



SPORT FISHING & BOATING
PARTNERSHIP COUNCIL

MAY 21 2015

The Honorable Sally Jewell
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Mr. Jon Jarvis
Director
National Park Service
1849 C Street, NW
Washington, DC 20240

Dear Secretary Jewell and Director Jarvis:

As an advisory committee to the Secretary of the Interior, the Sportfishing and Boating Partnership Council (SFBPC) is writing to you in your capacity as Secretary and Chair of the Federal Interagency Council on Outdoor Recreation (FICOR), respectively, to request that FICOR take a leadership role in improving interagency communication and coordination concerning permitting for water-based infrastructure essential to recreational boating and angling. As you know, recreational boating and angling drive the outdoor recreation economy in America. On an annual basis, boating has a total economic impact of \$121 billion and supports almost 1 million jobs while recreational fishing contributes \$115 billion and supports more than 825,000 jobs.

Since the inception of President Obama's America's Great Outdoors initiative, the SFBPC has worked to engage FICOR and permitting agencies, including the U.S. Army Corps of Engineers (USACOE), U.S. Fish and Wildlife Service (FWS), and National Marine Fisheries Service (NMFS), on this topic. Members of the SFBPC have met with agency staff in day-long strategy and planning sessions and with the FICOR principals as they discussed annual priorities. The SFBPC has provided detailed written recommendations to FICOR across a range of topics, including this one. As SFBPC members discussed our priorities for 2014-16, members agreed this issue remains especially important, in part because delays in the permitting process are among the most significant and persistent barriers to providing access to water resources. At the same time, our members, State partners, and the boating and marine industries have identified specific steps that can be taken to improve communication and coordination between agencies and permit applicants – steps that maintain strong and effective protections for fish, wildlife, and the habitat upon which they depend.

The SFBPC is revisiting this issue with you now because States, private marinas, and the boating industry have growing concerns about the inconsistency with which environmental regulatory permits are being reviewed and issued. This is adversely affecting not only State and local infrastructure projects but also the implementation of boating access grants awarded under the Sport Fish Restoration, Clean Vessel Act, and Boating Infrastructure grant programs administered by the

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FWS. With this concern and our past experience in mind, the SFBPC met in February 2015 with Federal agency representatives who review and determine permitting requirements for boating infrastructure in Florida. In addition, the SFBPC, in partnership with the States Organization for Boating Access (SOBA), surveyed State coordinators for the grant programs to gather their input about the process and to investigate if there were common issues or constraints encountered by the States and territories.

At our February meeting, the SFBPC identified four main areas that we recommend FICOR and permitting agencies address: increasing transparency of the permit process; expanding utilization of State Programmatic and Nationwide permits; sharing science and modernizing technology; and requesting additional funding for permit review.

Increasing Transparency of the Permit Review Process

In response to the SFBPC's survey, the majority of State grant program coordinators cited the lack of transparency during the permit review process as a primary concern. The USACOE provides minimal information on pending individual or standard permits; however, many projects are approved by programmatic permits for which no information is provided. It is difficult to find the status of pending applications and where they are in the process (see enclosed flow chart illustrating the USACOE process). The process is excessively complicated and it is difficult to determine which actions could be done concurrently and which must be done consecutively. Historically, the USACOE provided access to its database (RAMS/ORM2), which would let applicants see information concerning the status of all permit types; however, recent changes to the database have resulted in less information being made available to applicants. Moreover, the applicant may not even be aware that their project is not listed in the database because the USACOE has determined the project to be potentially eligible for a programmatic permit. For projects subject to consultation pursuant to the Endangered Species Act (ESA), the publicly-accessible portion of the NMFS database (PCTS) provides limited information on the consultation process and often does not have current information about the status of that process.

During the SFBPC's discussion with agency representatives in February, it became clear that staff from different Federal agencies frequently communicate with each other during the permit review process. However, SFBPC members with extensive experience with boat access project permitting are generally unaware of this communication. Moreover, they are concerned that applicants are not involved in these discussions or proactively informed about potential issues that could affect permit approval, project design, or construction. Although the SFBPC applauds and encourages interagency communication, we are concerned that applicants are not being actively engaged in important agency discussions.

The SFBPC recommends Federal agencies:

- Create and/or augment databases where the public can easily determine the status of permit applications. These databases should provide information about the status of projects being considered under Nationwide and/or State Programmatic permits in addition to projects subject to Individual permits. Utilization of a database system could increase public confidence that the regulatory permit review process is completed consistently and fairly. For example, providing open, public status information affords an opportunity to gauge whether or not a project is being reviewed consistent with well-established procedures and within typical timeframes. With reliable access to application status, an applicant can more readily identify and address processing roadblocks before they become long delays.
- Proactively communicate with applicants throughout the process, including in the pre-application stage for large-scale projects and while agencies are conducting formal or informal interagency discussions. Early sharing of these communications could save time and money and reduce frustration among all parties. Proactive collaboration with applicants will help to ensure projects

effectively balance multiple goals, including habitat and species conservation and public access to and use of water resources. To improve communication and collaboration, permitting agencies could hold regular (quarterly may be the most efficient) open coordination conferences to exchange information between agencies and permit applicants. The permitting agencies could have question and answer sessions on numerous topics, including successful examples of mitigation and developing biological opinions or Nationwide permits.

Expanding Utilization of State Programmatic Permits, Nationwide Permits, and Local Operating Procedures

Permitting agencies and permit applicants find benefits when established criteria are identified through Nationwide Permits, State Programmatic Permits, or Local Operating Procedures. Expanded utilization of these types of permits and procedures could reduce agency workload and result in more timely permit review and approval. Having clear and well-established procedures and criteria also helps applicants to design projects and craft applications that meet them at the beginning of the process.

Examples of effective existing Local Operating Procedures include the “manatee key” used in Florida and SLOPES used in the Pacific Northwest. The manatee key – developed collaboratively by the State of Florida, U.S. Fish and Wildlife Service, the marine industry, and other partners – provides a step-by-step road map for developing projects that meet manatee protection and restoration goals. SLOPES, the USACOE’s Standard Local Operating Procedure for Endangered Species, provides specific guidance on project design criteria programmatically approved by NMFS to protect endangered salmon and steelhead. One of the advantages of the SLOPES tool is that it integrates consultation with NMFS about endangered species and essential fish habitat (EFH). Discussion at the SFBPC’s February meeting highlighted how issues associated with EFH are becoming as important – and time-consuming – as consultation on endangered species. SLOPES is ahead of the curve by addressing them simultaneously. These are examples of effective Local Operating Procedures in place today, and we strongly believe that they should serve as models for other regions.

The SFBPC recommends Federal agencies:

- Expand development, approval, and use of Nationwide Permits, State Programmatic Permits, and Local Operating Procedures for public recreational boating facilities. Dedicating agency staff to work on these items could ultimately reduce staff workload so they can focus on complex and time-consuming Individual permit authorizations and proactively work with permit applicants through a pre-application process to identify key criteria or concerns to avoid or minimize. Development of these tools will also improve the consistency of permit review processes across districts, regions, and nationwide.
- Seek input from and improve collaboration with States, tribes, and industry when developing these permits and procedures. Successful development and utilization of these tools is dependent upon proactive collaboration between Federal agencies, industry, and State and tribal agencies, which design, construct, maintain, and operate public recreational boating facilities. It has been the experience of SFBPC members and State agencies that when these permits and procedures are developed without input from non-Federal partners, they are used much less frequently because they often include implementation conditions that are impractical. SFBPC members can provide insights to Federal staff on boating infrastructure operation and maintenance, which will help to ensure these tools are designed effectively.
- Improve training of permit reviewers in the use of these tools. Maximizing the effectiveness of these tools depends on training agency staff in their use. Initial and supplemental training could

be conducted in a consistent and cost-effective manner utilizing technology such as webinars or video conferencing.

Sharing Science and Modernizing Technology

During the SFBPC's discussion with Federal agencies concerning the permitting process in Florida, it was noted that there was inconsistent collaboration and sharing of regional, district, and local procedures, processes, and science between agencies and within agencies.

The SFBPC recommends Federal agencies:

- Accept electronic submissions of permit applications and develop joint State/USACOE applications that standardize file formats, sizing, attachments, and use of GIS mapping technology and include more in-depth application questions. These steps will ultimately speed up the process, improve consistency in application submission, and reduce the number of requests for additional information.
- Develop a shared electronic library where scientific reports, biological opinions, and environmental assessments can be stored to ensure all agencies have access to the best science currently available. During our February meeting, NMFS staff expressed concern about relying primarily on one study of sound attenuation from the California Department of Transportation. However, SFBPC members were aware of other studies conducted more recently on the same topic. A shared library would allow agencies to access, share, and receive more robust and varied scientific information. Agencies should also explore collaborative approaches with industry and non-governmental organizations to develop scientific data. For example, the boating industry could potentially assist in funding research through independent entities such as the Cooperative Fish and Wildlife Research Units.

Requesting Additional Funding for Permitting Process

Our discussions with agency representatives and State officials and the extensive experience of SFBPC members demonstrate that Federal agencies do not have the personnel and other resources to effectively and efficiently handle their permitting workload. A single staff person or very small staff can be responsible for reviewing permits for an entire State or a region covering multiple States. Invariably, this leads to delays in the process – delays which adversely affect project timelines, costs, and, ultimately, public access to and use of water resources.

The SFBPC recommends Federal agencies:

- Request additional appropriated funding for staff, technology, and other resources to improve the timeliness, efficiency, and transparency of the permit process. When considering the need for additional funding, the SFBPC urges agencies to also prioritize investments to develop Nationwide and State Programmatic Permits and Local Operating Procedures. Over the long run, these investments will save time and money while facilitating development of water-based infrastructure that meets multiple goals for conserving fish, wildlife, and habitat and providing public access to water resources.

States Stand Ready to Test New Procedures

In response to the SFBPC survey of State grant coordinators, about 80 percent of State grant coordinators indicated they would be interested in partnering with Federal agencies to pilot test new procedures to improve communication and coordination between applicants and the agencies. Overwhelmingly, States

stand ready to work with Federal agencies to develop and evaluate new processes and procedures focused on communication, collaboration, and a more transparent process.

The SFBPC recommends:

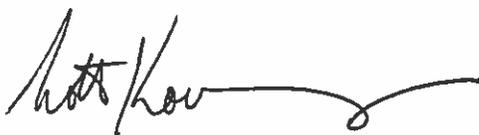
- FICOR principals direct the USACOE, FWS, and NMFS to work with the SFBPC, SOBA, and other partners to identify specific States and/or regions where process improvements can be developed, implemented, and evaluated. SFBPC members know that Florida is ready to partner in the near-term. In fact, many Federal agency participants in our February meeting expressed a willingness to participate in a pilot project in Florida. Boating and boating access are of particular interest to Florida and its estimated \$10.35 billion boating industry.

The SFBPC views this as an excellent opportunity for FICOR to take an active role in improving communication, collaboration, and information-sharing that will strengthen the partnership between Federal agencies, recreational boating and fishing industries, and States. Working together, we can conserve aquatic resources and provide multiple benefits for the recreational boating and fishing public nationwide.

In closing, I request a meeting with both of you and SFBPC members to discuss these recommendations and specific next steps to implement them. SFBPC Coordinator Brian Bohnsack will contact your staff to explore meeting dates.

The SFBPC looks forward to meeting with you soon and taking concrete steps to improve the permit process for boating and fishing infrastructure.

Sincerely,



Scott Kovarovics
Council Chair

Enclosure

cc: SFBPC members

Eileen Sobeck, National Marine Fisheries Service
Jo Ellen Darcy, Office of the Assistant Secretary of the Army (Civil Works)
Victoria Foster, U.S. Fish and Wildlife Service
Tori White, U.S. Army Corps of Engineers
Tom Champeau, Florida Fish and Wildlife Conservation Commission
Tim Rach, Florida Department of Environmental Protection
Nicole Bonine, National Marine Fisheries Service
Todd Turrell, Turrell Associates
Spencer Crowley, Florida Inland Navigation District

Project Design

Agency Review

Agency Decision



US Army Corps
of Engineers
Portland District

Corps Permit Review
Process

