

GOOD FIRE II

Current Barriers to the Expansion of Cultural Burning and Prescribed Fire Use in the United States and Recommended Solutions




EXECUTIVE SUMMARY

A significant revitalization of the relationships between fire, communities, and landscapes is needed to address the wildfire crisis. Many Indigenous peoples still honor and maintain these relationships—their efforts must be fully enabled and supported, while many others must fundamentally change the way they talk and think about fire, enabling a paradigm shift in how fire restoration activities are regulated, planned, and implemented. To move forward, Indigenous knowledge, practice, and belief systems must be respected and revered, and the sovereignty of Tribal governments and cultural fire practitioners must be acknowledged and access enabled. Additionally, Tribes and Indigenous people should be provided with resources to burn as they know how, within their lands of territorial affiliation.

In 2021, the Karuk Tribe commissioned the first *Good Fire* report, which summarized the legal and policy underpinnings of barriers to expanding the scope of cultural burning and prescribed fire use in California, and made recommendations to address them. Since its release, *Good Fire* has been widely cited by academics, lawmakers, and private and public entities alike as a key resource informing efforts across the state to help increase the use of good fire.

Good Fire II takes the recommendations to a larger scale, calling for transformational change at both the state and federal levels, and providing a roadmap to revitalizing the relationship between humans and fire and the systems used to steward it. The report continues to prioritize reforms that support cultural fire practitioners and community-based prescribed burners, based on the understanding that intimate knowledge of place is required for effective stewardship.

Good Fire II also follows the release of the Biden Wildland Fire Mitigation and Management Commission's [final report](#), which includes recommendations to more effectively prevent, manage, and recover from wildfires. *Good Fire II* is intended to be used as a tool for implementing the Commission recommendations in a manner that protects and respects Tribal sovereignty and prioritizes Tribal leadership at all levels of stewardship and fire management.

This document serves as a quick reference guide to *Good Fire II*, highlighting the key themes, barriers, and recommendations included in the full report. Each recommendation is labeled to indicate whether it applies at the state or federal level as follows:  . Recommendations that match those in the Commission report are designated as follows: .



To access Good Fire II online, please visit:
<https://karuktribeclimatechangeprojects.com/good-fire/>
To contact the authors, please email goodfire@karuk.us.



CHAPTER 1: CULTURAL BURNING AS A TRIBAL RIGHT



Cultural burning is separate and distinct from prescribed fire. While both forms of beneficial fire are essential to restoring resiliency to the landscape, cultural burning has history, motivation, and meaning which includes but also goes beyond wildfire protection benefits to include highly sophisticated ecological and cultural benefits. By recognizing the inherent rights and sovereign authority of Tribes and cultural fire practitioners to engage in the use of cultural burning across their lands of territorial affiliation, landscapes can be returned to a condition in which ecological cycles and principles as well as Indigenous knowledge, practice, and belief systems are recognized and respected.



BARRIER: Entities mistakenly treat cultural burning as prescribed fire.

Recommendation 1: Explicitly acknowledge cultural fire and cultural fire practitioners in federal statute, and clarify that cultural burning falls within the sovereign authority of Tribes.   ¹

BARRIER: State and federal agencies assert they must “permit” or “allow” cultural burning on lands of territorial affiliation.

Recommendation 2: Recognize Tribes as separate sovereigns with retained rights to cultural burning.  

Recommendation 2a: Affirm that federally recognized Tribes may develop fire programs on trust lands without the need for BIA oversight or approval.  ²





Recommendation 2b: Authorize the federal government to work with Tribes to create enabling conditions for Tribal cultural burning on federally administered lands.  ³

Recommendation 3: Identify potential barriers to the exercise of reserved/retained rights.  










¹ **Commission Recommendation 16:** Congress should acknowledge Tribal cultural burning in federal law, [and] ensure it is not confused with prescribed fire...

² **Commission Recommendation 15:** Congress should require the BIA to acknowledge that federally recognized Tribes may develop fire programs on Tribal trust lands under approved Tribal laws, regulations and policy, or other Tribal decisionmaking processes.

³ **Commission Recommendation 16:** Congress should...grant agencies the authority to coordinate with Tribes on the conduct of Tribal cultural burning on federally administered lands.

BARRIER: The expertise of cultural fire practitioners is not formally recognized.**Recommendation 5:** Recognize cultural fire practitioner certification programs.  **Recommendation 6:** Integrate non-Indigenous and Indigenous certification systems.  **Recommendation 7:** Fund Tribally led mentorship programs.  ⁴**BARRIER: The enabling conditions necessary for landscape-scale, multi-jurisdictional stewardship are not yet in place.****Recommendation 8:** Revise NIFRMA to enable the development of Tribal IRMPs at the scale of a Tribe's lands of territorial affiliation. **Recommendation 9:** Meaningfully involve Tribes in existing land management planning efforts undertaken by federal agencies.  ⁵**Recommendation 10:** Modify ITARA to apply to all trust assets. **Recommendation 10a:** Make permanent the Indian Trust Asset Management Demonstration Project.  ⁶**CHAPTER 2: TRIBAL LAND AND RESOURCE ACCESS**

Without assured access and rights to steward, Tribes cannot complete the cultural burning and other Indigenous stewardship activities needed to restore forest resilience and health without risking citation, jail time, or worse. Policy changes must apply across all lands of territorial affiliation, including those currently administered in part by federal and state agencies.



BARRIER: Tribes lack assured access to engage in Indigenous stewardship.**Recommendation 11:** Ensure that federal and state agencies have the authority, directive, and capacity to enter into more equitable and meaningful co-management agreements.   ⁷**Recommendation 12:** Make permanent the TFPA pilot program enacted in the 2018 Farm Bill. **Recommendation 13:** Enable federal agencies to enter into programmatic 638 compacts with Tribes across all lands of territorial affiliation. **Recommendation 14:** Clarify that prescribed fire and other stewardship activities are not “inherent federal functions” under ISDEAA and can be delegated to Tribes via 638 compacts. **Recommendation 15:** Expand 638 contracting and compacting to apply across the whole of government. **Recommendation 16:** Amend the TFPA and GNA to prevent federal agencies from overly delaying their use. **Recommendation 17:** Amend the GNA to allow Tribes to retain timber receipts for their work on federally administered lands and revise the restrictions on use of retained income. **Recommendation 18:** Enable Tribes and non-governmental organizations to more easily complete needed beneficial fire and other stewardship work on federal and state administered lands through contractual mechanisms.   ⁸⁴ Part of **Commission Recommendation 88:** Congress should provide funding and authorization for expanded recruitment strategies.⁵ **Commission Recommendation 28:** Congress should reinforce federal agency requirements for coordination with Tribes when engaging in land management planning.⁶ **Commission Recommendation 31:** Congress should make permanent the Indian Trust Asset Management Demonstration Project by eliminating the 10-year sunset, allowing continued participation in the Indian Trust Asset Reform Act.⁷ **Commission Recommendation 29:** Congress should ensure that federal agencies have the directive, capacity, and authority to enter into equitable and meaningful co-stewardship and co-management agreements for multijurisdictional lands, and to support Tribal self-governance in order to address wildfire risk reduction, management, and recovery, and to enable beneficial fire practices; **Commission Recommendation 30:** Congress should provide the U.S. Department of Agriculture stand-alone authorities to enter into co-management agreements with Tribes that would allow the Forest Service to share, defer or transfer decision-making authority with or to a Tribe or Tribes for management of Forest Service programs or activities.⁸ Part of **Commission Recommendation 90:** Improve the contracts, grants and agreements process and expand investments in the non-federal workforce.

CHAPTER 3: BUILDING REGENERATIVE TRIBAL ECONOMIC SYSTEMS

While some Tribes have access to significant revenue from gaming and other economic development enterprises, most Tribes struggle to fund basic governmental services and activities due to the legacy of land dispossession, genocide, and assimilation policies. As a result of the lack of stable funding, it is difficult to build the long-term, sustainable systems and workforces necessary to restore landscape function, right systemic injustices, and fully realize Indigenous stewardship goals. Regenerative economic systems can help to address these barriers.




BARRIER: Existing funding sources do not allow Tribes to build regenerative economic systems.

Recommendation 19: Provide federal and state funding to establish and build regenerative economic systems, such as place-based, Tribal endowments for the purpose of Indigenous stewardship.   ⁹



Recommendation 20: Create tax or other incentives for philanthropic and private contributions to place-based Tribal endowments.  


Recommendation 21: Ensure that the existence of place-based, Tribal endowments does not adversely impact the availability of other funding for Tribes.  

BARRIER: Existing systems are underfunded and cumbersome to administer.

Recommendation 22: Provide funding to Tribes to support their baseline capacity and to expand training opportunities, beneficial fire programs, and Indigenous stewardship work.   ¹⁰

Recommendation 22a: Enable Tribes to request adequate federal funding for 638 contracts and compacts.  ¹¹



Recommendation 23: Evaluate existing Tribal funding programs to eliminate unnecessary use restrictions or administrative requirements.  


Recommendation 23a: Increase funding for the BIA's Fish, Wildlife, and Parks program, which can be used by Tribes to complete work on lands administered by other agencies. 

Recommendation 23b: Make the Reserved Treaty Rights Lands Program a recurring program. 




Recommendation 23c: Allow IFLA accounts to be used to implement stewardship activities across jurisdictions. 

Recommendation 23d: Allow Tribes to retain timber receipts when using the Good Neighbor Authority. 

Recommendation 23e: Relax restrictions on Tribes that limit their ability to use natural resources removed from federally or state administered lands as part of Indigenous stewardship activities for commercial purposes.  



Recommendation 23f: Ensure that program income generated by Tribes is added to federal awards. 

BARRIER: Tribes are asked to provide work to agencies without pay.

Recommendation 24: Provide direct funding to Tribes to ensure adequate consultation and coordination occurs.   ¹²

Recommendation 25: Ensure that agencies pay Tribes and Indigenous peoples when they assist with agency planning and implementation.  

BARRIER: Non-governmental organizations also face funding challenges.

Recommendation 26: Provide significant funding to non-profit organizations and landowners to implement prescribed fire and increase local capacity.  

Recommendation 27: Direct state funding through agencies prepared to handle streamlined CEQA compliance. 

⁹ **Commission Recommendation 127:** Congress should provide direct funding to Tribes for capacity for consultation, coordination, co-stewardship, and co-management, and should establish flexible, reliable, and regenerative funding mechanisms and processes.

¹⁰ **Commission Recommendation 128:** To ensure Tribes have adequate base funding and staffing to accomplish management goals on Tribal lands, Congress should consider the results of the Indian Forest Management Assessment and National Congress of American Indians Resolutions when creating new laws, regulations, or other authorities.




¹¹ Part of **Commission Recommendation 92:** Tribes should be supported to expand mitigation, response, and restoration workforces.



¹² **Commission Recommendation 127:** Congress should provide direct funding to Tribes for capacity for consultation, coordination, co-stewardship, and co-management.

CHAPTER 4: IMPROVING TRIBAL-AGENCY RELATIONSHIPS



Navigating state and federal law to implement beneficial fire is a complex undertaking. These issues are compounded for Tribes and cultural fire practitioners, given the historical and legal complexities. To avoid delays, increased costs, foregone opportunities, and a lack of appropriate respect, agencies must become better at working with Tribes.

BARRIER: Agency staff are poorly trained in working with Tribes and cultural fire practitioners.

Recommendation 28: Prioritize hiring staff who are trained and competent in collaborating with Tribes and invest in staff training.    ¹³




Recommendation 29: Create systems of knowledge-sharing that allow for the preservation of knowledge within and across agencies.  

BARRIER: Obtaining Indigenous Knowledge without sharing decisionmaking can amount to appropriation.

Recommendation 30: Ensure that Indigenous Knowledge is used only in the context of shared decisionmaking.  

Recommendation 31: Ensure that Indigenous Knowledge is adequately protected from disclosure.    ¹⁴



BARRIER: Increased use of remote sensing technology threatens Indigenous fire use.

Recommendation 32: Require entities involved in the use of remote sensing technology to enter into agreements with Tribes to protect the confidentiality of ceremonial and other fire use, and prevent unnecessary deployment of suppression resources.    ¹⁵



CHAPTER 5: INDIGENOUS-LED FIRE REGIME MANAGEMENT

To address the wildfire crisis, increased beneficial fire use must come hand-in-hand with a fundamental shift away from fire exclusion and toward socio-ecological resilience. Critical to this shift will be the adoption of a holistic approach to fire management that considers long-term community health and ecological function objectives alongside short-term public safety concerns. Such an approach is inherent in Indigenous fire management, which is one of the reasons why Indigenous leadership to restore our human relationship with fire is vital in addressing the wildfire crisis.

BARRIER: Fire management is largely centered on suppression activities by state and federal agencies.

Recommendation 33: Revise the Weeks Act to support equitable, cooperative fire management involving Tribes, states, and the federal government.   ¹⁶

Recommendation 34: Acknowledge Tribal authority to enter into fire management compacts.   ¹⁷

Recommendation 35: To restore fire regimes and thereby manage wildfire risk, provide fire managers with the direction and authority to complete the fire return interval under safer conditions following the initial suppression of a wildfire ignition.  

13 **Commission Recommendation 96:** Ensure that fire mitigation and management personnel are trained in and respectful of Tribal sovereignty and cultural practices.

14 **Commission Recommendation 115:** Congress should consider the Forest Service Culture and Heritage Cooperation Authority as a baseline for expanded Tribal data sovereignty and FOIA exemptions for Indigenous Knowledge.

15 **Commission Recommendation 119:** Upon the request of Tribes, entities gathering data and providing dispatch information regarding fire ignitions should have the authority to enter into agreements with such Tribes to protect the privacy and confidentiality of ceremonial and other fire use.


16 **Commission Recommendation 49:** Revise the Weeks Act to include Tribes in the management and restoration of fire on equal footing to states.

17 **Commission Recommendation 48:** Congress should enhance Tribal participation in fire management compacts with states and foreign nations.


CHAPTER 6: WORKFORCE DEVELOPMENT


A well-trained, funded, and appropriately sized workforce is necessary to implement the recommendations contained in *Good Fire II*. Developing this workforce will require not only investments in recruiting and training, but also significant shifts in agency culture and priorities. The existing systems built to support today's suppression-focused workforce are incompatible with holistic fire management.

BARRIER: Tribes and cultural fire practitioners lack resources to build an expanded workforce.

Recommendation 37: Support the transfer of federally administered lands and facilities to Tribes for the development of workforce housing. **F** ¹⁸

Recommendation 38: Ensure that income generated by workforce housing can be reinvested by Tribes for the perpetuation of Tribal programs. **F**

Recommendation 39: Make available resources specifically dedicated to training and supporting new cultural fire practitioners. **S** **F** ¹⁹


Recommendation 40: Ensure that cost-of-living adjustments apply to employees operating under 638 compacts or contracts. **F** ²⁰

Recommendation 41: Support a year-round Tribal workforce that can complete both fire mitigation and management activities. **S** **F**

Recommendation 42: Allow federal employees to continue paying into federal retirement accounts when transferring to Tribal jobs under the Intergovernmental Personnel Act. **F** ²¹

BARRIER: Fire management agencies deprioritize prescribed fire and other stewardship activities.

Recommendation 43: Support the creation of new beneficial fire training centers. **S** **F** ²²

Recommendation 44: Improve prescribed fire training opportunities. **S** **F** ²³

Recommendation 45: Create dedicated prescribed fire and fuels reduction crews. **S** **F**

Recommendation 46: Invest in regional prescribed burn “modules” to facilitate burns. **S** **F**

Recommendation 47: Improve outreach and education opportunities to train the next generation of forestry professionals. **S** **F**

Recommendation 48: Develop integrated prescribed fire workforce recruitment, retention, training, and deployment systems. **S** **F**

Recommendation 49: Increase incentives for agency personnel to engage in prescribed burn activities. **S** **F**

Recommendation 50: Focus recruitment and retention strategies on people with career goals in fire and natural resource management, rather than solely suppression. **S** **F**

Recommendation 51: Address the disparity in pay, benefits, and housing availability that impact federal and Tribal workforce retention. **F**

Recommendation 52: Address the mental health challenges facing the wildland fire workforce. **S** **F** ²⁴

BARRIER: The Morrill Act created injustices that continue to be perpetuated.

Recommendation 53: Develop mechanisms to require or incentivize land grant universities to reinvest a portion of their endowments into Tribal communities. **F**

¹⁸ **Commission Recommendation 103:** Enable the federal government to transfer appropriate lands and facilities to Tribes for development of workforce housing.

¹⁹ **Commission Recommendation 92:** Tribes should be supported to expand mitigation, response, and restoration workforces.

²⁰ Part of **Commission Recommendation 92:** Tribes should be supported to expand mitigation, response, and restoration workforces.

²¹ **Commission Recommendation 86:** Address “break in service” rules and retirement benefit portability.

²² **Commission Recommendation 95:** Create and fund more training opportunities for the mitigation and management workforce.

²³ **Commission Recommendation 95:** Create and fund more training opportunities for the mitigation and management workforce.

²⁴ **Commission Recommendation 97:** Invest in a comprehensive approach that addresses mental and physical health.

CHAPTER 7: AIR QUALITY


The current air quality regulatory framework presents a potential barrier to all beneficial fire use. Rather than viewing beneficial fire as a potential contributor to air pollution, state and federal policies should be reoriented to viewing beneficial fire as a necessary component of the suite of tools necessary to mitigate and address the smoke impacts of the wildfire crisis.

BARRIER: The Clean Air Act and related state regulations fail to acknowledge cultural burning as “natural” or “background” Conditions, subject to Tribal rights.

Recommendation 54: Revise the Exceptional Events Rule to recognize cultural burning as part of natural, baseline conditions and prohibit states from regulating its use. **F**

Recommendation 55: Enact state law that acknowledges Tribal sovereignty with respect to cultural burning. ²⁵ **S**


BARRIER: Air quality regulators limit the use of prescribed fire.

Recommendation 56: Revise the Exceptional Events Rule to encourage greater prescribed fire use and enhance programmatic and procedural ease. **F**  ²⁶

Recommendation 57: Amend the federal Clean Air Act to exclude prescribed fire emissions. **F**

Recommendation 58: Broaden the categories of prescribed fire considered “natural” under the Regional Haze Rule. **F**

Recommendation 59: Increase the frequency with which air districts permit prescribed fire. **S**

Recommendation 60: Develop and fund smoke mitigation programs. **S** **F**  ²⁷

BARRIER: Air districts lack sufficient resources and expertise to effectively process permit applications.

Recommendation 61: Revise California’s Smoke Management Guidelines to remove individual discretion to deny permits where an applicant meets objective requirements. **S**

Recommendation 62: Encourage air districts to allow greater permits flexibility. **S**

Recommendation 63: Provide air districts with more financial or technical resources to assist in permit review. **S**

Recommendation 64: Require air districts to issue permits when applicants demonstrate that the proposed burn will not cause harmful smoke impacts. **S**

Recommendation 65: Determine how to support the preparation of needed Exceptional Events determinations for prescribed fire projects. **S** **F**

²⁵ SB 310 (2024) would achieve this recommendation.

²⁶ **Commission Recommendation 42** directs “EPA, DOI and USDA to work together to expeditiously evaluate current federal regulations and guidance around the treatment of smoke from wildland fire in air quality management programs with the intent of ensuring the programs can accommodate increased use of beneficial fire. Such an evaluation includes the exceptional events pathway and making any necessary changes to enhance programmatic and procedural ease and clarity while ensuring protection of public health, in a manner consistent with the Clean Air Act. Further, Congress should provide resources to ensure federal, state and local authorities can expand their capacity to document and exclude wildfire and beneficial fire smoke from regulatory significance.”


²⁷ **Commission Recommendation 43:** Invest in existing and new community and individual preparedness efforts, infrastructure development, public communication and engagement opportunities, and mitigation programs at the federal, state, local, Tribal, and territorial level to reduce smoke impacts to human health.



CHAPTER 8: LIABILITY

Potential liability for damages or bodily harm caused by beneficial fire, particularly by any escape, is often cited as a barrier to further expansion of the practice. Liability concerns relating to the health and agricultural impacts of smoke may be a particular barrier to conducting prescribed fire due to the difficulty of proving or disproving causation.

BARRIER: Liability concerns continue to inhibit burning.

Recommendation 66: Adopt a gross negligence standard in California for third-party damages. 


Recommendation 67: Alternately, adopt an immunity statute. 

Recommendation 68: Clarify the extent to which the Federal Tort Claims Act provides protection to Tribes and non-federal cooperators burning on federal lands.  ²⁸

Recommendation 69: Increase education among agency staff related to potential liability issues.  



Recommendation 70: Initiate a broader review of the framework for fire-related liability.  

Recommendation 71: Ensure that a gross liability standard applies to suppression activities by federal agencies. 

Recommendation 72: Ensure that cultural fire practitioners can access the gross negligence standard for suppression costs and the Prescribed Fire Claims Fund Pilot. 

BARRIER: Insurance products are unavailable, expensive, or inadequate.

Recommendation 73: Monitor, fund, and permanently reauthorize the California Prescribed Fire Claims Fund Pilot. 

Recommendation 74: Bring federal dollars to support beneficial fire practitioners and third parties inadvertently harmed by rare escapes.  ²⁹

²⁸ **Commission Recommendation 11:** Congress should consider and clarify the extent to which the Federal Tort Claims Act provides protection to Tribes and non-federal cooperators burning on federal lands.

²⁹ **Commission Recommendation 10:** Congress should advance legislation to support a compensation or claims fund for burn damages to third parties that can quickly provide financial relief in instances when...

Barriers and Recommendations Primarily Relevant to Prescribed Fire Practitioners

CHAPTER 9: CAL FIRE

While CAL FIRE has taken some action in recent years to reduce cumbersome or confusing policies that have inhibited beneficial fire use, improving transparency throughout the permitting process would further benefit prescribed fire practitioners.

BARRIER: CAL Fire sometimes refuses to issue or overly conditions permits.

Recommendation 75: Publish clear criteria for burn permit evaluation and educate agency staff regarding these requirements. 

Recommendation 76: Amend Sections 4491–4494 of the California Public Resources Code to make it easier for burners to obtain permits for broadcast burning. 

Recommendation 77: Amend the California Public Resources Code to allow CAL FIRE notification in lieu of permits for some types of prescribed burns. 


CHAPTER 10: ENVIRONMENTAL REVIEW

For certain burns, completion of environmental review at both the federal and state levels can create significant impediments. Environmental compliance processes are well intended and often serve important disclosure and mitigation purposes, yet also result in unintended consequences, including project delays, resource requirements, and litigation risk. Environmental review should not apply to cultural burns under any circumstance, unless a Tribe agrees to receive significant federal or state funding for the burn.


BARRIER: Environmental reviews fail to acknowledge fire as a natural process.

Recommendation 78: Fire use consistent with historic eco-cultural fire regimes should be considered a part of baseline environmental conditions, and therefore not subject to NEPA or CEQA review.  

Recommendation 79: Train agency staff and consultants conducting environmental review on the historical presence of fire in ecosystems.  


Recommendation 80: Ensure that the risk of uncharacteristically intense wildfires is included in the discussion of the no action or no project alternative.  

BARRIER: Environmental review is slow and costly.

Recommendation 81: Provide agencies additional leeway to rely on equivalent state and/or federal analyses already completed.  

Recommendation 82: Explore mechanisms to expedite and improve internal processes.   ³⁰

Recommendation 83: Modify the examples contained within the CEQA guidelines to better facilitate the applications of such exemptions to prescribed fire. 

Recommendation 84: Enable Tribal authority over all necessary archaeological and Tribal cultural resource analysis for prescribed fires.  

Recommendation 85: Fund regional programmatic EIRs for prescribed fire use on private lands. 

³⁰ **Commission Recommendation 33:** Explore mechanisms to make planning more effective and efficient, such as improved information gathering, training, staffing, collaboration, and programmatic analyses for restoration and hazardous fuels reduction activities.