



# Landowner's Guide to the Forest Legacy Program on the Rensselaer Plateau



## **What's the purpose of the Forest Legacy Program?**

The Forest Legacy Program is a project of the U.S. Forest Service. It was established in 1990 to promote the long-term integrity of woodlands. The Forest Legacy Program identifies and protects environmentally important woodlands that are threatened by conversion to non-forest uses and provides the opportunity for continuation of traditional forest uses, such as woodlot management activities and outdoor recreation.

## **How is land protected through the Forest Legacy Program?**

Forest Legacy conserves land in two ways: outright acquisition of land, or acquisition of the development rights of land through a conservation easement. A conservation easement permanently removes certain rights from the land – such as building, dumping, paving and mining – but keeps the land in private ownership. Landowners continue to use the land for outdoor activities, such as recreation, hunting, and forestry. The conservation easement is permanent, recorded with the county records, and stays with the land when it is transferred or sold to another landowner. Once the transaction is complete the land under the easement may never be developed.

The Rensselaer Plateau Alliance and our partners prefer the use of conservation easements and not for fee acquisition.

Land or conservation easements purchased with Forest Legacy funding must be held by the state. Donated land or conservation easements can be held by a land trust.

The Forest Legacy Program is highly competitive at both the state and national levels. Projects that best meet state and national goals for forest conservation are more likely to get funded in the President's budget. Because of this, your land needs to meet certain criteria to make a strong application.

## **Does my land qualify?**

The Forest Legacy program can be used to conserve land in a designated forest legacy area that is at least 75% woodland. Up to 25% of the area conserved by Forest Legacy can be "non-forested," which would include farmland, pasture, grassland, open water, and wetlands. The Rensselaer Plateau was designated a Forest Legacy area by the U.S. Forest Service in 2010.

Active gravel pits, wind turbine sites, and developed areas such as buildings and parking lots cannot be conserved through the Forest Legacy Program.

Parcels that contribute the most to a strong application will be chosen first. Factors that contribute to a strong application include:

- Lands close to already conserved lands or multiple landowners in the same area. (Most successful eastern Forest Legacy projects represent a collaborative effort involving multiple landowners)

- Parcels that include some public recreation rights
- High habitat values (rare species, Important Bird Area, etc.)
- Other Natural values (large forest blocks, high quality water sources, prime wetlands, riparian corridors.)
- Land conversion risk, (aging land owner, property is up for sale, future property by heir is uncertain, etc.)
- Scenic, historic, cultural

Parcels that are not included in this year's application can be considered in subsequent years. The not-for-profit partners (see below) will continue to work with interested landowners to include them in future grants or to find alternative funding.

### **How is a landowner compensated for conserving land through Forest Legacy?**

In the forest legacy program, landowners are paid for the value of their development rights. The value of a conservation easement is the difference between the appraised value of the land with the current development potential and the appraised value of the land with the development potential removed. This is likely between 50% and 75% of the full appraised value of the land but can vary depending upon a variety of factors. The compensation value is based on an appraisal by a qualified independent appraiser.

Forest Legacy can also pay up to 75% of the "due diligence" costs of conserving land. Due diligence costs include the costs of an appraisal, a review appraisal, title review, baseline documentation, title insurance, and forest stewardship plans.

### **What is a Bargain Sale and why do some landowners donate their land?**

We ask all participating landowners to consider making a bargain sale. A bargain sale is when the landowner agrees to receive less compensation than that determined by the appraisals. The difference in value is treated as a donation.

Landowners who can donate all or part of the value of their land or a conservation easement contribute to the overall success of a Forest Legacy project. Because a Forest Legacy grant can only be used to cover 75% of the project cost, the donated value allows more Forest Legacy funds to be used to cover due diligence costs or land acquisition costs, stretch the dollars farther and contribute to the strength of the grant.

When landowners donate the entire value of their land or conservation easement, they may have more control and greater flexibility with the language of the conservation easement. Donations also qualify as charitable contributions and may result in substantial tax benefits. Land trusts can hold donated land or conservation easements.

### **What must a landowner do to be part of a Forest Legacy grant application?**

A landowner must sign a "Commitment Letter," which states that the landowner is participating in the application under their own free will, and intends to conserve their land with Forest Legacy if funding becomes available. If a landowner is choosing a conservation easement, a Forest Stewardship Plan will be required before closing (see below).

Prior to the application, an Opinion of Value is generally obtained for each property and landowners sign commitment letters. When conservation easements are involved, the landowner, NFP, and entity holding the conservation easement review the Forest Legacy conservation easement template together. The holder of the conservation easement must also sign a commitment letter.

**What is the role of the not-for-profit organization or land trust?**

The not-for-profit organization (NFP) or land trust works with interested landowners to help them understand the options available to them, the pros and cons of participation and the potential for their land to be included in a Forest Legacy grant application. In the case of the Rensselaer Plateau, the Agricultural Stewardship Association, the New York Forest Owners Association, the Rensselaer Land Trust, and the Rensselaer Plateau Alliance will be partnering to submit a single Forest Legacy application to the NYSDEC. The NYSDEC will determine which projects are submitted to the U.S. Forest Service for national review. The NFP can also work to find alternative funding for landowners whose land is not a good fit for the Forest Legacy Program.

**How long might this process take?**

The application process can take between 3 and 5 years, depending on Congressional action and how much time it takes for the NFP and landowner to complete the tasks necessary to close the project. If the project is not selected for funding, it can be resubmitted in following years, which restarts the timeframe. An application may involve 10 to 20 landowners. It will take time for the NFP and DEC to work with each landowner.

Forest Legacy applications are submitted annually in September.

*Year 1:* In September, a project application is submitted to the NYSDEC Forest Legacy Committee. The Committee reviews, ranks, and submits up to 3 projects to the U.S. Forest Service for national review.

*Year 2:* Between October of the year the application is submitted (Year 1) and January of the following year (Year 2), the U.S. Forest Service reviews and ranks projects. In February, the President releases his proposed budget that includes a list of projects expected to be funded by the Forest Legacy Program. The proposed budget must be approved by Congress before grant funds are awarded by the Forest Legacy Program. This typically happens between January and June of Year 2 but has been known to happen in June of the following year (Year 3).

*Year 2-5:* Once grant money is sent to the states (in Year 2 or 3), projects have two years to close. This final stage involves review of the conservation easement, title exam, survey work (if necessary), baseline documentation report, preparation of a Forest Stewardship Plan, and a yellow book appraisal followed by a review appraisal.

We will inform applicant landowners of the status of the project as new information becomes available.

**What is a Forest Stewardship Plan?**

A Forest Stewardship Plan is required for land conserved through Forest Legacy. Forest Stewardship Plans start with landowner objectives for their woodlands, which may include managing timber resources, improving wildlife habitat, or increasing recreational opportunities on the land. The plan then identifies actions to meet those objectives. The plan must be prepared by a licensed professional forester, and NYSDEC can prepare them for free on a first come first served basis

**What is baseline documentation?**

When the landowner is conserving land through a conservation easement, baseline documentation describes the land and its attributes on the day it becomes restricted and is enrolled in the Forest Legacy Program. On an annual basis, the holder of the conservation easement uses the Baseline Report to monitor the property to ensure that the conservation values are still protected.

**How is a Conservation Easement monitored?**

Monitoring of Forest Legacy conservation easements occurs annually. Monitoring consists of visual inspection of the property and documentation in a written report to explain the condition of the property at the time of inspection. The holder of the easement monitors and manages those interests in perpetuity.

**Is a survey required?**

When a conservation easement is placed on only a portion of a parcel of land, a survey is typically required. The survey would document where the conservation easement begins and ends on the land. For example, a survey would be done around an exclusion area for a house on the property.

## Landowner Stories



### Phil Hager, Ashburnham, donation

Growing up in Nova Scotia, Phil Hager developed a love for the land at an early age. As a young man, he worked with a conservation organization to protect his family's land there. Living in Ashburnham years later, he came to love his property and hoped to once again protect his land. After speaking with fellow community members about his interests and his land, Phil contacted his local land trust. After discussing available options, Phil chose to be included in a local Forest Legacy Program application. With the help of land conservation professionals, Phil realized that donating a conservation easement on seventy acres of his land made the most sense for him and his family; he would continue to own and manage the land while permanently protecting the land from development. Phil was also able to benefit from the tax incentives associated with donating land for conservation. Phil continues to enjoy the land with his family, a few horses, and several well-loved dogs. Phil maintains a vegetable garden on the property, and has a keen interest in responsibly harvesting timber.

### Verne and Caroline Fellows, Erving, Bargain Sale



Lifelong residents of Erving, Verne and Caroline Fellows have spent over fifty years on their family farm. Land conservation had been on their mind for a long time, and Verne and Caroline spent time learning about their options and speaking with their grown children about the future of the property. Although the farm had been in the family for over a century, running the farm wasn't a viable option for their children. They decided to call their local land trust. As their property included a great deal of woodlands in addition to their modest farm, the Forest Legacy Program made sense. Working together, over 132 acres were protected through a conservation easement. The Fellows continue to own and manage the land, but the area of the land under the conservation easement can never be developed. Although the Fellows entertained the idea of a donation, a variety of factors came into play that made a bargain sale the best option for them. Now, Verne and Caroline will continue to enjoy their land and the tax benefits associated with land conservation for years to come. Perhaps most importantly, they know that the future of their land is secure.