

**MINUTES OF THE MEETING  
ESTUARY HABITAT RESTORATION COUNCIL  
AT HEADQUARTERS, U.S. DEPARTMENT OF AGRICULTURE  
JEFFERSON DRIVE, S.W., WASHINGTON, DC  
June 12, 2003**

The meeting convened at 10:05 a.m., with the following members present:

- **Mr. George S. Dunlop**, Deputy Assistant Secretary for Policy and Legislation, Civil Works, Department of the Army, Chairing;
- **Mr. R. Mack Gray**, Deputy Under Secretary for Natural Resources and the Environment, U.S. Department of Agriculture;
- **Mr. Timothy R.E. Keeney**, Deputy Assistant Secretary of Commerce for Oceans and Atmosphere (NOAA);
- **Dr. Steven A. Williams**, Director, U.S. Fish and Wildlife Service, Department of Interior;
- **Mr. Benjamin H. Grumbles**, Deputy Assistant Administrator (representing the Assistant Administrator) for the Office of Water, U.S. Environmental Protection Agency.

**I. INTRODUCTORY COMMENTS:**

**Mr. Dunlop** welcomed participants and thanked USDA for providing the Council meeting space. He noted that Congress is considering resolutions designating a National Oceans Week and acknowledged the importance of this potential measure. He also noted that the Pew Oceans Commission recently issued its final report and that the U.S. Commission on Ocean Policy is due to release its final report this fall. Mr. Dunlop then provided the following updates on Council-related activities: (1) the Council's estuary restoration strategy was published in the Federal Register on December 3, 2002 and (2) Congress appropriated \$1,000,000 for estuary restoration projects in the February 2003 Omnibus Appropriations Act. He additionally noted that the Council workgroup developed alternatives for identifying potential restoration projects to submit to the Secretary of the Army for funding. These alternatives will be discussed during this meeting.

**Mr. Keeney** introduced himself as a new member of the Council, and stated that he was looking forward to working with the other Council members to implement the ERA.

**Mr. Gray** stated that it was nice to see the \$1,000,000 appropriation come through so that restoration project work can be started. He is looking forward to the future work of the Council.

**Mr. Grumbles** stated that he was formerly involved in the Estuary Restoration Act (ERA) proceedings on the Hill and though the Act is not the sole forum for restoration, it is one with a broad constituency. He added that EPA's strategic plan includes a goal to protect or restore 250,000 acres of estuarine habitat by 2008. Additionally, the Agency's Watershed Initiative recently provided for \$15,000,000 in funding for 20 watersheds projects around the country, including three estuaries.

**Dr. Williams** highlighted again that the Council completed its restoration strategy and that \$1,000,000 has been appropriated for restoration projects. Dr. Williams stated that he was looking forward to using this meeting to continue to move the process along for getting appropriations out to projects. He also commented that the development of partnerships is one of his primary objectives as Director of the U.S. Fish and Wildlife Service, and that he is pleased to be able to work in this way with the Council.

**Mr. Dunlop** stated that the Council is a collaborative body and the purpose and mission of the ERA is getting agencies together in a collaborative relationship.

## II. APPROVAL OF MINUTES:

Dr. Williams moved and Mr. Keeney seconded that the Minutes of the August 28, 2002 meeting be approved. Approved unanimously.

## III. APPROVAL OF AMENDED COUNCIL PROCEDURES:

**Ms. Cynthia Garman-Squier**, Department of the Army, discussed revising Council procedures based upon certain operational realities identified over the past year. Proposed amendments included: (1) scheduling Council meetings at a minimum biannually, rather than quarterly, (2) removing the directive to schedule a subsequent Council meeting, when possible, prior to the conclusion of a current meeting, (3) allowing for the delegation of Council member authority via electronic as well as written notice, (4) providing for distribution of Council meeting minutes to Council members within a reasonable period of time, rather than a set two weeks, and (5) allowing for approval of meeting minutes by the Council chair alone.

**Mr. Gray** moved that the amended Council procedures be approved. Mr. Keeney seconded the motion. Approved unanimously.

## IV. REPORT ON TRENDS WORKSHOP:

**Dr. Mary Baker**, NOAA, discussed the Trends Analysis Workshop held at NOAA March 26 - 27, 2003. The workshop was conducted to identify habitat data sources, trends programs and tracking mechanisms and had federal and state agency participation. It was the first step towards achieving the trends analysis called for in the ERA Strategy and resulted in specific follow-up actions for the participating agencies. Dr. Baker stated that results of the analysis will assist the Council in making strategic decisions on restoration funding priorities. Notes from the workshop were provided to the Council members and Dr. Baker offered to provide them to members of the public upon request.

**Mr. Dunlop** noted the extensive commitment of the various agencies in attendance at the workshop and thanked NOAA for organizing and hosting it. He asked if the Council workgroup had a process to vet issues arising from the workshop and whether the workgroup may need additional input from the Council.

**Dr. Baker** and **Ms. Kathi Bangert**, U.S. F&WS, replied that the workgroup is still in the process of gathering data and assessing where things stand and that they may come back to the Council for additional direction and insight at a later date.

**Mr. Dunlop** added that similar issues have been addressed in other venues, such as by CEQ and in the Heinz Report. He suggested that the workgroup speak to members of these entities to find out how they addressed issues of concern. He also suggested speaking with Assistant Secretary Scarlett.

**Mr. Grumbles** underscored the need for more monitoring data and trends identification.

## V. REPORT ON MONITORING AND DATABASE STATUS:

**Dr. Rebecca Allee**, NOAA, discussed development of monitoring protocols as required by the ERA. Projects funded under the Act will be required to meet the established protocols. Dr. Allee presented a draft of seven minimum monitoring elements to be considered as part of these protocols.

**Mr. Keeney** and **Mr. Dunlop** expressed interest in being able to assess restoration projects by measuring the success of habitat function and asked if the monitoring requirements would get at this issue.

**Dr. Baker** responded that the monitoring requirements will be based upon the goals of the project; an area is considered restored if the project goals are met, as determined by monitoring. These goals will of

course vary depending on the nature of each project, but a core group of monitoring parameters, including those measuring habitat function, will be required.

**Mr. Dunlop** stated that comparison of a project site to reference sites is a key part of monitoring but that it could be a costly burden, potentially making certain low-budget projects infeasible.

**Mr. Keeney** asked how one could determine if a project is successful without the use of reference sites.

**Mr. Dunlop** responded that perhaps a menu of required criteria could be developed to compare project results to, in order to determine if they have achieved their goals.

**Dr. Williams** asked for an explanation of monitoring "fauna". He also asked if the workgroup had considered monitoring energy flow.

**Dr. Baker** responded that monitoring of fauna would vary by project and gave the example of an oyster reef restoration project in which use of the reef by fish is one of the project goals. In this case, measurement of fish abundance would be a faunal monitoring requirement.

**Dr. Allee** stated that the workgroup had not considered monitoring energy flow other than faunal and vegetation productivity. She added that getting to this level of monitoring may be an overly burdensome requirement for some projects.

**Ms. Amy Zimmerling**, NOAA, presented an update on the National Estuary Restoration Database being developed by NOAA. The database, she said, will serve as a clearinghouse for restoration information and will be available to assist practitioners. Data from projects funded under the ERA, as well as from other projects, will be included in the database. Assistance is needed from the Council's member agencies in order for NOAA to obtain and incorporate data associated with outside-NOAA projects. NOAA has decided to include compensatory mitigation project information in the database, however acres associated with these projects will not be counted toward the million-acre restoration goal under the ERA. The database is currently being coded for the Internet and will go on-line this fall. Database capabilities will be expanded during a second phase of development to include mapping capabilities using Geographic Information Systems (GIS).

**Mr. Dunlop** asked whether other agencies' habitat classifications will conform to NOAA's classification system used for the database and whether any action is needed to assure conformance.

**Dr. Allee** responded that NOAA plans to go through the Federal Geographic Data Committee to formalize the classification system. She said there has been other agency involvement in development of the classification system but it has not been formally circulated with the agencies; this will be done.

**Mr. Grumbles** asked whether the database will be populated solely with NOAA project data when it goes on-line in the fall.

**Ms. Zimmerling** replied that it will contain mostly NOAA projects but will also include Gulf of Maine projects

**Mr. Grumbles** noted that the database should clearly distinguish between compensatory and non-compensatory projects.

**Ms. Zimmerling** replied that the top of the database page for compensatory projects will say "Compensatory".

**Dr. Allee** reminded the Council that there are additional cases, beyond being part of a compensatory project, where restored acreage listed in the database will not be counted toward the million-acre goal under the ERA. She stated that projects will have to meet additional criteria, such as completion after passage of the Act.

**Dr. Baker** noted that database information will also be used to form the Council's reports to Congress.

**Mr. Gray** referred back to the prior monitoring discussion and asked whether projects funded under the ERA will also have their monitoring requirements supported by appropriations under the Act.

**Dr. Allee** and **Dr. Baker** responded that the ERA requires the non-federal project sponsor to fund monitoring other than during construction or pre-construction.

**Mr. Gray** expressed concern that non-federal sponsors might worry about taking on an unbounded and un-funded responsibility.

**Dr. Baker** replied that the intent is to balance the need to demonstrate project functionality and success with awareness that monitoring requirements should not carry a prohibitive cost of project construction. Additional discussion on this topic ensued.

## **VI. PROPOSAL SOLICITATION PROCESS:**

**Ms. Ellen Cummings**, U.S. Army Corps of Engineers, presented background on the selection process for projects to be funded under the ERA. She noted that the workgroup initially put together a process, with a timeline of 145 days, but that this process was put on the back burner when it looked like no monies would be appropriated. When the \$1,000,000 came through, the workgroup went back to the project selection process and became aware that the Paperwork Reduction Act (PRA) would apply to proposal solicitations, regardless of the format of the request-for-proposals. Since the PRA process would take upwards of 90 days to complete, the workgroup then considered other options, including obtaining a PRA waiver and selecting projects from existing proposals within the Council member agencies. Ms. Cummings then asked for the Council's vote on whether (1) to use existing project proposals while simultaneously completing PRA requirements or (2) to wait until PRA requirements are completed to request new project proposals. Discussion of the pros and cons of each alternative followed.

**Mr. Gray** asked whether the \$1,000,000 is no-year money.

**Ms. Cummings** affirmed that it is no-year money.

**Mr. Keeney** stated that not using the money within the current fiscal year could influence Congress' ERA appropriations in the coming year.

**Ms. Cummings** stated that the workgroup recommends the first alternative as a means of expediting the process.

**Mr. Gray** stated that he was in favor of the recommended alternative.

**Mr. Grumbles** stated supported of the recommended alternative with the provision that the project proposals being considered meet the parameters and goals of the ERA.

**Mr. Gray, Mr. Keeney and Dr. Williams** concurred.

**Mr. Keeney** moved that the recommended alternative be approved. Approved unanimously.

**Mr. Gray** asked in retrospect, whether people knew of projects in need of funding that were not sitting on agency shelves in proposal format. A discussion followed which indicated that for this batch of money, there are plenty of good, existing project proposals at the agencies and that new proposals will be solicited under any future appropriations.

## **VII. REPORT ON THE NATIONAL CONFERENCE ON COASTAL & ESTUARINE HABITAT RESTORATION:**

**Mr. Steve Emmett-Mattox**, Restore America's Estuaries, presented an overview of the National Conference on Coastal and Estuarine Habitat Restoration held in Baltimore, Maryland April 13-16, 2003. He thanked the Council member agencies for their support of the conference. The conference, he said, had 825 participants representing every U.S. coastal state as well as Canada and England. Every sector and discipline within the restoration community was also represented. There were 106 sponsors for the conference and 200 people made presentations in 50 concurrent sessions on six different themes. Mr. Emmett-Mattox pointed out that these numbers speak to the strength and size of the restoration movement. He also noted that a number of conference participants communicated a great deal of interest in the implementation and funding of the ERA. Restore America's Estuaries is now planning a second restoration conference for fall 2004.

## VIII. PUBLIC COMMENT

**Ms. Suzanne Giles**, Restore America's Estuaries, congratulated the Council and workgroup on their forward momentum and noted, with regard to the earlier trends analysis discussion, that though there is a need for more habitat data, there is still a good deal of existing data. She stated, therefore, that she would not want to see the analysis process slowed down.

**Mr. Dunlop** agreed that there is existing data, however he said, it is not necessarily collected in one spot.

**Ms. Giles** conveyed her support of the draft monitoring protocol and said she would be concerned with leaving any of the elements out of the final protocol. She added that there are ways to make sure that the reference site issue is not overly burdensome.

**Mr. Dunlop** replied that reference sites are going to be a tough issue and that the Council would welcome any insight on the topic. He asked that Restore America's Estuaries look into that matter and provide whatever guidance possible to the Council.

**Mr. Grumbles** added that it would be useful to ascertain whether non-federal project sponsors would be able to deal with the monitoring requirements as drafted.

**Ms. Giles** offered to take the draft monitoring protocol to Restore America's Estuaries' member groups.

**Mr. Dunlop** replied that the Council so requests.

**Ms. Garman-Squier** noted that, as specified in the ERA, NOAA has final authority on the monitoring protocols. Discussion then took place regarding the method of circulating the draft minimum monitoring requirements. It was concluded that this would be done informally and would not necessitate Federal Register publication.

**Mr. Dunlop** recognized NOAA's authority on the monitoring issue and said that the Council would operate according to the appropriate chain of command.

There being no further public comment, the meeting was adjourned at 12:00 p.m.