,521	\$3,129 p/acre \$60,614,079	\$724 p/acre \$14,021,015	\$2,405 p/acre \$46,593,064	\$1,683 p/acre \$32,609,436	8,309 acres \$13,983,628
2001	95 of 110 86%	12,986.5969	137	\$2,223 p/acre \$28,863,085	\$3,201 p/acre \$41,569,093	\$690 p/acre \$8,966,279	\$2,511 p/acre \$32,602,857	\$1,944 p/acre \$25,246,645	3,784 acres \$7,356,212
2002	156 of 185 84%	19,191.7875	123	\$2,676 p/acre \$51,356,192	\$3,468 p/acre \$66,553,930	\$751 p/acre \$14,419,991	\$2,717 p/acre \$52,133,938	\$1,958 p/acre \$37,582,057	7,432 acres \$14,551,881
2003	122 of 141 87%	15,316.4889	126	\$2,400 p/acre \$36,559,074	\$3,756 p/acre \$57,353,421	\$686 p/acre \$10,337,528	\$3,071 p/acre \$47,015,892	\$2,199 p/acre \$33,687,626	6,061 acres \$13,328,266
2004	19 of 19 100%	2,453.1014	129	\$3,779 p/acre \$9,270,783	\$4,914 p/acre \$12,054,600	\$657 p/acre \$1,611,462	\$4,257 p/acre \$10,443,138	\$2,982 p/acre \$7,315,417	1,049 acres \$3,127,721
2005	64 of 103 62%	7,939.1190	124	\$3,189 p/acre \$25,321,454	\$5,293 p/acre \$42,022,800	\$759 p/acre \$6,026,268	\$4,534 p/acre \$35,996,532	\$2,802 p/acre \$22,246,850	4,907 acres \$13,749,682
2006	66 of 84 79%	8,781.0910	133	\$5,475 p/acre \$48,072,673	\$8,424 p/acre \$73,971,904	\$790 p/acre \$6,936,655	\$7,634 p/acre \$67,035,249	\$2,178 p/acre \$39,443,428	12,668 acres \$27,591,821
2007	116 of 130 89%	15,286.6390	132	\$8,010 p/acre \$122,450,953	\$10,341 p/acre \$158,079,982	\$845 p/acre \$12,911,075	\$9,496 p/acre \$145,168,907	\$5,952 p/acre \$90,980,431	9,104 acres \$54,188,476
TOTALS	1,941 of 2,600 75%	268,100.3019 (unadjusted acreage)	138	\$2,185 p/acre \$585,914,482 (unweighted average)	\$3,573 p/acre \$958,051,490 (unweighted average)	\$960 p/acre \$257,427,605 (unweighted average)	\$2,628 p/acre \$704,581,875 (unweighted average)	\$1,829 p/acre \$490,411,450 (unweighted average)	102,479 acres \$214,170,425

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
ACREAGE PRESERVED AND ACQUISITION FUNDING: FYs 1980-2007

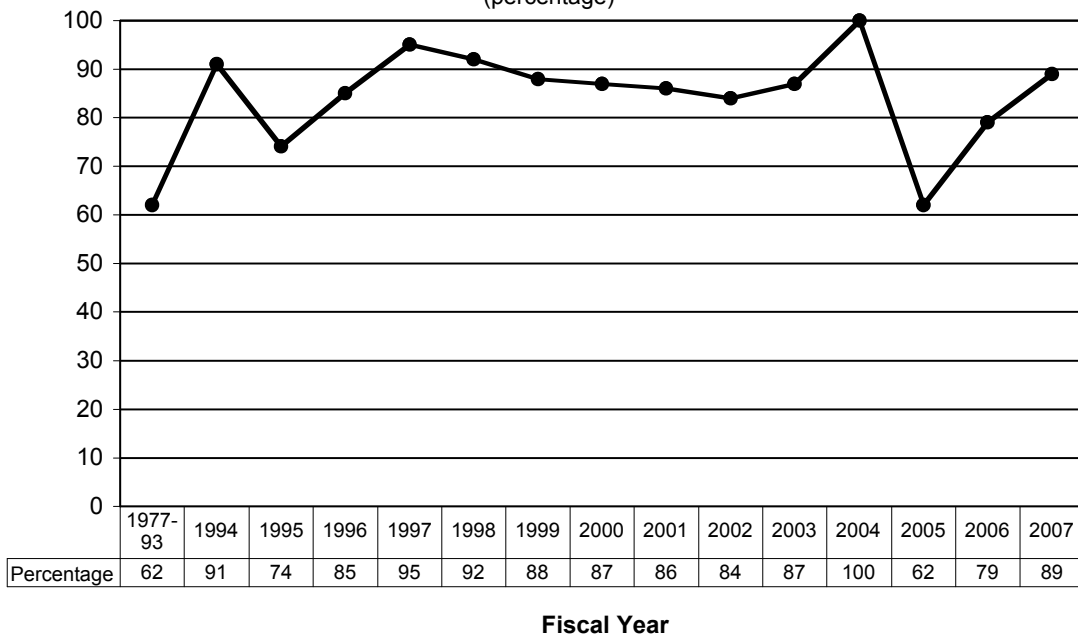
Annual Historical Data Fiscal Year	Annual Net New MALPF Acreage	Cumulative Acreage Preserved by MALPF	Annual New Funding for Easement Acquisitions	Cumulative Funding for Easement Acquisitions
1980	0	0	\$2,138,910	\$2,138,910
1981	7,821	7,821	\$4,697,073	\$6,835,983
1982	7,035	14,856	\$5,629,526	\$12,465,509
1983	8,540	23,396	\$6,736,910	\$19,202,419
1984	5,499	28,895	\$4,931,295	\$24,133,714
1985	8,346	37,241	\$6,991,637	\$31,125,351
1986	10,900	48,141	\$8,640,733	\$39,766,084
1987	10,901	59,042	\$8,478,243	\$48,244,327
1988	10,379	69,421	\$8,198,193	\$56,442,520
1989	9,303	78,724	\$11,399,272	\$67,841,792
1990	19,729	98,453	\$29,942,321	\$97,784,113
1991	-19	98,434	0	\$97,784,113
1992	-29	98,405	0	\$97,784,113
1993	8,341	106,746	\$11,472,760	\$109,256,873
1994	6,783	113,529	\$11,000,311	\$120,257,184
1995	7,851	121,380	\$11,120,874	\$131,378,058
1996	6,552	127,932	\$10,109,481	\$141,487,539
1997	11,797	139,729	\$16,324,722	\$157,812,261
1998	12,460	152,189	\$20,378,116	\$178,190,377
1999	14,241	166,430	\$23,109,183	\$201,299,560
2000	18,781	185,211	\$32,609,436	\$233,908,996
2001	12,966	198,177	\$25,246,645	\$259,155,641
2002	19,283	217,460	\$37,582,057	\$296,737,698
2003	15,307	232,767	\$33,687,626	\$330,425,324
2004	2,448	235,215	\$7,315,417	\$337,740,741
2005	6,687	241,902	\$22,246,850	\$359,987,591
2006	8,628	250,530	\$39,443,428	\$399,431,019
2007	15,161	265,691	\$90,980,431	\$490,411,450
TOTALS	265,691		\$490,411,450.00	

The acreage numbers are net numbers (in other words, corrections from new surveys, lot releases, the exercise of the right of eminent domain, etc., have been incorporated into each year's totals). The data are by fiscal year and represent offers made with that fiscal year's appropriations. When the new database is implemented, populated, and the data verified, a new historical sequence will be published to replace this table. Data published here may not be consistent with the numbers reported in current or past annual reports or elsewhere because the adjustments are done differently and at different times.

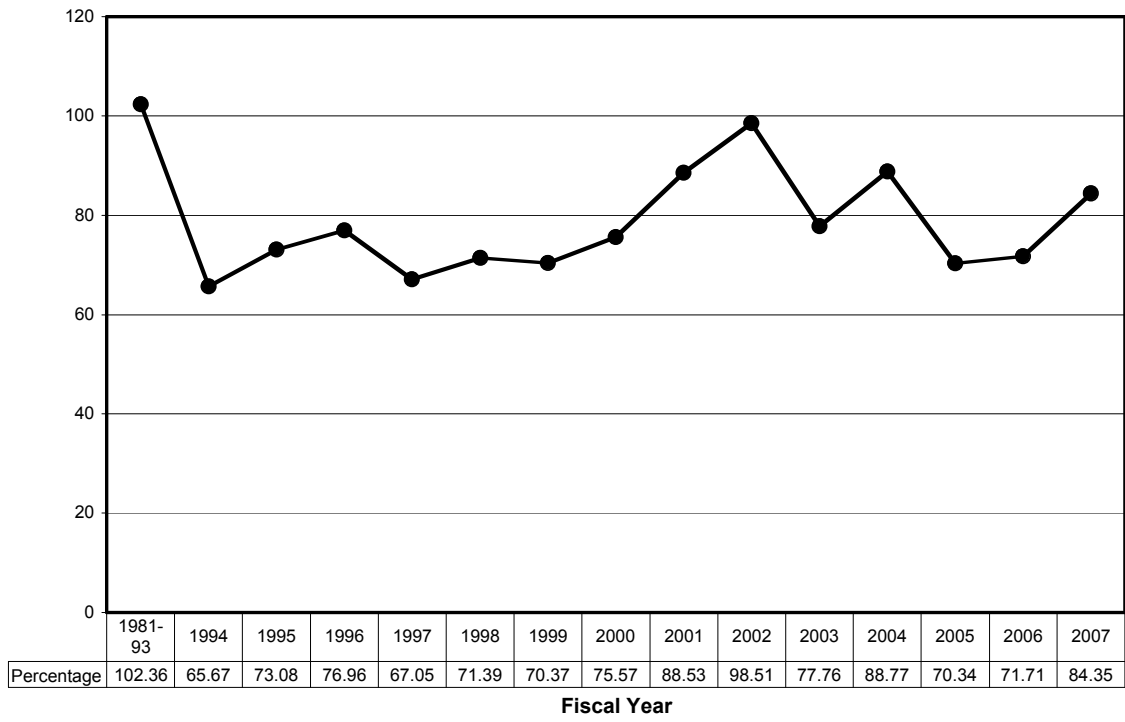
Offers Accepted and Rejected (Fys 1994-2007)



Offers Accepted (percentage)



Asking Price as a Percentage of the Easement Value



District Participation

FYs 2003-2007

The adjusted total acreage base of recorded and approved district properties, as of June 30, 2007, was 429,469 acres, covering 3,368 individual district properties. This total includes properties whose owners have sold their permanent easements to MALPF.

Over the five-year period of this report (FYs 2003-2007), the Foundation approved the establishment of a total of 414 new agricultural land preservation districts, protecting an additional 44,341 acres with five-year district agreements.

Landowners terminated 106 districts totaling 13,657 acres (including partial terminations and the inclusion of additional acreage under an amended agreement) during the same period. Looking at the balance between new districts and district terminations, the Foundation had a net increase in 308 districts and a net increase in district acreage of 30,684 acres.

Acreage adjustments from lot exclusions and verification of property descriptions resulted in a net decrease of 146.1377 acres in the Program's acreage base.

During this five-year period, Kent County had the largest net increase in district acreage with 5,436 additional acres. Charles County had the largest net number of new districts enrolled with 51 and had the second largest increase in district acreage with a net increase of 4,031 acres, in part due to the County linking district enrollment to participation in the County's transfer of development rights program. Several other counties also added significant acreage to the Program's acreage totals.

The most district acreage is in the Upper Eastern Shore (Queen Anne's, Talbot, Cecil, Kent and Caroline Counties). This area accounts for 140,479 district acres, or 32.71% of all district acres statewide (June 30, 2007). The Upper Shore Region continues to surpass

the Central Region of Maryland in the number of district acres.

The Central Region (Baltimore, Carroll, Harford, Howard and Montgomery Counties) now has a total of 125,136 acres enrolled in the program, accounting for 29.14% of the total district acreage.

The third largest area of district properties is the Western Region (Allegany, Frederick, Garrett and Washington Counties) with a total of 69,653 acres, or 16.22% of the total district acreage.

The Southern Region (Anne Arundel, St. Mary's, Prince George's, Charles and Calvert Counties) continues to increase its share of total district acreage, from 11.7% in FY 2002 to 12.37% of the Maryland's district acreage, with a total of 46,880 acres.

The Lower Eastern Shore (Dorchester, Wicomico, Worcester and Somerset Counties) now has 41,057 acres, 9.56% of total district acreage.

As a result of HB 1331 (2007) described earlier, the Foundation will no longer be requiring the establishment of an agricultural district as a prerequisite to sell an easement as of July 1, 2007; district petitions will no longer be accepted by MALPF as of July 1, 2008; and all district agreements will be terminated as of June 30, 2012.

The two charts at the end of this section show how, during the period MALPF had limited funding, district petitions dropped precipitously. Without the expectation that MALPF would be able to purchase an easement, many landowners were unwilling to tie up their properties voluntarily for five years. This was a major reason that districts are being eliminated from the Program: they have increasingly been seen as a disincentive to participation.

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION												
DISTRICT PARTICIPATION												
(Fiscal Year 2003)												
COUNTY	RECORDED DISTRICTS (as of June 30, 2002)		DISTRICTS APPROVED DURING FY 2003		DISTRICT TERMINATIONS (includes partial terminations)		ACREAGE ADJUSTMENTS		TOTAL RECORDED AND APPROVED DISTRICTS (as of June 30, 2003)		PERCENTAGE OF TOTAL	
	Number of Districts	District Acreage	Number of Districts	District Acreage	Number of Districts	District Acreage	Acreage Adjustments from Deeds	District Lot Exclusion Acreage	Number of Districts	District Acreage		
Allegany	6	1,008.6180	-	-	-	-	-	-	6	1,008.6180	0.25%	
Anne Arundel	98	9,402.8643	-	-	-	-	-	-	98	9,402.8643	2.34%	
Baltimore	345	32,211.7801	3	144.9100	-1	-56.0980	-5.0000	-	347	32,295.5921	8.03%	
Calvert	55	6,842.3402	-	-	-	-	-	-	55	6,842.3402	1.70%	
Caroline	314	41,790.7713	2	232.1000	-	-	-4.0634	-	316	42,018.8079	10.45%	
Carroll	423	50,631.7519	20	1,880.8740	-4	-255.8718	-3.4360	-2	439	52,251.3181	13.00%	
Cecil	135	18,868.9097	1	97.9500	-	-	0.7825	-	136	18,967.6422	4.72%	
Charles	122	17,930.5000	-	-	-	-	-4.9400	-	122	17,925.5600	4.46%	
Dorchester	107	15,918.7291	-	-	-1	-115.0000	81.9300	-2	106	15,883.6591	3.95%	
Frederick	186	26,852.0482	2	191.8400	-3	-281.8463	-	-	185	26,762.0419	6.66%	
Garrett	54	7,453.2498	6	804.1100	-	-	0.5100	-	60	8,257.8698	2.05%	
Harford	252	26,804.8218	-	-	-2	-214.7200	-	-	250	26,590.1018	6.61%	
Howard	50	6,242.3934	4	79.6800	-	-	-	-1	54	6,321.0734	1.57%	
Kent	105	19,587.7052	2	187.0000	-1	-328.4800	0.1810	-	106	19,446.4062	4.84%	
Montgomery	33	5,947.8261	1	272.8400	-	-	-24.2261	-	34	6,196.4400	1.54%	
Prince George's	1	122.7440	-	-	-	-	-	-	1	122.7440	0.03%	
Queen Anne's	205	33,964.2730	2	259.3000	-2	-191.6560	-1.0840	-	205	34,030.8330	8.46%	
St. Mary's	107	12,579.5763	5	324.1700	-	-	23.2450	-	112	12,926.9913	3.22%	
Somerset	41	5,680.8210	-	-	-1	-352.8000	-3.0750	-	40	5,324.9460	1.32%	
Talbot	95	14,116.5428	3	336.6900	-1	-200.0000	8.1020	-	97	14,261.3348	3.55%	
Washington	210	28,687.5280	4	601.2400	-3	-233.8400	-1.2600	-	211	29,053.6680	7.23%	
Wicomico	73	9,837.8693	-	-	-1	-160.0000	25.8300	-	72	9,703.6993	2.41%	
Worcester	45	6,444.1755	-	-	-	-	1.9290	-	45	6,446.1045	1.60%	
TOTALS	3062	398,927.839	7	937.930	-6	-946.64	53.6870	-5	3097	402,040.6559	100.00%	

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION											
DISTRICT PARTICIPATION											
(Fiscal Year 2004)											
COUNTY	RECORDED DISTRICTS (as of June 30, 2003)		DISTRICTS APPROVED DURING FY 2004		DISTRICT TERMINATIONS (includes partial terminations)		ACREAGE ADJUSTMENTS		TOTAL RECORDED AND APPROVED DISTRICTS (as of June 30, 2004)		PERCENTAGE OF TOTAL
	Number of Districts	District Acreage	Number of Districts	District Acreage	Number of Districts	District Acreage	Acreage Adjustments from Deeds	District Lot Exclusion Acreage	Number of Districts	District Acreage	
Allegany	6	1,008.6180	-	-	-	-	-	-	6	1,008.6180	0.25%
Anne Arundel	98	9,402.8643	1	103.0000	-1	-118.4800	-	-	98	9,387.3843	2.29%
Baltimore	347	32,295.5921	2	123.7600	-	-	-25.1300	-	349	32,394.2221	7.90%
Calvert	55	6,842.3402	-	-	-	-	2.1990	-	55	6,844.5392	1.67%
Caroline	316	42,018.8079	4	423.3100	-2	-335.2130	10.6887	-	318	42,117.5936	10.27%
Carroll	439	52,251.3181	4	253.4200	-1	-30.7100	-	-	442	52,474.0281	12.80%
Cecil	136	18,967.6422	4	378.2300	-	-	-4.8760	-1.0000	140	19,339.9962	4.72%
Charles	122	17,925.5600	13	1,148.7640	-	-	-	-	135	19,074.3240	4.65%
Dorchester	106	15,883.6591	4	659.4500	-	-	-23.3710	-	110	16,519.7381	4.03%
Frederick	185	26,762.0419	12	1,870.3600	-	-	-3.2280	-1.0000	197	28,628.1739	6.98%
Garrett	60	8,257.8698	1	33.9000	-	-	-	-	61	8,291.7698	2.02%
Harford	250	26,590.1018	2	202.3260	-	-	-	-	252	26,792.4278	6.54%
Howard	54	6,321.0734	2	24.5700	-	-	-	-	56	6,345.6434	1.55%
Kent	106	19,446.4062	11	2,503.3900	-	-	-	-1.0000	117	21,948.7962	5.35%
Montgomery	34	6,196.4400	-	-	-	-	-	-	34	6,196.4400	1.51%
Prince George's	1	122.7440	2	444.6400	-	-	-	-	3	567.3840	0.14%
Queen Anne's	205	34,030.8330	2	237.6450	-4	-907.7530	-	-	203	33,360.7250	8.14%
St. Mary's	112	12,926.9913	3	249.3400	-1	-125.8000	-	-2.0000	114	13,048.5313	3.18%
Somerset	40	5,324.9460	2	251.8700	-1	-278.5000	-	-	41	5,298.3160	1.29%
Talbot	97	14,261.3348	-	-	-	-	-	-	97	14,261.3348	3.48%
Washington	211	29,053.6680	3	595.0400	-	-	18.3300	-1.0000	214	29,666.0380	7.24%
Wicomico	72	9,703.6993	1	21.0000	-2	-268.7900	-5.0000	-	71	9,450.9093	2.31%
Worcester	45	6,446.1045	4	496.1000	-	-	-	-	47	6,942.2045	1.69%
TOTALS	3097	402,040.6559	8	1112.140	-2	-268.790	13.33	-6.0000	3160	409,959.1376	100.00%

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION DISTRICT PARTICIPATION (Fiscal Year 2005)											
COUNTY	RECORDED DISTRICTS (as of June 30, 2004)		DISTRICTS APPROVED DURING FY 2005		DISTRICT TERMINATIONS (includes partial terminations)		ACREAGE ADJUSTMENTS		TOTAL RECORDED AND APPROVED DISTRICTS (as of June 30, 2005)		PERCENTAGE OF TOTAL
	Number of Districts	District Acreage	Number of Districts	District Acreage	Number of Districts	District Acreage	Acreage Adjustments from Deeds	District Lot Exclusion Acreage	Number of Districts	District Acreage	
Allegany	6	1,008.6180	-	-	-	-	-	-	6	1,008.6180	0.25%
Anne Arundel	98	9,387.3843	-	-	-1	-244.5600	-	-	97	9,142.8243	2.23%
Baltimore	349	32,394.2221	-	-	-9	-352.9930	-1.6440	-	340	32,039.5851	7.80%
Calvert	55	6,844.5392	-	-	-	-	-	-	55	6,844.5392	1.67%
Caroline	318	42,117.5936	2	445.9000	-2	-211.3540	-	-	318	42,352.1396	10.31%
Carroll	442	52,474.0281	4	289.6900	-	-	3.07880	-	446	52,766.7969	12.84%
Cecil	140	19,339.9962	-	-	-1	-124.5000	-	-	139	19,215.4962	4.68%
Charles	135	19,074.3240	2	101.5500	-1	-199.0000	-	-	136	18,976.8740	4.62%
Dorchester	110	16,519.7381	1	69.0000	-1	-118.9100	-	-	110	16,469.8281	4.01%
Frederick	197	28,628.1739	-	-	-3	-324.4770	-	-	194	28,303.6969	6.89%
Garrett	61	8,291.7698	4	480.7100	-	-	-	-	65	8,772.4798	2.14%
Harford	252	26,792.4278	3	219.9000	-	-	-	-6.3550	255	27,005.9698	6.57%
Howard	56	6,345.6434	-	-	-	-	-	-	56	6,345.6434	1.54%
Kent	117	21,948.7962	2	472.0600	-	-	-32.3260	-2.0000	119	22,386.5302	5.45%
Montgomery	34	6,196.4400	1	140.0000	-	-	-	-	35	6,336.4400	1.54%
Prince George's	3	567.3840	-	-	-	-	-	-	3	567.3840	0.14%
Queen Anne's	203	33,360.7250	-	-	-3	-503.2320	5.4870	-	200	32,862.9800	8.00%
St. Mary's	114	13,048.5313	7	464.8450	-2	-344.7570	41.7270	-	119	13,210.3463	3.22%
Somerset	41	5,298.3160	-	-	-	-	-	-	41	5,298.3160	1.29%
Talbot	97	14,261.3348	-	-	-	-	-8.5300	-	97	14,252.8048	3.47%
Washington	214	29,666.0380	-	-	-2	-183.9100	-5.3300	-	212	29,476.7980	7.17%
Wicomico	71	9,450.9093	-	-	-	-	-	-	71	9,450.9093	2.30%
Worcester	47	6,942.2045	6	853.0700	-	-	-17.3370	-	53	7,777.9375	1.89%
TOTALS	3160	409,959,1376	6	853,070	-2	-183,910	-17,337	-8,3550	3167	410,864,9374	100.00%

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION DISTRICT PARTICIPATION (Fiscal Year 2006)												
COUNTY	RECORDED DISTRICTS (as of June 30, 2005)		DISTRICTS APPROVED DURING FY 2006		DISTRICT TERMINATIONS (includes partial terminations)		ACREAGE ADJUSTMENTS		TOTAL RECORDED AND APPROVED DISTRICTS (as of June 30, 2006)		PERCENTAGE OF TOTAL	
	Number of Districts	District Acreage	Number of Districts	District Acreage	Number of Districts	District Acreage	Acreage Adjustments from Deeds	District Lot Exclusion Acreage	Number of Districts	District Acreage		
Allegany	6	1,008.6180	-	-	-	-	-	-	6	1,008.6180	0.25%	
Anne Arundel	97	9,142.8243	-	-	-	-	-	-	97	9,142.8243	2.23%	
Baltimore	340	32,039.5851	2	213.2500	-4	-303.3890	-2.5100	-	338	31,946.9361	7.81%	
Calvert	55	6,844.5392	-	-	-	-	-16.7000	-	55	6,827.8392	1.67%	
Caroline	318	42,352.1396	2	314.8100	-6	-813.8100	9.1050	-	314	41,862.2446	10.23%	
Carroll	446	52,766.7969	2	102.6682	-1	-395.9035	-7.5780	-	447	52,465.9836	12.82%	
Cecil	139	19,215.4962	1	62.8100	-1	-44.5000	-	-	139	19,233.8062	4.70%	
Charles	136	18,976.8740	3	218.5212	-1	-100.0000	4.7140	-1	138	19,099.1092	4.67%	
Dorchester	110	16,469.8281	1	52.5640	-	-	1.5970	-	111	16,523.9891	4.04%	
Frederick	194	28,303.6969	3	218.5900	-4	-481.0490	9.4796	-	193	28,050.7175	6.86%	
Garrett	65	8,772.4798	-	-	-	-	-	-	65	8,772.4798	2.14%	
Harford	255	27,005.9698	-	-	-2	-200.1300	-	-2	253	26,803.8398	6.55%	
Howard	56	6,345.6434	-	-	-	-	-0.4000	-	56	6,345.2434	1.55%	
Kent	119	22,386.5302	-	-	-1	-228.3450	-10.1850	-	118	22,148.0002	5.41%	
Montgomery	35	6,336.4400	-	-	-	-	-	-	35	6,336.4400	1.55%	
Prince George's	3	567.3840	-	-	-	-	0.3310	-	3	567.0530	0.14%	
Queen Anne's	200	32,862.9800	-	-	-2	-179.0000	-3.0720	-	198	32,680.9080	7.99%	
St. Mary's	119	13,210.3463	-	15.5050	-1	-230.0000	-45.1760	-	118	12,950.6753	3.16%	
Somerset	41	5,298.3160	-	-	-	-	-12.3800	-	41	5,285.9360	1.29%	
Talbot	97	14,252.8048	1	250.0000	-	-	-57.8390	-	98	14,444.9658	3.53%	
Washington	212	29,476.7980	-	-	-	-13.4580	-3.9300	-	212	29,459.4100	7.20%	
Wicomico	71	9,450.9093	-	-	-	-	0.0880	-	71	9,450.9973	2.31%	
Worcester	53	7,777.9375	-	-	-	-	2.6160	-	53	7,780.5535	1.90%	
TOTALS	3167	410,864.9374	15	250	-23	-13.458	-119.362	-3	3159	409,188.5699	100.00%	

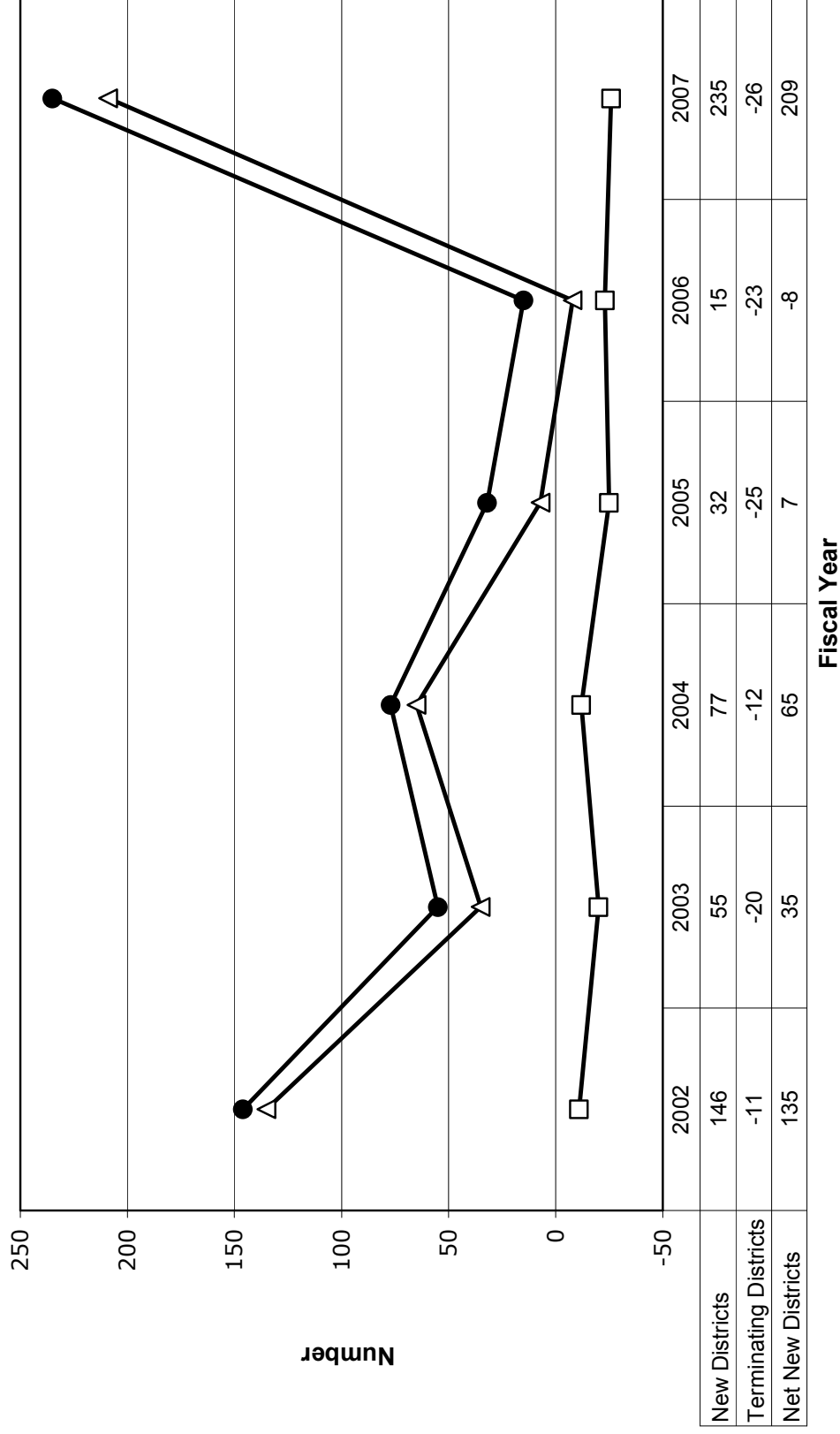
MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION												
DISTRICT PARTICIPATION (Fiscal Year 2007)												
COUNTY	RECORDED DISTRICTS (as of June 30, 2006)		DISTRICTS APPROVED DURING FY 2007		DISTRICT TERMINATIONS (includes partial terminations)		ACREAGE ADJUSTMENTS		TOTAL RECORDED AND APPROVED DISTRICTS (as of June 30, 2007)		PERCENTAGE OF TOTAL	
	Number of Districts	District Acreage	Number of Districts	District Acreage	Number of Districts	District Acreage	Acreage Adjustments from Deeds	District Lot Exclusion Acreage	Number of Districts	District Acreage		
Allegany	6	1,008.6180	-	-	-	-	-	-	6	1,008.6180		0.23%
Anne Arundel	97	9,142.8243	1	94.8500	-1	-155.3300	-	-	97	9,082.3443		2.11%
Baltimore	338	31,946.9361	-	-	-2	-221.8800	-1.8310	-	336	31,723.2251		7.39%
Calvert	55	6,827.8392	-	-	-	-	-	-	55	6,827.8392		1.59%
Caroline	314	41,862.2446	32	3,575.7400	-1	-136.2500	-57.8047	-	345	45,243.9299		10.53%
Carroll	447	52,465.9836	14	1,254.4568	-1	-179.0000	-2.2950	-	460	53,539.1454		12.47%
Cecil	139	19,233.8062	21	1,678.1861	-2	-329.0000	-1.4070	-	158	20,581.5853		4.79%
Charles	138	19,099.1092	35	2,858.4669	-	-	3.8660	-	173	21,961.4421		5.11%
Dorchester	111	16,523.9891	1	70.0000	-2	-124.2300	2.6700	-	110	16,472.4291		3.84%
Frederick	193	28,050.7175	-	-	-3	-475.4725	-3.5723	-	190	27,571.6727		6.42%
Garrett	65	8,772.4798	20	2,371.9800	-2	-296.1600	-8.2030	-	83	10,840.0968		2.52%
Harford	253	26,803.8398	1	45.1590	-1	-104.0000	1.7380	-2	253	26,744.7368		6.23%
Howard	56	6,345.2434	-	-	-	-	-	-	56	6,345.2434		1.48%
Kent	118	22,148.0002	16	3,159.5380	-2	-280.8240	-3.1678	-	132	25,023.5464		5.83%
Montgomery	35	6,336.4400	3	447.9700	-	-	-0.5390	-	38	6,783.8710		1.58%
Prince George's	3	567.0530	3	283.2000	-	-	-	-	6	850.2530		0.20%
Queen Anne's	198	32,680.9080	19	2,149.8780	-4	-526.4200	-	-	213	34,304.3660		7.99%
St. Mary's	118	12,950.6753	24	1,787.7170	-3	-301.0900	-13.6930	-2	139	14,421.6093		3.36%
Somerset	41	5,285.9360	19	922.1520	-	-	-	-	60	6,208.0880		1.45%
Talbot	98	14,444.9658	8	809.2400	-	-	71.5500	-	106	15,325.7558		3.57%
Washington	212	29,459.4100	7	1,111.7120	-1	-338.2926	-	-	218	30,232.8294		7.04%
Wicomico	71	9,450.9973	5	658.7000	-	-	4.2200	-	76	10,113.9173		2.35%
Worcester	53	7,780.5535	6	644.2000	-1	-136.4300	-25.6380	-	58	8,262.6855		1.92%
TOTALS	3159	409,188.5699	110	11,974.307	-1	-136.43	-21.418	-4	3368	429,469.2298		100.00%

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
REGIONAL ANALYSIS:
PERCENTAGE OF TOTAL DISTRICT ACREAGE

(Fiscal Years 2002-2007)

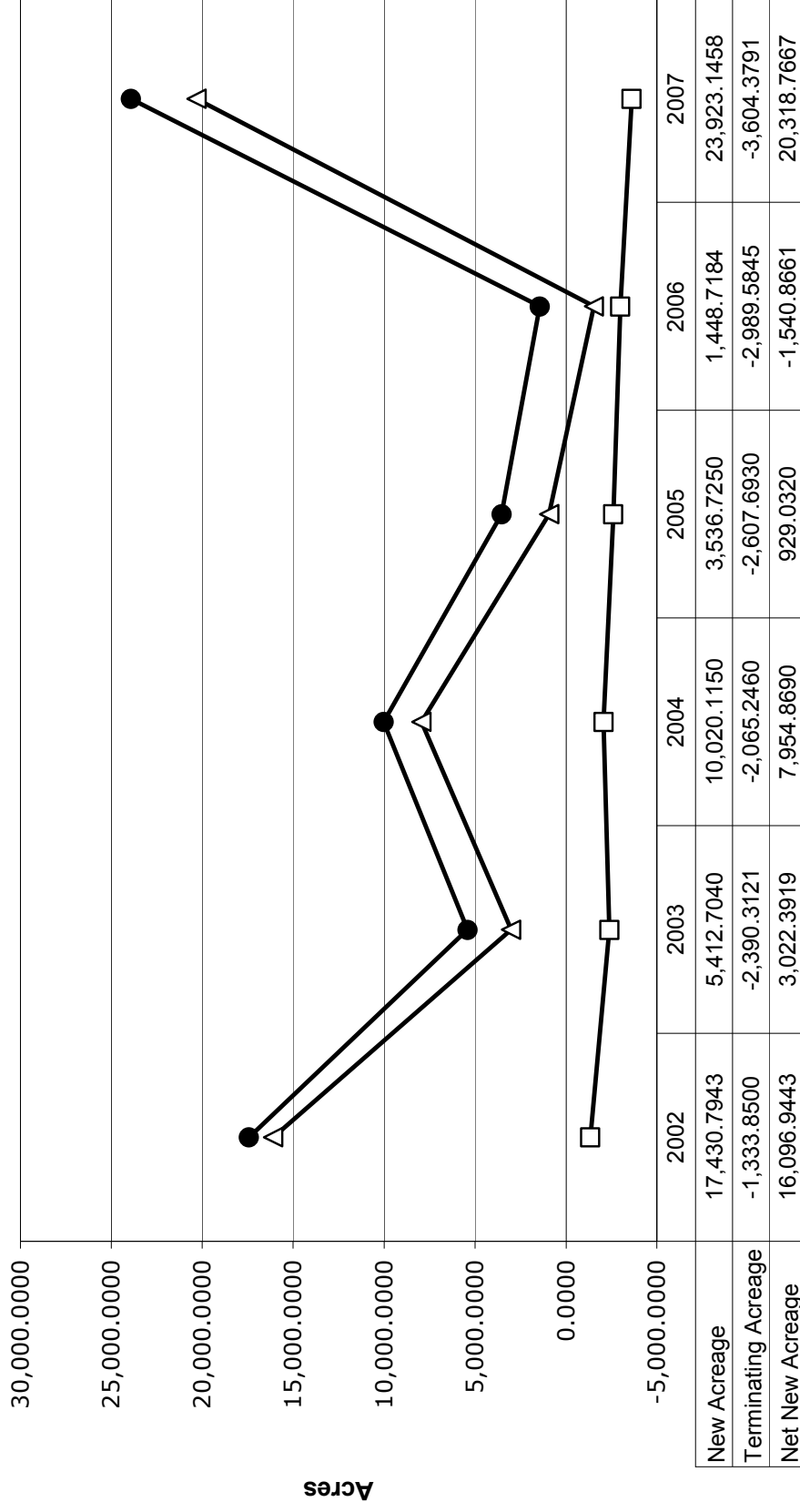
REGIONS	2002	2003	2004	2005	2006	2007
WESTERN: Allegany Frederick Garrett Washington	16.1% 64,001 acres	16.2% 65,082 acres	16.5% 67,595 acres	16.4% 67,562 acres	16.5% 67,291 acres	16.2% 69,653 acres
CENTRAL: Baltimore Carroll Harford Howard Montgomery	30.0% 121,837 acres	30.8% 123,655 acres	30.3% 124,203 acres	30.3% 124,494 acres	30.3% 123,898 acres	29.1% 125,136 acres
SOUTHERN: Anne Arundel Calvert Charles Prince George's St. Mary's	11.7% 46,880 acres	11.8% 47,220 acres	11.9% 48,922 acres	11.9% 48,742 acres	11.9% 48,588 acres	12.4% 53,143 acres
UPPER SHORE: Caroline Cecil Kent Queen Anne's Talbot	32.2% 128,328 acres	32.0% 128,725 acres	32.0% 131,028 acres	31.9% 131,070 acres	31.9% 130,370 acres	32.7% 140,479 acres
LOWER SHORE: Dorchester Somerset Wicomico Worcester	10.0% 37,881 acres	9.3% 37,358 acres	9.3% 38,211 acres	9.5% 38,997 acres	9.5% 39,041 acres	9.6% 41,057 acres
TOTAL ACREAGE	398,927 acres	402,041 acres	409,959 acres	410,865 acres	409,189 acres	429,469 acres

New and Terminating Districts (FYs 2002-2007)



● New Districts □ Terminating Districts ▲ Net New Districts

Acreege of New and Terminating Districts (FYs 2002-2007)



New Acreage
 Terminating Acreage
 Net New Acreage

Preservation versus Conversion

One measure that MALPF has used over the years as a relative indicator of its success at meeting its statutory objectives is the balance between the farmland acreage it permanently preserves and the farmland acreage converted to non-agricultural use during the same time period.

FYs 1997-2003, a balance between preserved and converted farmland acreage was substantially attained, as can be seen in the table and graph below. Over those seven-years, the Foundation preserved a net balance of almost 2,000 acres more than were converted to non-agricultural use.

Since FY 2003, because of funding issues and an increase in the rate of converted acreage, the relative balance deteriorated, returning to the levels of net loss not seen since the early 1990s. In three years, FYs 2004-2006, the balance was a net deficit of 46,000 more acres converted than preserved.

The graph and table compare the acres lost from agriculture and converted to other land uses to the number of acres preserved by MALPF from the fiscal year preceding the first acreage preserved by the Foundation's program, 1980, through FY 2006. The table and chart following only reflect land preserved by the Foundation.

Since the program began its operation, the historical high for the rate of farmland conversion were FYs 1986-1990. The annual rate of conversion ranged from almost 25,000 acres in 1986 to more than 44,000 acres in 1988. During that five-year period, Maryland's net average annual conversion of farmland relative to farmland preservation was over 21,000 acres. During the most recent three-year period, FYs 2004-2006, the net average annual conversion was over 15,000 acres.

The data on the conversion of farmland was provided by the Maryland Depart-

ment of Assessments and Taxation (SDAT) and is used to infer loss of farmland. Because most landowners are not willing to lose the significant tax benefits from an agricultural assessment, most land that is removed from agricultural assessment voluntarily by the owner is converted only when land-use conversion is imminent. While it is not impossible for converted farmland to return to productive agriculture, most of this land does not return to farming.

An alternative indicator for loss of farmland is calculated from data provided by the U.S. Department of Agriculture's National Agricultural Statistics Service (NASS). NASS provides information on the number of acres in farming ("land in farms"). The annual change in acreage has been calculated for purposes of comparison, as seen in the second table below. As can be seen, the overall long-term loss of farmland is broadly similar for both measures, though the NASS-based measure suggests differences in the annual loss of farmland and a somewhat higher total over the 27-year period, as shown in the table (665,000 versus 483,000 acres).

The NASS measure is more broadly defined and the numbers rounded, while the SDAT numbers are only minimally rounded (to one acre) and the measure very narrowly defined. The "land in farms" acreage is more likely to expand and contract depending on land and commodity price relations. The conversion acreage based on assessment information is less likely to expand and contract, because landowners are likely to keep land in agricultural assessment as long as possible.

The continued loss of farmland to alternative uses in face of the acreage goals set by the General Assembly in the 2002 legislative session and set by the Chesapeake Bay Agreement compels the Foundation to make a more concentrated and coordinated effort with local jurisdictions and other programs to preserve diminishing farmland resources, particu-

larly in light of the current economy and State budgetary issues, the continuing pressure of

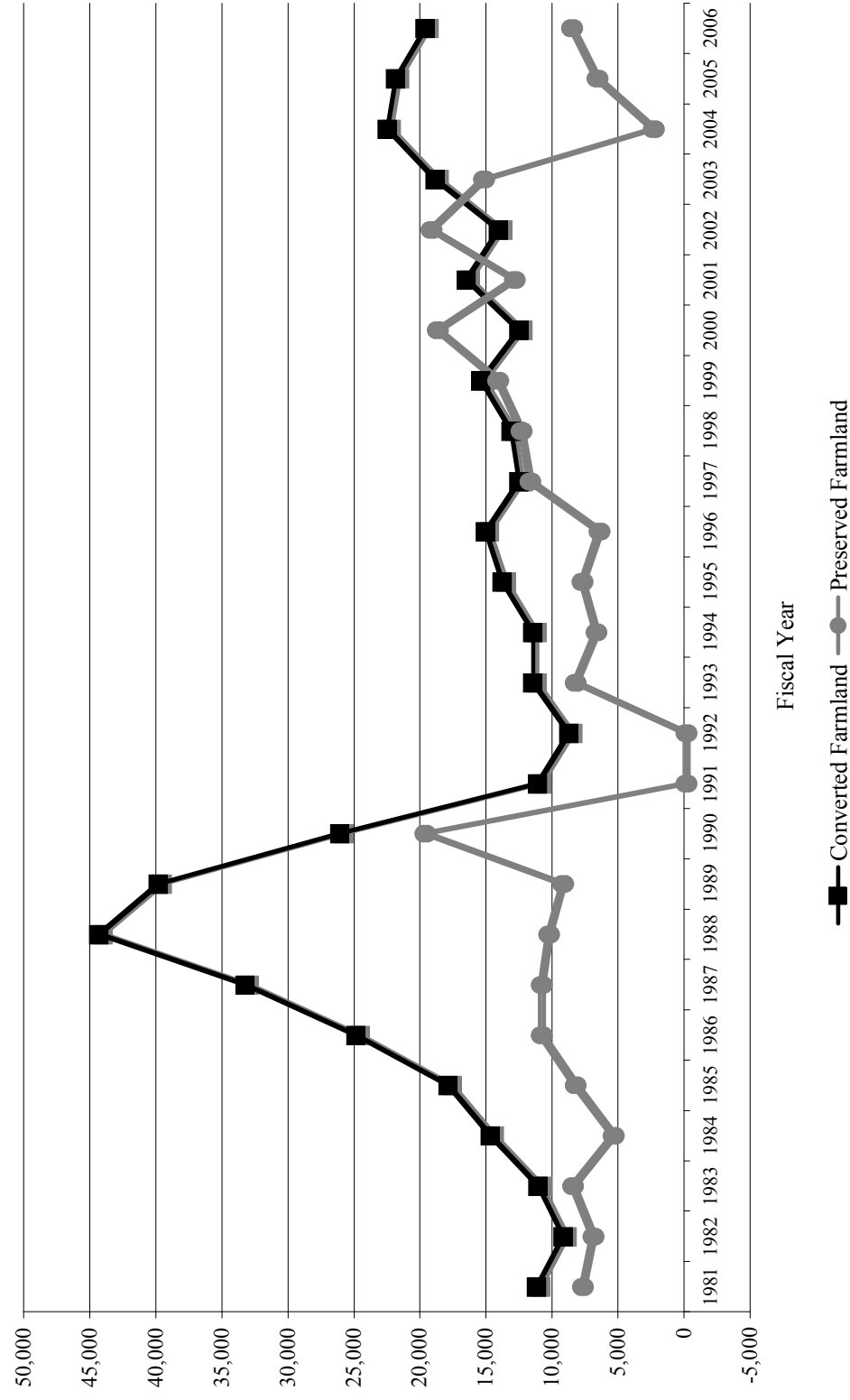
development, and the ongoing public support for land preservation.

**Annual Change in Preserved Farmland
versus Farmland Converted to Other Uses**
(FY 1980-2006, in acres)

Status Fiscal Yr.	Converted Farmland (acres)	Preserved Farmland (acres)	Net Difference (acres)
1980	13,386	-	-13,386
1981	11,135	7,821	-3,314
1982	9,142	7,035	-2,107
1983	11,036	8,540	-2,496
1984	14,663	5,499	-9,164
1985	17,856	8,346	-9,510
1986	24,831	10,900	-13,931
1987	33,236	10,901	-22,335
1988	44,269	10,379	-33,890
1989	39,801	9,303	-30,498
1990	26,059	19,729	-6,330
1991	11,071	-19	-11,090
1992	8,719	-29	-8,748
1993	11,426	8,341	-3,085
1994	11,430	6,783	-4,647
1995	13,743	7,851	-5,892
1996	14,995	6,552	-8,443
1997	12,491	11,797	-694
1998	13,078	12,460	-618
1999	15,386	14,241	-1,145
2000	12,484	18,781	6,297
2001	16,463	12,966	-3,497
2002	14,011	19,283	5,272
2003	18,855	15,307	-3,548
2004	22,451	2,448	-20,003
2005	21,832	6,687	-15,145
2006	19,588	8,628	-10,960
TOTALS (27 years)	483,437	250,530	-232,907
AVERAGE (annual)	17905	9279	-8626

Note: Converted farmland figures have been updated based on the most recent data provided by the Maryland State Department of Assessments and Taxation and come from the acreage subject to the agricultural transfer tax applied when a landowner states the intent to remove land from agricultural assessment. Preserved farmland figures have been updated based on the most recent data from the Maryland Agricultural Land Preservation Foundation. These figures are now net acreage preserved in a fiscal year, subtracting out lot releases and other acreage changes. Preserved farmland data incorporate only land preserved by MALPF. Additional acres have been preserved by county programs, private land trusts and conservancies, and other State programs.

Preservation versus Conversion



Comparison of Annual Loss of Farmland Measures:
Maryland State Department of Assessments and Taxation's
"Acreage Subject to the Agricultural Transfer Tax" versus
the United States Department of Agriculture,
National Agricultural Statistics Service's "Land in Farms"
(FYs 1980-2006, in acres)

Status Fiscal Yr.	Converted Farmland (SDAT) (acres)	Change: Land in Farms (NASS) (acres)
1980	-13,386	+50,000
1981	-11,135	+50,000
1982	-9,142	-50,000
1983	-11,036	-50,000
1984	-14,663	0
1985	-17,856	-100,000
1986	-24,831	-100,000
1987	-33,236	-50,000
1988	-44,269	-100,000
1989	-39,801	-50,000
1990	-26,059	-50,000
1991	-11,071	0
1992	-8,719	-50,000
1993	-11,426	+100,000
1994	-11,430	-100,000
1995	-13,743	0
1996	-14,995	0
1997	-12,491	0
1998	-13,078	-20,000
1999	-15,386	-20,000
2000	-12,484	-30,000
2001	-16,463	-30,000
2002	-14,011	-20,000
2003	-18,855	-20,000
2004	-22,451	-10,000
2005	-21,832	-10,000
2006	-19,588	-5,000
TOTALS (27 years)	--483,437	-865,000
Difference: 181,563 total acres		
AVERAGE (annual)	-17905	-24,630
Difference: 6,725 acres per year		

Board of Trustees

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

Appointed Members

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James Pelura III, D.V.M. Endless Call Farm 3725 Tanglewood Lane Davidsonville, MD 21035-2408 At-large representative Appointed: 2003	Robert F. Stahl, Jr. Jameson Manor Farm 7061 Oliver's Shop Road Hughesville, MD 20637-2112 At-large representative Appointed: 2004	Christopher H. Wilson 4024 Solomons Island Road Harwood, MD 20776-9437 At-large representative Appointed: 2004
John W. Draper, Jr. 1531 Ruthsburg Road Centreville, MD 21617 Farm Bureau representative Appointed: 2007	Vacant At-large representative Appointed: not applicable	

Ex-Officio Members

Honorable Nancy K. Kopp State Treasurer Goldstein Treasury Building 80 Calvert Street, Room 109 Annapolis, MD 21404-1907 <i>Represented by Howard Freedlander</i>	Honorable Roger L. Richardson Secretary Maryland Department of Agriculture 50 Harry S. Truman Parkway Annapolis, MD 21401-8960 <i>Represented by Douglas H. Wilson</i>
Honorable Peter Franchot State Comptroller Louis L. Goldstein Building Room 121 P.O. Box 466 Annapolis, MD 21404-0466 <i>Represented by Jerome Klasmeier</i>	Honorable Richard E. Hall Secretary Maryland Department of Planning 301 W. Preston Street, Room 1101 Baltimore, MD 21201-2365 Office of Planning representative <i>Represented by Joseph Tassone</i> Membership became <i>ex-officio</i> on 10-01-2005

Current as of 12-16-2007

Agricultural Land Preservation Advisory Board Chairs

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

(01) ALLEGANY c/o Dave Dorsey Allegany County Government 701 Kelly Road, Suite 220 Cumberland, MD 21502-3401	(09) DORCHESTER Trent Jackson 2225 Pig Neck Road Cambridge, MD 21613	(17) QUEEN ANNE'S Mike Cohey 205 Rolphs Wharf Road Chestertown, MD 21620
(02) ANNE ARUNDEL Jeff Griffith 5643 Greenock Road Lothian, MD 20711	(10) FREDERICK Alan Wilcom 10460 Glade Road Walkersville, MD 21793	(18) ST. MARY'S George Baroniak P.O. Box 268 Dameron, MD 20628
(03) BALTIMORE David Greene 2014 White Hall Road White Hall, MD 21161-9712	(11) GARRETT George Bishoff 675 Hoyes Sang Run Road Friendsville, MD 21531	(19) SOMERSET James T. Nelson, Jr. 28425 Revells Neck Road Westover, MD 21871
(04) CALVERT Susan Hance-Wells 4885 Adelina Road Prince Frederick, MD 20678	(12) HARFORD David Thompson 3611 Miller Road, Street, MD 21154	(20) TALBOT Robert Saathoff 10144 Cordova Road Easton, MD 21601
(05) CAROLINE Richard Edwards 14545 Oakland Road Ridgely, MD 21660	(13) HOWARD J. G. Warfield 1970 Sand Hill Road Marriottsville, MD 21104	(21) WASHINGTON David Herbst 14230 Misty Meadow Road Smithsburg, MD 21783
(06) CARROLL Joseph Kuhn 7535 Woodbine Road Woodbine, MD 21797	(14) KENT R. Allen Davis 33740 Sassafras Caldwell Road Galena, MD 21635	(22) WICOMICO William Guy 7108 Levin Dashiell Road Hebron, MD 21830
(07) CECIL Wayne Stafford 2817 Blue Ball Road Elkton, MD 21921	(15) MONTGOMERY Drew Stabler 5210 Damascus Road Gaithersburg, MD 20882	(23) WORCESTER Ms. Sandra Frazier 11452 Assateague Road Berlin, MD 21811
(08) CHARLES Leonard Rice 12550 Rice's Place Newburg, MD 20664	(16) PRINCE GEORGE'S Sidney Tucker 11900 Croom Road Upper Marlboro MD 20772	Current as of 08-06-2007

County Program Administrators

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

(01) ALLEGANY Dave Dorsey Allegany County Government 701 Kelly Road, Suite 220 Cumberland, MD 21502-3401 (301) 777-2199	(09) DORCHESTER Rodney Banks Department of Planning & Zoning Post Office Box 107 Cambridge, MD 21613 (410) 228-3234	(17) QUEEN ANNE'S Donna Landis-Smith Dept. of Econ. Dev. & Agriculture 160 Coursevall Drive Centreville, MD 21617 (410) 758-4418
(02) ANNE ARUNDEL Barbara Polito Department of Recreation & Parks 1 Harry S. Truman Pkwy., MS3225 Annapolis, MD 21401 (410) 222-7317 x-3553	(10) FREDERICK Tim Blaser Department of Planning & Zoning Winchester Hall Frederick, MD 21701 (301) 600-2513	(18) ST. MARY'S Donna Sasscer Dept. of Econ. & Community Dev. Post Office Box 653 Leonardtown, MD 20650-0653 (301) 475-4200 x-1405
(03) BALTIMORE Wally Lippincott, Jr. Dept. of Environmental Protection County Courts Bldg., Room 416 401 Bosley Avenue Towson, MD 21204 (410) 887-4488 x-241	(11) GARRETT John Nelson, Planning Director Garrett County Planning Office 203 South 4 th Street Oakland, MD 21550 (301) 334-1920	(19) SOMERSET Tom Lawton Department of Planning & Zoning Somerset County Office Complex 11916 Somerset Avenue Princess Anne, MD 21853 (410) 651-1424
(04) CALVERT Veronica Cristo Department of Planning & Zoning 150 Main Street, Suite 304 Prince Frederick, MD 20678 (410) 535-1600 x-2489	(12) HARFORD William Amoss Department of Planning & Zoning 220 South Main Street Bel Air, MD 21014 (410) 879-2000 x-3103	(20) TALBOT Martin Sokolich Planning & Zoning Office 11 North Washington Street Easton, MD 21601 (410) 770-8030
(05) CAROLINE Tammy Buckle Planning Department 403 South 7 th Street Denton, MD 21629 (410) 479-8100	(13) HOWARD Joy Levy Department of Planning & Zoning 3430 Courthouse Drive Ellicott City, MD 21043 (410) 313-5407	(21) WASHINGTON Eric Seifarth Washington Co. Planning Dept. County Administrative Annex 80 West Baltimore Street Hagerstown, MD 21740-4727 (240) 313-2445
(06) CARROLL Ralph Robertson County Office Building 225 North Center Street Westminster, MD 21157 (410) 386-2214	(14) KENT Carla Martin Gerber Planning Commission 400 High Street Chestertown, MD 21620 (410) 778-7475	(22) WICOMICO Gloria Smith Government Office Bldg., Rm. 203 Post Office Box 870 Salisbury, MD 21803-0870 (410) 548-4860
(07) CECIL Eric Shertz County Administration Building 200 Chesapeake Blvd., Suite 2300 Elkton, MD 21921 (410) 996-8359	(15) MONTGOMERY John Zawitoski 18410 Muncaster Road Derwood, MD 20850 (301) 590-2831	(23) WORCESTER Katherine Munson Dept. of Comprehensive Planning One West Market Street, Rm. 1302 Snow Hill, MD 21863-1070 (410) 632-5651
(08) CHARLES Charles Rice Department of Planning & Growth Management Post Office Box 2150 La Plata, MD 20646 (301) 645-0651	(16) PRINCE GEORGE'S Yates Clagett Soil Conservation District 5301 Marlboro Race Track Road Upper Marlboro, MD 20772 (301) 574-5162	Current as of 02-04-2008

Foundation Staff

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION



MALPF staff, with Summer 2005 interns, standing from left to right: Rama Dilip, Foundation Secretary; Jeanine Nutter, Administrative Specialist; Elizabeth Weaver, Administrator; Carol Council, Administrator; and Jim Conrad, Executive Director. MALPF interns, sitting from left to right: Edward Warner (UMBC) and Cora Morrison (UMBC).

(continued on next page)

MALPF Staff (continued)



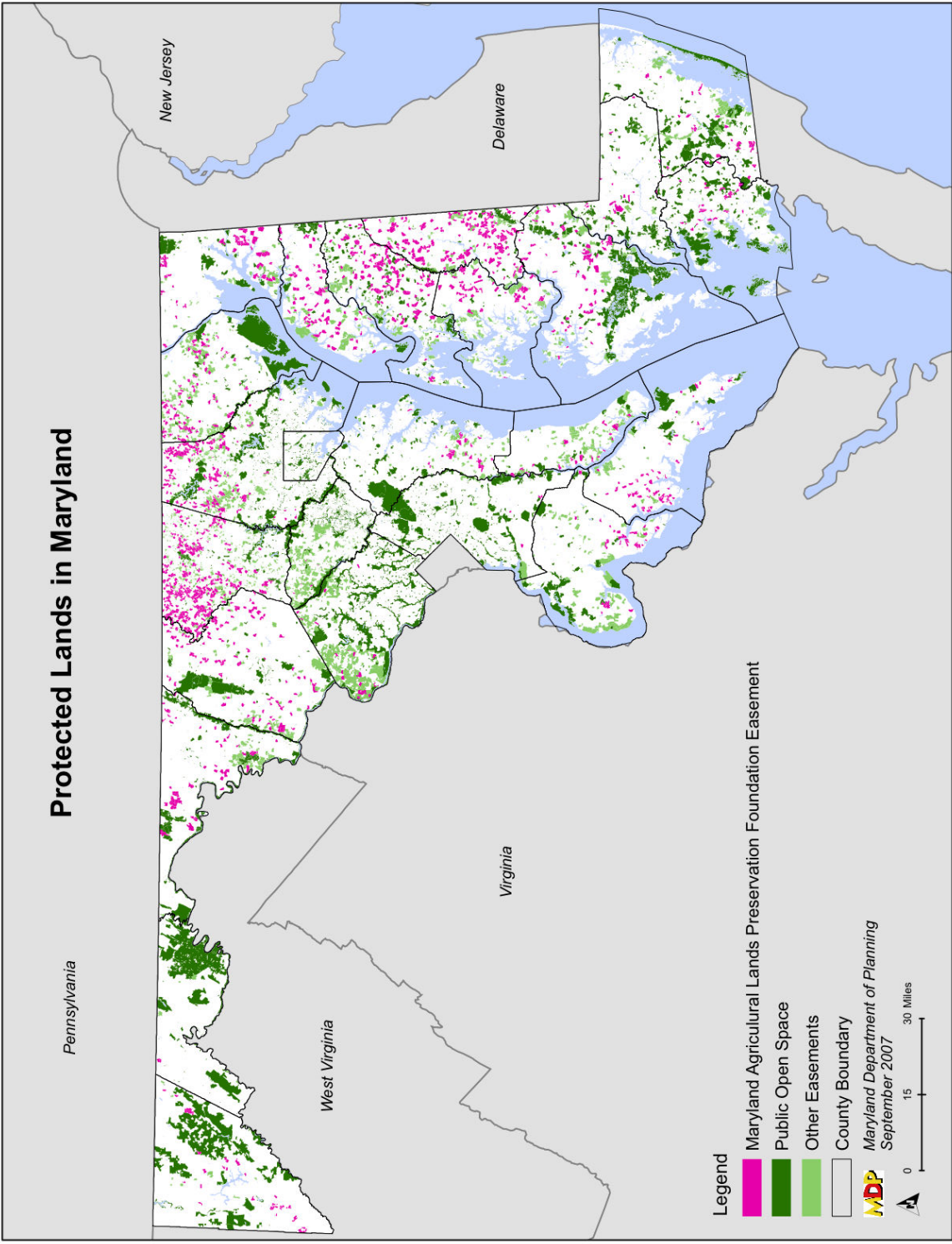
Left, David Conrad (UMBC), and right, Dan Smyth (UMBC), Summer 2006 interns



Left, Dan Sager (UMBC), Summer 2007 intern, and, right, Diane Chasse, Administrator



Kim Hoxter,
Monitoring, Enforcement, and Database Coordinator



Please note: This map is printed as an 11" X 17" insert to the published Annual Report.



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