

**FINAL MEETING NOTES**  
**Joint Federal/State Task Force on Federal Assistance Policy (JTF)**  
**Meeting Date:** April 22-23, 2014  
**Location:** Denver, CO

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**JTF Co-chairs:** Kelly Hepler (ADFG) and Hannibal Bolton (USFWS)  
**AFWA Contact:** Ashley Salo, AFWA, Multistate Conservation Grants Coordinator  
**USFWS Contact:** Joyce Johnson, Special Assistant for Program Development and Analysis  
**JTF Members:** Gary Armstrong, Lisa Evans, John Organ, Mike Piccarilli, Steve Barton, Dan Forster, Thomas Barnes, Larry Voyles, Tom Busiahn, and Curtis Taylor  
**Legal Counsel:** Carol Bambery and Larry Mellinger  
**Guests:** John Frampton, Jon Gassett, Jim Hodgson, Dave McGillivary

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- 1) **ACTION ITEM:** Hannibal Bolton and Steve Barton will continue their work to develop national guidance policies on SHPO to provide consistent management throughout the FWS Regional offices. This document will be reviewed and approved by JTF members prior to distribution.
- 2) **ACTION ITEM:** John Organ (Chair), Tom Barnes, and Lisa Evans will draft language for JTF and state review that will potentially move wildlife damage management policy into regulation which will be included in the next revision of 50 CFR 80.
- 3) **ACTION ITEM:** Larry Mellinger, Tom Barnes, John Organ (Chair), and Curtis Taylor will review the current WSFR procedures or standard practices for approving mineral, oil and gas transactions on wildlife management areas. WSFR Chiefs will compile a case history of regional mineral, oil and gas decisions to inform the development of a toolbox for use by the states by fall 2014 JTF meeting.
- 4) **ACTION ITEM:** Dan Forster will work with the AFWA Executive Committee to finalize the FWS draft administrative effectiveness measures/outputs document and will then be distributed to JTF members.
- 5) **ACTION ITEM:** JTF and WSFR Chief's meeting agendas will be shared with both groups prior to their bi-annual meetings.
- 6) **ACTION ITEM:** Reinvigorate technical review group for the Council to Advance Hunting and the Shooting Sports.
- 7) **ACTION ITEM:** Dan Forster will send WR State Apportionment Analysis spreadsheet to JTF members.

**8) ACTION ITEM:** Steve Barton will distribute, when available, the FWS finalized administrative audits and any applicable corrective action plans to JTF members for their review. Results from administrative audits will be used to help formulate appropriate JTF meetings.

**9) ACTION ITEM:** Ashley Salo will work with Tom Busiahn to fully executed third Amendment to the JTF Charter.

**10) ACTION ITEM:** JTF Co-Chairs will send a letter (drafted by Joyce Johnson, Lisa Evans) to solicit ideas for potential topics for JTF consideration annually through the AFWA Directors (Ashley Salo) and Chiefs and Federal Aid Coordinators (Tom Busiahn).

## **Tuesday, April 22**

### **1. Welcome and Introductory Remarks (8:00am) – Bolton/Hepler**

- All members need to verify their contact information on the updated contact list. This list will be posted on the WSFR website.

### **2. Status of Previous Action Items – Joyce Johnson**

**1) ACTION ITEM:** JTF process guidance will be sent to Directors/Chiefs (Lisa Evans) November 30, 2013. **(Completed)**

**2) ACTION ITEM:** Hannibal Bolton and Steve Barton will work to develop national guidance policies on SHPO to provide consistent management throughout the FWS Regional offices. This document will be reviewed and approved by JTF members prior to distribution. **(Discussions are ongoing).**

**3) ACTION ITEM:** John Organ will work with the Federal Aid Coordinator from Montana regarding the next steps in wildlife damage management. John Organ will provide an update to Tom Barnes in drafting the 50 CFR 80 regulation and will report to the JTF at the April 2014 meeting. **(This item is on the JTF Agenda for April 2014 meeting).**

**4) ACTION ITEM:** Carol Bambery and Larry Mellinger will prepare an Attachment to the Charter to reflect current JTF membership and draft an Amendment which provides in the future the Co-Chairs of the JTF will publish an amended list each time a new member is appointed which will be housed on the WSFR website. **(This item is on the JTF Agenda for April 2014 meeting).**

**5) ACTION ITEM:** AFWA License certification work group, with assistance from Larry Mellinger and Tom Barnes, will finalize their report prior to the North American Conference in March 2014. The report will be made available to the JTF in April 2014. **(This item is on the JTF Agenda for April 2014 meeting).**

**6) ACTION ITEM:** Steve Barton will send the proposed effectiveness measures to the JTF members and to the Federal Aid Coordinator working group for review. The effectiveness

measures have been submitted to Chiefs. Comments are due from Chiefs by Friday, November 8th. A summary of comments will be sent to AFWA (Carol Bambery/Ashley Salo) by close of business Tuesday, November 12th. **(Effectiveness measures were distributed as required – no comments were received).**

**7) ACTION ITEM:** Add JTF to AFWA website by November 30, 2013. **(Completed).**

**8) ACTION ITEM:** Tom Barnes will make a short review of his opinion of the proper disposition for the existing manual chapters and handbooks (ex: discard, retain, and modify as a chapter or convert to regulation) Will have report by next Chiefs meeting in April 2014. **(This item is on the Joint JTF/Chiefs Agenda for April 2014 meeting).**

**9) ACTION ITEM:** Tom Barnes will make short review and estimate of the time it will take to scrub the existing chapters of inaccurate or wrong material. The original and scrubbed chapters will be moved to an archived location. **(This item is on the Joint JTF/Chiefs Agenda for April 2014 meeting).**

**3. Adequacy of current WSFR policy on wildlife damage management and recommendations re: predator control and need for clarification through the JTF small group process – John Organ**

- John Organ distributed a white paper summarizing outlining the adequacy of the current WSFR policy on wildlife damage management to JTF members prior to the April meeting. Background: WSFR policy on use of license revenues and WSFR funding for wildlife damage management is contained in Fish and Wildlife Service Manual Chapters 521 FW 1 (Pittman-Robertson) and 521 FW 2 (Dingell-Johnson). The current policy outlines that a state fish and wildlife agency can use license revenues for wildlife damage management as long as the fish and wildlife agency has control and expenditure authority over the use of the funds for wildlife damage management and/or they have the legal management authority over the species. A diversion of license revenues would occur if license revenues were used for wildlife damage management in one of the following applications: 1) Hunting and trapping of the species causing damage has been restricted or prohibited by authorities other than the state fish and wildlife agency; 2) Another state agency has been given management authority for the species in question; or 3) The state fish and wildlife agency has no say in whether the funds will or will not be used for wildlife damage management, essentially removing control and expenditure authority from the agency. The current policy is adequate for supporting state agencies in wildlife damage management. However, the policy as it stands may not be enforceable if challenged in a court of law. The recommendation before the JTF is to move the current policy into regulation.
  - The logic that legislation is stronger than policy is understandable. However, couldn't this argument apply to all policy? Why would this policy be a high enough priority to go through the process of moving it into legislation?

- There's many consistent policy that is being considered for regulation.
    - The question was raised in terms of the adequacy of this particular policy.
    - This could be added to regulation with the upcoming revision of 50 CFR 80.
    - Wildlife damage doesn't always extend to predators. It needs to be clearly defined.
    - Created regulation for wildlife damage management wouldn't preclude states from having to go through the NEPA process.
    - This discussion could be continued in a small group session. The small group could assess the best placement in regulation wildlife damage management should be moved to, if it's ultimately determined that regulation is the way forward.
    - What about management control for agriculture? If moving this policy into regulation, it will need to be carefully vetted throughout the JTF, states, chiefs, federal aid coordinators, etc.
    - Need to agree on a set of principles and protecting state agencies budgets.
    - Topic will be discussed further in small group session.

#### **4. Small Groups Report on License Certification Recommendations and discussion -all**

- Thank you to Dan Forster for making Sapelo Island, Ga available for the small working group to get together and put together a final report. This report went before AFWA's ExCom with five recommendations. Four of the five recommendations were adopted and eventually approved by the majority of state directors at AFWA's business meeting at the North American conference in March 2014. The newly adopted recommendations are as follows:

*The Working Group recommends keeping the state licensing certification system as is until AFWA's Executive Committee can authorize further work and study on issues that we have identified. Keeping the system the same for the interim will preserve the sanctity of the federal aid system and uphold collegial relations among the states. The Working Group believes that quick fixes and/or changes at the individual state level could cause unintended consequences to the system.*

*The Working Group recommends that AFWA's Executive Committee charge the Fish and Wildlife Trust Fund Committee to assemble a workgroup that will continually research and monitor licensing programs throughout the states. Specifically, the workgroup should examine licensing programs for the types of unfair practices identified in this report, should observe changes in licensing programs, and should assess any resulting impacts on state certification levels. The workgroup should report its findings to the Executive Committee.*

*The Working Group recommends that the newly formed Fish and Wildlife Trust Fund Committee workgroup identify and/or develop survey mechanisms that would measure actual participation rates in hunting and angling throughout the states. These survey mechanisms would serve as a*

*potential tool in validating participation levels and may ultimately function as an option for certifying license numbers.*

*The Working Group recommends that States on the JTF will through the JTF continually seek guidance from and work closely with the FWS, to ensure consistent interpretations on WSFR program regulations such as 50 CFR 80-86.*

*NOT ADOPTED: The workgroup recommends that AFWA's Executive Committee request that FWS change and/or clarify its interpretation of the term "close approximation" 50 CFR 80.10(b)(4)(i). Specifically the Executive Committee should recommend that, under "close approximation," a license should be counted if it achieves 80% value, or greater, of the most basic privilege. (Example A person expected to live 78 years holds a state lifetime hunting license, for which the person paid \$X. The state's small game license, which is that state's most basic hunting privilege, costs \$20 dollars. For the state to be allowed to count that license in its certification process, the license should achieve at least 80% of \$20 dollars every year for 78 years.).*

- What was the discussion around the close approximation recommendation at the AFWA ExCom meeting and why wasn't it adopted?
  - AFWA needs to work by consensus and the ExCom was unable to come to one when it came to the close approximation issue.
- What's the timeline for the Trust Fund committee's new small working group?
  - Currently in the beginning stages of assembling the group. The Trust Fund has received two volunteers to serve on the committee (one from Georgia and another from Louisiana). The small working group will be looking into each state's policies on licenses not on their actual certification numbers submitted each year.
- The "gaming the system" is truly in the eye of the beholder. In certain states, every big game hunter who buys a license is given free fishing licenses as well. Is that gaming the system? Some would say it is and some wouldn't.
- After discussion this for a few meetings now, there's really no clear way to legislate the calculation of license buyers absent a survey that quantifies participation.
- Legislation history was based on cooperative effort between federal effort and the states. It wasn't based on participation.
- It's not good business to give away free licenses in states. They will eventually need to be paid for in the end. To what extent is it our responsibility to be stewards in how states manage their licensing?
- One of the thoughts that came out of the small working group was that a surgical fix to any one of the license certification issues would not help the problem overall. In fact, it could lead to greater issues down the road. The law does not allow for solutions to be developed in policy. Therefore the small working group was left with two options. Either change the law or look into a survey option to measure actual participation.

- When this program was first started, the idea was that there would be sufficient funds between states and federal to effectively conserve wildlife in this country. The pressures aren't to hold down license fees or to receive as much federal money as possible. The auditors want guidance on this issue as well. This will be discussed with the Chiefs and the Federal Aid Coordinators working group.
- What is the spreadsheet analysis that was developed by GA DNR?
  - Will share the spreadsheet with the group. It was a spreadsheet developed to be able to compare the impact of states which are "gaming the system" on others.
- Another component that cannot be overlooked is all states face the same challenge of recruitment and retention. The way states handle licensing could easily change in the near future.
- There are over 400 recruitment and retention programs right now. The opportunities in hunting and fishing offered by state agencies are recreational and should be marketed as such.

#### **5. Background re: WSFR Policy on Oil & Gas – Larry Mellinger/Tom Barnes/Dave McGillivary**

- A summary of the key issue: This is becoming more prevalent of an issue. When a state wildlife area is acquired with mineral rights intact it becomes an issue when minerals are extracted and revenue is acquired. There are multiple interpretations of what states can do with those minerals – whether selling, personal property and leasing, obtaining royalties or mineral development. Or, the issue becomes whether those mineral rights are interest in real property that the state is disposing of in which then states have to adhere to regulation of disposition of property and therefore have to go through 43 CFR 12 land disposition regulation.
- If it's a sale of personal property, it can be treated under program income in program provisions.
- One approach is to analyze this strictly as a property law issue and determine specifically in each state whether or not sale of the mineral interests is specifically real property interest or personal property interest.
- Example: Pennsylvania worked out a licensing agreement and the revenue generated would be deemed as program income.
  - If the grant period were open, it would be considered program income, if it were closed it would not.
- There are at least three different ways this issue can be treated: 1) maintain status quo (processed outlined by John Organ – each case is handled by a state by state basis) 2) By regulation – say extraction of minerals on federal property should always be treated as distribution of real property; and 3) By regulation – where a state can dispose of minerals in lands acquired by state wildlife areas and be treated by personal property.

- The main problem with approach two and three is that many states may not be on board with either approach or it may negatively impact their state.
- Perhaps what kind of opinion is necessary should be defined? (Informal, signed by attorney general, etc.).
  - Would prefer having the ability to work with states individually.
  - Got to go on a case by case basis. Leave it to the states – regions – and not make a national policy. Can't address all the issues.
- The problem with a state by state approach is there's no recognized agreement on mineral disposals. For a lot of states – their entire drilling and mineral interest law relies on tax interests in such. It becomes very complicated. Implies there are financial consequences depending on what you call it.
- States should be highly motivated to have this reviewed. It would be worthwhile to move this discussion into a small group discussion. Start building a toolbox. (Small group – development of tools).

#### **Update on amendment to the JTF Charter – Carol Bamberg / Larry Mellinger**

- Third amendment to the JTF charter was distributed. This amendment directs any updates to the JTF members can be done through WSFR site. A separate amendment will no longer be needed.

#### **Where is the JTF headed – upcoming issues to address (i.e. Reauthorization of W/B; Interaction with Endangered Species JTF, Surrogate Species, Coordination with State FA Coordinators) – Kelly Hepler/Hannibal Bolton**

- Any issues or suggestions that should be raised tomorrow during the Chief meeting
- How often does the JTF ask state directors or federal aid coordinators for issues or agenda items? This should be done every year.
  - There's significant turnover of state directors so many new directors may be unfamiliar with federal aid. The federal aid coordinators in the Northeast have mostly financial backgrounds instead of biology. Information on federal aid should be sent to new directors.
- Mechanism of communication is a little difficult right now. Significant turnover in directors.
- Should ask chiefs and coordinators about communication – what their thoughts are on how to disseminate information.
- SHPO should be a topic to discuss with the chiefs. The Service has been working on developing a consolidated statement of SHPO so there's consistent treatment throughout the regions.
- Has there been any discussion on using the Service's recent audit to help craft the effectiveness measures being developed by the Service / AFWA? How are the

effectiveness measures going to be tracked? Perhaps they can be added to TRACS. What does it mean if a certain number of effectiveness measures aren't met?

- Steve Barton emailed out a document put together by the federal aid coordinator working group. Here are some items identified as state priority needs from WSFR program:
  - Reauthorize Wallop Beaux
  - Need timely grant processing
  - States need access to grant information – similar to the access they had in FAIMS (this is not on the effectiveness measures but can still be addressed).
  - States need monitoring and support to address diversion issues.
  - States also need WSFR assistance to resolve land acquisition issues if they arise.
- Steve Barton emailed out a document put together by the federal aid coordinator working group. Here are some items identified as state priority needs from WSFR program:
- Prior to federal aid meeting the Service worked on these effectiveness measures to include the priorities suggested by the states. Recommend process going forward – At AFWA Sept meeting – Steve Barton will present during the Fish & Wildlife Trust Fund committee on effectiveness measures and the status of the WSFR program. It's a natural fit along with the federal aid working group update. The effectiveness measures are pretty close if not already finalized. There might be some room for additional discussion.
  - Has the Service developed criteria so states are certain that each chief is using the same technique that's feeding into the evaluation of these measures?
  - No, that part has not been done yet. That's an item that needs to be done with the chiefs.
  - This final step is important so states know that apples are being compared to apples, etc. There needs to be transparency in how data is collected and reported. Were there any audit findings, administratively, that states should be aware of or that should be incorporated into the effectiveness measures?
    - The Service is audited biannually. The audit for FY11 and FY12 has just been completed.
    - Was there anything in the Service's audit on ARDs? – Yes – the Service is continuing to work on this item.
    - Where does that leave the states on other findings from the audit? It would be useful if this was shared with the JTF – particularly as it relates to the development of the effectiveness measures.

**Small Groups convene (2:30-4 pm)**

**Re-convene: Small Groups report out and recommendations  
Wildlife Damage Mgt**

- There are a couple of steps needed for wildlife damage management. First, is there consensus among the JTF that wildlife damage policy be moved into rulemaking? If so, should it stand alone or be integrated into other parts? -
  - Is there an agreement on what policy would be made into a rule?
    - Existing policy would be turned into rule.
    - The policy that's in existence right now has not been properly vetted through the Association.
      - That would certainly be part of the process.
  - What form should the potential new rulemaking take? Should it be a standalone section into 50 CFR 80 or added into an existing section in the CFR? (Larry Mellinger, John Organ, and Tom Barnes all supported moving the policy into a standalone section.
- The next step would be for the small working group to start drafting what the standalone section would look like in regulation and have that work vetted through the JTF.

#### **Oil/Minerals – (Larry Mellinger)**

- Will work to build a toolkit (toolbox) – to help states deal with this issue when it arises since this will be handled by a state by state basis.
- To avoid confusion, perhaps it would be worth going back and clarifying intent when developing the toolbox?
  - Getting an opinion from every state attorney's general office will be required if we're thinking of relying on informal opinions. Could be time consuming.
- The purpose of the toolkit would be to interpret existing regulations so there is a consistent understanding across the states.

#### **Meeting Wrap-up/Fall JTF Meeting -- Kelly Hepler/Hannibal Bolton**

- Schedule for next JTF Meeting: End of October – schedule another joint meeting with the chiefs? Steve Barton will look into options for pricing and date (OCT 27-29).

#### **Wednesday, April 23 – Joint Session with WSFR Chiefs**

##### **WSFR Program Update – Steve Barton**

- DJ Receipts/Forecast: Appears there will be between 4-5% increase in sportfish. On track for a total revenue of 620M.

- Latest boat registration numbers – (FY16) down 1.1%. It’s possible that there will be slight decrease (or maintain levels) for FY16 – assuming that tax receipt collections for domestic fishing collection stay consistent.
- PR: First quarter receipt numbers are in – based on these numbers PR could easily see 1B. However, sales are beginning to slow down.
- FY 14 Budget and Sequestration Impacts –The mandatory funds continue to operate under and deal with the mandatory sequester. Apportionment received recently – (sequester has caused delay in getting apportionment out) – it has to go through the Interior, OMB, etc. FY14 apportionment received – sequester amounts went to each of the subprograms for which they were held (SF – 5.2% from multistate grant, for ex –that money went back into that program). The Service is required to use the formula from FY13 on apportionment for FY14 to states.

### **TRACS Update – Steve Barton**

- Implementation schedule: TRACS has 8 additional development “sprints” (aka changes). It took much longer than anticipated to get approval from OMB.
- The delay and additional changes have added significant improvements. Hannibal Bolton distributed a letter to the states requesting all states identify a system admin. (This will be an individual or individuals within an agency who would be responsible for assigning permission levels to users. Thirty three states have responded (so far).
- Training for TRACS system began May 2013. There have been over 40 classes conducted. -software issues
- If states encountered any difficulties with TRACS system – they must submit a help desk ticket. The help desk ticket request will need to be specific.
- Next development “sprint” involves GIS levels. Communication between states and the Service as the changes are rolled out will be critical.

### **Update on WSFR Policy Issues – Tom Barnes**

- Tom Barnes provided handouts electronically, as well as a list of WSFR chapters in the Service manual.
- Currently working to restructure the WSFR chapters in the Service manual. We want to move many chapters into regulation, including the 10 that originated as JTF recommendations.
- Working on three new chapters to replace our 1992 real property chapter. After we publish these chapters and implement them for a trial period of one year, we’ll propose that most of their contents be converted to regulation. We’ll do this by following the rulemaking process which requires publication of a proposed rule in the Federal Register followed by a 90-day comment period.
- We must obtain the approval of the Department’s Office of Valuation Services for all new and revised real property policies and regulations before we publish them.
- Currently working on updating the 1992 compliance chapter. This chapter summarizes the requirements of the 25 most common statutes, regulations, executive orders, and policies applicable to grants that the Wildlife and Sport Fish Restoration Program administers. The WSFR Regional Offices and States have until July 8<sup>th</sup> to comment.

- The Service published the first BIG proposed rule in the Federal Register some months ago. It had a 60-day comment period. Some groups responded and asked for more time to review. Decided to incorporate comments received and issue a second proposed rule. Second proposed rule will be published this Friday followed by a 90-day comment period. Received a lot of input from SOBA. First proposed rule won an award.
- Another action being taken will be to combine five audit chapters into one. (update and reorganize).

**Council for the Advancement of Hunting and the Shooting Sports (CAHSS) – John Frampton**

- The Council is a non-profit, charitable, educational organization (501 (c) 3), incorporated in the District of Columbia.
- The concept of the Council was an outgrowth of AFWA’s Industry/Agency Coalition, which matured after 4 years of meetings and relationship building amongst the key stakeholders of the North American Model of Wildlife Conservation.
- Council Successes include:
  - o IHEA-Hunter Education Project
  - o FOIA/Privacy Laws on License Data
  - o Shooting Range Laws Review
  - o Digital Evaluations:
    - Three students viewed state agency websites
    - Evaluated customer experience
    - Provided detail, written summary of findings
    - Can be a tool