Before proceeding any further, two questions about “farmland protection”:

➢ For what?

➢ From what?
New York State Department of Agriculture and Markets

**Farmland Protection Assertions**

Any farmland protection program should consider -
- Productive farmland
- Farming as a business enterprise and as land use activities

Farmland protection, however, need not prohibit all non-farm uses on the protected property. Rather, those uses deemed compatible with the Purpose of the conservation easement and that are subordinate to the agricultural use of the protected property should be considered to be allowed. Compatible with and subordinate to are limitations to, rather than prohibition of, non-farm uses.

In other words, compatible non-farm uses should be allowed if they help to financially sustain the farm operation and their conduct is limited in scope/extent/duration.

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**Reserved Rights Retained by Grantor**

- Right to Use Property for Agricultural Uses
- Right to Use Property for Rural Enterprises (but only within Farmstead and/or Rural Enterprise Area(s))
- Right to Use Property for Recreational Purposes
New York State Department of Agriculture and Markets

Additional Rights of Grantor

- Permanent structures associated with Recreational Purposes
  - Up to 1,000 sq ft in Farm Area without permission of Grantee
  - Possibly more with permission of Grantee

- Alternative Energy and Communications Structures and Improvements
  - Up to a maximum of 2% of Farm Area, but only with permission of Grantee
  - Grantor shall comply with Department guidelines for agricultural mitigation

- Mining and On-Site Extractive Activity
  - Sand and gravel removal if reasonably necessary and exclusively for Farm Operation; also, limited to no more than 2 acres at one time
  - Subsurface minerals and hydrocarbons:
    - If no existing lease, location/reclamation pursuant to Department guidelines for agricultural mitigation
    - If existing lease, Grantor shall comply with Department guidelines for agricultural mitigation at Grantor’s expense if lease is not subordinated

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Proposed Changes to Our Program

- “Agricultural Use” defined in Department easement template

- State as Intervenor and Mediator Regarding Interpretation of Selected Definitions and Terms and Selected Implementation of Provisions
  - Department retains perpetual right to intervene or mediate, but limited to specific matters
  - Any intervention or mediation is non-binding advice to Grantor and Grantee
For more information regarding the Agricultural & Farmland Protection Program:

David H. Behm  
Farmland Protection Program Manager  
NYS Department of Agriculture & Markets  
10B Airline Drive  
Albany, NY  12235

Phone:  518-485-7729 or 800-554-4501  
Email:  david.behm@agriculture.ny.gov