

HOW TO SAVE A FOREST Toolkit

OLD-GROWTH FOREST NETWORK



"The forest is not only something to be understood, it is also something to be felt."

—Joan Maloof

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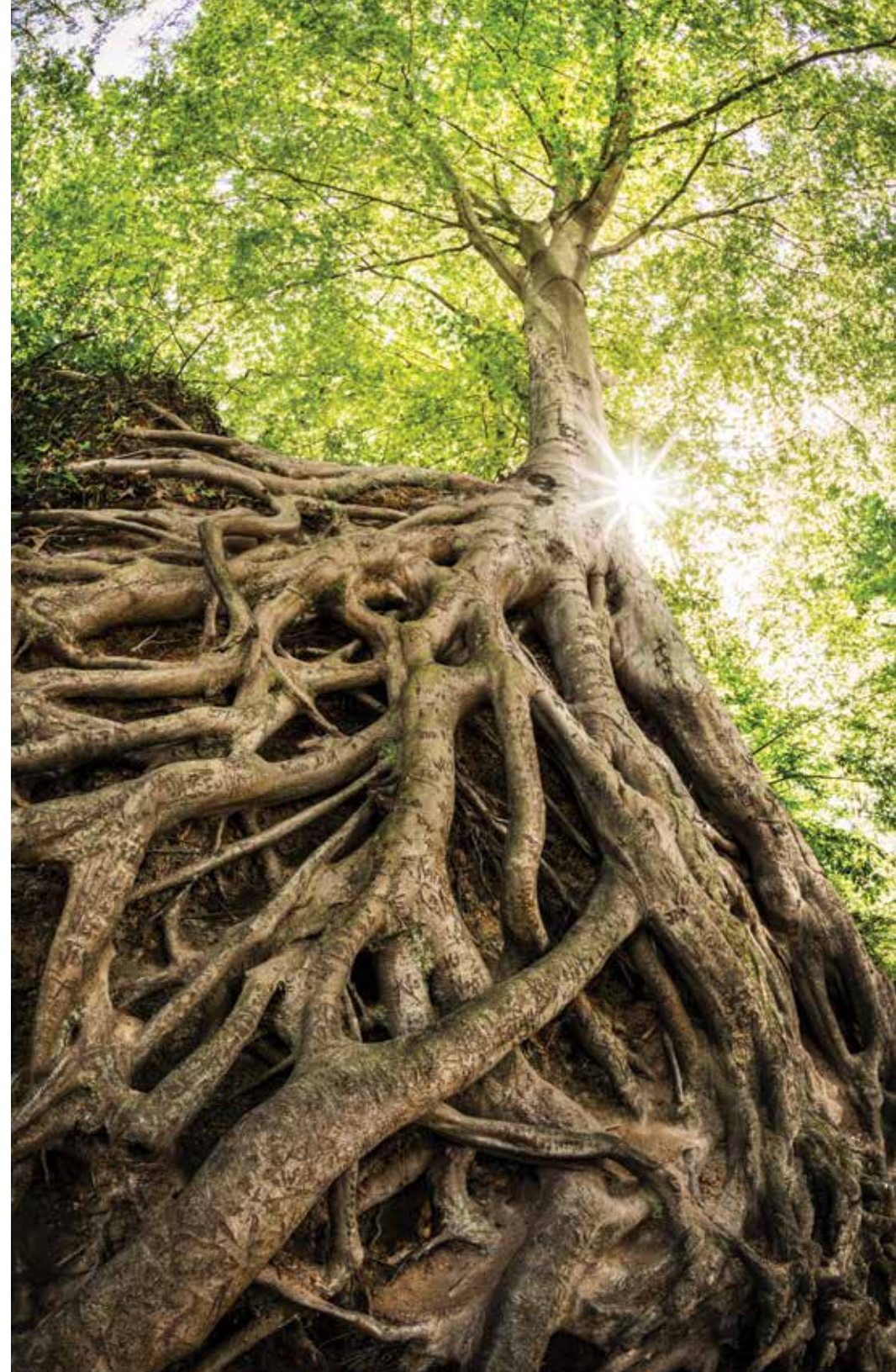




Welcome to the How to Save a Forest Toolkit! You've probably arrived at this resource because, like us, you care about forests. You might especially care about a particular forest in your community, your state, or farther afield. Perhaps you have just learned that the forest is threatened by development of some sort, or perhaps a concern was ignited within you upon finding out that the forest is not formally protected or preserved—and you'd like to help make it so. You have come to the right place. We developed this resource specifically for people like you who care for forests and want to preserve them for all generations to enjoy.

Here's how this Toolkit works. On the next page, you'll find a Framework on how the overall process of saving a forest—through establishing some type of formal protection for it—works. Review this first, and know that the implementation process may be months in some cases and years in others; this Framework empowers you with the knowledge of how to take it step-by-step. After gaining an understanding of the whole process, you can get into each of the four main types of Forest Protection Measures ("FPMs") and the case studies that accompany each one. Useful pros, cons, and tips are offered for each type of FPM. Finally, the Toolkit provides a Forest Protection Measures Chart so you can readily compare the FPMs that you've read about and decide upon the type of FPM that may work best in your case.

The case studies for each FPM are all real cases of real people that made forest preservation happen in their communities. As you delve into the critically important work of saving a forest, we hope that you are encouraged and empowered by their stories.



STEPS IN SAVING A FOREST

This framework provides an overview of how the process of saving a forest works—through establishing some type of formal protection.

1 LEARN Who owns the forest?

- Private owner (individual, business, land trust, non-profit)
- Local government (municipality, county)
- State government
- Federal government

2 CONNECT Find stakeholders who care about the forest

- Forest owner
- Neighbors, community members
- Environmental groups
- Forest users
- Government agencies

3 PERSUADE Campaign to save the forest

- Form advocacy group, establish leadership
- Identify protection measure (set goal)
- Establish timeline (threat of logging, forest sale, development)
- Define your argument and message
- Delegate tasks: communications, fundraising, legal action

4 ENACT Execute the forest protection measure

- Purchase (fee simple)
- Easement of deed or restriction
- Policy adoption (e.g. management plan)
- Change of law, injunction

5 MONITOR Celebrate, monitor and manage the forest

- Publicize
- Recognition and acknowledgement
- Accountability
- Monitoring, execution of management plan



FOREST PROTECTION

There are four types of Forest Protection Measures (“FPMs”) that we’ll cover next.

As you read about each type of FPM, you’ll learn the basics about what it is as well as pros, cons, and tips relevant to that type of protection. By reading the case studies given for each type of FPM, you’ll also gain practical insights into how people like you have implemented the FPMs and saved forests in their communities. Lastly, a Forest Protection Measures Chart is provided so that you can readily compare the four major FPMs and decide which one will work best in your case.

Property Purchase (Fee Simple Title)

What it is | The outright purchase of a piece of property means that the owner(s) hold the “fee simple” title, also sometimes written as “in fee.” Fee simple owners can be individuals, corporations, nonprofit organizations, or a government entity. This is the highest form of ownership interest in the United States.

How it works | Property ownership includes a bundle of rights, including the right to possess, use, subdivide, sell, exclude, mortgage, lease, and create covenants that run with the land. To hold a property title in fee means that the bundle of rights is intact, and none of the rights have been partitioned. Within the confines of the law and local land use regulations, the fee simple owner has complete control over what happens on and to the property.

Permanence of protection measure | Fee simple ownership is not a form of protection in itself. However, the owner has the ability to fully protect a forest from logging or development as long as s/he holds title. This holds true for government and corporate entities as well. Once ownership changes hands, however, there is no protection in place.

Protection measure: pros, cons and tips

- + Provides greatest measure of immediate control over a parcel
- + Parcel can be purchased by any entity (individual, nonprofit, corporation, government)
- \$\$\$ Expensive
- Not a protection measure in and of itself; if parcel changes hands, site is left unprotected
- ★ Owner can then place a “forever wild” conservation easement on the parcel.
- ★ Consider forming a nonprofit organization to purchase a parcel. The nonprofit can accept tax-deductible donations toward its activities. As long as the forest is open to the public, the organization may be exempt from paying property taxes on it.

CASE STUDY - 1A

Briarlake Community Forest, Atlanta, Georgia

The Briarlake Community Forest is located in suburban Atlanta. A group of concerned citizens mounted a grassroots campaign to save a 21-acre forest that was about to be developed. The forest contained many mature specimen trees and was the heart of the neighborhood. The thought of it being clearcut and turned into more homes was unbearable for several hundred community residents. Using sophisticated organizational and advocacy tactics, a group of residents formed their own nonprofit interest group to oppose the development. With strong community support, and fueled by targeted scientific, economic, and legal arguments, the group convinced the county to deny the developer's application. Subsequently, the DeKalb County government voted to purchase the parcel in fee and turn it into a green space.

CASE STUDY - 1B

Harold Richardson Redwoods Reserve, Sonoma County, California

Northern California holds some of the most valuable ancient redwood stands left in North America. In June 2018, the Save the Redwoods League purchased a 738-acre parcel to become the first new old-growth redwood park established in over a decade. The Harold Richardson Redwoods Reserve contains approximately 1,450 ancient trees, including over 300 which are taller than 250 feet. The new reserve will be opened for public access once trails and facilities are established. To complete the complex land transaction, Save the Redwoods League raised \$9.6 million and arranged a land swap to return another parcel of protected forestland to the Richardson Family. When Harold Richardson died in 2016, his heirs faced heavy tax burdens and felt pressure to log the 8,000-acre estate. This transaction ensured that one valuable stand of trees would be protected forever from logging. The Redwoods League owns the property and recorded a conservation easement with the Sonoma County Agricultural Preservation and Open Space District.

Conservation Easement or Deed Restriction

What it is | An easement or deed restriction is a legal instrument that limits the use of land without changing who holds title to the property. Note, however, that a standard conservation easement does not fully protect forests from habitat destruction or logging unless the easement specifically includes “forever wild” or “no timber harvesting” language within it.

How it works | An easement partitions part of the bundle of property rights, transferring ownership of the development rights to a third party. Thus, the current and all future property owners give up the right to subdivide, develop, or (for example) harvest timber on the property. Conservation easements provide better statutory protection than deed restrictions, and are the instrument of choice for most land trusts. [See the Land Trust Alliance's fact sheet, *Conservation Easement vs. Deed Restriction*].

Permanence of protection measure | Conservation easements, if written well, are excellent protection measures providing continual protection in perpetuity. However, they still require ongoing monitoring to ensure enforcement. Easements that are held by more than one third party (e.g., a government entity and a land trust) are the strongest. Including “forever wild” language also greatly strengthens protection for old-growth forests and wild areas. [See the *Forever Wild Toolkit for the Easement Writer*.]



CASE STUDY - 2A

Mudd Family Easement, Carroll County, New Hampshire

In the heart of the White Mountains of New Hampshire lies a 600-acre forest owned by the Mudd Family Partnership, a group of 30 family members. This forest includes lake frontage and several important ecological communities. The owners worked with The Nature Conservancy (TNC) to place a conservation easement on the parcel. This easement directs that half of the property be maintained in a “forever wild” state, to protect it from logging or other disturbances. The other half is governed by a comprehensive management plan authored by TNC, and it is managed as a working forest through a partnership with the USDA Natural Resources Conservation Service (NRCS). This represents a compromise approach. The two portions of the parcel serve competing interests: the desire to absolutely preserve a mature forest ecosystem, and the desire to generate revenue through responsible management of a renewable resource.

Protection measure: pros, cons and tips

- + The most long-term form of land protection (parcel is protected “in perpetuity”)
- + Less expensive form of protection than outright purchase
- + Parcel can change hands, yet the easement conditions remain in force
- + Easement donations can bring tax benefits to grantor
- + Easement purchases can bring income to grantor (a one-time benefit)
- Ongoing protection depends upon the easement holder's ability to monitor and uphold terms
- Subsequent property owners may not be as enthusiastic as the original grantor about easement's terms, and could potentially violate terms before monitoring catches the issue
- Easement holder could sell easement to another party (another land trust or the government), who may not interpret easement terms in the same way
- ★ Use “forever wild” language to ensure old-growth forest management goals are clearly articulated
- ★ Engage at least two organizations to co-hold the easement for stronger protection

Policy Adoption

What it is | Governmental entities may adopt policies to guide decision-making about how public land is used. Such policies can take the form of management plans, Memoranda of Understanding (MOUs), or other formally adopted language. These are not laws, ordinances, or regulations per se, but represent structured guidance that public officials must follow.

How it works | A management plan, MOU, or other policy document calls for certain treatment of the public land in question. It sets out guidelines, refers to best management practices, and can limit or prohibit activities such as logging, land disturbance, or off-road vehicle use.

Permanence of protection measure | Most management plans indicate a timeframe and an end date for whatever goals or activities they address. Some measures are publicly recorded and legally enforceable. Governmental entities may have the power to modify, rescind, or replace certain policy documents.

Protection measure: pros, cons and tips

- + Can be a low-cost way to protect a publicly-owned forest
- + Policy adoption is typically a public process, open to citizen input/advocacy
- + There may be more than one policy protection option available; room for innovation
- + Can be an effective first step toward permanent protection
- Not all policy measures are legally enforceable
- Measure may be time-bound and protection could be lost upon expiration
- Protection may depend upon an agency's interpretation of its terms
- ★ If permanent protections measures are not possible, seek out innovative policy options to protect a forest in the near term.

CASE STUDY - 3A

Baker Family Public Forest Preserve, Fitchburg, Massachusetts

The Fitchburg Division of Public Works manages approximately 4,000 acres of forest to protect the city's drinking water supply area. Part of their management plan policy is to harvest timber from this land on a rotating 15-20 year basis in order to generate revenue. Ralph Baker, an environmental soil scientist, owns property adjacent to a 205-acre parcel that was up for logging in 2016. Baker approached the Public Works Department to encourage them not to continue logging the drinking water supply lands. He argued that the forest would sequester more carbon and do a better job of protecting water quality if left to mature undisturbed. The forest is not old-growth, but does possess many mature trees. The Public Works Department would face a loss of \$40,000 in revenue if they did not log the parcel, so Baker and his wife offered to donate \$50,000 to cover the loss and more, in exchange for a promise not to log the parcel for the next 30 years. The city accepted the offer, and signed a publicly registered Memorandum of Understanding in 2017 to that effect.

CASE STUDY - 3B

Tri-City Carbon Project, West Springfield, Holyoke, and Westfield, Massachusetts

The three towns of West Springfield, Holyoke, and Westfield, Massachusetts have teamed up to enter the nation's first intermunicipal carbon sequestration program. The Tri-City Carbon Project sets aside about 15,000 acres of municipal forest land within the Bear Hole Watershed. In a 10-year contract with Bluesource, a carbon credit vendor, the towns agree to conserve the forest in return for which Bluesource will pay an expected \$300,000 in carbon credits. The carbon credits are then sold to companies around the world to offset their own carbon footprints. The conserved forest represents a carbon sink that is guaranteed to continue sequestering carbon for the length of the contract period, like a carbon savings account. While not a permanent protection measure, this is an innovative program that places monetary value on the ecological services provided by forests without exploiting them for timber. In this instance, the towns do retain the ability to log up to 20% of the annual forest growth. Other such efforts could be structured differently for stronger forest protection.



"Trees are as close to immortality as the rest of us ever come."

—Karen Joy Fowler

Change of Law or Legal Framework

What it is | Most land use decisions in the United States are made at the local level due to our legal structure. Property ownership, transfer, easements, zoning, and land use regulations are generally handled at the municipal or county level. Laws governing public land use, however, may also involve state or federal government when they own the land in question.

How it works | Governmental entities pass laws and adopt administrative rules to guide management of public forest land. This legal framework identifies purpose and need, describes how the measure will serve the public good, and sets general parameters for allowable uses and activities. Agencies can then adopt administrative rules that provide more specific decision-making guidance when interpreting the language of the law.

Permanence of protection measure | Laws stand until they are repealed, amended, or replaced. Generally, they are intended to have a permanent effect; however, politics and shifting public priorities can change them. Citizens and corporations may also make legal challenges to the validity or application of laws. Courts then have the power to uphold or invalidate the laws.

Rules are not state laws | State and federal agency rules guide decision-making policy within the agency. They represent the official interpretation and application of a law. In the federal realm, rules provide strong but not necessarily permanent protection for nationally owned forests, because it is possible for the relevant agency to modify them or for courts to invalidate all or part of the rules. Federal rules take significant time (years) and effort to adopt or change. Legal action by challengers is often a shortcut to weakening restrictions or circumventing rules.

Protection measure: pros, cons and tips

- + Has potential to impact very large areas of land and engender widespread forest protection
- + Passage of laws and adoption of rules include public input process; avenue open to citizen input/advocacy
- + Potential for collaboration between governments and nonprofit advocacy/stewardship organizations on protection mechanisms
- + Protection measures have the force of law behind them
- Laws and rules can be changed or challenged in court; a threat to permanency of protection
- Can take a long time to enact/finalize protection; meanwhile, damage can occur
- ★ Local and state legislation may be more expedient to influence; explore innovative protection programs.

CASE STUDY - 4A

USDA Forest Service Roadless Conservation Rule (36 CFR Part 294 2001)

The USDA Forest Service adopted the Roadless Conservation Rule (often known simply as the Roadless Rule) in 2001. It protects more than 50 million acres of National Forest land in the United States – approximately one-quarter of the 193 million acres of total National Forest land. (For visualization purposes, the state of South Dakota contains 49.4 million acres. Texas covers 171 million acres.) The Roadless Rule prohibits logging and road construction in inventoried roadless areas within the National Forest network. Since its adoption, the Roadless Rule has been seriously challenged in court; however, up until August of 2018 the major challenges have been defeated. The courts have ultimately upheld the rule, most significantly in a long legal battle concerning logging in the Tongass National Forest in Alaska – the United States' largest national forest containing 9.3 million acres of roadless area.

For more information:

- The Roadless Rule: A Tenth Anniversary Assessment (2011, The Wilderness Society)
- Timeline of the Roadless Rule (Earthjustice)

CASE STUDY - 4B

Miami-Dade County Environmentally Endangered Lands Program, Florida

In 1990, citizens in Miami-Dade County voted to approve a small, temporary property tax increase for three years. The revenues were used solely to fund a new program called the Environmentally Endangered Lands (EEL) Program. EEL acquires valuable and increasingly rare habitat areas and preserves them in their wild state. The County adopted language in its county code to structure the program, which is still in effect today. A Land Acquisition Selection Committee (LASC) reviews and ranks proposed acquisition sites each year, which may be suggested by staff, other agencies, nonprofit organizations, or the public. After a public hearing, LASC makes acquisition recommendations to the County Board of Commissioners. Following the Board's approval for acquisition, the EEL Program works with property owners to negotiate property purchases. The program deals only with willing sellers, and leverages county funds with grants, state funding programs, and donations. As of 2018, EEL protects 23,500 acres within Miami-Dade County. EEL lands contain rare rockridge pinelands, tropical hardwood hammock areas, freshwater and coastal wetlands, and scrub habitat. County staff and volunteers maintain EEL lands to manually remove exotic invasive species, perform prescribed burns, and otherwise support the restoration or enhancement of natural ecological processes.

In addition to the EEL acquisition program, Miami-Dade County offers tax relief for property owners who sign 10-year EEL covenants. If the County deems a parcel to contain environmentally endangered land, the owner may enter a binding covenant with the county to maintain the property in a wild state for a period of at least ten years. In return, the property's assessed value is reduced to reflect the lost development/timber harvesting rights. Thus, the County forgoes some incremental tax revenue but retains wildlands for the duration of the covenant. The property owner saves on taxes but does not give up ownership rights.

A number of other Florida counties have similar wildland acquisition programs, notably Hillsborough, Brevard, Sarasota, Hernando, Broward, and Palm Beach Counties.

The State of Florida has a long history of wildland acquisition and protection. Florida's efforts to buy environmentally significant tracts of land in order to protect them began in the early 1970s with an allotment of 200 million dollars. In 1979, the Conservation and Recreation Lands (CARL) program was established through the Florida legislature. More recently, the Preservation 2000 Act (1990) and Florida Forever Program (2001) have purchased more than 2.5 million acres to add to the state's 10 million-acre conservation holdings. Together they represent the country's largest public land acquisition program of this kind.

For more information:

- EEL Program in Miami-Dade County Code
- EEL Program Brochure
- EEL Covenant Program, Miami-Dade County
- Florida Forever website
- Hillsborough County ELAPP Project website
- Hillsborough County ELAPP History Project



FOREST PROTECTION MEASURES

This comparison chart is a helpful tool in decision making, alongside OGFN's *How to Save a Forest Toolkit*. For more info, please email melissa@oldgrowthforest.net



PROTECTION MEASURE	Fee Simple / Purchase	Conservation Easement	Policy Adoption	Change of Law or Legal Act
Main feature	Purchase of a property; legal form of ownership	Sets legal limitations on the use of the property without changing ownership	A policy adopted by a gov't entity providing guidance about how public land is used	A land use law usually made at local level, can also be state or federal level
How it works	Individuals, non-profits, gov't, or corporations can purchase bundle of land rights	Partitions certain property rights so that all current & future property owners give up specified development rights	A management plan, MOU, or other policy doc sets out specific guidelines for the treatment of the specified public land	Gov't entities pass laws and administrative rules to guide management of public forest land
Level of permanence	Weak; depends on owner who protects property at-will	Strong; especially if rights are held by two different third parties	Moderate; can be modified or rescinded; subject to renewal	Strong; laws stand unless repealed, replaced, or amended
Feasible for communities?	Yes	Yes	In some cases	In some cases
Flexible for varied management goals?	Owner can protect property at-will, with varied goals	Conservation easements must be specific based upon the goals	Flexibility during policy drafting process	Flexibility during law drafting process
Resources available (references, contacts)?	Yes	Yes, see OGFN's Toolkit	Yes; legally enforceable examples can be sought	Yes, see OGFN's Toolkit
Drawbacks	Not really a form of protection; if property changes hands, site is left unprotected	Requires ongoing monitoring & enforcement; interpretation of easement terms may vary	Often limited by a timeframe, but this is helpful if a near-term solution is needed; interpretation of terms may vary	Significant time & resources are needed to enact laws; legal challenges or shifting politics can affect them
Tip	Owner can then place a conservation or "forever wild" easement on property	Easements are stronger than deed restrictions; including "forever wild" language is preferable	Publicly recorded and legally enforceable policies may afford best protection	Learn about legal precedents to serve as examples from OGFN's Toolkit





"To exist as a nation, to prosper as a state, to live as a people, we must have trees."

—Theodore Roosevelt



Vanessa Goold grew up in the forests of Vermont and learned to love trees at an early age. Now a resident of Maryland's Eastern Shore, she spends as much time as possible outside, appreciating the abundant flora and fauna of the Chesapeake Bay region. Vanessa holds a Master's degree in Urban and Environmental Planning and Policy.



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The Old-Growth Forest Network is a 501(c)(3) non-profit organization dedicated to connecting people with nature by creating a national network of protected, mature, publicly-accessible native forests. Our vision is to establish a national network of treasured forests where all generations can experience native biodiversity and the beauty of nature. The Old-Growth Forest Network is the only national organization that focuses specifically on preserving and educating about old-growth forests.

Our goal is to preserve at least one forest in every county in the United States that can sustain a native forest, estimated to be about 75% of our nation's counties. To achieve this goal we work to identify forests for the Network, ensure their protection from commercial logging, and inform people of the forest locations. In order to bring about greater protections for old-growth forests, OGFN also educates people about the extraordinary ecological benefits of old-growth forests and speaks out regarding immediate threats to specific ancient forests.

The Old-Growth Forest Network is not only a network of forests, it is an alliance of people that care about forests. In order to help people and communities to save their local forests from destruction or degradation, we created this Toolkit to fill what we perceived as an information gap. Please visit our website at www.oldgrowthforest.net to discover additional resources.

On average, we only have about 1% of old-growth forests remaining in the Eastern U.S., and about 5% left in the West. It is up to each and every one of us that cares about forests to do our part in preserving what is left. We encourage you to stay connected with us, share your story with us, and be an active member of the Old-Growth Forest Network community.

All items that OGFN produces, including this booklet, are printed on 100% post-consumer recycled paper