



**Fire Learning Network
Notes from the Field**

June 2018

Burned Area Learning Network

Examining Federal Policies that Guide and Constrain Burned Area Emergency Response Policy on Federal, State and Private Lands

The fact that fire moves across the landscape without regard to administrative boundaries is a fundamental principle in federal wildland fire policy. So why do policies—and actions—fall back behind administrative lines during Burned Area Emergency Response?

Partners in the Burned Area Learning Network (BALN), an initiative of the FLN, sought to answer this and other questions related to Burned Area Emergency Response (BAER). We examined the BAER policies of the USDA Forest Service and four Department of the Interior (DOI) agencies—Bureau of Land Management (BLM), Bureau of Indian Affairs (BIA), U.S. Fish & Wildlife Service (FWS), and National Park Service (NPS). We looked at the policies that guide and constrain emergency response as well as post-fire monitoring. We also examined the federal policies that guide BAER on state and private lands. We reviewed reports on the policies and practices of BAER prepared by the Government Accountability Office (GAO), and visited with practitioners and managers from a variety of agencies.

We found that policies guiding BAER on federal public lands do not differ substantively. The response on state and private lands, beyond that of state and local emergency management services, is largely managed and funded by the federal government—through the Federal Emergency Management Agency (FEMA), U.S. Army Corps of Engineers (USACE) and the USDA Natural Resource Conservation Service (NRCS), which often works through local Soil and Water Conservation Districts (SWCD)—and, in New Mexico (where the BALN is currently focused), by the state’s Department of Homeland Security and Emergency Management (DHSEM). Coordination is supported by the Silver Jackets, which are federally-funded state-led teams aimed at improving coordination and efficacy and reducing redundancy.

Across all jurisdictional boundaries are a suite of professionals making decisions based on the same or similar objectives, applying the same or similar technical tools and models, and using the same or similar data and information.

We found—or were told of—examples of delays and redundancies that certainly cost money and could

“Wildland fire recognizes no ownership or jurisdictional boundaries on the landscape; nor do the complex issues of fire management. As a result, perhaps nowhere is the practice of interagency and interdepartmental cooperation so prevalent and effective as in the nation’s wildland fire community.”

National Interagency Fire Center

https://www.nifc.gov/policies/policies_main.html

threaten public health and safety. We were given examples of delays and difficulties in sharing data and assessments between agencies in a timely manner. We also found great examples of cooperation and collaboration.

However, we found no real barriers to increasing cooperation across jurisdictional boundaries—aside from the lack of clear directives in policy and authority to do so.

THE BURNED AREA LEARNING NETWORK

The goal of the BALN is to improve social and ecological outcomes following wildfire in a changing world. Toward this end we work together to accelerate learning through peer-to-peer sharing of knowledge and practices.

“Knowing we live in a circle of fire, we work before the fire to respond smartly during and after the fire to move communities and watersheds toward a more resilient future”





In 2011, the Las Conchas Fire burned across lands managed by multiple federal agencies, as well as tribal, state, county and private lands. BAER was undertaken separately by each jurisdiction. © TNC (Anne Bradley)

FEDERAL POLICIES

There is very little substantive departure between the Forest Service and DOI relative to BAER policy. This is largely because all federal agencies receive funding for BAER through emergency operational funds, and the source of funding constrains the program across all jurisdictions.

The policy objective for BAER on federal lands is to identify imminent threats, take immediate action, and mitigate unacceptable risks and degradation. BAER priorities on all federal lands are:

1. human life and safety,
2. property, and
3. critical natural and cultural resources.

Interestingly, one point of departure among agencies is the program area in which BAER resides. The Forest Service manages BAER under its national Watershed, Fish, Wildlife, Air and Rare Plants program; the DOI manages BAER under the Office of Wildland Fire. Otherwise BAER program responsibilities are similarly delineated at the national, regional, local and incident levels.

The Forest Service and DOI use the same definitions (and timelines, in parentheses) for post-fire response:

1. **Suppression Rehabilitation:** Rehabilitating damage and disturbance caused by suppression activities. (To be completed by the Incident Management Team using suppression funds and resources.)
2. **Emergency Stabilization:** Planned actions to stabilize and prevent unacceptable degradation to natural and cultural resources, to minimize threats to life or property resulting from the effects of a fire, or to repair/replace/construct physical improvements necessary to prevent degradation of land or resources. (Emergency stabilization actions must be taken within one year following containment of a wildland fire.)
3. **Burned Area Rehabilitation:** Efforts undertaken (within three years of containment of a wildland fire) to repair or improve fire-damaged lands unlikely to stabilize or recover naturally, or to repair or replace minor facilities damaged by fire (not funded by BAER.)
4. **Restoration:** The continuation of rehabilitation to restore ecological structure, composition and function in burned areas (beyond the initial three years), or the repair or replacement of major facilities damaged by the fire, which are not funded by BAER.

Both the Forest Service and DOI limit BAER to lands within their jurisdiction except where a specific agreement, authority or instrument permit otherwise. Neither department's policy emphasizes interagency cooperation or public involvement. Policy direction on cooperation is usually preceded with "when appropriate," in stark contrast to wildland fire management where coordination and cooperation are the cornerstone of policy and implementation guidance.

More Online: Federal BAER Policies

USDA Forest Service
Department of the Interior agencies

https://www.fs.fed.us/im/directives/fsm/2500/wo_id_2520-2017-1.doc
<https://www.fws.gov/fire/ifcc/esr/home.htm>

MONITORING

A 2003 report prepared by the GAO documented a review of BAER policy and effectiveness. This report noted that agencies did not monitor the effects or effectiveness of BAER programs and practices. The GAO recommended that the secretaries of the USDA and DOI direct agency heads to:

- specify the type and extent of monitoring data that local land units are to collect, and methods for collecting these data; and
- develop an interagency system for collecting, storing, analyzing and disseminating information on monitoring results for use in management decisions.

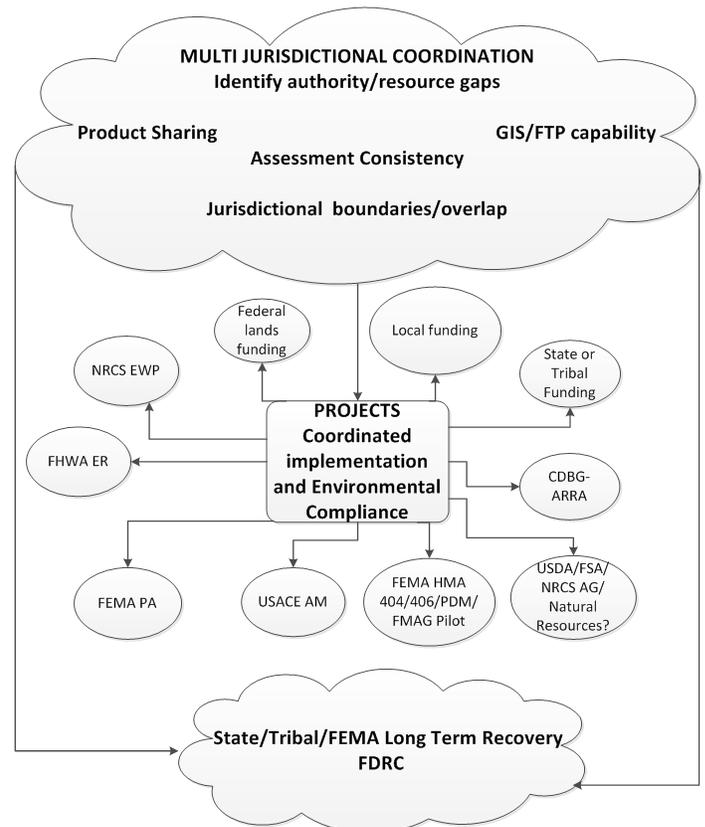
In response to the GAO report, agencies adopted policies and timelines for completing monitoring and for documenting and disseminating monitoring results.

According to current policy, agencies will monitor both whether an activity was implemented (implementation monitoring) and whether it was effective (effectiveness monitoring).

The Forest Service and DOI apply similar constraints to monitoring conducted using BAER funds. These include prohibiting the monitoring of natural recovery (unless it is specified as a control area in a paired comparison design), monitoring wildfire effects, long-term monitoring, conducting research and monitoring the effects (as opposed to effectiveness) of BAER treatments.

Both also clearly separate BAER from post-fire rehabilitation and restoration, but allow that the BAER assessment may be useful to these later recovery efforts.

In 2017, BALN member Dr. Alexander Evans completed a review of recent published studies on post-fire concerns. He found that “while researchers have produced useful insights into many questions, there are few definitive answers. The challenges of the post-fire environment require continued scientific research and active sharing of lessons learned from adaptive management. Without stronger agency policy and support for tracking accomplishments and monitoring outcomes, the situation is not likely to improve.”



Conceptual model for an interagency task force to address post fire analysis and threat reduction on state, tribal and private lands

Source: Kathleen Rowden, NWS

RESPONSE ON STATE AND PRIVATE LAND IN NEW MEXICO

Federal land managers' authority for post-fire emergency response is limited to assessing and addressing threats on federal lands and resources, mostly within the burned area. Often the most significant threats following a wildfire occur downstream and/or downslope of the fire—outside the burned area, and outside the federal land management agency jurisdiction.

Post-fire flooding and debris flow can threaten human life and safety as well as damage or destroy homes, infrastructure and communities. Many state, federal and local agencies have a role in responding to post-fire emergencies. They do so under FEMA's *National Planning Frameworks* and *Federal Interagency Operational Plans for Prevention, Protection, Response, Mitigation and Recovery*.

Local, state and federal first responders—fire, rescue and law enforcement agencies—are the first line of defense in any accident or emergency on state and private land. In the case of a large, catastrophic event such as a fire or post-fire flooding and debris flow, local resources soon reach their capacity. At this point, the key role of a state or tribal government is to request a federal state of emergency (or disaster) declaration. This is the primary mechanism that allows federal resources to aid states in their response.

The declaration of a *state of emergency* allows two types of assistance—public assistance, which includes debris removal and emergency protection measures, and individual assistance, which provides for housing and other needs. (Assistance for permanent work is not available under an emergency declaration.) The declaration of a *major disaster* provides a wider range of federal assistance programs for individuals and public infrastructure, including funds for both emergency and permanent work.

Response to post-fire emergency declarations falls primarily on three agencies in New Mexico:

- The state Department of Homeland Security and Emergency Management (DHSEM) leads the state's response to emergencies and disasters.
- Federal Emergency Management Agency (FEMA) assists in the declaration and response to a disaster; both individual and community assistance may be provided.
- U.S. Army Corps of Engineers (USACE) assists the DHSEM/FEMA by coordinating federal public works and engineering-related support.

The various roles of state, local and federal agencies during the extended emergency period following a wildfire are scalable and incident-specific.

State-led Silver Jackets Teams—developed by USACE through its Flood Risk Management Program—are important for a collaborative response. Silver Jackets teams across the country bring together multiple state, federal, tribal and local agencies to learn from one another in reducing risk from flooding and other natural disasters. By applying their shared knowledge, the teams enhance response and recovery efforts. Although each state's Silver Jackets team is unique, common agency participants include state agencies with mission areas of hazard mitigation, emergency management, floodplain management, natural resources management or conservation. Federal participation typically includes the USACE, FEMA and DHSEM, along with others such as the National Weather Service and U.S. Geological Survey.

COMMUNITY RESOURCES

Following the emergency period is often a long recovery and rebuilding period. For individuals, the primary source of support is through their insurance.

Communities can access assistance through several agencies and programs, such as those listed on the "After Wildfire—A Guide for New Mexico Communities" website. While many of these programs are focused on flood mitigation, several can be used to support ecological recovery such as:

- The USACE Continuing Authorities Program can be used to fund relatively small projects dealing with

flood plain management, flood control, ecosystem restoration, erosion control and stream bank protection. Funds can be requested by a state emergency management agency or by a tribal government.

- The NRCS Emergency Watershed Protection program provides technical and financial assistance to safeguard people and property following natural disasters; a disaster declaration is not required.
- Soil and Water Conservation Districts may be able to provide aid after a wildfire, or serve as a sponsor for accessing funds from another state or federal source.
- While there are no dedicated funds for the New Mexico State Forestry General Forest Restoration Assistance program, technical assistance is available upon request.

In short, a wide range of agencies have the knowledge or authority to support post-fire emergency response, but the various agencies and programs have different requirements and timelines. Interagency cooperation is essential for effective response—agencies must work collaboratively to assess gaps and overlaps in their authorities to quickly develop recommendations and provide support.

This means that without advance planning, preparation and collaboration, resources can be difficult to access. Completing the administrative, assessment and analysis tasks needed to apply for these funds is daunting for a community that is starting from scratch, and may not be possible unless collaborative pre-fire planning has been completed, so that partnerships and plans are in place before a wildfire starts.

More Online: Resources

After Wildfire New Mexico, A Guide for New Mexico Communities www.afterwildfirenm.org
Silver Jackets Teams <http://silverjackets.nfrmp.us/>

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Or visit: <http://www.conservationgateway.org/ConservationPractices/FireLandscapes/FireLearningNetwork/RegionalNetworks/Pages/BALN.aspx>

The Burned Area Learning Network is an initiative of the Fire Learning Network, which is part of *Promoting Ecosystem Resilience and Fire Adapted Communities Together*, a cooperative agreement between The Nature Conservancy, USDA Forest Service and agencies of the Department of the Interior. For more information about PERFECT, contact Marek Smith at marek_smith@tnc.org.

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