



From: Carol Bambery, General Counsel, AFWA
To: File
Date: June 29, 2013
RE: Steps to develop AFWA's Legal Strategy

AFWA's 2013 Strategic Plan includes as Goal 2: Policy and Legislative Advocacy: Promote policies, legislation, laws, regulations and legal strategies that enhance and protect the states' ability to conserve and manage fish and wildlife resources and their habitats consistent with the North American Model of Wildlife Conservation.

A strategy under several of Goal 2 objectives includes "create a think tank of legal experts including state legal advisors, state attorney generals who represent the state fish and wildlife/marine agencies, law interns, and others to review fish and wildlife law cases and to advance appropriate legal actions and strategies as recommended by AFWA."

Steps, or action items, to implement the legal strategy are included under each bullet. Estimated timelines are also included.

- DEVELOP UNDER THE DIRECTION AND MANAGEMENT OF THE EXECUTIVE DIRECTOR AND THE EXECUTIVE COMMITTEE A THINK TANK OR LEGAL STRATEGY ADVISORY TEAM (LSAT) THAT WOULD MAKE RECOMMENDATIONS TO THE EXECUTIVE COMMITTEE THAT WOULD ADVANCE AFWA'S LEGAL STRATEGY.
 - 1. Discuss with the Association's Executive Director and Executive Committee strategy, goals, process to create the LSAT and to further define AFWA's legal strategy as articulated in Goal 2 above *—work started during AFWA's Executive Committee Retreat at the N. A., March 2013*
 - 2. Discuss legal strategy and get input from each of the regional associations' legal committees and AFWA's Legal Committee — *work started during AFWA's legal committee meeting at the N. A., March 2013*

NOTE: AFWA's Legal Committee charge is to advise the Executive Committee and the Association's Legal Counsel on legal matters which they believe are deserving of the expenditure of time, effort and money and to evaluate requests for the Association to enter into legal actions with the potential for national significance.

The role of the Legal Committee would not change. The Legal Committee's function is crucial as it, as with all AFWA's committees, is comprised of member agencies representatives.

The LSAT members would be selected from both inside and outside the agencies and would be expected to make recommendations to the Executive Committee that would advance AFWA's legal strategy. AFWA's Legal Committee would continue to advise the Executive Committee on legal matters deserving of AFWA's engagement.

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The objectives of the LSAT include:

- (a) to protect the right of jurisdiction of the state fish and wildlife agencies over their wildlife resources on public and private lands;
 - (b) to scrutinize carefully state and federal wildlife legislation and regulations and to offer support or opposition to legislative proposals or federal regulations in accordance with the best interests of the states;
 - (c) to serve as a clearinghouse for the exchange of ideas concerning advocacy on wildlife and fisheries management, research techniques, wildlife law enforcement, hunting and outdoor safety, and information and education that informs on the role of the state agencies;
 - (d) and to encourage and assist sportsmen's and conservationists' organizations so that the fullest measure of cooperation may be secured from our citizenry in the protection, preservation, restoration and management of our fish and wildlife resources.
- UNDER THE DIRECTION AND MANAGEMENT OF THE EXECUTIVE DIRECTOR AND THE EXECUTIVE COMMITTEE POPULATE THE LSAT FROM LEGAL COMMITTEES, JUDGES, PRIVATE PRACTICE, AFWA'S LEADERSHIP AND OTHERS.

INITIAL TASKS INCLUDE:

1. Charter, potential membership, etc. on LSAT concept to be developed for Executive Committee review and approval by **September 2013 annual meeting**. LSAT to be under the general supervision of AFWA's general counsel – *Discussions ongoing and team to be assembled for AFWA's Executive Committee's review by September 2013 annual meeting.*
2. Determine what role, if any, A.W.A.R.E. could serve – *Discussions started during Executive Committee meetings at N. A.; also during 2014 multistate grant LOI staff discussion.*
3. Put in place a network of pro bono law firms to assist in filing strategically placed amicus briefs; develop a recognition program for the firms that file briefs on states/AFWA's behalf. – *discussion started during the AFWA legal committee at the N. A.; draft documents to be prepared for Executive Committee review by September 2013 annual meeting.*
4. Review survey results and recommendations that come from AFWA's President's Work Group on State Authority and incorporate findings in the

Legal Strategy – *preliminary survey results from work group presented at North American Executive Committee meeting/retreat.*

NCN was chosen for funding during N. A. committee meeting. This funding could potentially do the following:

- Fund technical support needed to enable the states to participate in the legal strategy
- Fund filing fees, printing costs for amicus filings
- Fund grant program for attorneys advancing primacy of state authority and other mission work (to be developed in 2014)
- Fund seminars for attorneys, judges educating on primacy of state authority and other mission work (to be developed in 2014)
- Fund administrative support for the LSAT

First steps:

TIMELINES

2013

- Submit NCN – *DONE*
- Prepare LOI – due May 13, 2013 – *LOI ACCEPTED AND WE HAVE BEEN INVITED TO SUBMIT A FULL PROPOSAL –due August 16th*
- Executive Committee will continue to perfect the legal strategy and give direction on populating the LSAT – *WORK TO BEGIN AFTER N. A. DISCUSSION*
- Continue to work with Legal Committees to garner support for LSAT and the legal strategy – *ON GOING*
- Continue to work with pro bono firms as needed to assist in strategically placed briefs – *ON GOING*
- Begin process of organizing the LSAT – *ON GOING*
- Develop training module on state/federal land managing agencies – *ON GOING*
- Get law clerk on board to brief cases, etc. to populate legal analysis for LSAT review – *LAW CLERK ON BOARD FOR THE MONTH OF JUNE AND IS WORKING ON STATE AUTHORITY ISSUES*
- Explore using law school clinics for needed research in coordination with teaching a wildlife law or North American Model law course, host CLE Seminars on primacy of state agency jurisdiction or the N. A. Model, etc. *START LAW SCHOOL CONTACTS AS SOON AS POSSIBLE; PROPOSAL FOR PARTICIPATION HAS BEEN DRAFTED*
- Utilize state detail(s) if available to assist in developing legal strategy

2014

- Have LSAT in place and working under the direction and supervision of AFWA's Executive Committee. Will need administrative support for the LSAT. Ideally, this would be a full time legal assistant. *LOI SUBMITTED WOULD PROVIDE FUNDS TO DO THIS.*
- Have broad Legal Committee(s) participation and interest. *ONGOING*
- Fund grant program for attorneys advancing primacy of state authority and other mission work (an example of a grant program would be the NRA Civil Rights Defense Fund).
- Fund seminars and other outreach for attorneys, judges educating on primacy of state authority and other mission work
- Discuss with in-house counsel and law firms retained by manufacturers to tie in industry/agency work with LSAT on common issues such as public access, pending legislation.

DEVELOPING THE LEGAL STRATEGY AND BUILDING LEGAL CAPACITY

CHECKLIST

- DEVELOP OUTLINE OF LEGAL AUTHORITY- DONE, BUT CONTINUE TO ADD TO IT
- DRAFTED MOU WITH FWS RE TRAINING MODULE FOR STATE AND FEDERAL EMPLOYEES – DONE, IN CIRCULATION FOR REVIEW/SIGNATURE
- PRESIDENT VONK'S WORK GROUP ON STATE AUTHORITY AND ITS RECOMMENDATIONS – RECOMMENDATIONS COMPLETED BY AFWA ANNUAL MEETING 2013
- LEGAL COMMITTEES ARE BEING BRIEFED AND ARE SUPPORTING CONCEPTS
- REGIONAL ASSOCIATIONS ARE BEING BRIEFED AND CONCEPTS WELL RECEIVED
- PREPARING IN-HOUSE GENERIC BRIEF TO USE IN COURT IN SEVERAL JURISDICTIONS ON STATE AUTHORITY
- PREPARING AFWA/STATES' WESTERN GREAT LAKE WOLVES AMICUS BRIEF AND MOTIONS FOR FILING IN THE *HSUS V DOI*, DISTRICT OF COLUMBIA LAWSUIT
- CONTINUE TO DEVELOP RESEARCH TOPICS SUCH AS HUNTER ED/SAFETY LAWS, SHOOTING RANGE STATUTES UPDATES, RECREATIONAL TRESPASS – ALL COMPLETED. ADDITIONAL TOPICS INCLUDE ALL ACCESS STATUTES, WHAT STATES OFFER FREE OR DISCOUNT LICENSE SALES AND HOW DOES IT AFFECT STAE LICENSE CERTIFICATION AND OTHER TOPICS

- CONTINUE TEACHING WILDLIFE LAW CLASS AT MSU COLLEGE OF LAW. EXPLORE ONLINE WILDLIFE LAW CLASS FOR OTHER LAW SCHOOLS
- LAW ARTICLE ON THE N. A. MODEL OF WILDLIFE CONSERVATION WITH THE LEGAL UNDERPINNINGS FOR THE SEVEN PRINCIPLES COMPLETED AND READY FOR EDITTING/PUBLICATION
- LAW CLERK OR LEGAL ASSISTANT HELP NEEDED; LAW CLERK IN PLACE IN MICHIGAN AT MSU COLLEGE OF LAW TO ASSIST WITH RESEARCH PROJECTS FOR THE NEXT 6 MONTHS
- DRAFTED PROPOSAL ON HOW LAW SCHOOL CLINICS MIGHT ASSIST US. NEED TO SHOP THIS TO LAW SCHOOLS
- SPOKE TO POTENTIAL HEAD OF OUR LSAT (PAUL LENZINI); PAUL EXPRESSED INTEREST
- SHARE WITH AFWA STAFF PENDING ISSUES THAT AFFECT STATE AUTHORITY TO HEIGHTEN STAFF AWARENESS OF OUR LEGAL STRATEGY
- PRESENT AT LAW SEMINARS (CURRENT DOING TWO); LOOK FOR OTHER VENUES
- CONTINUE TO PERFECT THE “BIG ROCKS” DOCUMENT THAT TIES IN LEGAL STRATEGY, INDUSTRY/AGENCY COALITION, COUNCIL (WORK WITH LARRY TO FINALIZE)
- INDEX THE RESOLUTIONS – NEED TO GET A SEARCH ENGINE TO MAKE THE MATERIAL RETRIVABLE
- SAME WITH THE RESEARCH WE HAVE DONE ON HISTORY OF PR, OUR PROCEEDINGS, AND OUR RESEARCH BANK
- MAKE THIS AVAILABLE TO STATES’ AND USER FRIENDLY
- NEED TO JOIN AND PARTICIPATE IN THE D. C. BAR ASSOCIATION TO GET TO KNOW THE LAWYERS/SOLICITORS/DOJ STAFF THAT REPRESENT THE FEDERAL LAND MANAGING AGENCIES
- TALK TO OUR STATE DIRECTORS, PARTICULARLY THOSE IN OUR LEADERSHIP ABOUT IDEAS AND THEIR CONCEPTS/NEED FOR AFWA’S LEGAL STRATEGY – WHAT ARE WE MISSING, WHAT CAN WE DO BETTER? STATE DIRECTORS ARE OUR BEST AMBASSADORS FOR ADVANCING AFWA’S LEGAL STRATEGY

HOW TO BUILD CAPACITY

- WE CAN’T HIRE MORE LAWYERS
- MEETING SCHEDULED WITH LAW FIRMS IN ARIZONA TO EXPLORE PRO BONO FIRM CONTACTS (TENTATIVE DATE 8/29/13)

- LOI FUNDING PROPOSAL SUCCESSFUL AND WE HAVE BEEN INVITED TO SUBMIT FULL PROPOSAL FOR MULTI-STATE GRANT FUNDING (CAN'T SUE FEDERAL GOVERNMENT WITH FEDERAL FUNDS)
- DEVELOP A SEARCH ENGINE FOR NEEDED LEGAL RESEARCH SO THE STATES CAN RETRIEVE RESEARCH WOULD BE HELPFUL TO THE STATES.

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