

DISCUSSION NOTES

Joint Federal/State Task Force on Federal assistance Policy April 4-6, 2007, Sonoma, CA

Wednesday

Evening Session:

- **Cochairs' welcome and review of Agenda**

Rowan Gould and Glen Salmon welcomed the group. Absent JTF Members were John Frampton, Lisa Evans, Keith Sexson, and Tom Niebauer.

The group decided to focus the evening's topic on the Federal Assistance draft strategic plan. At this point, it is a concept document and many issues remain to be addressed, including outreach to stakeholders, especially industry.

- **Initial Review of Federal Assistance Strategic Plan**

Rowan Gould, Glen Salmon, Jim Greer, Christy Kuczak, and Jay West lead a discussion on the strategic plan. Because the draft was sent just days before the meeting, some members have not had time to review it. Gerry Barnhart noted that it is important that the strategic plan be linked to the work of the National Survey Working Group (NSWG) as many of the metrics proposed are from the National Survey. Also, OMB made it clear that it is important that the plan have outcomes and not outputs. The group considered changing the term "non-game" to "species of concern". Also discussed was matching metrics to actions and getting partner input to finalize metrics. Kelly Hepler noted that many of the metrics are things that states already do and Glen Salmon clarified that the metrics, to the extent possible, will use existing measurements. Rowan Gould stated that Federal Assistance will ultimately use these metrics as an educational tool for the program, and that this document is more than just a strategic plan.

- **Review of action items from Wichita, Kansas meeting**

Tom Barnes provided a status report on actions from the Wichita, KS meeting.

- **Update on Washington Office Staffing**

Rowan Gould explained that the FWS Federal Assistance office is being restructured (see handout from Trust Funds Committee meeting) and administrative functions being separated from the programmatic functions with two separate GS-15 positions being created. There will also be some additional positions advertised because the policy and program responsibilities are being split. He also commented that this structure mirrors the Regional Office structures. Prior to the restructuring, there were five layers between the Assistant Director and the person doing the work. Kelly Hepler noted that it might have been beneficial if States had been consulted about this through AFWA to get more perspectives and to find out if States are getting what they needed from the DC office. Chris McKay noted that these organizational changes should be considered in development of the strategic plan.

- **Federal Assistance Outreach**

Glen Salmon discussed options for publicizing the PR/DJ programs. The question is “who will pay for a marketing/communication strategy?” Where in the Improvement Act does it say that you can’t do an outreach effort? One idea is to design a logo to be displayed on manufactured items which could give people ownership of the program and raise awareness. This could potentially attract additional industry partners.

The group embarked on a discussion of outreach activities. Rowan Gould commented that it could be done if it were considered an education program. Glen Salmon thought the outreach effort could be worked into the strategic plan. Kelly Hepler noted that spending money on this activity is no guarantee that you will reach the people you want to bring to the table (members of industry currently not paying excise tax to PR/DJ). Jim Greer noted that outreach, within boundaries, is a legitimate activity and should be defined in the strategic plan. John Organ noted that there was an outreach team back in the 1990’s, and their work should be consulted as many ideas were generated by that group.

The group discussed the importance of a strong industry partnership regarding PR/DJ outreach and how to address the issue. There could be an array of funding sources - Federal, State, and MSCGP (Multistate Conservation Grant Program). Gerry Barnhart suggested that we target decision makers as opposed to the public, as this could be a more effective use of the money. Rowan Gould noted that education efforts have not demonstrated overwhelming success in regard to the public, but industry has been effective getting policy makers to listen to them as they have full-time lobbyists. He suggested that the AFWA Executive Committee take on this issue. Glen Salmon agreed, but noted that we first need to quantify what has to be done and whether there is money to pay for it. He strongly reiterated that we need to re-acquaint industry with what we do.

Thursday

Morning Session:

- **Meeting with Federal Assistance Chiefs**

Rowan Gould and Glen Salmon welcomed the Federal Assistance chiefs as well as State coordinators. Glen Salmon discussed the review of the draft strategic plan (emphasizing that it was a DRAFT). He reiterated the strength of the relationship between the States and Federal offices and the importance of working together. He encouraged the Federal Assistance chiefs and State coordinators to provide ideas and input and engage in the discussion.

Christy Kuczak and Jay West began the discussion and explained the importance of keeping the discussion at the conceptual level and not bogging down in details or editing. Jay reiterated that this document will both enhance consistency throughout the Federal Assistance enterprise as well as be a communication vehicle with policy makers. Jay West then reviewed the Table of Contents in the draft noting that there was specific State (operational) and Federal (administrative) sections. Christy Kuczak explained that the process began in December 2006, and is currently in the pre-first draft stage. The exact process for completion of the plan is still undetermined, but we are targeting a completion date of December 2007.

Larry Mellinger questioned if the plan needed to undergo NEPA compliance based on his experience with refuge system planning. Rowan Gould suggested that Larry Mellinger and Carol Bambery address the question.

ACTION: Larry Mellinger and Carol Bambery will consider the NEPA requirements for writing a Federal Assistance strategic plan.

General Comments on Document:

Several topics were discussed:

- Why the Strategic Plan is being developed
- Utility of FAIMS to collect and track metrics
- Whether programs such as audits should be highlighted
- Relative emphasis of PR/DJ programs versus SWG/LIP
- Structure of the plan regarding PR/DJ programs versus SWG/LIP programs
- Whether the LIP program should be included
- Number and character of metrics
- Industry involvement including the boating community
- Public participation

Discussion of Draft Strategic Plan - Cont.

Jay West and Christy Kuczak underwent a section by section discussion of the Strategic Plan draft to gain input on each section. Key points included:

Part I – This section highlights some important concepts to provide background.

- Refer to Federal Assistance as the “wildlife and sport fish restoration program” in keeping with the Improvement Act
- Other terms in this section must be defined
- Clarify JTF’s role in this effort

Part 2 – (Section not yet complete)

Part 3 - Definitions

Define the commonly used terms throughout the document including metrics, issue, rationale, actions, etc.

Part 4 – Values, etc.

Jay West explained that the writing team felt that statements giving the reader a “sense of what the program is about” should be included in the document. These might be included in the inside cover. The group gave suggestions to improve the wording – focusing on the importance of wildlife to the American people – recognizing that the public value wildlife in different ways.

Part 5 – (Section not yet complete)

Part 6 – Need for strategic plan

This section was discussed in the morning session.

Part 7 – Natural Resources -- this Section focused of the State’s utilization of federal assistance funds.

Each of the seven issues in this section was considered. Both Jay West and Christy Kuczak recorded the results of the discussion for further consideration in the drafting process.

Part 8 – Grant Program Administration – this section focused on how the U.S. Fish and Wildlife Service administered the various programs in Federal Assistance.

Each of the seven issues in this section was considered. Both Jay West and Christy Kuczak recorded the results of the discussion for further consideration in the drafting process.

Jay West explained to the group how the morning’s discussion would be used to further develop the strategic plan. Important points will be considered by the writing team prior to writing the next draft for JTF consideration. Glen Salmon concluded the session by thanking the group for such a productive morning.

Afternoon Session:

Lisa Evans and John Frampton joined the JTF meeting by conference call.

- **License Certifications**

Jim Greer gave the group background on how license numbers are calculated and certified, particularly 365 day licenses, from one year to the next. If the Service notes that a state has a

number that jumped unexpectedly, we look into the circumstance. This was the case for one of the southern states. Final apportionments were late by 2 months this year due to this license certification issue. Rowan Gould explained that he and Sam Hamilton, Regional Director – Atlanta, felt this was an appropriate JTF issue.

Lori Bennett, Federal Assistance Branch Chief responsible for license certification, explained that historically states sell licenses that are good for a certain period of time. When states certify their licenses, the hunter would be certified once. Now, the new 365 (from date of purchase) license potentially allows hunters to be counted twice. There is disagreement between some states on how 50 CFR 80.10, which informs this issue, can be interpreted. Rowan Gould noted that the FWS position on this issue is that the states need a level playing field and must agree to the same process.

Larry Mellinger explained that there are two ways to read the PR statute and the DJ statute. The regulations muddle these statutes, but, in his opinion, say that license holders will be counted only once over a period of 12 months. It's the license year that needs to be certified. The paid license is the year the license was paid for (and cannot be counted the following year even if the license is valid). This is what the regulations point to – counting it only once. Directors often use discretion, but the JTF could provide a directive making the point clear. States are dividing the same pie – counting it once makes it a fair playing field.

Mitch King questioned if states have the capability of knowing when licenses were actually paid for? And the group believed - yes. Kelly Hepler questioned if it was more appropriate to 1) put out a letter or 2) put out a white paper and wait for feedback? Glen suggested that this be a memo from JTF to the Director and AFWA. We discussed options and referred the issue to small group for further consideration and development of a possible solution.

SMALL WORKING GROUP: Mitch, Kelly, Larry, John O, and Christina

- **Strategic Plan Issues and Update (Feedback/Input Opportunity) -**

Rowan Gould noted that there was good input during the morning session that identified larger concerns, which we need to consider. Most critical are:

- 1) Will the strategic plan include LIP/SWG and also non-appropriated funds? If we include both and allow a broad array of stakeholders to comment it will be a complicated process.
- 2) Clarify OMB's requirements

He re-emphasized that we cannot write, or be perceived as writing, a plan that unilaterally tells States what to do with their money – both for excise tax-driven and appropriated funds. This is a partnership.

Other issues:

Kelly Hepler requested that the process and timeline be clarified, and noted that we need to address the OMB question first. Based on that answer, other things will be decided. Rowan

Gould asked Larry Mellinger to outline his earlier comments regarding the scope of our strategic planning effort.

Larry Mellinger explained that in regard to Fish and Wildlife restoration programs, there is very specific statutory language. In developing a strategic plan for these programs, we are not trying to make changes. We are setting out a snapshot of what goes on and how you capture the results. Our main task in the strategic plan is to define issues, what the best practice components are for these programs, what are the things you do to accomplish these best practices, and how you measure them.

John Frampton and Gerry Barnhart explained that in their OMB meeting, they did not emphasize a strategic plan, only measurements. They were focused on metrics, and wanted outcomes versus outputs. There was no timeline. The strategic plan idea came out after we talked to OMB. Rowan Gould explained that OMB did highlight the need for both a strategic plan and outcomes/outputs in the Service's OMB PART review. That's what prompted a visit to OMB in the first place. Since the FWS did not have either a strategic plan or measurements, this document was considered a logical means to achieve both purposes. In any case, whether done separately or together, they have to be developed in partnership.

John Frampton noted that SC just completed a strategic plan, which was two pages that discussed values, principles, and defined where they are going. He felt OMB would appreciate something more concise.

Kelly suggested that the writing team stop working on the document until further clarification is gotten from OMB. Depending on how that discussion goes, that could change the direction of the documents. It would be useful to have a list of topics to discuss with OMB.

ACTION: Rowan Gould and Glen Salmon will consider various topics to be addressed at a further meeting with OMB.

In regard to metrics, Lisa Evens noted there are already informal metrics for SWG. Jim Greer also noted that the PR/DJ programs have metrics, but wasn't sure if LIP and SWG had been addressed completely. Lisa Evens suggested we base SWG metrics on the AFWA synthesis. John Frampton noted that while the SWG/LIP metric issue is important, we need to move quickly to address the PR/DJ metric issue.

Gerry Barnhart clarified the next steps:

We need a product to take to OMB – 4-8 pages long about sustainable social benefits, sustainable wildlife, effectiveness, efficiency, accountability – and under each of these some well crafted outcome measures (no more than 20 total).

Chris McKay also noted that we need to have a clear goal statement. We then discussed various options. John Frampton commented that the statements need to be kept positive. We referred the issue to a small group to start crafting a “framework” document to take to OMB.

SMALL WORKING GROUP: Gerry, Kelly, Chris, Carol, Christy and Jay.

- **Service Manual Chapter 522 FW 16 Pre-agreement Costs**

Larry Mellinger and Tom Barnes discussed implications of past Comptroller General Opinions on this issue. Tom explained that in the past, preliminary costs (for purchase of land) were not allowable, but this chapter changed that. It did not say that land was excluded. It said “any grant related costs” were allowable, but grants cannot be funded retrospectively. **These are finalized chapters.** In December 2006, new language was added to 522 FW 6. Region 3 called in after it was announced and asked about the comptroller general’s opinion from 1961. There appears to be a conflict with the new chapter on pre-agreement costs. We got some other more recent comptrollers’ opinions and also tried to get the original letter that precipitated the issue. GAO found the letter but could not share it with us because there is personal information that could not be released. The resulting opinion, however, basically said that because of the intent of the PR act, we could not buy land as a pre-agreement cost.

Larry Mellinger explained that one sentence states that Congress did not intend to reimburse funds accrued prior to the grant agreement. In 1976 another opinion came out that dealt with an almost identical question, but under the Land and Water Conservation Fund Act. The comptroller in that case said it could be done and that it was not inconsistent with previous opinions. You don’t need to find an affirmative statute allowance, but did congress intend to prohibit this? They did not see any problem. The two opinions are inconsistent. The 1976 opinion said to analyze on a case by case basis, but states cannot be reimbursed for purchases prior to the act. However, if a state purchased property with the intention that it be funded by a grant – there is no guarantee it will be reimbursed, but it can be submitted to FWS along with justification for consideration of funding. The 1976 opinion is still controlling, not the 1961. If we relied on that opinion then you couldn’t do any of the pre-acquisition cost appraisals, which we do.

Glen Salmon asked Larry Mellinger if he had a recommendation. Larry thinks that what we have done is legally defensible. However, some people do not agree. The specific language is not identified in the 1961 opinion. John Organ noted the 1976 opinion reaffirms that congress means something different regarding PR/DJ, and agrees with Larry that we do not need to change the guidance and chapter. Rowan noted that FWS will contact Region 3 regarding this issue and the WO will answer Region 3’s question.

ACTION: Larry Mellinger and Tom Barnes will write an explanatory paragraph (it won’t come from JTF).

Friday

Morning:

- **Small working groups**

Time was set aside for small working groups to meet on all assigned topics.

- **Large Group**

Small groups reported out on its results: (1) License Certification Working Group - Mitch King, Gary Armstrong, Lisa Evans (via phone), Larry Mellinger, John Organ, and Christina Zarrella

Goal: Putting together a memo from JTF co-chairs that will go to Director and regional directors, and ultimately the states (Dale and Matt sign and send jointly) dealing with the confusion around license certification.

Statement:

The laws (16 USC 669 et seq. and 16 USC 777 et seq.) and regulations (50 CFR 80.10c) stipulate that a one year license can be included in only one license certification period. The advent of a 365-day license has created some confusion, and a potential for double counting of such licenses in two license certification periods.

Effective immediately, a one year license can only be counted in one license certification period. A state must decide to either:

- 1) Count licenses that are **sold** during a state identified license certification period, or
- 2) Count licenses that are **valid** during a state identified license certification period.

A state can only select one methodology and must be consistent from year to year, and it must be clearly identified for audit purposes. Again, the overriding rule is that a single one year license can only be counted in one license certification period.

ACTION: Tom Barnes will review the license certification memo to ensure plain English requirements.

ACTION: The large group ratified the product of the small group on license certification.

Small group reported out on its results: (2) OMB Document Working Group: Gerry Barnhart, Kelly Hepler, Chris McKay, Carol Bambery, Christy Kuzack, and Jay West.

The small group met and made significant changes to the draft Strategic Plan document, and created an outline. This will be reviewed by writing team members, and then reviewed by JTF, and it will then go back to the writing team via a conference call before it goes to OMB. The writing team's NCTC meeting in two weeks has been cancelled because the document has changed significantly.

ACTION: The large group ratified the recommendation of the small group which crafted the OMB document.

JTF will have a conference call to be briefed on what happened with the meeting with OMB, which may occur during the Farm Bill Fly In May 14-16.

- **Future meetings and challenges of JTF**

The group identified a meeting date and location for next meeting(s) – Rowan Gould and Glen Salmon

Next JTF Meeting:

Dates: October 15th, 16th, 17th?

Location: The Ram Center in Michigan (Lansing is nearest airport)

ACTION: Christina Zarrella will e-mail these dates to JTF team so they can save the time period.

ACTION ITEMS:

Larry and Carol – investigate if strategic plan must undergo NEPA compliance

Rowan agreed to work with **Glen** to build a list of topics to discuss with OMB

Tom – review license certification memo to ensure it is in plain English

Larry and Tom will write letter to region 3 regarding service manual chapter 522 FW 16

JTF will have a conference call to be briefed on what happened with the meeting with OMB, which may occur during the Farm Bill Fly In May 14-16.

Christina will e-mail next JTF meeting dates to JTF team so they can save the date.

FYIs

*Agenda topic for next meeting: Administration award program

F&W Trust Funds Committee Excise Tax Working Group meeting in June

Federal participation in JTF will be changing. Trying to get more chiefs involved and also fill the current opening that we have. Lisa suggested including Joyce Johnson (has both state and fed experience)