

MEETING NOTES
Joint Federal/State Task Force on Federal Assistance
Policy (JTF) Meeting Date: May 27-28, 2015
Location: Denver, CO

JTF Co-chairs: Kelly Hepler (ADFG) and Hannibal Bolton (USFWS)
JTF Members: Steve Barton, Tom Busiahn, Tom Barnes, Mike Piccirilli, Clint Riley, Benjamin Tuggle (absent), Lisa Evans, Glenn Normandeau, Jim Douglas, Dan Forster, Ed Carter and Larry Voyles
Legal Counsel: Carol Bambery and Larry Mellinger
Guests: John Frampton, Jon Gassett, Parks Gilbert, Pete Barlow
Greg Sheehan
AFWA Contact: Ashley Salo, AFWA, Multistate Conservation Grants Coordinator
USFWS Contact: Joyce Johnson, Special Assistant for Program Development and Analysis

- 1) **ACTION ITEM:** AFWA staff will work with Paula Nicholas to update and distribute the contact list for the Federal Aid Coordinators Working Group to JTF members.
- 2) **ACTION ITEM:** AFWA staff will distribute the FA Wiki / Uniform Guidance address out to JTF members.
- 3) **ACTION ITEM:** The revised JTF White Paper on Oil, Gas, and Mineral Extraction on WSFR Lands will be distributed through the AFWA Director's Line, the AFWA legal and Trust Funds committees, Federal Aid Coordinators Working Group, and the Regional Chiefs for comments. Will be included on the next JTF agenda.
- 4) **ACTION ITEM:** FWS Policy Branch will prioritize and clarify the list of 97 needed revisions to 50 CFR 80 and will distribute this information to JTF members for comment and feedback by June 30, 2015. JTF members will provide comments back to FWS Policy Branch by August 31, 2015. Will be included in next JTF agenda.
- 5) **ACTION ITEM:** All JTF and WSFR Chief's meeting agendas will be shared with both groups prior to their bi-annual meetings.
- 6) **ACTION ITEM:** Federal Aid Working Group and JTF members will provide feedback on states entering all data for TRACS by September 30, 2016 in two weeks following the JTF Spring meeting to JTF Co-Chairs who will distribute the feedback to Dan Hogan -FWS.
- 7) **ACTION ITEM:** Steve Barton will report on audit finding resolutions, as they become available, to JTF members.

8) ACTION ITEM: USFWS guidance on SFR funding for AIS Inspection Stations will be distributed to Fish Chiefs through AFWA's distribution list for awareness and feedback.

9) ACTION ITEM: Carol Bambery and Larry Mellinger will draft a framework outlining the current legal parameters to inform future discussions.

Day One - Wednesday, May 27th

1. Welcome and Introductory Remarks – Bolton/Hepler

2. Status of previous action items – Joyce Johnson

3. WSFR Update – Administration and Information Management Division – Steve Barton

- The Wildlife Restoration “bump” is beginning to slow down. FWS received information from Treasury that firearm receipts are down approximately 25% from this time last year. The initial slow down began in the third quarter last year.
- The Sportfish Restoration receipts are projected to be slightly lower than last year (approximately 610M which is roughly 15M less so far).
- 55% of the motorboat fuel tax receipts are in. There continues to be a decline in the number of registered motorboats.
- Archery receipts are up 5-10% from last year.
- 2 CFR 200 (Super Circular) became effective December 26, 2014. The Service is continuing to discuss how changes within the Super Circular will affect various bureaus of the Interior.
- FWS is continuing to discuss how to deliver good services to the states while managing to lower staffing levels and additional regulations with the implementation of the Super Circular.
- The Service is currently backlogged reviewing land reconciliation findings from state audits. The various Service regions are in different stages on their land reconciliations.
- Discussion:
 - Does the Service anticipate seeing any big changes with state sub-recipients grant process?
 - States will now need to conduct risk assessments for all sub-recipients. The states will be able to utilize the Service's risk assessment form.
 - Will the Chiefs be working with states to help assist with the new changes in the Super circular?
 - The Service training team is developing a training curriculum on the Super circular that will be available shortly. States are also encouraged to review resources found on the OMB/COFAR websites.
 - Perhaps the Service could offer a Q&A for the states on the Super circular?

- The Service has uploaded information on the FA Wiki.
- What grant cycle will this change affect state audits?
 - The fiscal year that starts after December 26, 2014.
- Need to be sure there is consistent dialogue between the Service/Regions/States on changes in 2 CFR 200. States should also encourage their FA Coordinator to be involved with the communication.

ACTION ITEM: AFWA staff will work with Paula Nicholas to update and distribute the contact list for the Federal Aid Coordinators Working Group to JTF members.

ACTION ITEM: AFWA staff will distribute the FA Wiki / Uniform Guidance address out to JTF members.

Status of 2015 License certification process – Steve Barton

- Beginning stages of license certification for 2015 has begun. The Service anticipates sending letter requesting license certification to states by the end of June. After the fiscal year, states will have until the end of August to submit their information to the regions.
- Additionally, the draft guidance will be distributed to the FA Coordinators working group for comments.

License Certification - White Paper re: changes in rule, policy, and/or interpretations applied to license certifications - Clint Riley

- This topic was discussed at the Oct 2014 JTF meeting. The discussion identified two parallel tracks: 1) substantive rule – what counts for license certification; 2) Regardless of interpretation of standards, the process for the interpretations on implementing the certification was of concern.
- It has been commented that the certification process is a HQ process; however, the point of communication between the Service and the states will still be with the regional Service offices.
- It needs to be put in writing that Service HQ will train auditors on license certification.
- What is the intent behind this White Paper? Will it be used as guidance, regulation, etc.?
 - The intent was not to use this as regulation. It could be a statement on policy.
 - This could also be adapted to non-regulatory appendix of the 50 CFR 80.
 - What makes it non-regulatory?
 - That it's located in the appendix. It can also be stated in the document that it's not regulatory.
 - If the intent is to have the specific process for how the Service interprets regulation on license certification then this should be regulatory. The problem with not having this information in regulation is the policy would not be binding.
 - How the language is specified will be key – i.e. if it says “must” its law or

“should” will be more policy.

License Certification - White Paper on Potential Transition to Certification based on Participation - Dan Forster

- It was moved to forward the white paper from the License Certification Work Group to the AFWA business meeting at the March North American conference. The motion before the directors was to transmit White Paper to the Joint Task Force on Federal Aid (FA JTF) to evaluate the concept and any legal or associated Fish and Wildlife Service policy issues with potential transition to certification based on participation. It was also noted that caution and close collaboration between the FWS and the states, including any potential fiscal impacts, prior to implementation of any and all issues related to unfair practices should be considered. The work of the JTF on these issues will be reported out at the AFWA 2015 annual meeting for discussion.
- The key point from this motion was the desire to ensure close collaboration.
- There are many different ways states sell, and then subsequently certify, licenses data. Even back in 1937 states were issuing licenses in a variety of different methods.
- Perhaps there needs to be a broader white paper that can be used as a starting point for continual discussions.
- It may also be helpful to include discussions of this topic at the regional association meetings, even in the absence of the white paper.
 - Kelly Hepler volunteered to speak on the JTF at the upcoming Summer WAFWA meeting.
- There is still the opinion that any changes involving participation will require a law change.
- Should discussions also address combo licenses and/or all unfair licensing practices?
 - This particular white paper focused on no-option privileges to hunting/fishing.
 - The Association reviewed the white paper and felt it warranted a more in-depth analysis from the JTF.
- Do Directors feel that proof of participation is desirable in some circumstances? Do Directors feel it's warranted or desirable as a pathway for all certification? There are other unfair practices besides no-option bundling.
- Would a participation model include all types of licenses, even lifetime licenses purchased by parents for young children?
- The JTF should keep in mind that the solution could be more damaging than the problem. A thorough risk analysis should be conducted.
 - The paper, as transmitted from AFWA, is that the status quo is not working. It's an issue that needs to be looked at.
- The foundation of this discussion as always been what is legally possible. One portion of the white paper addresses the Udall case which summaries that the Secretary plays an administrative role, not a discretionary role, in license certification. The Secretary has to abide by what is specifically in the statute.

Status of Final Action - Oil, Gas, and Mineral Extraction on WSFR Lands – Larry Mellinger/Carol Bambery

- The oil, gas, and mineral extraction on WSFR lands white paper was modified slightly following the discussions at the previous JTF meeting in October, 2014.
- The question up for discussion now is if any JTF members have any concerns with the white paper following the modern modifications. The next steps will involve transmitting the letter to the Federal Aid Coordinators, Chiefs, and the AFWA legal committee for comment.
- The letter can also be distributed to through AFWA’s Director’s Line and AFWA’s Fish & Wildlife Trust Fund Committee for comments.

ACTION ITEM: The revised JTF White Paper on Oil, Gas, and Mineral Extraction on WSFR Lands will be distributed through the AFWA Director’s Line, the AFWA legal and Trust Funds committees, Federal Aid Coordinators Working Group, and the Regional Chiefs for comments.

Industry/ Agency report – Jon Gasset

- The main focus of this work will continue to be on the IRS and the Excise tax inequities in the system. (Loopholes, internet shells, etc.) A conference call with five different levels of IRS employees was held recently. The IRS is expressed interested in helping solve the inequities.
- A productive Industry-Agency summit was held April 28-30 2015 in Middletown, CT and was hosted by Mossberg, Inc. The summit had a strong attendance from state wildlife directors and industry personnel.

The Council to Advance Hunting & the Shooting Sports (CAHSS) update – 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 stake-holders of the North American Model of Wildlife Conservation.
- Council Successes include (as highlight only):
 - IHEA-Hunter Education Project
 - FOIA/Privacy Laws on License Data
 - Shooting Range Laws Reviews
 - Digital Evaluations: Three students viewed state agency websites
 - Evaluated customer experience
 - Provided detail, written summary of findings
 - Can be a tool for agency to take a look at their website (from a younger adult standpoint)

Status and Priorities for 50 CFR revisions - Pete Barlow

- WSFR is looking to streamline its policies by reducing the number of duplicative and confusing policies. This includes memorandums, service manual chapters,

directives, etc.

- The JTF will be consulted on before any service manual chapters are removed, combined, are created.
- Pete Barlow provided the JTF members with a list of 97 policies which will need to be reviewed and potentially modified and requested feedback from the JTF.
- JTF members requested that WSFR prioritize the list and include brief explanations for the top priorities to help JTF members review and provide input.

WSFR Update – Policy and Programs Division - Tom Busiahn

- The Coastal Impact Assistance Program (CIAP) is a \$1B dollar grant program administered by FWS. Administrative funds from CIAP have been used to help develop TRACS. When CIAP program ends, there will need to be an adjustment made to funding TRACS.
- The National Survey branch has three staff. Half of their salaries is funded through the multistate conservation grant program. The other half is funded through SWG.
- Competitive state wildlife grants will be announced in June. CVA was announced earlier in May. There's a 900K cap nationally to administer the competitive grant programs. This is not enough money to properly administer these programs.
 - If there's not enough money then how is the admin of these programs funded?
 - An additional 300-400K SFR funds are used.

FWS Administrative Audit – Steve Barton

- Findings begin on page 15.
- Findings included:
 - Time-coding errors
 - Documentation errors
 - FWS employees working on SWG and PR/DJ. Audit findings reported that staff who work on PR/DJ need to work solely on PR/DJ.
 - Training miscoding
 - FWS cannot pay relocation costs for employees that are not full-time.
 - The WSFR 75th activities were ineligible costs.
 - ARD Migratory Bird programs. There continues to be conversations on this time.
 - Kelly Hepler requested that the JTF be kept updated on the ARD ongoing discussions.
 - Will FWS be required to return funds from items deemed ineligible? If so, where would the funds come from?
 - They would have to be paid back with appropriated dollars.

TRACS – Dan Hogan

- Dan Hogan expressed appreciation for the JTF continued involvement with the production of the TRACS program.
- TRACS is collecting core proposal and performance data necessary for grant

- reporting. The application interface is stable, easy to use.
- Spatial performance, accuracy, and flexibility have vastly improved.
 - It is now code tested, configurable, and extendable.
 - It has key software solutions in place (e.g. SOLR, CI).
 - TRACS is the only FWS database in the cloud. Additionally, the Amazon Cloud performance is outstanding.
 - >99% system uptime since system release with a usage costs average of approximately \$6,000 per month.
 - Dynamic server provisioning, testing, scaling, and uptime management is instantaneous. There's no dependency on DOI/FWS network.
 - Monthly QA/QC procedure identifies major problems or shortcuts. The standard pick lists, required fields, and validation help to preserve data quality.
 - State-specific data layers make spatial data meaningful and easy to create and the standard measurements allow roll-ups despite structural flexibility.
 - WSFR data entry can serve as a template for state data entry. Acceptance of system purpose and data collection continues to improve with **38** states have now directly inputted at least one project. Less than **25%** of states *regularly* input data into TRACS.
 - WSFR and states working closely together on project statements and objectives.
 - States seek a clear statement on system use, required fields, and “no-later-than date”
 - Definition of technical debt:
 - Technical debt is the eventual consequence of system design, software architecture or software development within a codebase
 - Debt can be thought of as work that needs to be done before a particular job can be considered complete or proper
 - If the debt is not repaid, it will accumulate interest, making it hard to implement changes later on.
 - Current cloud contract obtained through GSA FedCloud Blanket Purchase Agreement (BPA). The contract expires September 30, 2015—no option to renew. DOI mandate that all systems must utilize Foundation Cloud contract to procure cloud infrastructure services.
 - Foundation Cloud migration underway with expected completion date of October, 2015.
 - Effectiveness Measures for SWG are based on principles of results-based outcomes. Majority of data is already collected in TRACS—objectives, actions, strategies, and activities. Realignment of data structure to support program outcomes; may reduce overall reporting burden.
 - The TRACS Working Group requests the JTF:
 - WSFR requests that the JTF Directors or designees participate along with the TRACS Working Group over the next several months to ensure communication and state participation in the scoping and design of results-based outcomes.
 - At a minimum, JTF members or their designees should be available to participate in a Working Group conference call the second week of August

- Participate in a two-day workshop in Denver, Colorado the last week of September, 2015
- Endorse the Working Group's strategy for expediting the full implementation of TRACS by:
 - Developing and implementing individual state strategies designed to address the obstacles to implementation as identified by each state
 - Establishing a date by which responsibility for entering projects into TRACS will transfer from WSFR to the individual state
 - Recommendation: No Later Than September 30, 2016
- **TRACS discussion:**
- How can there be standard objectives? Grants are already being rejected by some regions because they didn't include SMART objectives. It was promised TRACS would not pigeon-hole applicants (proposals/regions) into standardized objectives just for the sake of reporting to Congress. There's concern amongst the Federal Aid Coordinators Working Group regarding the rejection of these proposals.
- TRACS working group is looking to expand effectiveness measures developed for SWG to other grant programs.
- Many of the accomplishments of this program are hard to measure. For instances, many times a result or accomplishment won't be known or fully understood until decades after the grant program has been completed. There shouldn't be result-based outcomes for this program. This would be too much of a burden.
- Additionally, it seems the results based objectives would vary from region to region.
- There's a gap between TRACS implementation team, the state representatives, and the policy makers. The recommendations proposed here should be considered by the Directors as well as the JTF.
- Dan Hogan stated that the JTF Working Group is currently proposing for version two, to gather a group together to identify goals for the program.
 - There will be more than just agency goals. Other groups will have different opinions and goals for measuring success (industry, etc.).
- Need to identify what the long term goals of the program are and how we measure success.
- Could look to the Act to set up performance goals and measures from. There are goal within the Act that could be utilized.
- TRACS is going in a different direction that what was brought to the States initially. Should not be putting the states into a position where they are being denied grants for this program.
- Hannibal stated that the intent was not to seek long-term goals for each project. Will discuss further with his team and bring back to the next JTF meeting.

Day 2 – Thursday May 28th

AIS Invasive Species – Tom Busiahn

- Aquatic nuisance species task force met at FWS HQ in Nov 2014. At this meeting, the Task Force asked to be briefed on SFR dollars and how they help with AIS. Information provided in the briefing was put into the one page

document put before the JTF prior to the meeting. The intent of the one-page document was to summarize the policy guidance.

- This type of guidance usually comes to the JTF for review first before it's distributed out. It was requested that in the future this type of guidance be fleshed out through JTF committee first.

Status of FWS Real Property Chapters – Tom Barnes

- Three draft real property chapters went out for comment in August 2014. There was a request to extend the comment period. Comment period will now be open until January 2015. Comments should be provided through FWS Wiki.
- Quick background:
 - 1989 – The Appraisal Standards Board adopted the Uniform Standards of Professional Appraisal Practice (USPAP), which have become the norm in the appraisal profession. The draft chapters authorize qualified recipients to use USPAP without the simultaneous use of Federal Yellow Book standards.
 - 1992 – Service published the current land acquisition chapter.
 - 2007 – Started working on draft chapters to replace the outdated and inadequate 1992 chapter.
 - 2011 – OVS (Office of Valuation Services) was designated as Departmental authority for appraisal management and oversight.
 - 2012-2013 – Audit of an FWS program (not PR/DJ) by Office of Inspector General (OIG) did an in-depth analysis of appraisals. Sixteen appraisals in one State were reviewed and none met key elements of the appraisal standards. Questionable land acquisition costs of at least 12 million.
 - 2013-2014 – Second OIG audit of appraisals in another State found appraisals to be deficient and questioned land acquisition costs.
- Current status – FWS completed a full review of 47 unique comments on the first chapter.
- Tom Barnes shared the comments with the JTF before the meeting and indicated on the spreadsheet which comments were accepted and why/why not.
 - Historically, the comment period for Service Manual chapters was open only to FWS employees, but State fish and wildlife agencies will have the opportunity to review and comment on all three real property chapters. Twenty of the 47 unique comments on the first chapter were from State agencies.
- Commenters will have at least 30 days to review and suggest alternatives to the FWS responses to their comments. Will do this for all three chapters. After this process, FWS will hold a series of meetings with representatives of up to three State agencies at a time to explain the policies in the chapters, answer questions, and give States the opportunity to identify any fatal flaws.

Federal Aid Coordinators Working Group – Paula Nicholas

- The federal aid coordinators attend the chiefs meeting in 2014.

- The Working group is developing the proposal of a national federal aids coordinator meeting. This would, hopefully, be conducted in 2017. Since this meeting would involve more than fifteen federal employees it will require DOI approval.
- The JTF would be supportive of this meeting. There should be a strong focus on building an agenda with national topics and breakout sessions. Should consider pulling in fiscal people as well.

License Certification – Group

Discussion on the raised concern: “Non-optional / “forced” licenses – if there’s no choice to receive a license add-on (ex: non-resident hunting license & receiving fishing license).

Discussion: -Jim Douglas served as the lead for the discussion: -

- The Association Executive Committee established a Task Force in 2012 that worked extensively on the license certification issue.
- There are three approaches now which can be discussed:
 - Decide not to deal with it
 - Not count the licenses
 - Create an approval mechanism
- The end result is can it be counted / define what can be counted. Define what an add-on license would be.
- The options were intent is not clear – there is a big distinction when this occurs and when there’s the option for a combo license.
- Need to think through the implementation of the three options laid out by before us (stated above).
- If the group moves forward towards a participation model for certification – this would require a statutory change. If you define what a paid license holder is this could craft the formula that there has to be intent for person to purchase license.
 - Participation model is different than the intent?
- Using “intent” licensing model is a good path to discuss further. It will be hard to prove intent when there are no options available for the purchaser.
- Question for Tennessee: Has Tennessee ever evaluated marginal hunters/ fisherman who don’t buy a license because the only available options are combinations?
 - Answer: The definitions get very complicated. Tennessee has only combo license, but they do offer the option to purchase daily fishing licenses if there’s no interest in a hunting license.
- Is there a way we can categorize add-ons to stand out from combo-licenses?
- Should we be certifying licenses given to individuals with no options – that’s the real question.
- Add on licenses – is the intent to get more people involved in the activity (recruitment, retention factor) or is the intent to certify more license holders?
 - Great point – Need to be cautious not to develop any policy that would restrict state agencies ability on recruitment, retention, etc.
- Would like to hear from the Service on the survey option to prove intent.
 - It’s difficult enough just with paid license holder – would run into survey

- comparison problems for 50 state surveys.
 - This could create additional funding needs for the Service to cover the additional efforts as well.
- We can deal with bundling licenses if we can all agree on defining close approximation.
- If we take the participation model – do we count individuals who participate but are not required to have a license?
 - How would you count them?
 - Assuming we took a full participation model approach you'd want to capture that information. If Industry was asked they would say that the money is being generated by participants, not non-participants. Therefore those who contribute money to the system should be counted.
- If there was an acceptable close-approximation figure that would make many of these issues disappear. Would that also satisfy the non-optional issue?
- These are separate issues.
- Whatever the path forward is – need to consider a transitional strategy that allows states time to adjust to any policy/statutory changes.
- It all comes back to the statutory question. Limited on how far we can move forward. Need to also be aware not to put states in vulnerable positions – need to be able to defend challenges/diversions to state money.

Process / Next Steps

- Need to consider drafting a white paper on this topic.
- Send finalized white paper out to appropriate targeted audiences. White paper will need to capture both options. Need to capture: Do we think there's a problem? Then provide options for solutions. Pros / Cons. Also will need timeframe for getting this resolved.
- What if we assigned a small work group to work on developing this white paper – timeframe over next 3 weeks?
- Is there a consensus to delve further into this issue?
- The motion on Dan's white paper from AFWA Executive Committee (and subsequently full body at business meeting) shows there is consensus amongst directors that this is a problem that needs to be addressed.
- Perhaps we could use the word "want" instead of the word "intent."
- Process question – If the Service has an issue with the survey approach – this needs to be understood now before we go too far researching the issue. The Service needs to inform the group on what they see as non-starters.
- Under the current statute, a participation model is a nonstarter.
- We should ask a different question – what is within the legal framework mechanism, the flexibility to fix this identified problem? It needs to be fixed in writing.
- Carol Bambery has written a legal case for a participation model. Carol noted that it stressed the need for consensus.
- Carol will take what she has currently written and work with Larry Mellinger – define agility within the existing statutory framework.

ACTION ITEM: Carol Bambery and Larry Mellinger will draft a framework outlining the current legal parameters to inform future discussions by June 30, 2015

License Certification Full Group Discussion:

1. *Close approximation – What is close approximation? Can we define it?
2. How do you calculate on a multiyear license - what value does it need to be?
 - a. When determining close approximation, do you use revenue from active living license holders or do you also use the principle still in the account from license holders that have not been expended (deceased?)
 - b. Varying interest rates
 - c. Does it need to be based on lowest cost license or license for similar privileges.
 - d. At initial sale can you count future income?
 - e. Lack of understanding of single payment annuity...
3. National standard for minimum license cost (\$ amount) for comparison purposes.
4. Should there be a difference between multiyear license term and lifetime / senior licenses?
5. Is it possible to set price floors for annual, lifetime, and senior licenses?
 - a. Standard across all states or relative floor?
6. *Non-optional forced licenses – if there's no choice to receive license add-on (ex: non-resident hunting license & receiving fishing license).
7. Free licenses counting if state contributes at least \$1 from non-source. (ex – state pays dollar from general funds for veteran license).
 - a. Tribal License – receiving license because you are a tribal member only.
8. Income generated from license – can you count churn rates identified from multiyear license?
9. Free licenses counting if states contribute at least a dollar from their non-source revenue. A great example of this would be veteran license information.
10. Should there be a national standard for licenses

