DEPARTMENT OF FORESTRY AND FIRE PROTECTION
P.O. Box 944246
SACRAMENTO, CA 94244-2460
Jeff Calvert, jeff.calvert@fire.ca.gov (916) 653-8286
Website: www.fire.ca.gov

The purpose of the Forest Legacy Program (FLP) is to protect environmentally important forestland threatened with conversion to non-forest uses, such as subdivision for residential or commercial development.

To help maintain the integrity and traditional uses of private forestlands, the FLP promotes the use of permanent conservation easements. These easements provide a new approach, a new tool, with which the federal government, in cooperation with state and local agencies, private organizations, and individuals can preserve the rich heritage of private forests.

The program is entirely voluntary. Landowners who wish to participate may sell or transfer particular rights, such as the right to develop the property or to allow public access, while retaining ownership of the property and the right to use it in any way consistent with the terms of the easement. The agency or organization holding the easement is responsible for managing the rights it acquires and for monitoring compliance by the landowner. Forest management activities, including timber harvesting, hunting, fishing and hiking are encouraged provided they are consistent with the program's purpose.

SEE PAGE 3 FOR FUNDING INFORMATION

The "Legacy" program as administered by CAL FIRE is comprised of two separate but complimentary programs: the Federal Forest Legacy Program and the California Forest Legacy Program. Below is a brief overview of the programs.

THE FEDERAL PROGRAM

The federal Forest Legacy (16 U.S.C. Sec. 2103c) program was part of the 1990 Federal Farm Bill. It recognized that private forestland owners were facing increased pressure due to greater population densities and users demands, to convert their forestlands to other uses, such as housing subdivisions, rural lots and vineyards. Furthermore, forestland provides a wide variety of products and services including fish and wildlife habitat, aesthetic qualities, timber and recreation opportunities. Good stewardship of privately held forest lands requires a long-term commitment that can be fostered through a partnership of local, state and Federal government efforts.

The objective of the Federal Forest Legacy Program is to identify and protect environmentally important forestlands that are threatened by present or future conversion to non-forest uses. Priority is to be given to lands that can be effectively protected and managed and that have important scenic, recreational, timber, riparian, fish and wildlife, threatened and endangered species, and other cultural and environmental values.

Project costs covered by the Federal Legacy grants include interests in lands (including actual purchase price), appraisals, land surveys, closing costs, establishing baseline information, title work, purchase of title insurance, conservation easement drafting and other real estate transaction expenses. Also included are funds expended to facilitate donations of land or interests in lands to a qualified and willing done for Program

purposes. For outright donations of a conservation easement or land, Federal funds may not be used to pay for an appraisal since the Forest Service does not need a determination of fair market value. **Federal funds are limited to 75% of the value of the conservation easement with the remaining portion contributed by non-federal matching funds. Landowner contributions may be part of the match.**

THE STATE PROGRAM

The Forest Legacy Program Act in 2000 and 2007 allowed the Department of Forestry and Fire Protection to accept lands and interests in lands and to encourage the long-term conservation of productive forest lands by providing an incentive to owners of private forest lands to prevent future conversions of forest land and forest resources through the use of conservation easements. Eligible properties may be "working forests," where forestland is managed for the production of forest products and traditional forest uses are maintained. These forest uses will include both commodity outputs and non-commodity values. The purpose of these easements is to maintain these forests intact to provide such traditional forest benefits as timber production, wildlife habitat, watershed protection and/or open space. These forests remain in private ownership, except for the restrictions on development or other uses conveyed by the conservation easement to the agency selected by the landowner

In both programs the involvement by private landowners is voluntary. In 2000, the Governor signed into law SB1832, the California Forest Legacy Act. This law allows the California Department of Forestry and Fire Protection to acquire conservation easements, and permit Federal, State agencies, local governments and nonprofit land trust organizations to hold conservation easements acquired pursuant to the California Forest Legacy Program. Money to fund the Program shall be obtained from gifts, donations, federal grants and loans, other appropriate funding sources. In 2011, the Board of Forestry provided further direction with the adoption of Title 14, California Code of Regulation (CCR), §1570-1576 which defines rules and procedures for implementation of the FLP.

The agency or organization holding the easement is responsible for monitoring compliance by the landowner. CAL FIRE and the easement holders are responsible for working cooperatively with participating landowners to design their easements. It is expected that landowners will retain all responsibility for managing their forest resources consistent with the terms they establish in their conservation easements. Landowners participating in the programs will be required to prepare a multi-resource management plan that is the equivalent, or more extensive than, a Forest Stewardship Plan (as per US Forest Service guidelines). This plan must be acceptable to the state and approved prior to signing the acquisition of the easement.

Neither the Federal Forest Legacy Program nor the California Forestry Legacy Program Act of 2000 and 2007 allows project funds to be used to cover monitoring costs. Endowments are generally provided for by the landowner at the close of escrow sufficient to cover the costs over time.

Sincerely,

J. Brook Darley, Forest Legacy Coordinator

CONVEYANCE AND FUNDING OPTIONS

There a number of combinations used to convey lands or interests in lands to the FLP:

Conveyances

- **Full Donation**-A landowner gives the interest entirely to the FLP

- **Facilitated Donation**-The FLP pays for the due diligence incurred by the landowner in making the donation. This could include cost of developing the easement, cost of developing the management plan, legal costs, surveys, title work, etc.

- **Purchase** with any combination of federal, state and private funding, including partial donation by the landowner.

Funding sources

For 2016 there are two ways to apply for funding from FLP

(1) A landowner can apply for Federal and State FLP Funding -Greenhouse Gas Reduction Fund (GGRF), with the Concept Proposals due this fall. The actual deadline date has yet to be determined.

(2) A landowner can apply for only State funding (GGRF) with the Concept Proposals, however the deadline has not yet been established. Please contact the state FLP Coordinator for more details.

Federal: All FLP applications will be considered for up to 75% federal funding.

State: Greenhouse Gas Reduction Funds (GGRF) administered by CAL FIRE. Landowners wishing to apply for GGRF must submit a Concept Proposal included on page 7of the Procedure Guide. For an electronic form see the website or contact the FLP Coordinator

Other State Sources: There are a variety of State funding sources that may also be available including the Forest Conservation Program administered by the Wildlife Conservation Board (WCB), the State Coastal Conservancy (SCC), and others. With the exception of CAL FIRE's GGRF funding, all other sources have their own application process.

Please discuss the various options with your Land Trust Representative or the State FLP coordinator.

IF APPLYING FOR FLP FUNDING FOR A CONSERVATION EASMENT, A DRAFT OF THE CONSERVATION EASEMENT MUST BE SUBMITTED WITH THE APPLICATION . Contact the State FLP coordinator for more details.

A portion of the California Forest Legacy Program Act is below; a copy of the act(s) and applicable rules and regulations is available upon request and on the CAL FIRE FLP website.

The Legislature hereby finds and declares all of the following:

(a) Privately owned forest lands comprise nearly half of California's 32.6 million acres of forest land, and include some of the state's most important and productive forest resources, including timber, fish and wildlife habitat, and watersheds. It is in the interest of the state to provide a favorable climate for long-term investment in forest resources...

(f) Conservation easements have been successfully used around the United States to achieve voluntary protection of open space, historical sites, and natural and aquatic resources.

(g) Conservation easements enable landowners to receive financial benefits for voluntarily restricting specific development rights and land that, in turn, contributes to the conservation of natural resources for future generations. Financial benefits to landowners can be realized though a sale or donation, or a combination of both a sale or donation, or a conservation easement.

(h) A program to encourage and make possible the long-term conservation of forest lands and all associated natural resources is a necessary part of the state's land protection policies and programs, and it is in the public interest to expend money for that purpose.

(i) Funding is a necessary component of this program.

(j) The federal Forest Legacy Program (16 U.S.C. Sec. 2103c) conserves forestland threatened with conversion and development by providing federal matching funds for the acquisition of conservation easements or other interests in land from willing landowners, subject to state guidelines.

12211. It is the intent of the Legislature, in enacting this division and the California Forest Legacy Program, to protect forest lands and aquatic resources in California by focusing on all of the following priorities:

(a) Encouraging the long-term conservation of productive forest lands by providing an incentive to owners of private forest lands to prevent future conversions of forest land and forest resources.

(b) Protection of wildlife habitat, rare plants, and biodiversity.

(c) Maintenance of habitat connectivity and related values needed to ensure the viability of wildlife populations across landscapes and regions.

(d) Protection of riparian habitats, oak woodlands, ecological old growth forests, and other key forest types and seral stages that are poorly represented across landscapes and regions, and that play a key role in supporting biodiversity.

(e) Protection of water quality, fisheries, and water supplies.

(f) Maintenance and restoration of natural ecosystem functions.

(g) Encouraging improvements to enhance long-term sustainable forest uses while providing forest areas with increased protection against other land uses that conflict with forest uses.

IMPORTANT INFORMATION

You are advised to obtain a copy of California's Assessment of Need and the Amendment to the Assessment of Need. Both are available on the CAL FIRE's Internet website or through CAL FIRE's Forest Legacy Coordinator

There are numerous tax advantages and implications regarding Conservation Easements. It is suggested that anyone contemplating granting a conservation easement get advice from a professional with expertise in taxes, estate planning and/or real estate transactions.

Suggested Reading:

Forest Legacy Program Guidelines; USDA, Forest Service; 2006 Available through the Forest Legacy Program Coordinator listed above

The Conservation Easement Handbook-Managing Land Conservation and Historic Easement Programs; J. Diehl and T. Barret; 1988; Land Trust Alliance, Washington, D.C.

Preserving Family Lands-Essential Tax Strategies for the Landowner; Stephen Small, Esq.; 1992 Landowner Planning Center, Boston, MS

Helpful Contacts:

US Forest Legacy website http://www.na.fs.fed.us/legacy/

California's Forest Legacy Program website http://www.fire.ca.gov/ResourceManagement/ForestLegacyProgram.asp

California Department of Fish and Wildlife
Natural Diversity Database
1807 13th Street, Suite 202
Sacramento, CA 95814
(916) 322-2493
http://www.dfg.ca.gov/whdab/html/cnddb.html

Land Trust Alliance
1331 H St. NW Suite 400
Washington, DC 20005
(202) 638-4725
website *: http://www.lta.org/

**This website provides important general information about Land Trusts and a list of many of the Land Trusts by state.*