THE TRUST FOR PUBLIC LAND

PRETTYBOY WATERSHED

LAND CONSERVATION FUNDING OPTIONS

NOVEMBER 2002

EXECUTIVE SUMMARY

The Trust for Public Land (TPL) is a national nonprofit land conservation organization working to protect land for human enjoyment and well being. TPL helps conserve land for parks, greenways, recreation areas, watersheds and wilderness, and also assists communities in identifying and securing public financing to achieve their land conservation goals.

The purpose of this report is to present a range of public funding options that can protect land in the Prettyboy Watershed, for the purpose of watershed protection. It is part of a larger effort sponsored by the Environmental Protection Agency that brings together the Trust for Public Land, the University of Massachusetts – Amherst and key local stakeholders to identify how land conservation can play a role in watershed protection.

This report presents the range of potential public funding options that can be knit together into a "funding quilt" to protect land in the Prettyboy Watershed. A funding quilt is the combination of funding sources —state, local, federal and private— that are brought together to help achieve conservation objectives, such as the protection of land critical to source water protection. Central to the funding quilt is the role that one funding source plays in leveraging other sources.

The report begins with a discussion of local funding options, and then moves on to state and federal funding. Local funding is the most reliable long-term way to fund land conservation since state and federal funding can be scarce (and variable) and the competition for those funds is often fierce. Hence, these sources are best viewed as supplements or complements to local land conservation.

The primary focus of this report is on land conservation funding within Baltimore and Carroll Counties in Maryland —the vast majority of the Prettyboy Watershed. However, since the watershed does include a portion of York County, Pennsylvania, there is a separate, targeted discussion of land conservation funding options there.

LOCAL

Both Baltimore and Carroll counties already have extensive farmland protection programs that are considered among the most successful in the country. Through a combination of state and local funding sources, Baltimore and Carroll counties have protected more than 33,000 and 37,000 acres, respectively. Baltimore County has used voter-approved general obligation bonds and agricultural transfer tax revenues as primary funding sources; Carroll County has combined the agricultural transfer tax with general fund property taxes and also non-voted bond proceeds.

These existing farmland preservation programs should be the first option for protecting land within the Prettyboy watershed, if there are farms within the watershed that meet the standards of the respective county programs. Each county may also consider augmenting its existing program to include a Woodland Preservation Program, which would protect forested land through conservation easements.

Regardless of the program used to protect land within the Prettyboy Watershed, it is fairly certain that additional local funding will be necessary (given strong demand for current programs and significant cuts in state funding). There are two primary ways outlined in the report to raise these funds - an installment purchase agreement, backed by a dedicated funding stream and a general obligation bond. (A water utility fee and a stormwater utility are discussed in the report, but omitted here since they are long shots).

Installment purchase agreements (IPAs) are used by a number of Maryland counties --Anne Arundel, Frederick, Harford and Howard Counties. Under an IPA, payments to the landowner for a permanent conservation easement are spread out over 20-30 years, with the landowner receiving semiannual, tax-exempt interest payments, and a final lump-sum principal payment.

Payment of this annual interest requires the establishment of a dedicated revenue stream. The recordation tax and the property tax are the two options presented in this report. In Baltimore County, a 50-cent increase in the recordation tax would raise $3.2 million per year; in Carroll County, a 50-cent increase in the recordation tax would raise $800,000 per year. Baltimore County could raise $1 million per year via the property tax at an average cost per household of $3.22. In Carroll County, it would be possible to raise $1 million in property tax revenues at a cost of $20 per household.

General obligation bonds are an alternative means to fund land conservation in the Prettyboy Watershed. Both Baltimore and Carroll counties have used bonds to finance land conservation. In Baltimore County, bond issues require voter approval, whereas in Carroll County, approval by the state legislature is required. Both counties have ample debt issuing capacity under their legal debt margin – Baltimore County has nearly $4 billion whereas Carroll County has $380 million. In Baltimore County, a $35 million bond would require just over $3 million annually in debt service and cost the average homeowner $10 per year. In Carroll County, a $10 million bond would require $872,000 per year in debt service and cost the average homeowner $18 per year.

State

The State of Maryland has historically provided generous grants to local governments through a range of programs such as Program Open Space, the Maryland Agricultural Land Preservation Foundation and the Rural Legacy Program. However, since funding for these programs will be reduced by 50% (at least) over the next several years, grants to local governments will also be significantly cut back. Restoration of state land conservation funding will likely be necessary before the state should be seen as a significant source of funding for new initiatives like protection of the Prettyboy Watershed.

FEDERAL

At the federal level, there are two distinct types of funding for land conservation: 1) State directed programs, in which states receive grants from the federal government, but are given broad discretion to allocate funds (subject to federal program rules); and 2) direct federal programs, in which the federal government makes direct grants to local recipients, usually local governments. Of these two categories, the direct federal grants seem to hold more promise for Maryland.

State directed federal grants include the Clean Water State Revolving Fund (CWSRF), and the Drinking Water State Revolving Fund (DWSRF). The Maryland Water Quality Finance Administration administers these federal grants. The CWSRF, know in Maryland as the Water Quality State Revolving Fund (WQSRF) provides loans for water quality improvements, most commonly wastewater treatment plants. While in recent years, some states have used CWSRF funds for land conservation; Maryland has not followed this route.

Since the WQSRF offers great flexibility to states, Maryland might choose to emulate Ohio EPA's program to pair wastewater treatment projects with land conservation/restoration projects. Under such an arrangement, municipalities pay a reduced interest rate for wastewater treatment projects if they pair up with a non-profit conservation partner on a land conservation project. Maryland could consider the Prettyboy as a demonstration pilot project for such an initiative.

The DWSRF makes loans to improve public drinking water systems, with funding often used for water treatment plants. States have the ability to set aside up to 10% of their annual federal grant for source water land conservation. Maryland has not set aside any DWSRF funds for land conservation. With Maryland receiving an average or $8 million per year, setting aside 10% per year would total $800,000 annually statewide. In order to stimulate demand for DWSRF loans for land conservation, Maryland might explicitly list land acquisition in its Intended Use Plan.

Another source of federal funding is EPA Section 319's non-point source pollution grant program. While Section 319 grants are not primarily used for land conservation, fifteen projects in the southeastern states were approved between 1995 and 1999 for land conservation. There have been no grants made under Section 319 in Maryland, however. Use of Section 319 for land conservation has lagged, partially due to the absence of thorough analysis linking land conservation with the reduction of nonpoint source pollution. However, since this type of analysis is being conducted as part of the overall Prettyboy Watershed effort, Section 319 may prove to be a viable funding option.

As for direct federal grants, the Farmland Protection Program (FPP) offers the most promise. The FPP recently received a boost from the 2002 Farm Bill, which has made $600 million available over the next five years for the purchase of development rights (PDRs), or conservation easements, on productive agricultural land. Grants for fifty percent of the cost of a permanent conservation easement (PDRs) are awarded on a competitive basis.

INTRODUCTION

Protecting the Prettyboy Watershed is of critical importance to the residents of Carroll and Baltimore County, in order to ensure a safe drinking water supply, protect the region's natural beauty, and guarantee a future with abundant plant and animal life and recreational opportunities. In order to make progress on this goal, the EPA has sponsored this collaborative effort by the Trust for Public Land, the University of Massachusetts – Amherst and key stakeholders. Building upon separate, but complementary, efforts to assess and map vital land acquisition priorities in the watershed, this report will help present a range of funding options that can be used to protect land in the Prettyboy Watershed, sooner rather than later.

The report begins by introducing the concept of a "funding quilt" – the combination of local, state and federal funds that can be combined to achieve land conservation objectives. It also gives examples of how the "funding quilt" has been used around the country to protect watershed land. The report then presents a rundown of specific local, state and federal funding sources that may be available to protect land in the Prettyboy Watershed, with relevant examples interspersed from across the country. The report concludes with specific recommendations to move forward on land conservation funding.

THE FUNDING QUILT

A funding quilt is the combination of funding sources - state, local, federal and private - that are brought together to help achieve conservation objectives, such as the protection of land critical to source water protection. Central to the funding quilt is the role that one funding source plays in leveraging other sources. The combination of funding sources that help accomplish these conservation goals may take many forms - state and federal; state and local, federal and local, etc - and also may shift over time. However, the most reliable form of funding to achieve conservation objectives over the long-term is local funding. Due to the competition for state, federal and private funding, these sources must be viewed as supplements or incentives, but not as the central funding source for a program.

In order to illustrate how communities are using funding quilts to protect land for watershed protection, several examples drawn from TPL's work are presented here. These include funding quilts that have protected individual parcels such as Betty's Neck in Lakeville, Massachusetts, as well as funding quilts that have helped sustain long-term programs for watershed protection in the New York/New Jersey Highlands and Mountain Island Lake, North Carolina.

BETTY'S NECK, MASSACHUSETTS

Through a combination of state, local and private funding sources, nearly 4,000 acres of municipal watershed land was protected in fast-growing southeastern Massachusetts, including the 480-acre Betty's Neck property in Lakeville. In addition, conservation restrictions were placed on 3,500 acres of adjacent watershed land already owned by the Cities of New Bedford and Taunton.

The majority of funding for this July 2002 project was provided by the state's Department of Environmental Protection Aquifer Land Acquisition Program, which made a $6.55 million grant and will receive a conservation easement on 3,500 acres. The state's funding came from the 1996 Environmental Bond Bill. The Town of Lakeville contributed $1.1 million and the City of New Bedford contributed $600,000 towards the Betty's Neck purchase. The City of Taunton also hopes to contribute $600,000 from the Statewide Revolving Fund for that purpose. Decisions on funding awards are anticipated by January 2003. The Trust for Public Land (TPL) also contributed $250,000 to the project, thanks to an anonymous Boston foundation.

NEW YORK/NEW JERSEY NORTHERN HIGHLANDS

The Northern Highlands serve as the source of drinking water for 2.2 million people in New Jersey. The area includes a series of reservoir systems – the Wanaque/Monksville system, the Pequannock System and the Boonton/Split Rock system. Over the past five years, within each system, a range of funding sources have come together to protect thousands of acres. There are several factors underpinning the success in land conservation efforts in the Highlands. First, New York and New Jersey have significant state funding for land conservation –New York approved the $1.75 billion Clean Water, Clean Air Bond in 1996 and New Jersey's Garden State Preservation Act (1998) provides $98 million annually from the state sales tax. Second, New Jersey has provided the legal framework for local governments —counties and municipalities— to create local open space trust and the incentives to create them. As a result, 19 of 21 counties and more than 150 local governments have open space trust funds. Finally, there are broad networks of private foundations, land trusts and citizen supporters of conservations in the area.

Local conservation finance measures have been approved in recent years in both Sussex and Morris Counties, home of the Pequannock and Boonton/Split Rock systems. Sussex County voters approved their first-ever property tax levy in November 2000 that will raise $1.6 million annually while Morris County voters increased their levy in November 2001 to $25-$30 million annually.

The Hawkwatch project in Rockaway Township, New Jersey is an example where the presence of local government funds helped trigger other funding. Of the total $7 million for the project, Morris County and Rockaway Township contributed $1.5 million from their local property tax levies, which was matched by $2 million from the state's Green Acres program. An additional $2 million came from the Federal Forest Legacy Program and the state grant portion of the federal Land and Water Conservation Fund, with more than $1 million from private foundations.

The most notable purchase within the Highlands was the 1998 purchase of 15,000 acres of Sterling Forest, a heavily forested area straddling the New York/New Jersey border. To reach the total cost of $55 million, Congress approved $17.5 million; the state of New York, $16 million; and New Jersey, $10 million. In addition, the Lila Acheson and DeWitt Wallace Fund for the Hudson Highlands and the Doris Duke Charitable Foundation contributed $5 million, while the Victoria Foundation contributed $1 million. Private donors raised the remainder.

MOUNTAIN ISLAND LAKE, NORTH CAROLINA

Mountain Island Lake provides the drinking water for more than a half million residents of Charlotte and vicinity. The area served by Mountain Island Lake includes Mecklenburg County, a large county with a substantial tax base, as well as several smaller, rural counties – Gaston and Lincoln.

Efforts to protect Mountain Island Lake began in the 1970s, when Mecklenburg County voters passed a $20-million bond package to create parks and greenways, mostly on the lake's east side. Subsequently, Mecklenburg County has approved several other bond packages, with 1999's $220 million effort being the most recent. During the 1970s, Charlotte-Mecklenburg Utilities (CMU) also launched a small land-acquisition program in the watershed. Each year $50,000 from the utility's capital improvement budget goes to protection of land in the watershed - now totaling more than 2,700 acres - particularly on the eastern lakeshore.

While Mecklenburg County's expanding tax base has enabled a significant locally funded land-acquisition effort, Gaston and Lincoln counties have had fewer available local resources. One potential source of funds for these communities was created in 1996, when North Carolina's General Assembly created the Clean Water Management Trust Fund, the nation's first state funding program dedicated exclusively to water-quality protection.

The fund, created in response to several high-profile water-pollution events in North Carolina, guarantees a minimum of $30 million per year of general revenues to state agencies, local governments, and nonprofits for water-protection projects. Grants are made for the acquisition of land and easements for riparian buffers to protect urban drinking-water supplies, as well as for the repair or replacement of failing wastewater treatment and septic-tank systems. In 1998, Gaston and Lincoln Counties obtained full funding from the Clean Water Management Trust Fund to buy a key 1,231-acre Mountain Island Lake property for $6.15 million.

CONSERVATION FINANCE FOR THE PRETTYBOY

The central feature of this report is to present a range of public finance options that might enable a funding quilt to be created to protect land in the Prettyboy Watershed. The range of available local options will be presented first, since local funding is the most reliable source over the long-term, followed by state and federal funding.

LOCAL FUNDING

For more than 30 years, the state of Maryland has been among the nation's leading states in providing significant state dollars in support of land conservation. Through Program Open Space (POS), the Maryland Agricultural Land Preservation Foundation (MALPF) and more recently, the Rural Legacy Program, the state of Maryland has consistently provided counties with millions of dollars in grants annually to support their land conservation efforts. (See subsequent section on state funding.) Under POS, each county receives an allotment of state real estate transfer tax revenues based on county population and the amount of real estate transfer revenue generated in that county.1

One consequence of Maryland's strong state support has been the relative absence of significant, dedicated local funding for land conservation. While certain local governments in Maryland have created innovative funding programs for farmland preservation - including Baltimore and Carroll Counties - there is far less activity by local governments than in other states, most notably New Jersey. In New Jersey, 19 of 21 counties have established their own dedicated property tax based fund for land conservation. In November 2001, two counties - Middlesex and Morris - passed ballot measures that will raise an estimated $188 million and $192 million in dedicated funding over the next 20 years.

A primary reason that local governments in Maryland have not created their own substantial dedicated funding sources for land conservation is that there have been few financial incentives, in contrast to New Jersey. However, legislation approved during the 2002 legislative session - House Bill 1131 - takes an important step toward creating such incentives. As stated in the accompanying excerpt from the new law, HB 1131 encourages local governments to create their own funding sources for land conservation and directs the state to determine how to provide financial incentives (matching grants) to local governments.

> "*New funding sources designed to improve water quality and land preservation should be made available in the form of matching grants to local governments so as to leverage and fully utilize all available moneys and create incentives that will encourage local governments to develop their own funding for water quality protection and land conservation and preservation projects.*"

[1] "Keeping Our Commitment. Preserving Land in the Chesapeake Watershed." Chesapeake Bay Commission and The Trust for Public Land. February 2001. Page 9.

The Department of Natural Resources is completing a study outlining how the state can provide matching grants to local governments.

The state's ability to provide these matching grants will be a challenge, as a result of the state's current fiscal crisis. Even its ability to continue its traditionally strong support of local land conservation efforts may be at risk. Funding for Program Open Space —and hence all land conservation programs— will be reduced by roughly 50 percent, from an estimated $100m to $50m, over the next two years, as the state redirects real estate transfer tax revenues toward the general fund.

CURRENT LAND CONSERVATION EFFORTS IN CARROLL AND BALTIMORE COUNTIES

Carroll County

Through a combination of programs, Carroll County had permanently protected more than 37,454 acres of farmland from development, as of June 30, 2001. The County has used the state's Maryland Agricultural Land Preservation Program (MALPF) to protect more than 34,000 acres (275 farms), with County funding protecting roughly 5,000 of those acres. As of June 30, 2001, the County had protected 16 farms totaling 2,012 acres, by far its most active year on record.

Agricultural Land Preservation in Carroll County
Through June 30, 2001

	# Farms	Acres
MALPF - Conventional Funding	233	29,465
MALPF - 100% County Funding	42	5,023
Rural Legacy	20	1,963
USDA Farmland Protection Program	2	248
MET/Carroll Co. Land Trust	14	755
Total	311	37,454

*Source*Demographic and Development Data Manual, July 2001
Section 5: Agricultural Land Preservation Rural Legacy

In order to fund its local agricultural preservation efforts, Carroll County uses a combination of general fund appropriations (property tax), bonds and the local share of the state agricultural transfer tax. Since its program began in 1980, the County has spent $37.34 million of its own funds, with roughly 70% from County general funds in the form of the property tax. In recent years, County spending has increased significantly, with annual spending between 2001 and 2003 topping $5 million each year, up from $2.8 - $3.0 million between 1997-2000. The bulk of the increase in spending has come from allocation of county bond proceeds.

Carroll County Agricultural Land Preservation
Sources of Funding (1980-2003)

Agricultural Transfer Tax	$6.62m
Bonds	$6.00m
Property Tax (County General Fund)	$24.72m
Total	***$34.34m***

Source: Carroll County Department of Planning

Baltimore County

Baltimore County has protected 33,635 acres through several land conservation programs, including 1,337 through its own county agricultural preservation program; 17,201 through MALPF; 3,407 through one of its five Rural Legacy areas; and 11,690 acres through the Maryland Environmental Trust (MET) and other land trusts [2] Baltimore County uses several funding sources to pay for its

[2] "Land Preservation Accomplishments." Baltimore County Department of Environmental Protection & Resource Management. www.co.ba.md.us/p.cfm/agencies/deprm/ep_landprog.cfm

land conservation efforts –both its own local program and matching funds required for MALPF and Rural Legacy.

As a certified county under MALPF, Baltimore County receives 75 percent of the agricultural transfer tax revenues collected in the County. In addition, Baltimore County voters approved a $2 million general obligation bond in 2000 and will vote on another $4.5 million bond in November 2002. In the FY 2003 Capital Budget, Baltimore County includes $1 million in general fund contributions for the County Land Preservation Program.3

LOCAL FUNDING OPTIONS FOR CARROLL AND BALTIMORE COUNTIES

With the passage of HB 1131, it is anticipated that the State of Maryland will be establishing incentives to encourage local governments to create land conservation funding programs.

There are several options that have been used by counties in Maryland (including Carroll and Baltimore Counties) that should be considered. These include Installment Purchase Agreements backed by a dedicated revenue stream as well as the issuance of General Obligation Bonds. Since this report focuses on protecting land within the Prettyboy Watershed to promote water quality, it may be necessary to augment existing sources of funding for agricultural preservation so forested and other natural lands can be protected.

Installment Purchase Agreements[4] (Zero Coupon Bonds)

A number of Maryland counties - Anne Arundel, Frederick, Harford and Howard Counties - use installment purchase agreements, an innovative mechanism for financing land conservation. (See Appendix for more information). Under an installment purchase agreement, payments to the landowner for a permanent conservation easement are spread out over 20-30 years. During this time, the landowner receives semiannual, tax-exempt interest. Payment of this annual interest requires the establishment of a dedicated revenue stream (see below). At the end of the contract term, the County pays the principal in a final balloon payment. The County can purchase zero coupon bonds to cover the final balloon payment. Zero coupon bonds, unlike other bonds, do not generate regular interest income. Rather, the County receives a lump sum when the bond matures. Because zero coupon bonds cost just a fraction of their face value, purchasing them leverages available funds.

Installment purchase agreements therefore minimize the cash needed to close on purchases by deferring the principal payments. This enables the County to maximize available resources to purchase easements and protect agricultural land while it is still available and before it becomes more expensive. The County is able to purchase many more easements in the short term through installment purchase agreements than if cash were paid for each acquisition.

Under an installment purchase plan, the landowner receives several tax benefits, including deferred capital gains tax and tax-exempt interest income. These benefits may encourage more landowners to

[3] Baltimore County FY2003 Capital Budget Summary "Contribution to the Capital Budget."
[4] American Farmland Trust, "Installment Purchase Agreements Fact Sheet," September 1999, and material sent by Bill Brown, Anne Arundel County Controller.

sell their easements to the County rather than to a developer. An installment purchase agreement program requires dedicated funds to pay the interest and principal. In Anne Arundel County, $3 million a year is appropriated to the program.

> **Frederick County Installment Purchase Program5**
> In January of 2002 the Frederick County Board of Commissioners approved a new land preservation program, which purchases easements through the use of Installment Purchase Agreements. This new program enables the County to leverage existing funding to purchase more easement acreage than through traditional lump sum easement purchase programs. Upon approval by the County and agreement by the landowner, the County will invest in a Zero Coupon Bond that will mature to the full value of the easement at the end of a specified term from 10 to 20 years. In the interim, the landowner will receive interest payments on the easement value, which may be exempt from federal income tax. At the end of the term the seller of the easement receives the full-matured value of the easement. The annual interest payments are paid from an increase in the recordation tax dedicated to agricultural land preservation.

The first applications were accepted in April of 2002. There are 27 pending applications encompassing 4,747 acres of land. Requirements of the program include a minimum of 50 acres unless the farm adjoins a property already under a permanent land preservation agreement and soils requirements similar to MALPF. The easement value and ranking system for this program is established through a point system.

DEDICATED FUNDING STREAMS FOR INSTALLMENT PURCHASE AGREEMENTS
A central element to successfully establishing an installment purchase agreement program is to create a dedicated funding stream to make annual interest payments. The recordation tax and the property tax are two potential funding options described here.

- RECORDATION TAX

The recordation tax is an excise tax imposed on instruments conveying title, articles of transfer, mortgages, and deeds of trust. All counties have the authority to impose the recordation tax and to set the local tax rate.6 For example, in 2000 Frederick County Board of Commissioners passed an Ordinance 00-06-248 to raise the county's recordation tax from $3.50 per $500 of consideration to $5.00 and to dedicate 30 percent of the total to the purchase of agricultural conservation easements. Several Maryland counties currently use the recordation tax for land conservation. Calvert County has a $1.70 levy per $500, which raises $1.5 million per year; Frederick County levies $1.50 per $500, raising $2.25 million annually; St. Mary's Levies $0.70 per $500, raising $400,000 per year. In Baltimore County, the recordation tax rate is $2.50 per $500 of the transaction. In Carroll County, the rate is $3.50 per $500 of the transaction.

[5] Frederick County Department of Planning. http://www.co.frederick.md.us/planning/comp_plan.html#Agtag
[6] 1998 Legislative Handbook Series, Volume III, Chapter 6.

Revenue Raising Projections

Baltimore County: Increasing the recordation tax by $0.25 per $500 would raise $1.6 million, based on estimated FY 2003 revenues of $17.6 million. A $0.50 increase would raise $3.2 million. Since the recordation tax can fluctuate significantly from year to year - FY01 collections totaled $19 million; FY02 estimates were $22 million - it is important to be realistic in making projections of revenue.

Carroll County: A $0.25 increase in the recordation tax would generate $441,000; a $0.50 increase would raise $882,000. The estimates for Carroll County were derived from a combination of sources. According to a 2001 bond offering official statement for Carroll County, in fiscal 2001, combined other local taxes -recordation taxes, amusement taxes and 911 service fees equaled $7.71 million. Figures obtained from the Department of Legislative Services 1998 handbook indicate that recordation taxes for fiscal 1997 were 80% of local other taxes. The estimated FY 2001 recordation tax revenue of $6.17 million was obtained by taking 80% of the $7.71 million total for local other taxes.

Baltimore County

Recordation Tax Rate (per $500)	Annual Revenue Generated
0.25	1,600,000
0.5	3,200,000

The revenue generated is based upon a current rate of $2.75 and estimated FY03 revnues of $17.6 million

Sources: SDAT: Recordation Tax Rates
Baltimore County 2000 Budget Message, Exhibit b

Carroll County

Recordation Tax Rate (per $500)	Annual Revenue Generated
0.25	440,888
0.5	881,775

The revenue generated is based upon a current rate of $3.50 and estimated FY01 revnues of $6.17 million

Sources: Maryland Legislative Handbook, Carroll Co. 2002 Offical

- PROPERTY TAX

The property tax is widely used by local governments across the country to support land conservation, most notably in Massachusetts and New Jersey. The property tax has been widely used because it draws upon a large and stable revenue base and spreads the costs of paying for land conservation across a wide range of taxpayers. In Maryland, the property tax has not been widely used for land conservation, with local governments more commonly using their share of the state agricultural transfer tax, the recordation tax or the real estate transfer tax. However, in Queen Anne's County, one percent of the property tax dollars generated from agriculturally assessed properties is dedicated to farmland preservation.7

Since installment purchase agreements –usually zero-coupon bonds– are binding long-term debt commitments, a property tax that was imposed to support repayment would need to remain in place for the duration of these agreements. This could take the form of a separate, dedicated property tax levy or an annual commitment of the County to allocate sufficient

Property Tax

A portion of Baltimore County's property tax revenue could be dedicated to open space acquisition, or an increase could be directed to open space acquisition

Annual Revenue Generated	Tax Rate (per $100 AV)	Percentage of Total Tax Dollars Generated	Cost/Avg. Home ($135,000 house)
1,000,000	0.0024	0.21%	3.22
2,500,000	0.0060	0.53%	8.04
5,000,000	0.0119	1.05%	16.08
6,000,000	0.0143	1.26%	19.30
10,000,000	0.0238	2.10%	32.16

The estimates above are based on the Baltimore County FY02-03 certified assessment of taxable property of $41.97 billion, and FY02 tax revenues = $475 million.

Source: State Department of Assessments and Taxation (SDAT) Constant County Yield Tax Rates

[7] American Farmland Trust. PACE Report 1999.

revenues to honor the payments of the installment purchase agreements, similar to the obligation to repay general obligation bonds. An examination of the legal process necessary to establish a separate, dedicated property tax levy is beyond the scope of this report and would require further research by legal counsel.

Revenue Raising Projections

Baltimore County

With a taxable property base of $42 billion, Baltimore County could raise $1 million per year, with the cost to the average homeowner ($135,000) of just $3.22 per year. The County could raise over $6 million per year and still keep the cost per household to less than $20 per year; a level that the Trust for Public Land has found is generally acceptable to voters and elected officials around the country.

Property Tax

A portion of Carroll County's property tax revenue could be dedicated to open space acquisition, or an increase could be directed to open space acquisition

Annual Revenue Generated	Tax Rate (per $100 AV)	Percentage of Total Tax Dollars Generated	Cost/Avg. Home ($190,000 house)
1,000,000	0.0107	1.02%	20.37
1,500,000	0.0161	1.53%	30.55
2,000,000	0.0214	2.05%	40.73
2,500,000	0.0268	2.56%	50.92

The estimates above are based on the Carroll County FY02-03 certified assessment of taxable property of $9.329 billion. FY02-03 tax revenues are estimated at $97.77 million, based on the tax rate of 1.048/$100 AV.

Source: State Department of Assessments and Taxation (SDAT) Constant County Yield Tax Rates

Carroll County

In Carroll County, with a tax base of $9.32 billion, it is possible to raise $1 million per year at the $20 per household level.

General Obligation Bond

Maryland counties can issue debt for local capital improvement purposes –roads, land conservation, parks, and buildings– in the form of general obligation (G.O.) bonds. General obligation bonds are secured by the full faith and credit of the county to make timely payments of the principal and interest. A general obligation debt is held against the value of the taxable property in that locality. The process of issuing G.O. bonds varies from county to county depending on whether that county has home rule powers, or operates solely under powers delegated by the legislature.8

Several Maryland counties issue general obligation bonds and use some or all of the proceeds for land conservation. Baltimore County, discussed below, is the only county to issue bonds solely for land conservation purposes. Other counties, including Montgomery County and Queen Anne's County issue G.O. bonds to broadly fund their multi-year capital spending plans. Land conservation is funded through general borrowings, along with roads, schools, libraries, building construction, etc. Montgomery County's Legacy Open Space program was approved by the Montgomery County Council in 2002 and will appropriate $33 million over six years to acquire open space.

Baltimore County operates as a charter county9 and has the ability under its charter to seek voter approval to issue general obligation bonds for a variety of purposes. In November 2000, Baltimore

[8] 1998 Maryland Legislative Handbook. Volume VII. Chapter 2, Page 1.
[9] Ibid.

County voters approved a ballot question (known as a countywide referendum) that authorized borrowing $2 million in debt for land preservation. The ballot language follows:

> QUESTION F: County Ordinance Land Preservation Borrowing: An ordinance to authorize and empower Baltimore County, Maryland to borrow $2,000,000 for land preservation projects to be undertaken in the ensuing fiscal years starting July 1, 2001 pursuant to Sections 705(a) and 718 of the Baltimore County Charter. (Bill 60-00)

In November 2002, Baltimore County voters will again have the opportunity to approve a referendum for the issuance of $4.5 million in general obligation bonds for land preservation.

Under the terms of Article VII, Section 717 of the Baltimore County Charter, G.O. debt may not exceed 10 percent of the total real and assessed property in the County. According to the Fiscal 2003 budget message, the County had assessed property of $44.75 billion and a debt limit of $4.475 billion; with $562 million in applicable debt, the County had $3.91 billion in available G.O. debt issuing capacity.10

Carroll County operates under a commissioner structure11 and must seek approval of the state General Assembly to issue general obligation bonds. A vote of the electorate is not required. For example in the 2002 Regular Session of the General Assembly, Senate Bill 792 was approved granting Carroll County the authority to borrow $22.6 million in general obligation bonds for public facilities (i.e. roads, public buildings, parks, libraries).

Bonded indebtedness in Carroll County may not exceed 15% of total assessed value of property in the county.12 As of June 30, 2001, Carroll County had assessed value of $3.968 billion, and a borrowing limitation of $595 million. With $217 million in net debt inclusive of enterprise funds, the county had a debt ratio of 5.48%, well below the debt limit.13

Revenue Raising Capacity

Baltimore County

With nearly $42 billion in taxable property value, Baltimore County has the ability to issue a significant amount of general obligation debt, with a modest tax required and at a small cost per household. A $35 million bond would require just over $3 million annually in debt service and cost the average homeowner $10 per year. A $72 million bond yields a per household

General Obligation Bond

Bond Issue	Annual Debt Service	Tax Required (per $100 AV)	Cost/Avg. Home ($135,000 house)
5,000,000	435,923	0.0010	1.4
15,000,000	1,307,768	0.0031	4.2
35,000,000	3,051,459	0.0073	9.8
60,000,000	5,231,073	0.0125	16.8
72,000,000	6,277,288	0.0150	20.2
96,000,000	8,369,717	0.0199	26.9

The annual debt service figures are based on a taxable property value for FY02 of $41.97 billion. The calculations assume a 20-year bond at a 6% interest rate

[10] http://www.co.ba.md.us/pdf_docs/b_03message_exhibit_d.pdf
[11] Ibid.
[12] Section 15-16 (a) of the Code of Public Local Laws of Carroll County.
[13] Carroll County Official Statement. $13.73 million General Obligation Debt. November 1, 2001. Page 41.

cost of $20, a level that the Trust for Public Land has found acceptable to voters and elected officials around the country.

Carroll County
In Carroll County, issuing a $5 million bond would require $436,000 in annual debt service and cost the average homeowner $9 per year. A $10 million bond would be well within the $20 level of spending tolerance generally accepted by elected officials and voters.

General Obligation Bond

Bond Issue	Annual Debt Service	Tax Required (per $100 AV)	Cost/Avg. Home ($135,000 house)
5,000,000	435,923	0.0047	8.9
10,000,000	871,846	0.0093	17.8
15,000,000	1,307,768	0.0140	26.6
20,000,000	1,743,691	0.0187	35.5
25,000,000	2,179,614	0.0234	44.4

The annual debt service figures are based on a taxable property value for FY02 of $9.329 billion. The calculations assume a 20-year bond at a 6% interest rate

Utility Ratepayers

As part of their efforts to provide a reliable supply of clean, safe drinking water, water utilities are taking steps to protect more land within their watersheds. According to a 1991 watershed management study conducted by the American Water Works Association (AWWA), "the most effective way to ensure the long-term protection of water supplies is through land ownership by the water supplier and its cooperative public jurisdictions." At the same time, the Journal noted that the median percentage of watershed lands owned by water utilities nationwide is only 2 percent. 14 These land holdings may include not only the water intake area, but also land that protects against stormwater runoff and provides recharge for groundwater supplies.

In order to increase the funds available for watershed land conservation, water utilities may incorporate dedicated fees for land acquisition as a supplement to their rate structure – as is the case in Salt Lake City, Utah. In addition, local water utilities may also purchase land through grants from a regular state grant program, if one is in place, as is the practice in Rhode Island.

Salt Lake City, Utah

Salt Lake City established a Watershed-Water Rights Purchase Fund in 1991 financed by a 0.25 surcharge on each monthly water bill. In 2000, the City Council approved an increase in the surcharge to .50 per bill. 15 Since the Fund was established, Salt Lake City has purchased 1,400 acres of watershed land. For example, in 2001, the City purchased 155 acres of watershed land in Big Cottonwood Canyon for $2 million, including $1.3 million from the City.16

Rhode Island Water Supply Board

Rhode Island's Water Supply Board, through its Watershed Land Acquisition Program, provides grants to public water suppliers to protect watershed supply lands. The so-called "penny per hundred" program, named for its levy of 1 cent (actually 0.01054) per hundred gallons, was enacted by the Rhode Island State Legislature in 1989 and generates

[14] "Protecting the Source: How Land Conservation Safeguards Drinking Water." The Trust for Public Land. Richard M. Stapleton. June 30, 1997.
[15] www.ci.slc.ut.us/utilities/news 05042001
[16] www.ci.slc.ut.us/mayor/pressreleases/willowheights

approximately $2.2 million annually statewide for the purpose of acquiring land and protecting our raw water supply.

Revenue Raising Projections
In either Baltimore or Carroll Counties, it may be possible to create a surcharge such as was established in Salt Lake City. A further examination would be necessary to determine the process for implementing a local surcharge, as well the projected revenues that could be raised.

Stormwater Utility
Stormwater utilities are independent authorities whose primary focus is to ensure water quality and provide flood control protections. The City of Griffin, Georgia (pop. 24,000) created a stormwater utility funded primarily through a rate structure based on impervious area. In Griffin, each residence is charged $2.95 per month, with non-residential properties levied $2.95 monthly per 2200 square feet of impervious cover. The utility's initial revenues have met the target of $1.2 million a year. 17

While the Griffin stormwater utility has not been used for land acquisition, there is ample evidence that reduction in non-point source pollution and flood mitigation could be improved through judicious land acquisition programs. Creating a storm water utility district in some parts of Baltimore or Carroll County would also provide a means of equitably levying a fee on all county residents for purchase of land for watershed protection.

> ***Lenexa, Kansas "Rain into Recreation" Stormwater Utility***[18]
> The city of Lenexa uses a variety of funding sources to implement its "Rain into Recreation" program. These include a 1/8-cent sales tax for stormwater/recreation improvements, a stormwater utility charge on residential, commercial, and industrial land users, and a capital fee on new development. These funds are supplemented with revenue from existing sources such as the county Storm Water Management Program.

Revenue Raising Projection
The amount of money raised by a stormwater utility in the Prettyboy Watershed would be a function of the size of the district created. A district should be created that is linked to growth and development that affect water quality in the Prettyboy Watershed.

STATE FUNDING

Maryland has long provided significant state funding for a range of land conservation programs, notably Program Open Space (POS), the Maryland Agricultural Land Preservation Program (MALPF), and the Rural Legacy Program. All three programs have been primarily funded through the state's real estate transfer tax, with additional general obligation bonds providing support for the Rural Legacy Program and the agricultural transfer tax also sustaining MALPF. Although funding has been well over $100 million in recent years, this will be significantly reduced over the next few

[17] "Stormwater Utility Case Study." Georgia Municipal Association. By Brant Keller, City of Griffin and Tommy Brown, Ogden Environmental. February 2000. www.gmanet.com/research
[18] MetroGreen Finance Strategy. Mid-America Regional Council. Page E-1.

years, as the state reallocates funding for other purposes. (See section below on "Impact of Budget Cuts on Maryland's Land Conservation Programs.)

PROGRAM OPEN SPACE

Program Open Space (POS) was created by the state legislature in 1969, and receives its funding from the state real estate transfer tax. One-half of one percent of the purchase price of a home or land is directed into a fund for POS. POS funds both State and local acquisition and development. Local jurisdictions receive approximately 50 percent of POS funds. Each county receives an allotment based on county population and the amount of real estate transfer revenue generated by the county. Program Open Space has awarded more than 3.900 open space grants to local governments totaling $540 million, protecting 35,737 acres. In addition, the state has acquired 242,745 acres with $356 million in stateside POS funds.19

RURAL LEGACY PROGRAM

The Rural Legacy Program was adopted in 1997, with the goal to strategically preserve large, continuous blocks of farmland and open space throughout the state. Under the Program, local governments and private land trusts identify Rural Legacy Areas, or rural areas in need of protection, and competitively apply for funds. To date, twenty-five Rural Legacy Areas have been designated, with $132.9 million in grants awarded and 31,000 acres of land protected. 20Funds for Rural Legacy come the stateside acquisition budget of POS, general obligation bonds, and general funds. Prior to budget cuts, the 2003-2007 Capital Improvement Program called for roughly $200 million to be spent over the five-year period.21

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

The Maryland Agricultural Land Preservation Foundation (MALPF) was established in 1977 to preserve productive agricultural land and woodland to produce food and fiber, curb urban sprawl, and protect open space by paying landowners to place an easement on their property. MALPF's funding comes from Maryland's real estate transfer tax and the agricultural transfer tax. MALPF has acquired agricultural land preservation easements on 208,659 acres and established 2,500 Agricultural Preservation Districts, totaling 360,500 acres.22 MALPF's Certification of Local Agricultural Land Preservation Programs, established in 1990, provides incentives for communities to develop effective farmland preservation programs. County that apply to MALPF and are certified as an effective farmland preservation program keep 75 percent of the agricultural transfer tax revenues to further agricultural land preservation, while non-certified counties keep only 1/3 of the revenue.

IMPACT OF BUDGET CUTS ON MARYLAND'S LAND CONSERVATION PROGRAMS

In order to address a significant budget shortfall due to a slowdown in state revenues, the General Assembly approved a wide range of budget cuts and reallocations during the 2002 legislative session.

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[19] MDE: Implementation of a Local Land Preservation Program. Draft Agency Report for House Bill 1131. October 2002. Page 5.

[20] Ibid.

[21] DNR FY03-07 Capital Improvement Program

[22] MDE: Implementation of a Local Land Preservation Program. Draft Agency Report for House Bill 1131. October 2002. Page 5.

One of the actions taken by the General Assembly was to shift 50% of transfer tax revenues from land conservations and into the state's general fund. This move would reduce $47.3 million from transfer tax revenues for fiscal years 2003 and 2004. This reduction in overall funding for land conservation will significantly reduce the amount of grants available to local governments. Local Program Open Space funding will be cut by $17.26 million; MALPF, $8.06 million; Rural Legacy, $6.37 million. 23

FEDERAL FUNDING

Under the heading – "Federal Funding" – there are two distinct types of funding. The first are grants awarded directly to states, which provide wide latitude to the states for determining how to spend the funds, in accordance with federal program rules. These will be referred to as "State Directed." The second group of federal programs entails the federal government making direct grants to local recipients, typically local governments. Decision making in these "Direct Federal Grant" programs resides at the federal level.

STATE DIRECTED FEDERAL GRANTS

Under the Clean Water Act, the U.S. Environmental Protection Agency (EPA) funds three water quality programs, with the Clean Water State Revolving Fund (CWSRF) by far the largest.

- **Clean Water State Revolving Fund (Section 212):** Provides loans for water quality improvements and has traditionally been used for wastewater treatment upgrades, although some states have used funding for land conservation. States were awarded $1.35 billion in 2001 and have $34 billion in total loan pools.
- **Nonpoint Source Program (Section 319)**: Provides grants for projects that address nonpoint source pollution, such as BMPs (best management practices) implementation, restoration and public education. On a very limited basis, Section 319 has been used for land conservation. Funding for 2002 totals $237.5 million.
- National Estuary Program (Section 320): Funds projects that protect or improve estuaries.

In addition, the EPA awards grants to states to fund their Drinking Water State Revolving Funds (DWSRF). State DWSRFs provide loans and other assistance to eligible public water systems to finance the costs of infrastructure projects, including land acquisition. Up to 15% of the funds can be set-aside to fund source water protection activities, including land acquisition, although only 10 percent may go to a single purpose.

Clean Water State Revolving Fund (CWSRF)

Under the CWSRF, the EPA provides annual grants to states that match the capitalization grants with 20 percent of their own funds. States use these capitalization grants to provide loans (grants are not permitted) to public and private borrowers, with a maximum term of 20 years. States may pool the federal capitalization grant with other funding and can also issue bonds using pool funds.

[23] Fiscal Note, Department of Legislative Services, Maryland General Assembly 2002 Session. Senate Bill 323. Budget Reconciliation and Financing Act Action Analysis. http://mlis.state.md.us/2002rs/fnotes/bil_0003/sb0323.doc

Clean Water SRF Investment
1987 - 2001

		$ billions
Federal Capitalization Grant	$	18.3
State Contributions	$	3.8
Leveraged Bond Proceeds	$	14.4
Subtotal	$	36.5
Less Debt Service Reserve	*$*	*(4.3)*
Total Net SRF Investment	$	32.2

Since the CWSRF Program began in 1987, the federal government has provided $18.3 billion in capitalization grants, which have been matched by $3.8 billion in state contributions Nearly half the states have used these federal and state funds to back the issue more than $14 billion in bonds to fund projects and to create debt service reserves. In total, more than $32 billion in funding has been created through the CWSRF program since it began.24

CWSRF Innovations: Land Conservation

States file an intended use plan with the EPA that clearly spells out how they will allocate their CWSRF funds. Since the program's inception, most states have used their CWSRF primarily for wastewater treatment plants. However, since 1995, more funding has been shifted into nonpoint source pollution control and estuary management, with roughly six percent of annual funds going for non-point source pollution, up from one percent in prior years.25 In particular, several states have used their CWSRF to help local governments and nonprofits purchase watershed land, restore watersheds and reduce flooding.

New York: In recent years, the state of New York has made several significant loans to help local governments protect critical drinking watershed lands through its Clean Water State Revolving Fund. The City of New York has received a $27 million CWSRF loan to acquire land within the Delaware/Catskill watershed. In order to avoid building a new filtration plant, New York City will spend $1 billion over a 10-year period for watershed land acquisition.26 The state's CWSRF also made a $75 million loan to Suffolk County to protect land within the Pine Barrens, the sole source aquifer for 2.6 million people.27

Napa County, California: The Napa County (CA) Flood Control and Water Conservation District is using the CWSRF to protect the Napa River from future flooding by reconnecting the river with its historic flood plain. To accomplish this, more than 300 parcels of land will be acquired along roughly seven miles of the river. The County plans to finance its $87.5 million share of the $220 million total by borrowing from the state's CWSRF and repaying it through a voter-approved ½ cent local sales tax.28

[24] Clean Water SRF Investment, by State. EPA Clean Water State Revolving Fund. http://www.epa.gov/r5water/cwsrf/inva.htm
[25] Clean Water SRF Supplemental Data Report: Total Annual NPS Project Assistance as Percent of Total WWT, NPS and Estuary Project Assistance. U.S. EPA. http://www.epa.gov/r5water/cwsrf/pdf/supnps.pdf
[26] "New York City Applies for $27 Million CWSRF Loan for Watershed Land Acquisition." CWSRF Activity Update. U.S. EPA
[27] "New York CWSRF Makes $75 Million Land Acquisition Loan in Pine Barrens." CWSRF Activity Update. U.S. EPA.
[28] "Napa County 'Living River Strategy' to Provide Flood Protection.." CWSRF Activity Update. U.S. EPA.

Ohio: With funding from the federal CWSRF loan program, Ohio EPA has created a new program (Water Resource Restoration Sponsor Program) that combines traditional wastewater treatment with water source restoration through land conservation. Under the provisions of the program, a community would apply, as usual, to the CWSRF program for a wastewater treatment loan and also enter into a sponsorship agreement with a land conservation partner (land trust or park district) to grant them the money to fully restore a watershed resource (not necessarily in the same watershed). A community that is chosen to participate by Ohio EPA would then borrow extra money to facilitate the restoration project, but in exchange its interest rate on the combined project would be reduced (at present from 3.8% on a wastewater only loan to 0.2% on a combined project) to yield a repayment cost below the wastewater project alone.

Maryland's CWSRF

The Maryland Water Quality Revolving Loan Fund (WQSRF) was established in 1987 pursuant to the Clean Water Act (Section 212) to provide below market interest rate loans to local governments and eligible private entities for certain water quality capital projects. It is managed by the Maryland Department of the Environment's Water Quality Financing Administration (MWQFA).

During FY 2002, Maryland will receive $32.24 million from a Federal Capitalization Grant and will provide the required 20% match of $6.45 million from the state General Fund. When combined with loan repayments/investment earnings ("recycled funds") of $79.15 million, the WQSRF will have a total of $117.84 million available in FY 2002. The WQSRF provides loans at 40% of market rate, or 2.00% as of May 2002.29

The vast majority of funding from the WQSRF goes to infrastructure projects like wastewater treatment plants and storm sewers as well as non-point source pollution projects like landfill capping. These projects are rated and ranked and receive funding based on their ranking. It is also possible to create a separate set-aside program as part of the WQSRF - apart from the rating/ranking for mainstream projects - that provides loans to local governments for land conservation projects to improve water quality.30

MWQFA has previously allocated $5.0 million of "recycled funds" (investment earnings/repayments) for non-point source pollution reduction through its Linked Deposit Program. Under this program, MWQFA and a bank enter into an investment agreement for a sum equal to the amount of the loan. Under this agreement, MWQFA takes a lower than usual rate of interest. The bank passes this discounted rate along to the private borrower. To date, 49 projects totaling $3.2 million have received financing under this program.31 Typically, these loans may be for a homeowner's association to improve a stormwater management system or a gas station to remove underground storage tanks.

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[29] Maryland Department of the Environment Water Quality Revolving Loan Fund Program. FFY 2002 Intended Use Plan. June 3, 2002.

[30] MDE: Implementation of a Local Land Preservation Program. Draft Agency Report for House Bill 1131. October 2002. Page 23.

[31] [31] Maryland Department of the Environment Water Quality Revolving Loan Fund Program. Final Federal Fiscal Year 2002 Intended Use Plan. June 3, 2002.

A recent loan made under the Linked Deposit Program provided $2.25 million in financing to protect 114 acres of riparian forest on the Bay Ridge Peninsula in Anne Arundel County ("The Big Woods Project"). Residents of a special taxing district in Bay Ridge will repay the loan through a $250 annual property tax per lot. The total purchase price for this March 2002 project was $4.1 million, with grants from Program Open Space, the Maryland Environmental Trust, Anne Arundel County and private donors comprising the balance.32 WQSRF is being eyed as a potential source of state incentives for local governments that adopt dedicated land conservation funding under the terms of House Bill 1131.

Drinking Water State Revolving Fund (DWSRF)
Under the Safe Drinking Water Act Amendments of 1996, the EPA is authorized to provide grants to states to capitalize Drinking Water State Revolving Funds. The State Revolving Funds provide loans and other assistance to eligible public water systems to finance the cost of infrastructure projects. States must file an intended use plan describing how they will use the proceeds and must match 20% of the grant. Up to 15% of the funds can be set-aside to fund source water protection activities, including land acquisition.33 However, no more than 10% of the set-asides can be used for a single type of activity. Grants are allotted to each state based on needs identified in the most recent Drinking Water Needs Survey.

Maine Drinking Water Program
Maine's Drinking Water Program provides loans to public drinking water systems using proceeds from the DWSRF capitalization grant. According to the intended use plan (IUP) filed for 2001/2002, one of the long term goals of Maine's DWSRF is to create and maintain a land acquisition fund in perpetuity. Maine has roughly $765,000 in a separate revolving account established for land acquisition from prior year uncommitted funds and loan repayment proceeds. No additional money has been allocated in the current IUP since the current account balance is deemed adequate to meet all anticipated loan requirements until the next grant award. 34

Maryland's DWSRF Grant Program
Between fiscal years 1997 and 2002, Maryland received $49.66 million in federal DWSRF grants, or 1.14 percent of the total $4.37 billion provided to the states.35 Each state receives a minimum of one percent of the total, based on a needs assessment. During fiscal 2002, Maryland will receive $9.35 million, or 1.16% of the $850 million available nationwide.36
Under the provisions of the DWSRF, the State of Maryland could allocate up to 10 percent of its DWSRF annual grant for land acquisition for drinking water source protection. According to U.S. EPA, between fiscal years 1997 and 2001, Maryland did not allocate any of its DWSRF for this purpose. There is no mention in the FY 2002 Intended Use Plan to set aside any funding for land

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[32] MDE: Implementation of a Local Land Preservation Program. Draft Agency Report for House Bill 1131. October 2002. Page 24.
[33] SDWA Sec. 1452 (k)
[34] DWSRF 2001/2002, Intended Use Plan. State of Maine Department of Human Services Drinking Water Program. 10.18.01
[35] Distribution of DWSRF Funds . US EPA Ground Water and Drinking Water. http://www.epa.gov/safewater/dwsrf/allot.html
[36] Allotment of DWSRF Funds. US EPA Ground Water and Drinking Water. http://www.epa.gov/safewater/dwsrf/allot02.html

acquisition. With the annual federal DWSRF grant averaging $8 million over the past five years, allocating 10 percent for land acquisition would yield $800,000 per year; at five percent, the total would be $400,000.

Clean Water Act Section 319 (h) - Nonpoint Source Pollution

In 1987 Congress recognized that state and local water authorities needed assistance with developing and implementing measures to control nonpoint source (NPS) pollution. The enactment of Section 319 of the Clean Water Act (CWA) established a national program to control nonpoint sources of water pollution, as well as a means to help fund state and local implementation of nonpoint source management programs.

Under the provisions of Section 319, land acquisition can be used as a nonpoint source management tool. In EPA Region 4 (Southeastern U.S.),[37] fifteen land acquisition projects were approved between fiscal years 1995 and 1999, at a total cost of $5.2 million. Two of these projects - totaling $1.47 million - were subsequently canceled. EPA Region 4 has been the leader among the 10 EPA regions across the country in utilizing Section 319 for land acquisition, although even here there have been a number of challenges that have hampered its use. These include the cost effectiveness of land acquisition versus other Best Management Practices, as well as the difficulty quantifying water quality improvements.

EPA 319 Funding in Maryland

Maryland's Nonpoint Source Management (NPS) Program, funded in part by EPA Section 319, provides grants to state and local governments to protect and restore Maryland's water resources. Grants are made for technical assistance, environmental education and training, technology transfer, demonstration projects, and monitoring. The NPS Program has received between $2.6 - $ 3.0 million dollars per grant year since 1999, enabling it to sponsor approximately 20-25 implementation projects per year.[38] In fiscal 2003, Maryland anticipates receiving $1.1 million and will likely fund 12 projects; all projects must provide a match for 40% of total costs.[39]

Maryland has not allocated any funding for land acquisition under EPA 319[40], nor is land acquisition listed as a funded activity in its Fiscal 2003 Request for Proposals.[41] However, since land acquisition has been successfully used under Section 319 in other states, it should be considered in Maryland. Although concerns have been raised about the effectiveness of land acquisition as a strategy for reduction of nonpoint source pollution, the measurement and modeling being undertaken as part of the Prettyboy effort should alleviate the concerns over how land acquisition targets have been selected and the intended impact of the acquisition.

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[37] EPA Region 4 includes Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.
[38] http://www.dnr.state.md.us/bay/czm/nps/projects/projectsy.html
[39] State of Maryland Nonpoint Source Funding, Request for Proposals. Page 5.
[40] http://www.dnr.state.md.us/bay/czm/nps/projects/projectsy.html
[41] State of Maryland Nonpoint Source Funding, Request for Proposals. Page 2.

DIRECT FEDERAL GRANTS

Farmland Protection Program

With passage of the new 2002 Farm Bill, the Federal government will have much greater ability to serve as a partner in the purchase of development rights (PDR), or conservation easements, on productive agricultural land. The new Farm Bill provides a ten-fold increase in funding available for the U.S. Department of Agriculture's Farmland Protection Program (FPP), making $600 million available between fiscal 2002 and 2007, up from $53 million in the prior Farm Bill. Between 1996 and 2002, more than 108,000 acres were protected through PDR as a result of the program.42

In fiscal year 2003, the FPP will provide $100 million in grants to states, local governments and nonprofit conservation groups to purchase conservation easements on agricultural land. Grants for 50 percent of the cost of a permanent conservation easement (PDR) will be awarded on a competitive basis, according to national and state criteria.43

[42] 'Purchase of Development Rights: Conserving Lands, Preserving Western Livelihoods." Western Governors' Association, the Trust for Public Land and National Cattlemen's Beef Association. June 2002. Page 19-20.
[43] Ibid.

RECOMMENDATIONS

If the effort to protect land within the Prettyboy Watershed is to be considered a success, it is essential to move beyond assessing priorities and actually protect land. In order to accomplish this goal, a range of funding options must be utilized to create a "funding quilt" that will sustain land acquisition both in the near term and over the long term. The specific recommendations will help draw upon a combination of local, state and federal funding to protect land in the Prettyboy Watershed

LOCAL FUNDING

1. **Broaden the scope of local conservation efforts beyond agricultural land easements**. Both Carroll and Baltimore Counties have been very successful in targeting their efforts to protect agricultural land from development. The creativity and commitment they have demonstrated toward protecting farmland needs to be directed toward protecting natural areas, stream corridors and forested lands in the Prettyboy Watershed from further development that will degrade the quality of drinking water. One option would be to augment their farmland preservation program to include a Woodland Preservation Program, as is done in Anne Arundel County.

2. **Create new local sources of land conservation funding**: In an era of constrained state finances, local governments in Maryland must create local alternatives to offset current, and potentially future, declines in state funding (POS, Rural Legacy and MALPF). If the promise of newly enacted legislation (HB 1131) is fulfilled, the state will create matching funds to provide an incentive for counties to establish their own funding source for land conservation. This report focuses on two primary ways to increase local funding for land conservation in the Prettyboy Watershed: 1) Installment Purchase Agreements, backed by a dedicated revenue stream (recordation tax or property tax), and 2) Issuing General Obligation Bonds.

STATE FUNDING

1. **Innovate using Maryland WQSRF**: Both revolving funds offer the promise of substantial funding for land acquisition, but this has not been realized. Given the flexibility of the WQSRF, the State of Maryland might choose to create a pilot program for the Prettyboy Watershed along the lines of the Ohio EPA's program to pair wastewater treatment projects with land conservation/restoration projects. Alternatively, a set-aside program under WQSRF could be used for land acquisition around the state, including the Prettyboy Watershed.

2. **Establish Land Acquisition as DWSRF Priority**: Maryland might follow the lead of Maine by explicitly including land acquisition as a goal of its DWSRF, and by setting aside funding for this purpose. Such moves might stimulate demand for land acquisition loans, if coupled

with a public education effort on the value of land conservation as a source water protection strategy.

3. **Support restoration of full funding for Program Open Space and other programs.** Many programs have taken a financial hit in order to balance the State of Maryland's books in fiscal 2003 and 2004. However, supporters of land conservation in Baltimore and Carroll Counties should join with other like-minded individuals and groups and push for full restoration of POS, ET. al. in 2005. Maryland should not retreat from its long-standing leadership position of strongly funding land conservation at the state level.

FEDERAL FUNDING

1. **Farmland Protection Program**: With the significant increase in available funding available under the newly signed Farm Bill, Baltimore and Carroll Counties should apply for an FPP grant, possibly in conjunction with one of several local land trusts. Since these grants are competitive and require a 50 percent match, the counties might draw upon funds included in anticipated capital improvement plans or hopefully in successful bond measures.

2. **EPA 319**: Although there have been no EPA 319 grants for land acquisition awarded in Maryland, there is no reason that an effort should not be mounted. In the past, one of the reasons cited by EPA officials for the lack of EPA 319 grants for land conservation has been the absence of thorough analysis making the link between land conservation and reduction of nonpoint pollution. The mapping and scientific analysis being conducted as part of the Prettyboy project should address these shortcomings and smooth the way to a successful EPA 319 grant seeking effort.

Land Conservation Funding in York County, Pennsylvania

As has been discussed for Baltimore and Carroll counties, there are several ways to protect land within the Prettyboy Watershed in York County. Local funding should be the primary means, as with the Maryland counties. In York County, 119 farms totaling roughly 24,000 have been protected through conservation easement since the state's Farmland Protection Program began in 1989. In 2001, York County appropriated $824,000 and received $2.62 million in state grants. No data were available on the source of these funds. Pennsylvania is first in the nation in total acres preserved by its farmland protection program, with 191,000 acres protected to date. In 2001, $47 million was allocated statewide to 51 counties.

Voter-approved general obligation bond measures have been approved in Lancaster and Bucks Counties; property tax levies and earned income tax measures have also been approved by several townships in Pennsylvania. More research could be done on dedicated funding in York County, if necessary.

At the state level, the Keystone Fund, established by voters in 1993, provides 50% matching grants to land trusts and local governments, and receives dedicated funding from the transfer tax. Keystone funding for 2003 has been cut in half to $25 million In terms of federal funding, the greatly increased Farmland Protection Program is a source of funding that York County might consider, individually, or in partnership with groups such as the Prettyboy Mason Dixon Land Conservancy.

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INSTALLMENT
PURCHASE
AGREEMENTS

Fact Sheet
September 1999

DESCRIPTION

Purchase of Agricultural Conservation Easement (PACE) programs compensate property owners for restrictions on the future use of their land. One of the biggest challenges in administering PACE programs is figuring out how to pay for them. This fact sheet describes an innovative financing plan that helps jurisdictions stretch available funds while offering unique benefits to landowners.

What it is

An installment purchase agreement (IPA) is an innovative payment plan offered by a handful of jurisdictions with Purchase of Agricultural Conservation Easement (PACE) programs. IPAs spread out payments so that landowners receive semi-annual, tax-exempt interest over a term of years (typically 20 to 30). The principal is due at the end of the contract term. Landowners also can sell or securitize IPA contracts at any point to realize the outstanding principal. The IPA financing plan won the Government Finance Officers Association Award for Excellence in 1990.

<u>HOW IT WORKS</u>

The day before settlement, the jurisdiction sets the rate for the interest paid to the IPA holder. The rate is typically pegged to the current return on U.S. Treasury bonds. However, counties and local governments can set a minimum interest rate, or "floor," to provide participating farmers with additional security.

Jurisdictions can purchase zero-coupon bonds to cover the final balloon payments. "Zeroes" do not generate regular interest income. Instead, they yield a lump sum when the bond matures. Because zero coupon bonds cost a fraction of their face value, the public entity leverages available funds. "Zeroes" with a face value equal to the purchase price are usually purchased the day before settlement.

At settlement, the landowner grants the jurisdiction a permanent agricultural conservation easement in exchange for an IPA. Then the jurisdiction begins making tax-exempt interest payments twice a year. The balance of the purchase price is paid to landowners at the end of the agreement. The landowner may sell or "securitize" the IPA on the municipal bond market to recover the outstanding principal before the end of the agreement.

<u>HISTORY</u>

Howard County, Maryland, pioneered IPA as a strategy to fund its PACE program in 1989. By 1987, the county's five-year-old farmland protection program had stalled. Lump-sum payments were no longer a competitive option for farmers due, in part, to dramatic increases in land prices. Later that year, county officials met with a financial advisor to explore ways to make the most of accumulated tax revenues and reinvigorate the program. The advisor combined installment payments and the purchase of zero coupon bonds with the county's traditional funding mechanisms. Working with the county executive, county agencies and bond counsel to refine the proposal, the plan was announced in May 1989. Workshops were held for interested property owners over the next few months and the County Council approved the first round of IPAs in November. To date, 81 agreements have been executed in Howard County, adding 9,200 acres to the 7,500 protected before the IPA program was created.

Based on the Howard County model, Harford County, Md., Burlington County, N.J. and Virginia Beach, Va. have developed IPA programs to stretch public funds for farmland protection. In addition, Pennsylvania's statewide farmland preservation program is crafting an IPA program. In the spring of 1999, Pennsylvania legislators earmarked $500,000 to support this effort.

FUNCTIONS AND PURPOSES
IPAs are intended to make PACE programs competitive with developers by providing unique financial and tax advantages. In addition, this payment option enables jurisdictions to use accumulated and future dedicated revenues to protect land while it is still available and relatively affordable.

ISSUES TO ADDRESS
AUTHORITY AND APPROVALS
In general, state and local governments can enter into IPAs if they have the authority to issue general obligation bonds. Because IPAs constitute long-term debt, agreements typically require the same approval process as bonds. Laws governing the issuance of bonds vary from state to state. Some states require approval by the legislature, the voters or both. For more information, contact state agencies that regulate municipal bond issuance, bond counsel or independent investment banking or public financial advisory firms.
FUNDING
An IPA program requires dedicated funds to cover the interest and principal payments. Howard County uses proceeds from a local real estate transfer tax and the county's share of a statewide agricultural transfer tax to support its program. Virginia Beach relies on revenue from a property tax increase and a tax on cellular phone use.
BENEFITS
Landowners may defer capital gains taxes until they receive the principal for the purchase price. This keeps a larger proportion of the proceeds "working" or earning interest.
The semi-annual interest paid on the outstanding balance of the purchase price is exempt from federal, state and local income taxes and can provide a supplementary income stream.
Landowners can liquidate their IPA prior to the end of the agreement.
IPAs can be transferred to heirs and are useful in estate planning.

The package of financial and tax benefits offered to landowners could enable them to net more than they could through a traditional cash sale. These benefits may encourage landowners to accept less than the appraised value for their easements. IPAs stretch public funds. By deferring principal payments, public entities can buy more easements while land is available and relatively affordable. Also, by purchasing "zeroes" jurisdictions spend a fraction of the negotiated purchase price at closing and leverage available funds.

DRAWBACKS
IPAs require a dedicated funding source to cover the interest payments.
An IPA program may take up to six months to develop.
Bond counsel, a paying agent and a financial advisor will have to assist in each settlement. The estimated cost of each transaction including fees and charges by rating agencies ranges from $5,000 to $20,000. These costs can be higher-on a percentage basis-than the costs to issue bonds for a cash-purchase program.
Because IPAs are backed by the full faith and credit of the jurisdiction, each agreement may require the same approval process as general obligation bonds.

See also:
More Fact Sheets.

TECHNICAL ASSISTANCE
Herrick Mill, One Short Street
Northampton, MA 01060
Tel: (413) 586-4593
Fax: (413) 586-9332
Web: www.farmlandinfo.org

NATIONAL OFFICE
1200 18th Street, NW, Suite 800
Washington, DC 20036
Tel: (202) 331-7300
Fax: (202) 659-8339
Web: www.farmland.org