Joint Federal/State Task Force on Federal Aid Policy
Meeting Report of November 13-14, 2002

The Joint Federal/State Task Force on Federal Aid Policy met in Denver, Colorado on November 13 and 14, 2002. 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 Crawforth	Co-Chair, Administrator, Nevada Division of Wildlife

State Fish and Wildlife Agency representatives:

David Waller	Director, Georgia Wildlife Resources Division
John Frampton	Assistant Director, Development & National Affairs, South Carolina DNR
Tom Niebauer	Federal Policy Advisor, Wisconsin 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

U.S. Fish and Wildlife Service representatives:

Tom Melius	Assistant Director, Migratory Birds and State Programs
Kris LaMontange	Chief, Division of Federal Aid, Washington Office
Mitch King	Deputy Regional Director, Region 4
Don Friberg	Chief, Division of Federal Aid, Region 1
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
Facilitator:	Chris McKay, Division of Federal Aid, Washington Office, USFWS
Recorder:	Eddie Bennett, Division of Federal Aid, Region 6, USFWS

Joint Task Force participants unable to attend:

Gerald Barnhard	Director, New York Division of Fish, Wildlife and Marine Resources
Mamie Parker	Regional Director, USFWS Region 5

During the meeting, the Joint Task Force addressed the following general topics:

- Joint Task Force operations and processes
- Review of policy issues and comments submitted by state and federal staff
- Discussion of specific policy issues to develop Joint Task Force recommendations

Results of these discussions are summarized below.

I. Joint Task Force Operations and Processes

The Joint Task Force reconfirmed its commitment to base it recommendations on information

gathered from state and federal staff concerning Federal aid issues. The Joint Task Force intends to establish a website, linked to both the USFWS website and the IAFWA website, at which recommendations and reports from the Joint Task Force would be made available. The proposed process to address issues would include the following steps:

A. Identification of Issues: Policy issues proposed for the Joint Task Force to address would be summarized and provided for states and federal offices to rate in terms of priority, and to ensure that an issue truly exists. The Joint Task Force would use this input to identify issues requiring most immediate resolution.

B. Explanation of Issues: Issues identified as the next items to be addressed by the Joint Task Force would be submitted to a small workgroup, coordinated by a Joint Task Force Member. This workgroup would develop a "white paper" to include:

- An explanation of the issue,
- A discussion of the range of viewpoints and opinions regarding the issue,
- Relevant laws and regulations,
- Probable options for resolving the issue, and
- An initial recommendation for resolution of the issue, if appropriate.

The workgroup would include state and federal staff with background on the issue, and they would be encouraged to gather input from any interested parties, as well as appropriate legal counsel.

C. Development of Draft Recommendations: Using the information provided by the assigned workgroup, the Joint Task Force would develop a Draft Recommendation. In order to be labeled a Joint Task Force Draft Recommendation, at least the following four characteristics must exist:

- A judgment by the Joint Task Force that a policy issue exists in need of resolution.
- Reason to believe that the Joint Task Force has reviewed the spectrum of viewpoints concerning the issue, including legal analysis.
- A recommendation for resolution of the issue.
- A recommendation of the appropriate format for implementation of the resolution (e.g. Director's Order, Federal Aid Manual Chapter, CFR, etc.)

D. Finalization of Recommendations: Before finalizing a Draft Recommendation, the Joint Task Force will provide it to all state fish and wildlife agencies and all USFWS regional federal aid offices for comment. At its next meeting, the Joint Task Force will review any comments received, and revise the recommendation or postpone finalization if appropriate. Final recommendations will be submitted to the Director of the USFWS and to the President of IAFWA.

II. Review of Policy Issues and Comments Submitted

Before this meeting, the Joint Task Force submitted a proposed list of policy issues for comment by state fish and wildlife agencies and by USFWS regional offices. State and federal staff were asked to rate each possible issue as high, medium, or low priority, as well as to identify any additional issues that should be added to the list.

The ratings for the various proposed policy issues varied widely between regions, between states, and between federal and state respondents. Although few if any issues were rated the same by all respondents, a handful of issues stood out as being high priority, and another handful stood out as consistently being rated low priority. Ratings for other issues were varied so widely that they are generally grouped as medium priority.

<u>High Priority</u>
Program Income
Ten Percent Rule (later relabeled "Budget Changes" – see below)
Federal Nexus
Level of Cost Accounting

<u>Medium Priority</u>
Allowable Commercial Activities
Allowable Recreational Management Activities
Hunter Education Income
In-Kind Match Paid for Hunter Ed Instructors
Pest/Weed Control on Federal Aid Lands
Cash Management Improvement Act
Chronic Wasting Disease
Land Banking
Project Overmatch

<u>Low Priority</u>
Consolidation of Fed Aid Vehicles into Centralized Motor Pool
Law Enforcement Charges
Three Percent Central Services

The Joint Task Force decided that an additional factor that would influence the order in which it would address policy issues would be the extent to which complete information concerning the issue might already be developed and available to the Joint Task Force. Otherwise, it would intend to use these priorities as a guide to determine the general order it will address policy issues.

A number of additional policy issues were submitted by state and federal respondents for consideration by the Joint Task Force. After reviewing the information submitted, the Joint Task Force categorized these additional issues as follows:

<u>Immediate Recommendations:</u> The Joint Task Force determined that immediate response may be

eveloped on a few issues, for a variety of reasons. **Where indicated, a more complete explanation of the response or recommendation will be developed and provided to all state agencies and federal regional offices.** These issues included the following:

- CMS Chapter: 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. (Full response to be provided to states/regions.)
- Wildlife Damage Management: This issue has previously been addressed and resolved by a joint federal/state committee, and that resolution will be provided. (Full response to state/regions to be provided.)
- Retroactive Implications of Policy Issues after Resolution: The State/Federal Audit Task Force is currently reviewing audit issues, and they anticipate making a recommendation concerning this issue. Indications are that the issue may be remanded to the Joint Federal/State Task Force on Federal Aid Policy.
- Application of NEPA to Federal Aid Projects: This issue is beyond the scope of the Joint Task Force, but is currently being examined by a task force affiliated with IAFWA.
- Ecological Service's Review of Affects Determinations Made by Grant Applicants/Recipients: This issue concerns Endangered Species reviews, and is beyond the scope of the Joint Task Force.
- Designating Lands Purchased with Federal Funds as Nature Preserves: This issue should be addressed as part of the Allowable Recreational Management Activities issue, and that issue should be relabeled.
- Waiver of Equipment Approval Requirement: This issue should be addressed by substituting "not required" with "waived" in The Federal Aid Handbook so that it matches OMB Circular A-87.

Require Additional Information: Certain issues were suggested, but the information provided was not sufficient to allow the Joint Task Force to confidently understand the nature of the issue being proposed, and therefore the Joint Task Force did not believe it could yet submit the proposed issues to state agencies and regional offices for ranking. **These issues will be resubmitted to the respondents who suggested them, to request a more complete summary of the issue.**

- Compliance with Blanket Easements and Land Trades
- Chronic Wasting Disease (previously rated; requesting re-examination of the nature of the issue)
- Revision to WR and SFR Program Rule
- Administration of Endangered Species Grant
- Specifying Federal Share as Percentage or Dollar Amount
- Retention of Grant Documents/Records
- Reimbursement Based on Total Cost or Shares
- Boating Access (believed to be an appropriate issue, but in need of a summary write-up)
- Diversion of Lands Purchased with License Fees (believed to be an appropriate issue, but

in need of a summary write-up)

III. Discussion of Specific Policy Issues

The Joint Task Force substantively discussed certain policy issues. For two of these issues – the "10% Rule" and "Allowable Recreational Management Activities" – the Joint Task Force reached consensus on the substance of a Draft Recommendation, which will be provided to all state agencies and regional offices for comment before the next meeting. For certain other issues, a workgroup has been requested to develop a white paper for review and discussion by the Joint Task Force at its next meeting.

Budget Changes

Originally labeled the "10% Rule," the Joint Task Force determined that the most important characteristic is to provide flexibility for movement of funds within a grant. Based on analysis developed by the Office of the Solicitor, DOI, and consistent with input previously provided by state agencies, the Joint Task Force recommendation endorses flexibility within the allowance of existing regulation. The recommendation includes direction to address this issue in individual grant agreements with the assumption that the 10% rule would be waived for most grant agreements. The substance of the recommendation will be more fully explained in the Draft Recommendation being developed, which will be provided to state agencies and regional offices for comment before finalization.

Use of Lands Acquired, Developed, or Managed with Federal Funds

Originally labeled "Allowable Recreational Management Activities", the Joint Task Force determined that the most appropriate criteria for addressing activities on lands acquired, developed, or managed with federal funds is whether the activity interferes with the purpose for which the land was acquired, developed, or managed. Lands acquired with federal funds would be permanently subject to this rule; development using federal funds would be subject to this rule over the life of the development; and management with federal funds would be subject to this rule during the grant period. The substance of the recommendation will be more fully explained in the Draft Recommendation being developed, which will be provided to state agencies and regional offices for comment before finalization.

Submitted to Workgroup

In addition, to reviewing and forming recommendations at the Denver meeting, the following issues were identified by the Joint Task Force as appropriate for discussion and possible 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.)

Program Income (Mitch King)

Federal Nexus (Don Friberg)

- Level of Cost Accounting (Terry Crawforth)
- Allowable Commercial Activities (Gary Reinitz)
- "Program Rule" - Not a policy issue, but a discussion of needed revisions to the current CFR (Gary Reinitz)

IV. Next Meetings

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

January 21, 2002 (8 a.m. – 5 p.m.) and January 22, 2002 (8 a.m. – noon)
Las Vegas, Nevada
Hosted by Terry Crawforth, Nevada Division of Wildlife

March 11, 2003, (8 a.m. – 5 p.m.) and March 12, 2002 (8 a.m. – noon)
Atlanta, Georgia
Hosted by Mitch King, Region 4, USFWS

Respectfully Submitted

int Riley, USFWS
erry Crawforth, NV Division of Wildlife