
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Henry Stern, Chair
2021 - 2022 Regular

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Author:	Chau		
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Subject: Forest resources: national forest lands: Good Neighbor Authority Fund: ecological restoration and fire resiliency projects

BACKGROUND AND EXISTING LAW

The current outlook for the risk of large wildfires across the state in the next few months is poor. Almost all of the state is experiencing drought conditions, and the moisture content in vegetation, whether alive or dead, is low. According to recent predictions, much of the state will be at above normal risk for a large wildfire later this summer. In parts of northern California, there is already significant large wildfire potential.

Through June 27, 2021, the Department of Forestry and Fire Protection (CAL FIRE) and the federal government have responded to over 4,100 fires affecting almost 32,000 acres in the state. These are more fires and a larger acreage than last year for both, as well as more than the five year average for CAL FIRE. These data do not include the most recent fires – including the Salt, Tennant, and Lava fires – which were responsible for evacuations and structure loss over the last week.

Catastrophic and devastating wildfires have occurred repeatedly in the state in recent years. In 2020 alone, over 8,000 wildland fires burned almost 4.4 million acres breaking the previous record of 1.8 million acres set in 2018. The 2020 August Complex Fire in northern California – the largest fire in California’s modern history – burned over 1 million acres by itself. Five of the six largest fires in the state’s modern history burned at the same time in 2020. In the last five years from wildland fire, tens of thousands of structures – almost entirely homes - have been destroyed, insured losses incurred are in the billions of dollars, prime habitat has been damaged, and, tragically, hundreds of lives have been lost. In addition, millions of Californians have been exposed to unhealthy air quality due to the wildfires, and millions of tons of carbon dioxide emitted to the atmosphere. Improving the health and resiliency of the state’s wildlands and forests to wildland fire are important to protecting public and environmental health and safety.

While fires have always been present in the state, the number of days with extreme fire risk has more than doubled in the last 40 years. This is likely to continue to increase, and one of the impacts of climate change in the state is an increase in the frequency and intensity of wildfires. In forested regions, decades of fire suppression, historic logging practices and drought have produced unhealthy forests. Prescribed low-intensity fires can be a useful vegetation management treatment in forests. However, other types of vegetation – such as coastal sage scrub – may more effectively benefit from other types of treatments. The different ecosystems of the state, among the most biodiverse places on earth, require different approaches to be effectively managed.

Improving forest and wildlands stewardship, however, is complicated by the fact that the state itself only owns about 3% of the approximately 33 million acres of these lands in the state. The federal government owns 57% (primarily in National Forests), and private landowners own the remaining 40%.

Major wildfires have started on federal forestlands then spread to and damaged communities throughout the state. The health of federally managed forestlands has a significant impact on all Californians: these forests provide clean air, clean water, carbon storage and recreational opportunities. High-intensity wildfires threaten all of these values.

In August 2020, the Newsom Administration, building on Executive Orders issued by both Governor Brown and Governor Newsom, signed a Memorandum of Understanding (MOU) with the Pacific Southwest Region office of the US Forest Service (USFS) in order to establish a “joint framework to enhance science-based forest and rangeland stewardship in California.” In this Shared Stewardship MOU, the USFS and the state “commit to maintain and restore healthy forests and rangelands that reduce public safety risks, protect natural and built infrastructure and enhance ecological habitat and biological diversity.” The strategy underpinning the MOU contains three core elements – joint forest stewardship, the identification and prioritization of projects, and using every available tool. Actions agreed to in the MOU include sustainably treating one million acres annually (half each); developing a 20-year joint plan to reduce wildland fire risk with regular 5 year updates; developing new markets for wood products; promoting ecological co-benefits; expanding forest management and associated infrastructure to do so; the use of sustainable vegetation management treatments; improving access to sustainable recreation; identifying and protecting the communities most vulnerable to fire impacts; and advancing a science-based data collection, monitoring and analytics approach.

In January 2021, the Forest Management Task Force released “California’s Wildfire and Forest Resilience Action Plan” (Action Plan). The Action Plan builds upon ongoing or new efforts to build fire breaks, hire additional seasonal firefighters and other recent actions to reduce wildland fire risk and promote resiliency. The Action Plan incorporates elements of and is informed by the MOU. The Action Plan is designed to “strategically accelerate” efforts to restore the health and resilience of the state’s forests, grasslands and natural places; improve the fire safety of communities in the state; and sustain the economic vitality of rural forested areas. The Action Plan includes four principal goals with additional sub-goals, and almost 100 key actions to implement the goals.

Of particular interest in the Action Plan are explicit goals for expanded use of Good Neighbor Authority agreements to provide potentially for more flexible contracting at a regional level, to facilitate USFS partnership with others to accomplish fuel reduction projects on federal lands more efficiently, and to facilitate Caltrans’ treatment of vegetation on the side of roadways in or adjacent to federal lands.

According to the USFS, Good Neighbor Authority (GNA) allows the USFS to enter into agreements with state forestry agencies and others to do important management work to keep forests healthy and productive, including forest and watershed restoration, and hazardous fuels reductions. GNA was first authorized in 2014 and its scope expanded in 2018. Funding for projects pursuant to the GNA is authorized from the sale of timber

on national forest lands. A goal of these agreements is to increase the pace and scale of restoration across national forest lands through collaborative efforts.

In 2016, the USFS signed a general regional master GNA agreement with the California Natural Resources Agency. Since then, three supplemental project agreements under this GNA have been signed. The Sierra Nevada Conservancy also has a master GNA agreement with the USFS, and a separate GNA with the Plumas National Forest. Separately, Caltrans is reported to be working on a master GNA agreement for roadside vegetation management (consistent with the Action Plan's key action noted above). According to Assembly Natural Resources Committee, CAL FIRE has also funded work through its Healthy Forest grant program on federal land using GNA.

Existing federal law:

- 1) Establishes under Good Neighbor Authority that the Secretary of Agriculture or Interior can enter into a Good Neighbor Agreement with a Governor or county to carry out authorized restoration services.
 - a) These restoration services include forest, rangeland, and watershed restoration services including activities to reduce hazardous fuels, activities to treat insect- and disease-infected trees and any other activities to restore or improve forest, rangeland, and watershed health, including fish and wildlife habitat on National Forest and certain federal public lands, as specified.
 - b) Timber sales from federal lands are authorized under a Good Neighbor Agreement and revenues shall be retained and used to carry out authorized restoration services on federal land under the good neighbor agreement, as provided. (Title 16, United States Code, §2116).

Existing state law:

- 1) Establishes CAL FIRE in the California Natural Resources Agency. CAL FIRE is responsible for, among other things, fire protection and prevention, as provided.
- 2) Authorizes CAL FIRE to enter into an agreement, including a grant agreement, for prescribed burning or other hazardous fuel reduction. Authorizes the state to assume a proportionate share of the costs of site preparation and prescribed burning or other hazardous fuel reduction on wild lands.
- 3) Authorizes CAL FIRE to provide grants or enter into agreements with entities, including, but not limited to, private or nongovernmental entities, to improve forest health and reduce greenhouse gas emissions. Requires monies appropriated to CAL FIRE for landscape-scale projects to be allocated as follows:
 - a) To subsidize the removal of small diameter material, especially surface fuels and ladder fuels, as well as dead trees, in order to help develop markets for beneficial uses of the material, including, but not limited to, animal bedding, bio char, cross-laminated timber, mulch, oriented strandboard, pulp, post, shredding, and veneer products.

- b) For multiple benefit projects, such as tree thinning, carbon sequestration, forest resilience, and improved ecological outcome projects, including but not limited to, restoring watershed health and function, and supporting biodiversity and wildlife adaptation to climate change. Requires CAL FIRE to prioritize grant funding to landowners who practice uneven-age forest management with a resilient forest of diverse age, size, and species class within the boundaries of the project and whose activities are conducted pursuant to an approved timber harvest plan, nonindustrial timber harvest plan, or working forest management plan. Requires an application for a grant for a project to include a description of how the proposed project will increase average stem diameter and provide other site-specific improvement to forest complexity, as demonstrated by the expansion of the variety of tree age classes and species persisting for a period of at least 50 years.
 - c) For activities on National Forest lands to increase tree stand heterogeneity, create forest opening of less than one acre, and increase average tree stand diameter of residual trees. Requires collaboration with the Air Resources Board for grant approvals for projects on National Forest lands.
- 4) Establishes the Good Neighbor Authority Fund in the State Treasury. Monies in the Fund are available to execute forest health and fuels reduction projects on federal lands under Good Neighbor Agreements, and to fund costs associated with planning, implementing, and maintaining these projects, as provided.
- a) State entities subject to Good Neighbor Authority Agreements are authorized to accept grants and donations, as provided, or funds from any source for the purpose of supporting or facilitating activities pursuant to GNA agreements.
 - b) Monies in the Fund shall be transferred at the direction of the Secretary of Natural Resources.
 - c) GNA Agreements authorize these entities to sell timber harvested during these activities to offset project costs and support implementation of new GNA projects. (PRC §4810)
- 5) Provides until January 1, 2023 that California Environmental Quality Act (CEQA) does not apply to prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire where the projects have been reviewed under the federal National Environmental Policy Act of 1969 (NEPA) and either the primary role of a state or local agency is providing project funding or staffing, or the project is undertaken pursuant to GNA or stewardship agreement, as specified. This allowance is contingent on the Secretary of the Natural Resources Agency certifying on or before January 1 of each year that NEPA has not been substantially amended on or after August 31, 2018. (PRC §4799.05)

PROPOSED LAW

This bill would substantially revise the existing Good Neighbor Authority Fund chapter in state law.

Specifically, this bill would:

- 1) Rename the chapter the “Good Neighbor Authority Program.”
- 2) Require the Secretary of the Natural Resources Agency to establish a program for conducting ecological restoration and fire resiliency projects on forest lands subject to the following conditions:
 - a) The program will be under an agreement between the state and federal government.
 - b) Priority shall be given to forest restoration and fuels reduction projects that are landscape scale, focused on ecological restoration and based upon the best available science.
 - i) These projects shall emphasize the use of prescribed fire, and include community fire protection and protection of water infrastructure and other infrastructure as important goals.
 - c) Eligible activities may include:
 - i) The development of environmental documents pursuant to NEPA and CEQA.
 - ii) Other activities related to project planning, as specified.
 - iii) Implementation and maintenance of selected projects, including ecological thinning, prescribed fire, replanting, and related activities.
 - d) Authorize the Secretary of the Natural Resources Agency to contract with Native American tribes, state agencies, local governments, special districts, forest collaboratives, resource conservation districts, private entities, and qualified nongovernmental organizations to assist in planning, implementing, and maintaining landscape scale restoration projects on national forest lands.
- 3) Define a “forest collaborative” to mean a functioning transparent and inclusive collaborative group that includes multiple persons or entities representing diverse interests, that has sufficient expertise, capacity and scientific support to effectively plan, implement and monitor landscape-level, ecological-based forest restoration activities.

ARGUMENTS IN SUPPORT

According to the author, “The federal government owns and manages 57% of California’s 33 million acres of forestland, while the state and local governments own and manage only 3% of the forestlands. Wildfires are a continuing and growing problem in California. The frequency, size, and intensity of wildfires is increasing every year, causing severe damage to infrastructure, life, our forest ecosystem, and property. In fact, the top seven largest wildfires all occurred since 2017 alone, and were amongst the deadliest. Fire of the top six occurred in 2020 alone, which resulted in more than 4.1 million acres burned. Many major wildfires start on federal forestlands then spread to and damage communities throughout our state. Recognizing the importance of working together to address forest health and wildfire risk, Congress expanded the Good Neighbor Authority (GNA) nationwide in 2014 to authorize the states and federal government to share funds, staff and other resources, across jurisdictional boundaries,

through signed agreements. AB 697 would create a program for the State to plan, manage and implement forest restoration projects on U.S. Forest Service lands through an expanded and formalized GNA that would accelerate the pace and scale of ecologically based forest management and reduce wildfire risk.”

ARGUMENTS IN OPPOSITION

None received

COMMENTS

AB 697 formalizes an existing program and direction. The federal government must be part of addressing catastrophic wildfire in the state given how much of the state’s forest and rangelands it owns or manages. The GNA program provides a framework to do that. AB 697 provides, within the bounds established by the GNA program at a federal level, explicit guidance on state priorities for this program.

Of particular note, this bill defines forest collaboratives and makes them eligible to participate. There are increasing efforts to develop and facilitate regional approaches to addressing wildland fire and improving forest health, such as the formation and rapid growth of the Department of Conservation’s Regional Forest and Fire Capacity Program. In addition specifying landscape-level projects will help to ensure that regional priorities can be comprehensively addressed. In a letter of support, the Placer County Water Agency and the Yuba Water Agency describe a project to plan, finance and implement forest restoration across 275,000 acres of private, public and national forest land. Facilitating a large-scale project like this and ensuring coordinated ongoing efforts across multiple jurisdictions are important. Invasive plants and pests do not recognize the boundaries between private, state and federal lands.

The bill is also consistent with the recently-signed Shared Stewardship MOU. Among other areas that overlap, the CNRA and USFS commit in that document to “use science-based management to ensure vegetation treatment tools are ecologically appropriate to specific vegetation and landscapes.” The underlying premise – science to inform appropriate treatment – is incorporated into the bill. Previously signed GNA agreements explicitly promote multi-benefit solutions. The Shared Stewardship MOU also provides for the promotion of “ecological co-benefits” such as protecting biodiversity and water resources and carbon sequestration. The Committee may wish to amend the bill to explicitly promote multi-benefit solutions under GNA agreements, as feasible (GNA agreements may only include certain projects). [Amendment #1]

Federal forestlands reflect the state’s biodiversity. One of the principles in the Shared Stewardship MOU is “do the right work in the right places and the right scale.” It is important to recognize, however, that all forests are not composed of the same vegetation. While some may be primarily composed of conifers, the state’s forestlands include a broad range of vegetation types. In some instances, there may be few trees. While a natural fire return rate in a mixed conifer forest may be on the order of 10 years, fire that frequent in a chaparral system could result in damage to the ecological health of the chaparral and the spread of more flammable non-native species and type conversion (loss of chaparral). This type conversion process can ultimately lead to the complete replacement of native chaparral with nonnative grasses.

The bill's requirement that best available science be used to inform ecological restoration should help to ensure that local ecosystem-appropriate projects are undertaken through the GNA agreements. That written, the bill could be improved by adding more specificity, consistent with the excerpts from the Shared Stewardship MOU in this bill analysis. This could include, for example, requiring that restoration projects prevent type conversion and the spread of invasives, that a landscape-scale project encompassing multiple ecological regions could require different treatment plans in each region, and related matters. The Committee may wish to amend the bill to specifically address type conversion. [Amendment #2]

The need. In April 2021, Michael Wara of Stanford's Woods Institute released "A New Strategy for Addressing the Wildfire Epidemic in California." Within the report, Professor Wara calls for "a return to managing public and private landscapes at sufficient scale using ecologically oriented fuel management with the goal of reestablishing low-intensity prescribed fire in ecosystems where it reduces risk and improves ecological function." He notes that different elements of this strategy will be more or less important in different parts of the state. He repeatedly points out the importance of scale, and notes that the one million acres per year treatment target is about ten times current efforts and would ensure that over 10 – 20 years, the 20 million acres of forested landscapes in the state that historically burned more often will be treated. This will help reduce the likelihood of fuel-driven catastrophic wildfire in the state. The challenge, however, is achieving and maintaining this level of effort effectively in perpetuity. The Shared Stewardship MOU is a good start, but substantive workforce, permitting and financing challenges remain. Additional GNA agreements, as provided for in this bill, are also a positive and likely critical step forward.

Wildfires on federal lands within California. In 2020 alone, there were several significant wildfires on federal lands within the state. For example, the August Complex, Creek, Slater, Dolan, and North Complex fires occurred at least in part in Mendocino National Forest, Sierra National Forest, Klamath National Forest, Los Padres National Forest, and Plumas National Forest, respectively. As noted above, the August Complex fire was the largest wildfire in state history, covering over one million acres by itself and causing the destruction of 935 structures and one fatality. The North Complex fire tragically resulted in the deaths of 15. Portions of the area burned by the Creek Fire had been treated using cultural burning practices and those portions survived the Creek fire better than those not similarly treated.

Examples of existing GNA agreements. The 2016 GNA supplemental agreement between the CAL FIRE Fresno King Ranger Unit and the USFS/Sierra National Forest sought to "reduce fire risk, maintain public safety and improve forest health." Goals of the agreement included to improve defensible space and reduce the risk of catastrophic wildfire. Fuels reduction included the hand felling or mechanical removal of trees and vegetation, chipping, dozer and/or hand piling or mastication. Specific steps were included to limit the spread of "noxious weeds." Weeds discovered were required to be hand pulled and monitoring had to continue for 2 years. Regular communication among the entities was required.

The 2016 GNA supplemental agreement between CAL FIRE Amador-EI Dorado Unit and the USFS/Eldorado National Forest primarily concerned a fire break to protect two communities. The State had responsibility for preparing the NEPA and CEQA

documents – including biological assessments and evaluations, and cumulative watershed effects analysis, among other things. The USFS retained decision authority for NEPA. The agreement addressed avoiding sensitive plants and archaeological sites during project implementation. Where a single project encompasses private, state and federal lands, there may be jurisdictional and oversight issues related to state agency authority. While these can be addressed, at least in part, through each GNA agreement itself, there may be aspects where additional legislative direction is warranted.

Recent budget action. Although outside this Committee’s jurisdiction, the Legislature passed and the Governor signed a \$536 M “early action” wildfire item that includes \$198 M for wildland fire breaks and \$283 M for resilient wildlands. (SB 85 (Committee on Budget and Fiscal Review, Chapter 14, Statutes of 2021)) The Fiscal Year 21/22 budget includes hundreds of millions of additional funding for forest health and wildfire prevention and resiliency programs. During the budget discussions, the Legislative Analyst’s Office recommended certain reporting requirements be instituted to track implementation. It remains unresolved whether there will be wildfire-related reporting requirements through the budget or through other wildfire policy bills active in the Legislature. The GNA program appears to be a critical component of the state meeting its treatment goals, and ensuring GNA-related data are readily-available makes sense. The author may wish to consider monitoring these other proposals as the session continues to ensure that the GNA program is included.

More on federal/state agreements. The Shared Stewardship MOU signed in August 2020 is not a GNA agreement. Shared stewardship agreements can last longer than GNA agreements (20 years compared to 10 years), and may be executed with a broader range of non-federal partners than GNA agreements. Both appear to seek to share the general goal of leveraging partnerships across jurisdictional boundaries to improve the pace and scale of restoration activities across national forestlands.

Recent related legislation

SB 456 (Laird, 2021) would require the Forest Management Task Force to develop a comprehensive implementation strategy to achieve the goals and key actions identified in the its “Wildfire and Forest Resilience Action Plan,” and require certain specified annual reporting on progress to achieve these goals and key actions, among other things. (*This bill is pending before the Assembly Natural Resources Committee.*)

SB 63 (Stern, 2021) would make multiple changes to state law to enhance fire prevention efforts by CAL FIRE, including, among other things, improved vegetation management, and expanding the areas where fire safety building standards apply (*This bill is pending before the Assembly Housing and Community Development Committee.*)

AB 642 (Friedman, 2021) would create a prescribed fire training center and provide for the further incorporation of cultural burning practices to improve forest health, among other things. (*This bill is pending before the Senate Appropriations Committee.*)

AB 267 (Valladares, 2021) would extend the sunset for the exemption of prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that had been reviewed under the federal NEPA from the requirements of CEQA from January 1, 2023 to January 1, 2026. (*This bill is pending before this Committee.*)

AB 9 (Wood, 2021) would establish the Regional Forest and Fire Capacity Program in the Department of Conservation to support regional leadership, build local and regional capacity, and develop, prioritize, and implement strategies and projects that create fire-adapted communities by improving watershed health, forest health, community wildfire preparedness, and fire resilience, among other things. (*This bill is pending before this Committee.*)

SB 1348 (Stern, 2020) would have made multiple changes to state law to enhance fire prevention efforts by CAL FIRE, including, among other things, improved vegetation management, and expanding the areas where fire safety building standards apply. (*This bill died on the Assembly floor.*)

AB 92 (Committee on Budget, Chapter 18, Statutes of 2020) among other things enacted PRC section 4810 that establishes the Good Neighbor Authority Fund in the State Treasury to facilitate and implement forest management projects on federal lands.

SB 901 (Dodd, Chapter 626, Statutes of 2018) addresses numerous issues concerning wildfire prevention, response and recovery, including funding for mutual aid, fuel reduction and forestry policies, and wildfire mitigation plans by electric utilities, among other things.

SUGGESTED AMENDMENTS

AMENDMENT 1

- Encourage multi-benefit solutions as applicable/feasible in GNA agreements.

AMENDMENT 2

- Add language to prevent type conversion.

SUPPORT

The Nature Conservancy (sponsor)
Amador County Board of Supervisors
Association of California Water Agencies
California Association of Resource Conservation Districts
California Council for Environmental and Economic Balance
California Native Plant Society
California Wilderness Coalition
Defenders of Wildlife
East Bay Municipal Utility District
Golden State Power Cooperative
Midpeninsula Regional Open Space District
Northern California Power Agency
Pacific Crest Trail Association
Placer County Water Authority
Sierra Business Council
Upper San Gabriel Valley Municipal Water District

Watershed Research & Training Center
Yuba Water Agency

OPPOSITION

None Received

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