

OPEN SPACE ACQUISITION

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LEGISLATIVE
PROGRAM REVIEW
AND
INVESTIGATIONS
COMMITTEE

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**CONNECTICUT GENERAL ASSEMBLY
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 to evaluate the efficiency, effectiveness, and statutory compliance of selected state agencies and programs, recommending remedies where needed. In 1975, the General Assembly expanded the committee's function to include investigations, and during the 1977 session added responsibility for "sunset" (automatic program termination) performance reviews. The committee was given authority to raise and report bills in 1985.

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LEGISLATIVE PROGRAM REVIEW
& INVESTIGATIONS COMMITTEE

Open Space Acquisition

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A. Agency Response

Key Points

OPEN SPACE ACQUISITION

- “Open space” has various meanings and definitions. For purposes of this study, open space is defined according to C.G.S. Sec. 12-107b, and primarily refers to land with specific or unique resources that cannot be developed.
- The Department of Environmental Protection administers the state’s main open space acquisition program.
- Connecticut is made up of 3.2 million acres of land; approximately 482,000 acres are held as “open space” by different entities such as federal, state, and local governments, nonprofit organizations, and water companies.
- The state owns roughly 234,900 acres of open space land, including development rights to 25,600 acres of farmland.
- Between FYs 92-97, the state purchased 8,201 acres of open space land for \$29.1 million at an average cost of \$3,551 per acre.
- Two major legislative initiatives dealing with open space plus a statewide task force appointed by the governor, have occurred over the past two years.
- The last General Assembly authorized over \$20 million in bond funding for open space acquisition programs.

Strategic Planning and Implementation

- No formal open space goal existed prior to the passage of P.A. 97-227.
 - There is no formal planning process in place within DEP to prospectively identify properties for acquisition as open space; priorities are primarily developed in response to properties submitted to the department.
 - Although an inventory of open space acquisitions exists and fulfills statutory requirements, it is not as comprehensive as it could be; more work also needs to be done identifying high priority properties and taking a proactive approach to acquisition.
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Key Points

Acquisition Process Analysis

- DEP takes an average of six months to review, evaluate, and make final decisions on properties submitted as open space. Purchase price negotiations, bond commission approval, and post bond commission requirements average two and a half years to complete.
- A disproportionate amount of time is spent initially processing property applications compared to the overall time necessary for review and evaluation.
- The department is not complying with its own internal review and approval procedures, yet properties continue to move forward, questioning the need for certain steps in the process.
- No standards exist governing processing times for DEP review and evaluation of open space properties.
- DEP has begun receiving bi-annual bond funding allotments, which should allow it to better manage acquisition planning and resources, and decrease overall processing time.
- No approved list exists for selecting private surveyors without using a competitive bidding procedure each time surveying services are needed.
- Purchase offer agreements and deeds required several review cycles by the attorney general's office before approval.

Internal Operations

- The land acquisition division lacks any type of centralized, automated tracking system for its open space acquisition process.
 - The current management information system is inadequate to support the overall operations of the division.
 - The division needs to increase monitoring efforts to periodically measure performance of the open space acquisition program.
 - The newly established open space review board is not required to report to the legislature on the performance of the open space acquisition program administered by DEP.
 - There is a lack written policies and procedures to guide division staff regarding the open space acquisition process.
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OPEN SPACE ACQUISITION

Recognizing the need for an efficient and effective system to acquire open space in Connecticut, the Legislative Program Review and Investigations Committee authorized a study of Open Space Acquisition in March 1998. Although the state acquires different types of open space land through several agencies and programs, this study focused on the acquisition process used by the Department of Environmental Protection (DEP). The department administers the state's primary open space acquisition program.

As the study progressed, several problem areas became increasingly clear with respect to the open space planning and acquisition processes used by the state. As such, the committee focused its findings and recommendations in three main areas: strategic planning, the open space acquisition process used by DEP; and internal operations of the department's Land Acquisition and Management Division, which is the main division responsible for administering DEP's open space acquisition program.

Strategic Planning

The environmental protection department, especially the land acquisition division, is at a pivotal juncture regarding its open space acquisition efforts. The legislature formally adopted a policy in 1997 of having not less than 10 percent of the state's landmass owned as open space by the state. The governor also recently proposed increasing the amount of designated open space throughout the state held by entities in addition to the state. Moreover, \$166 million in funding for open space acquisition has been earmarked over the next five years, of which the state has formally authorized \$21 million in FY 99 for acquisition.

Given the state's commitment to set an open space goal and provide funding to begin pursuing that goal, DEP, as the state's primary open space acquisition agency, must be prepared to implement an efficient and effective program to achieve the overall objective. The program review committee believes proper strategic planning is vital to fulfilling Connecticut's open space requirements.

The committee found, however, that more needs to be done with respect to strategic planning -- especially in developing a detailed inventory of current state-owned land, identifying prospective open space opportunities within specified

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acquisition categories, and outlining a proactive approach for acquiring land -- before DEP has a truly targeted open space acquisition plan in place. The committee also found that acquisition priorities are primarily developed in response to properties submitted to DEP, and that the department has no formal planning process in place for prospectively identifying properties within specific land classifications. The current system is predicated on responding to properties already submitted for acquisition rather than identifying properties that fit into a well-defined strategic plan and proactively seeking those open space opportunities.

An integral component in achieving a strategic open space plan is having complete and comprehensive information regarding the state's inventory of open space land. As such, state law requires DEP to maintain and periodically update a list of its acquisitions. The committee found, however, the department maintains a list of properties it acquires, which complies with the law, but the list is not as comprehensive as it could be for planning purposes. For example, the list does not indicate the amount of land owned either within geographic areas throughout the state or within particular land classifications categories in any aggregate format. Further, the list is kept in a word processing format not allowing for any meaningful management analysis or reporting.

To address these findings, the program review committee made several recommendations requiring DEP to: 1) begin developing annual open space goals and objectives; 2) develop and update a comprehensive inventory of open space land under DEP ownership; 3) identify all priority land once a formal comprehensive inventory is completed; 4) develop a system to rate priority land according to specified goals and objectives; 5) pursue the highest rated opportunities using various acquisition methods and strategies; 6) develop and prioritize a supplemental list of targeted properties using input from various sources; and 7) develop policies and procedures for encouraging and using cooperators to act as intermediaries for DEP when acquiring open space.

Acquisition Process

The committee examined, in detail, the overall process used by DEP to acquire open space and made several findings and recommendations in this area. An analysis of a random sample of acquisition files was made to determine the length of time necessary to complete the process. The review and evaluation stage, which is fully within DEP's control unlike other parts of the acquisition process, averaged roughly six months to complete. The analysis, however, revealed an inordinate amount of time is spent initially processing properties submitted as open space, compared to the overall review and evaluation process. Further, the land acquisition division does not have standards in place to guide the length of time necessary to complete the review and evaluation process of properties submitted for acquisition.

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The program review committee also found instances when the department did not follow its own internal review and evaluation procedures when considering prospective open space properties. As such, the committee questioned the need for those procedures. Despite this, the committee found the department continued to move properties through the acquisition process and approve them for acquisition.

To address these findings, the program review committee required DEP to adopt a 90-day time standard for completing the open space review and evaluation process. The department must also conduct a yearly analysis of how well the time standard is being met and report its findings to the open space review board established in statute. The department is further required to conduct an internal evaluation of its property review process to determine the necessity of particular steps the committee found were not being followed.

The process used by the state once a property has been cleared for acquisition by DEP was also analyzed by the committee. Unlike the review and evaluation phase, this phase requires the work of private contractors outside of DEP. Moreover, the attorney general's office and the bond commission also play a significant role in approving open space acquisitions.

Once a property has been reviewed by DEP for purchase, the average time to complete the acquisition process averaged just under two and a half years. This includes contacting the landowner, negotiating an acquisition price and finalizing the purchase agreement, conducting a property appraisal and survey, obtaining funding, and closing on the property. The committee found that roughly 40 percent of the time necessary to complete this phase is spent negotiating a purchase price between DEP and the property owner. The remaining time is evenly split between obtaining funding from the bond commission and completing requirements necessary to finalized the acquisition.

Based on formal interviews and correspondence found in property files, the committee concluded the negotiation phase of the acquisition process takes an unreasonably lengthy time to complete. The time necessary to obtain funding from the bond commission, however, which was highlighted as a problem throughout the study, did not seem excessive compared to the timeliness of the overall acquisition process. The larger problem with the bond commission was the unpredictability of funding for acquisitions. The committee believes this issue has been resolved, however, given the commission's new requirement to release open space funds to DEP twice a year.

The program review committee also found that several review cycles were required between the attorney general's office and DEP regarding legal documents required for acquisitions, which lengthened overall process timeliness. In addition, a procedure used by DEP to obtain services from private surveyors was found to be inefficient. Unlike practices used by

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other state agencies, the land division does not use an approved bidder's list for selecting surveyors. Instead, a competitive bidding procedure is used when surveying services are needed.

The committee addressed these findings by recommending the DEP commissioner and the attorney general examine interagency procedures used in preparing, reviewing, and revising legal documents associated with acquiring open space. The aim of this recommendation is to reduce the overall time required for the document drafting process. The committee also recommended that DEP and the administrative services department develop a procedure to institute an approved list of qualified surveyors from which DEP can choose private surveyors without competitively bidding individual projects.

Internal Operations

An examination of the Land Acquisition and Management Division's internal operations revealed several areas where improvements or changes were necessary. The open space acquisition process used by the division is paper driven and highly manual. An automated accounting of the full process does not exist in any centralized location within the division. As a result, any meaningful analysis from a management perspective is limited. The division, however, recognizes this deficiency and has formally requested a revamped automation system, which is currently being reviewed by the department. The committee has recommended the necessary automation improvements be implemented.

The committee also found no complete performance information is available within the land division with respect to overall caseflow timeliness. There is limited performance monitoring for analysis purposes, and standards or benchmarks of acceptable practices do not exist within the division. The committee recommended the division develop a set of realistic benchmarks and begin evaluating its overall performance annually. Relevant performance information must be reported in the governor's annual report digest and forwarded to the open space review board.

With respect to the open space review board, the committee found the newly created board is not required to report to the legislature on the state's main open space program, similar to the board it replaced. The committee recommended a technical change to the statutes adding the new reporting requirement to the board's responsibilities.

The program review committee also found the division lacks a set of clearly defined policies and procedures to guide its overall acquisition process. As such, division staff have different levels of understanding as to the existing procedures required when acquiring property for open space purposes. The committee believes there needs to be clearer procedures in place and recommended the division develop a written set of standardized internal policies and procedures, and distribute to all appropriate staff.

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RECOMMENDATIONS

1. The Department of Environmental Protection shall develop annual open space acquisition goals and objectives consistent with the state's overall goal for open space. The goals shall include the total projected acreage to acquire within relevant land classification categories.
2. Beginning January 1, 2000, and every three years thereafter, the Department of Environmental Protection shall develop and update a comprehensive, centralized inventory of open space land under department ownership.
3. The open space inventory developed by the Department of Environmental Protection shall include the total amount of land the state owns by geographic area and priority land classification -- particularly those classifications identified by DEP's land acquisition division and within the department's "green plan," once formally adopted.
4. As part of its comprehensive inventory, the Department of Environmental Protection shall identify all:
 - parcels abutting existing state-owned open space land;
 - in-holdings within existing state-owned open space land;
 - and
 - parcels contiguous with existing land held as open space by the department.
5. For each parcel identified, the department shall develop a system for rating the properties according to how each contributes to the department's annual open space goals and objectives. Specific rating criteria should at least include: whether there is a demonstrated gap in current public land ownership within the given geographic area; whether the property is at risk of being sold for purposes other than open space; and if a state effort to acquire the property will have a significant impact on the environmental quality of the area.
6. The Department of Environmental Protection shall aggressively pursue properties it identifies as high priority, regardless of whether the property has formally been submitted for acquisition, by:
 - developing strategies for acquiring each high-priority parcel, including direct negotiations for purchase based on a fair value, and encouraging private and public organizations to purchase priority properties with the

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intent of selling the property back to the state at fair market value; and

- contacting owners of each parcel in the inventory and determining their willingness to have DEP or another open space land acquisition organization(s) acquire their property.
7. As a supplement to DEP's open space inventory, the department shall, on a regular basis, aggressively seek input from its natural resource field personnel, local officials, private land acquisition groups, and the open space review board (established by P.A. 98-157) to compile a list of parcels targeted for acquisition.
 8. Properties on the supplemental acquisition list shall be prioritized accordingly, with higher-rated properties aggressively pursued for acquisition using various strategies, including:
 - grants to municipalities and private open space acquisition/ conservation groups;
 - indirect state acquisition using municipalities and private organizations as intermediaries;
 - joint ventures involving DEP and municipalities and private organizations as intermediaries;
 - direct acquisition by DEP; and
 - joint acquisition efforts with other state agencies.
 9. The Department of Environmental Protection shall develop policies, procedures, and strategies for: 1) encouraging municipalities to acquire open space land; 2) encouraging private land acquisition organizations to purchase open space; and 3) using municipalities, private land organizations, or other state agencies to act as intermediaries for DEP open space acquisition. Such policies and procedures must address when property agents are to use each of the above strategies.
 10. The Department of Environmental Protection shall adopt a time standard of 90 days within which the review and evaluation phase of the open space acquisition process should be completed. The department shall develop written justification for any standard greater than 90 days to complete all review and evaluation of properties submitted for consideration as open space. Beginning July 1, 1999, the Department of Environmental Protection shall conduct a yearly analysis of how well the time standard is being met and report its findings to the open space review board established by P.A. 98-157.

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11. The Department of Environmental Protection, in conjunction with the Land Acquisition and Management Division, shall conduct an internal evaluation to determine the necessity of formal review meetings between the division and individual department units. The department shall also re-evaluate the need for formal Land Acquisition Review Committee meetings.
12. By July 1, 1999, the commissioner of the Department of Environmental Protection and the Attorney General shall examine interagency procedures used in preparing, reviewing, and revising documents associated with acquiring open space, with the aim of reducing the overall time involved and increasing the quality of the work produced.
13. The Department of Environmental Protection, in cooperation with the Department of Administrative Services shall develop a procedure instituting an approved list of qualified surveyors from which DEP can choose private surveyors without having to competitively bid each project.
14. The Department of Environmental Protection shall implement the necessary improvements to the automation capabilities within the Land Acquisition and Management Division, and provide the division with a comprehensive management information system, including a complete database function, allowing for an automated, centralized open space acquisition tracking system.
15. The Land Acquisition and Management Division shall develop a set of realistic benchmarks to be used in evaluating its overall performance. The benchmarks should cover all key components and phases of the open space acquisition process, including, but not limited to: 1) specific timeframes to complete each component of the open space acquisition process; 2) completed purchases compared against annual acquisition goals; and 3) the overall use of cooperators to acquire open space land. The internal standards must be established by January 1, 2000, and measured annually thereafter. Relevant performance information shall be included in the Annual Report to the Governor as presented in the Connecticut Administrative Reports, and forwarded to the open space review board established by P.A. 98-157.
16. C.G.S. Sec. 7-131 (d) should be amended to include within the review board report to the legislature any findings and recommendations relating to the Recreation and Natural Heritage Trust program as defined in C.G.S. Sec. 23-73.
17. The Land Acquisition and Management Division shall develop a written set of standardized open space acquisition policies and procedures. Such policies and procedures shall be distributed to all appropriate staff, and updated as necessary. The written policies and procedures shall be developed by July 1, 1999.

OPEN SPACE ACQUISITION

The Legislative Program Review and Investigations Committee authorized a study of the state's process for acquiring open space in March 1998. The scope of review approved by the committee called for:

- reviewing the statutory definition of open space and the criteria used to identify such space;
- identifying the state programs associated with acquiring open space;
- describing the methods and criteria used by the state to locate and prioritize open space;
- examining the efficiency and effectiveness of acquisition programs in terms of cost, time, acres acquired, and types of property;
- identifying the level of cooperative efforts between the state and private and nonprofit organizations; and
- examining relevant elements of open space acquisition of other states, particularly those surrounding Connecticut.

The report focuses on the efficiency and effectiveness of the open space acquisition process within the Department of Environmental Protection (DEP.) The department, through its Land Acquisition and Management Division, has the responsibility for administering the state's primary open space acquisition program.

Methods

In preparing this report, applicable statutes and literature dealing with open space acquisition in Connecticut were reviewed. Interviews with individuals associated with the various state acquisition programs in place within the Departments of Environmental Protection and Agriculture and the state attorney general's office. Representatives of private nonprofit land acquisition organizations, staff responsible for open space acquisition in several surrounding states, and professionals from the real estate and development fields were also interviewed. Further, information from a random sample of open space property acquisition files was collected and analyzed. Finally, testimony from a public hearing held by the committee was reviewed.

Report Organization

The report is divided into four chapters. Chapter One provides a general overview of open space in Connecticut, including definitions, the major open space planning

instruments used by the state, and methods used to acquire land. Descriptions of the various state-administered acquisition programs, along with an explanation of the administrative processes used within those programs, are included in Chapter Two. Chapter Three provides aggregate data relating to the amount and types of open space existing in the state, along with the major components of two recent legislative initiatives passed by the General Assembly and a summary of the recommendations put forth by the governor's blue ribbon task force on open space convened last year. Chapter Four provides a detailed analysis of the state's open space acquisition process and the program review committee's findings and recommendations.

Agency Response

It is the policy of the Legislative Program Review and Investigations Committee to provide agencies subject to review with an opportunity to comment on recommendations in writing prior to the publication of the committee's final report. Appendix A contains a response from the Department of Environmental Protection.

Overview

In Connecticut, open space includes a combination of numerous land types of differing sizes, such as forests, parks, water access areas, nature preserves, flood control areas, and wildlife sanctuaries. Open space land throughout the state is also owned by various entities. State government, municipalities, the federal government, local land trusts, nonprofit land organizations, and water companies, to name a few, all have land holdings in Connecticut that are preserved for specific open space purposes. Regardless of size or ownership, however, the types of open space land throughout the state all have some form of ecological, historic, recreational, or natural significance.

This chapter provides an overview of open space as it exists in Connecticut. Three main areas are described, including the definition of open space, open space planning by the state, and the primary methods used to acquire open space land.

Definition

Placing a uniform definition on "open space" is difficult. The term is somewhat nebulous and means different things to different people. Generally, open space refers to undeveloped land that has some measure of protection against its development. Examples of protected land range from government-owned forests or parks to land owned by small nonprofit organizations dedicated to preserving the inherent characteristics of their holdings.

State law makes reference to the meaning of open space in several instances. The definitions are primarily used within the broader scope of outlining state and municipal land acquisition programs and are similar in content. C.G.S. Sec. 12-107b seems to provide the most comprehensive definition of open space and will be used as a guide throughout this study. It defines open space as:

...any area of land, including forest land, land designated as wetland under Section 22a-30 and not excluding farmland, the preservation or restriction of the use of which would 1) maintain and enhance the conservation of natural or scenic resources, 2) protect natural streams or water supply, 3) promote conservation of soils, wetlands, beaches, or tidal marshes, 4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, 5) enhance public recreation opportunities, 6) preserve historic sites, or 7) promote orderly urban or suburban development.

Functional categories. Given the array of types of open space, it is important within the context of this study to classify the different kinds of "open space" land. Informational materials produced by the University of Connecticut provide such a classification (*Open Space Planning*. University of Connecticut, Cooperative Extension System, College of Agriculture and Natural Resources, 1998). The university identified six broad functional categories for open space. The categories are provided below, along with several examples of each functional area:

- **Natural Resource Protection Areas:** animal and vegetative habitat, and trap rock ridges.
- **Outdoor Recreation:**
 - Active -- parks, playgrounds, beaches, and trails
 - Passive – plazas and sitting areas
- **Resource Management:** forests, fisheries, and farmland.
- **Protection of Public Health and Safety:** floodplains, wetlands, unbuildable areas or areas with limitations for development, including steep slopes, high water table areas, and shallow depth to bedrock areas.
- **Areas that Shape Community Character or Design:** buffer strips, front, back, or side yards, urban plazas, greenways, and open space dedications related to development.
- **Historic or Archeological Sites:** battleground areas, historic structures and grounds, historic districts, and town greens.

Comprehensive Open Space Planning

State plan of conservation and development. One of the state's leading guides for open space planning is the *Conservation and Development Policies Plan for Connecticut* produced by the Office of Policy and Management (OPM) for the General Assembly. The plan covers five-year increments and provides a policy and planning framework for decisions dealing with the future growth and development of the state. The plan, which is required statutorily, acts to "guide a balanced response to human, environmental, and economic needs in a manner which best suits the future of Connecticut."

The Conservation and Development Policies Plan for Connecticut: 1998-2003 acknowledges that Connecticut is one of the most densely populated states with a long history of industrial development (p.18). The plan also notes that open space has been diminished by low density, land-consuming development with consequent impacts on wildlife, water quality, and the visual character of many communities (p. 18).

To address these and other open space concerns, the statewide plan outlines several public policy goals and strategies to be achieved over the next five years in several major issue areas (i.e., environmental quality, water supply, natural and cultural resources, etc.). One of the plan's main strategies with respect to open space is "...to reinforce and conserve existing urban areas, to promote staged, appropriate, sustainable development, and to preserve areas of significant environmental value" (p. 113).

Part of the state's environmental policy, as outlined in C.G.S. Sec. 22a-1, is to conserve, improve, and protect Connecticut's natural resources and environment. The conservation and development plan outlines three approaches to implement this policy, as highlighted in Table I-1. As the table shows, the plan lists three broad components of open space (e.g. existing preserved open space, preservation areas, and conservation areas) in order of their priority. The plan also outlines strategies and guidelines for the coordination of state plans, functions, programs, and resources with respect to open space.

DEP. The Department of Environmental Protection uses a broad plan (Environment 2000) to guide departmental policies and programs in matters pertaining to open space. The plan has a goal of eventually acquiring 10 percent of Connecticut's land mass for conservation and preservation purposes, and outlines various strategies to achieve it. The primary performance measure used in the plan is the overall percentage of Connecticut's land in state ownership.

Within DEP, the Land Acquisition and Management Division is the unit charged with implementing the department's open space policies and programs. This division's planning efforts are concentrated on strategies to meet the Environment 2000 plan.

Council on Environmental Quality. The council assists DEP in environmental planning. It is a statutorily-created body with three main functions: 1) prepare and submit to the governor an annual report on the status of the state's environment; 2) review state agencies' construction projects; and 3) receive and investigate citizen complaints. The council is within the Department of Environmental Protection for administrative purposes only.

The council provides strategic planning on environmental issues, including open space, as part of its overall function. It assesses environmental problems and issues, prioritizes the problems, and devises strategies for addressing them.

Department of Agriculture. The chief concern of the state Department of Agriculture with respect to open space is the administration of the state's Farmland Preservation Program. Planning related to this function is the responsibility of the program's director, who is charged with acquiring development rights to farm properties from willing owners throughout the state. Such planning focuses on the details of the preservation program and includes input from various sources when necessary.

Other planning sources. Several other sources are instrumental in the providing planning in a broad sense. For example, local land trusts and other nonprofit entities are instrumental in helping the state locate, and at times fund, land with open space value. Local governments and regional planning agencies across the state also assist in open space planning.

Table I-1. State Conservation and Development Plan: Open Space Strategies 1998-2003.

| <i>Type</i> | <i>Example</i> | <i>Priority</i> |
|---|--|--|
| <i>Existing Preserved Open Space</i> | <p>Represents areas with highest conservation priority and permanent use as open space.</p> <ul style="list-style-type: none"> • federal, state, municipal parks, forests, trails, greenway corridors • major preserves under quasi-public ownership • Class 1 water utility owned lands | <p>Support for permanent continuation as public or quasi-public open space, and discouragement of sale or structural development of such areas except those consistent with open space functions served.</p> |
| <i>Preservation Areas</i> | <p>Land not reflecting same level of permanence as Existing Preserved Open Space. Represents significant resources that should be preserved.</p> <ul style="list-style-type: none"> • Class 1 water supply land not owned by state or utility • floodways and wave hazard areas • inland wetlands • tidal wetlands/coastal resource areas • existing water bodies • agricultural or forest land for which state holds development rights • potential outdoor recreational areas designated natural or archeological sites | <p>Foster the identification of significant resource, heritage, recreation, and hazardous areas of statewide significance and advocate their protection by public and quasi-public agencies. Avoid support of structural development except as directly consistent with preservation values.</p> |
| <i>Conservation Areas</i> | <p>Represent significant portion of the state and a wide variety of land types.</p> <ul style="list-style-type: none"> • Class II water supply land • flood fringe areas • scenic areas • sand and gravel resources • prime agricultural land • historic areas • potential major outdoor rec areas • natural areas of local significance, including conservation easements | <p>Plan and manage for long-term public benefit the land contributing to state's need for food, fiber, water/other resources, open space, recreation, and environmental quality; ensure changes in use are compatible with identified conservation values.</p> |
| <p>Source of data: OPM Conservation and Development Policies Plan for Connecticut: 1998-2003.</p> | | |

Open Space Land Acquisition Methods

There are numerous ways open space land can be acquired by the state. A description of some of the techniques used to acquire or designate open space land is provided below. The list is adapted from the informational materials obtained from the University of Connecticut as referenced earlier.

Fee simple. Acquiring land using a fee simple process is the outright purchase of such land. The state becomes full owner and has complete control over the land and its uses. This process provides for full protection and complete public access to the land. It can, however, potentially be costly.

Fee simple/lease back. Under this method, a full purchase of the land is completed, however the land is leased back to its previous owner under specific conditions. The conditions may include restricting the land's development, along with requiring public access.

Purchase of development rights. The state can purchase or extinguish development rights through a restrictive deed covenant placed on the property. The state does not actually have authority on how to develop these properties/land. The statutory authority and deed covenant relate to how *not* to develop such land, and reserve the land for agricultural purposes in perpetuity. The farmer continues to own the land, but can only use it for those purposes specified in the deed and cannot develop the land in any other manner. This method is less costly than purchasing the land outright.

Conservation easement. Under this approach, the landowner retains legal title and all rights associated with the property except the right to develop the site. As the owner changes, the land remains subject to the development easement restrictions. A conservation easement may allow some uses of the land that could produce income for the owner, such as forestry or farming. The owner also can control the land to ensure privacy, security, and maintenance.

Donations/exchanges. The state sometimes receives open space land and rights to the land through private donations. Land can also be acquired through an exchanges with other public agencies or nonprofit organizations. Exchanges usually occur when developable land is exchanged for undeveloped land with open space value.

Tax foreclosure and eminent domain. Land may be acquired through foreclosure if owed taxes are not paid. The government can also obtain land via eminent domain laws. This process involves the government taking private land for a public purpose, and is usually seen as a "last resort" effort given the legal and cost implications involved.

Land Acquisition Programs

There are three primary land acquisition programs administered by the state. Two of those programs are within the Department of Environmental Protection (DEP), while the other is administered by the Department of Agriculture (DOA). The principal goal of each program is the preservation or conservation of undeveloped state land.

Several other programs aimed at encouraging open space preservation also exist. They mainly include grants used for open space purposes and tax reductions to certain landowners (i.e., farmers) on land classified as open space.

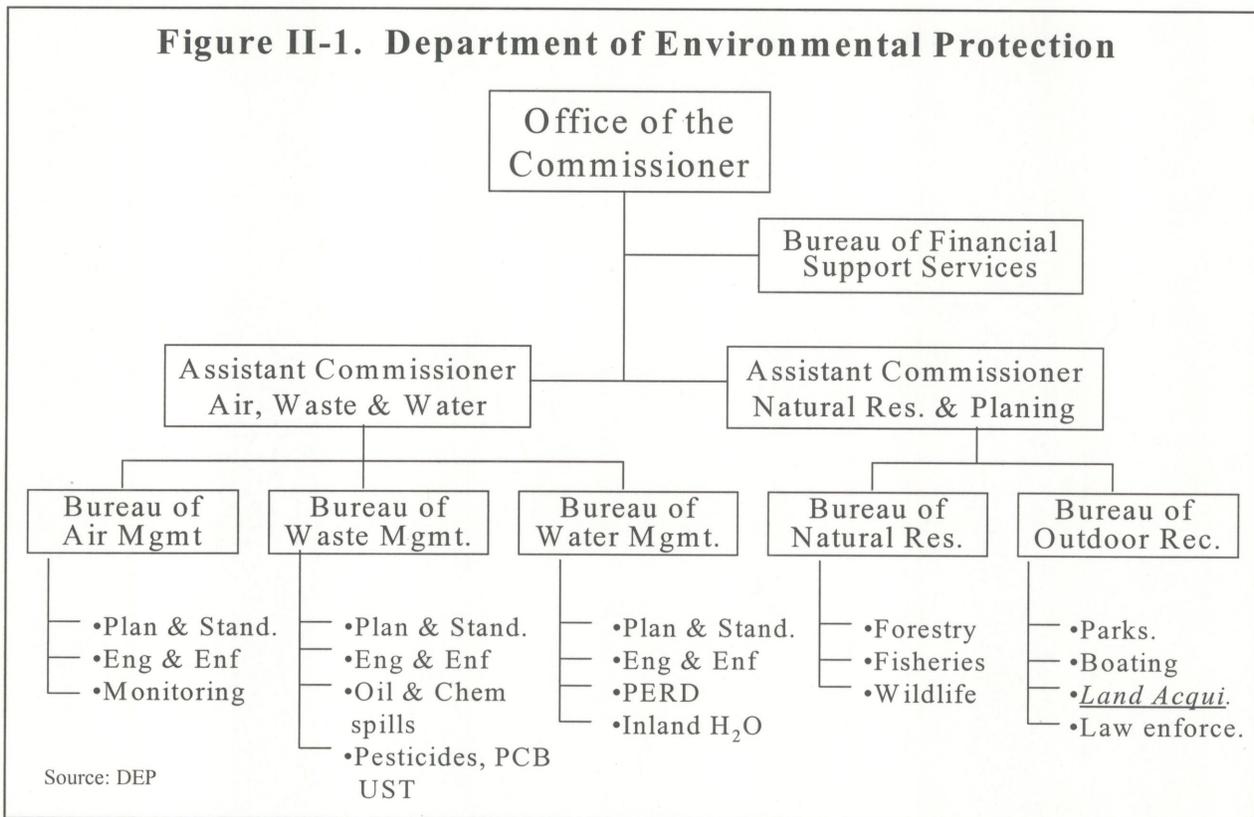
Recreation and Natural Heritage Trust Program

The Recreation and Natural Heritage Trust (RNHT) program is the state's main vehicle for purchasing or preserving different types of land designated as open space. The program was established as a pilot project in 1986 with a \$2 million bond authorization. DEP could use the funding to acquire land identified as having unique characteristics. The RNHT program has become permanent within the department, which has managed the program since its inception 12 years ago. Over the life of the program, roughly 11,000 acres of open space have been acquired.

Purpose. The Recreation and Natural Heritage Trust program has several purposes, as outlined in statute. Specifically, the program is designed to:

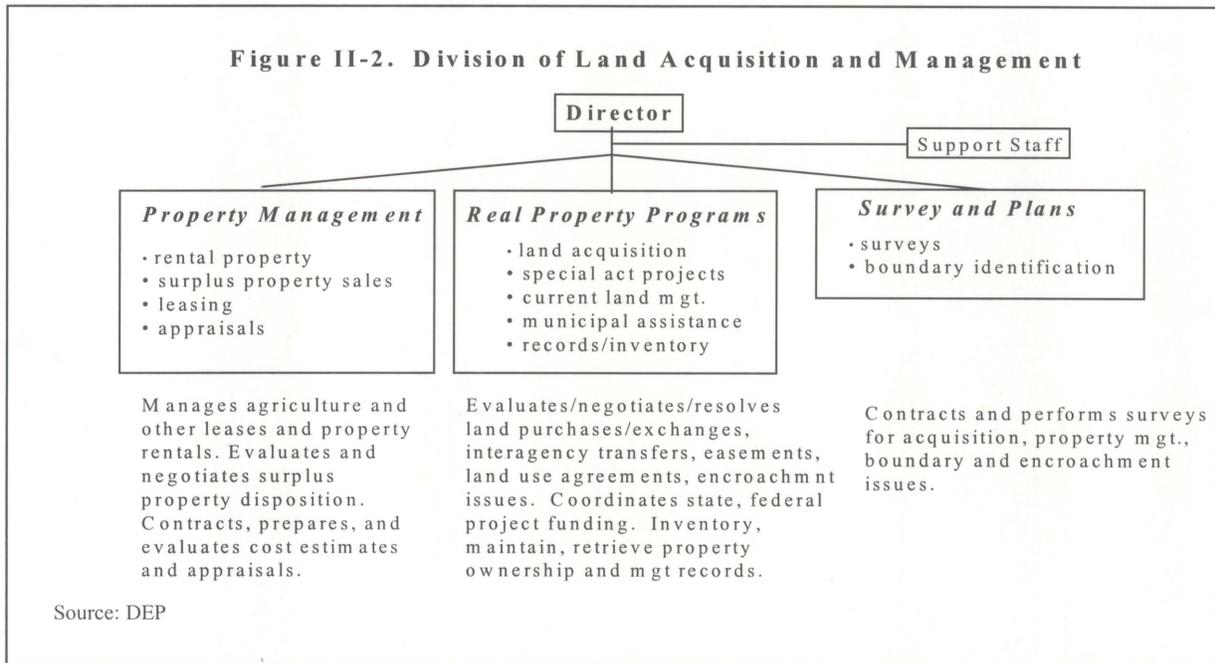
- acquire land that represents the ecological diversity of Connecticut, including natural features such as riverine, montane, coastal and geologic systems or other natural areas, on behalf of the state to ensure the preservation and conservation of such land for recreational, scientific, educational, cultural, and aesthetic purposes;
- acquire land of unusual natural interest as additions to the system of parks, forests, wildlife and fishery management areas, natural areas and dedicated natural area preserves in the state for the use and enjoyment of the public;
- acquire land identified as essential habitat for endangered and threatened species as specified in statute;
- offset carbon dioxide produced through combustion of fossil fuels by preserved lands that naturally absorb it; and
- establish a stewardship account to provide for the maintenance, protection, and management of acquired land and the species that inhabit such land.

Organizational structure and resources. The Recreation and Natural Heritage Program is organizationally located in the Department of Environmental Protection, as depicted in Figure II-1. Within the department, the program is under the purview of the Bureau of Outdoor Recreation. The bureau's Division of Land Acquisition and Management, however, has the direct responsibility for program management, administration, and oversight. The division's organizational chart is shown in Figure II-2.



As the figure illustrates, there are three main sections within the division: Property Management, Real Property Programs, and Survey and Plans. The management section is staffed by a supervisor and two property agents and is charged with managing the leases and rental agreements of DEP properties. This section also prepares and evaluates cost estimates and appraisals.

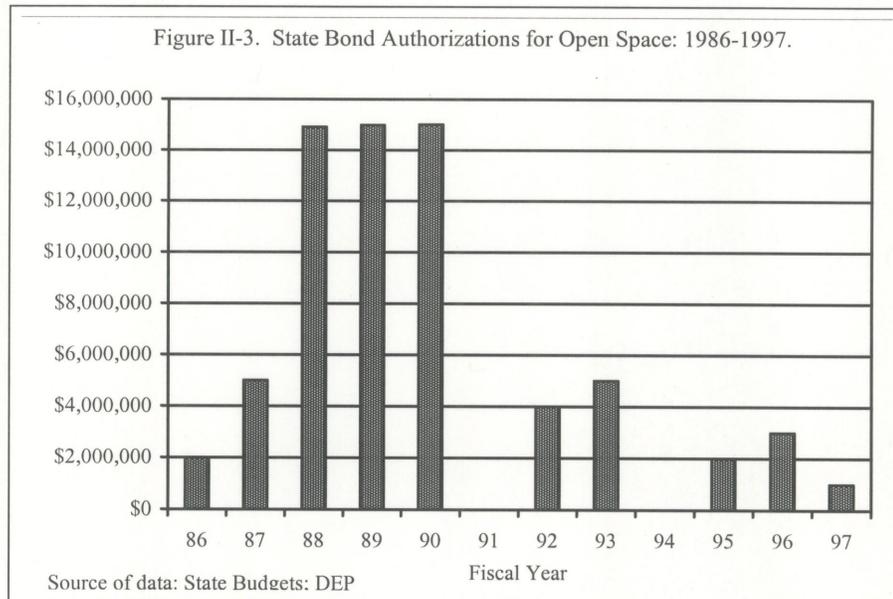
Figure II-2. Division of Land Acquisition and Management



The real property section is the main land acquisition unit within the division. It is responsible for evaluating, negotiating, and resolving land purchases and exchanges, interagency transfers, easements, and land use agreements. The property section also handles state and federal funding used for outdoor recreation projects, as well as managing land records. The section is staffed by a supervisor and five property agents. The survey unit ensures surveys are performed for land acquisition projects, and it handles boundary and encroachment issues. The unit is overseen by a supervising surveyor with one surveyor on staff.

State funding for the RNHT program comes from general obligation bonds authorized by the General Assembly and issued through the state's bond commission. There is no General Fund appropriation for the program. The program has received varying bond authorization amounts since its creation in 1986, as shown in Figure II-3. As the figure illustrates, yearly levels range from a high of \$15 million in FY 90, to no authorizations in FYs 1991 and 1994. Even though no bonding money was authorized in those two years, the program was still "funded." Unallocated bond amounts issued by the bond commission may be carried over to subsequent years providing the program with acquisition funds to fulfill its mandate.

Figure II-3 shows the RNHT program was authorized a total of \$67 million in bond funding since 1986. According to the land acquisition division, a total of \$61 million of the bond authorizations has been spent or obligated over the period, resulting in roughly 11,000 acres being placed under protection as open space.



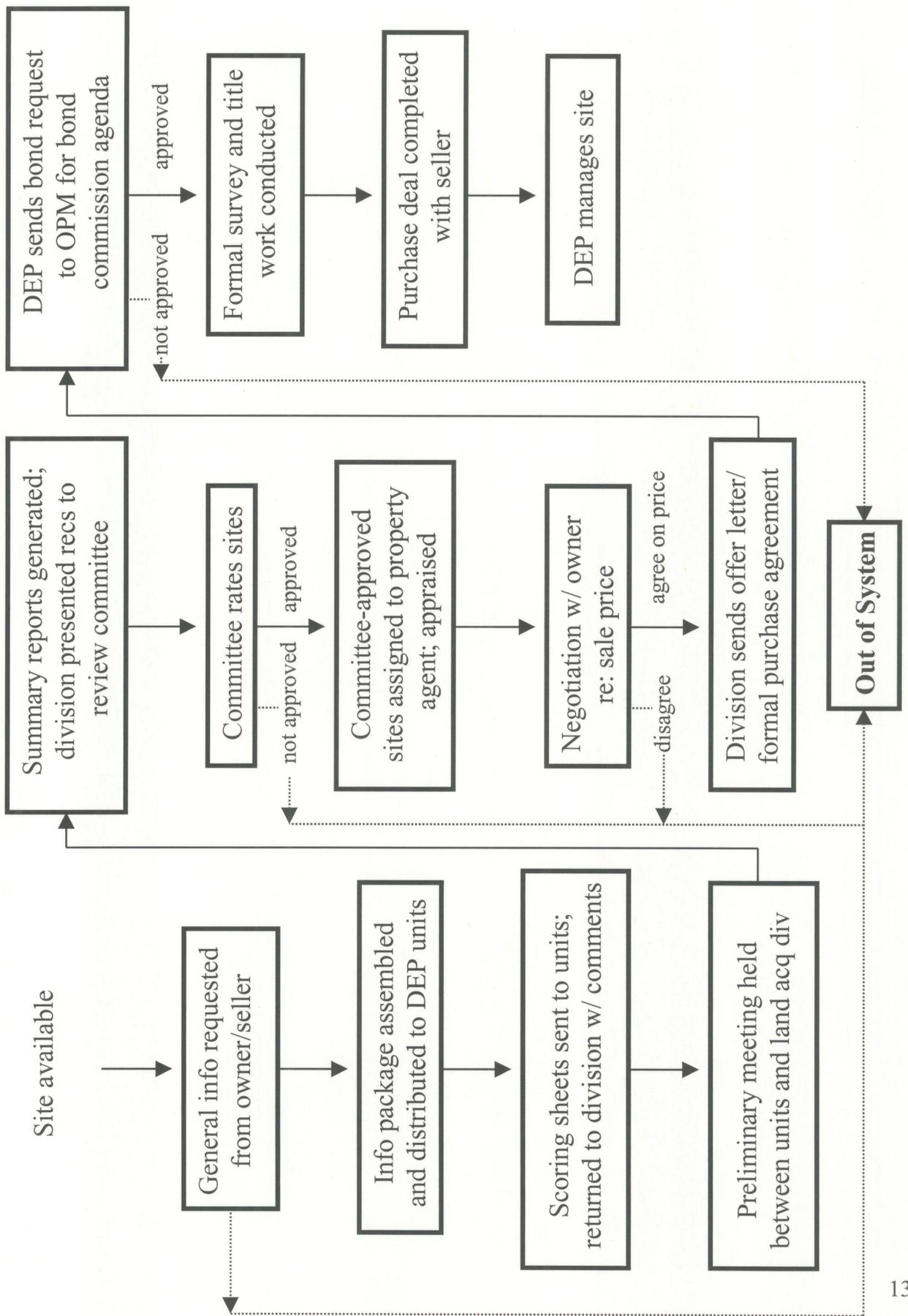
Acquisition process. The land acquisition process, as outlined in Figure II-4, begins with the Land Acquisition and Management Division becoming aware of properties with open space significance. The division learns of such properties in various ways. Through its planning process, the division attempts to identify specific properties with open space value prior to their becoming available for sale. This enables the division to begin the purchase process as soon as properties are available.

Another way the division learns of open space opportunities is through the efforts of various community organizations. A network of groups such as local land trusts, the Nature Conservancy, and other advocates for open space, informs the division of particular properties with open space value that are either being sold or considered for sale. Such groups, which are cognizant of open space opportunities around the state, provide the land acquisition division with a wider span of locating purchasing possibilities.

The state also considers properties offered for donation. Owners may enter into agreements with the state allowing them to make property donations, but only after the property is deemed appropriate by the land acquisition division.

Regardless of how the division becomes aware of a property's availability, a specific process is followed internally before any site with open space significance is acquired. According to state law, DEP must take into consideration several factors in determining if specific sites should be acquired. The statutory criteria require DEP to assess whether the site is:

**Figure II-4. Recreation and Natural Heritage Trust Program
Open Space Acquisition Process**



-
- 1) identified as having high priority recreation, forestry, fishery, wildlife, or conservation value, and consistent with the state plans for open space;
 - 2) a prime natural feature of the state's landscape;
 - 3) habitat for endangered or threatened native plant or animal species; a relatively undisturbed native, uncommon ecological community; or
 - 4) threatened with conversion to incompatible uses, or contains sacred or archeological sites of state or national importance.

In acquiring a site that has been identified as having a high priority recreational value, the department must give priority to locations near population centers. Since it is determined the property meets the initial criteria, the division requests general information about the site from the owner/seller. Such information includes approximate acreage, notation of structures or natural areas (i.e., water, wetlands, ridges, etc.) on the property, number of parcels for sale, a map of the site, and description of how the property is currently used.

After the general information is obtained by the division, it is converted into a review package. The package includes a report of the property, a topographical map of the area, along with any additional information obtained by the division. Information packages for several properties are batched and forwarded to other units within DEP (i.e., parks, forests, wetlands, wildlife, fishing and water access, etc.) for review and comment.

Scoring sheets are also sent to each of the units for each site. The units are responsible for evaluating the site in relation to the unit's area of specialization. Each property is then given a rating on a scale of 1 to 100 using the criteria on the scoring sheets, which highlight particular characteristics the division is interested in for properties it acquires.

A preliminary meeting is held between representatives from each unit and the land acquisition division after the information packets have been distributed and the properties have been scored. The meeting is used to discuss each site, receive input from each unit, and provide the division with additional information regarding prospective purchases.

The scoring sheets are returned to the Land Acquisition and Management Division, along with any additional comments made by a unit. The information received by the division is entered into a tracking system that generates summary reports. The division then prepares its specific recommendations using the summary reports and feedback generated from the preliminary meeting with unit representatives, along with a possible onsite observation.

Once the recommendations are developed, the division presents them to the department's Land Acquisition Review Committee (LARC). The review committee consists of the commissioner, assistant commissioners, chiefs from the outdoor recreation and natural resources bureaus, and the director of the land acquisition division. The group meets periodically to discuss the recommendations put forth by the division and make decisions regarding land purchases. Final decisions take into account various factors, including cost, recreation and resource needs, geographic distribution, availability of "cooperators" to help defray costs, and proximity to urban areas or areas identified as deficient in public open space. Following a review of each property, the LARC classifies the properties as either:

- 1) "Acquire" -- sites the LARC definitely wants to pursue for acquisition;
- 2) "Consider" -- sites the committee needs more information to make a decision; will reconsider once the additional information is presented;
- 3) "Terminate" -- properties which are rejected; and
- 4) "Wait and Watch" -- properties which the committee would like to acquire, but present circumstances prohibit purchases from currently being made. Files for such sites are kept on open status and monitored periodically.

Sites classified as "acquire" by the review committee are assigned to a property agent within the land acquisition division. The agent is responsible for contacting the appropriate parties to begin the purchase process. Subsequent to initial favorable discussions with the property owner, appraisals of the property are conducted to determine an appropriate purchase price. If an outside appraiser is used, the division will conduct a review of the appraisal to ensure it meets departmental standards. As a general practice, a second internal review of all appraisals is made as an added check on the process. A limit on the purchase price for the particular site is set internally by the department.

Next, the property agent negotiates terms of the sale with the seller. The final sale price takes into account the appraisals and any factors resulting from the internal review process. After agreement of a sale price is reached, the department sends the seller a formal offer letter and purchase agreement. If the seller approves the offer, the agreement is signed by the respective parties and forwarded to the state attorney general's office for review.

The attorney general's office reviews the purchase agreement to ensure it meets state standards. Once approved, the DEP commissioner forwards a formal request to OPM to have the property/properties put on the state bond commission agenda for funding. At the same time, a survey and title search of the property are conducted. The land acquisition division may conduct its own surveys, but frequently uses outside surveyors. The attorney general's office performs the title search using outside counsel.

Following a successful survey and title search, and approval from the bond commission to release funding for the purchase, the site is purchased. Any funding authorized for the RNHT program may be used with matching funds from private contributions, federal matching programs, appropriate contributions of real property or property interest, municipal financial contributions, or any other contribution may be used to acquire land. The outside sources must provide at least 15 percent of purchase cost.

It should be noted the bond commission process for land acquisition has recently changed somewhat due to legislation passed during the 1998 session of the General Assembly. A description outlining the changes required by the new law is presented in the report.

Once a purchase is completed, the land must be managed. The department is responsible for ensuring the land is cared for and properly managed (i.e., free of safety hazards, accessible to the public, etc.) The land acquisition division is not responsible for the actual management of the properties it acquires. Other divisions within the department oversee this responsibility.

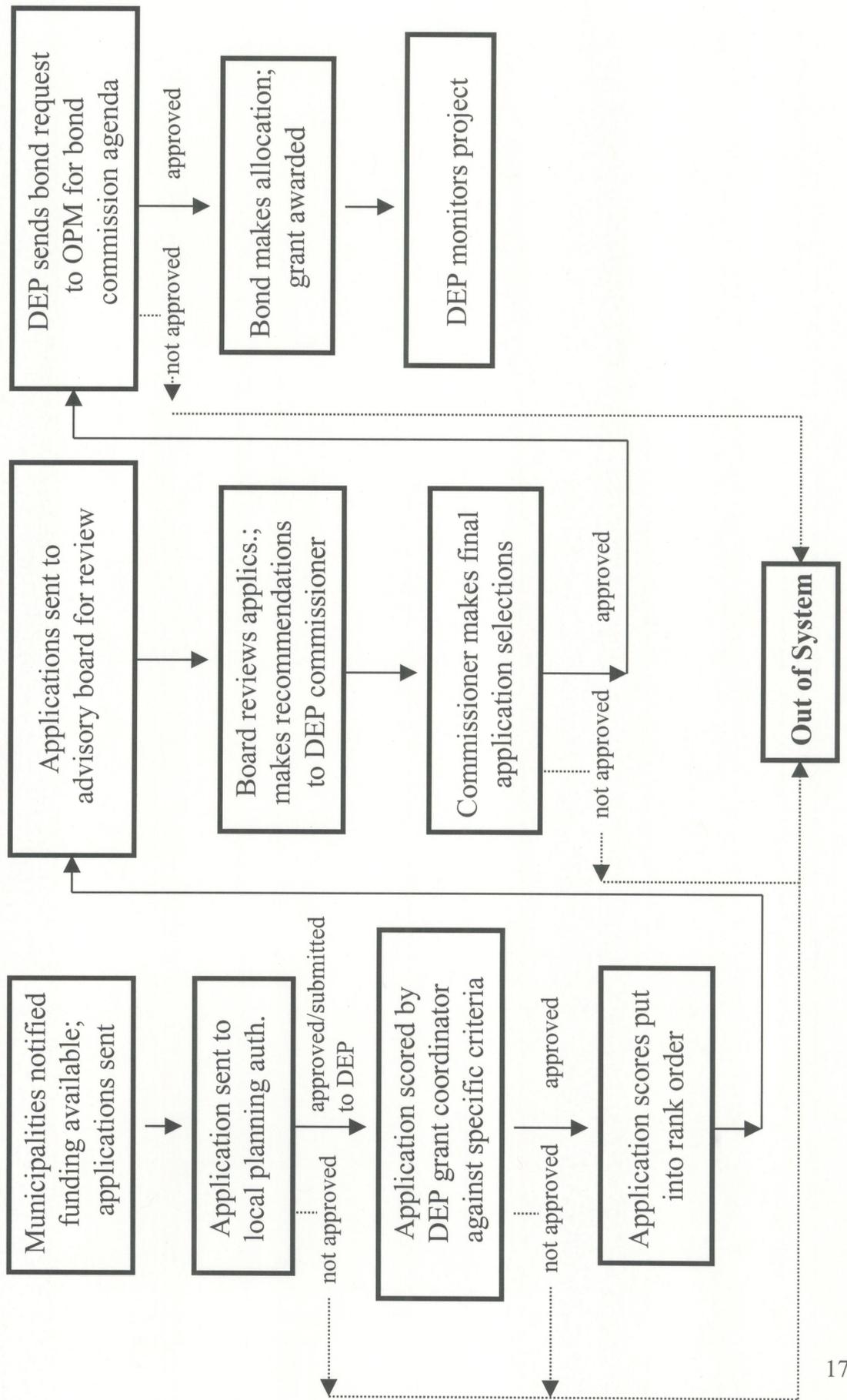
Advisory board. State law provides for an open space advisory board to be established. The board is responsible for: 1) advising the DEP commissioner; 2) recommending priorities for the types of properties to acquire; and 3) evaluating and making recommendations regarding the Recreation and Natural Heritage Trust program. The current board consists of nine members representing different entities. Members are appointed by legislative leaders and the governor. The board is also required to produce an annual report of its findings and recommendations to the General Assembly. The last report submitted was for FY 95.

Connecticut Outdoor Recreation Fund

The Land Acquisition and Management Division administers a grant-in-aid program for municipalities with funding from state bond allocations and the federal government. The program provides reimbursement to towns on a competitive basis. The grants are used for projects preserving open space through acquiring, developing, or renovating community outdoor recreation facilities. Up to 40 percent of the eligible cost of a project is reimbursable to municipalities by the state under this program. As detailed later, federal funding under the Land and Water Conservation Fund administered by the National Parks Service has been made available for the program in the past.

Application process. Figure II-5 outlines the major steps in the outdoor recreation grant application process as it has operated through July 1, 1998. The division first notifies potential grantees that funding is available for municipalities through the program. The notice is sent to each municipality soliciting grant applications. The applications include basic information about the town and the project, including project description, site convenience and suitability, and a statement of why the town needs this project.

Figure II-5. Connecticut Outdoor Recreation Fund Application Process



Applications are submitted to the land acquisition division from municipalities seeking program funding. State law requires, however, the applications first be approved by the municipality's applicable regional planning agency. If there is no regional planning agency for a particular town, it must be so noted on the application.

The submitted applications are then scored by the land division's grants coordinator against specific criteria required for the program. The criteria have been developed in conjunction with the federal government and include such areas as basis of need, past funding, proximity to population areas, and project funding. An actual site visit may be conducted, but is not required. The towns' proposals are then put into rank order according to their application scores.

After the individual project scores have been ranked, they are submitted to an advisory board for review. The board consists of private citizens, local and regional officials, and a representative from the Office of Policy and Management. Board members are appointed by the DEP commissioner and serve to review projects and make recommendations to the commissioner regarding project selections.

The commissioner has final say as to which projects are ultimately awarded reimbursement grants. According to statute (C.G.S. Sec. 7-131f), the commissioner must abide by the following guidelines when making final decisions:

- 1) seek to achieve reasonable balance throughout the state of present and anticipated areas devoted to recreational and conservation purposes;
- 2) consider special park requirement needs of urban areas;
- 3) give priority, when possible, to land used for multi-recreational purposes; and
- 4) consider state and regional coordination regarding land use or acquisition and give primary consideration to municipalities that have formed local housing partnerships pursuant to state statutes.

Once a grant application is approved, the DEP commissioner sends a request to OPM to have the project put on the state bond commission's agenda. If the bond commission allocates funding for the project, a contract is signed between DEP and the municipality. Since the grant program operates on a reimbursement basis, funding is only released upon completion of a project.

There are specific conditions towns with funded projects must abide by to receive funding. For example, a project cannot be limited only to a municipality's residents. Facilities must be open and accessible to the general public. Further, if usage fees are charged, a higher fee may be charged to nonresidents but cannot exceed fees charged to users of comparable state or local facilities.

Reservations, memberships, or annual permits must also be made available in the same manner to nonresidents as for residents.

Property acquired or developed using grant funding must be retained and used for public outdoor recreation in perpetuity. If a site is wholly or partially converted to a use other than outdoor recreation, DEP approval must be obtained.

There are strict requirements on what constitutes appropriate facility structures and modifications. For example, indoor recreation facilities may be developed on land attained through grant funding. The facilities must, however, be compatible with the outdoor recreation uses, and can only use a small portion of the overall recreation land. Funded outdoor projects cannot be converted to permanent indoor use. For example, a picnic shelter cannot be enclosed making a permanent structure such as a pavilion or community center, although funded swimming pools and ice rinks may be enclosed. In all instances, any changes to funded projects must first be approved by DEP.

Inspection. Projects receiving federal funding are inspected by DEP on a five-year cycle. Inspections are made to ensure the site is used for the intended purposes, the facility is properly maintained, the area is handicap accessible and open to the public, and whether adequate staff levels are maintained to ensure proper safety for the facility. Inspection reports are prepared for each inspection and forwarded to the parks service. It should be noted that inspections have been limited in recent years because no federal funding has been made available to the program.

Inspections of state-funded projects are also conducted, within available resources. Completed projects are inspected before any grant funding is released to ensure the new project complies with all stipulated requirements. When resources permit, projects that received funding in the past are inspected to make sure they continue to meet their intended purposes. Currently, there is only one person within the Land Acquisition and Management Division responsible for coordinating the whole program, including inspections.

Program funding. State and federal funding for the outdoor recreation grant program has been available in past years, as shown in Table II-1. Projects approved for grants receive up to 40 percent reimbursement from the state for the cost of the project. (This has been modified somewhat, as discussed later). If the project entails federal funding, it may be reimbursed up to 50 percent of the project, with the state and municipality providing 50 percent each of the amount not covered by federal funding.

Federal funding comes from the National Parks Service, which administers the Land and Water Conservation Fund program, and has provided funding to Connecticut for recreation programs since 1965. Although not shown in full by the table, federal funding amounts reached a high of \$6 million in 1979, but have steadily declined since then. No federal funding has been made available to the state since 1995.

| <i>State Fiscal Year</i> | <i>Federal Contribution</i> | <i>Bond Authorization</i> | <i>Total</i> |
|--------------------------|-----------------------------|---------------------------|--------------|
| 1987 | \$548,441 | \$2,471,788 | \$3,020,229 |
| 1988 | \$278,076 | \$4,527,221 | \$4,805,297 |
| 1989 | \$288,924 | \$5,000,000 | \$5,288,924 |
| 1990 | \$274,289 | \$5,000,000 | \$5,274,289 |
| 1991 | \$491,772 | \$0 | \$491,772 |
| 1992 | \$327,162 | \$0 | \$327,162 |
| 1993 | \$261,306 | \$0 | \$261,306 |
| 1994 | \$405,035 | \$0 | \$405,035 |
| 1995 | \$401,275 | \$2,000,000 | \$2,401,275 |
| 1996 | \$0 | \$0 | \$0 |
| 1997 | \$0 | \$0 | \$0 |

Source of data: DEP, Office of Fiscal Analysis budget books.

In addition to federal funds, the state has authorized and expended bonding money for the program in the past. Upon completion of each project, DEP makes a request through OPM to the bond commission for funding for the specific project. Once the money becomes available, the reimbursement grant is provided to the town where the project was initiated. The table shows that no new state bonding authorizations have been available since the early 1990s.

Farmland Preservation Program

The Farmland Preservation Program, administered by the Department of Agriculture, is another of the state's vehicles for preserving open space. The program's primary goal is to buy the development rights to prime farmland to ensure a food production capability through conservation and preservation. The program has existed since 1978 and has acquired the development rights to over 26,000 acres of farmland.

The Farmland Preservation Program is aimed at purchasing development rights rather than buying land using the more costly approach of a purchase in "fee simple." Farm owners voluntarily participate in the program. Purchase of development rights does not relinquish a farmer's ability to use the land. Every traditional right of ownership remains with the landowner except the right to develop or subdivide the farm. The landowner also continues to incur local property taxes on the land.

One of the primary goals of the state's conservation and development plan regarding food production is to maintain and increase long-term, in-state food producing capacity through various

means, including conservation and preservation of prime farmland. The Farmland Preservation Program supports this goal by preventing nonagricultural development of the land, while at the same time allowing owners full operation and management of their farmland.

Application process. The application process for the Farmland Preservation Program is very similar to the RNHT and outdoor recreation grant programs. As highlighted in Figure II-6, the process begins with the agriculture department becoming aware that a farmer would like to participate in the program. This can occur by a landowner contacting the department or the department taking a proactive approach and soliciting participants. Regardless of how a farmer enters the program, participation is voluntary.

Once an application is received by the department, the clerk in the municipality where the property is located is notified that such an application has been made. The application includes general information about the owner and the property. The department also gathers as much additional information as possible about the site, including soil maps, type of land, and aerial photos when possible.

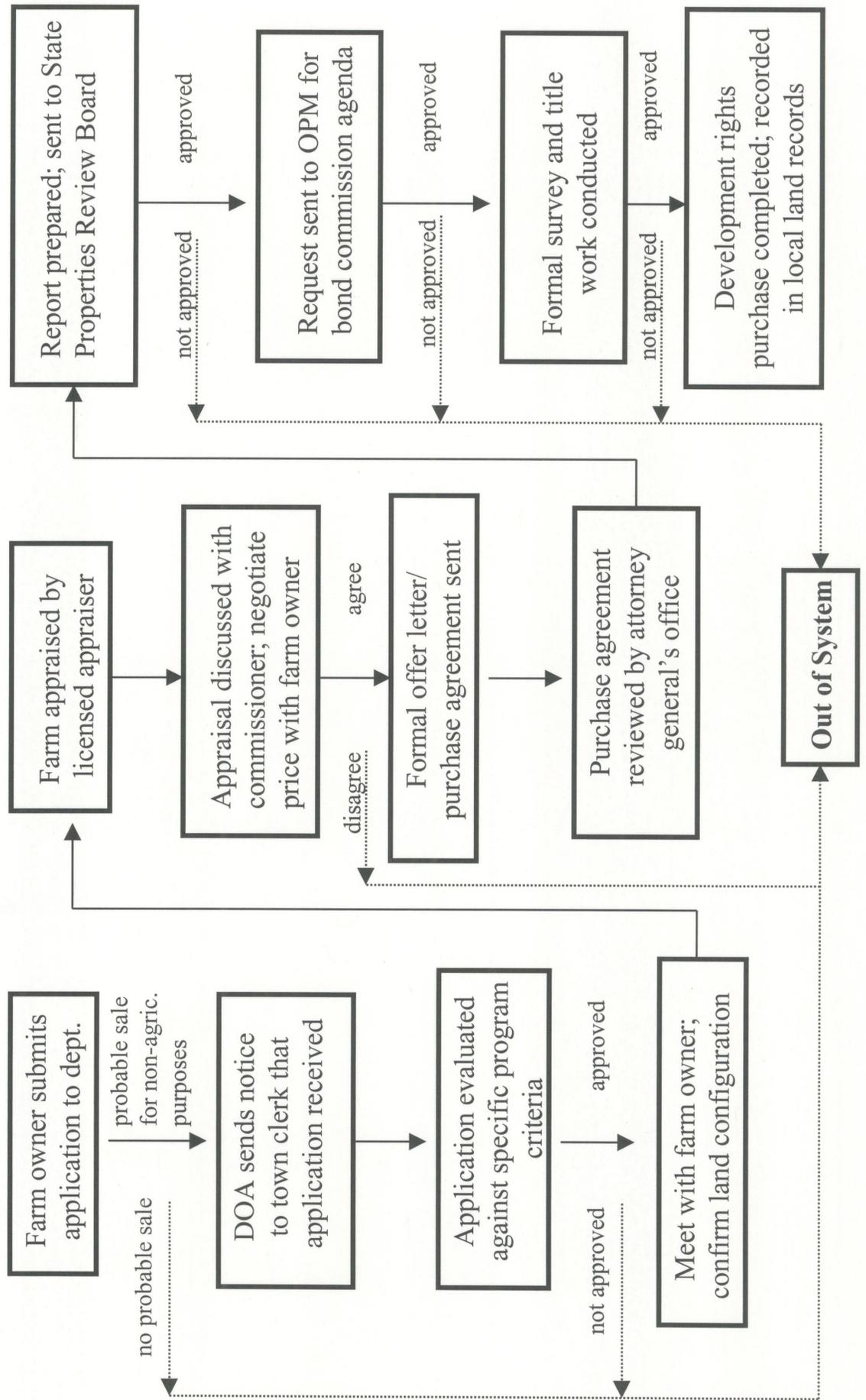
Applications are evaluated against specific criteria developed among the state and federal agriculture departments and a state university county agricultural extension agent. The criteria include such factors as probability of nonagricultural development, current land productivity, land suitability, and agricultural preservation potential. Each application is given a score and ranked accordingly.

A meeting between the program director and the commissioner then takes place to determine which sites to pursue. After this, the two meet with the landowner to establish the specific configuration of the site. The farm is then appraised by an outside state-licensed appraiser to ascertain the value of the development rights to be purchased. The program's director, who is also a licensed appraiser, reviews any outside appraisal reports to ensure consistency with state guidelines. The value of development rights is the difference between the property's value for its highest and best use and its agricultural value as determined by the department.

Following the appraisal, negotiations are held between the landowner and the commissioner to determine a final sales price. When a price is established and a deal is made, a formal agreement is presented to the landowner. The purchase agreement is then reviewed by the attorney general's office for appropriateness.

Once the attorney general's office completes its review, a formal report is developed and presented to the State Properties Review Board for approval. The board acts as another check on the overall process.

**Figure II-6. Farmland Preservation Program
Purchase of Development Rights Process**



Upon board approval, the commissioner makes a request to OPM to have the purchase put onto the bond commission's agenda for funding. If the project is approved, a formal survey and title search are conducted on the property. The department solicits bids from a list of surveyors throughout the state pre-approved by the department. The title search is done by outside counsel retained by the attorney general's office. Once completed, a closing is held and the deed for development rights is recorded in the local land records.

The purchase of development rights is not considered state ownership of the land. As such, the state is not liable for pollution or contamination of the land and nobody can bring a civil suit against the state for damages resulting from pollution/contamination of the land.

The agriculture commissioner may issue a letter of intent requesting assistance from nonprofit organizations when purchasing development rights. If an organization purchases the development rights on its own, such rights may be sold back to the state based on a purchase agreement. The agreement may include reimbursement for reasonable expenses incurred in the acquisition of the rights.

The agriculture department may release the development right restriction if, in consultation with DEP and any advisory group(s) appointed by DOA, it approves 1) a petition by the owner approved by resolution of the town's governing body, or 2) a petition by the town where the land is located, approved in writing by the owner and put to a town referendum. A petition to relinquish development rights should outline any facts the department should consider. The petition must show an overriding necessity in the public interest to relinquish the rights. At least one public hearing must be held, and all expenses are borne by petitioner. The committee was told, however, this process has only occurred one time throughout the program's history, and that was due to an inadvertent error in the application process on part of the landowner who had donated his development rights to the state.

Budget and staff resources. Similar to the RNHT and municipal grant programs, the Farmland Preservation Program receives no General Fund appropriation. Instead, the program relies on bond funding to sustain development rights acquisitions. Since the preservation program's inception, just over \$79 million in bond authorizations have been made. Of that funding, \$75.65 million has been expended, leaving an unallocated balance of \$3.6 million. In addition, the state received \$1 million in federal funding last year from a newly created grant program.

Program staffing currently consists of one program director and one property agent. The director is responsible for each aspect of administering the program.

Joint state-municipal purchases. A joint farmland preservation program between the state and municipalities was developed in 1986 as a way of augmenting the main preservation program.

The program promotes and encourages towns to establish local preservation programs and limit conversion of their prime farmland to nonagricultural purposes.

Towns participating in the program are required to have a municipal farmland preservation fund. The fund must be established by the local legislative body, and capitalized by; 1) gifts made for agricultural land preservation purposes, 2) grants/loans for agricultural land preservation, or 3) any municipal appropriation.

Whenever the department purchases agricultural land development rights and a municipality uses its own farmland preservation funds to help in the purchase, development rights may be jointly owned provided the land falls within the municipality's borders.

Federal farmland preservation program. The federal agriculture department recently began administering a program to encourage farmers to limit conversion of their land to nonagricultural uses. To participate in the program, a landowner must agree to limit his/her land's development for agricultural uses and have pending offers for the purchase of such development rights from either a state, local, or tribal entity. Participation depends on other qualifying requirements, as well. Last year, Connecticut received \$1 million for five projects.

Supplemental Land Acquisition Efforts

There are several other programs that enhance or support the state's efforts to acquire open space land. The programs, highlighted below, are wide ranging in scope.

490 program. The 490 program, established by P.A. 63-490 and otherwise known as Connecticut's Use Value Assessment Law for Farm, Forest, and Open Space Land, is a differential assessment tax law. The program allows land designated as farms, forests, or other open space sites, to be assessed for tax purposes at its "use value," rather than its "fair market" or "highest and best use" value. As a result, the amount of local property tax paid by a landowner where the market value of the land exceeds the value of the land as a farm, forest, or other open space area, is reduced.

There is a formal application process for participation in the program. Applications are made through the local assessor's office in the municipality where the land is located. If the land is forestland, it must be designated as such by the forestry division within DEP.

Greenways. Greenways are defined in statute as a corridors of open space that: 1) may protect natural resources, preserve scenic landscapes and historical resources, or offer opportunities for recreation or nonmotorized transportation, 2) may connect existing protected areas that provide access to the outdoors, 3) may be located along a defining natural feature, such as a waterway, along a man-made corridor, or 4) may be a green space along a highway or around a village. (C.G.S Sec. 23-100.)

The state operates a Greenways program that was created in 1995. The program provides capital grants to towns or organizations to develop greenway projects, including, but not limited to, transportation-related greenways supported by the federal Intermodal Surface Transportation Efficiency Act (ISTEA). The formula for determining the grant amount is as follows:

- not more than 20 percent of the project cost for transportation greenways projects that are part of interstate greenways;
- not more than 10 percent of the project cost for transportation greenways projects that are local spurs from interstate greenways or that are projects between towns; or
- not more than half of the capital costs of a project for greenways that are not transportation greenways.

The Department of Environmental Protection also administers a greenways small grants program. The department may, within available appropriations, make a grant to a municipality, regional planning agency, a regional council of elected officials, a regional council of government, or nongovernmental organization for greenways projects planning, design, and implementation. Grants may not be for more than \$5,000 and the total amount of all grants cannot exceed \$50,000 in any fiscal year. Land acquisition costs are not eligible for grants under this program.

There is a Connecticut Greenways Council established within DEP for administrative purposes only. The council consists of 11 members appointed by various legislative leaders and the governor. Its main duties are to: 1) advise and assist in the coordination of state agencies, municipalities, regional planning agencies, and private citizens in planning and implementing a system of greenways; 2) operate a greenways help center offering advice and technical assistance on greenways projects, including securing grants; 3) establish criteria for designation of greenways; 4) maintain a statewide greenways inventory; and 5) advise the economic and development department and the DEP commissioners on the distribution of grants for greenways projects.

Forest legacy program. The federal Forest Legacy Program, co-administered through the state forester's office and the Department of Agriculture, was created in 1990 to help landowners, state and local governments, and private land trusts identify and protect environmentally important forest land that is threatened by conversion to non-forest uses. The program is a federal-state partnership whereby each state can develop its own assessment guidelines within broader federal requirements. Federal assistance is available for state assessments, and delegation of program management and monitoring is made to state and local governments. The program operates in a similar fashion to the state's farmland preservation program whereby the development rights of particular site are bought from landowners, thus restricting the development of such land.

Dairy farms, fruit orchards, and vineyards. Municipalities have the option of allowing a tax abatement of up to 50% for certain open space properties, including dairy, vegetable, nursery, and tobacco farms; fruit orchards, and farms using nontraditional farming methods. The municipality may establish a recapture program in the event the property is sold, provided the recapture does not exceed the original amount of the taxes abated and does not go back further than 10 years. Abatements for fruit orchards may include any building for seasonal residential use by orchard workers which is adjacent to the orchard itself, but does not include any residence of the person receiving the abatement.

Municipal land acquisition funds. Municipalities can create their own land acquisition funds. The funds are capitalized by an amount not to exceed a tax of two mills against a municipality's property tax assessment. The fund may be used to acquire land used for open space, recreation, or housing purposes, and is nonlapsing at the close of the municipality's fiscal year.

Water company land. Land owned by water companies throughout the state has open space value. Such companies may provide public access to their land for recreational purposes.

Private organizations. Entities such as local land trusts and the Nature Conservancy can acquire land in the state that is categorized as open space. The entities are generally nonprofit organizations, and can choose whether or not to enter into cooperative arrangements with the state.

Federal land. The federal government owns land that can be considered open space according to state standards. This includes such land as the public domain, national forests and parks, and wilderness areas and refuges. There is no federal public domain land in Connecticut, yet 12,300 acres of other federally-owned land in the state has open space value.

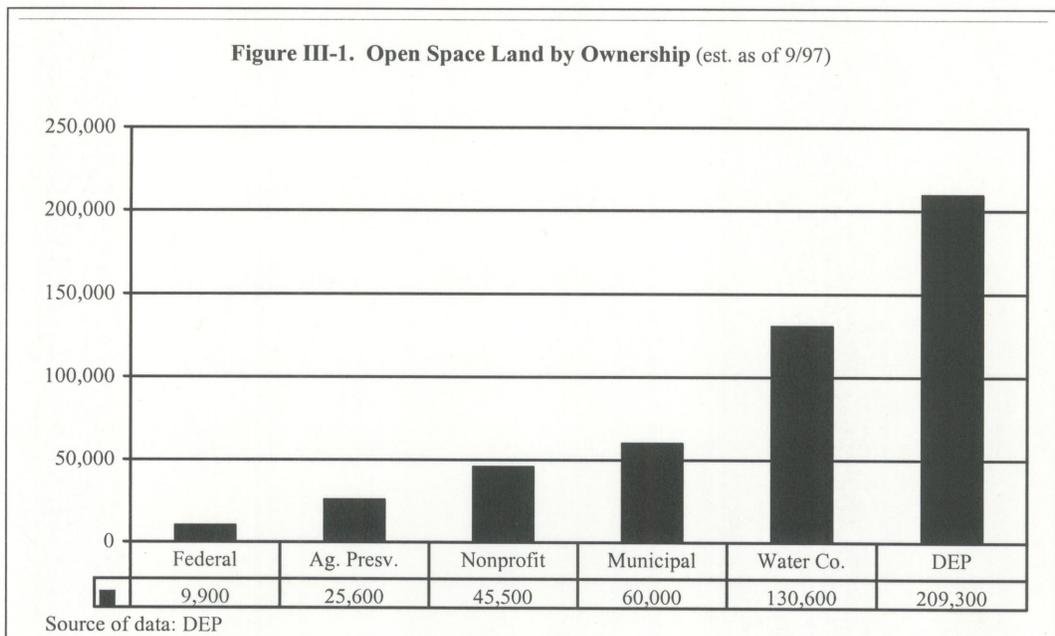
Open Space Inventory Data and Recent Legislation

Land Ownership

Connecticut is made up of just over 3.2 million acres of land. Of the state's total land mass, approximately 482,000 acres have been formally acquired as open space by various entities.

The state does not own the entire amount of land designated as open space. The federal government, municipalities, local land trusts, private and nonprofit organizations, and water companies all own differing amounts of land, in addition to the state itself. Within state government, the departments of environmental protection and agriculture are the primary purchasers and owners of open space land.

Figure III-1 provides an overview of open space by owner. The data are DEP's best approximations of total acreage due to sparse record keeping and reporting. As the figure shows, the Department of Environmental Protection owns the most open space land at roughly 209,300 acres or 43.4 percent of the total for Connecticut. Water companies own approximately 131,000 acres of open space land, or 27 percent. The other entities owning open space land include municipalities (60,000 acres), nonprofit organizations (45,500 acres), the agriculture department's farmland preservation program (25,600 acres), and the federal government (9,900 acres).

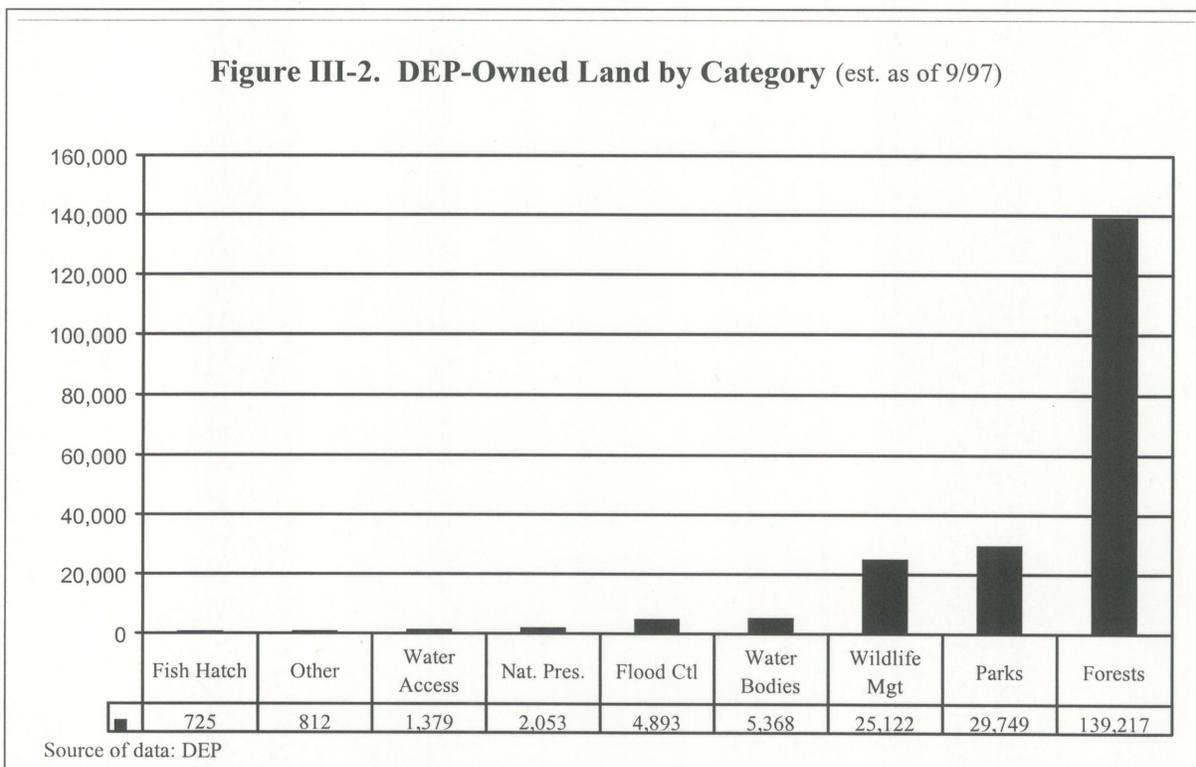


Land Classification, Cost, and Location

As noted in Figure III-1, DEP owns the vast majority of open space land in the state. The department uses nine categories to classify the types of open space land. The categories include:

- Forests;
- Parks;
- Water Access;
- Wildlife Management Areas;
- Water Bodies;
- Fish Hatcheries;
- Natural Area Preserves;
- Flood Control Areas; and
- Other

Figure III-2 shows the total acreage for each of the open space categories as of September 1997. As previously noted, the acreage data provided by DEP are the best approximations that can be developed given the record keeping and reporting problems characteristic of this type of information.



As the figure illustrates, the state owns over 139,000 acres of forestland, which is the largest category of open space land owned by DEP. DEP-owned state parks account for just under 30,000 acres, and 25,122 acres are designated as wildlife management areas. In total, these three open space categories account for approximately 194,000 (or 93 percent) of the roughly 209,000 acres DEP owns as open space land. It should be noted these figures do not include the 25,600 acres for which the Department of Agriculture owns development rights.

Acres acquired and cost per acre. Table III-1 provides a breakdown of DEP's open space program activity between FY 92 and FY 97. The table shows the total number of acres bought by DEP through its acquisition programs, the total amount spent to buy that land, and the overall cost per acre. This information only includes Connecticut data for the Recreation and Natural Heritage Trust program, along with other DEP acquisitions.

| <i>RNHT</i> | <i>FY 92</i> | <i>FY 93</i> | <i>FY 94</i> | <i>FY 95</i> | <i>FY 96</i> | <i>FY 97</i> | <i>TOTAL</i> |
|---|--------------|--------------|--------------|--------------|--------------|--------------|---------------------|
| Acreage | | | | | | | |
| fee | 467.07 | 3,355.81 | 599.50 | 1,289.32 | 483.78 | 166.19 | 6,361.67 |
| easement | 142.25 | 0 | 27.60 | 0.00 | 0.00 | 0.00 | 169.85 |
| Donations/gifts | 95.02 | 1.50 | 380.18 | 78.28 | 19.93 | 675.19 | 1,250.10 |
| Total Acreage | 704.34 | 3,357.31 | 1,007.28 | 1,367.60 | 503.71 | 841.38 | 7,781.62 |
| Cost | \$3,206,500 | \$15,010,565 | \$1,179,500 | \$3,319,500 | \$1,009,000 | \$1,599,858 | \$25,324,923 |
| Cost per acre | \$4,552 | \$4,471 | \$1,171 | \$2,427 | \$2,003 | \$1,901 | \$3,254 |
| Sum* | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 | TOTAL |
| Acreage | | | | | | | |
| Fee | 468.64 | 3,473.84 | 709.64 | 1,293.32 | 518.84 | 166.19 | 6,630.47 |
| Easement | 144.86 | 14.50 | 28.28 | 0.44 | 0.32 | 0.39 | 188.79 |
| Donations/gifts | 123.33 | 1.50 | 431.62 | 95.40 | 19.93 | 710.19 | 1,381.97 |
| Total Acreage | 736.83 | 3,489.84 | 1,169.54 | 1,389.16 | 539.09 | 876.77 | 8,201.23 |
| Cost | \$3,406,350 | \$17,087,695 | \$1,633,650 | \$3,680,835 | \$1,632,700 | \$1,682,358 | \$29,123,588 |
| Cost per acre | \$4,623 | \$4,896 | \$1,397 | \$2,650 | \$3,029 | 1,199 | 3,551 |
| *“Sum” includes RNHT and other acquisitions made in response to special acts and flood control projects. Figures do not include state-owned development rights to farmland. | | | | | | | |
| Source of data: DEP | | | | | | | |

As the table shows, the RNHT program was DEP's most used method of acquiring land. Over the six-year span examined, 6,631 acres of open space land were purchased under this program. Easements to an additional 170 acres were also acquired, in addition to 1,250 acres either donated or gifted to the state. In total, land accumulation of just under 7,800 acres at a cost of \$25.3 million occurred over the time analyzed.

Through special acquisitions mandated by state laws, the state's flood control program, and other miscellaneous gifts/donations, DEP acquired an additional 420 acres of open space land during the FY 92 through FY 97 period. As such, DEP's total for the period analyzed was 6,630 acres purchased outright, easements acquired to an additional 189 acres, and land gifts/donations of 1,382 acres for a total of 8,200 acres. The cost for the different types of acquisitions during the time period was \$29.1 million.

Recent Legislative Open Space Initiatives

The General Assembly passed two major open space initiatives over the last two legislative sessions. When fully implemented, public acts 97-227 and 98-157 will have significant effects on the state's open space policy and land acquisition process.

The key components of each public act are described below. It also provides a full description of the recommendations made by the Governor's Blue Ribbon Task Force on Open Space, which issued its report in January 1998.

Public Act 97-227

In 1997, a state law was enacted formally declaring a goal of having not less than 10 percent of Connecticut's land mass (320,600 acres) held by the state as open space land. Given the state already owns roughly 209,300 acres, the 10 percent total equates to an additional 111,000 acres that must be state-owned to achieve the goal. The law does not indicate a time frame for reaching this target.

The 1997 law states that strategic planning must occur among the Department of Environmental Protection, the Council on Environmental Quality, and private, nonprofit land-holding organizations. The DEP commissioner, in consultation with the other entities, was required to prepare and update a comprehensive strategy for achieving the new state open space goal. An additional goal was to be set by DEP for increasing the amount of land held as open space by municipalities or private nonprofit land-holding organizations. The strategy developed by the group was required to include provisions for achieving the new goal, including: 1) timetables for land acquisition by the state; 2) management of the land; 3) resources necessary for land acquisition and management; and 4) acquisition and management of open space land by municipalities and private entities.

The law also requires DEP to prepare an annual report regarding the strategy to achieve the open space goal and progress being made toward the goal. The initial report was to be submitted to the legislature's environment committee beginning January 1998.

The first report was forwarded to the committee and outlined the current status of open space in the state, what is necessary in terms of additional land acquisitions to meet the goal, steps taken thus far, and the department's 1998 agenda for acquiring open space. The department's agenda includes streamlining the acquisition process, reviewing the land rating system used by the department, and promoting cooperative acquisition efforts with municipalities and nonprofit landholding organizations.

Governor's Blue Ribbon Task Force on Open Space

The governor established a statewide task force in mid-1997 to examine ways to achieve the new open space goal. The task force consisted of 15 members representing the legislature, DEP, municipalities, and various groups from around the state representing environmental, conservation, business, and sporting interests. The task force issued its final report in January 1998.

The group made several recommendations on how to achieve the open space goal and increase the efficiency of the acquisition process. The following is a summary of the main recommendations proposed by the task force:

- Make the land acquisition program run more smoothly, efficiently, and predictably
 - increase funding and provide for predictable funding
 - streamline purchasing process via recommendations from an advisory group convened by DEP
- Stretch state dollars
 - increase land donations and encourage cooperative agreements
 - buy more partial and future interests
 - maximize federal funding for greenways through a joint plan developed between DEP and the transportation department
 - make brownfield remediation funds available to convert urban properties into parks
- Create a new program of matching grants for land acquisition funded at \$10 million/year over the next five years
- Improve program marketing and publicize results

The two priority recommendations put forth by the task force included; 1) steady and substantial funding, and 2) lump sum allocations from the bond commission. With respect to funding, the task force concluded that approximately \$20 million per year over at least the next five years would be appropriate to achieve the 10 percent open space goal. This is in addition to the \$2 million expected from municipalities, landowners, and nonprofit cooperators for the purchase of

open space land. The task force recommends a long-term bond commitment adequate to achieve the open space goal within 25 to 30 years.

The task force also noted "...the state's program for acquiring open space is encumbered by a slow and unpredictable approval process, so that the DEP can neither plan strategically nor negotiate purchases in the times dictated by the marketplace." As a result, it recommended the DEP's annual allocation for open space should be issued in a single or "lump sum" disbursement, allowing the agency to negotiate effectively with landowners and expedite purchases of priority lands.

The task force concluded its report by stating reasonable long-term planning needs to take place in five-year increments. The first five-year work plan was developed by the task force, and included benchmarks, strategies, action steps, and additional resources needed

Governor's initiative. In January 1998, the governor expanded the open space goal by announcing an initiative of having 21 percent of the state's land mass designated as open space within the next 25 years. The governor's initiative starts from a slightly different base than P.A. 97-227. It includes the 209,300 acres of state-owned land, but adds the development rights to farmland and open space land held by municipalities, the federal government, private nonprofit, and water companies. Overall, this initiative would increase the current base of 480,850 acres already held as open space by those entities, to just over 673,200 acres, or an additional 192,350 acres.

P.A. 98-157

Public Act 98-157 is a broad initiative with implications for several aspects of the state's open space acquisition programs and processes. As noted in the 1998 summary of Acts Affecting the Environment produced by the Office of Legislative Research, the act establishes the Protected Open Space and Watershed Land Acquisition Grant Program and Fund. The program is designed to assist: 1) municipalities and nonprofit land organizations acquire land, or permanent interests in it, for open space or watershed protection purposes; 2) water companies acquire land that protects drinking water supplies; and 3) distressed municipalities and targeted investment communities restore or protect open space land they already own.

Grant criteria. The law requires a conservation easement in favor of the state or its designee on all property acquired through the program. Such land must be preserved in perpetuity, accessible to the public, and include the necessary state restrictions to protect public drinking water sources.

The new law establishes eligibility criteria restrictions on grant applications and awards. Specifically, land acquisitions under this program must meet one of several criteria to be eligible for a grant. Such acquisitions must either:

- protect land especially valuable for recreation, forestry, fishing, or wildlife or natural resources conservation;
- protect land that includes/contributes to a prime natural feature of the state's landscape, including shorelines, rivers, aquifers, etc.;
- protect habitat for threatened or endangered native plants or animals or an uncommon example of a native ecological community;
- enhance or conserve the state's natural water areas;
- preserve local agricultural heritage; or
- protect land vital to drinking water supplies.

Program grants may be made to eligible participants to match funds for the purchase of land or permanent interests in land that meet criteria specified in statute. Table III-2 shows that grants can range from 40 to 65 percent of the appraised fair market value of the land to be acquired. For example, municipalities purchasing land for watershed protection purposes, or distressed towns buying land for either open space or watershed protection, may be eligible for the full 65 percent grant. In addition, water companies acquiring land and proposing to allow public access to the land for recreational purposes are eligible for a grant of 40 percent. Applicants may not use funding obtained from any other state program to augment the grant application submitted under the new program.

| Table III-2. Protected Open Space and Watershed Land Acquisition Program Grant Requirements. | |
|---|--|
| <i>Applicant and Grant Use</i> | <i>Maximum Grant (based on land's appraised fair market value)</i> |
| Municipalities for watershed protection land | 65% |
| Distressed municipalities for open space or watershed protection land acquisition | 65% |
| Municipalities for other open space land | 50% |
| Nonprofits for open space or watershed protection land acquisition | 50% |
| Distressed municipalities or targeted investment communities to restore, enhance, or protect existing resources | 50% |
| Water companies for land accessible for recreational purposes | 40% |
| Source of data: OLR, P.A. 98-157 | |

The act also specifies conditions under which grants may not be used, such as:

- acquiring land for commercial or recreational purposes requiring intensive development, including golf courses, driving ranges, tennis courts, ballfields, etc.;
- land with environmental contamination over a significant portion of the property (grants for land requiring remediation of contamination may be made if the remediation is completed before acquisition);
- land already committed to public use;
- development costs;
- land acquired by eminent domain; or
- reimbursement for in-kind services or incidental expenses related to the acquisition.

Grant awards. Decisions for grant applications must be made by DEP twice a year. A single project may receive a grant in more than one grant cycle, subject to fund availability and specific statutory limitations. DEP may use up to two percent of the grant funds for administrative expenses, not including staff salaries. DEP must also develop written program guidelines and a ranking system for consistency and equity in distributing grant awards. The new law sets a deadline of September 1, 1998, for DEP to complete the guidelines and ranking system.

Funding. The act changes the bonding allocation provisions currently in place. Instead of allocating funding on a project-by-project basis, the bond commission is required to issue any authorized funds used by DEP to acquire open space in semi-annual lump sum allocations of substantially equal amounts in each half of the fiscal year. The act also creates a special General Fund account to accept gifts and donations. In addition, S.A. 98-9 authorized bond amounts of \$12.5 million for the Recreation and Natural Heritage Trust program and \$10 million for the state's open space grant program for the year.

Review board. The new law replaces the nine-member advisory board for the RNHT program, as described earlier. A 20-member board, with a cross-section of members appointed by various legislative leaders and the governor, will now be responsible for assisting and advising the DEP commissioner in carrying out the Protected Open Space and Watershed Land Acquisition program. The board must report annually to the legislature on the program's grant awards, as well as any findings or recommendations it has regarding the program. In addition to the board's annual report, DEP is required to submit a monthly program status report to the legislature's finance committee and to the state's bond commission.

FINDINGS AND RECOMMENDATIONS

STRATEGIC PLANNING AND IMPLEMENTATION

Acquiring open space land on a large-scale basis for public purposes is a time- and resource-consuming process. It requires a well-designed, cohesive, and coordinated strategy, particularly when performed on a statewide level. There must be proper forethought and planning behind deciding what type of land to purchase, where the land is located, and how to ensure acquisition both prior to the land becoming available and after it is offered for sale or donation.

The capacity to develop a successful public land acquisition program depends on several factors. These include:

- a clear public policy that acquiring land for public use is a goal for which the state wants to commit its resources;
- a concise strategy and plan on how best to fulfill the goal outlined in the overall policy; and
- a level of resources that allows land to be purchased in an effective and efficient manner.

Without a guiding strategy plus a proactive approach to acquiring open space land, acquisition is performed in an ad-hoc, reactive manner. Proper planning, therefore, is a crucial factor in fulfilling any land acquisition policy and implementing an open space program.

Open Space Policy

The Department of Environmental Protection -- particularly the Land Acquisition and Management Division -- is at a pivotal juncture with respect to acquiring open space land. The legislature formally adopted a policy in 1997 of having not less than 10 percent of the state's landmass -- or just under 321,000 acres -- designated as open space under state control. This includes full state ownership and title to the land, as well as acquiring state-secured conservation easements to land owned by other parties. Although the 1997 legislation officially created a goal for open space, a time frame for full implementation was not set at that time.

In addition to the legislative policy, the governor announced an open space proposal earlier this year. The initiative establishes that 21 percent of the state's landmass -- or roughly 673,000 acres -- should be designated as open space by the year 2023. The 21 percent figure includes state ownership of open space in addition to land owned for open space purposes by municipalities, nonprofit land acquisition organizations, water companies (i.e., land designated as Class I or II), or the federal government.

Funding. Over the next five years, a total of \$166 million has been earmarked for acquiring open space land -- \$107 million for the Recreation and Natural Heritage Trust (RNHT) program, which is the state's main acquisition program and administered by DEP, and \$59 million for the newly created Open Space and Watershed Land Acquisition (OSWLA) grant program, also administered by DEP. The state has formally authorized \$21 million in lump sum bond allocations for open space acquisition during FY 99.

In July 1998, the Department of Environmental Protection received its first lump sum bond allotment. The Recreation and Natural Heritage program was allotted \$9.45 million, while the grant program received \$5 million. In total, the RNHT program is authorized to receive \$11.5 million in bond funding over the next year, and the grant-in-aid program \$9.5 million. Further, a new bond fund distribution system, resulting from legislation passed earlier this year, is designed to provide DEP with bi-annual lump sums for the acquisition of open space. The lump sum system replaces the previous process whereby each open space acquisition project was submitted to the state bond commission for review before funding was allocated.

Planning

Given the commitment on part of the legislature and governor to set an open space goal and authorize funding to pursue the goal, DEP, as the state's primary open space acquisition agency, must be prepared to implement an effective program to achieve the state's objective. The program review committee believes proper planning needs to be implemented to fulfill Connecticut's open space requirements.

Open space planning has been questioned in the past for not being specific enough. For example, the Council on Environmental Quality (CEQ), which is responsible for identifying deficiencies in state environmental programs and recommending appropriate solutions, noted in its 1996 interim report that the state lacked a formal open space goal as well as a comprehensive acquisition strategy.

The situation, however, has changed over the last two years. The state now has a formal open space goal and has appropriated initial funding to work toward the goal, both of which CEQ specifically acknowledged in its 1997 annual report. Although DEP is becoming more focused with respect to open space planning, a fully comprehensive plan still must be developed.

As highlighted below, open space planning has historically taken place within the state in a broad sense. Most of the main planning documents produced have been developed primarily from a macro perspective with respect to open space acquisition. The committee believes a greater, more targeted effort regarding open space strategic planning needs to occur, specifically within DEP, to successfully, efficiently, and effectively achieve the state's open space goals. Examples of planning documents having an open space component include:

- Conservation and Development Policies Plan for Connecticut;
- Department of Environmental Protection's Environment 2000 plan;
- Statewide Comprehensive Outdoor Recreation Plan;
- DEP strategic business plan; and
- DEP's draft "green plan" for open space acquisition.

Most of these planning documents consider open space acquisition within a larger framework and are used to guide multiple environmental concerns from a broad perspective. For example, the state's conservation and development plan and DEP's 2000 plan, consistent with their intended purposes, approach open space acquisition from a general policy perspective, and do not address open space from a direct programmatic perspective. The outdoor recreation plan, developed in response to federal funding requirements, is more specific with respect to open space planning, yet has not been formally adopted by the department.

DEP's business plan and "green plan," on the other hand, are examples of planning efforts more focused on open space acquisition from a programmatic aspect. The department is presently formulating a strategic business plan for its Bureau of Outdoor Recreation, which includes the land acquisition division. The plan outlines long-term objectives and strategies for open space acquisition and identifies goals and resources needed to achieve those objectives. Although the plan is in draft form, it is an indication that basic strategic planning specific to open space acquisition is being pursued in some form by the department.

The most specific open space plan to date is DEP's new "Connecticut Green Plan for Open Space Acquisition." Currently in draft form, the plan is in response to requirements of P.A. 97-227. The act directs DEP, in consultation with the Council on Environmental Quality and private nonprofit land-holding organizations, to prepare and update a comprehensive strategy for achieving the goal of having not less than 10 percent open space land owned by the state. The plan covers five fiscal years beginning with 1999.

The committee believes the "green plan" serves as an excellent base to meet the legislative requirement, but the plan is intended for use as a "general guidance" document for program managers. As such, the committee believes more needs to be done with respect to strategic planning, particularly in developing a detailed inventory of current state-owned land, identifying prospective opportunities within specified acquisition categories, and outlining a

proactive approach for acquiring land before DEP has a truly targeted open space acquisition plan in place.

The program review committee believes the main reason for DEP's lack of an open space strategic plan in the past is because the acquisition system is predicated on reacting to properties submitted by owners (as highlighted in Chapter Two.) There is little in the way of a formal planning process in place to *proactively* identify priority acquisitions within specific open space land classifications, such as those defined by the land acquisition division and in the department's "green plan," and attempt to acquire the identified properties. The system is primarily based on responding to properties already submitted for acquisition rather than identifying properties that fit into a well-defined strategic plan and proactively seeking those opportunities.

Condemnation. Also contributing to the absence of a true land acquisition strategic plan is the state's policy not to use condemnation (i.e., eminent domain) as a means for acquiring land for open space purposes. This restricts the state to only dealing with "willing" owners, and appears to have further dampened DEP's enthusiasm for developing a detailed open space strategic plan. The committee believes, however, the policy decision not to use eminent domain as a method for acquisition should not preclude DEP from devising a proactive acquisition strategy based on sound planning to achieve the state's formally adopted open space goal.

Acquisition strategy. As previously described, an internal review system is in place and used for properties submitted to the division for acquisition. Properties are screened by an interdisciplinary team and scored against specific criteria for each discipline. Highly rate properties become the division's acquisition priorities. Thus, the "strategy" for open space acquisition is essentially dictated by the properties made available to DEP. This approach further precludes DEP from developing a meaningful open space strategic plan with properties prospectively identified for acquisition based on how they fit into goals for purchasing land in specific categories.

Inventory. State law requires the environmental protection department to maintain, and update quarterly, a list of acquisitions made under the Recreation and Natural Heritage program. The list is to include the acreage of each acquisition, and entity or entities having primary management responsibilities or the right to receive stewardship income for the acquired land.

The department's land acquisition division has developed and currently maintains a list of the properties it has acquired under the RNHT program. The list is updated quarterly and includes the statutorily required information, in addition to other data for individual properties. The division also keeps a tally of all pending acquisitions, along with the properties formally approved through the department's internal land acquisition review process.

Committee staff examined the land acquisition division's list (i.e., quarterly status report) and made several observations. First, the list meets, and actually exceeds, the type of information required by statute. Second, it does not, however, indicate the amount of land owned either within geographic areas throughout the state or within particular land classification categories in any aggregate format. This is probably because the division does not have an information system in place for tracking such information, as discussed later in this chapter. Finally, the list is kept in a word processing format, which does not allow for any meaningful management reporting or analysis.

The land acquisition division also does not maintain a formal inventory of all in-holdings (i.e., privately owned land surrounded by state-owned land), properties abutting state-owned land, or land connecting parcels already under state ownership or easement. The division views these land types as priorities for acquisitions, yet does not have a comprehensive accounting of such land. The committee understands developing this inventory is an extensive project, but one that is vital for strategic planning purposes and ensuring acquisitions are made in the most efficient and effective manner possible. A comprehensive inventory would also give the division the type of complete information it needs to work proactively to acquire priority parcels, rather than waiting for such properties to be submitted to DEP.

Summary of Findings:

- *No formal open space goal existed prior to the passage of P.A. 97-227.*
- *Prior to P.A. 97-227, open space acquisition planning was ad hoc, reactive, and not formalized.*
- *DEP is in the process of developing an open space strategic plan as required by P.A. 97-227. The draft plan in its current form is not targeted to a programmatic level.*
- *There is no formal planning process in place for prospectively identifying properties within specific land classifications. Acquisition priorities are primarily developed in response to properties submitted to DEP.*
- *Although an inventory of open space acquisitions exists and fulfills statutory requirements, it is not as comprehensive as it could be.*

The committee believes effective strategic planning for open space acquisition depends on several factors. First, DEP needs to have a comprehensive, centralized accounting of its current acquisition inventory. The department must be aware of how much land it owns, where the land is located, the overall acreage within specific categories, and a description of all surrounding land. Second, the department must have a clear goal in mind for the quantity and

location of land to be acquired within its identified land classifications – namely those specified in the agency’s “green plan” along with other categories developed by the land acquisition division. Finally, DEP should develop a coordinated, proactive acquisition approach to ensure it acquires the highest priority/quality land in the most effective manner.

With those requirements in mind, the program review committee makes the following recommendations:

- **The Department of Environmental Protection shall develop annual open space acquisition goals and objectives consistent with the state’s overall goal for open space. The goals shall include the total projected acreage to acquire within relevant land classification categories.**
- **Beginning January 1, 2000, and every three years thereafter, the Department of Environmental Protection shall develop and update a comprehensive, centralized inventory of open space land under department ownership.**
- **The open space inventory developed by the Department of Environmental Protection shall include the total amount of land the state owns by geographic area and priority land classification -- particularly those classifications identified by DEP’s land acquisition division and within the department’s “green plan,” once formally adopted.**
- **As part of its comprehensive inventory, the Department of Environmental Protection shall identify all:**
 - **parcels abutting existing state-owned open space land;**
 - **in-holdings within existing state-owned open space land; and**
 - **parcels contiguous with existing land held as open space by the department.**
- **For each parcel identified, the department shall develop a system for rating the properties according to how each contributes to the department’s annual open space goals and objectives. Specific rating criteria should at least include: whether there is a demonstrated gap in current public land ownership within the given geographic area; whether the property is at risk of being sold for purposes other than**

open space; and if a state effort to acquire the property will have a significant impact on the environmental quality of the area.

- **The Department of Environmental Protection shall aggressively pursue properties it identifies as high priority, regardless of whether the property has formally been submitted for acquisition, by:**
 - **developing strategies for acquiring each high-priority parcel, including direct negotiations for purchase based on a fair value, and encouraging private and public organizations to purchase priority properties with the intent of selling the property back to the state at fair market value; and**
 - **contacting owners of each parcel in the inventory and determining their willingness to have DEP or another open space land acquisition organization(s) acquire their property.**

Supplemental list. The committee understands, as does DEP, that acquiring land for open space purposes cannot be accomplished using a rigid approach based strictly on an inventory of high-priority properties. For various reasons, properties are not always going to be available when the state wants to acquire them.

The program review committee also acknowledges the difficulties of identifying and selecting particular “focus” properties from the full scope of desired open space opportunities. Given finite resources, the committee believes there must be a more strategic and proactive approach to acquiring properties considered the state’s highest priorities based on standardized criteria. This means properties must be identified on a prospective basis and aggressively pursued to ensure the state is in the best position to acquire land it has identified as priority. The program review committee recommends, therefore:

- **As a supplement to DEP’s open space inventory, the department shall, on a regular basis, aggressively seek input from its natural resource field personnel, local officials, private land acquisition groups, and the open space review board (established by P.A. 98-157) to compile a list of parcels targeted for acquisition.**
- **Properties on the supplemental acquisition list shall be prioritized accordingly, with higher-rated properties aggressively pursued for acquisition using various strategies, including:**

-
- **grants to municipalities and private open space acquisition/conservation groups;**
 - **indirect state acquisition using municipalities and private organizations as intermediaries;**
 - **joint ventures involving DEP and municipalities and private organizations as intermediaries;**
 - **direct acquisition by DEP; and**
 - **joint acquisition efforts with other state agencies.**

Cooperators. The committee believes the use of cooperators is beneficial to the state for acquiring land for open space purposes. Cooperators allow the state to cut costs, given there is a statutory provision requiring a 15 percent minimum investment from cooperators before the state enters into such arrangements. Joint ventures whereby a cooperating entity purchases a property and sells it back to the state may also decrease the overall acquisition time, mainly due to a different procurement process used by cooperators than that used by the state. For example, private land acquisition organizations do not have to adhere to the same procedures as DEP (e.g., bidding contracts for surveyors or getting approval from the attorney general's office for all legal documents), most likely making the acquisition process less time consuming.

The land acquisition division has used cooperators in past acquisitions and indicates it will continue to use them in the future, but noted to committee staff that problems occur in finding willing cooperators. Despite these difficulties, the division does not have any formal strategy or guidelines in place to either promote joint ventures or direct property agents as to when such ventures are most appropriate and feasible. As such, the committee recommends:

- **DEP develop policies, procedures, and strategies for: 1) encouraging municipalities to acquire open space land; 2) encouraging private land acquisition organizations to purchase open space; and 3) using municipalities, private land organizations, or other state agencies to act as intermediaries for DEP open space acquisition. Such policies and procedures must address when property agents are to use each of the above strategies.**

ACQUISITION PROCESS ANALYSIS

Once an owner submits a formal application for consideration, the Land Acquisition and Management Division uses basic information from the application (i.e., selling price,

approximate acreage, distinguishing characteristics) along with data from the department's geographic information system, to develop review information for the property. Information for several properties is compiled into a review packet and forwarded to other natural resource units within DEP (i.e., parks, forests, wetlands, wildlife, fishing, etc.) for evaluation. The units are responsible for reviewing the site according to their area of specialization.

After the properties have been evaluated, a meeting is held between unit representatives and the land acquisition division. The units provide the division with input regarding each property and prospective purchases.

Following these meetings, the division prepares its specific recommendations using the feedback generated from the unit representatives, along with possible onsite observations. The recommendations are formally presented to the department's Land Acquisition Review Committee (LARC) for decision. The committee consists of the commissioner, assistant commissioner for natural resources, chiefs of the outdoor recreation and natural resources bureaus, and the land acquisition division director.

Properties approved for acquisition are assigned to property agents within the division who contact the appropriate parties to begin the purchase process. Appraisals are conducted to determine the fair market value for properties considered for acquisition. Appraisals may be done by an in-house appraiser or a commercial appraiser selected by the division. Appraisals by private contractors are reviewed by the division's internal appraisers before acceptance. A purchase price limit for a particular site is then set by the department.

After a deal is reached with an owner, a formal purchase offer agreement is drafted by DEP, reviewed by the state attorney general's office and returned to DEP, and then sent to the owner. Upon receipt of an approved agreement, DEP again forwards it to the attorney general's office for final review and signature. Following signature by the attorney general's office and the DEP commissioner, the commissioner submits approved acquisitions, along with other DEP capital projects, to the Office of Policy and Management for placement on the state bond commission's agenda for funding consideration.

A formal survey and title search of the property are conducted after the bond commission approves funding. Following a successful survey and title search, a deed is prepared by DEP, reviewed and approved by the attorney general's office, and a closing-in-escrow takes place. The formal deed is then filed with the town and payment is made to the owner and the transaction is complete. A final check is made for any title discrepancies and a certificate of title is issued.

File review analysis. In analyzing the acquisition process, the committee relied heavily on a review of a random sample of 65 properties considered by DEP between 1990-1997. The sample included 13 properties purchased by the department, 10 properties approved for acquisition but not yet purchased, and 42 properties terminated before purchase. The sample accounted for roughly 10 percent of the properties reviewed under the RNHT program within that time period. By design, the sample slightly over-represented properties either purchased or approved for purchase to help ensure enough of these property types were examined to collect meaningful information covering the entire acquisition process.

In addition to data from the sample, aggregate data on the acquisition process were collected from the documents prepared by the land acquisition division. In developing its findings and recommendations, the committee also made use of information obtained during staff interviews with DEP and others knowledgeable in land acquisition.

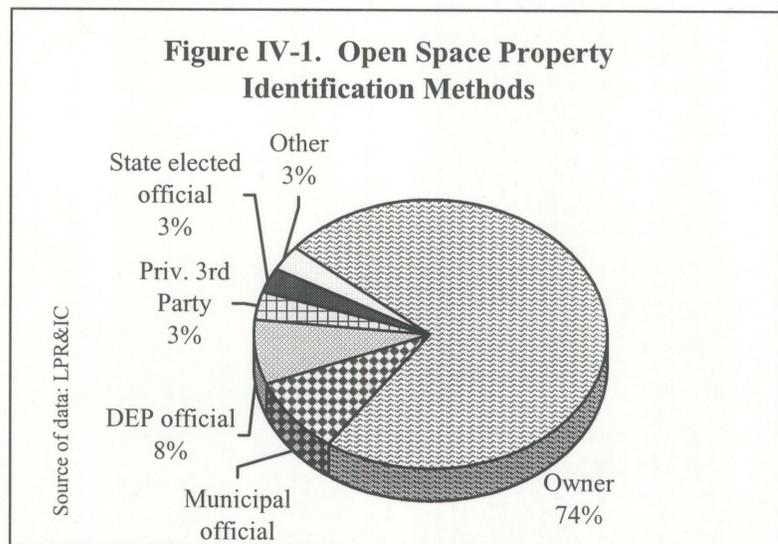
A brief overview of the general characteristics of the sample shows the average size of the properties examined was 70 acres. The sizes of the properties reviewed varied widely, however, ranging from one acre (or less) to 400 acres. The average price for the sampled properties actually acquired was \$276,000. Purchase prices ranged from a low of \$2,800 to a high of just under \$1.2 million.

The bulk of the properties analyzed were either forest land or a combination of several land types. Just under 42 percent of the sampled properties were considered forest. This is not unusual given the vast majority of open space land owned by the state is forest. Another 26 percent of the sample included properties that involved a mixture of land types. Thus, over two-thirds of the properties sampled were in these two land type categories.

Property identification.

The committee was particularly interested in how DEP becomes aware of potential acquisition opportunities. The file review included an examination of how properties were identified by DEP according to eight categories. Figure IV-1 graphs the results of this analysis.

As the figure shows, the vast majority -- almost three-quarters -- of the properties reviewed were submitted directly



by the owners. Another 16 percent were solicited by DEP at the suggestion of someone outside the agency. This means that almost nine of every 10 properties sampled were identified or made known to DEP by someone outside of the department. Moreover, there was no indication in any file that DEP initiated contact with property owners to solicit an acquisition opportunity. The committee believes this supports previous findings indicating that open space acquisition is based more on reacting to properties submitted for consideration than taking a proactive approach to solicit properties.

Acquisition Timeliness

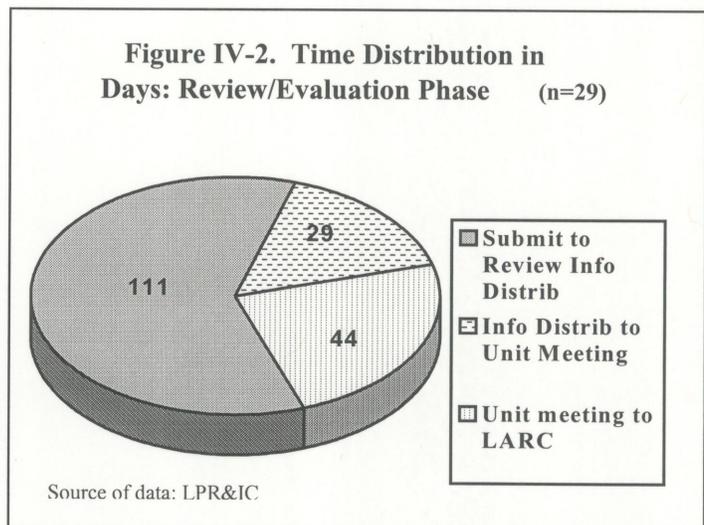
The primary focus of the file review was to determine the overall timeliness of the open space acquisition process. The two main components of the process examined were: 1) review and evaluation, and 2) transaction. The review and evaluation phase involves the internal process used by DEP to examine a potential acquisition and decide whether or not to pursue the property. The transaction phase involves steps used to acquire a property, including contacting the owner, negotiating a purchase price, drafting legal documents, securing funding, the property closing, and filing the deed. A summary of the findings, along with proposed recommendations, are presented at the end of each process phase.

Review and Evaluation Phase

The following time frames were analyzed with respect to the overall review and evaluation component:

- property submission date to distribution of information packets;
- information distribution date to review meeting; and
- review meeting to LARC meeting.

Figure IV-2 illustrates the average number of days properties spent in each of the three components that comprise the "review and evaluation phase."¹



¹ Although only 29 of the 65 properties in the sample had all the dates necessary to be included in this analysis, the number is sufficiently large enough and the computed variances small enough to provide a reasonably accurate picture of how the total time is distributed within this phase of the acquisition process.

As the figure shows, 111 days, or slightly more than 60 percent of the review phase, is devoted to the period between the date a property is submitted for DEP's consideration and when an information review packet is compiled and distributed to other department units for review.

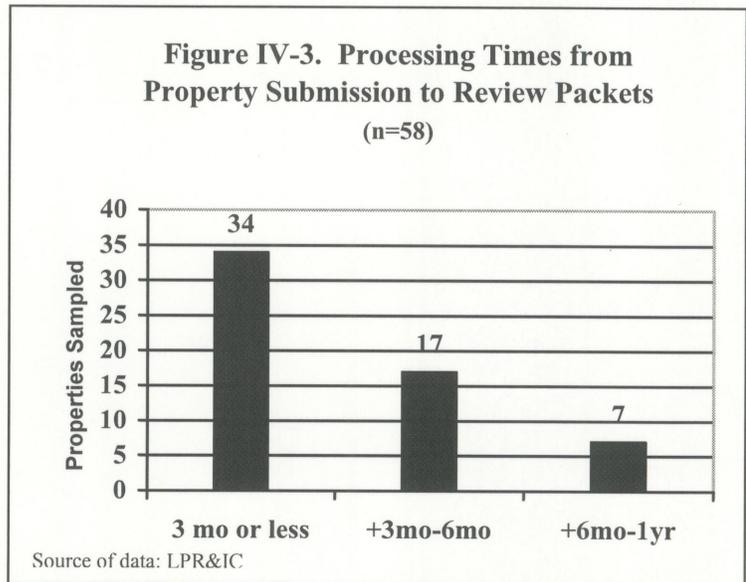
Property submission to review information packets. The time periods of 58 properties -- from their submittal date to the land acquisition division, to the dates review packets for the properties were prepared and distributed to the individual units for evaluation -- were also analyzed. As shown in Figure IV-3, 34 of the properties (or 59 percent) were processed within three months of their submittal date. An additional 17 properties (or 29 percent) were completed within 6 months. Although no property sampled took more than a year to process, 12 percent did take longer than six months.

It should be noted even though the land acquisition division claims it attempts to review submitted properties as expeditiously as possible, the committee found no standard in place to guide the length of time to begin processing properties.

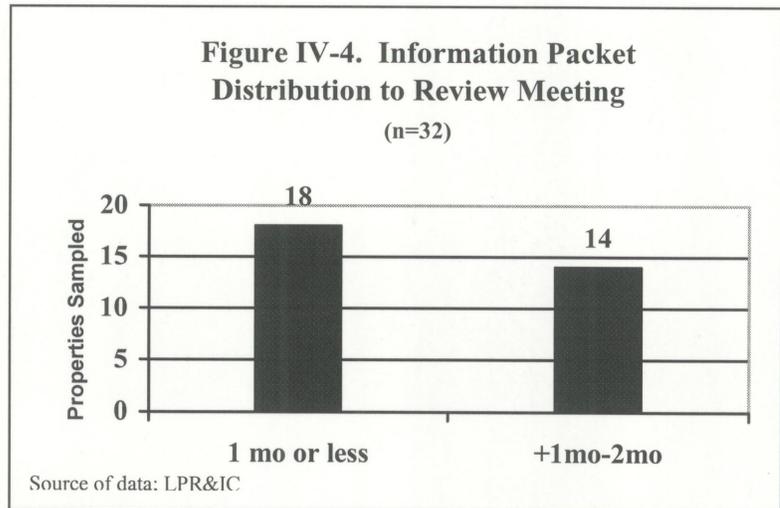
The committee believes two factors primarily contribute to the disproportionate amount of time the

division takes to begin processing properties and develop review packets compared to the rest of the review phase. First, the division typically holds a number of completed review packets so they can be "batched" and then distributed to the units. This practice causes some property proposals to be held for months, unnecessarily inflating the time required for this stage. The committee heard during its review that such a system contributes to the negative image parties dealing with the state have with respect to its open space acquisition process.

Second, due to a lack of staffing, one property agent is assigned part-time to the task of preparing and coordinating review material, in addition to the person's other agent responsibilities. The division, however, is currently filling several property agent positions, which may ease the time delay in compiling review packet information.



Initial review meeting. For over half (18 of 32) of the properties in the sample with discernable dates, review meetings were held within one month from the time the information review packet was distributed to the units, as illustrated in Figure IV-4. In no instance were review meetings held more than two months following packet distribution dates; the average time was 28 days.



This analysis is corroborated with results of data provided by DEP's land acquisition division. Information obtained from the division details the actual dates when review meetings were held between 1995 and 1998. As Table IV-1 outlines, an average of 30 days elapsed from when the information packets were distributed to when the review meeting was held. This is comparable to the 28 days found in the sample.

| <i>Year</i> | <i># of Properties in Review Packet</i> | <i>Information Packet Sent to Units</i> | <i>Initial Review Meeting</i> | <i>Time from Packet to Review Mtg. (days)</i> |
|--------------|---|---|-------------------------------|---|
| 1995 | 34 | 7/17/95 | 8/16/95 | 30 |
| 1996 | 22 | 4/19/96 | 5/22/96 | 33 |
| | 10 | 8/20/96 | 9/20/96 | 31 |
| 1997 | 15 | 2/4/97 | 2/26/97 | 22 |
| | 13 | 7/9/97 | 7/30/97 | 21 |
| 1998 | 16 | 2/18/98 | 3/17/98 | 27 |
| | 41 | 5/1/98 | 6/17/98 | 47 |
| | 34 | 8/14/98 | 9/15/98 | 32 |
| Yearly Avgs. | 23.1 | | | 30 days |

Source of Data: DEP

Based on analysis of the sample data and information obtained from the land acquisition division, the committee finds the overall review time -- from the distribution of review packets to the date of meetings to discuss the properties -- is reasonable.

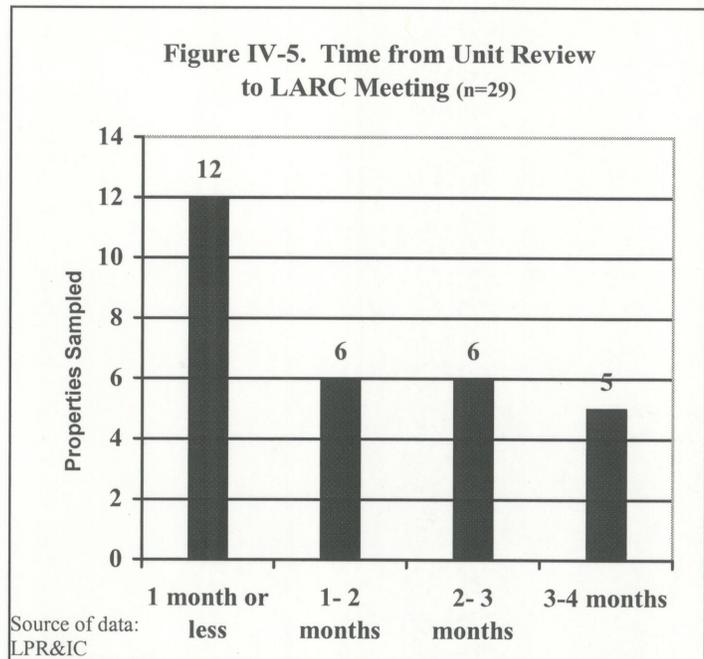
To gain firsthand knowledge of the actual review meeting process, committee staff attended two meetings held during the course of this study and made several observations with respect to those meetings. First, not all the unit representatives attended the meetings. Although absent representatives sometimes submitted their written evaluations of properties being discussed, the committee believes the basic purpose of these meetings -- to review and discuss properties -- is defeated without full attendance. Also, participation varied among the representatives who did attend the meetings, which may reflect the degree of interest and focus a particular unit has in a specific property. Overall, the committee questions how vital the review meetings are, or if the primarily objective of the meetings -- having input from units -- would be met by simply having the units submit their evaluations and formal comments to the division for its review.

Land Acquisition Review Committee. Figure IV-5 graphs analysis results of the time involved in the LARC stage of the process. The figure shows LARC meetings were held within 3 months or less of the unit review meetings 82 percent of the time. The average time from the review meeting to the LARC meeting was 41 days or 1.3 months. The longest elapsed time was 107 days.

Actual LARC meeting dates were obtained from the land acquisition division in addition to the file sample data. Using those dates, the time from the review meetings to the LARC meetings was calculated. The results, shown in Table IV-2, are comparable to the analysis based on the sample. On average, it took DEP 42 days to hold a LARC meeting after the initial review meeting was held.

Table IV-2 also indicates the Land Acquisition Review Committee has only formally met once during 1998, which occurred in April. Since then, two unit review meetings have been held evaluating a total of 74 properties,

but the LARC has not met to make final decisions on any of these properties. In what appears to



appears to be a violation of DEP's own internal procedures, however, the land division continues to make its recommendations to the commissioner and selected properties are added to the list of approved acquisitions without formal LARC input. The committee believes this seriously questions the need to hold formal LARC meetings.

Table IV-2. LARC Meeting Time frames: 1995-98

| <i>Initial Review Meeting w/ Units</i> | <i>LARC Meeting</i> | <i>Time from Review Meeting To LARC (days)</i> |
|--|---------------------|--|
| 8/16/95 | 11/17/95 | 93 |
| 5/22/96 | 7/8/96 | 47 |
| 9/20/96 | 10/2/96 | 12 |
| 2/26/97 | 3/24/97 | 26 |
| 7/30/97 | 9/10/97 | 42 |
| 3/17/98 | 4/15/98 | 29 |
| 6/17/98 | None to date | N/A |
| 9/15/98 | None to date | N/A |
| | | Average = 42 Days |
| Source of data: DEP. | | |

Administrative reviews. Properties with special considerations may be expedited through the review and evaluation phase of the open space acquisition process. Known as “administrative review,” this procedure is intended to move certain properties through the same steps discussed above, but at a quicker pace.

The administrative review process is primarily used if there is a threat DEP may lose an acquisition to another buyer. Although such properties must still be reviewed and evaluated, they are given expedited attention. For example, such properties are not usually “batched” with other properties before they are forwarded to individual units for review. Instead, the land acquisition division attempts to send review packets to the units as soon as these parcels are submitted. By expediting “administrative review” properties, the overall review and evaluation process time frame is supposedly shortened.

Based on the sample data, the committee estimates between 10 to 15 percent of properties considered by DEP fall into this category. An analysis of the eight administrative review properties in the sample found:

-
- the initial processing time -- from the property submittal date to the information review-packet distribution date -- for “expedited” properties averaged 30 days, compared to 111 days for all properties sampled;
 - the units’ review of information packets and reporting evaluations back to the division averaged 31 days for “expedited” properties, compared to 29 days for all properties; and
 - there was incomplete information in the sample to analyze the time from the review meetings to the LARC meetings for “administrative review” properties.

Summary of Findings: Review and Evaluation

- *The average time to complete the overall review and evaluation phase of the acquisition process -- from the time a property was submitted to when the Land Acquisition Review Committee meeting was held -- was 181 days, or 6 months. This phase ranged from a low of 42 days to a high of 376 days to complete.*
- *The initial time to process a property submitted for acquisition averaged 111 days, or more than three months, while expedited cases averaged one month. Almost nine out of 10 properties were processed within six months from submission. In no case did the initial processing time take longer than one year, although 12 percent took longer than six months.*
- *Sample analysis shows, on average, roughly one month elapsed from when information packets were distributed to the unit representatives to when review meetings were held with the land acquisition division to discuss the properties.*
- *Land Acquisition Review Committee meetings were held, on average, 41 days after review meetings between the units and land acquisition division.*
- *The Land Acquisition Review Committee has yet to act on 74 new properties evaluated through the review process since April 1998. However, this has not stopped particular properties from moving forward in the process and being approved for acquisition.*
- *There are no standards in place governing processing times for the review and evaluation of properties; particularly, no time frames exist for how quickly properties should be processed following submission.*

Based on the above analysis and findings, the program review committee makes the following recommendations:

- **The Department of Environmental Protection shall adopt a time standard of 90 days within which the review and evaluation phase of the open space acquisition process should be completed. The department shall develop written justification for any standard greater than 90 days to complete all review and evaluation of properties submitted for consideration as open space. Beginning July 1, 1999, the Department of Environmental Protection shall conduct a yearly analysis of how well the time standard is being met and report its findings to the open space review board established by P.A. 98-157.**
- **The Department of Environmental Protection, in conjunction with the Land Acquisition and Management Division, shall conduct an internal evaluation to determine the necessity of formal review meetings between the division and individual department units. The department shall also re-evaluate the need for formal Land Acquisition Review Committee meetings.**

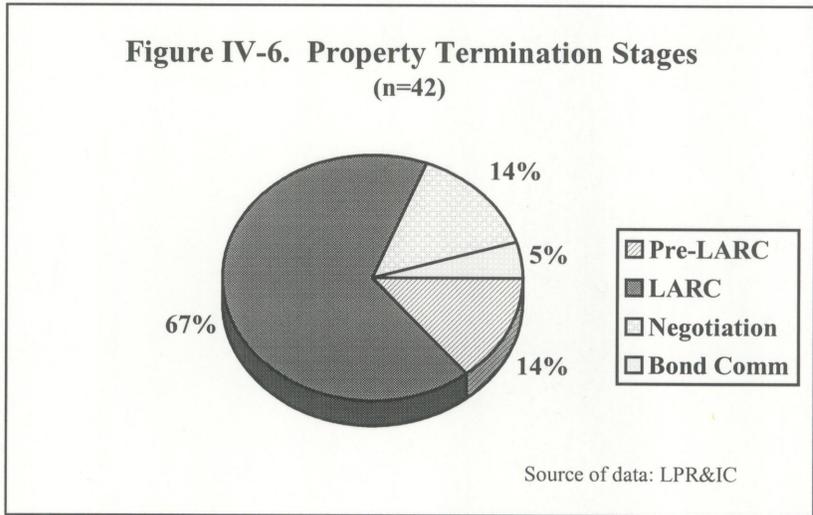
The areas dealt with by these recommendations involve internal DEP processes. The committee believes the department is in the best position to determine the effectiveness of the procedures in question and decide whether the process would be better served if the units provided their scores and written comments directly to the acquisition division for each property reviewed and if acquisition recommendations were made directly to the commissioner by the director of the Land Acquisition and Management Division. The program review committee's compliance procedures will monitor the department's adherence to the intent of the two recommendations, and if sufficient progress in re-evaluating the process is not made the committee will be in a position to mandate procedures for DEP to implement.

Transaction Phase

Much of the actual work within the transaction phase of the acquisition process, such as appraisals, surveys, and title work, is performed by private contractors. The state bond commission, which is outside the purview of DEP, also has a role in the transaction process. The transaction phase was analyzed, and the results are outlined below.

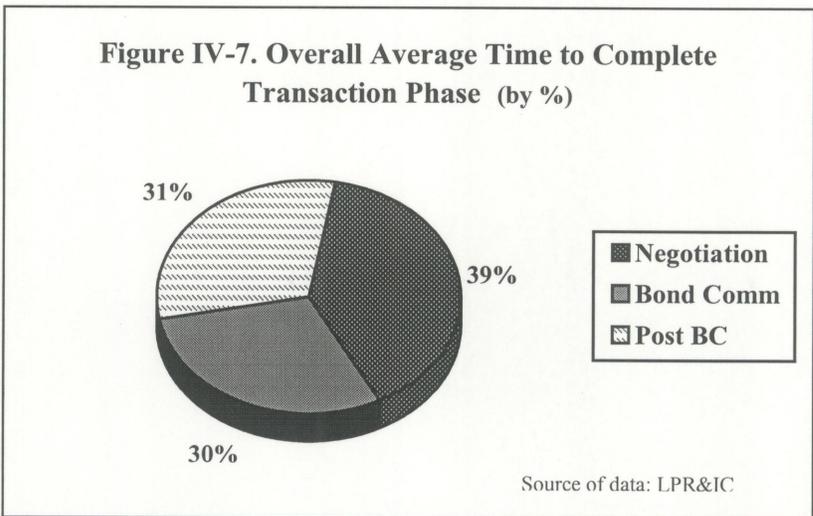
Property status. Of the 65 properties sampled, 13 were purchased by DEP. Another 10 properties were either pending acquisition, in the negotiation phase, or considered for acquisition.

The vast majority of properties (42 of 65) were terminated without purchase at some point in the process. As shown in Figure IV-6, most of terminated properties were the result of LARC actions.



Overall transaction time. The overall transaction phase was divided into three stages for analysis purposes: 1) negotiation – from time of initial contact with an owner following decision by the Land Acquisition Review Committee to final approval of the purchase agreement by the attorney general’s office; 2) bond commission – from completion of the purchase agreement to the bond commission decision; and 3) post bond commission – from the approval of the bond commission through acquisition of the property.

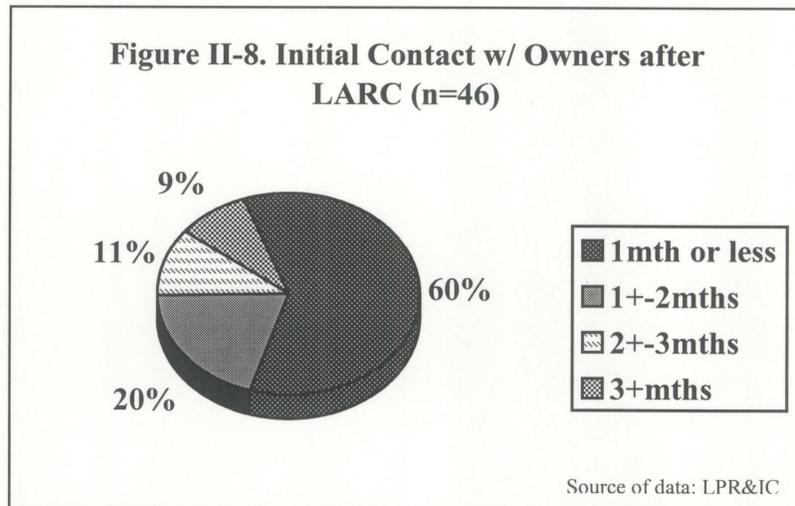
Overall, the transaction phase of the open space acquisition process averaged just under two and a half years to complete. The time was measured from the date of initial contact with an owner after the LARC decision, to the date the deed was filed. Figure IV-7 shows the percent of time necessary to complete each of the primary stages within the transaction phase. As the figure illustrates, an average of 39 percent (close to 12 months) of the time is spent negotiating a purchase price and finalizing the purchase agreement.



Receiving bond commission approval for acquisition funding, which includes time spent by DEP preparing bond requests, and completing the steps of the post-bond commission stage each averaged

another eight and a half months to complete or just under one-third of the overall time to complete the transaction phase.

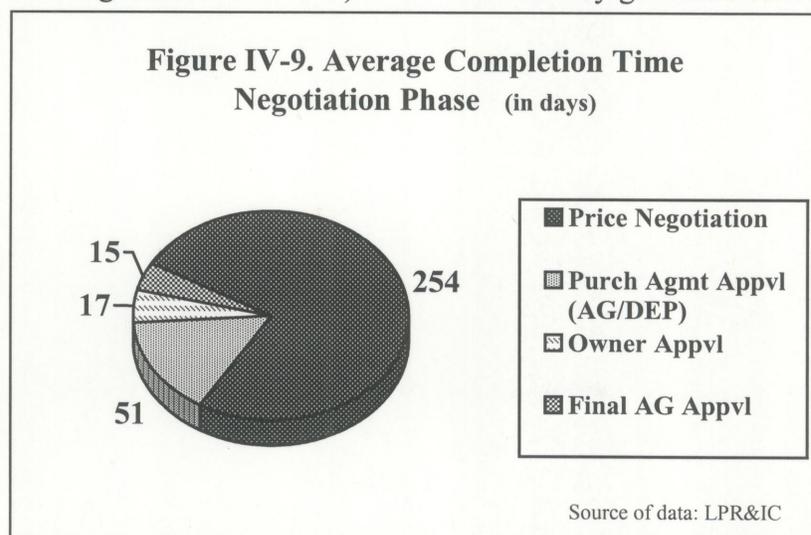
First contact with owner. The time it takes from the LARC decision to proceed with a property to DEP's first written contact with the property owner was measured. Figure IV-8 shows initial contact with owners after LARC decision meetings was one month or less 60 percent of the time. Contact was made within three months approximately 91 percent of the time. In 9 percent of the property files, however, initial contact was not made for more than three months following the LARC meeting.



Negotiation. The committee considered the overall negotiation component of the acquisition process as the time from initial contact with an owner following DEP's decision to acquire a property, to when the purchase agreement was finalized by the attorney general's office. Included in this time frame are appraisal of the property, purchase price negotiation, and completion of a formal purchase agreement between the state and the property owner.

Once a mutually agreeable purchase price is determined, the land acquisition division drafts a purchase offer agreement. The agreement is then: 1) sent to the attorney general's office for initial approval; 2) sent back to the division for any necessary corrections; 3) forwarded to the DEP commissioner for signature; 4) sent to the owner for signature and returned to DEP; and 5) sent again to the attorney general's office for final approval and signature.

Figure IV-9 highlights the overall length of time to complete the negotiation



process, which, for the sample data, averaged roughly one year to complete. The time spent between settling on a purchase price to sending an initial purchase agreement to the attorney general's office consumed most of this time, at just over eight months (254 days) on average.

The committee believes this part of the overall negotiation process takes an unreasonably long time to complete. Formal interviews and examination of correspondence in the property files support this conclusion. For example, in most instances, a form letter was sent to owners of properties the department was interested in acquiring indicating the state's desire to purchase the land, but also noting that DEP workload demands made it difficult to begin immediate negotiations. The committee found one instance in which two years passed between the date the form letter was sent to the start of negotiations.

Another factor possibly leading to the relatively lengthy negotiation of purchase prices is DEP's intent to reach a purchase price as far below fair market value as possible. The program review committee understands the need to obtain a "deal" for the state's citizens, however, this must be weighed against the time added to the process by pursuing a below-market-value purchasing strategy, and the underlying fairness implications associated with this objective. The committee questions whether the state should be trying to purchase properties for open space purposes from its citizens at below market value rather than pay a fair price agreeable to both parties.

Once a purchase price is agreed upon, the process to have the purchase agreements approved by the attorney general's office and signed by the DEP commissioner averaged slightly less than two months (51 days) to complete. The initial turnaround time after the attorney general's office first received a draft agreement averaged two weeks. The remaining time was spent making corrections required by the attorney general's office and obtaining final approval from the commissioner.

The sample files revealed that in most instances purchase agreements required several review cycles by the attorney general's office before being sent to the DEP commissioner for signature. Committee staff met with the attorney general's office and was told it is not uncommon for revisions to be made to the agreements sent over from DEP. Further, time is added to the process because the attorney general's office is only able to formally devote one-half day per week to open space acquisition matters.

Turnaround time is quick once owners receive the purchase offer agreements from DEP. Owners returned their signed agreements within two weeks, on average. From there, the agreements are sent back to the attorney general's office for final signature, which averaged roughly one and a half months to complete. (This time frame would average only 18 days if not for one file with a lengthy approval time.)

Formal appraisals are required for properties acquired as open space, and properties valued at \$100,000 or higher require two appraisals. Appraisals are conducted by either private appraisers or DEP appraisers. Appraisals completed by independent appraisers are reviewed by the division's appraisers before they are accepted. The division has several licensed appraisers on staff, two of whom are engaged full time doing appraisal work.

The committee found appraisals performed by division staff are completed, on average, in just over a month (35 days) from the time one is requested. Appraisals completed by private appraisers also averaged just over a month (38 days) to complete from time of request. The in-house reviews of appraisals meeting the \$100,000 value threshold were completed, on average, in less than a month (25 days).

Bond Commission

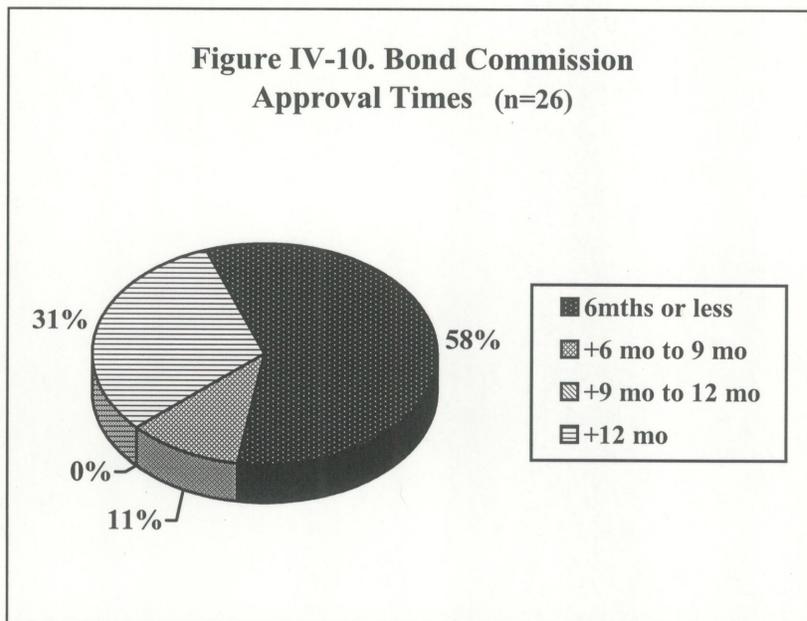
DEP no longer has to submit each acquisition request to the state bond commission for funding approval. A new law passed this year changed the process whereby the bond commission will now make bi-annual allotments to the department for use in acquiring open space as it deems appropriate. The department and the land acquisition division repeatedly told committee staff that the previous bond commission process was extremely lengthy and very unpredictable because DEP was never sure when, if ever, its open space acquisition bond requests would be acted upon.

Several aspects of the bond commission stage with respect to the open space acquisition process were analyzed. First, the time from when a purchase agreement was approved to the point when the department first requested funding from the bond commission was reviewed. This period was the time DEP spent finalizing its bond commission requests. The period between the initial bond request date to the point at which the commission approved the request and released the funding was also examined.

The time from purchase agreement approval to bond commission first request averaged one and a half months (47 days.) Once the commission received an open space acquisition request, it took an average of seven months (214 days) to approve the project for funding.

Bond commission data from the Land Acquisition and Management Division for calendar years 1995-97 for 26 properties were also analyzed. The division tracked the times between submission of projects to the commission and their approval.

Figure IV-10 is based on the land acquisition division data and shows 58 percent of the properties receiving funding for acquisition between 1995-97 were approved by the bond commission within six months from the date of first request. Another 11 percent were approved between six and nine months. No cases took between six and nine months. Less than a third (31 percent) took longer than 12 months to receive bond commission approval following the initial request.



Although not illustrated in the figure, the average time necessary for bond commission approval for the 26 properties reviewed was 242 days, or roughly 8 months, which is comparable to analysis of the sample data. Further, the committee did not find the bond commission required additional information from the department after acquisition proposals were initially submitted, indicating adequate information was submitted with the initial request.

Although the bond commission phase takes an average of eight months to complete, including the time necessary for DEP to prepare and submit its requests, the committee does not believe this time frame is excessive compared to other phases of the overall acquisition process. For example, it takes DEP an average of six months from the time properties are submitted for acquisition to decide whether or not to acquire a property. Once a decision is made to acquire, another year, on average, is spent completing the negotiation agreement process. Also, as described below, another eight to nine months are necessary to complete the required steps after a project receives funding, such as surveys, title work, and filing deeds. The committee also acknowledges the prior bond commission approval process made it difficult for DEP to negotiate with owners given the uncertainty of whether, and when, funding would be released for acquisitions.

The bond commission's responsibility is to "manage" the state's debt and make determinations on which capital projects to fund. The commission cannot be expected to immediately approve every open space acquisition project DEP submits. With this in mind, and assuming funding is made available for open space acquisition, the new lump sum funding process will most likely allow DEP to better forecast its resources and plan its purchases. In addition, it is too early to determine the overall effect the new lump sum funding procedure will

have on the timeliness of the acquisition process, since it was just implemented several months ago.

Post bond commission. The process following bond commission approval was analyzed. Three main steps occur once a property receives funding approval from the bond commission. First, an initial title search is conducted. Second, a formal survey is done of the property about to be acquired. Finally, the land acquisition division prepares the necessary closing and deed documents.

Title attorneys are assigned by the attorney general's office. The sample analysis shows attorney assignments take an average of three weeks (24 days) to complete. The time needed to complete a final title certificate averaged eight months (263 days.) This amount of time is expected since the title certificate is completed after a deed is filed, and is dependent upon completion of the post-bond commission process before it can be executed.

Obtaining complete survey information for the properties sampled was difficult. The information was usually missing from the individual property files reviewed, and the survey files are not organized in any central place. The land acquisition division's head surveyor recently retired, and the division says it is in the process of organizing the survey files, which were kept at a satellite DEP location outside of Hartford. The division is also in the process of developing a centralized database of survey information. Survey information for three properties was obtained, for which surveys averaged just over four months to complete.

The state's formal selection process allows private surveyors to be hired by DEP. The committee, however, was told that unlike comparable practices approved for use by other agencies when they obtain professional services to meet a recurring need, there is no formal, approved bidder's list from which the division contacts/selects surveyors for open space projects.

Once the survey is completed, a closing occurs, and a deed is filed with the appropriate town formally ending the acquisition process. This time frame was analyzed and the committee found it averaged about five months to complete. The files also revealed numerous instances where the attorney general's office required several revisions before giving final approval to deeds. Similar to the purchase agreement process discussed above, the committee believes work needs to be done in this area to ensure a more efficient and effective legal document drafting/editing process.

Summary of Findings: Transaction Phase

- *Sample analysis show the overall transaction process – from when a purchase agreement is approved to when a deed is filed – averaged just under two and a half years to complete. Close to forty percent of this time is spent negotiating the purchase price.*

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- *Initial contact with property owners after the department made a decision whether to acquire a property averaged 25 days.*
 - *The overall negotiation process, from initial owner contact to a finalized purchase agreement, averaged one year to complete. Approximately eight and a half months (70 percent) of this time is spent negotiating a purchase price with the owner.*
 - *Initial funding requests were submitted to the bond commission an average of one and a half months after purchase agreements were approved by the attorney general's office.*
 - *The bond commission approved acquisition funding an average of eight months and a half months after the initial request. Half of the properties submitted for bonding approval between 1995-97, however, were approved for funding in just over three months.*
 - *At no time did the commission require material to supplement the original request, indicating the requests contained adequate information.*
 - *It is too early to determine the actual outcome that lump-sum bond funding will have on the overall timeliness of the open space acquisition process, although it should allow DEP to better forecast resources and plan its purchases.*
 - *No approved list exists for selecting private surveyors without using a competitive bidding procedure each time surveying services are needed.*
 - *Examination of the property files revealed instances whereby purchase offer agreements required several review cycles by the attorney general's office before approval.*
 - *Deeds typically require several revisions by DEP before final approval by the attorney general's office.*

Based on the above analysis and findings, the program review committee recommends:

- **By July 1, 1999, the commissioner of the Department of Environmental Protection and the attorney general shall examine interagency procedures used in preparing, reviewing, and revising documents associated with acquiring open space, with the aim of reducing the overall time involved and increasing the quality of the work produced.**

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- **The Department of Environmental Protection, in cooperation with the Department of Administrative Services shall develop a procedure instituting an approved list of qualified surveyors from which DEP can choose private surveyors without having to competitively bid each project.**

INTERNAL OPERATIONS

Through various interviews conducted during the course of this study, several issues regarding the internal operations of the land acquisition division were brought to the committee's attention. Particularly, the division's management information system, standardized policies and procedures, and performance monitoring were noted as areas where improvements are necessary.

Management Information System

Proper management control is directly related to the type of program data collected, how the information is collected, and what analysis, if any, is conducted once program information is compiled. The Land Acquisition and Management Division collects relevant information with respect to open space acquisition, with the vast majority of this information maintained in paper files. An automated accounting of the full acquisition process does not exist in any centralized location. As such, any meaningful analysis from a management perspective is limited. Moreover, most of the current data collected by the division with respect to open space acquisition is maintained in different record keeping systems throughout the division. This makes analysis for management purposes more difficult than if the information was centrally located and automated.

The committee is aware the division compiles certain aggregate program performance information and keeps the data on its personal computer system. Most of the division's automation, however, is restricted to word processing. Without the appropriate database capabilities, the types of management analysis that can be performed are limited. As a result, the division can produce an accounting of basic performance outputs such as total acres acquired and cost, but cannot analyze its overall operation with respect to areas such as process timeliness or productivity.

The one aspect of the acquisition process that is automated is the appraisal component. The appraisal unit maintains relevant information in an automated database format. The database contains information for each of the unit's various responsibilities, which allows useful and appropriate management reports to be easily produced.

During the property file review, it became very apparent that the land acquisition division lacks any type of a centralized tracking system for its open space acquisition process. Aside from the limited data kept in a word processing format, the division relies solely on a manual

process to track properties through the acquisition system. Although the division uses its automation resources to their capacity, the committee believes the current paper-driven, manual system is a highly inefficient way of managing vast database information.

The land acquisition division recognizes the limitations with its present management information system for open space acquisition. A formal request has been submitted to the department for a revamped automation system, and the request is currently being reviewed by DEP's finance unit.

Given the land acquisition division's lack of an automated, centralized tracking system, and the inadequacy of its current management information system to support its overall operations, the program review committee recommends:

The Department of Environmental Protection implement the necessary improvements to the automation capabilities within the Land Acquisition and Management Division, and provide the division with a comprehensive management information system, including a complete database function, allowing for an automated, centralized open space acquisition tracking system.

The land acquisition division, through its Recreation and Natural Heritage program, has spent approximately \$60 million to acquire open space land over the last 10 years. A program of that financial scope should be fully automated to track the entire acquisition process. As the resources allocated to support the state's formal open space goal become available and the state moves forward to attain that goal, the need to become fully automated will be crucial.

Performance Monitoring

Proper performance monitoring begins with collecting reliable data for key components of a program's processes. The information must then be matched against a set of relevant standards for proper performance analysis.

As mentioned above, the Department of Environmental Protection's open space acquisition program is primarily administered using a paper-driven, manual system. The information collected for analysis purposes is limited to basic outputs.

As a result of the property file review, the committee found no complete performance information is available with respect to overall caseflow timeliness. For example, beyond broad approximations as to length of time each phase of the process takes to complete, there is limited internal performance monitoring for analysis purposes. Standards or benchmarks of acceptable practices do not exist within the division.

Even if the division maintained better performance information, it would be virtually useless until standards are developed. The program review committee recommends, therefore:

The Land Acquisition and Management Division develop a set of realistic benchmarks to be used in evaluating its overall performance. The benchmarks should cover all key components and phases of the open space acquisition process, including, but not limited to: 1) specific time frames to complete each component of the open space acquisition process; 2) completed purchases compared against annual acquisition goals; and 3) the overall use of cooperators to acquire open space land. The internal standards must be established by January 1, 2000, and measured annually thereafter. Relevant performance information shall be included in the Annual Report to the Governor as presented in the Connecticut Administrative Reports, and forwarded to the open space review board established by P.A. 98-157.

The committee believes the overall lack of adequate performance measures and standards is, in large part, due to the absence of an automated database. Collecting and analyzing appropriate information will be greatly enhanced with an upgraded management information system. However, despite the lack of automated data, the division is still responsible for developing realistic performance standards and collecting adequate data for measuring its overall performance.

Open space review board. Public Act 98-157 created the Protected Open Space and Watershed Land Acquisition Grant Program, which includes the Natural Heritage, Open Space and Watershed Land Acquisition Review Board. The board is required to assist and advise the DEP commissioner regarding the open space acquisition program and the newly created open space grant program.

The public act does not repeal the Recreation and Natural Heritage Trust open space acquisition program, but does repeal the Recreation and Natural Heritage Advisory Board created in C.G.S. Sec. 23-80. The RNHT advisory board has been replaced with the new open space review board.

The former RNHT advisory board was required to annually report to the General Assembly any findings or recommendations regarding the RNHT program. The new review board is also required to make a similar report to the legislature. As the law is written, however, the open space review board is to report on any grant awards made during the year and any findings or recommendations for the new Protected Open Space and Watershed Land Acquisition Grant Program. P.A. 98-157 does not expressly require the new open space review board to report to the General Assembly on the Recreation and Natural Heritage Trust program

similar to the previous requirement. The committee believes the review board should report to the legislature on both the new grant program and the RNHT, given both programs deal directly with open space issues, and recommends:

C.G.S. Sec. 7-131 (d) be amended to include within the review board report to the legislature any findings and recommendations relating to the Recreation and Natural Heritage Trust program as defined in C.G.S. Sec. 23-73.

Policies and Procedures. Committee staff conducted interviews with land acquisition division staff responsible for administering the open space acquisition program. As a result of those interviews, there seemed to be a different level of understanding within the division as to the exact procedures required when acquiring property. For example, it is unclear whether the division's property agents, those who formally interact with property owners or their representatives during the acquisition process, are required to make site visits of properties considered for acquisition, or if the agents are to rely on visits made by DEP field units or appraisers.

The program review committee also believes there needs to be clearer policies and procedures as to division staff responsible for negotiating final purchase offers. At times, property agents conduct the entire acquisition process up to the actual price negotiation with the property owner, yet do not negotiate a final purchase price, even though such responsibilities are within their job description. The committee is unaware of any problems arising from this practice, and understands the division is responsible for managing its personnel resources. However, the committee believes standardized guidelines would benefit the division's operations. Further, as mentioned earlier, the division is currently hiring several new property agents. Written policies and procedures would help them learn the acquisition process, outline their specific responsibilities, and guide them in how such responsibilities should be implemented. The committee, therefore, recommends:

The Land Acquisition and Management Division develop a written set of standardized open space acquisition policies and procedures. The written policies and procedures shall be developed by July 1, 1999. Such policies and procedures shall be distributed to all appropriate staff, and updated as necessary.

APPENDIX A
AGENCY RESPONSE



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

79 ELM STREET HARTFORD, CONNECTICUT 06106

PHONE: (860) 424-3001



Arthur J. Rocque, Jr.
Commissioner

February 4, 1999

Michael L. Nauer, Director
Legislative Program Review and
Investigation Committee
Connecticut General Assembly
State Capitol - Room 506
Hartford, CT 06106

Dear Mr. Nauer:

Thank you for providing me with a draft copy of the Legislative Program Review and Investigations Committee's final report on Open Space Acquisition. I appreciate the opportunity to comment on the committee findings and recommendations. I would like to complement your staff, Brian Beisel, Principal Analyst, and George McKee, Chief Analyst, on the professional and courteous manner in which they performed their review and interacted with Department of Environmental Protection staff.

It is unfortunate that the review had to focus on past processes. As you may know, we are in a transitional phase regarding open space acquisition. A number of issues raised in the report have been addressed as the focus of the State's open space program has been redirected in response to Governor Rowland's open space initiative and legislation passed in 1998.

During the past year, the DEP, in consultation with the Council on Environmental Quality and private nonprofit land holding organizations, prepared a draft comprehensive strategy for achieving Connecticut's open space goals. The draft delineates the State's open space goals and the types of lands to be sought, outlines the current amount of open space in the State and how much is needed, describes the programs and funding available for land purchases, and the process for acquisition. The plan will serve as general guidance for program managers, as a tool for those working with the State in preserving land, and as a basic explanation of Connecticut's approach to open space acquisition for the public. I anticipate the final revision of the plan will be completed in the first half of 1999. In preparing the final revision of the Plan, the Department will give serious consideration to the thoughtful recommendations made by the Committee that relate to planning such as those dealing with projected acreage and inventory.

A major effort was made during 1998 to streamline the acquisition process. With the approval of "lump sum funding" provided by Public Act 98-157, and efforts to promote cooperative acquisitions, the DEP greatly accelerated its acquisition efforts in the third and fourth quarters of 1998. Since July 1, 1998, the DEP acquired 12 properties in 15 municipalities involving nine different cooperators acquiring 1,611 acres. The contribution by cooperators resulted in a documented savings to the

Michael L. Nauer
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citizens of Connecticut of over \$2.7 million or 29 percent of the actual purchase price of the property. During this 6-month period, the DEP acquired three times the 6-month average of the past 20 years. I think this record of accomplishment addresses your concerns for speeding the process, and better use of cooperators.

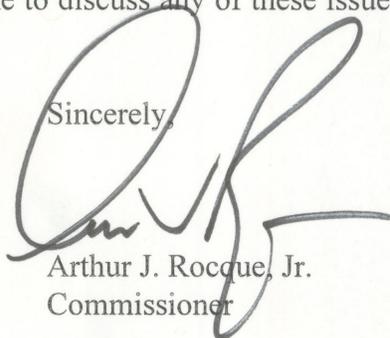
The DEP, through a grant program, has established a process for leveraging local and private acquisition money to aggressively promote open space acquisition. Working with private nonprofit land holding organizations, municipalities, water companies and the Natural Heritage, Open Space and Watershed Land Acquisition Review Board, the DEP has developed and implemented the Open Space Protection and Watershed Land Acquisition Grant Program. The DEP reviewed and evaluated 59 project proposals valued at approximately \$40 million. Almost \$5 million was awarded for the grant round to 19 of the applicants. The DEP anticipates having a second grant round prior to July 1999. The excellent start for this new program should address your recommendations regarding strategies to promote open space acquisition by municipalities, land trusts and other conservation partners.

I believe these activities accommodate the majority of the recommendations contained in the draft final report. In addition, DEP has a strategic plan proposal that would address your well taken suggestions for automation of open space programs. Within existing resources limited improvement can occur. However, equipment, personnel and training are required to make a major impact. Be assured, we will make every effort within budget limitations to automate our process with an emphasis on the use of Geographic Information Systems (GIS).

The DEP will pursue with the Department of Administrative Services the suggestion to develop an approved list of qualified surveyors from which the DEP can choose private surveyors without having to competitively bid each acquisition project.

I appreciate your careful and considerate review of the open space program and your sincere effort to offer creative suggestions for improvement. If you or members of the Legislative Program Review and Investigations Committee would like to discuss any of these issues in greater detail, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arthur J. Rocque, Jr.', written over the typed name and title.

Arthur J. Rocque, Jr.
Commissioner