

Enclosure A

ACTION RESPONSE
House Appropriations Committee Surveys and Investigations Staff
Investigation Report:
FOREST LEGACY PROGRAM

Program Structure and Funding		
Issue Raised in the Report	Location in Report	Forest Service Action Response
1. FLP Implementation Guidelines: <ul style="list-style-type: none">• Need to be completed• Need to add revisions	Pg. 5	<ul style="list-style-type: none">• The Implementation Guidelines revision will be completed by June 30, 2003. A Notice of Availability will be published in the Federal Register shortly thereafter.• The Guidelines will contain revisions that address elements specifically referred to in the report: Appraiser qualifications and appraisal review policy; conservation easement monitoring; cost share, and definitions to assist grant guidance.
2. Project Selection Process: <ul style="list-style-type: none">• National panel did not produce national ranking• Equity among states seemed to be primary criterion• Need national criteria that can distinguish a national ranking	Pg. 6	<ul style="list-style-type: none">• The FS and State partners conducted a new process for FY 2002/2003 and refined it for FY 2004 project selection. The FY 2004 process:<ol style="list-style-type: none">1. Utilizes a clear timeline with milestones for the Forest Service, States and other partners,2. Defines three criteria and additional decision-making factors for project selection and ranking consistent with the authorizing legislation, good business practices and State Assessment of Needs (AON),3. Operates as a national competition with a 3-step process that is based on project priorities set by participating States with their State Forest Stewardship Coordinating Committees (SFSCC) and in accordance with their AON; incorporates a Forest Service regional review of projects based on national criteria; and a final selection by a national panel focused on meeting the goals, Congressional direction and the strategic implementation of FLP, and4. Results in a national ranking of all projects based on the criteria.• Due to nature of real estate transactions, FLP projects may change or fail. To address the redirection/reprogramming of funds that come available from these events the FS will implement an approach that:<ol style="list-style-type: none">1. Periodically assesses unspent or unused project funds,

		<ol style="list-style-type: none"> 2. Determines a list of potential projects based on the national project list in consultation with FS regions and States, 3. Selects projects with a substantiated need and redirect funds to meet that need for projects that have been approved by Congress previously or initiate a new project reprogramming request, and then 4. The FS will notify the committees of any redirection of funds to complete previously approved projects and will submit reprogramming requests for new projects to the committees for approval.
<p>3. New State Start-up Funds:</p> <ul style="list-style-type: none"> • Perceived as discretionary funds • Projects could/have be ones that would not compete well nationally 	Pg. 6	<ul style="list-style-type: none"> • The FS has clarified its policy regarding new States joining FLP to state that new State start-up funds are “placeholders” for planning purposes. There is no guarantee of project funding. States must submit a viable project that meets regional and national criteria within the fiscal year to receive these funds. • For FY 2004, all States seeking to join FLP must submit their AON by June 15, 2003 for approval by the Secretary of Agriculture. New States will then conduct a process with their SFSCCs and submit a project for consideration by the project submission deadline.
<p>4. National Strategy:</p> <ul style="list-style-type: none"> • No national perspective for FLP • It is not clear what is the focus of FLP • There is no way to measure success adequately without a direction and performance measures 	Pg. 7	<ul style="list-style-type: none"> • The FS will initiate the development of a strategic direction document in 2003 and will complete that document in 2004. The strategy will articulate FLP national goals, objectives, program performance measures, and the issues and trends affecting forests in regions across the country. This strategy is intended to provide a national perspective for FLP and to assist States to contribute to national and regional conservation needs. This strategy will neither supplant State AONs nor is it intended to directly result in the need to revise AONs. These implementation plans define private forest issues, forest conservation needs, and the objectives and goals for the FLP to address them in each State. • The FS will launch a periodic assessment of FLP in 2003. The FS will conduct this effectiveness study to assess the impact that FLP has had over its 10-year life. The FS believes that this is a good business practice and will repeat this activity in the future to constantly improve program delivery and management.
<p>5. Project Diversity:</p> <ul style="list-style-type: none"> • The FS provides no guidance to States on preferred project sizes or acreage costs • Because project definitions are lacking it 	Pg. 8	<ul style="list-style-type: none"> • The FLP was established to address State and regional forest conservation issues and needs. Land ownership patterns and the distribution of ownership vary from State to State. These issues and needs are articulated in the AON, discussed at the State-level when projects are selected and approved by the SFSCC and considered when submitted to the FS for funding in the competitive process. Rural land prices in Montana, New Hampshire and Maine vary from transition land prices in Maryland, New Jersey and Hawaii. It is expected that there will be a variety of sizes and costs associated with projects in various States and regions. In all cases, the national criteria will be met.

<p>makes a national ranking challenging</p>		<ul style="list-style-type: none"> • The FLP authorizing legislation indicates a broad array of purposes and values to be protected by the program. Therefore, project diversity is a fundamental purpose of the program and its flexibility to address a range of forest issues and landscapes is one of its greatest strengths. • The FS will explore with our partners the feasibility of integrating new elements in the project selection process to address the comparison issues of large projects versus small projects and rural projects versus those in suburbanizing areas so as to put like projects on a comparable footing with one another.
<p>6. Project Readiness:</p> <ul style="list-style-type: none"> • Projects proposed for FLP are frequently in early stages of development • Conservation easements and appraisals are not usually done prior to project submission so terms and values of projects are estimates • States are willing to conduct additional due diligence with improved certainty of funding 	<p>Pg. 9</p>	<ul style="list-style-type: none"> • The FS acknowledges that project readiness is an important factor in FLP. The FS places priority on project quality as reflected in the Importance, Threatened and Strategic national criteria, and Readiness is applied as an important administrative tool and decision-making factor in the project selection process. • The FS will improve project readiness by phasing in, over the next three years, an emphasis of this factor and the demonstration of it in the project selection process by applying weight to projects that have a high quality ranking and advanced readiness. • For FY 2004, the FS will expand financial assistance in the form of additional administrative funds to States for project development and to build State capacity to nurture and facilitate projects for submission. • The FS has developed and launched a Forest Legacy Information System. This database provides individual project status information and allows for the tracking of projects through reports on State, regional and national accomplishments.
<p>7. Large Projects:</p> <ul style="list-style-type: none"> • Phasing of projects can mean a number of discrete closings and can lead to “commitments” to future year funding • “Banking” of funds can tie up allocations for years 	<p>Pg. 10</p>	<ul style="list-style-type: none"> • A July 31, 2002 policy memo guiding the fiscal year 2004 project selection process to the FS regional offices was sent by the Deputy Chief for State and Private Forestry that addresses this issue. In that direction, project “phasing” is defined and it is stated that the phasing of projects is an acceptable practice. However, the policy states that individual project phases are separate from one another and compete each year as stand alone projects against all other proposed projects. The policy says that no preference be given to a project phase, unless without funding in FY 2004 of that discrete phase the entire multi-phased project would fail.

<p>8. Earmarking:</p> <ul style="list-style-type: none"> • Competes with agency project selection process and works against national ranking • May complicate program efficacy by placing pressure on State by limiting their ability to walk away if negotiations are failing 	<p>Pg. 11</p>	<ul style="list-style-type: none"> • The FS has developed a project selection process that is built on State decision-making, and integrates regional and national program goals. We set a new process in place for FY 2002/2003 project selection and refined that process for FY 2004. Our goal is to implement a project selection process that is clear, fair, competitive, and results in a list of projects that are of high quality, are ready and merit national investment. We will work to constantly improve the process to meet that goal. • The FS strongly prefers not to see projects selected for funding outside of the aforementioned process for all of the reasons cited in the report. The State process results in project priorities that are reviewed and consistent with their AON, and the FS ensures that all projects meet national criteria. Projects submitted outside of this decision-making process, without State and SFSCC involvement, are problematic for a competitive process and diminish the effectiveness of the FLP. • Third party and land trust organizations are valued partners and provide important service to the implementation of FLP. State lead agencies are the primary implementation partner of the FLP in accordance with the authorizing legislation and require that authority to effectively manage the FLP in their States.
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Program Oversight

<p>9. Staffing:</p> <ul style="list-style-type: none"> • Too many States per person in regional program management • Increased visits to States and projects sites needed 	<p>Pg. 13</p>	<ul style="list-style-type: none"> • The FS is a decentralized organization and this has resulted in strong and responsive customer service and technical assistance. The FS acknowledges that staffing needs are changing for this growing program. We are developing solutions to maintain a high level of service, technical assistance and to meet program oversight responsibilities. The FS has responded by developing a dedicated staff person to FLP in Regions 1 and 4, created a new Region 5/6/10 position fully dedicated to FLP, and has added an assistant FLP position in the Washington Office. The FS is making progress on adjusting the staff level and roles in the Northeastern Area to address the growing case load and we are assessing the Southern Region's needs to meet the growth of the FLP. The FS is working to further define the roles and responsibilities of the regional program managers, add to and clarify the skills that are needed to perform well in the program and to articulate what the addition resources will accomplish prior to each personnel management action. • In FY 2004, the FS will provide additional resources to participating States to build their capacity and to improve the delivery of the program. These include funds to meet administrative costs and to facilitate project development and due diligence.
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<p>10. Inconsistent Cost Share:</p> <ul style="list-style-type: none"> • Cost shares vary because there is no requirement for a specified level of funding 	Pg.5	<ul style="list-style-type: none"> • There is a strong benefit to the FLP of donations and cost share versus a straight 75%-25% match formula. States are currently performing well with overmatches to FLP projects and we do not want to discourage this. The FS requires a minimum cost share of 25% non-federal funds in accordance with the authorizing legislation. FS grants management currently documents cost share with every grant awarded. • The FS will develop a policy by December 31, 2003 that is consistent across the country. This will include increased and consistent documentation of the cost share to projects and improved record keeping of donations and other cost share contributions to each project.
<p>11. Cost Share Calculations:</p> <ul style="list-style-type: none"> • Varying methodologies are being used across the country 	Pg. 16	<ul style="list-style-type: none"> • By December 31, 2003, The FS will develop a clear and consistent cost share methodology to be adopted by all regions and will accomplish this through policy and training or instruction.
<p>12. Cost Share Allocation in Grants:</p> <ul style="list-style-type: none"> • National guidance is needed in the treatment of cost share, especially related to donations 	Pg. 17	<ul style="list-style-type: none"> • The FS is currently developing guidance for the treatment of grant cost share. The guidance will ensure that donations continue to be encouraged and that clear and accurate documentation of the utilization of donations and others matches to individual project grants is present. In 2003, the FS will assess and review the accountability aspects of a “match bank.” This approach could result in a cost share ledger to track cost share for the program and maintain a running record that shows donations and other cost share clearly linked with projects. The ledger would allow States the flexibility to “carry forward” unused match to projects in the next fiscal year, thus removing the penalty of overmatch.

<p>13. Cost Share – States ability to raise share:</p> <ul style="list-style-type: none"> • States do not raise cost share until after grant is issued 	Pg. 18	<ul style="list-style-type: none"> • For FY 2004, the FS will improve its documentation of cost share when approving a grant by requesting that States provide additional information in their grant narratives on the source and amount of the cost share. • For FY 2004, the FS will develop a sample grant package, including a narrative and budget template, for FLP and distribute those to ensure that all regions are developing consistent grant applications and addressing cost share planning.
<p>14. Appraisal quality and review:</p> <ul style="list-style-type: none"> • Concern about the quality of appraisals sent in for review • There is not a national policy on appraisal review. 	Pg. 19	<ul style="list-style-type: none"> • The FS currently requires that all appraisals meet Federal Appraisal Standards. • The FS has addressed appraisal qualifications in the Implementation Guidelines revision and will ensure the continuation of the current policy that all FLP projects will undergo appraisal review by a qualified review appraiser. Appraisal reviews can be conducted by a FS review appraiser, other federal review appraisers, or a qualified contract appraiser. • The FS acknowledges the issue of increased caseload and decreasing FS capacity and will implement a policy jointly developed by FS Lands and Cooperative Forestry, to address it.
<p>15. Conservation easement development:</p> <ul style="list-style-type: none"> • CEs vary • FS does not oversee 	Pg. 20	<ul style="list-style-type: none"> • Conservation easements are inherently individualized documents. Each project involving a conservation easement is negotiated independently between the Grantor and the Grantee to meet the owner’s objectives and the conservation purposes. States and units of local government hold easements under FLP and therefore are primary negotiators of conservation easements. However, the FS currently recommends standard clauses and stipulations be inserted to FLP conservation easements. • The FS will increase participation and oversight by ensuring that FS regional FLP managers will provide review of FLP easements, technical input and advice, but not approval.

<p>16. Conservation easement monitoring:</p> <ul style="list-style-type: none"> • There is not a national policy on CE monitoring • Future funding issue 	Pg. 21	<ul style="list-style-type: none"> • The FS has developed a conservation easement monitoring policy in its FLP Implementation Guidelines revision that requires baseline documentation, annual monitoring and documentation of that monitoring activity. • The Forest Service does not pay for easement monitoring at this time and has viewed this expense as part of the State's obligation under the State Grant Option.
Financial Management		
<p>17. Multiple payment systems:</p> <ul style="list-style-type: none"> • Regions use FFIS and HHS • Regions use local systems to track funds 	Pg. 23	<ul style="list-style-type: none"> • The FS is currently exploring, through its CFO, options for adopting one single payment system across all FS regions, Area and Institute. • The USDA has begun the development of requirements for and design of a comprehensive system to accomplish electronic grant management. This system will address program and project tracking, budget and accounting for program management needs. This E-Grants system will be web-based and act as an information repository with the capacity to produce reports on grant status and expenditures and will interface with FFIS. This system is projected to deliver the first phase of implementation by October of FY 03.
<p>18. FFIS system problems:</p> <ul style="list-style-type: none"> • Inaccurate and incomplete program data • Obligations and expenditures could not be determine • Comparison between planned allocations and actual use could not be made • Information and financial status could not be reconciled from year to year 	Pg. 23	<ul style="list-style-type: none"> • The FS has begun, through the CFO, to develop a strategy and operating plan to correct FFIS data problems and the inability to reconcile figures year to year. • The FS has initiated national protocols and national direction for data input and system updates and will maintain the system with the Chief Financial Officer at the Washington Office • The FS will reconcile the financial records for FLP for the years that the Committee requested and will present that information to the Committee by July 31, 2003

<p>19. FFIS failure to meet program management needs:</p> <ul style="list-style-type: none"> • FS has failed to adapt FFIS to meet program management needs to identify grant information and status • It is not user friendly so people do not utilize the system 	<p>Pg. 24</p>	<ul style="list-style-type: none"> • The FS, through the CFO, has developed a strategy to address disconnects between financial management functions of FFIS and meeting program management needs to identify grant information and status. • The USDA is in the process of developing an electronic grant management system. No timeline has been established for full integration between the electronic grant system and FFIS.
<p>20. Grant management:</p> <ul style="list-style-type: none"> • Guidance is needed to ensure consistency among regional financial systems • A definition of “project” is needed • Policies on structuring State grants is needed when dealing with phased projects or multiple tracts projects 	<p>Pg. 25</p>	<ul style="list-style-type: none"> • The FS will utilize FFIS as its financial accounting and budget information system for FLP. • The FS will employ FFIS and other systems integrated with FFIS to provide grant status information. • The FS is currently developing a clear definition of a FLP “project” for grant management purposes. • For FY 2004, the FS will develop a standard grant package and format to improve grant management consistency.

Enclosure B

Project Updates

1. West Branch, Maine

The West Branch project is referred to several times in the report. In late May 2002, the Forest Society of Maine signed a purchase and sale agreement with Merryweather, LLC (formally Yankee Forest, LLC) to acquire 329,000 acres (approximately 47,000 acres in fee and 282,000 acres of conservation easement and an access easement providing public vehicle and pedestrian access across the easement lands). The Forest Society of Maine in turn entered into a purchase and sale agreement with the Department of Conservation for the State of Maine to purchase the fee lands. The purchase price for these components is approximately \$32 million and these two portions of the property are linked together in the FLP project via the contracts mentioned above and will close together on or before December 31, 2003.

2. Connecticut Lakes, New Hampshire

The Connecticut Lakes property is approximately 171,000 acres in northern New Hampshire. The Forest Legacy project is a 146,400-acre portion that will be protected via a conservation easement and 25,100 acres that will be purchased by the State in fee to manage as natural areas. The project is expected to close in July 2003.

3. Plum Creek, Maine

This property is in the negotiation process and is currently a proposed FLP project for future funding.

4. Pippin Tree, Massachusetts

This property closed on May 30, 1996 and is one of the earliest completed projects for FLP. It is a conservation easement held by the FS.

5. Fawn Lilly, Oregon

This project is not a current or proposed FLP project. Oregon is a new State into the program and had proposed the acquisition of Fawn Lilly as part of a broader acquisition strategy in the region and was planned to be a part of the implementation of first year funding. The State General Assembly has not authorized the State lead agency to apply for the federal funds to conduct this or other FLP projects.

6. Hogan Butte, Oregon

This project is a proposed project for Oregon. The project lands are the last unprotected forested buttes in the Portland metropolitan area. The property has high economic value and is a key piece in the region's open space plan. The State General Assembly has not authorized the state lead agency to apply for the federal funds to conduct this or other FLP projects.

7. Thompson Fisher, Montana

The Thompson/Fisher project conservation easement is the largest ever in Montana's history. Montana Fish, Wildlife & Parks, Plum Creek Timberlands, L.L.P., the Rocky Mountain Elk Foundation, The Trust for Public Land, and the Forest Service's Forest Legacy Program, have been working on a conservation easement on 142,000 acres of

timberland across two river valleys in northwest Montana. The easement has been secured in phases. A total of 66,255 acres are currently protected under a conservation easement at a cost of \$14.3 million. A phase of 29,000 acres with a purchase price of \$9,655,000 (FLP share of \$7 million in FY 2002, a State share of \$2,155,000 through Fish, Wildlife & Parks, and the remaining share through Bonneville Power Administration of \$500,000) is to close by September 2002. This leaves only 46,900 acres to be completed. The partners are currently working to secure another grant from the Fish and Wildlife Service Habitat Conservation Program and added with FY 2003 funds would complete the project. If this funding is not secured than the State may return to FLP for additional funding.

8. Tomahawk Northwoods, Wisconsin

This multi-phased project is to protect approximately 70,000 acres in northern Wisconsin that is critical habitat lands and provides quality forest products throughout the region. Phases 1 and 2 were funded with FY01 and FY02 funds. Additional funds are being sought to complete the project. Phase 1 and 2 of the project closed in November 2002.

9. Ossipee Mountain, New Hampshire

This project closed in March 2002. This project is a conservation easement on 5,372-acres that includes unique forest types, old growth forests areas, and exemplary natural communities. 192 acres of mineral rights were purchased on the site of which only 15 acres has been mined leaving 177 acres undisturbed and now protected. The FLP Implementation Guidelines allow for up to 10 percent of a project tract in non-forest use including mining.

10. Tree Tops, Connecticut

This project has not received FLP funds. The project was proposed to be a 93.23-acre forest property in southern Connecticut. The project never included 111 acres and always reflected an exclusion of approximately 17.5-acre corporate conference center. International Paper continues to hold title to that acreage and facility, and the Trust for Public Land has no involvement in or use of the facility. This project was subject to a legal opinion by the USDA Regional Office of General Council. It was determined that this project was eligible for FLP funding, but the State elected to fully fund the project and to not seek FLP funding.

11. Newark City Watershed, New Jersey

The grant funds are being held by the FS and will not be transferred to the State of New Jersey until the resolution of a pending appraisal issue. This multi-phased project has been a top priority of the State for several years and the State has engaged in a series of acquisitions in conjunction with FLP to protect these watershed lands and surrounding forestlands. These lands have been subject to a moratorium over the sale of watershed lands. The State of New Jersey was to impose rules and regulations regarding watershed lands, at which time the moratorium over sale of the lands would be lifted. Instead of imposing rules and regulations, the State decided to purchase conservation easements through exemptions by the Review Board over watershed properties. This has been allowed so that a significantly larger portion of land would be protected than through the imposition of rules and regulations on watershed lands alone.