

Prepared for the

Wildfire and Forest Resilience Task Force

US Forest Service Directives Updates and Opportunities for Partnership

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Introduction

Over the last decade, the American West has seen a steadily increasing growth in frequency, intensity and length of wildfires and duration of the wildfire season. Academics, forest professionals, and elected officials agree that an increase in pace and scale of forest restoration needs to occur if we are to improve our ecosystems resilience and continue to manage our forest as carbon sinks. Recognizing the amount of work to be conducted, the US Department of Agriculture (USDA) announced a new Shared Stewardship Investment Strategy in 2018 to establish partnerships with state and local collaboratives to identify and implement priority landscape-scale treatments¹.

In August 2020, the US Forest Service (USFS) signed the Shared Stewardship MOU with Gov. Gavin Newsom committing to the goal of a combined 1 million acres of forest restoration each year as proposed by the California Forest Carbon Plan². Furthermore, the USFS has recently come out with several significant changes to enable more work to be accomplished on federal land through collaborative tools like the Good Neighbor Authority and Stewardship Agreements and an effort to modernize outdated manuals and handbooks that give direction to their use. In addition, USFS and CAL FIRE hired four new “Shared Stewardship Advisors” to assist in implementing partnerships to conduct more forest health projects on federal land. All this is punctuated with recent unveiling of the California Wildfire and Forest Resilience Action Plan outlining the first five year all lands workplan under the Shared Stewardship MOU³.

Yet, as the USFS makes strides towards expanding the scale of treatments, several recurring issues persist as barriers to operations. The top three barriers are: (1) a discretionary budget to plan and implement treatments, (2) the investment in and challenges of NEPA and NFMA (Forest Plan) compliance, and (3) high staff turnover and staffing capacity limitations to implement treatments with partners. Without any predictable allocation of funds from the USDA and with wildfire operations being a primary concern, preventative treatments to improve forest health and increase resiliency to drought and wildfire have become difficult to implement. Meanwhile, the inability to retain skilled planning staff, limited staff continuity and diminishing capacity in general, has restricted implementation projects from being planned at the pace and scale needed.

Moving forward, the USFS will need to continue effectively leveraging all tools to achieve the 500,000 treated acre goal as agreed to in the Shared Stewardship MOU, while still finding innovative ways to balance other priorities that are unique to each National Forest. A combination of options like the USFS Intergovernmental Personnel Act, budget modernization, employing a wood residual aggregate authority⁴ to streamline woody biomass removal and leveraging new updates through federal policy all present an opportunity to expand the pace and scale of forest health projects while achieving federal and state goals on climate change.

¹ <https://www.fs.usda.gov/managing-land/shared-stewardship>. Partnerships are agreements with land management agencies across all levels of government, with non-profit and for-profit entities and communities within a place of interest, to perform work on Federal land under Federal oversight.

² [Shared Stewardship MOU](#)

³ [Wildfire and Forest Resilience Action Plan](#)

⁴ A new legal framework proposed by FMTF called Cal FRAME (forest residual aggregation and market enhancement) will bundle feedstock contracts to provide constancy to the forest supply chain.

New US Forest Service Directives, Guidance and Updates on Expanding Collaboration Efforts throughout the State

In 2017, the USFS engaged agency professionals and external partners throughout the Nation on how to modernize their efforts. Since then, the agency has undertaken a multi-faceted effort to update policies, procedures and business practices to better reflect current landscape conditions, markets and technologies through their Forest Products Modernization (FPM) Initiative. As this is an ongoing process, the USFS will continue to update directives, streamline contracts, appraisals and databases, and fully implement improved business practices. The latest updates occurred in December 2020 and amended several of its Directives pertaining to the sale and disposal of forest products.⁵

The USFS Manual (FSM) contains legal authorities, objectives, policies and responsibilities and guidance needed by line officers and primary staff in more than one unit to plan and execute programs. The USFS Handbooks (FSH) are the principal source of specialized guidance and instruction for carrying out the direction issued in the Manuals. While FS Manuals instruct employees on “what” to do, FS Handbooks provide the “how to” guidance. The following Directives were part of Batch 2 Timber Management Directives and represent key changes to how partnerships with the USFS can be leveraged.

Many of these updates are only relevant for USFS staff and their ability to carry out projects through the proper allocation of funds. Similarly, other updates are relevant for partners to fully understand in order to better collaborate with the USFS on future project implementation.

Partner-Relevant Updates

There are many Directive updates that were included through the FPM Batch 2 release. However, there are only a few that are relevant to Partners while other updates are only relevant for USFS staff. For this paper, we will focus on the updates relevant to Partners, and briefly bullet the updates for USFS staff. Partners consist of those entities who would enter into an agreement or contract with the USFS to perform a service, contribution or function on National System Lands. These can include: tribal nations, state entities, counties, nonprofits and timber operators.

1. USFS Handbook 2409.19 Chapter 80 Good Neighbor Authority

The USFS Handbook has finally added a new chapter specific to direction and guidance on Good Neighbor Authority (GNA) despite the tool being first authorized in 2001. The objective of the GNA is to improve quality of restoration and coordination across ownership boundaries to achieve mutual objectives. The Forest Service may partner with State agencies, counties, and Tribes (cooperators) to perform authorized restoration services on National Forest System lands to increase the pace, scale, capacity, and efficiency of restoration activities.

The GNA handbook also includes direction on states preparing and administering timber sales through GNA. While States have been allowed to collect and retain revenues generated from timber sale projects before, new additions to legislation allows the State the opportunity for more responsibility when coordinating projects with the USFS.⁶

⁵ <https://www.fs.usda.gov/about-agency/regulations-policies/comment-on-directives>

⁶ US Forest Service (December 2020) “Frequently Asked Questions: Timber Management Directives Update”. Forest Products Modernization.

Fund Allocations

Revenues generated from GNA projects can only be used on federal lands. However, Cooperator (ie. “Partners”) or the USFS can add dollars to the Agreement when the revenue is insufficient to fund timber project services. All program revenue generated from a timber sale is retained by the State and such funds must be applied to authorized restoration services within the program area⁷. Additionally, projects can be combined or coordinated with other projects from non-National System lands when authorized under the Wyden authority⁸.

The State or USFS may be the timber “offeror” or administer timber sales to collect revenue. The State may transfer remaining revenue to another active good neighbor agreement.

Required reforestation activities, brush disposal and cooperative roads funds normally required to be implemented by the USFS can be retained and implemented by the State. In addition, no stumpage fees are transferred back to USFS under GNA timber sales. Knutson-Vanderburg Forest and Regional Program Management funds (KV2) and Salvage Sale Funds (SSF) are allowed to be used to develop, prepare and administer GNA projects.

Figure 1: Ability to Expend Funds to Develop, Prepare, and Administer⁹

Fund Expended	Conventional Forest Service Timber Sale	Stewardship Contract/ Agreement	Good Neighbor Agreement
Appropriated (as appropriate)	Yes	Yes	Yes
Forest K-V	No	No	No
Regional K2	Yes	Yes	Yes
Salvage Sale Funds	Yes	Yes	Yes
Pipeline Restoration Fund	Yes	No	No
Stewardship Retained Receipts	No	Yes	No

Operations

The new updates provide policy direction that GNA timber plans need to include required reforestation, slash and road maintenance, regardless of who manages the sale. If it is mutually agreed that the State will not accomplish required reforestation, brush disposal, or deferred road maintenance associated with the timber sale, the State may provide funding to the Forest Service through a separate collection agreement. The Forest Service may choose to fund required reforestation, brush disposal, and road maintenance with appropriated funds or through other means.

The GNA sets policy that all sales will have a valid appraisal done either by state or USFS. However, the USFS and State will work together to establish an appraised rate that will be the lowest rate that the

⁷ FSH 2409.19. Chapter 80 Good Neighbor Authority. 82.4 Determination of Appraised Value

⁸ Ibid. 81.12 Selection of Project Areas. The Wyden Authority allows managers of Federal lands to spend funds to conduct treatments on adjacent non-Federal lands.

⁹ Ibid. 81.3 Exhibit 01

State may use to advertise the National Forest System timber for sale. That rate will either be the established Regional minimum stumpage rate (as defined in FSM 2431.31b and 36 CFR 223.61) or the fair market value as required under 36 CFR 223.60, whichever is higher. In some instances, the Regional Forester can approve a percentage rollback on appraised rate, further reducing the stumpage rate, when market conditions are not accurately factored into the appraisal tool.

Finally, partners are authorized for reconstruction, repair, or restoration of existing permanent roads necessary to carry out a good neighbor project, and the decommissioning of National Forest System roads that are determined to be unneeded.

Good Neighbor Updates for USFS staff

- Provides policy direction to allow for use of K-V and SSF to fund projects, but funds cannot be collected back from projects.
- Provides policy direction on FS retaining authority to determine negligence on all GNA sales.
- Provides guidance on how to manage GNA sales in TIM.
- Revises direction to include FS retaining responsibility to lead fire investigations.

2. USFS Handbook 2409.19 Chapter 60 Stewardship Contracting

Directives to Chapter 60 provides direction for implementing the stewardship end result contracting authority, including stewardship agreements (collectively referred to as Stewardship Authority). The Stewardship Authority is a collaboration tool for forest product removal and service work items. The difference between an Agreement and a Contract is the administering party and how they are awarded. Partners, usually not-for-profit entities who share mutual benefit and mutual interest with USFS, are given the authority to administer projects through an Agreement, and then specify project objectives of the contracted work through supplemental project agreements (SPA). Stewardship Contracts, on the other hand, are only for USFS to use and are administered by the USFS through Integrated Resource Service Contracts (IRSC) and Integrated Resource Timber Contracts (IRTC), usually to for-profit entities.

The Directives update adds reference to Forest Restoration Best Tool Decision Tree to help identify the best contract instrument to use for any given project and adds a list of example key elements.¹⁰

The Directives updated Stewardship Authorities to reflect provisions in the 2018 Omnibus and 2018 Farm Bill, namely permitting the Authority to enter into agreements with federally recognized tribes to carry out demonstration projects and to promote biomass energy production on tribal lands with woody biomass from federal lands.¹¹ Additionally, Regional Foresters may now re-delegate the decision to approve stewardship projects to a Forest Supervisor.

Stewardship contracts and agreements are authorized to be up to 10 years in length. On areas where the majority of Federal lands are in Fire Regime Groups I, II, or III¹², duration may be up to 20 years

¹⁰ The Decision Tree is attached as Attachment A. Additionally, there is a Stewardship Contract or Agreement Selection Decision Tree attached as Attachment B, and Appropriate Stewardship Project Work attached as Attachment C.

¹¹ US Forest Service (December 2020) "Frequently Asked Questions: Timber Management Directives Update". Forest Products Modernization.

¹² 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511) Subchapter 1: Definitions <https://uscode.house.gov/view.xhtml?path=/prelim@title16/chapter84&edition=prelim>

when approved by the delegated official. Scope and scale of the project should drive contract type and length, and land managers shall document the rationale for the duration of a contract or agreement in the project file.¹³

Retained Receipts

While revenue derived from the sale of products is not an objective under the Stewardship Authority, excess value (otherwise known as retained receipts) can be generated. Depending on the service being provided, Stewardship Agreements and Contracts are able to generate receipts or credits regarding excess value in the timber stand or service provided and reapplying them to future projects.¹⁴ However, it should be emphasized that partners participating in the Stewardship Authority are unable to receive more money than the value of their service at the termination of their agreement term.

Retained receipts must first be used to satisfy any outstanding liabilities for cancelled agreements or contracts. If there are no such outstanding liabilities, Partners or the USFS can apply the excess to other authorized stewardship projects.

An important directive update now allows for pre-project surveys and monitoring to the approved list of potential applications of retained receipts. In July 2020, R5 Regional Forester, Randy Moore, elaborated on the appropriate uses of the new revisions.¹⁵ Stewardship retained receipts can now be spent on pre-NEPA and NEPA expenses, reversing direction in the Handbook that previously determined these expenses as inappropriate. Specifically, it reads:

“Salaries and supplies for stewardship contract or agreement design, preparation, or administration of authorized stewardship projects are now allowed. These allowable uses include salary, supplies and other expenses. These expenses were identified as inappropriate in the June 2016 FSH 2409.19 Chapter 60, section 61.21 exhibit 1, numbers (2) and (3).”

Additionally, in accordance with a 2017 letter from Chief Tooke¹⁶ regarding allowable expenses in stewardship agreements, R5 has also clarified that USFS Regions can collect stumpage receipts and be appropriate for the use of pre-NEPA and post-NEPA activities. This change will essentially provide workforce capacity to National Forests with small NEPA teams to use partners to conduct NEPA and open more acres for needed forest health treatment within a shorter timeframe.

Stewardship Updates for USFS staff

- Adds direction on new legislative authority regarding funding cancellation ceilings.
- Adds direction for documentation of best approach determination. Clarifies policy on evaluation of best value methods. Adds highest price technically acceptable option for consideration.
- Clarifies responsibility with respect to use of less than full and open competition.
- Clarifies when bonds can be used to pay for materials removed when credits are earned.

¹³ FSH 2409.19 Chapter 62.3 Stewardship Contract and Agreement Duration

¹⁴ FSH 2409.19 Chapter 60 Stewardship Contracting Handbook

¹⁵ US Forest Service: Pacific Southwest Region (2020) “Memo: Allowable Expenses in Stewardship Agreements”

¹⁶ US Forest Service: Washington Office (2017) “Memo: Authority to Begin collecting Stumpage Receipts”

- Clarifies that road packages should be prepared in same manner as regular service or construction packages. Clarifies the use of appropriated funds in road construction.
- Describes how road work under IRSC can be an appraisal cost center.
- Specifies that road work not associated with timber removal should be paid for. Removes section on contractors performing traffic generated performance.
- Revises policies on Retained Receipts:
 - Stops collection of K-V and Salvage Sale Funds on Stewardship projects.
 - Specifies direction not to not transfer Retained Receipts to K-V, Salvage Sale, Timber Pipeline or other stumpage accounts while still allowing for collection of Brush Disposal funds¹⁷.
 - Removes the requirement for excess funds to go to the Treasury

USFS Staff-Relevant Updates

The following updates are most relevant for USFS staff.

3. The Knutson-Vandenberg Act

The Knutson-Vandenberg (K-V) Act is the authority for requiring purchasers of National Forest timber to make deposits to finance Sale Area Improvement (SAI) activities needed to protect and improve the future productivity of the renewable resources of forest lands on timber sale areas. In 2005, amendments to the K-V fund resulted in the creation of two K-V programs within the K-V fund: CWKV (Cooperative Work, K-V Sale Area Projects) and CWK2 (Cooperative Work, K-V Regional Projects). While updates and revisions to the K-V and CWK2 are specific only to USFS staff, the appropriate uses of the KV funds may be useful for Partners. Below are high level updates and pertain only to USFS staff and are mentioned in brief.

On November 9, 2017, the Chief signed a letter allowing the field to collect K-V or CWKV funds for use outside the sale area. This is a big change in how the Agency utilizes timber sale receipts.¹⁸ The K-V Act continues to emphasize its goals for forest improvement where each proposed timber sale that has planned SAI projects must include a sale area improvement plan, which identifies protection and improvement needs for the future productivity of the renewable resources of forest lands in the sale area.

The use of CWK2 at the forest level is a new approach to managing the K-V funds.¹⁹ The collection of K-V funds for use outside the sale area will originate on the SAI plan, where all activities associated with the sale are originally identified and funding needs are estimated. Once these required reforestation activities—K-V activities and other required funds (NFF, Salvage, Pipeline, etc.)—are funded, the remaining available stumpage can be collected as K-V for use as CWK2. SAI projects funded with CWKV collections must be completed within 5 years after the timber sale closes or contract termination, whichever occurs first. In exceptional cases an extension for up to 5 years with the regional forester can

¹⁷ These updates are copied directly from the “Summary of Batch 2 Timber Management Directives Updates” document released by the USDA and may require further explanation than presented here.

¹⁸ US Forest Service (December 2020) “Frequently Asked Questions: Timber Management Directives Update”. Forest Products Modernization.

¹⁹ US Forest Service: Washington Office (June 2020) “Updated KV Authority and Retained Receipts Policy Guidance”

be granted.²⁰ CWK2 was first implemented after the FY2019 CWKV Annual Balance Analysis and as such is just being made available recently. CWK2 funds can be used for a wide variety of activities including: environmental review, timber sale planning, preparation, administration, and/or support activities including but not limited to engineering support and land line location.²¹

a. USFS Handbook 2409.19 Chapter 10 Knutson-Vandenberg Sale Area Program Management

The objectives of the CWKV program are to reestablish, protect, and improve the timber sale areas through the collection and efficient use of the K-V fund generated from timber harvest sales.

- Documents the prohibition on the collection of K-V funds on stewardship contracts or agreements.
- Clarification on Sale Area Improvement planning and annual reviews
- Adds policy direction on use of CWKV funds for wildlife management.
- Revised to include direction for construction, maintenance of facilities or purchase of equipment not within the boundary of a specific sale.
- Revised the timeframe for when the annual review of Sale Area Improvement plans must be completed. Added clarification about soil treatments and whether they are considered required reforestation or KV-Other activities.
- Includes greater clarity around when the Sale Area Improvement (SAI) plan is developed and is recorded in the Forest Activity Tracking System (FACTS).

b. USFS Handbook 2409.19 Chapter 20 Knutson-Vandenberg Forest and Regional Program Management

The objectives of the CWK2 program are to perform any activities appropriate for the use of CWKV funds within the Forest Service Region in which the timber sale occurred.

- Includes new direction on how Forest and Regional K-V (CWK2) funds are generated.
- Includes new direction on CWKV collections for use outside the sale area and how those funds are converted to CWK2.
- Adds new policy section on development of annual forest CWK2 inventory of work.
- Adds new policy section on identification of CWK2 needs and prioritization of projects.
- Clarifies the list of inappropriate uses of CWK2 funds.

4. USFS Manuel Timber Appraisal

The USFS is required to appraise timber prior to it being offered for sale and is determined by a fair market price.²² This manual is revised to include requirements and references to stewardship contracts and clarify timber appraisal criteria. Substantive changes are as follows:

- Adds authority for rate redetermination requirements for stewardship contracts per 36 CFR 223.304(b)(3).

²⁰ Ibid.

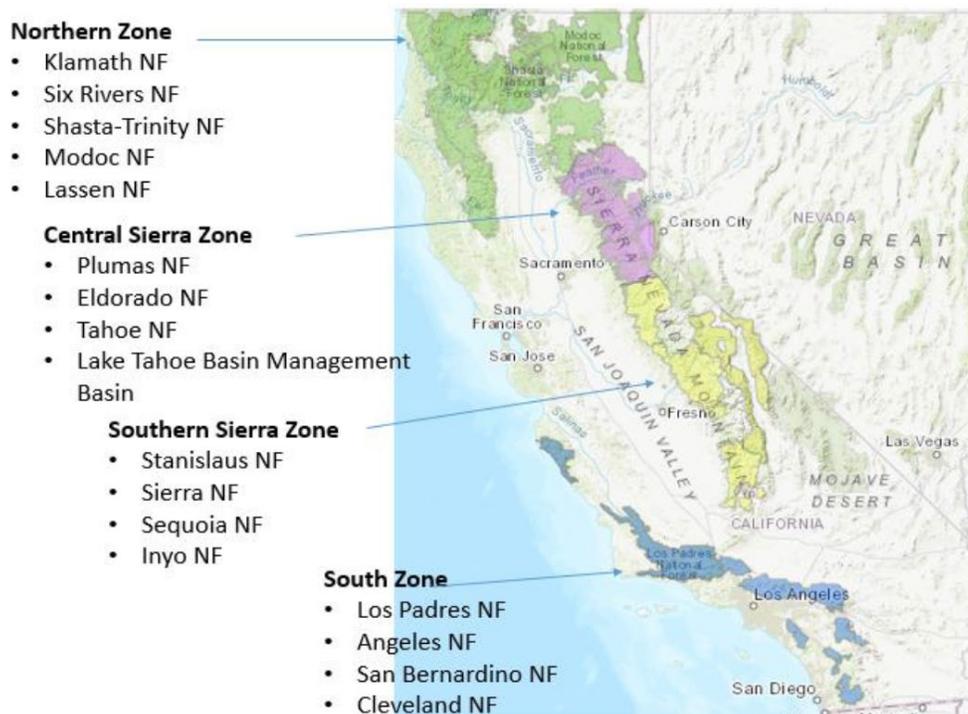
²¹ Ibid.

²² FSM 2420 Timber Appraisal and in accordance to 36 Code of Federal Regulations (CFR) 223.60

- Clarifies that stumpage value redetermination to ensure fair market value will occur on contracts greater than 7 years as well as shorter term contracts as determined by the deciding officer. Adds reference to stewardship contract requirements for rate redetermination (FSH 2409.19, sec. 61.4).
- Adds policy reference for advertised rates which states that “Timber shall be advertised at its appraised value and advertised rates shall not be less than minimum rates” (FSM 2431.31)
- Updates policy to give Regional Forester authority to include establishment of higher minimum rates if market conditions are justified (FSM 2431.31). the Regional Forester can approve a rollback on appraised rate up to 30%
- Clarifies determination of advertised values in relation to bid values. Clarifies that stewardship sales, whether negotiated or direct, are not to be included when making adjustments to the appraisal system to achieve the 70 percent appraisal performance criteria.
- Adds policy clarification on rate redeterminations to include references to stewardship contracts. Adds separate direction for catastrophic and environmental rate redetermination categories.
- Clarifies policy that information collected for maintenance of the transaction evidence appraisal system shall be treated as confidential under regulations of the Secretary of Agriculture (7 CFR 1.12).

New Shared Stewardship Advisors to Increase Collaborative Partnerships

Four (4) National Fish and Wildlife Foundation (NFWF) Shared Stewardship (S2) Advisors are located strategically across the state to support Implementation Partnerships toward strategic forest health projects in each USFS zone. These S2 Advisors are meant to be resources to USFS, CAL FIRE, and other state entities and partners, helping move projects effectively towards implementation.



The S2 Advisors will be located in each USFS zone, preferably sitting in a USFS office through December 2023. The S2 Advisors will work closely with NFWF as well as USFS and CAL FIRE zone staff to achieve the following objectives:

1. Create new and advise existing implementation partnerships on effective on-the-ground project implementation using Shared Stewardship tools (e.g. Stewardship and Good Neighbor Agreements, third-party NEPA/CEQA, etc.).
2. Advise National Forests, USFS Zones, and CAL FIRE units on partnership strategies. The S2 Advisors will support the strategic engagement of field units with appropriate partners; in particular, support the cross-boundary aspects of USFS five-year plans and CAL FIRE unit plans.
3. Develop a list of cross-boundary projects for each zone. Identify priority projects, updated annually based on scenario and other planning, that align with USFS five-year plans, Community Wildfire Protection Plans (CWPPs), CAL FIRE unit plans and other key partner priorities.
4. Coordinate and support funding opportunities. The S2 Advisors will track key State/Federal funding opportunities and provide support for grant proposal submissions in a strategic and coordinated manner across each zone.
5. Educate. The S2 Advisors will organize and lead trainings and outreach to USFS field offices, CAL FIRE units, and key local partners on relevant Shared Stewardship tools and programs that support the development of cross-boundary and inter-organizational partnerships.

These individuals will be a point of contact to expand implementation projects for their designated zones. Through a joint NFWF-USFS selection process, NFWF on-boarded the four (4) S2 Advisors in January of 2021 as follows and is arranging introductory meetings with National Forest, CAL FIRE, and local collaborative leadership:

Northern CA Zone – Watershed Research and Training Center

The Watershed Research and Training Center is a non-profit organization located in the heart of Trinity County, California. We conduct the full gamut of land and watershed management services, lead state biomass and fire resilience partnerships, and through partnerships with communities, organizations, and public agencies we steward our landscape, create and sustain quality jobs, and connect people to the land and each other.

Primary	Nick Goulette, Executive Director	nick@thewatershedcenter.com
Advisor Mendocino, Six Rivers, Shasta-Trinity and Klamath National Forests	Tim Bailey, Specialist	tim@thewatershedcenter.com
Advisor Modoc and Lassen NF	Todd Sloat, Owner Forest Creek Restoration	Trsloat8@gmail.com

Central Sierra Zone – Tahoe RCD

Tahoe RCD, along with our many partners, obtains grant funding and private donations to support all aspects of conservation issues which include, but are not limited to: water quality, wildlife habitat, fire defensible space, sustainable recreation, water conservation and community enhancement. Current programs at Tahoe RCD focus on stormwater management, aquatic invasive species control and prevention, land management, forestry and conservation landscaping initiatives.

Primary	Nicole Cartwright, Executive Director	ncartwright@tahoercd.org
Advisor	Mike Vollmer, Forester	mvollmer@tahoercd.org

Southern Sierra Zone – TSS Consultants

For 30 years, TSS has provided technological and economic evaluation of existing and proposed energy (power and/or thermal) projects, biomass resource utilization alternatives, and policy review focused on the dynamic field of greenhouse gas management. The TSS team has over 150 years of cumulative experience in renewable energy, forestry and wildfire management, wildland fuel mitigation, environmental permitting and regulatory compliance, climate change mitigation and greenhouse gas management. TSS consistently advocates the use of sustainable biomass resources and appropriate technologies for creating electric power, process heating and cooling, and transportation fuels.

Primary	Tad Mason, Principal	tmason@tssconsultants.com
Advisor	Jason Smith, Forester	jasonbsmith@tssconsultants.com
Support	Richard Harris, Outreach and Education	

Southern CA Zone – Kathleen Edwards

As a new consultant, Kathleen Edwards’s focus centers on improving healthy forests, increasing fire resilient communities, and bolstering partnerships. Before staking her consulting post, she served as a forester/firefighter with the California Department of Forestry for over 32 years. The scope of consulting integrates her forestry and firefighting background to provide forest and vegetation planning services, wildfire planning services, forest health evaluations, and community outreach support.

Primary	Kathleen Edwards	kedwards@s2advisor.com
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USFS Personnel Capacity Challenges and Opportunities

As mentioned at the beginning, the USFS has historically faced three barriers to operations: (1) a discretionary budget, (2) the investment in and challenges of NEPA and NFMA (Forest Plan) compliance, and (3) high staff turnover and diminishing capacity to perform treatments with partners. The compounding effect of these barriers can significantly restrict project capacity. For example, over the last several years, the Tahoe NF has been repeatedly been unable to fill three to four vegetation management positions.²³ Staff capacity to perform more work, and approve work that could be completed by Partners is shrinking and requiring USFS Region 5 to share key positions like a Vegetation Management Officer (VMO) with other National Forests.²⁴ While there are highly qualified staff within each National Forest, there is difficulty in putting together large landscape scale projects due to these staffing challenges.²⁵ Many districts are operating at 50% of their organizational management chart.

²³ Personal Communication, David Fournier 3/3/2021

²⁴ Ibid.

²⁵ Melinda Barrett, Program Manager Mariposa Resource Conservation District. Personal Communication 11/19/20

Randy Moore has stated that Region 5 staffing levels are 30% lower overall than 30 years ago. To complicate matters, the new restructuring of the USFS Budget Modernization process will only exacerbate these barriers, necessitating an increase in reliance on partners and collaborative capacity.

While the Forest Product Modernization (FPM) efforts will continue to improve program directives and make more efficient processes, USFS capacity will need to shift towards more reliance on non-federal partners. One option to expand USFS staff implementation and management capacity through partnerships is with tools like Good Neighbor and The Intergovernmental Personnel Act (IPA).

1. USFS Budget Modernization

In the FY 2020 Congressional Budget Justification, the USFS responded to Congressional direction and proposed to simplify its budget structure to improve mission delivery while providing greater financial accountability and operational transparency.²⁶ Part of this process is to formally restructure line-item budget allocations on items that were not originally as meticulously supervised. This includes “Salary and Expenses” across all Forest Operation programs, which impacts forest staffing capacity and operations at every level throughout the nation. Where discretionary budget allocations were once more flexible to be leveraged into needed areas of operations like agreements and contracts, including non-federal staffing support, now budgets are subject to more scrutiny by Congress and are unable to be utilized for other line items. In effect, the Salary and Expenses line-item budget can only be used for Salaries and Expenses of direct forest service hires. While this seems straightforward, it can cut Operation Budgets by half to what they once were.²⁷ This new process will greatly impact the ability for USFS to increase capacity to perform more work.

Nonetheless, USFS culture is beginning to recognize the substantial impact Partner efforts can have on operational capacity. In 2020, the Tahoe National Forest (Tahoe NF) was able to add an additional few million dollars through the combined efforts of 28 different partnerships.²⁸ Partners have been able to leverage a number of state, grant and philanthropic funds to scale operation capacity three times the amount they would’ve done without collaborations. In another perspective, Partners are assisting about 2/3rds of the workload on the Tahoe NF.²⁹ Nonetheless, even with more shared staff capacity, USFS will still have fundamental and inherently governmental positions which will need to be filled in order to review and approve all program work developed by Partners. As the USFS builds efforts to modernize their processes and enter into more collaborative efforts, underutilized tools such as the Intergovernmental Personnel Act could alleviate burdens caused by the Budget Modernization efforts and chronic understaffing.

2. The USFS Intergovernmental Personnel Act

Through the Intergovernmental Personnel Act (IPA) Mobility Program, the USFS can partner with state and local governments, nonprofits, colleges and universities, Indian tribal governments, federally funded research and development centers, and other eligible organizations to perform work such as environmental review services for National Forests. For non-Federal employees to work under a Federal Agency, there is no restriction on what the appointment may entail and may be given ad hoc,

²⁶ US Forest Service (February 2020) “FY 2021 Budget Justification: Budget Accountability and Modernization”. USDA. Page. 137. <https://www.fs.usda.gov/sites/default/files/2020-02/usfs-fy-2021-budget-justification.pdf>

²⁷ Personal Communication, David Fournier 3/3/2021

²⁸ Ibid.

²⁹ Ibid.

unclassified duties as long as it accomplishes the specific assigned project.³⁰ The advantage here is the ability for non-federal organizations to serve in a federal capacity without loss of their employee rights and benefits through their organization. Each assignment is made for purposes that are of mutual concern and benefit to the Federal agency and to the non-Federal organization.

The cost sharing financial arrangements involved in a mobility assignment are negotiated between the participating organizations. The Federal government may agree to pay all, some, or none of the costs associated with the assignment. Such costs may include employee pay, supplemental pay, certain fringe benefits, travel, and relocation costs. Cost sharing should be based on the extent to which the participating organizations benefit from the assignment.³¹

When coupled with the recent USFS Directive updates which give states more opportunities in the GNA and opens up opportunities to leverage retained receipts to perform pre-planning work like NEPA under the Stewardship Authority, the Intergovernmental Personnel Act can leverage a significant asset to the ability to plan and approve more project work across a landscape.

In a short-term manner, Good Neighbor Agreements and other partnership agreements can also help support temporary USFS staffing gaps for project work. State, county or tribal partners can supply technical experts to staff up = survey teams, forestry crews, or other field staff to implement specific projects, that might normally be hired and staffed directly by National Forests.

New Opportunities to Partner with National Forest

The recent Batch 2 Directives provides a sweep of positive updates and additions to outdated collaboration tools and funding. The Good Neighbor Authority will provide more opportunities for Partnering States to take on more responsibility, the Stewardship Authority offers new funding uses of critical pre-planning work need to increase the pace and scale of restoration, and the new guidance on K-V funds and Timber Appraisals has given USFS staff the ability to be more effective with administration of projects throughout the Region. Additionally, the new hired Shared Stewardship (S2) Advisors will be providing a variety of services and assistance on how to effectively leverage collaboration tools and define opportunities to increase implementation projects on federal land. As the FPM process continues to improve the effectiveness of outdated programs and as S2 Advisors begin building implementation projects, we can expect more opportunities to open for Partners to work on federal land.

The new USFS budget modernization process, however, could pose a new challenge to expanding USFS staff and budgets to conduct work. Tools like the Intergovernmental Personnel Act offers relief for understaffed and overworked USFS operations. Yet, with the growing policy and commercial support to expand wood product industries in California, a new look at non-federal agency and non-profit partnerships will also have to define new opportunities to mobilize both merchantable and non-merchantable wood off National System lands.

California's proposed pilot legal framework to streamline wood waste removal can open up opportunities to expand USFS capacity through partnerships and expand wood product industries by producing the long-term, reliable feedstock supply needed for any business venture to succeed.

³⁰ <https://www.usgs.gov/about/organization/science-support/human-capital/intergovernmental-personnel-act-ipa-mobility>

³¹ Ibid.

Additionally, a new Wildfire Emergency Act led by US Senator Diane Feinstein is currently proposing new legislation to better support long term agreements between the USFS and their partners.

1. Wood Waste Management Authorities

For the last several years the California's Forest Management Task Force has been promoting the consideration of publicly run organizations that focus on the aggregation of forest biomass residuals. Referred to Wood Waste Authorities, or FRAME (Forest Residual Aggregation Management Authorities), these institutional arrangements have gained state-wide attention for their potential solution to improve forest supply chain logistics. The most common legal structure considered is a Joint Powers Authority, but a Special District or other government entity could also suffice.³¹ These institutional arrangements can centralize an efficient biomass removal and utilization process for forest health projects. This process will bundle feedstock agreements that enable such an organization to enter into contracts with wood-based businesses, providing secure reliable, long term feedstock supply while providing an economically viable outlet for forest health and fuel reduction projects in California's forests.

CLERE Inc, in partnership with Conservation Strategy Group, has already conducted a state-side listening tour to vet the idea to a diverse stakeholder list of industry professionals, state and federal department heads, and many different non-profits with consistent interest or support from those groups. In 2020, the concept was featured on both the state-legislated Forest Management Task Force's (FMTF) recommendations to the Governor and the state-legislated Joint Institute for Wood Product Innovation (JIWPI) "Recommendations to the Expand Wood Utilization in California". The JIWPI recommended funding \$7.5 million, the \$1 billion allocated to the Governor's Wildfire and Forest Resilience Expenditure Plan set aside approximately 2.5 million for the Office of Planning and Research (OPR) to support the implementation phase of this concept. While California is looking to invest and support new ways to increase the pace and scale of forest restoration, FRAME is the only solution proposed to address the perennial problem of reliable, long-term feedstock supply to invite a diverse pool of business development opportunities in the California timber market.

The recent USFS Directive updates only bolster the potential for these institutional arrangements. When focusing on woody biomass removal, these modes offer a way for entities to combine power of authority to accomplish larger, mutual shared projects. With state, county or tribal governments participating, these entities can take advantage of the Good Neighbor Authority and offer intergovernmental personnel to conduct needed pre-planning NEPA work potentially funded with stewardship retain receipts. An entity can operate as a non-federal intergovernmental hub to expand federal capacity. Under the right National Forest Supervisor, this partnership could substantially assist project planning, administration and implementation, especially as it relates to creating a system whereby proceeds from project are utilized for future forest management activities.

2. Draft Legislation: The Wildfire Emergency Act of 2021

Another potential opportunity is new federal legislation that is being proposed by Senator Feinstein. The summary of the Bill is described below.

Title I: Conservation finance agreements for landscape-scale forest restoration projects

Authorizes \$250 million over 5 years for up to 10 Forest Service projects of 100,000 acres or greater to restore forests and reduce the risk of uncharacteristic wildfire:

- There are substantial state, local, water district, and private funding sources willing to invest in landscape-scale forest restoration projects if the Forest Service is willing and able to make long-term financial commitments.
- Authorizes the Forest Service to enter into conservation finance multi-year agreements that can sufficiently leverage these non-Federal matching funds to implement 100,000 acre projects.
- Requires collaborative development and rigorous ecological standards for landscape projects, including full consistency with all environmental laws.
- Incentivizes project planning and analysis procedures that are effective at the landscape level.
- Uses interagency personnel transfers to staff up for landscape-scale projects.

Title II: Energy flexibility and infrastructure hardening

- Establish a new \$100 million grant program to assist critical facilities like hospitals and police stations become more energy efficient and better adapted to function during power shutoffs. The new program would also provide funding for the expanded use of distributed energy systems, including microgrids.
- Expands the Energy Department’s weatherization program to allow for the retrofit of homes to make them more resilient to wildfire through the use of fire-resistant building materials and other methods.
- Expedites permitting for the installation of wildfire detection equipment (such as sensors, cameras, and other relevant equipment) expand the use of satellite data to assist wildfire response, and allow FEMA hazard mitigation funding to be used for the installation of fire-resistant wires and infrastructure and for the undergrounding of wires.

Title III: Workforce and training

- Establishes one or more Prescribed Fire Centers to coordinate research and training of foresters and forest managers in the western United States in the latest methods and innovations in prescribed fire (controlled burns) practices to reduce the likelihood of catastrophic fires and improve the health of forests.
- Authorizes a new workforce development program to assist in developing a career-training pipeline for forestry and fire management workers, and establish a training center to teach foresters and fire managers in the latest methods and innovations in practices to reduce the likelihood of catastrophic fires and improve the health of forests.

There is certainly no guarantee that this bill will pass, but if it does it could bring about more positive change within the National Forests, and in particular, Region 5.

Conclusion

The USFS stated in 2019 that they had reached a 20-year record high in timber harvests in 2018 throughout the nation, however, these numbers still are dwarfed by the amount of acres needing treatment.³² When we account for the recent Memorandum of Understanding (MOU) between the

³² <https://www.fs.usda.gov/news/releases/usda-forest-service-surpasses-goals-and-breaks-records-2019>

USFS and Governor Newsom to collectively, and equally, treat a combined 1 million acres per year, the amount of partnerships to achieve such an ambitious goal will need to be drastically scaled.

The USFS has begun the process to improve their programmatic goals and operations through the Forest Product Modernization efforts by releasing a variety of Directive updates to outdated programs. This includes the Good Neighbor Authority, Shared Stewardship, timber appraisals, the Knutson-Vandenburg Funds, and the USFS budget modernization effort. Combined, these have far reaching implications on how work can be scaled up with partnerships, while defining new uses for funds and accountability on USFS operations budget.

The USFS has also hired four new Shared Stewardship Advisors in Region 5 to facilitate implementation partnerships and project scope. While the Advisors are just now becoming familiar with their roles and defining project deliverables, the underutilized collaboration tool, the Intergovernmental Personnel Act, should be more widely demonstrated. Additionally, the new pilot Wood Waste Management FRAME Authorities will provide a central hub for the USFS to expand work capacity will modernizing the supply chain of timber product markets, overcoming a long-held barrier to expanding forest markets in California.