

**FREQUENTLY ASKED QUESTIONS ABOUT
A COMMUNITY PARTNERSHIP FOR FOREST CONSERVATION AND
ECONOMIC DEVELOPMENT USING A PRIVATE OWNERSHIP MODEL**

**Prepared by the Berkshire Regional Planning Commission,
the Franklin Regional Council of Governments, the Franklin Land Trust and the
Executive Office of Energy & Environmental Affairs**

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This handout contains information about a new proposal for a potential Federal designation for 20 communities in Franklin and Berkshire Counties located in the northwest corner of Massachusetts. The purpose of the proposed designation is to support economic development for forestry and recreational tourism as well as conservation of forest land.

The Franklin Regional Council of Governments and the Berkshire Regional Planning Commission, with help from the Franklin Land Trust, are conducting a public process in the 20 communities to help define the parameters of a potential designation and to determine the level of interest in pursuing a Federal designation. A Draft “Framework” outlining the elements of that designation has been prepared. The Draft Framework is being discussed in meetings taking place in each community. New ideas and concerns arise at each meeting and the Draft Framework is being updated periodically.

The following are answers to commonly asked questions posed during community meetings:

1. WHAT IS THE PURPOSE OF THIS PROJECT?

The overall purpose of this project is to bring recognition and additional financial and technical resources to the 20-town region based on the extensive forest resources contained in the area. These additional resources could be provided by the Federal government through the U.S. Forest Service and the State through the Executive Office of Energy and Environmental Affairs. In order to receive these additional U.S. Forest Service resources, the region would need to be designated as being eligible to receive them. In addition, a Federal designation recognizing the region could assist in accessing funding from State and Federal economic development programs.

The specific types of financial and technical resources are being determined through the outreach process and the needs of communities and residents. The current Framework proposes to direct those resources for the following broad purposes: to increase economic development opportunities for participating communities related to forest resources and natural resource based tourism; to support private landowner efforts to expand sustainable forest management practices on their property; to support municipal efforts to provide quality and cost efficient services to their residents; to provide additional resources for the permanent conservation of forest land; and to increase the resiliency of forests to climate change.

2. WHAT ARE THE POTENTIAL BENEFITS OF A FEDERAL DESIGNATION?

The increased financial and technical resources from the U.S. Forest Service and the State could provide several benefits. There could be funding for specific activities such as: a feasibility study for a wood pellet manufacturing plant; construction of a trail; assistance with addressing invasive species; payments to willing sellers of Conservation Restrictions; grants to municipalities to help install efficient wood heat systems in town buildings and/or schools to save on energy costs; and funding for capital improvements for forestry businesses. Technical resources could include: assistance with business plans and marketing; assistance to harvesters, mills, private foresters and other forestry businesses to establish and expand markets for local wood products, especially low quality wood; and assistance with invasive species or pests or other sustainable forestry best management practices.

In addition, if there was interest from the communities, the U.S. Forest Service might establish and staff a visitor center, technical resource center, or a demonstration forest. A staffed visitor center would provide an important component of tourism infrastructure needed in the region. The visitor center could provide information to tourists about sustainable forestry practices, recreational opportunities in the 20-town region, other tourism services (e.g. lodging, restaurants, events, etc.) as well as public restrooms. It could also potentially showcase local wood products.

3. WHAT COMMUNITIES ARE INCLUDED IN THE STUDY AREA?

There are 20 communities in the study area - 11 in Franklin County and 9 in Berkshire County. The communities are:

Franklin County: Ashfield, Buckland, Charlemont, Colrain, Conway, Hawley, Heath, Leyden, Monroe, Rowe, and Shelburne

Berkshire County: Adams, Cheshire, Clarksburg, Florida, New Ashford, North Adams, Savoy, Williamstown, and Windsor

4. DOES THE FEDERAL GOVERNMENT HAVE TO OWN LAND OUTRIGHT IN OUR COMMUNITIES IN ORDER FOR THIS DESIGNATION TO PROCEED?

No, there is no absolute requirement for the Federal government to own land in the designated area. The U.S. Forest Service assistance could come by working in partnership with towns and the State to use space and land for a visitor center and/or demonstration forest via agreements or leases. However, Federal ownership would likely result in a stronger commitment by the U.S. Forest Service to this effort and could increase the sustainability of the program over the long-term. U.S. Forest Service staff that live and/or work in the region will have a better understanding of the needs of our communities and can better advocate for resources for the region. However, the amount of land that could be owned by the U.S. Forest Service would be limited. The Draft Framework proposes to cap the amount of land that could be owned by the U.S. Forest Service to less than 1% of the forested area in the 20-town region.

5. WILL A FEDERAL DESIGNATION RESULT IN NEW RULES OR REGULATIONS FOR PRIVATE LANDOWNERS?

No, the Federal designation would not result in new rules or regulations for private landowners. The goal of the concept is to coordinate and focus State and Federal programs and grants to enhance forestry and the conservation of working forest land. Private landowners would have the option to participate in programs or grants at their discretion. Projects funded with State or Federal funds would need to meet the purposes and requirements of those grant programs. For instance, if there was a program to fund the preparation or updating of forest management plans, property owners who chose to receive those grant funds would need to comply with the requirements of those forest management plans. The designation in of itself would not require or trigger additional Federal rules or regulations. This program would be similar to the Forest Legacy Program which has funded nearly 100 Conservation Restrictions without adding Federal regulations. In addition, the "Redesign" Grants which have funded "Buy Local Wood" and "Low Income Heat" projects in this region have also provided funding without adding any Federal regulations.

If there is a limited amount of land in Federal land ownership, such as to locate a visitor center or demonstration forest, this land would be required to meet Federal planning requirements but that would apply only to this limited area. In other words, only land or facilities owned outright by the U.S. Forest Service would be subject to Federal regulations.

6. WHAT IS A CONSERVATION RESTRICTION AND WHAT ARE THE BENEFITS TO LANDOWNERS?

A Conservation Restriction (CR) is a voluntary legal (deed) restriction entered into between a landowner and a qualified conservation organization, such as a land trust, or a government entity. Conservation Restrictions allow individuals or families to retain ownership of their land, while placing limitations on development and certain uses for themselves and future owners. Conservation Restrictions have a financial value, which is typically the value of the potential residential or commercial development of the land. CR's may be sold or donated. Conservation Restrictions were authorized by a 1977 law and over 5,000 CR's have been recorded in Massachusetts since that time.

Conservation Restrictions are permanent documents. Property which has a Conservation Restriction placed on it may be bought and sold, but the Conservation Restriction "runs with the land" in perpetuity. It is recorded with the Registry of Deeds and is binding on both the present and future owners of that property.

Each Conservation Restriction is tailored to the special features of the land and to the specific wishes of the landowner. Conservation Restrictions prohibit new residential development and subdivisions, but building lots for the future can be excluded from the restriction. CR's can allow for certain uses such as forest management, farming, trail construction or maintenance, snowmobiling, fishing, boating, hiking, and horseback riding. Supporting structures such as a maple sugaring building or new logging roads can be allowed.

Landowners benefit by receiving a payment for the Conservation Restriction while retaining ownership and use of the land. Conservation Restrictions can be very helpful as an estate planning tool because they can generate income without changing the use of the land, allowing some heirs access to money and others access to the land. Landowners also benefit from the satisfaction of knowing that the land they've enjoyed and used over their lifetimes will remain undeveloped in the future.

7. WHERE WILL FUNDING FOR THE CONSERVATION RESTRICTIONS COME FROM?

Funding for Conservation Restrictions is paid to landowners for the lost development value imposed by the Conservation Restriction. This funding could come from a variety of sources including the Federal side of the Land and Water Conservation Fund – a fund established in the 1960's that receives payments for off-shore oil leases on Federal lands and supports land conservation. As the first designation of this kind in the Nation, the U.S. Forest Service would be more likely to invest in this pilot region so other areas could learn from the accomplishments of this designation. In addition, the State would allocate funds from available Capital budgets. The intent of this effort is to bring a new source of funding to the area.

8. WHO WILL HOLD THE CONSERVATION RESTRICTION?

The current Framework states that the State, towns or Land Trusts would hold the Conservation Restrictions, *not* the Federal government. This would be similar to the Forest Legacy or various State grant programs. Holding the Conservation Restriction bestows the obligation of monitoring and ensuring that the requirements of the CR are met on the recipient organization or agency.

9. WILL THE CONSERVATION RESTRICTIONS PROMOTE ACTIVE FORESTRY? IF SO, HOW?

Yes – The promotion of active forestry is one of the main goals of the proposed designation.

Properties that have a forest management plan, similar to the requirements of Chapter 61 and have conducted regular sustainable forestry practices in the past will be given priority for funding of Conservation Restrictions. Properties that are funded for Conservation Restrictions under this program that do not adhere to the requirements of the forest management plan may be ineligible for other grants or technical assistance through this program.

10. WHAT KINDS OF ACTIVITIES WILL BE ALLOWED ON LAND UNDER CONSERVATION RESTRICTIONS UNDER THIS DESIGNATION? WILL PUBLIC ACCESS BE REQUIRED?

Forestry activities as described in a Forest Management or Forest Stewardship Plan that is regularly updated would be allowed on land under a Conservation Restriction. These activities might include

harvesting, trail building, establishing forestry access, invasive species control, and wildlife habitat projects.

Yes, as it is currently proposed public access of some kind could be required. However, public access would be negotiated based on landowner wishes so as not to interfere with forestry or farming activities and to respect privacy around residences. The public access requirement may be met by allowing for hunting or fishing where appropriate, while others may include limited access to designated trails, not the entire property.

11. WILL THE MANAGEMENT PRACTICES ON LANDS CONSERVED BY FEDERALLY FUNDED CONSERVATION RESTRICTIONS BE SUBJECT TO APPEALS OR LITIGATION FROM ORGANIZATIONS IN OTHER AREAS OF THE COUNTRY?

No. Under this proposal the land would remain in private ownership. The Conservation Restrictions would be similar to the Conservation Restrictions in place in the current USDA Forest Service Forest Legacy Program. No appeal or litigation from outside organizations has occurred on Forest Legacy Conservation Restrictions in Massachusetts or in other states in this program's 25 year history. While Massachusetts has received several Forest Legacy grants, these have typically been for very large land parcels that can compete with applications from other states. This designation would focus on the conservation of average-sized parcels from interested owners across the 20-town region.

12. HOW WILL THIS PROPOSAL IMPACT LOCAL PROPERTY TAX REVENUES?

The designation in of itself will not impact local property tax revenues. Tax revenues could be impacted by property owners that participate in the Conservation Restriction program associated with the designation. Land placed under a Conservation Restriction could decrease tax revenues to the town if the land is currently assessed at its full fair market value. A study of tax maps in the 20 towns shows that forest land under Chapter 61 and 61A (the MA Forest and Farm Tax Law) have the lowest property taxes. Forest lands under a Conservation Restriction (but not under Chapter 61) are in the category of private land that pays the second lowest taxes. Parcels that are not under Chapter 61 or Conservation Restriction pay the most taxes per acre. If land is under Chapter 61 or Chapter 61A and the owner decides to sell a Conservation Restriction under the new designation, the taxes paid and received by the town would not change. If the land is not currently under Chapter 61 and the owner decides to sell a Conservation Restriction as a result of the new designation, the property taxes would be reduced because the land under the Conservation Restriction could not be developed. This reduction in taxes is decided by the town tax assessors and varies depending upon how developable the land is. It is expected that many of the landowners that would be interested in applying for funding for a Conservation Restriction will already be in Chapter 61 so that the impact on local tax revenues would not be significant. In addition, the economic development projects assisted by the new designation, for instance a forest product processing plant or tourism facility, would increase the value of the property on which they are sited and could increase the tax assessments (depending upon the decisions of the local tax assessors).

13. WHAT IMPACTS WILL THIS DESIGNATION HAVE ON TOWN SERVICES AND HOW WILL THEY BE FUNDED?

The impact on town services will depend upon the success of the program and will primarily be associated with increased tourism or increased active forest management. An increase in the number of tourists to the area as a result of the designation could lead to the need for more emergency service response services related to accidents or tourists being lost or for road maintenance. An increase in logging could result in increased truck traffic which could impact town roads. Alternatively, increased forest management practices could lessen the risk of fire from diseased or damaged timber stands, hence avoiding increased fire response costs. Increased forestry activity could also create more local jobs and increase tax payments from forestry facilities.

The Draft framework proposes a regular source of funding to participating municipalities to address these potential costs. The exact amount of this funding and the source of those funds has not yet been identified.

14. WILL THERE BE A BETTER SYSTEM IN PLACE THAN THE EXISTING PILOT (PAYMENT IN LIEU OF TAXES) PROGRAM FOR PAYMENTS TO COMMUNITIES THAT HOST PUBLICALLY OWNED LAND?

The Draft Framework proposes a steady and secure funding source for participating communities as a major goal. The exact funding mechanism has not yet been determined. The intent is to secure funding that does not require annual legislative approval.

15. HOW MUCH FUNDING WILL BE AVAILABLE TO OUR TOWNS AND HOW SUSTAINABLE IS THIS PROJECT GIVEN THE CHALLENGES FACED BY THE FEDERAL GOVERNMENT TO SUPPORT EXISTING PROGRAMS?

The specific amount of funding has not been determined yet. No government funding can be absolutely guaranteed. However, by elevating the importance of this region through a Federal designation, the prospect for securing dedicated Federal and State funds is greatly increased. Similar to the Federal Scenic Byway Program, designation provides access to new funding sources.

Currently Federal budget cuts to the U.S. Forest Service are not affecting this region because very little U.S. Forest Service funding comes to this area. The best way to assure that these cuts have less effect once the designation is established is to be the model for the Nation on how to encourage forestry on private land and to establish local markets and businesses that support local towns.

16. ARE THERE ANY OTHER EXISTING PROGRAMS THAT CAN ACCOMPLISH THIS?

The U.S. Forest Service has Forest Legacy Area designations. These are geographically designated areas that are eligible to apply for Conservation Restriction funding for landowners. Massachusetts has six Forest Legacy Area designations. Forest Legacy Areas only fund Conservation Restrictions and do not provide economic development funding. In addition, the program is very competitive.

Currently, Massachusetts is fortunate to get one Forest Legacy grant each year or two for its six Forest Legacy Areas. These grants are very competitive and have generally been awarded only for very large land parcels. Both State and Federal grants generally focus on large land ownerships. This designation would focus on encouraging more forestry across many smaller privately owned parcels while also investing in new markets for local forest products. Supporting average landowners, local businesses, and towns are goals of this proposal. A successful model based on average sized land parcels can be applied to many other regions with similar land ownership patterns. Right now funding for conservation of average-sized forest ownership rarely occurs.

17. WHO DECIDES WHETHER A TOWN WILL PARTICIPATE IN THIS DESIGNATION – IS IT A TOWN-WIDE VOTE OR JUST THE SELECT BOARDS OF TOWNS?

The current Draft Framework proposes that Select Boards decide about participation. However, a Select Board can refer the decision on whether or not to participate to Town Meeting. There have been numerous comments about the advantages and disadvantages of each approach in the community meetings. As currently proposed, each Select Board will need to decide whether they want to make the decision or ask for a Town Meeting vote.

18. COULD THERE BE CONDITIONAL SUPPORT BY TOWNS WHICH WOULD HINGE ON THE ACTUAL LANGUAGE OF THE LEGISLATION?

A two-step course of action could be incorporated into the process. The first step could be that a Town sends a letter of interest stating that they would like to continue the process to develop Draft legislation based on the final Framework developed. An Advisory Committee could be established with representatives invited from all 20 municipalities. The Advisory Committee will provide input on the final Framework, the Plan being prepared for the 20-town region, as well any proposed legislation. Municipal representation on the Advisory Committee will increase the likelihood that a town's concerns are addressed. A letter of support or participation in a Memorandum of Agreement to pursue a Federal Designation would not be requested until after the legislation has been drafted. At that point, a town's Select Board will have the opportunity to decide whether or not they would like to participate. The Select Board can choose to refer this decision to Town Meeting.

There have been several community-based legislative initiatives that have been successful in carrying out the recommendations of local work groups including the Dairy Tax Credit, revisions to Chapter 61 and the Off Highway Vehicle laws. These processes worked because those who crafted the legislation worked with local Legislators throughout the entire process.

19. DO THE TOWNS PARTICIPATING IN THE DESIGNATION HAVE TO BE CONTIGUOUS?

No.

20. IF THE TOWN I LIVE OR OWN LAND IN CHOOSES NOT TO PARTICIPATE CAN I STILL ACCESS THE FUNDING FOR CONSERVATION RESTRICTIONS?

No. Landowners that live in towns that decide not to participate would not be eligible to apply for funding for a Conservation Restriction.

21. HOW WILL A FEDERAL DESIGNATION AND/OR TECHNICAL ASSISTANCE FROM THE U.S. FOREST SERVICE HELP TO INCREASE ECONOMIC DEVELOPMENT BASED ON FORESTRY RESOURCES OR RECREATIONAL TOURISM? WILL THEY REPLICATE ANY SERVICES OR FUNDING ALREADY IN PLACE?

The proposed designation could offer technical assistance to landowners and forestry businesses via a demonstration forest and by U.S. Forest Service researchers and foresters working in the region. The U.S. Forest Service can provide information or funding to address invasive species or pests, identify management techniques that improve the resilience of forests to climate change, or offer management techniques that increase the value of the timber grown or improve habitat for different species. The assistance to landowners would come both as payments for Conservation Restrictions to willing landowners and cost share programs for forestry practices provided by local foresters. Forestry businesses could also benefit from technical assistance and grants for developing or expanding their business or product line, including funding for capital improvements. The New Mexico Community Forest Restoration Program is a good example of a new grant program focused on forest restoration and local economic benefits (see Question 24).

This proposal is intended to bring new services or funding to the region. Currently, the available Forest Service Programs (Forest Legacy and Redesign Grants) are extremely competitive and are not focused on one region as this designation would be.

22. WILL THE TECHNICAL ASSISTANCE FROM THE U.S. FOREST SERVICE REPLACE THE JOBS THAT OUR LOCAL FORESTERS CURRENTLY DO?

No. This assistance would supplement or perhaps pay for the services offered by consultant Foresters. The current DCR program “Foresters for the Birds” is a good example. In this program, bird experts identify forestry practices that enhance specific bird habitats and then train interested private foresters. The private foresters can then develop bird habitat plans for interested landowners with cost reimbursements going to the private foresters for the creation of the plans.

23. WHY IS THE U.S. FOREST SERVICE INTERESTED IN PURSUING A NEW MODEL THAT IS NOT A TRADITIONAL NATIONAL FOREST?

The U.S. Forest Service largely focused on public land in the 20th century – creating a system of National Forests. Gifford Pinchot, the first Chief of the Forest Service, intended for the U.S. Forest Service to help sustainable forestry on private lands, but historically the focus has been on publicly owned forest land. However, the U.S. Forest Service recognizes that they have a broader mission to support sustainable forestry on privately owned land. Accordingly, the U.S. Forest Service is interested in a new model for sustainable forestry and landscape conservation that will support privately owned forests and rural communities. The U.S. Forest Service is also interested in a model where its three branches (State and Private Forestry, Forest Research and Wood Products Lab, and National Forests) work together with local partners in a designated region. This collaboration among the three branches would be a model for other U.S. Forest Service regions throughout the country.

24. IS THIS A NEW MODEL OR ARE THERE EXAMPLES OF THIS CONCEPT IN OTHER AREAS OF THE COUNTRY?

This would be a new model for the U.S. Forest Service focused on supporting privately owned forests and rural economic development. However, other Federal agencies have similar models in different regions of the country. One example in the area is the Upper Housatonic Valley National Heritage Area in southern Berkshire County, <http://www.upperhousatonicheritage.org/>. The Upper Housatonic Valley National Heritage Area, a designation by the National Park Service, illuminates the diverse, rich identity of the Upper Housatonic River Valley region and preserves and promotes the historical, cultural and natural resources of the region. In 2011 this program received \$225,000 for a Heritage Partnership Grant program awarding 10 grants to community partners for trail development and interpretation. Funding levels are anticipated to increase.

The Federal Scenic Byways Program of the U.S. Department of Transportation is another example of a Federal designation program that has benefited the region. This program has provided over \$4 million in funding in Franklin County alone for Conservation Restrictions to help protect scenic landscapes, including prime farmland and important habitat areas, and to promote tourism.

A successful and innovative designation by the U.S. Forest Service with the goals of sustainable forestry and local economic development is the Collaborative Forest Restoration Program in New Mexico. This program was formed as a result of a mediated solution to serious conflicts over forest cutting in the 1990's. All sides came together over the need to restore forests by thinning fire fuels. This partnership resulted in the passage of the Collaborative Forest Restoration Act in 2000. The law has goals of healthy watersheds, reduced wildfire threat, reducing dense stands of small diameter trees, improving joint communication and problem solving, adding value to and use of small diameter trees, encouraging sustainable communities and forests, and developing, demonstrating and evaluating ecologically sound forest restoration techniques. The program has an innovative Technical Advisory Panel made up of local communities, forestry businesses, conservation groups and state and Forest Service forestry staff. The Panel reviews and recommends awards on annual collaborative forest restoration grants. In the past

ten years, this program has funded 166 grants for over \$49 million involving close to 500 parties that have created 700 jobs and restored over 30,000 acres of Forest.

The Forest Service also recently established the New York City Urban Field Station – a partnership of the U.S. Forest Service, the New York City Parks and Recreation Department and several non-profits and universities. The Field Station is housed in a City facility at Fort Totten in Queens for which the U.S. Forest Service has an agreement with the City to use the space and pay for the maintenance. The Field Station has 4.5 full time scientists and these U.S. Forest Service staff have supported dozens of urban forestry projects. This project has leveraged grants in collaboration with the City and other local partners including a \$2 million program for training and hiring local residents in urban forestry projects.

The current proposal for Franklin and Berkshire counties could be looked at as a combination of these concepts that would be focused on forestry economic development, landowner technical assistance, and forest conservation. As this new proposal would be a first of its kind that “connects the dots” from landowners to harvesters to local products and local economic needs it would be seen as a new “Federal Model” by the U.S. Forest Service. This is one reason why the Forest Service is interested in pursuing this partnership in Massachusetts.

25. HOW CAN THIS FEDERAL DESIGNATION HELP TO ADDRESS CLIMATE CHANGE?

The proposed designation would support private forest landowners to address climate change by providing technical assistance based on the best available research and funding for demonstration projects supported by the U.S. Forest Service researchers. This assistance could include help with addressing invasive species and pests or with managing forests to become more resistant to drought or severe weather events. Private landowners that participate in these research and technical assistance programs would be at the forefront of addressing the impacts of climate change on our forests and rural economies. This work would be very important to a new private forestry model. The designation could also help to coordinate forestry activities across parcels for example to create wildlife habitat for certain species.

For more information contact Peggy Sloan, Director of Planning & Development, Franklin Regional Council of Governments (psloan@frcoq.org) or Thomas Matuszko, Assistant Director, Berkshire Regional Planning Commission (tmatuszko@berkshireplanning.org)