

A LAND TRUST'S GUIDE TO Partnering with the Forest Legacy Program



United States
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Forest Service

Northeastern Area
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Connecticut Lakes, New Hampshire—The Forest Legacy Program protects important forest areas for future generations.



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The Forest Legacy Program (FLP) is a voluntary private land conservation partnership between the U.S. Forest Service, Department of Agriculture; participating States; land trusts; private landowners; and others.

This guide to the FLP offers a description of the application and acquisition process, from a land trust’s perspective, as well as helpful tips for more effectively navigating each phase. Whether your land trust has a specific project in the works or simply wants to become more familiar with the FLP, this guide will explore the different roles that your organization can play within the FLP.



Program Purpose

The purpose of the FLP is to identify and protect important forest areas that are threatened by conversion to non-forest uses via acquisition of all or partial interests in privately owned forest lands. The FLP purpose does not include the protection of other working lands such as farms or homesteads. There can be a limited percentage of a property in “compatible non-forest uses.” Residential, commercial or industrial uses are not allowed with the exception of traditional forest uses.

The FLP is a partnership between participating States and the Forest Service. These two entities work together to identify important forest areas and protect them for future generations.

The FLP encourages protection of working forests that in fact provide public benefits as well as forest resources to meet the needs of the local community and the Nation. Non-governmental organizations (NGOs), such as land trusts that have compatible goals and purposes, assist or partner with State agencies to complete FLP projects.

Before proceeding with a FLP application, contact your State partner for information about the specific priorities and procedures of the FLP in your State and whether your project might qualify. Each State has a different way of administering the program. It is important for a land trust to be familiar with its State rules and regulations, and to start early on each step of the FLP application.



Wild River, Wisconsin—The Forest Legacy Program (FLP) encourages continuation of traditional forest uses such as managed timber harvesting.



Program Characteristics

Conservation easements are a common tool used to protect land through the FLP. Other less frequently used protection tools include full-fee purchase, voluntary deed restrictions, covenants and agreements.

Priority is given to lands that can be effectively managed and that have important scenic or recreational values; riparian areas; fish and wildlife values, including threatened or endangered species; or other ecological values.

It is important that landowners know that the FLP is based on a “willing seller and willing buyer” concept. The landowner must be notified by the State in writing that any proposed acquisition is strictly voluntary.

The interests in land may be held by the Federal, State or local government. The lands or interests are held in perpetuity. Once a property becomes a part of the FLP, the conservation easement holder must monitor the land at least annually. When the Federal government holds a FLP easement, State or local units of government agree to take on the conservation easement administration responsibilities.

Every conservation easement property protected by the FLP requires a Forest Stewardship Plan or multi-resource management plan that:

1. addresses the landowner’s objectives for natural resource management,
2. meets State program requirements, and
3. is approved by the State Forester or designee.

FLP funding usually is delivered via a Federal grant made to a State. Each State FLP supports national priorities to protect environmentally important forest lands. Each participating State must develop an Assessment of Need (AON). The AON describes the need for the program in the State and defines how the State plans to

implement the FLP. The AON also identifies important forest areas, which are officially designated as Forest Legacy Areas (FLAs). Lands targeted for protection must fall within designated FLAs identified in each State’s AON.

The State lead agency and the State Forest Stewardship Coordinating Committee (membership is defined by law and can include land trust representation) identify statewide priority tracts. The Forest Service handles National Prioritization.

The Federal share of FLP projects cannot exceed 75 percent of total costs. Nonprofit organizations can help by providing some or the entire non-Federal share of the costs.

Your project may have increased potential for success if you are familiar with your State’s application process, its AON, and Forest Service ranking priorities.



Broad Creek, Maryland—All activities on property protected through the FLP are done in accordance with an approved Forest Stewardship Plan or multi-resource management plan.



The FLP Application Process

If you are a representative of a land trust that is working with a landowner to apply for FLP funds you should first contact your State government lead agency that administers the State FLP.

Your State partner will refer to the most current State AON to determine whether your project is within a designated FLA. The AON was established at the commencement of your State's participation in the FLP. State AON implementation is overseen by the State lead agency.

If your project is not within a designated FLA, speak with your State partner about your options. A land trust may be permitted to request an expansion of a current FLA or creation of a new FLA. FLA establishment or modification must be approved by your State's Forest Stewardship Coordinating Committee, the State and the Forest Service. In fact, any updates and amendments to your State's AON, including changes to FLAs, must be approved by the Forest Service. The designation process may take a year or more to complete.

If your project is within a FLA you will work with your State partner to review your State's FLP application requirements and submission deadlines. Your project **MUST** meet your State's Project Selection Criteria as defined in your State's AON. Each State's AON defines the forest uses to be promoted by the FLP in the State; any project funded must assure that these forest uses are promoted. Incompatible uses must be restricted.

You should also refer to the FLP Implementation Guidelines, which can be found through your State partner, for clear definitions of Traditional Forest Uses, Compatible Nonforest Uses and Noncompatible Nonforest Uses in your area.

The FLP is highly competitive at both the State and national levels. Your project will have to compete not only with other projects in your State, but with projects from all other FLP program States. You can access State and Federal Ranking Criteria through your State partner. Federal FLP project scoring guidance is also provided in appendix A.

Annual deadline dates associated with the FLP are included in appendix B.

If a mix of funding sources will be used for the project it is appropriate at this time to determine whether there are conflicting forest uses or conflicting requirements in each of the funding streams.

FLP applications will be reviewed at the State level by each State's Forest Stewardship Coordinating Committee following State-specific guidelines that are clearly outlined in the State's AON. The Stewardship Committee's rankings are recommendations to the State lead agency. Each year, States submit their top FLP projects to the Forest Service National Review Panel in accordance with direction for prioritization.

At this point, a formal appraisal is not needed, but the State will need to request a certain amount of FLP funding in its application. Having a preliminary or limited restricted appraisal will be very helpful. Without an appraisal, the land trust will need an estimate of value that is based on sound research and that will likely be confirmed later through the appraisal process.



Increasing Your Chances for FLP Funding

If your FLP application clears the State selection process and is forwarded to the National Review Panel, specific information from the Forest Legacy Information System—called FLIS—is provided to the Panel in the form of a project briefing statement.

It is important to tell your project’s story effectively. Your organization should be actively involved in providing information on your project for entry into FLIS, and in writing and proofreading your project profile. Also, become familiar with the key components of Regional Area review and annual FLP National Scoring Guidelines. For example, if your project fits into a “strategic landscape” that furthers a Federal or other strategic initiative it may rank higher in priority, although this is not a guarantee for funding.

A project’s FLIS project briefing sheet can be a deciding factor in a project’s success at the National Review level. Narratives should be well written and cohesive, and accompanying maps should illustrate and support the project, showing how land connects to other conserved areas or how it fits into a larger land protection strategy. A sample FLIS project brief is provided in appendix C.

If your land trust is using a mix of funding sources there will likely be multiple, and sometimes conflicting, requirements, missions and standards among the funding streams. In this case it is even more critical for your land trust to build strong relationships with its State, regional and Federal FLP partners in order to understand all of the requirements and to foster a productive dialogue among all agencies involved.

The number of FLP projects funded annually depends on the program’s allocation in the Federal budget and each FLP project request. If your project is not funded during the current fiscal year, check with your State partner regarding the reapplication process.

The FLP may cover up to 75% of your project, but in practice funding is much more competitive. On average, FLP funding covers approximately 50% of project costs. It is therefore wise to consider FLP funding as one component of your project’s land protection solution.



Cold Air Slope, Iowa—A variety of forest types may be eligible for FLP funding. The state Assessment of Need (AON) identifies priority lands.

Land Trust Roles

Partnership opportunities for land trusts are as varied as each potential FLP project. A land trust’s partnership with the State can be exhibited by taking on roles in which the land trust has expertise and the State may not have time or resources. For example, a land trust can be the primary contact with landowners to negotiate conservation easements or can monitor easements enrolled in the FLP.

A land trust may also:

- Hold cost-share land or interests in land. The required 25% project cost share can be met by funds, donation of a portion of the protected land or can be met by the donation of interests in other lands located in an FLA. In the case of other lands, the landowner must request that these lands be used for cost share.
- Act as intermediary to purchase and hold lands or interests in lands at the request of the State.
- Participate on your State FLP committee if one exists and land trust participation is allowed. Typically, committee rules require a representative to recuse themselves during voting related to selection of a project for which they are a proponent.
- Monitor FLP tracts under an agreement with the State.
- Assist the State with acquisition actions.
- Educate landowners about the FLP.
- Conduct educational outreach to State and Federal legislators.
- Request letters of support from State and Federal legislators.

- Find additional funding sources.
- Work with the landowner to convey realistic expectations of the highly competitive FLP application process.
- Assist the State Lead Agency with public acknowledgement. One grant requirement is that the FLP be publicly acknowledged as a source of funding. Typically this is done through newspaper articles or by placing a sign upon the property. In many cases land trusts have been instrumental in generating strong press coverage.

Building strong partnerships with your State, regional and national partners early in the FLP application process will help to avoid unnecessary application errors. It may be beneficial for your State legislators and Congressional representatives to be aware of your project and application.

Roles of all participating partners—Federal, State, State Forest Stewardship Coordinating Committee, land trust, and landowner—are further described in the illustration on page 6.



Tahawus, New York—The FLP requires a conservation easement monitoring plan. Land trusts may partner with the State to provide annual monitoring.



Forest Legacy Program Roles

Federal Role

- Helps State and local governments look beyond their political boundaries to identify important forest areas.
- Provides oversight, and financial and technical assistance to help protect important forests.

State Role

- Integrates partner resources to cooperatively protect and maintain a forest land base.
- Collects information to identify and delineate important forest areas that may be selected as Forest Legacy Areas.
- Consults with the State Forest Stewardship Coordinating Committee to achieve program purposes.
- Conducts land acquisition activities.
- Holds and administers the lands or interests in land that enter the FLP.
- Monitors tracts for program compliance.

Landowner Role

- Voluntarily conveys interests in lands to achieve the conservation objectives of the FLP or purchases or inherits land that has already been committed to an FLP conservation easement.
- Maintains the forest land base by implementing management activities guided by a Forest Stewardship Plan to conserve the values for which the land entered the program.

State Forest Stewardship Coordinating Committee Role

- Recommends eligibility criteria and recommends Forest Legacy Areas in the Assessment of Need process.
- Prioritizes lands for inclusion in the FLP.
- Advises the State lead agency in order to achieve FLP objectives.

Nongovernmental Organization (Land Trust) Role

- Can be a primary contact with landowners
- Can monitor the conservation easements once they are enrolled in the FLP.

Lands acquired by or donated to land trusts may be counted toward the non-Federal cost-share amount of total program costs, provided the interests in lands contribute to the goals of the Forest Legacy Program and the lands are located within a Forest Legacy Area.



FLP Acquisition Activities Upon Project Funding

Remember, FLP funding is a grant to the State. Your land trust's role as a partner in the process is to assist your State agency in completion of the project.

All of your land trust's expenses for which you are seeking FLP reimbursement, as well as any expenses to be applied to your project's cost share, should be incurred during the life of the FLP grant—which typically begins when funding has officially been awarded to the State in a grant, and ends 2 years hence. Costs incurred prior to the official grant award are not eligible expenses.

Reimbursable expenses, or expenses that may be used for project cost sharing, may include title searches, appraisals and closing costs. Donations of a conservation easement may also be used as cost share at the request of the landowner. One thing to remember about donations is that the FLP Implementation Guidelines do not allow for appraisals of donated property to be paid for with FLP funds.

If a project is funded it may take 2 years to close, although it is more desirable, from a program standpoint, that your project closes sooner. Starting early on each step of the FLP application, with the assistance of your State partner, and having all of your project's application materials in place may help you to close sooner.

The Forest Legacy Program cannot reimburse for earnest money.

Your project should not close until you have met all State and Federal program requirements. Do not close on your project before you have final approval from your State partner.

Before proceeding with project acquisition activities it is important that you check in with your State partner again to clarify partner roles. If your project does not meet Forest Service standards, no reimbursement will occur.

Negotiate the Conservation Easement

Conservation easement terms must support FLP purposes and promote forest uses that have been defined in the State's AON. Ensure you understand what is and what is not a "forest use." Program guidelines also outline what "compatible non-forest uses" are. Keep in mind, some State AON's are more restrictive than the program guidelines.

You should NOT prematurely negotiate a conservation easement until you have referred to your State's AON, where easement requirements should be stated, and have contacted the proper State FLP partners. Funding is never guaranteed.

When negotiating the easement, the terms must meet the objectives of all partners including the land trust; all State, Federal and other funding sources; and the landowner. Maintain consistent contact with your State partner regarding any substantive changes to the easement. States will generally have a preferred conservation easement template they want used for FLP projects; if so this should be the starting point for any easement drafting discussions. If no conservation easement template is available, request negotiation instructions from the State FLP coordinator.

The NA Forest Legacy Program Conservation Easement Language Checklist (see appendix D) is a tool your land trust can use and share with others involved in drafting the conservation





easement. By reviewing the items listed and assuring that the document addresses these items before submission of the easement it is likely that a more efficient easement review process will be achieved.

Ensuring that all items on the checklist are addressed in an easement does not assure that the easement will effect FLP purposes. There may be additional requirements established by the State through the State AON.

A conservation easement is not merely a collection of clauses, but a document that stands as a whole. It is difficult to merely ask for a list of items to be included or excluded and be certain that this will ensure an easement that addresses FLP purposes. To smooth the easement negotiation process, request an FLP conservation easement template or negotiation instructions from the State FLP coordinator. Communicate with the State FLP Coordinator often in the process.

A conservation easement draft is usually checked to assure the easement will promote the State forest uses, and there is not conflict with the purposes of the State FLP. If a review is conducted, FLP staff may write a review letter to specify any FLP requirements which are not met by the easement and to provide options to address such omissions. Additionally, the letter may call attention to other items included in the easement or missing from the easement that may cause problems in the future if not addressed.

Drafting the conservation easement is an iterative process. You may want to make the landowner aware that the final easement will not be achieved until you have final signoff from all necessary partners.

Each State determines its priorities and method of program delivery in its AON. In addition to meeting program requirements each State has the responsibility to submit easements that do not conflict with its AON. Also, State law may require particular language or prohibit particular language. It is not possible to develop a single easement to meet all needs. Each State is different, each FLP project is different. What is the same from easement to easement is that the purpose is to achieve the goals of the FLP.

Ask your State partner for a copy of your State's model FLP conservation easement language. The agency may have a template document it wants each project to use as a starting point.

Title Work

A land trust or State partner will be required to conduct title work to establish the estate being conveyed and to determine if mortgages exist. Mortgages can be subordinated to the easement but there may be other serious title issues that need to be resolved.

Land to be acquired must be free and unencumbered relative to the purposes of the FLP. Title insurance naming the State as insured or assurance of title is requested by the Forest Service before the State takes title. Assurance of title can be done via a letter from the State Attorney General stating that title research indicates that there are no issues that could impact the purposes for which the land or interest in land was acquired. A title assurance letter must further acknowledge that in the event the interest acquired by the State is impacted by a title issue, the State will repay the Federal Government.



Mineral Rights

Outstanding mineral rights can be a threat to the conservation values protected through the FLP. To address this issue first determine if there are outstanding mineral rights. If there are outstanding mineral rights that could impact the conservation values:

- 1) The State must acquire these rights and retire them; or
- 2) The landowner must secure the rights and the conservation easement must be written to restrict surface disturbance.

If the outstanding rights cannot be secured it may be possible to make a determination that the mineral potential is such that an exercise of the rights is so remote as to be negligible. This is a determination of fact, not merely an opinion. This must happen on both conservation easements and fee acquisitions where there are outstanding subsurface rights. It can also relate to leases and other types of access/utility easements.

There can be no issues with the title that can impact the purposes of the conservation easement. At the closing, you may want the

landowner to sign an affidavit stating there are no other liens in existence since the title certificate was issued.

Conduct title work as early as possible and complete an updated title opinion just prior to closing on the conservation easement. Remember that title insurance is preferred on FLP projects. Factor this expense, which can be considerable, into your budget.

Appraisal

Appraisal and appraisal review are a common stumbling block to timely completion of a FLP project.

Contact your State partner for guidance before conducting any appraisal work.

FLP appraisal requirements are very specific. The appraisal must meet “Uniform Appraisal Standards for Federal Land Acquisition,” often referred to as a yellow book appraisal, which are different from IRS regulations.

Yellow book appraisal requirements are different than IRS regulation appraisal requirements.

It is critical that you secure an appraiser qualified to conduct a yellow book appraisal. You should do this VERY early in the process. The FLP has specific qualification requirements for appraisers. These are listed in appendix H of the FLP Guidelines. The State FLP Coordinator is responsible for assuring the appraisers meet the qualifications, and there may be additional requirements related to review appraisers and reviews of the appraisal.



13 Mile Woods, New Hampshire—FLP projects often protect important wildlife habitat.

FLP Guidelines REQUIRE a meeting or conference call discussion between the project's appraiser and the qualified Review Appraiser before work on the appraisal commences. This important interaction helps to ensure that the appraiser has a clear course of work to convey project specific appraisal instructions.

Your final appraisal with the final easement needs to be approved by a FLP qualified review appraiser before closing; a Federal review appraiser may be required on certain projects. Because this is nearly a final step in a project, and there are a limited number of qualified review appraisers, you should budget ample time for this when scheduling closings.

It is also recommended that the appraiser check in with the review appraiser periodically.

The landowner must be notified by a State official of the market value of the interest to be conveyed as determined by the appraisal.



Sugar Hills, Minnesota—Public access is often acquired with FLP conservation easements.

Be sure to communicate often with your appraiser so that he or she clearly understands the anticipated flow of the process. Also, be clear from the beginning that the appraiser may have to review any conservation easement changes and render an opinion of if they affect value.

Survey

Conducting a survey can identify discrepancies in land area which could impact your appraisal and possibly your project. If your property has structures on it, these areas will need to be surveyed out as they are not eligible for FLP funding. Only buildings which support Traditional Forest Uses as identified by your State AON may be allowed.

Forest Stewardship Plan

The legislation that authorized the development of the FLP requires that the terms of a conservation easement require a landowner to manage the property in a manner that is consistent with the purposes for which the land entered the FLP.

The Forest Stewardship Plan or Forest Multi-Resource Plan must identify management activities and the manner in which they affect the conservation values identified and must be approved by the landowner and the State Forester.

FLP implementation guidelines state that a Forest Stewardship Plan or Multi-Resource Management Plan that meets your State's Stewardship Program Standards must be in place before closing. The plan must identify all management activities and the manner in which they may affect the conservation values identified.



A Forest Stewardship Plan or Forest Multi-Resource Plan may exist prior to negotiation of the easement. An update to the existing plan may be required if it calls for activities that are in conflict with the conservation easement.

Begin development of the plan as early as possible to allow enough time for completion. Your Forest Stewardship Plan or Forest Multi-Resource Plan must be approved by the landowner and your State Forester. Forest Stewardship Program national standards and guidelines are listed in appendix E.

Baseline Documentation

According to United States Code Title 26, which deals with the Internal Revenue Service, developing baseline documentation is the obligation of the landowner, but typically the land trust or State lead agency will take on this role. A sample list of items to include in your baseline documentation can be found in appendix J of the FLP Guidelines. For FLP purposes the State lead agency has the responsibility to ensure the baseline is prepared before closing and signed at closing. The State can seek assistance from a land trust.

All necessary baseline documentation must be completed by closing, and must meet FLP Standards, State Standards and, if the landowner is taking a deduction, IRS requirements.

There may be instances, often related to the time of year of acquisition, where baseline documen-

It is important to check with your State partner to confirm necessary baseline documentation. The State may have a baseline documentation protocol.

tation cannot be completed before closing. Speak with your State partner if this is the case.

Funding

The State will prepare the required documents needed for closing and will work with the Forest Service to ensure that the documents meet FLP standards. Funds may not be made available until all required documents have been reviewed for conformance with State and Federal FLP requirements.

Documents that will be reviewed before funds are released:

- Conservation easement or draft deed
- Signed Forest Stewardship Plan or Multi-Resource Management Plan (if a conservation easement acquisition)
- Title insurance binder or title assurance
- Mortgage subordination if there is a mortgage
- Appraisal review
- Offer letter to landowner documenting appraised value and stating that the transaction is strictly voluntary
- Draft baseline documentation (if a conservation easement acquisition)

The FLP will not reimburse more than 75% of the appraised value in the total project cost calculation.

- Your land trust will need the total project cost calculation in order for an attorney to prepare settlement statements.



Project Closing

Celebration of the FLP acquisition is a way to recognize all the parties that worked to make the effort a success. A press event that is picked up as a news story may help a State meet a public acknowledgement requirement for the FLP. If you organize an FLP event, be sure to acknowledge the FLP as a source of funds for



the project. There is an unlimited amount of credit to go around. When identifying people to include at an FLP event, consider the State Congressional delegation, the State Governors office and State lead agency and Forest Service leadership.

States may be limited as to who they can or cannot contact, and also may have budget limitations. Organizing a press event or celebration is a prime partnership opportunity for a land trust in the FLP process.



Belmont Springs, Massachusetts—The success of an FLP project requires collaboration among many partners.



Grant Close-Out Requirements

The State is the FLP grant recipient and will therefore need some materials from a land trust in order to close out the grant with Forest Service staff.

Required items that have not already been supplied to the Forest Service will likely include:

- A copy of the recorded deed or conservation easement
- A copy of the title insurance certificate
- Evidence of signed baseline documentation
- Evidence of acknowledgement of the FLP such as a newspaper article or FLP sign posted on the property.
- A conservation easement monitoring plan.

Although easement monitoring is a State responsibility, speak with your State partner about how your land trust can be involved with this aspect of the easement. Some States have contracted with land trusts to monitor FLP easements. Land trusts have the responsibility to monitor and enforce any cost share easement they hold.



Green Horizons, Delaware—When your project has closed out it is important to acknowledge the involvement of the FLP by posting signage on the protected property.

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Appendix A: Forest Legacy Program Project Scoring Guidance



FOREST LEGACY PROGRAM **PROJECT SCORING GUIDANCE** (May 22, 2009 - updated)

Introduction:

This document provides guidance to the National Review Panel on how to score individual Forest Legacy Program (FLP) projects, including additional clarification on the core national criteria, project readiness and other evaluation considerations used in this process. The outcome from the National Review Panel will be a ranked and prioritized list of FLP projects for submission to the Office of Management and Budget for consideration in the President's Budget. Its objectives are to:

- Provide a clear and defensible ranking process that can be articulated easily to program participants and partners; and
- Ensure fair, equitable and thorough review of all projects by the National Review Panel

National Project Selection:

- A multi-tract project should be scored based on how all the tracts fit within the criteria. For example, if only one tract meets the highest point criteria, the project will not likely obtain the highest points.

Region/Area/IITF Role:

- Work with States to produce highly competitive FLP projects
- Work with States to produce projects that are "Ready"
- Work with States to assure that all pertinent project information is in FLIS
- Learn and understand project details
- Assure that projects meet Statewide Assessment and Resource Strategy objectives (or Assessment of Need if the Statewide Assessment has not been completed)
- Confirm that projects have been reviewed and evaluated by the State Forest Stewardship Coordinating Committee
- Assure that projects comply with June 30, 2003 FLP Implementation Guidelines
- Work with States to advance top projects to the national selection process
- Work with States to identify which projects can be phased and the funding threshold. (However, the funding level for recommended project will not automatically be decreased by the National Review Panel if a lower funding threshold is provided.)

Washington Office Role:

- Work with regions/area/IITF to produce highly competitive FLP submissions
- Ensure that project selections meet congressional direction
- Ensure that project selections meet national program goals

National Review Panel Role:

- Score projects using the national core criteria (Importance, Threatened, and Strategic)
- Apply "Readiness" point and additional consideration
- Develop a National List of ranked projects

National Core Criteria:





Importance – This criterion focuses on the attributes of the property and the environmental, social, and economic public benefits gained from the protection and management of the property and its resources. This criterion reflects the ecological assets and the economic and social values conserved by the project and its level of significance. National significance is typically viewed as activities that support Federal laws (such as Endangered Species Act, Safe Drinking Water Act, and Clean Water Act) or interstate/international resources (such as migratory species, or trail and waterways that cross state or international boundaries).

More points will be given to projects that demonstrate multiple public benefits with national significance. A project need not have all the attributes listed to receive maximum points for this category, but projects with multiple attributes of national significance should receive more points.

- *High importance* (21-30 points) – The project protects multiple public benefits with national significance;
- *Medium* (11-20 points) – The project protects some public benefits with national or state significance; or
- *Low* (0-10 points) – The project protects public benefits with state or local significance.

Attributes to consider: The descriptions listed represent the ideal project for each attribute.

Economic Benefits from Timber and Potential Forest Productivity – This category includes three independent components: (1) Landowner demonstrates sustainable forest management in accordance with a management plan. Additional points should be given to land that is third party certified (such as Sustainable Forestry Initiative, Forest Stewardship Council, and American Tree Farm System). (2) Forestry activities contribute to the resource-based economy for a community or region. (3) The property contains characteristics (such as highly productive soils) to sustain a productive forest. (Strategic Direction Goal 2.3)

Economic Benefits from Non-timber Products – Provides non-timber revenue to the local or regional economy through activities such as hunting leases, ranching, non-timber forest products (maple syrup, pine straw, ginseng collection, etc.), guided tours (fishing, hunting, birdwatching, etc.), and recreation and tourism (lodging, rentals, bikes, boats, outdoor gear, etc.).

Threatened or Endangered Species Habitat – The site has documented threatened or endangered plants and animals or designated habitat. Federally listed species will be given more consideration than state-only listed species. (Strategic Direction Goal 2.3)

Fish, Wildlife, Plants, and Unique Forest Communities– The site contains unique forest communities and/or important fish or wildlife habitat as documented by a formal assessment or wildlife conservation plan or strategy developed by a government or a non-governmental organization. (Strategic Direction Goal 2.3)

Water Supply and Watershed Protection – (1) Property has a direct relationship with protecting the water supply or watershed, such as provides a buffer to public drinking water supply, contains an aquifer recharge area, or protects an ecologically important



aquatic or marine area, and/or (2) the property contains important riparian area, wetlands, shorelines, river systems, or sensitive watershed lands. (Strategic Direction Goal 2.1)

Public Access – Protection of the property will maintain or establish access by the public for recreation; however, restrictions on specific use and location of recreational activities may exist. (Strategic Direction Goal 2.3)

Scenic – The site is located within a viewshed of a government designated scenic feature or area (such as trail, river, or highway).

Historic/Cultural/Tribal – The site contains features of historical, cultural, and/or tribal significance, formally-documented by a government or a non-governmental organization.

Threatened - This criterion estimates the likelihood for conversion. More points will be given to projects that demonstrate multiple conditions; however, a project need not have all the conditions listed to receive maximum points for this category. During the evaluation of threat, a good land steward interested in conserving land should not be penalized.

Legal Protection- The degree of legal protections that currently exists on the property (e.g. current zoning or existing easements), whether these protections remove the threat of conversion, and to what extent.

Land and Landowners Circumstances – land and landowner circumstances such as property held in an estate, aging landowner, future property by heirs is uncertain, property is up for sale or has a sale pending, landowner has received purchase offers, land has an approved subdivision plan, landowner has sold subdivisions of the property, etc.

Adjacent Land Use- adjacent land use characteristics such as existing land status, rate of development growth and conversion, rate of population growth (percent change), rate of change in ownership, etc.

Ability to Develop- physical attributes of the property that will facilitate conversion, such as access, buildable ground, zoning, slope, water/sewer, electricity, etc

Third Party Ownership- If property has been acquired by a third party at the request of the state, threatened will be evaluated based on the situation prior to the third party acquisition.

- *Likely* (11-20 points) - Multiple conditions exist that make conversion to non-forest uses likely.
- *Possible* (1-10 points) - A few conditions exist that make conversion to non-forest uses possible.
- *Unlikely* (0 points)- Current conditions exist that make conversion to non-forest uses unlikely.

Strategic - This criterion reflects the project’s relevance or relationship to conservation efforts on a broader perspective. When evaluating strategic, three considerations should be made: 1) the scale of a conservation plan, 2) the scale of the project’s contribution to that plan, and 3) the placement of the parcel within the plan area. (FLP Strategic Direction 1.1, 1.2, and 1.3)



Attributes to consider:

Conservation Strategy- How the project fits within a larger conservation plan, strategy, or initiative as designated by either a government or non-governmental entity.

Compliment Protected Lands- How the project is strategically linked to enhance already protect lands including past FLP projects, already protected Federal, State, or non-governmental organization lands, or other Federal land protection programs (NRCS, NOAA, etc).

- *High* (21-30 points) - The property significantly advances a landscape-scale or watershed-based conservation strategy through infill and/or key linkages and supports previous conservation investments.
- *Average* (11-20 points) - The property makes a modest contribution to a conservation effort and is near already protected lands.
- *Low* (0-10 points) - The property is not part of a conservation plan, but will lead to locally-focused conservation effort.

Additional Considerations

The following are items that will be considered by the panel as a whole, and not by the individual panel members when scoring projects.

1. The National Review Panel is not bound by the state priority ranking of projects. If the National Review Panel ranks projects out of a state's priority order, then the panel will call that state to discuss the situation. However, the panel will not move a lower ranked project up the list.
2. The National Review Panel will pay particular attention to the amount of unspent funds each state has in outstanding grants. There is the potential that a state's project will not be recommended for funding if that state has a significant backlog in unspent funds.
3. The National Review Panel will consider the state's capacity when developing the final list of ranked projects and associated funding levels (e.g. no state coordinator, does not have resources to monitor conservation easements, ...).
4. The National Review Panel will **give one (1) additional point** added to the average panel score for projects that have leveraged 50% match, or greater.
5. The National Review Panel will **give one (1) additional point** added to the average panel score for projects that have a project readiness score of 5 or greater.

Project Readiness is defined as the degree of due diligence applied and the certainty of a successful FLP project. To demonstrate project readiness, completed items need to be specified (including completion date) in FLIS and credit will only be given to those items completed (one tally for each completed item, with a maximum tally of 7. Projects with multiple tracts will need to have the majority of their tracts have the completed task before a tally is given):

1. Information has been documented to support cost estimate, such as completed market analysis or preliminary appraisal.
2. Landowner and easement holder have agreed to easement or fee acquisition conditions.



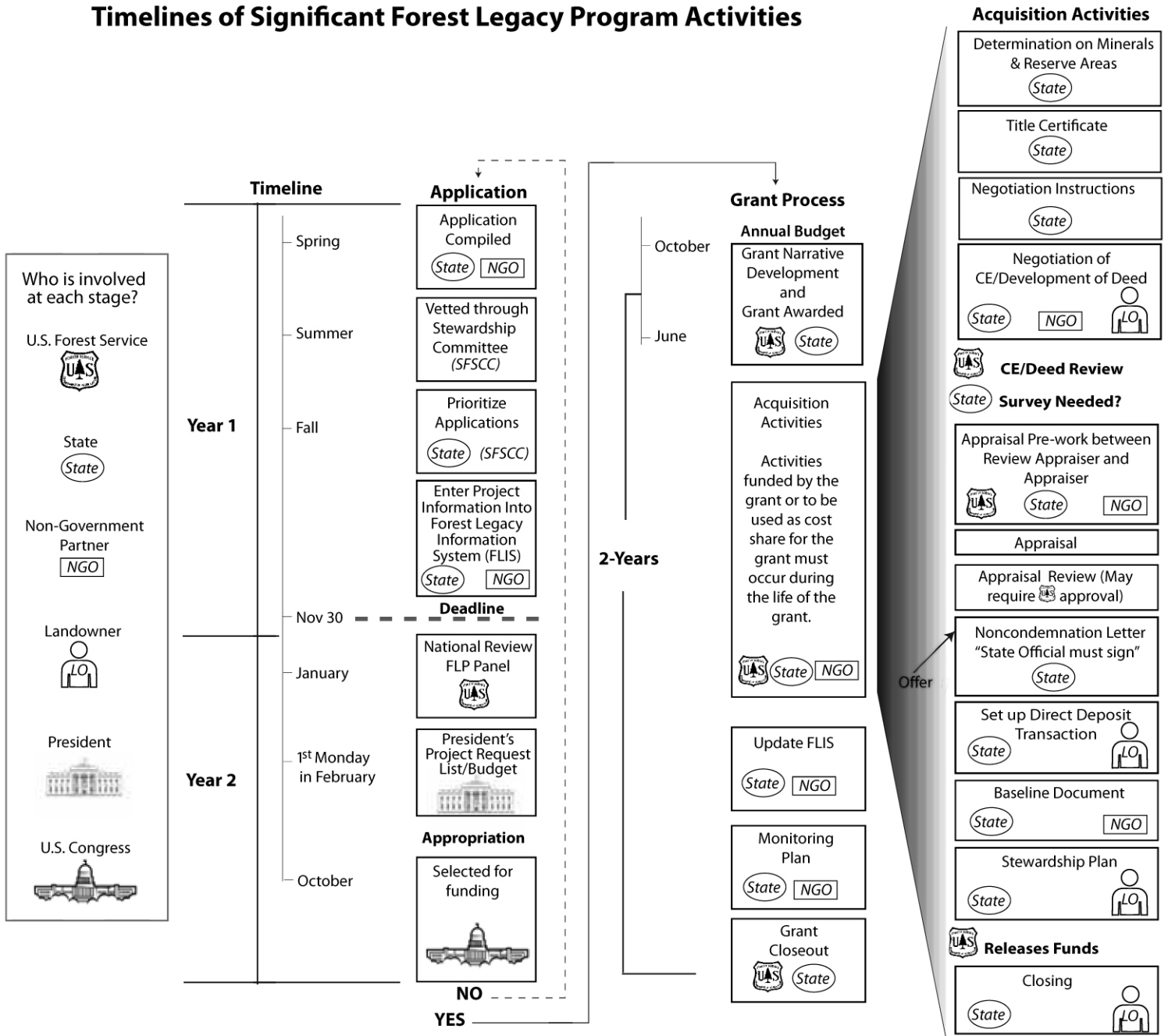
Appendix A: Forest Legacy Program Project Scoring Guidance *(continued)*

3. Cost Share commitment has been obtained from a specified source.
4. A signed option or purchase and sales agreement is held by the state or at the request of the state. **OR** At the request of the State, conservation easement or fee title is held by a third party.
5. Title search is completed.
6. Minerals determination is completed.
7. Stewardship plan or multiresource management plan is completed.

Appendix B: Timeline of FLP Activities



Timelines of Significant Forest Legacy Program Activities





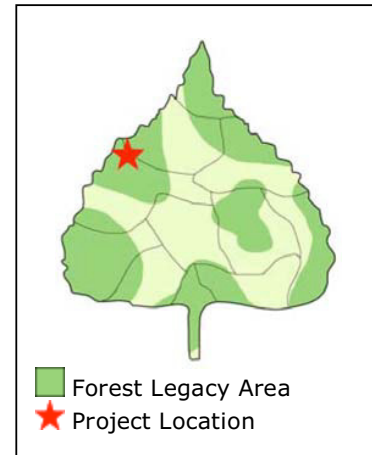
Forest Legacy Project



Mt. Sample Project, Ourtown, State

FUNDING HISTORY

Forest Legacy Program FY 2009 Funding	\$450,000
FY 2009 Non-Federal Cost Share	\$150,000
FY 2009 Project Costs	\$600,000
FY 2009 Project Acres	394
Forest Legacy Funding to Date	\$1,125,000
Total Project Costs	\$2,100,000
Total Project Acres	1,414



FUNDING DETAILS

Tract Name	Size (acres)	Tract Cost	FLP Funding	Non-Fed Cost Share	Status
Phase 1	1,020	\$1,500,000	\$1,125,000	\$375,000	Funded 2008
Phase 2	394	\$600,000	\$450,000	\$150,000	Proposed 2009
Total	1,414	\$2,100,000	\$1,575,000	\$525,000	

General Description – Mt. Sample, located in the spectacular Remote Mountains, contains the most dramatic mountain landscape found in the State. The Project seeks to purchase a Conservation Easement on approximately 1,414 acres of scenic forest land in Ourtown. The parcel abuts over 5,000 acres of State conservation lands as well as the recently completed 500-acre Big Tree project. The proposed acquisition begins at the Wet River and rises up the slopes of Overlook Mtn. Located in a premier hiking area, the parcel includes 3 miles of the Lost Wood Trail, a 20-mile backcountry hiking trail. Protection of this land will also enhance the nationally significant Remote Trail, which is close by. An exemplary high-elevation natural community is found on Mt. Sample. Located about 5 miles from the Slippery Ice Ski Area, the parcel lies directly in the path of second home development spreading through the area.

PROJECT FEATURES

Important:

- A. FORESTRY-ECONOMIC: The Phase 2 tract has traditionally been managed as commercial forest land. Timber on the tract provides an important resource for the State's forest products industry, which remains a key contributor to the regional economy.

Appendix C: Sample FLIS Project Brief *(continued)*

- B. FORESTRY-ECONOMIC: At least 70 percent of the tract is operable as commercial forest land, with the remaining 30 percent excluded due largely to steep slopes and high elevations.
- C. FORESTRY-ECONOMIC: The Ourtown Chamber of Commerce estimates that tourism employs the largest number of workers in the area, and that outdoor attractions are the driver of the tourism industry.
- D. WATER-RIPARIAN: The Phase 2 tract drains into the Bear River, a mountain waterway valued by outdoor enthusiasts for its pristine waters, angling opportunities, and swimming holes.
- E. WATER-RIPARIAN: The Bear River is designated by the State Legislature as Class AA, the top classification reserved for "waters which are outstanding natural resources and should be preserved due to their ecological, scenic, or recreational importance."
- F. HABITAT: According to the State Natural Areas Program (SNAP), an exemplary Summit community is located on the Phase 1 tract of the project.
- G. HABITAT: The Phase 1 tract contains a complex of rare plant populations and exemplary natural communities that extends along the ridgeline off the property to the south.
- H. ACCESS-RECREATION: The parcel includes exceptional recreation opportunities for hiking and camping. The area draws outdoor enthusiasts from across the country. Approximately 75,000 people visit nearby Green State Forest annually.
- I. ACCESS-RECREATION: Remote Trails Mountain Club research has shown that the section of the Remote Trail through the area attracts 300 percent more visitors today than it did just 30 years ago.
- J. SCENIC: The property is highly visible from Route 417, a State highway that has been designated a scenic byway by the State.
- K. CULTURAL RESOURCES: Mt. Sample lands played a major role in the iron industry of the 19th century. The State AON states that "Preservation of historic resources is compatible with the preservation and multiple uses of the forest land base."
- M. UNIQUE SOILS: The calciferous soils of Grana County support important timber species such as black cherry, sugar maple, and northern red oak, which are important to the local forest economy. Forest products from these lands support local mills.
- N. FOREST CONNECTIVITY: Provides contiguous acreage to 7,000 acres of unfragmented forest for black bear, deer, bobcat, fisher, and coyote.
- O. WILDLIFE HABITAT: Also provides habitat for the northern harrier, cooper's hawk, wood turtle, Jefferson's salamander, eastern ribbonsnake, American kestrel, and barren strawberry, all of which are on the State's list of threatened species.



A forest management road used for recreation by the public on the project.



A view from the Interstate across Long Lake to the forests of Phase 2.

Threatened:

- A. The parcel is located less than 5 miles away from the Slippery Ice ski area.
- B. Ourtown, the nearest town, has approved over 200 building lots in the last 2 years, and the number of homes built each year has doubled in the last 3 years.



Appendix C: Sample FLIS Project Brief *(continued)*

- C. A 100-lot Subdivision was developed a few years ago immediately to the east of the Phase 1 tract and is nearly sold out.
- D. A development company just subdivided over 1,000 acres across Route 417 from the Phase 2 parcel into 60+ second home lots which are now being marketed.
- E. Over the past few years, there have been an increasing number of large residences built on mountain slopes facing Route 417 that are beginning to change the scenic character of this popular tourist road through the area.
- F. There is little doubt that the Phase 2 tract, with its spectacular views, adjacent conservation lands, and close proximity to Slippery Ice Ski Area, will be purchased by a developer if action is not taken to protect it from development.
- G. The current owner has received purchase offers from buyers who plan to subdivide and develop the property.

Strategic:

- A. The western boundary of the Phase 1 tract abuts the Big Rock State Forest.
- B. When acquired, the Phase 2 tract will create a contiguous conservation ownership in the Remote Mountains of over 6,000 acres.
- C. The parcel includes over 4 miles of the recently constructed Falls Loop Trail. If this parcel is not protected, the trail could be discontinued. As an alternative multi-day hiking loop, the Larch Trail will take pressure off of the heavily used Appalachian Trail.
- D. The Remote Mountain Range was identified as a "priority conservation area" by the Friends of the Mountains in its seminal State of the Forest Report that used GIS analysis to identify the top 10 core areas for protection.
- E. The Phase 1 parcel is a key acquisition for the Remote Initiative, an effort by regional and national conservation groups to link together existing public lands in the region.
- F. The Remote Initiative is a multistate effort seeking to link State conservation lands with Federal holdings.

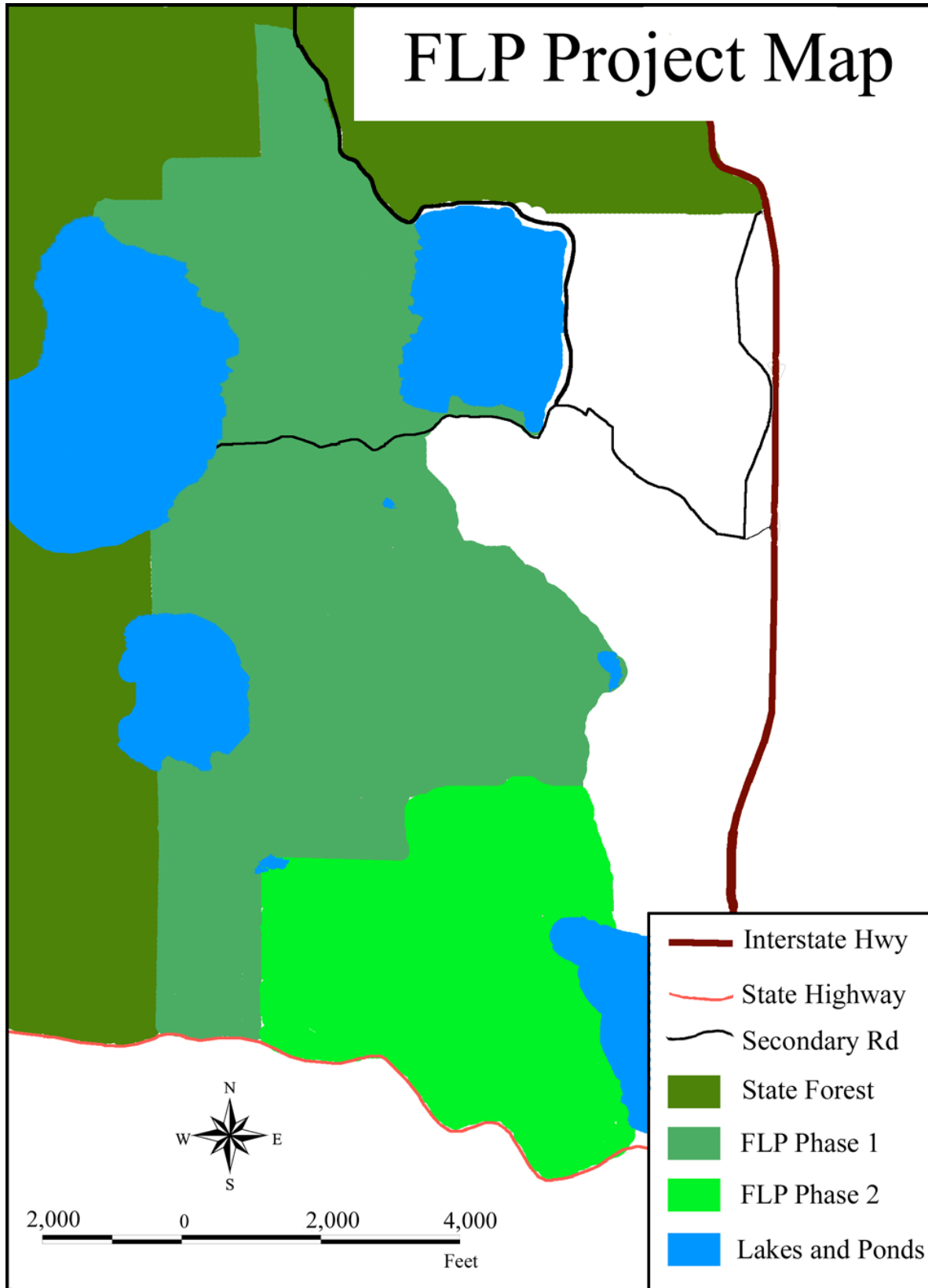
Ready:

- A. COST-SHARE: State bond funds have been set aside for the cost share to this project.
- B. PARTNERSHIP: Nine conservation, education, recreation, scientific, and economic development organizations have signed on as supporting partners for the project.
- C. PURCHASE AGREEMENT: The State has entered into a purchase option agreement with the current landowner.
- D. APPRAISAL: A preliminary appraisal of the parcel and conservation easement have been completed.
- E. EASEMENT: Generally conservation easement terms have been agreed to.
- F. TITLE: State has completed a title search certified by the Attorney General; no issues were identified.
- G. MANAGEMENT PLAN: A multiresource management plan under which the land is managed has been submitted to the State but has not been approved.

For more information on the Forest Legacy Program, contact:

<i>National Forest Legacy Program Coordinator contact info</i>	<i>Area or Region Forest Legacy Program Coordinator contact info</i>	<i>State Forest Legacy Program Coordinator contact info</i>
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Appendix D: NA Forest Legacy Program Conservation Easement Language Checklist



Forest
Service

Northeastern Area
State and Private
Forestry

11 Campus Blvd., Ste. 200
Newtown Square, PA 19073

NA Forest Legacy Program Conservation Easement Language Checklist

In general, a conservation easement developed for the Forest Legacy Program (FLP) has two purposes: to protect forest values and, more specifically, to address those priorities as identified in a State's Assessment of Need. Pursuant to the 2008 Farm Bill, the Assessment of Need will be replaced by the Statewide Assessment and Resource Strategy. For land to enter the program, the conservation easement must achieve these purposes and must not have reserved rights that could negatively impact the forest values being protected.

Please ensure that the items on this checklist are addressed in the Conservation Easement/Conservation Restriction before submission.

- **Purpose provision.** The purpose clause indicates that the acquisition of the easement supports FLP goals. The June 30, 2003, Forest Legacy Program Guidelines discuss the purpose and authority clauses. Examples of these are provided in Appendix 1 on page 40 and 41 of the guidelines. These items are also referenced in the grant agreement 4.c.1. and 4.c.9.
- **Reversion provision.** (Language Provided in Guidelines)
The reversion clause ensures that the Federal investment will not be lost. This requirement is in the grant agreement 4.c.9; this is also mentioned in the Guidelines Part 2.II (page 18, 24-25). The required reversion language can be found in Appendix 1 of the Guidelines (page 41).
- **Assignment language** limiting transfer of interest only to another governmental entity. This requirement is in the grant agreement 4.c.3; this is also mentioned in the guidelines Part 2.II (page 24). Examples of this language can be found in Appendix I of the Guidelines (page 41). This guidance seeks to address a requirement laid out in the enacting legislation; the pertinent section is h.2.
- **Prohibition of subdivision.** The law, through the grant agreement (4.c.5), requires that the conservation easement generally prohibits subdivision. If the project allows for subdivision, how this will occur should be clearly laid out in the easement. The easement should be clear that the easement follow the subdivided parcels and will be rerecorded. If there is to be a division of a reserved right, be clear how it will be divided.
- **Prohibition of industrial, commercial** (other than traditional forest uses as defined by State AON), and **residential** use of the property. This prohibition effectively limits possible structures. Easement language should include explicit prohibition of structures (Grant Narrative 4.c.7.).
- **Prohibition of surface disturbance such as mining or drilling.** Limited excavation of sand and gravel for onsite use for roads and landings and otherwise support allowable activities. Such activities should be addressed in the Forest Management Plan. Limited oil and gas extraction that does not impact the purposes of the FLP may be allowable. (Grant Narrative 4.c.7) (Non-compatible uses defined on page 6 of Guidelines)
- **Duties of owners provision.** This requires that the landowner manage the property in a manner that is consistent with the purposes for which the land entered the FLP and that the landowner shall not convert the property to other uses. (see references in paragraph below)
- **Requirement for development of and adherence to a Forest Stewardship Plan or Multi-resource Management Plan.** This provision should lay out requirements for the plan. This can be done by description or reference. There must be language that ensures that the plan will be approved by the State Forester or designee. The plan must be completed and approved before closing. Language should ensure that activities undertaken on the property will be in accordance with the Plan. The Forest Management Plan is discussed in the Program



Appendix D: NA Forest Legacy Program Conservation Easement Language Checklist

(continued)



Guidelines Part I. Section XVII. Landowner Participation. Grant Narrative 4.c.6 and 4.c.8. The requirements for plans and adherence to plans have their roots in the enacting legislation (d. Implementation. (1) and i. Duties of Owners)

- **Language ensures that compatible nonforest use** occupies not more than 25 percent (Less if State AON calls for it) (Grant Narrative 4.c.6). If there is greater than 25 percent, ensure that the approved Forest Stewardship Plan calls for reforestation within 10 years. (Guidelines P. 6)

Other items to consider in drafting the conservation easement:

Limit additional easements. Any subsequent easement shall be subject to approval by Grantee. Grantee shall ensure that additional easements do not result in an erosion of protected conservation values or the purposes of the FLP. Such approval may be conditional, denied, or granted at the sole discretion of the Grantee. An example of an additional noncompliant easement would be a strict preservation easement that allows no management.

Prohibit using property as a set-aside to allow for greater development elsewhere. If such an action is allowed there may be no net conservation gain by the protection of the property.

Structures. As noted previously, property entered into the FLP cannot be used for commercial, industrial, or residential purposes. In short, if a structure is residential, will support commercial enterprises other than traditional forest activities, or does not directly contribute to forest management or traditional forest uses, it should not be in the easement and there should be no reserved right that allows such structures. The possible exceptions for structures include non-residential recreational structures, sugar shacks, and possibly small sheds that are directly and primarily related to forest management activities.

Definitions

“Enacting legislation” is The Cooperative Forestry Assistance Act of 1978 Sec. 7. [16 U.S.C. 2103c] Forest Legacy Program.

“Guidelines” is the June 30, 2003, Forest Legacy Program Implementation Guidelines.

“Grant Narrative” is the agreement between the U.S. Forest Service and a State. This agreement lays out specific requirements for program delivery. Each FLP project has an individual grant narrative.



Appendix E: Forest Stewardship Program National Standards and Guidelines



Forest Stewardship Program National Standards and Guidelines Revised February 2009

Forest Stewardship Management Plan Standards

A Forest Stewardship Management Plan is a plan that addresses individual landowner objectives while adhering to National and State Forest Stewardship Management Plan guidelines. State guidelines must consider the NASF *Principles and Guides for a Well-Managed Forest*. A general outline for plans, actions and progress, as relating to these principles, can be found in NASF's *A Stewardship Handbook*.

Plan Criteria

All Forest Stewardship Management Plans must:

- Be prepared or verified as meeting the minimum standards of a Forest Stewardship Management Plan by a professional resource manager, and be approved by the State Forester or a representative of the State Forester.
- Document authorship.
- Clearly state landowner objectives.
- Describe current forest condition or condition class.
- Describe desired forest condition or condition class.
- Include practices and activities aimed at reaching the desired forest condition or condition class.
- Document a feasible strategy and timeline for practice and activity implementation.
- Describe any suggested monitoring activities to be done by the forester or landowner.
- Be developed for a specified management period that adequately allows for progress with the landowner's long term stewardship objectives.
- Be reviewed and renewed, revised or rewritten at the end of the specified management period or sooner as needed, to be considered current.

Landowners must be involved in plan development by setting clear objectives, timetables and targets, and clearly understanding the plan's details and implications.

Resource Elements

The plan preparer will consider, describe and evaluate resource elements present and their importance to the ownership. Resource elements to be considered include:

- Soil and Water
- Biological diversity
- Range
- Aesthetic quality
- Recreation
- Timber
- Fish and wildlife
- Threatened and endangered species
- Forest health
- Archeological, cultural and historic sites
- Wetlands
- Fire
- Carbon cycle

Management recommendations and alternative strategies, consistent with landowner objectives, will be provided to protect or enhance all resource elements that are present. Prescriptions or treatments must be stand or site specific. An ownership map drawn to scale, or photo, that accurately depicts vegetation cover types, hydrology and other significant forest related resources with a legend, is required.





The professional resource manager will discuss the Forest Stewardship Management Plan with the landowner, following completion, and periodically, to assure understanding and encourage plan implementation.

Additional Information

The landowner's understanding may be improved by including additional information appendices. Appendices might include:

- Descriptions of assistance available and incentive programs.
- Educational materials.
- A glossary of terms.
- An explanation of applicable Federal, State and/or county regulatory programs, especially as they apply to:
 - Archeological, cultural and historical sites
 - Wetlands
 - Threatened and Endangered Species

Forest Stewardship Plans and USDA Conservation Programs

The 2008 Farm Bill explicitly expands eligibility for many USDA conservation programs to include non-industrial private forest landowners. The Farm Bill also recognizes that Forest Stewardship Management Plans (FSMP) and other forest management plans may address conservation program planning requirements for certain programs, where forest land is concerned, thus eliminating the need for a separate conservation plan.

The Forest Service will work with State Foresters and USDA agencies to facilitate participation in USDA conservation programs by providing relevant training and information to foresters and landowners. All who are providing technical and planning assistance should make landowners aware of programs for which they may be eligible. Plan preparers can also help to prepare landowners for participation in these programs during and after the planning process. State Foresters are encouraged to consult with their State Conservationist to mutually agree to any additional information needed by NRCS for landowners to participate in the Environmental Quality Incentives Program (EQIP) and other USDA conservation programs. Through these programs, eligible landowners may be able to receive assistance to implement their FSMP.