

**Joint Federal/State Task Force on Federal Aid Policy**  
*Meeting Report of June 21-23, 2004*

The Joint Federal/State Task Force on Federal Assistance Policy (JTF) met in Anchorage, Alaska, on June 21-23, 2004. This report summarizes the accomplishments and action items resulting from that meeting. The following JTF members attended:

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

State Fish and Wildlife Agency representatives:

Gerald Barnhart	Director, New York Division of Fish, Wildlife and Marine Resources
Lisa Evans	Federal Funds Manager, New Mexico Department of Game and Fish
John Frampton	Director, South Carolina DNR
Kelly Hepler	Director, Sport Fish Division, Alaska Department of Fish and Game
Tom Niebauer	Federal Policy Advisor, Wisconsin DNR
Glen Salmon	Director, Division of Fish and Wildlife, Indiana DNR

U.S. Fish and Wildlife Service representatives:

Don Friberg	Chief, Division of Federal Aid, Region 1
Dale Hall	Regional Director, Region 2
Chris LaMontagne	Chief, Division of Federal Aid, Washington Office
Witch King	Deputy Regional Director, Region 4
Gary 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
Jennifer Mock	JTF Recorder, IAFWA

This JTF report summarizes discussions of the June 21-23 meeting held in Anchorage, AK, in the following manner:

- I. Review of Comments Received on Draft Recommendations, and Finalization of Recommendations
- II. Submission of Draft Recommendations for Comment
- III. Other Issues for Discussion
- IV. Progress Report
- V. Next Meetings

The "Operations and Processes" of the JTF were summarized in the report for the November 13-14, 2002-meeting of the JTF. (Please contact any member of the JTF to obtain a copy of that report.)

## **Review of Comments Received on Draft Recommendations, and Finalization of Recommendations**

Following its meeting on March 31-April 2, 2004, the JTF requested comments from State fish and wildlife agencies and from Service offices on a draft recommendation concerning "Loss of Control and Disposal of Real Property". Comments were received from 14 grantee agencies, and from eight Fish and Wildlife Service offices. Major comments and the relevant response from the JTF are roughly summarized as follows:

- A few comments recommended that the Purpose of the Order be expressed more clearly. The JTF revised Section 1 in response to these comments. Most significant, the revised Purpose explicitly includes describing whether the actions discussed in the Order constitute "federal actions." The JTF therefore intends that the Order will assist States and the Service when considering whether NEPA or similar requirements apply to the actions discussed in the Order.
- A few comments questioned whether and how this Order might apply to real property purchased with license revenues, rather than Federal Assistance funds. The JTF considered this to be a necessary clarification, and added a new Section 6 to the recommended Order. This section describes existing requirements applicable when the State agency loses control or disposes of such real property, and clarifies that steps to regain management control, replace such property, or restore the license revenues, are not federal actions.
- Based on one comment's suggestion, the JTF added reference to 50 CFR 80.4(d)(2), concerning diversion of license revenues, to Section 3 describing authorities for the Order. The JTF also added to both Section 4 and new Section 6 the clarification that replacement property cannot be funded with license revenues.
- In different ways, a few comments stated that the Service must approve a State agency's actions to come into compliance by regaining management control or by acquiring replacement property, and therefore these actions must be considered federal actions. After reviewing these comments and further discussion with legal counsel, the JTF disagrees with this analysis. Among other points, it was noted that the Service's function in this role should more accurately be described as stating whether a State agency is in diversion, or is no longer in diversion, in order to enforce State compliance with law and regulations.
- One comment noted that the approval of replacement property requires an amendment to the grant agreement, and that approving the amended grant would constitute a federal action. The JTF agrees that if the Service must approve a grant amendment, this would constitute a federal action, and added this point to Section 4.

In addition to these comments, several other comments and suggested edits were provided for the draft document. The JTF reviewed all comments received, and made a number of revisions to

the draft recommendation. The JTF finalized the draft Order, and will submit it as a recommendation to the Director of the Service and to the President of the IAFWA.

Second, the JTF revisited the recommendation concerning "Cost Accounting and Financial Reporting." The JTF had previously approved a draft Directors Order as a recommendation during its January 2004 meeting. Since that time, questions arose concerning how and whether portions of that recommendation would apply to States using Comprehensive Management Systems for their grants (CMS States), and whether there may be exceptions to a general rule in the draft Order that would require State to match at the grant agreement level. During its meeting in April 2004, the JTF had decided that additional legal review was needed before addressing these questions. At this meeting, the JTF revisited the recommendation based on this additional legal review. As a result, the draft Order was revised to more clearly specify the level at which match is required, and to specify the requirements that CMS States must also meet. Consequently, the JTF will submit this recommendation to the Director of the Service and to the President of the IAFWA.

## **II. Submission of Draft Recommendations for Comment**

During the meeting, the JTF substantively discussed the issue of "Preagreement Costs" for the purpose of developing a draft recommendation to submit to grantee agencies and to Service offices for comment. The JTF had previously included a section addressing preagreement costs in a draft recommendation addressing grant effective dates. Based in part on comments received, the JTF removed the discussion of preagreement costs from that draft recommendation. However, the comments received at that time indicated that clarity would be useful concerning the instances and reasons that preagreement costs may be included in a grant. Consequently, based on these discussions, the JTF approved the draft recommendation in the form of a Director's Order for submission to State fish and wildlife agencies and Service offices for comment before the next JTF meeting in October 2004.

## **III. Other Issues for Discussion**

The JTF reviewed a draft memorandum discussing three issues previously addressed by the JTF. These issues, which were summarized more completely in the April 2004 meeting report, are as follows:

- Pest/Weed Control on Federal Assistance Lands.
- In-Kind Match for Paid Hunter Education Instructors.
- Excess Allowable Costs (formerly identified as "Project Overmatch").

In its April 2004 meeting, the JTF decided that additional policy guidance is unnecessary at this time for these issues, but also decided it would be appropriate to provide a memorandum to the Director of the Service and the President of the IAFWA summarizing the JTF's understanding of existing policy and recommending that the Service take appropriate steps to ensure consistent

application of existing policy concerning these issues. During this meeting, the JTF reviewed a draft of that memorandum, made several revisions based on discussions, and approved it for submission to the Director of the Service and to the President of the IAFWA.

In addition, the JTF discussed issues concerning Land and Water Conservation Fund grants, and the extent to which Sport Fish and Wildlife Restoration grants may be affected by LWCF. Among other items, concern was raised about whether and to what extent grants from these two programs may be used on the same property. At this meeting, the JTF decided that additional information would be necessary before deciding how and to what extent it may be appropriate for the JTF to make any policy recommendation concerning these issues.

#### **IV. Progress Report**

As a follow-up to discussions begun at its April 2004 meeting, the JTF discussed what role the JTF should play in the future. The JTF believes it has addressed, in one form or another, the items originally identified as issues requiring policy guidance when the JTF began in the fall of 2002. However, the JTF believes it would be appropriate to continue in its present form in order to provide a forum to resolve new issues, and to emphasize the importance of previously-provided policy recommendations. In addition, and to a great extent in response to comments received, the JTF believes it would be appropriate to expand its current mandate in order to address certain grants beyond the Sport Fish and Wildlife Restoration Programs. Based on these discussions, the JTF developed and approved a memorandum making these recommendations. The JTF will submit this memorandum, along with a report on accomplishments to date and possible revisions to the JTF Charter, to the Director of the Service and to the President of the IAFWA before the IAFWA meeting in September.

#### **V. Next Meetings**

The next meeting for the JTF will be hosted by the FWS in Minneapolis, MN on October 25-26, 2004.

Respectfully Submitted  
Clint Riley, USFWS  
Terry Crawford, NV Division of Wildlife



SEP 28 2004

MEMORANDUM

To: Steve Williams, Director of the U.S. Fish and Wildlife Service  
Thomas Bennett, President, International Association of Fish and Wildlife Agencies

From: Terry Crawford, Co-chair, Joint State/Federal Task Force on Federal Assistance Policy  
Clint Riley, Co-chair, Joint State/Federal Task Force on Federal Assistance Policy

Subject: Two-Year Progress Report and Recommendations for the Future

The Joint State/Federal Task Force on Federal Assistance Policy (JTF) established in September 2002 has provided recommendations to resolve numerous long standing Sport and Fish and Wildlife Restoration Program issues of national significance. The JTF has been successful because of the collaborative work of the members on the JTF and the input and feedback from the U.S. Fish and Wildlife Service (Service) and State fish and wildlife agency partners.

The JTF began its work by requesting Service and State fish and wildlife agency staff submit Sport Fish and Wildlife Restoration Program issues needing resolution or policy clarification. The JTF prioritized issues and addressed them through a collaborative process. This process included small workgroups to identify the background of the issue, discussion of the range of possible options for resolution, and submission of draft recommendations to Service offices and State fish and wildlife agencies for comment. After review of these comments, the JTF finalized and submitted formal recommendations to the Director of the Service and the President of the International Association of Fish and Wildlife Agencies (IAFWA). Based on JTF recommendations, seven Director's Orders have been adopted by the Service and policy clarification has been provided by the Service regarding four additional issues. In each case, the JTF reported the basis for the decision. Please see the attached for a complete list of these issues and the products produced (see Attachment: Status Report).

The JTF offers the following recommendations:

Continue the work of the JTF included in the original Charter.

- Address resolution of issues of national importance and ensure consistent program implementation among Regions.
- Assist the Service to ensure that necessary regulations, manual chapters, or other permanent policy guidance is completed and updated.
- Serve as a forum to proactively address emerging concerns and recommend resolutions.
- Develop and maintain a spirit of cooperation between the Service and the State fish and wildlife agencies.

In response to consistent requests from Service and State personnel submitting comments on draft recommendations, amend the Charter of the JTF to include other grant programs to States within the purview of Federal Assistance:

- Ensure consistency across Federal Assistance managed grant programs where appropriate.
- Ensure consistent administration of each grant program among the Regions.
- Address emerging policy issues to provide consistency in implementation of the State Wildlife Grant Program, Landowner Incentive Program, and Section 6 grants under the Endangered Species Act.

Please see the attached Draft Charter Amendment for your consideration.

Staff and support the Task Force at its current level:

- Continue to dedicate six State representatives and six Service representatives as members, with an additional State representative and Service representative co-chairs, along with appropriate legal counsel and other necessary support.
- Encourage retention of current JTF member for continuity. As replacement appointments become necessary, make every effort to ensure adequate regional representation, and even more important, to ensure participation of State Directors and Service Directorate.

Identify and enhance ways to communicate and collaborate with other groups.

- Explore opportunities to collaborate with the Federal Assistance Management Team, the IAFWA Trust Funds Committee, and other appropriate joint groups in order to most effectively and efficiently identify important policy issues and accomplish implementation of policy recommendations.

Through these recommendations, the JTF can assist the Service in its responsibilities to effectively collect, manage, and deliver Federal Assistance managed funds to support State and Territorial agencies in carrying out their fish, wildlife, and boating programs.

Respectfully submitted,

F Clint Riley, Co-chair  
S Terry Crawford, Co-chair

JTF Members since inception, alphabetical order:

- F Tom Barnes, Branch Chief, Grant Operations and Policy, FWS Washington Office
- S Gerald Barnhart, Director, New York Division of Fish, Wildlife and Marine Resources
- S Lisa Evans, Federal Funds Manager, New Mexico Department of Game and Fish
- S John Frampton, Director, South Carolina Department of Natural Resources
- F Don Friberg, Chief, Division of Federal Assistance, FWS Region 1 (retired)
- F Dale Hall, Regional Director, FWS Region 2
- S Kelly Hepler, Director, Sport Fish Division, Alaska Department of Fish and Game
- S Bobbi Keeler, Federal Aid Coordinator, Montana Dept of Fish, Wildlife, and Parks (retired)
- F Mitch King, Assistant Director, Wildlife and Sportfish Restoration (formerly Deputy Director, Region 4), FWS
- F Kris LaMontagne, Chief, Division of Federal Assistance, FWS Washington Office
- F Chris McKay, Assistant Regional Director, Migratory Birds and State Programs, FWS Reg 1
- S Tom Niebauer, Federal Policy Advisor, Wisconsin Department of Natural Resources
- F Mamie Parker, Regional Director, FWS Region 5 (formerly)
- F Gary Reinitz, Branch Chief, Grant Operations and Policy, FWS Washington Office (retired)
- S Glen Salmon, Director, Division of Fish and Wildlife, Indiana DNR
- F Paul Schmidt, Assistant Director, Migratory Birds and State Programs, FWS (formerly)
- S Keith Sexson, Assistant Secretary, Kansas Department of Wildlife and Parks
- S David Waller, Director, Georgia Wildlife Resources Division (retired)

F John Segala  
Carol Bamberg  
Attachments: John Christopherson  
Laurie M.

Status Report: Policy Issues Reviewed by JTF, September 28, 2004  
Draft Charter Amendment

11 FWS  
10 State  
2 State Legal  
1 FWS Legal