

**Joint Federal/State Task Force on Federal Aid Policy**  
*Meeting Report of January 21 and 22, 2003*

The Joint Federal/State Task Force on Federal Aid Policy met in Las Vegas, Nevada on January 21 and 22, 2003. This report summarizes the outcomes and action items resulting from that meeting. The following participants attended:

Clint Riley            Co-Chair, Special Assistant, Office of the Director, USFWS  
Terry Crawford      Co-Chair, Administrator, Nevada Division of Wildlife

**State Fish and Wildlife Agency representatives:**

John Frampton      Assistant Director, Development & National Affairs, South Carolina DNR  
Kelly Hepler        Director, Sport Fish Division, Alaska Department of Fish and Game  
Bobbi Keeler        Federal Aid Coordinator, Montana Department of Fish, Wildlife and Parks  
Tom Niebauer        Federal Policy Advisor, Wisconsin DNR  
David Waller         Director, Georgia Wildlife Resources Division

**U.S. Fish and Wildlife Service representatives:**

Don Friberg         Chief, Division of Federal Aid, Region 1  
Kris LaMontagne    Chief, Division of Federal Aid, Washington Office  
Mitch King         Deputy Regional Director, Region 4  
Mamie Parker        Regional Director, USFWS Region 5  
Mary Reinitz        Branch Chief, Grant Operations and Policy, Washington Office

**Additional Attendees:**

Larry Mellinger     Office of the Solicitor, Department of the Interior  
Jimmy Christenson   Chief, General Counsel Section, Wisconsin DNR  
Facilitator:         Chris McKay, Division of Federal Aid, Washington Office, USFWS  
Recorder:            Gene Weller, Deputy Administrator, Nevada Division of Wildlife

**Joint Task Force participants unable to attend:**

Tom Melius         Assistant Director, Migratory Birds and State Programs, USFWS  
Gerald Barnhard    Director, New York Division of Fish, Wildlife and Marine Resources

This report summarizes discussions of the Jan. 21-22, 2003 meeting in the following manner:

- I. Report of Certain Issues Not Addressed by Joint Task Force
- II. Submission of Draft Recommendations for Comment
- III. Next Issues for Development as Draft Recommendations
- IV. Workgroup Assignments and Other Issues for Discussion
- V. Next Meetings

The "Operations and Processes" of the Joint Task Force were summarized in report of the November 13-14, 2002 meeting, and continue to describe the steps intended in order to address

Federal Aid policy issues. (Please contact any member of the Joint Task Force to obtain a copy of that report.)

### I. Report of Certain Issues Not Addressed by Joint Task Force

The previous report indicated that the Joint Task Force had reviewed certain issues and determined that further development of a recommendation by the Joint Task Force would be unnecessary or inappropriate at this time. A more complete response was promised concerning two of these issues, and a third issue was added to this category at this meeting.

#### CMS Chapter

As noted in the Joint Task Force report of the Nov. 13-14, 2002 meeting, a separate state/federal committee is currently reviewing the proposed CMS Chapter for the Federal Aid Manual, and should be provided opportunity to complete that task. A summary of the activities taken by that committee was provided to the Joint Task Force at this meeting, and is attached (see "Attachment A" dated January 16, 2003).

#### Wildlife Damage Management

As noted in the Joint Task Force report of the Nov. 13-14, 2002 meeting, this issue has previously been addressed and resolved by a joint federal/state committee. At this meeting, the Joint Task Force reviewed a summary of that process, as follows, and confirmed its initial decision.

The origin of the policy captured in these Chapters began at the 1997 North American Wildlife and Natural Resources Conference in Washington, D.C. During the 1996 elections, a number of States banned trapping and some hunting methods. Subsequently, representatives of the National Trappers Association at the International Association of Fish and Wildlife Agencies' Wildlife Damage Management Committee meeting raised the issue of whether use of license fees or Federal Aid funds to manage wildlife damage in States where trapping and hunting bans had been put in place would represent a diversion under 50 CFR Part 80. Several Federal Aid staff believed this was an issue that required policy clarification. Ultimately, a process involving States, the Service, and other key stakeholders was initiated to: (1) identify issues and needs regarding wildlife damage management, and (2) clarify Service policy specific to wildlife damage management in terms of using license revenues and/or Wildlife Restoration and Sport Fish Restoration funds.

Concerns among certain States about Service policy prompted John Baughman, Chair of the WDM Committee, to host a meeting of Service, State, and APHIS Wildlife Services representatives in Jackson, Wyoming, July 14 and 15, 1998. This meeting resulted in draft policy incorporating input from all participants.

The draft policy was next distributed to all State directors and Federal Aid Regional Offices on July 23, 1998. The resulting policy was incorporated into 521 FW 1 & 2, with the most recent versions dated October 10, 2001. These chapters may be viewed online at <http://pdm.fws.gov/direct.html>.

### Chronic Wasting Disease Activities

After further review and discussion, the Joint Task Force determined that this is not an issue appropriate for a policy recommendation at this time. Questions related to eligible activities and compliance with various federal regulations should be addressed through existing procedures within the Federal Aid program. In addition, the National CWD Plan Implementation Committee has prepared an "implementation document" related to CWD in general and the U.S. Department of the Interior has prepared guidance related to compliance with the National Environmental Policy Act.

### II. Submission of Draft Recommendations for Comment

The Joint Task Force reviewed Draft Recommendations that had been developed based on previous discussions on two issues: (1) Budget Changes, and (2) Recreational Activities and Related Facilities on Federal Aid Lands. After further discussion and review, these Draft Recommendations are to be submitted under separate cover to State Directors and to FWS Regional Directors and Assistant Directors for review and comment. Regional Federal Aid Chiefs are to be sent copies for comment and distribution to State Federal Aid Coordinators for their review and comment. Comments are requested by March 4, 2003, and depending on the Joint Task Force intends to finalize these recommendations at its next meeting.

### III. Next Issues for Development as Draft Recommendations

The Joint Task Force substantively discussed, and reached conceptual consensus, concerning three policy issues. A summary of the conceptual consensus for each follows, and the Joint Task Force intends to review proposed Draft Recommendations on these issues at its next meeting. (The Joint Task Force member with the lead is in parenthesis.)

#### Cost Accounting and Reporting (David Waller/Kris LaMontagne)

The last audit cycle highlighted the need to clarify cost accounting and reporting requirements for federal aid grants. Review of relevant laws and regulations indicated certain flexibility for the Service to set the parameters for required reports. The Joint Task Force reached conceptual agreement that financial reports should be required at the grant level, rather than at the project level or lower. The grantee, however, should be held responsible for performance at the project level. Also, the grantee would continue to be answerable, and thus "accountable", for each federal dollar and state match dollar reported on financial reports, and must have an accounting system sufficient for this purpose.

## Program Income (Mitch King)

Discussions concerning program income lead to conceptual recommendations on a number of issues. A few key recommendations are summarized below.

- A more specific definition of program income, applicable in all circumstances, may not be practical, although it may be appropriate to develop a list of examples.
- Program income may be calculated as net income, rather than gross income, if specified in the Grant Agreement, and therefore this issue should be explicitly addressed in each Grant Agreement.
- Unless stated otherwise, income should only be considered program income during the Grant Period defined in the Grant Agreement. However, if the Grantee prefers, the Grant Agreement may also specify that income will be continue to considered program income after the Grant Period.
- Disposition of program income is “deductive”, unless stated otherwise in the Grant Agreement. At the Grantee’s option, the Grant Agreement may specify the “additive” method. The “cost sharing or matching” method may only be used when approved by the Service using appropriate criteria.
- During the Grant Period, program income must be used for that grant. Outside the Grant Period (unless the Grant Agreement specifies a more restrictive rule), use of income that would otherwise be considered “program income” is restricted as if were license revenue, used for administration of the state fish and wildlife agency.  
The statement in 50 CFR 80.14( c) should be amended to avoid apparent conflict with direction of 43 CFR 12.65(a), which encourages program income to defray program costs.

## IV. Workgroup Assignments and Other Issues for Discussion

The following issues were identified by the Joint Task Force as appropriate for discussion and possible conceptual development of a Draft Recommendation at the next meeting, and therefore are assigned to a workgroup to develop a “white paper.” (The Joint Task Force member assigned to lead the workgroup is in parenthesis.)

- Allowable Commercial Activities (Gary Reinitz)
- Use of Property Acquired or Produced with License Fees (Bobbi Keeler)
- Use of Sport Fish Restoration Funds for Boating Access (Gary Reinitz)
- ESA Section 7 Consultation on Federal Aid Grants (Clint Riley/Kris LaMontagne)

In addition, the Joint Task Force reviewed the feedback received on seven candidate issues submitted to State agencies and FWS for ranking. Based on this feedback, these issues will be added to the list of issues described in the report of the Nov. 13-14, 2002 meeting, as the Joint Task Force sets priorities. Feedback is summarized as follows:

- Total Costs in Grant Proposals and Grant Agreements: Medium to High Priority
- Administration of Endangered Species (Sec. 6) Grants: Non-issue to Low Priority

Retention of Grant Documents and/or Records: Low Priority

- Specifying Federal Share as Percentage or Dollar Amount: Medium Priority
- Use of Sport Fish Restoration Funds for Boating Access: Medium to High Priority
- Use of Property Acquired or Produced with License Fees: Medium to High Priority
- Blanket Easement Authority to the States: Low to Medium Priority

**V. Next Meetings**

The next meetings for the Joint Task Force will be as follows:

March 11, 2003, (8 a.m. – 5 p.m.) and March 12, 2003 (8 a.m. – noon)

Atlanta, Georgia

Hosted by Mitch King, Region 4, USFWS

Agenda:

Finalize two recommendations (see section II, above);

Review two draft recommendations (see section III, above);

Begin development of four draft recommendations (see section IV, above).

May 13 and 14, 2003 (8 a.m. – 5 p.m.) and May 15, 2003 (8 a.m. – noon)

National Conservation Training Center, Shepherdstown, West Virginia

Hosted by Clint Riley, Washington Office, USFWS

Respectfully Submitted

Clint Riley, USFWS

Terry Crawforth, NV Division of Wildlife

## ATTACHMENT "A"

**Date:** January 16, 2003

**Issue:** Current Service Manual Chapters on strategic plans and comprehensive management system were judged to need revision to be more useful to States and Federal Aid staff.

**Background:**

- April 20-21, 1999: Chapter 4 Revision Team with representatives from seven States and Service Regions involved with Comprehensive Management Plan (CMP) grants met in Owatonna, MN to provide the basis of a more useful and complete. A writing Sub-team of nine members was selected to develop drafts of the chapters for the Team.
- November 1-2, 1999: Chapter 4 Revision Sub-team met in Albuquerque, NM to develop 2nd draft of Chapter 4 (draft 1 was composed from the input of the Owatonna meeting).
- December 16, 1999: Draft 2 of Chapter 4 is sent to whole Team for comment. Draft 3 is developed from comments received.
- June 15, 2000: As agreed between the Chapter 4 Revision Team and the FA-Washington Office Drafts sent by the FA-WO to all Federal Aid Regional Offices and States for review and comment. Comments are provided to the Sub-team for development of Draft 4.
- November 16, 2000: Meeting with Department of the Interior Grants Policy Specialist, Office of Acquisition and Property Management, to identify further changes needed in Draft 4.
- January 22-23, 2001: Sub-Team met in Aurora, CO to develop 4<sup>th</sup> draft of Chapter 4 based on comments received from June 15, 2000, review process.
- May 22, 2001: Final drafts of 522 FW 4, *Implementing a State's Comprehensive Fish and Wildlife Resources Management Plan*, and 522 FW 5, *Grants for Developing Strategic Plans and Comprehensive Management Systems*, are delivered to FA Management Team meeting in Denver, CO. Drafts subsequently returned to Sub-team for Plain English revision.
- Summer of 2002: Letters received from several States asking for action by the Service on Draft Chapter 4 and 5. Director states Chapters are to be finalized by end of the year.
- October 9, 2002: WO team met to review draft Chapter 4 and provided summary of needed improvements to WO Chief.
- November, 2002: WO provides Sub-team Chair, Brad Johnson, WO team recommendations for

suggested improvements to draft Chapter 4.

**Status:**

November, 2002, the issue of Chapter 4 and 5 was brought before the Policy Task Force. The Task Force was told that draft Chapter 4 had been returned to the Sub-team Chair with the expectation that it would be issued in a reasonable amount of time.

On January 9, 2003, Brad Johnson forwarded a draft of Chapter 4 that had been revised by his staff to address WO concerns to Chapter 4 Revision Team members (or their successors) for comment by January 27.

**Recommendation:** The Chapter 4 Revision Team and the WO need to resolve any remaining differences, provide the opportunity for additional review by interested and affected parties, and then proceed to publish Chapters 4 & 5. If unresolvable issues arise during this process, they should be elevated to the Policy Task Force. If after publication of these Chapters policy issues emerge, the Policy Task Force will address them at that time.