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IN FOCUS

October 5, 2020

The Good Neighbor Authority

The Good Neighbor Authority allows the Forest Service (FS) and the Bureau of Land Management (BLM) to authorize states, counties, and federally recognized Indian tribes to conduct certain projects on federal lands in pursuit of specified land management goals (16 U.S.C. §2113a). The Good Neighbor Authority allows FS and BLM to collaborate with these groups to plan and execute cross-jurisdictional restoration work. The Good Neighbor Authority was expanded in 2018, which broadened the possible partners and uses of the authority. The Good Neighbor Authority generally has been perceived as successful, particularly in enhancing state-federal relationships and addressing cross-boundary land restoration needs. Some provisions of the 2018 expansion, particularly those regarding treatment of timber revenues, have generated concern. This In Focus provides background information, statistics on use, and a brief overview of the issues, including those related to timber sales and revenues.

Legislative History

Congress originally authorized the Good Neighbor Authority in 2001 as a pilot program for FS lands in Colorado (P.L. 106-291, §331) and later expanded the pilot to include BLM lands in Colorado and FS lands in Utah (P.L. 108-447, §§336-337). In 2014, Congress passed the Good Neighbor Authority permanently into law (P.L. 113-79, §8206). The permanent authority applied only to states. Congress also temporarily extended and expanded a version of the law in 2014 (P.L. 113-76, §417), which differed in its requirements and was superseded by the permanent authorization.

In 2018, Congress expanded the authority to include counties, groups of counties, and federally recognized Indian tribes (referred to as "counties" and "tribes" herein). Congress also authorized states to retain funds from timber sales made under the Good Neighbor Authority, subject to certain conditions (P.L. 115-334, §8624). Congress also authorized certain road restoration activities (P.L. 115-141, §212).

Good Neighbor Agreements

The Good Neighbor Authority allows states, counties, and tribes to enter into a *Good Neighbor Agreement* (GNA) with FS or BLM to perform forest, rangeland, and watershed restoration work on the federal land managed by those agencies. Authorized restoration services include

- treating insect- and disease-infested trees;
- reducing hazardous fuels;
- any other activities to restore or improve forest, rangeland, and watershed health, including fish and wildlife habitat; and
- reconstruction, restoration, and repair of decommissioned National Forest System (NFS) roads (defined at 36 C.F.R. §212.1) if necessary to implement authorized forest restoration services.

Authorized restoration services could include timber harvesting, hazardous fuels treatment, tree planting or seeding, and other activities. For the purposes of the Good Neighbor Authority, "federal land" does not include designated wilderness areas, wilderness study areas, or areas where removal of vegetation is prohibited by an act of Congress or by presidential proclamation. Construction, reconstruction, repair, and other works involving buildings, public works, and non-NFS roads are not permitted.

GNAs may be structured in several ways. The parties may enter into a cooperative agreement or contract called a Master Agreement (MA), which outlines the general scope of the GNA and describes the collaborative framework between the federal agency and the partner. MAs serve as an umbrella for Supplemental Project Agreements (SPAs), which outline the specific terms and conditions for implementation of individual projects. Partners also may enter into stand-alone agreements, which fulfill both functions for the purpose of a single project. GNA duration is not addressed in statute.

There is no limit to the number or kind of GNAs a partner may enter into, including entering into multiple MAs. Although GNAs may allow for any number of authorized activities, many GNAs emphasize a specific project type or purpose. For example, a state's Department of Forestry and Department of Fish and Game may each enter into separate MAs with FS. The state's Department of Forestry might then enter into SPAs pursuant to its MA to perform hazardous fuels reduction or commercial timber harvests on FS lands. The state's Department of Fish and Game might then enter into SPAs under its MA to perform habitat improvement projects on FS lands. In addition, the state's Department of Water Resources might enter into a stand-alone agreement with FS to perform a watershed restoration project.

Statistics

Since the Good Neighbor Authority's initial passage, states have increasingly adopted use of GNAs with both FS and BLM, and the majority of states have entered into GNAs. Although the data below are not directly equivalent, FS has far more GNAs than BLM.

FS reports the number of *active* GNAs, which are GNAs that are in effect in a given fiscal year, regardless of when they were initiated. In FY2019, FS had 57 active MAs with 36 states and 100 SPAs, compared with 44 active MAs with 34 states in FY2018. FS had 78 active stand-alone

agreements in FY2019, compared with 65 in FY2018. States have taken a variety of approaches to GNAs with FS, including using only stand-alone agreements, entering into multiple master agreements and SPAs, using all agreement types, and other combinations. One county has entered into a GNA with FS in FY2019. No federally recognized tribes have entered into GNAs with FS to date.

FS reports the number of GNAs by project purpose. In its FY2021 budget justification, FS specifies that there were 67 agreements for forest health, 39 for watershed management, 28 for wildlife management, 27 for timber management, 18 for ecosystem management, and 18 for fire management. FS also reports there were 47 GNAs for other purposes, which include those GNAs that span multiple project purposes.

BLM reports the number of *new* GNAs each fiscal year; the total number of *active* GNAs in a fiscal year may be larger, as GNAs entered into in previous fiscal years may continue to be in effect. BLM also reports GNA data by BLM state office, which can represent a geographic area of more than one state. Eleven BLM state offices, representing 12 states, have entered into GNAs. As of FY2019, all GNAs with BLM were stand-alone agreements. BLM entered into 26 new stand-alone agreements in FY2019, compared with 8 new GNAs in FY2018. BLM does not report what kinds of projects have been undertaken under GNAs on BLM lands or whether federally recognized tribes or counties have entered into GNAs with BLM to date.

Timber Sales and Revenues

Partners may conduct commercial forest product sales (such as timber sales) under GNAs. FS and BLM retain the responsibility to comply with all applicable federal laws for federal timber sales, such as laws requiring reforestation, brush removal, or other treatments of timber sale areas. FS and BLM must approve and mark any silvicultural prescriptions (e.g., what trees may be cut). The amount of FS timber sold under GNAs has increased from 14.4 million board feet in FY2016 to 182.6 million board feet in FY2019 (see **Table 1**). BLM does not report timber sale data under GNAs.

Table 1. Forest Service Timber Volume Sold Under a GNA, Million Board Feet (MMBF)

	FY2016	FY2017	FY2018	FY2019
Sold MMBF	14.4	92.8	89.2	182.6

Source: Email from Forest Service (FS) to CRS, May 14, 2020.
Note: FS reported that there was no timber volume sold under a Good Neighbor Agreement (GNA) prior to FY2016.

Prior to 2018, treatment of timber sale revenues was not directly addressed by the Good Neighbor Authority's authorizing legislation. In 2018, Congress specified that, through FY2023, funds received by a *state* through the sale of timber under a GNA may be retained and used by the state on additional GNA projects. No such provision exists for counties or tribes. Because timber sale revenues from states are not returned to FS or BLM, those revenues are not applied to calculations of FS or BLM revenue-sharing payments.

In addition, in 2018, Congress specified that any payment made by a *county* to FS or BLM under a GNA project would not be subject to applicable revenue-sharing laws. Because counties are not authorized to retain GNA timber sale revenues, such revenues must be remitted to FS or BLM. In this case, the payment is not considered to be revenue for the purpose of applicable revenue-sharing laws pertaining to FS and BLM lands. No such provision exists for states or tribes. It is unclear to CRS whether any such payment made by a tribal partner would count toward revenue-sharing purposes.

Issues

The expansion of the Good Neighbor Authority to tribal and county governments significantly expanded the potential partners for use of the authority. To date, few counties or tribes have made use of the expanded authority. The lack of authorization to retain timber sale revenues may have decreased the attractiveness of GNAs for counties and tribes, compared with states. Other factors influencing whether counties and tribes enter into GNAs might include funding, staffing, or other resource capability concerns, as well as the short amount of time that counties and tribes have been authorized partners (since 2018).

Several issues with the Good Neighbor Authority relate to the treatment of timber sale revenues. Some may prefer that the authority to retain timber sale revenues be given to all possible GNA partners. Some also may prefer to have the revenue from GNA projects subject to FS and BLM revenue-sharing laws. In contrast, others may contend that allowing timber sale revenues to be retained by partners, while also counted toward revenue-sharing payments, could constitute a double payment if a partner were to receive a revenue-sharing payment. In addition, some may prefer that the federal government retain at least some portion of the revenue derived from the sale of a federal resource. Further, because FS and BLM both use timber receipts to fund a variety of resource management activities, the loss of revenue associated with GNA timber sales may mean less funding is available for those purposes.

Neither FS nor BLM receive a direct line item appropriation for implementing GNAs. Rather, the agencies may use any available funds appropriated for the specified project purpose. Any FS or BLM funding is negotiated for individual GNAs. Partners may also provide funding, although no partner contributions are required. Some partners may support providing direct funding specifically for the Good Neighbor Authority, and others may contend that the current funding mechanisms are sufficient.

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IF11658

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