

Joint Federal/State Task Force on Federal Aid Policy
Meeting Report of March 31-April 2, 2004

The Joint Federal/State Task Force on Federal Assistance Policy (JTF) met in Albuquerque, New Mexico, on March 31-April 2, 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 Crawford Co-Chair, Administrator, Nevada Department of Wildlife

State Fish and Wildlife Agency representatives:

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
Kris LaMontagne Chief, Division of Federal Aid, Washington Office
John King Deputy Regional Director, Region 4
Gary Reinitz Branch Chief, Grant Operations and Policy, Washington Office
Paul Schmidt Assistant Director, Migratory Birds and State Programs

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 March 31-April 2 meeting held in Albuquerque, NM, in the following manner:

- I. Review of Comments Received on Draft Recommendations, and Finalization of Recommendations
- 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 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 January 13-15, 2004, the JTF requested comments from State fish and wildlife agencies and from Service offices on a draft recommendation concerning "Determining Approval and Effective Dates for Federal Assistance Grants." Comments were received from twenty-eight grantee agencies and from seven Service offices. Major comments and the relevant response from the JTF are roughly summarized as follows:

- In response to comment, the JTF changed the title of the draft recommendation to read as given above to better reflect the body of the order.
- One respondent commented that the draft Order did not include other funding sources which meant Federal Assistance would be using two sets of rules governing effective dates. The JTF reaffirmed that its mandate is to make policy recommendations specific to the Wildlife and Sport Fish Restoration Programs. However, the JTF also noted the need to communicate to various offices that programs such as Boating Infrastructure and Clean Vessel Pumpout are funded through the Sport Fish Restoration Program and as such are covered by this draft guidance.
- Numerous comments were received regarding Sections 4, 5, and 6 of the draft recommendation. Many respondents expressed concern and confusion about the definition of effective date. Much concern was also expressed that the draft proposed a change from a current practice of establishing effective dates common to many Regions, and that this change would result in an unnecessary burden on both State and Federal staff. Reviewing these concerns, and available legal authorities, the JTF revised the recommendation to distinguish between the date the grant is approved by the Service versus the effective date of the grant. In doing so, these sections were rewritten to add clarity to the process presently used by most Regions in establishing the effective date of a grant.

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.

II. Submission of Draft Recommendations for Comment

During the meeting, the JTF substantively discussed the issue of "Distinction Between Loss of Control and Disposal of Real Property Acquired with Sport Fish and Wildlife Restoration Programs Funds" for the purpose of developing a draft recommendation to submit to grantee agencies and to Service offices for comment. The draft recommendation that was developed is written to address the issue of what constitutes a Federal action with regard to either the loss of control or disposal of real property by a State fish and wildlife agency. The significance of

whether or not an action constitutes a Federal action relates to the need to address compliance issues such as NEPA and section 7 of the ESA for all Federal actions. 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 June 2004.

III. Next Issues for Development as Draft Recommendations

The Joint Task Force substantively one additional policy issue for which it intends to develop a formal draft recommendation. Previous versions of a recommendation concerning the effective date of a grant had included discussion of pre-agreement costs. While pre-agreement costs are no longer addressed in the final recommendation concerning effective dates, the JTF believes a recommendation providing policy guidance specific to pre-agreement costs may still be important. Consequently, the JTF intends to review a draft recommendation on this issue at its next meeting in June 2004 (Lisa Evans is the lead JTF member for this issue).

IV. Other Issues for Discussion

The JTF substantively discussed six additional issues to determine if there was a need to develop policy recommendations specific to these issues. For three of these issues, the JTF decided that existing guidance is adequate, and that further policy clarification is not necessary at this time. These issues are as follows:

- Consolidation of Motor Vehicles Purchased with Fish and Wildlife Agency Funds into State Centralized Motor Pools
- Law Enforcement Charges
- Three Percent Central Services

The JTF also decided that additional policy guidance is unnecessary at this time for the three remaining issues. However, the JTF believes there is a likelihood of inconsistent understanding or awareness of existing policy concerning these three issues, and therefore the JTF will write a letter 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. These issues are as follows:

- Pest/Weed Control on Federal Assistance Lands: The issue concerned circumstances where a State agency may be required to to conduct or fund pest or weed control on lands acquired with Federal Assistance funds. The JTF believes adequate guidance exists in 50 CFR and Section 522 of the Service Manual, relative to control and use of real property, to permit addressing such issues on a case by case basis.
- In-Kind Match for Paid Hunter Education Instructors: The issue concerned whether the cost of paying hunter education instructors may be used as in-kind match for Federal

Assistance grants when the volunteer status of the instructor may be questionable. While noting the importance of the role volunteers play in Hunter Education programs, the JTF believes the calculation of match contributed by an instructor does not change, whether the instructor is paid (from non-federal sources) and the services donated, or the instructor is not paid and is considered a volunteer. The JTF believes existing guidance exists concerning how to calculate and document this match.

- **Excess Allowable Costs (formerly identified as "Project Overmatch"):** The issue concerned instances when State include non-federal funds in excess of the amount needed to match the federal share, and the possibility of using these excess funds to offset questioned costs in the specific grant being audited. The JTF noted that the Sport Fish and Wildlife Restoration Program Audit Guide published by the Service in January 2003 allowed for this use, and the JTF endorsed continuation of this policy, subject to appropriate criteria for the costs such as incurring them during the grant period that corresponds to the audit.

In addition, the JTF briefly discussed what role the JTF itself should play in the future. At its June 2004 meeting, the JTF intends to develop a report to the Director of the Service and the President of the IAFWA of all of its actions to date, for submission at the IAFWA meeting in September 2004. As part of that report, the JTF intends to recommend what, if any, changes to the JTF should be made.

V. **Next Meetings**

The next meetings for the JTF will be hosted by Kelly Hepler (Alaska Department of Fish and Game) in Anchorage, Alaska on June 21-23, 2004.

Respectfully Submitted

Clint Riley, USFWS

Terry Crawforth, NV Division of Wildlife