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The Good Neighbor Authority on Federal Lands

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 authority allows FS and BLM to collaborate with these entities to plan and execute cross-jurisdictional restoration work. The authority generally has been perceived as successful, particularly in enhancing state-federal relationships and addressing cross-boundary land restoration needs. 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 authority permanently into law (P.L. 113-79, §8206). The permanent authority applied only to states. Before it enacted the permanent authority, Congress had 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extended and expanded a version of the law in 2014 (P.L. 113-76, §417), which differed in its requirements and was superseded by the permanent authorization.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 (hereinafter referred to as *counties* and *tribes*, respectively). Congress also authorized states to retain funds from timber sales made under the authority, subject to certain conditions (P.L. 115-334, §8624). It also authorized certain road restoration activities (P.L. 115-141, §212).

Good Neighbor Agreements and Contracts

The Good Neighbor Authority allows states, counties, and tribes (hereinafter, *partners*) to enter into a cooperative agreement or contract with FS or BLM to perform forest, rangeland, and watershed restoration work on the federal land managed by those agencies (hereinafter, both contracts and agreements are *GNAs*). 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 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.

The FS and BLM structure GNAs in various ways. The FS may use a cooperative agreement or contract called a Master Agreement (MA), which describes the collaborative framework between the federal agency and the partner. FS MAs serve as an umbrella for Supplemental Project Agreements (SPAs), which outline the specific terms and conditions for implementation of individual projects. BLM and FS also use 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 kinds 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 a separate MA with the 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 BLM to perform a watershed restoration project.

Statistics

FS reports the total number of *active* GNAs, which are GNAs that are in effect in a given fiscal year, regardless of when they were initiated. In FY2021, FS had a total of 341 GNAs: 328 with 38 states, 6 with counties, 5 with tribes, and 2 with "other" named state or county organizations (such as soil and water conservation districts). Most partner states and some counties and tribes had multiple GNAs with FS; some states had over 30 GNAs with FS, although most had between 1 and 10. FS did not report whether these agreements were MAs, SPAs, or stand-alone agreements. In past years, partners have taken various 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. FS did not report the purpose of these agreements, although in past

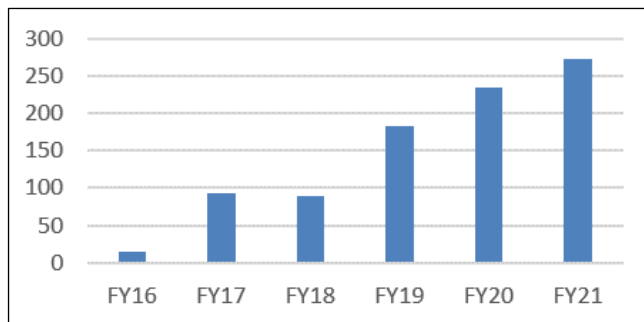
years, the most common purposes were for forest health, watershed management, and wildlife management.

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. As of FY2021, BLM reported 132 new GNAs. Of these, 60 were with states, 38 were with counties, 1 was with a tribe, and 33 were with “other” groups—particularly, regional organizations such as soil and water conservation districts, but also universities, cities, nonprofit organizations, and other groups that are not clearly states, tribes, or counties. All agreements or contracts with BLM were stand-alone. The most common purpose for BLM GNAs is invasive weed treatments (33 GNAs), followed by wildlife habitat restoration (29) and watershed restoration (22). Other common purposes are hazardous fuels reduction (17) and forest resilience (15).

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 about 14 million board feet in FY2016 to about 273 million board feet in FY2021 (see **Figure 1**). BLM does not report timber sale data under GNAs.

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



Sources: Email from Forest Service (FS) to CRS, May 14, 2020, and Forest Service FY2021-FY2023 budget justifications.

Note: FS reported that there was no timber volume sold under a Good Neighbor Agreement (GNA) prior to FY2016. FY = fiscal year.

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, so FS and BLM collect and retain revenue from timber sales from GNAs with these partners. 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 for Congress

Although the extension of the GNA to counties and tribes significantly expanded the potential partners that may use the authority, compared to states, relatively fewer counties and tribes have made use of the expanded authority. The lack of authorization to retain timber sale revenues may decrease the attractiveness of GNAs for counties and tribes, compared with states, particularly for projects on FS lands (which contain more timberland than BLM lands, and therefore have more opportunities for projects involving timber management). Other factors influencing whether counties and tribes enter into GNAs might include funding, staffing, or other resource capability concerns, as well as the relatively shorter amount of time that counties and tribes have been authorized partners.

One aspect of the Good Neighbor Authority that has been a subject of debate is the treatment of timber sale revenues. Some stakeholders may prefer that the authority to retain timber sale revenues be given to counties and tribes—for example, to ensure incentives for participation are equal across partners. Some also may prefer to have the revenue from GNA projects subject to FS and BLM revenue-sharing laws to avoid potential reductions in revenue-sharing payments. In contrast, others may contend that allowing timber sale revenues to be retained by partners, while also being 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 reduce funding available for those purposes.

Congress may consider the funding sources for GNA implementation. Neither FS nor BLM receives a direct line item appropriation for implementing GNAs. Rather, the agencies may use any available funds appropriated for the specified project purpose. Partners also may provide funding, although no partner contributions are required. Some partners may support providing direct funding specifically for the Good Neighbor Authority to ensure dedicated funding for GNA implementation or improve traceability of GNA funding. Others may contend that the current funding mechanisms are sufficient—for example, because they afford the agencies flexibility in funding GNA projects.

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