

New Mexico Habitat Stamp Program

Procedure Manual

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Middle Rio Grande Chapter NWTF volunteers install Antelope Wells
Trick Tank for Turkeys (CF-2006-09) in Datil Mountains July 2006.

**PROCEDURE MANUAL
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**NEW MEXICO DEPARTMENT OF GAME AND FISH
USDA FOREST SERVICE
USDOJ BUREAU OF LAND MANAGEMENT
CITIZEN ADVISORY COMMITTEES**

**Habitat Stamp Program
PROCEDURE MANUAL**

INTRODUCTION

Under authority of the Sikes Act (Appendix 1) the New Mexico Habitat Stamp Program (HSP) was implemented in New Mexico on an experimental basis in 1985. In 1991, following careful review and evaluation, the New Mexico State Game Commission adopted a rule (Appendix 2) making the program operational statewide. The purpose of the program is to plan, develop, maintain, and coordinate conservation and rehabilitation programs that are designed to have a positive impact on wildlife and fish populations. Methods and procedures shall include all activities associated with scientific resources management. These include, but are not limited to; protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking.

The procedure manual has been designed to provide efficiency, consistency, and continuity in the HSP. It will aid all participants in planning and understanding the duties and responsibilities associated with this program. This document is dynamic in nature and subject to revision as deemed necessary.

ORGANIZATIONAL STRUCTURE

The program is a partnership between the New Mexico Department of Game and Fish (NMDGF) and the federal land management agencies of USDOJ/ Bureau of Land Management (BLM) and USDA/ Forest Service (USFS). This partnership is codified by a Memorandum of Understanding and Joint Powers Agreement (Appendix 3).

The State Game Commission (SGC) provides citizen-oversight of the program and has authorized the HSP until March 31, 2011. For administrative purposes the state has been divided into five regions. These regions coincide with established BLM Field Offices and USFS National Forests (Table 1).

An Interagency Committee (IC) and a Citizen Advisory Committee (CAC) administer the HSP in each region. The organizational structure of the HSP is illustrated in Figure 1. An Executive Committee (EC), comprised of an administrative representative from each agency, was formed to establish and review changes to statewide operational guidelines. These guidelines insure consistency in program operation on a statewide basis. Membership of the ICs is comprised of personnel from each of the participating agencies in the HSP regions. These personnel are responsible for **proposal submission**, update of planning documents and project implementation, monitoring, and maintenance. The CACs are comprised of nominees appointed by the SGC. These committees solicit public input for HSP projects, offer direction to the ICs, and prioritize projects. A liaison representative from the SGC works on behalf of the commission to provide further oversight.

Once the entire Commission has approved a project, the liaison can review and approve project changes.

Table 1. New Mexico Habitat Stamp Program Administrative Regions

Central Region

Cibola National Forest (excluding the Kiowa National Grasslands)
Rio Puerco Field Office

Northwest Region

Jicarilla Ranger District/Carson National Forest
Farmington Field Office

Northeast Region

Carson National Forest (excluding the Jicarilla Ranger District)
Santa Fe National Forest
Kiowa National Grasslands
Taos Field Office

Southeast Region

Lincoln National Forest
Carlsbad Field Office
Roswell Field Office

Southwest Region

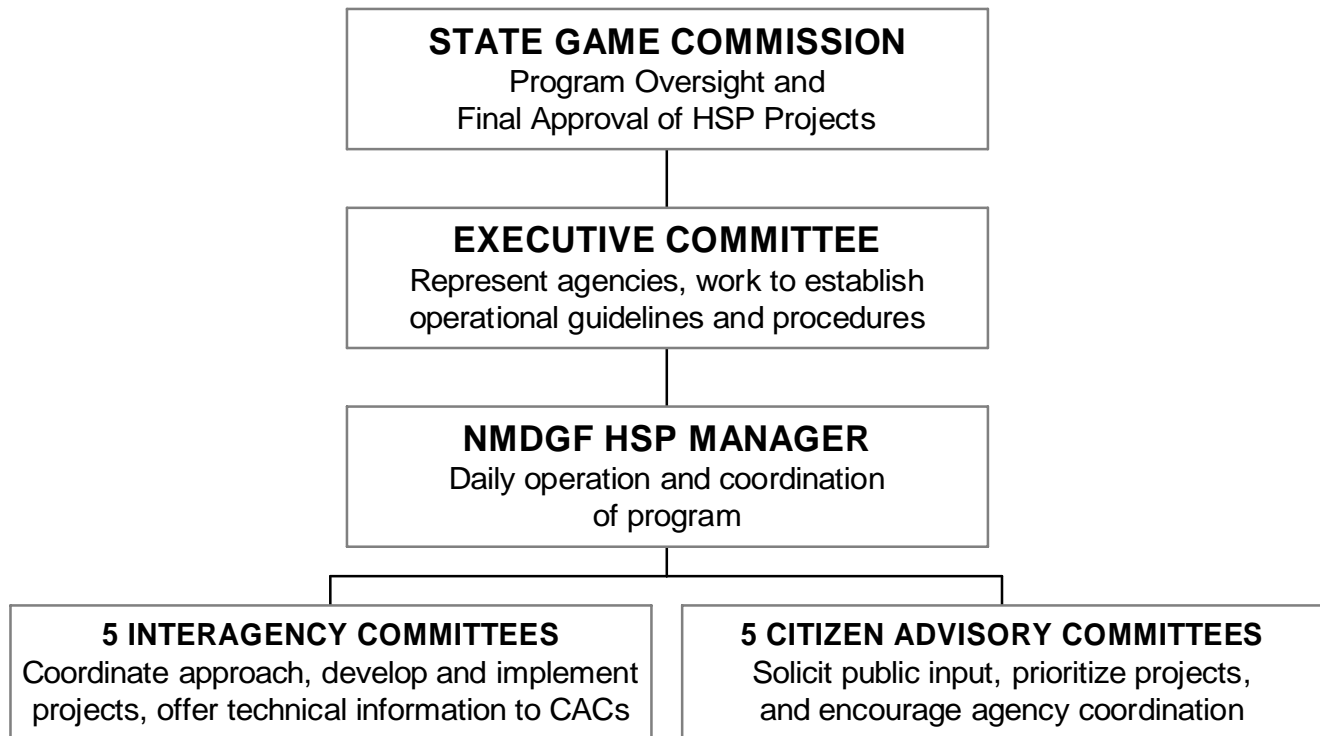
Gila National Forest
Coronado National Forest (New Mexico portion)
Socorro Field Office
Las Cruces District Office

Executive Committee (EC)

Membership on the Executive Committee (EC) shall be limited to one representative from each of the participating agencies. The respective agency directors appoint these representatives. Meetings may be called by any member of the committee or requested by the NMDGF's HSP Manager (Manager).

Responsibilities

The EC establishes operational guidelines related to overall program implementation. They represent the program back to their respective agency executives.

Figure 1. Habitat Stamp Program Organizational Structure**HSP Manager (Manager)**

The HSP Manager is a term-employee of the NMDGF and is administratively attached the Conservation Services Division. The position is funded as part of an administrative cost that is not to exceed 10% of the annual HSP budget. Funding for project work, project monitoring, and education and outreach efforts shall not be considered administrative costs.

Responsibilities

The primary responsibility of the Manager shall be to manage daily operations and coordination of the program. Specific duties are to schedule and staff EC and Citizen Advisory Committee meetings, schedule and chair Interagency Committee meetings, submit and obtain approval of budgets, issues tracking/completion report templates, and account for and publish an annual Implementation Report of expenditures and accomplishments.

Fiscal Monitoring

Project status, cost, and accomplishments are reported via annual tracking/completion reports. It is the responsibility of the Manager to issue an annual tracking/completion report templates the first week of May to agency coordinators for completion. The reports shall be completed be returned by agency coordinators by June 1st.

Information from these reports will be compiled by the Manager, published in an annual *Implementation Report*, and distributed to interested stakeholders (CACs, ICs, EC, and SGC).

Interagency Committees (ICs)

An Interagency Committee (IC), comprised of no more than three formal representatives from each agency represents each HSP region of the state, of which one will be designated the agency coordinator for that region. NMDGF Area Habitat Specialists shall coordinate HSP activities in their respective regions. Other agency-personnel are encouraged to attend IC meetings. Meetings are scheduled and chaired by the HSP Manager.

Responsibilities

The primary responsibility of the ICs shall be to discuss and agree upon a coordinated management approach to annual program planning and implementation. IC members shall also provide for efficient project proposal submission, reporting, and interagency assistance with education/outreach responsibilities. Members shall provide technical and biological information to the CACs. It is the responsibility of IC members to communicate the activities and requirements of the HSP to their respective agency field and administrative personnel. All interagency personnel will adhere to policies and procedures contained within HSP documents.

Citizen Advisory Committees (CACs)

Each CAC consists of seven (7) members. The **SGC** makes CAC appointments as follows:

- Five members representing the sport hunting, fishing and/or trapping public,
- One member representing the public land permittees or lessees, and
- One member representing the environmental public or a non-consumptive wildlife user's organization.

The term of CAC members shall be for **two or three years creating staggering terms to allow continuity of membership.**

It is the responsibility of the Manager to submit names, addresses, employment, and interests of CAC nominees to the commission liaison should it be necessary to replace a committee member for any reason.

The CAC members shall elect a chairperson, vice-chair, and education/outreach representative. Business shall be conducted using Robert's Rules of Order. If the chairperson is unable to complete his/her term or attend a meeting, the vice-chair will assume the chair and the education/outreach representative will assume the role of vice-chairman. The acting chairperson shall appoint an education/outreach representative. The role of the education/outreach representative will be to coordinate and promote program activities such as field trips and serve as conduit for developing regional plans. The representative will maintain a scrapbook of committee activities that shall be forwarded to future committee members.

During meetings, it is the responsibility of the Manager to fill the position of secretary for each CAC. Duties shall include calling the roll, reading of the notes from the last meeting (if requested by CAC chairperson), and recording the notes of the current meeting. Notes will include an official attendance list. Notes of each meeting will be distributed to CAC and IC members.

Responsibilities

In cooperating with the USFS, BLM, and NMDGF, the CAC shall provide input and advice on project submissions, planning documents, and program direction. CACs are authorized to prioritize, review and make recommendations on expenditures of the HSP. Nothing herein

authorizes imposing actions, setting policy or otherwise directing the actions of the cooperating agencies. CAC members are expected to contact and represent the interests of their constituents and develop constructive relationships with the Manager, IC and EC members.

Public Participation

Public attendance will be permitted and encouraged in all aspects of the HSP including meetings, field trips, and project implementations.

PROJECT GUIDELINES

All HSP projects must fall within the guidelines of the Sikes Act (16USC670a). In response to public input, program emphasis has been placed on projects that will have a direct benefit to habitat improvement or rehabilitation. The statewide planning document calls for a minimum of 80% of all annual projects to be directed toward habitat improvement. This does not imply that other types of projects (protection, research, census, law enforcement, propagation, live trapping and transplantation, and regulated taking) are not legitimate HSP projects.

Project proposals shall be accompanied with suitable location maps. These maps can be hand drawn, but suitable for black and white photocopying. Such maps shall at a minimum include:

1. a vicinity diagram which orients the reader to a generally known city or landmark,
2. a demonstration of the context or juxtaposition of previously completed projects, and
3. the project's actual location.

Depending on circumstances, all three components can be portrayed on a single map.

Legal opinions have been, and will continue to be, requested when questions concerning the use of HSP funds arise. Appendix 4 contains the various opinions of solicitors that have been sought to date.

The HSP project year is July 1st through June 30th. The Manager may remove a project proposal from the agency submissions if it falls outside of HSP guidelines or if the proposal is deemed as unsuitable. The agency's coordinator may appeal, in writing, any removal action to the EC. The decision of the EC will be final.

Project Proposal Submissions

The process for submission of HSP project proposals is illustrated in Figure 2. To facilitate agency planning and budgeting concerns, projects are designed, prioritized, and approved two years in advance of implementation. Beginning with 2009 proposals, once a proposal receives preliminary or tentative approval for funding from the SGC, project leaders shall have one year to complete all clearances (cultural, threatened and endangered, etc.). Those proposals up for final approval by the SGC the following year, and in which clearances were not completed, shall be withdrawn. These proposals may be resubmitted upon completion of clearances. An annual planning calendar will be adhered to by the ICs and CACs (Table 2).

Public Submissions

Project proposals originate from a variety of public sources, including citizens, clubs, and CACs. Proposals from the public are encouraged and project proposal forms are available in all NMDGF offices or on the website www.wildlife.state.nm.us. Public proposals may be submitted to agency offices, members of the CACs, or sent directly to the Manager. The Manager is responsible

for responding to the proposal with a letter of acknowledgment. Copies of the acknowledgment letter and proposal will be forwarded to the appropriate agency in the appropriate region. The agency(s) is responsible for proposal review. This review will include project feasibility and compatibility with agency land-use planning documents. Appropriate public proposals will be submitted to the CAC in the first planning period possible. The appropriate agency is also responsible for notifying public project initiators, by letter, of the final project status. A copy of this letter will be forwarded to the Manager. All public proposals will be brought to closure.

Figure 2. Habitat Stamp Program Project Proposal Submission Flow Chart

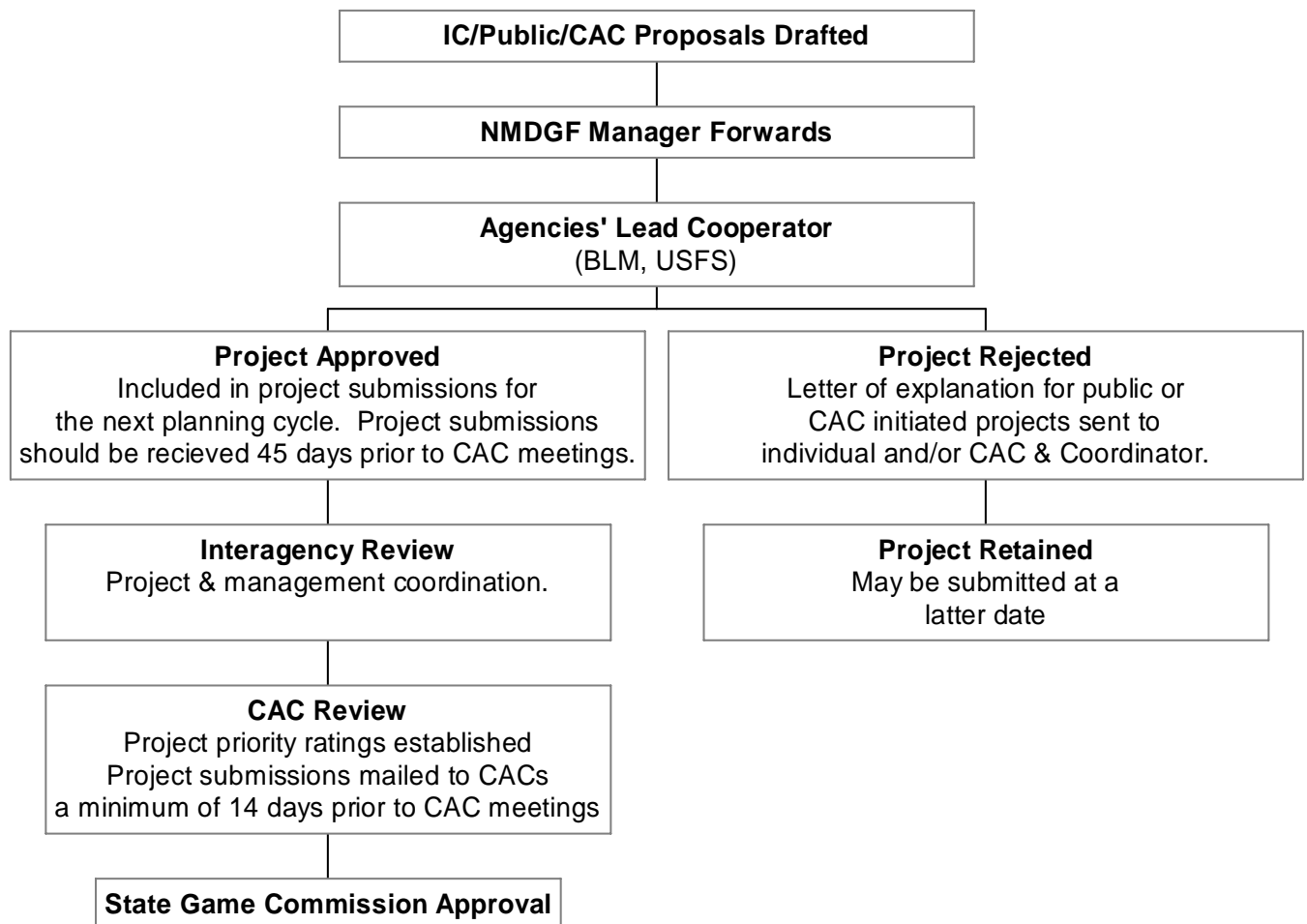


Table 2. Habitat Stamp Program Annual Planning Calendar

Calendar Dates	Activity
Year round	Public presentations emphasizing program information, accomplishments, and seeking public input.
September - January	Agency personnel (BLM, USFS, & NMDGF) coordinate a management approach, prepare project proposals, and proposed amendments to planning documents.
January 31	Project proposals and proposed amendments to existing proposals are due by mail, but preferably by e-mail to the Manager.
January - March	Interagency meetings (proposal review & coordination)
March -May	CAC meetings (review project proposals, project-monitoring presentations, make amendments, & prioritize proposals).
June 1	Annual tracking/ completion reports due to Manager.
June	Final draft of prioritized proposal lists prepared by Manager and presented to SGC. Upon approval for funding, proposals become projects.
Early July	Funds allocated to cooperating agencies.
July-September	USFS Annual Operation Plans signed and submitted to Manager.
As early as July 1	Project work begins.

Project Quality

The implementation of projects designed to improve habitat for wildlife and fisheries involves both art and science. Mistakes will occur. However, it is the intention of the program that all projects will be designed, engineered, and implemented to minimize the number of unsuccessful projects. Both the USFS and BLM have mechanisms in place for review of projects. Agency personnel will continue to utilize internal and, if necessary, external expertise or peer-review when designing and engineering HSP projects. It is the duty of all cooperators to share information on project failures and successes with others to improve overall program performance.

Interagency Project Planning

The HSP serves as a supplemental funding mechanism for wildlife conservation practices by participating agencies; making it possible to implement on-the-ground projects that may otherwise not be funded through regular agency appropriations. It is to the benefit of all-participating agencies and stakeholders to discuss project proposals through coordinated planning. Regional interagency (USFS, BLM, and NMDGF) personnel shall meet as needed to develop plans of work and to budget funds needed to carry out the provisions of this program. With public input, the parties shall develop plans that will designate the conservation and rehabilitation projects to be accomplished and allocate the necessary funds from habitat stamp receipts to the responsible agency to carry out such work. The assignment of projects and allocation of funds shall be documented.

The NMDGF believes that the maintenance of existing HSP structures are of high priority, but equally supports and encourages landscape-scale, long-range habitat improvement planning. As such, the Department recommends that citizen advisors favor proposals derived from this type of

planning effort. To be considered as part of a “landscape-scale, long-range” plan, a proposal derived there from should:

- Be within a clearly defined geographic area (i.e. watershed, a wildlife population’s range, key habitat, body of water, etc.).
- Be part of a suite of past and future habitat improvement projects targeted toward accomplishment of a clearly defined benefit to wildlife.
- Systematically define and address limiting habitat factors of the targeted wildlife.
- Be submitted in a format that delineates phases of the whole that could be accomplished as prioritized by Citizen Advisors, and
- Specifically identify partners and their roles in funding and monitoring the effect of cumulative habitat improvements.

Coordination between CACs and Agencies

At least once per year, the CACs and USFS, BLM, and NMDGF representatives will discuss the direction of the HSP in the respective regions. These discussions should include project emphasis, approaches to project implementation (i.e. broad versus focused), planning, and over all program status.

Regional CACs may consider appointment of specific members to oversee projects within geographic areas for more in-depth review. These members should contact agency personnel for more complete project information prior to assigning priority order to these projects by the CAC. Inter-agency members will notify agency personnel when a CAC member has been assigned to their district or field office.

When submitting projects to the CACs for priority rating, the ICs will include information regarding how projects fit within existing planning documents. This information will be provided to allow CAC members to have a more comprehensive view of project purpose.

Field trips will be scheduled to improve CAC members understanding of agency direction and project implementation.

Project Implementation Flexibility

To provide maximum efficiency in HSP operation it is necessary to allow flexibility in project implementation. Minor changes in project design or location may be implemented at the discretion of the implementing agency. “Minor” changes do not change the intent of the project description, purpose, need, and emphasis species as stated on the project development worksheet. The agency leader is responsible for submitting, in writing, a notice of this change to the Manager and the appropriate CAC chairman.

Agencies are expected to fund projects in the order of priority as established by the CACs and approved by the SGC. Project proposals are approved in each planning cycle in excess of anticipated funding. This practice allows flexibility for the agencies to accomplish lower priority proposals if implementation of a higher priority project becomes impractical. When this occurs, the agency will work down the project proposal list and complete the project with the next highest priority rating for which funding is available. During each planning year the agencies and the CACs are given the opportunity to review the priority list for the upcoming year and insert proposals that were not funded on the current project list.

Project Cost Overruns

The SGC **authorizes** a budget for each project. However, occasionally, an individual project incurs a cost overrun. Funding for cost overruns can be obtained from agency funds. However, if additional HSP funds are required, procedures for obtaining such funds follow. Additional sources of HSP funds may be obtained from cost savings incurred on other projects or by deleting lower priority projects that have not been implemented. Under no circumstances does this imply that an agency may exceed the annual regional agency allocation without proper commission authorization.

Procedures for approval to exceed project budget are as follows:

1. The cooperator is responsible for obtaining a verbal approval and funding recommendation from their respective Executive Committee member,
2. The cooperator is responsible for obtaining a verbal recommendation from the appropriate CAC chairman (or vice-chairman if the chair is not available),
3. The cooperator will submit to the Manager an **electronic** letter specifying the original approved budget, the reason for cost overrun, the amount of overage requested, and the source of funds to pay for the overage,
4. The Manager will obtain approval by the EC, and
5. The Manager will forward the letter to the Commission liaison for final approval.

Reimbursement Schedule

Beginning with 2005 projects, all bills for collections shall be submitted by Habitat Stamp Program project number and by fiscal year for expenses documented by internal invoice tracking systems. **Bills can be issued for each project at anytime, but the State needs a bill on June 1** (Fig. 3).

An electronic copy of all monitoring reports shall be submitted with each final monitoring project's bill. Final bills for maintenance projects shall list project name(s), project number(s), and GPS location(s) of each project maintained.

On June 1st of the termination of a project year, a *Project Tracking/Completion Certification* (Fig. 4) shall be submitted to the Manager attesting that each project was:

1. completed to agency standards,
2. appropriately signed, and
3. it's geographic positioning information was provided. **The data projection standard for the HSP is NAD 83, UTM (zone 12 or 13), in meters.**

Beginning with 2008 projects, the practice of carrying over projects will be eliminated. Funds will be available for approved projects from July 1 for 23 months and expire on June 1 the following year (Table 4). To avoid administrative burdens of creating multiple work plans and contracts, cooperators may choose to ignore the 3 months allowed prior to the federal fiscal year and the 8 months provided after the federal fiscal year.

Those projects that have been physically completed during the initial project-year, but invoicing processes have not been completed, shall be reported as "pending" on *Tracking/Completion Reports*. If the project has insurmountable problems, it should be reported as "deleted" (it may be resubmitted as a new project during a future planning cycle).

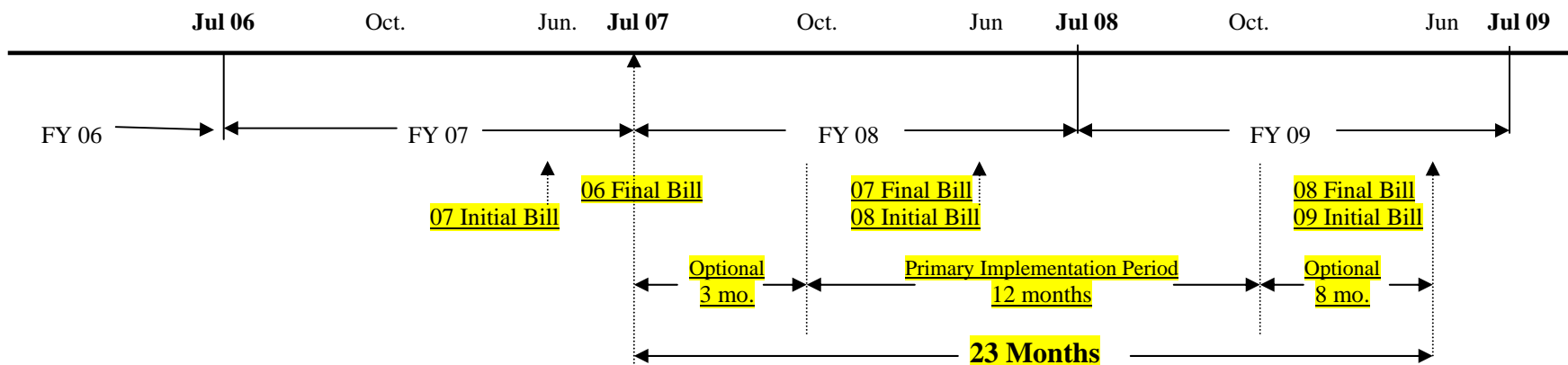
Each **forest's yearly Annual Operating Plan** shall specify the appropriate **HSP project number, project name, HSP approved cost, FS Project Manager, fund termination date, and final bill due date.**

In order to allow NMDGF time to account for and disencumber unused funds, **final** project invoices are due to the Manager by **June 1** the following year. After this period, all unused allocations will be disencumbered by NMDGF and returned to the Sikes Act Fund. Invoices submitted after the corresponding **June 1st** -date may be rejected by the NMDGF. **Failure to submit Tracking/Completion Report in a timely fashion may lead to delay of allocation of the following year's funds to that district or forest.**

Table 3. Project reimbursement deadlines.

Project Year	Initial Project Implementation Dates	Deadline for Projects to be Completed	Max. Months of Work	Final Invoices Due to NMDGF
2005	Jul. 1, 04 to Jun. 30, 05	June 30, 06	24	Dec. 31, 06
2006	Jul. 1, 05 to Jun. 30, 06	June 30, 07	24	Dec. 31 Jun. 30, 07
2007	Jul. 1, 06 to Jun. 30, 07	June 1, 08	23	Dec. 31 Jun. 1, 08
2008	Jul. 1, 07 to Jun. 1, 09	none	23	Jun. 1, 09
2009	Jul. 1, 08 to Jun. 1, 10	none	23	Jun. 1, 10

**Figure 3. Habitat Stamp Program
Financial Officer Timeline**



**Habitat Stamp Program
Annual Planning Calendar
With Action Sequence**

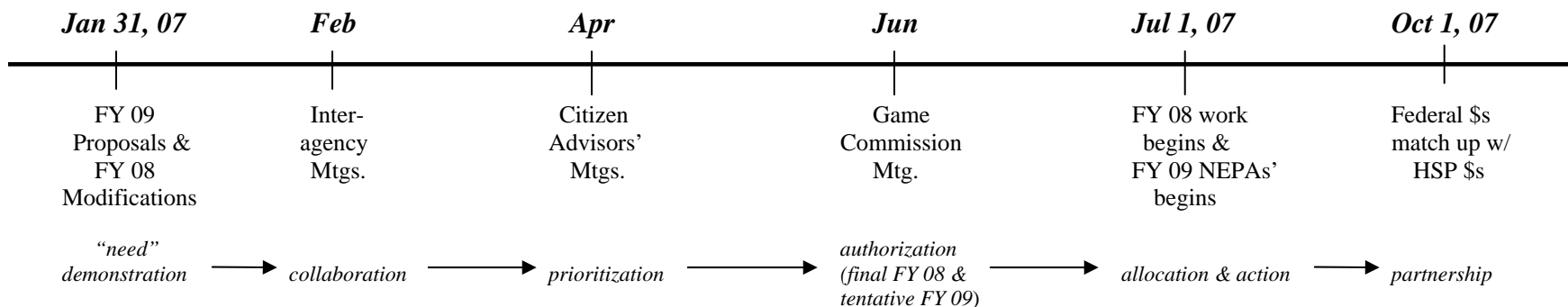


Fig. 4. Sample HSP Project Tracking/Completion Report

Habitat Stamp Project Tracking/Completion Report

The following project(s) were funded in whole or part by the Habitat Stamp Program and authorized under the terms of specific agreements covering such project(s). They were completed to the standards of this agency and HSP procedures. Further, said project(s) is fitted with a program sign as appropriate or that a sign has been ordered for the project and that the global positioning location (the data projection standard for reported coordinates is NAD83, UTM (zone 12 or 13), in meters) is listed below:

Region: Northeast		Agency: Carson Nat. Forest				Project Year: 2005				Plan Obj.	Project Description	NAD 83 Meters Projection			
HSP Project Number (Reg/Agcy-Year-No.)	HSP Project Name	Planned Cost to HSP	Actual Costs to:			Status Code	Year Completed	Units of Accomplishment				GFS Zone	Easting Coordinate	Northing Coordinate	
			HSP	Agency	Other			Total	Proj. Type (ex. 8.)						Sub-type (ex. D)
NECF-2005-01	Carson HSP Maintenance*	15,000	14,708.00			14,708.00						filed in from description on proposal	12		
NECF-2005-03	Mesa Montosa PJ Burning for Deer, Ph. 2	30,000	29,969.59			29,969.59						filed in from description on proposal	12		
NECF-2005-04	Barker WMA Fire Rehabilitation (G&F Proj.)	8,000	0.00			0.00						filed in from description on proposal	12		
NECF-2005-07	Huckaby PJ Burning for Deer, Ph. 2	25,500	25,313.72			25,313.72						filed in from description on proposal	12		
NECF-2005-10	Carson NF GIS Mapping of HSP Projects, Ph. 2	5,000	4,931.00			4,931.00						filed in from description on proposal	12		
NECF-2005-11	Deer Monitoring (STAMP Ph. 2)	100,000	0.00			0.00						filed in from description on proposal	13		
NECF-2005-12	Carson FS ORV/Hunter Patrol	5,000	5,000.00			5,000.00						filed in from description on proposal	13		
TOTAL		188,500	79,922.31	0.00	0.00	79,922.31									

Existing Projects Maintained:

The existing structures/projects that were maintained with Habitat Stamp Program funds during this billing cycle under the Maintenance Project listed below include the following:

HSP Numbers of Projects Maintained	HSP Project Names of Projects Maintained (add rows as needed)	Planned Cost to HSP	Actual Costs to HSP	Actual Costs to Agency	Actual Costs to Other	Total	Status Code	Year Completed	Proj. Type (ex. 8.)	Sub-type (ex. D)	Units (ex. 10)	Plan Obj.	Project Description	NAD 83 Meters Projection		
														GFS Zone	Easting Coordinate	Northing Coordinate

I, _____, certify that the above claims for reimbursement is true and correct. I acknowledge that payment shall be made in reliance upon the correctness of the above certification.

Agency Authorized Signature

Date

STANDING PROJECTS

Standing projects are used by the agencies to simplify project tracking and/or implementation. The following types of standing projects have been identified: monitoring, maintenance, and prescribed burning.

Monitoring Projects

All parties shall cooperate in the gathering and exchange of wildlife harvest, management, and inventory data. The parties agree to monitor fish and wildlife as needed to meet management goals as defined in the comprehensive wildlife management plans and to conduct habitat inventories and surveys to determine habitat condition, utilization, and trend.

Monitoring is an essential element to determining success and making the most appropriate use of limited dollars. Each field offices/forest may submit an annual Monitoring Project. This standing project should itemize all monitoring costs for each project to be monitored during a project year. Monitoring may be contracted to those with appropriate expertise. An electronic copy of all monitoring reports shall be submitted with or before each final monitoring project's bill.

Effectiveness monitoring should be based upon a scientific analysis and methodology. Habitat capability monitoring is an effective procedure to determine if a project's effectiveness. Obtaining baseline data is an often overlooked, but important part of the design and pre- implementation of the project.

Maintenance Projects

All structural HSP projects will be maintained in safe, working condition. Each field office/forest should estimate annual cost requirements and submit an overall maintenance project proposal that lays out a project by project maintenance schedule, itemizing the projects by name and number.

All final maintenance bills must be accompanied by an itemized list of all projects maintained for that project year.

Those wildlife projects not implemented under the HSP are eligible for maintenance funds from the HSP after being adopted into the program's database. Such projects are adopted by providing the Manager an unique HSP number, project name, GPS location of the specific project to be maintained, the approximate year the structure/project was built, a brief description of what the initial and subsequent work that has been completed, current condition of the project, and a digital picture of the project. As a second option, the field office/forest may choose to submit a separate project worksheet for each project to be maintained. As HSP funds are used on all such projects, signing requirements are to be completed.

Responsive management questions indicate that habitat stamp purchasers are concerned because they do not know where their money is being spent. Unless approval is granted from the respective agencies' EC member, a program sign/decal will designate all HSP projects. Efforts shall be made that recognizes all agencies and or groups involved in the project to be displayed on-site, where practical.

Prescribed Burning Projects

Due the conditional “window” that must exist for prescribed burns, a system to allow flexibility in this project area has been developed. At the discretion of the agency, each field office/forest may submit a standing prescribed burn project proposal.

The agency project leader will assign a unique HSP number to the standing project and each sub-burn project annually. (For example, a standing project could be CF-08-20, titled “Cibola Burning”. Sub-projects could be CF-08-20a, “Sandia Mountain Burn for Deer” and CF-08-20b, “Mt. Taylor Burn for Elk”.) **If the burn window opens for either burn, funds allocated in the standing project would be applied; however the funding level on the standing project worksheet shall not be exceeded by implementation of a sub-burn.** A project worksheet for each sub-burn will list the names, legal locations of potential burn areas, major vegetative type, **and the primary animal to benefit from the burn.**

FUNDING

Section 670i, of the Sikes Act states “...that no individual will be permitted to hunt, trap, or fish on any public land within the State which is subject to a conservation and rehabilitation program implemented under this subchapter unless at the time such individual is engaged in such activity he has on his person a valid public land management area stamp issued pursuant to this section.” Authority is given to the cooperating agencies to agree upon the amount of the fee to be charged for such stamps, the age at which the individual is required to acquire such a stamp and the expiration date for such stamps.

With statewide implementation of the HSP, the cost of the stamp was established at \$5.00. Only one stamp is required for each person and the annual expiration date is March 31st. The stamp is required of all licensed persons hunting on public lands administered by the USFS or BLM, except all trappers and anglers under age 12 and resident anglers 70 years of age and older.

Collection of Stamp Fees

The Habitat Improvement Stamp (Habitat Stamp) is sold in all offices of the NMDGF and by hunting and fishing license vendors. Vendor sales are reported monthly to the NMDGF by all vendors. Following reconciliation of the vendor reports, funds are transferred into the HSP account (Sikes Act Fund).

Allocation of Funds

The annual allocation is divided among the participating agencies based upon the proportion of hunting and fishing that occurred on those lands in each HSP Region (Table 3). The recreational use percentages were determined based upon surveys of hunters and anglers. This allocation formula may be reevaluated at the written request of the cooperating agency regional/state directors.

A further division of these funds occurs on a regional basis. Each participating agency will receive a minimum of 35% of the regional allocation except in those cases when the total of the approved projects, for any one project-year, falls below the 35% level. In those situations, the agency in that region will receive the amount necessary to fund those projects on the project list. In the event that a regional agency allocation

exceeds the total approved project cost, the surplus will be allocated to the other agency(s) in that region. The EC and SGC must approve exceptions to this policy.

The percentage of funds to each agency in each region is determined by first allocating each agency 35% of available funding. The remaining allocation is distributed based upon the priority rating of projects as approved by the SGC. The annual allocation is reported to the USFS and BLM in an annual operating budget prepared by the NMDGF.

Table 4. Proportion of HSP Funds Allocated by Region

Region	Percentage
Northwest	14.4
Southeast	24.8
Southwest	19.8
Northeast	22.4
Central	18.6
Total	100%

The Director of the NMDGF shall present to the USFS Regional Forester and BLM State Director the annual budget report. The USFS and BLM will bill the NMDGF upon completion of projects on a reimbursement basis for total expenses documented by internal invoice tracking systems. The total of these invoices shall not exceed the total regional amounts reported in the annual budget report.

The USFS and BLM will maintain summary expenditure reports, by project, documented by their internal invoice tracking systems. The total of these invoices shall not exceed the total regional amounts reported in the annual budget report. BLM and USFS personnel should consult memos in Appendix 4 for direction for inter-agency tracking of funds.

Typically projects implemented by the NMDGF are carried through the approval process by the appropriate federal agency. Provided that funding is available for these projects, the federal agency may authorize transfer of these funds to the NMDGF. In such cases, at the time of allocation, funding will be withheld from the federal agencies by the NMDGF and transferred by a budget adjustment to the appropriate cost center of the NMDGF implementer.

During the planning cycle, the Manager will submit a draft budget for the upcoming project year to the CACs and ICs. From this draft, agency personnel and the CACs will be able to determine, with some degree of certainty, the projects that will receive funding and identify any projects that will be the responsibility for implementation by the NMDGF (surveys, transplants, research, etc.). The NMDGF may use this information to budget for department projects. Following receipt of the official operating budget from the NMDGF, the cooperating agencies will provide letters of authorization to the NMDGF to reduce their agency's allocation by the amount necessary for the department projects.

Administrative Expenses

The deduction of administrative expenses is permitted under authority of the Sikes Act. The participating agencies have agreed that they will meet annually to prepare a draft operational budget. These funds are utilized by the NMDGF for the Manager-position, related expenses, and education/outreach expenditures.

Annual Project Savings

“Annual project savings” are defined as those project monies not spent from an annual allocation. Funds allocated to the USFS and BLM will be disencumbered by the NMDGF and returned to the HSP fund. The amount of these funds will be accounted for through the annual tracking/**completion** reports and agency conformation.

PROGRAM MONITORING

Monitoring is integral to the effectiveness and success of the HSP. Through monitoring, land management specialists and the public can determine how well the HSP is being administered and if stated goals and objectives are being achieved. To assist in the effort to maintain the utmost quality of the program, beginning in fiscal year 2002, contracts **may** be implemented with independent contractors for data collection, analysis, and written reports. Monitoring of a project **may** address four areas of concern: 1) effectiveness, 2) maintenance, 3) fiscal accountability, and 4) alignment with HSP plans.

EDUCATION and OUTREACH

Education and outreach is an important facet of any program that spends money of others. The basic structure of the review and approval process involves the citizenry in decision-making. Procedures are in place for identifying project work and monitoring and reporting their effectiveness. Active efforts are extended to involve volunteers and dignitaries in project construction and oversight. **Volunteer labor is valued and claimed in annual tracking/completion reports at \$15 per hour donated.**

While these efforts and procedures have allowed the program to enjoy high approval ratings by sportsmen and the public, a continued and organized effort to interface the program with the public is mandatory. It is the duty of all those who interact with the program, to continually promote the program and be held accountable for its actions or inactions.

For questions, please contact:

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APPENDIX 1

The Sikes Act

(underline/italics added by manager for emphasis)

(The Sikes Act from the U.S. Code Online, via GPO Access wais.access.gpo.gov [CITE: 16USC670a]. Public Law 93-452, signed October 18, 1974 authorized conservation and rehabilitation programs on Forest Service and BLM lands.)

TITLE 16--CONSERVATION

CHAPTER 5C--CONSERVATION PROGRAMS ON GOVERNMENT LANDS SUBCHAPTER I--CONSERVATION PROGRAMS ON MILITARY RESERVATIONS

Sec. 670a. Cooperative plan for wildlife conservation and rehabilitation

Sec. 670b. Migratory game birds; permits; fees; Stamp Act and State law requirements

Sec. 670c. Public outdoor recreation resources; cooperative plan between Secretary of Defense, Secretary of the Interior, and State agencies

Sec. 670e. Applicability to other laws; national forest lands

Sec. 670f. Appropriations and expenditures

(Details omitted from sections 670a-f by NM Habitat Stamp Manager as they apply to military reservations. Underline/italics added by Manager for emphasis.)

Sec. 670g. Wildlife, fish, and game conservation and rehabilitation programs; cooperation between Secretary of the Interior, Secretary of Agriculture, and State agencies in planning, etc., in accordance with comprehensive plans; scope and implementation of programs

(a) Conservation and rehabilitation programs

The Secretary of the *Interior and the Secretary of Agriculture shall each, in cooperation with the State agencies and in accordance with comprehensive plans developed pursuant to section 670h of this title, plan, develop, maintain, and coordinate programs for the conservation and rehabilitation of wildlife, fish, and game.* Such conservation and rehabilitation programs shall include, but not be limited to, *specific habitat improvement projects* and related activities and adequate protection for species of fish, wildlife, and plants considered threatened or endangered.

(b) Implementation of programs

The Secretary of the Interior shall implement the conservation and rehabilitation programs required under subsection (a) of this section on public land under his jurisdiction. The Secretary of the Interior shall adopt, modify, and implement the conservation and rehabilitation programs required under subsection (a) of this section on public land under the jurisdiction of the Chairman, but only with the prior written approval of the Atomic Energy Commission, and on public land under the jurisdiction of the Administrator, but only with the prior written approval of the Administrator. The Secretary of Agriculture shall implement such conservation and rehabilitation programs on public land under his jurisdiction.

(Pub. L. 86-797, title II, Sec. 201, as added Pub. L. 93-452, Sec. 2, Oct. 18, 1974, 88 Stat. 1369; amended Pub. L. 97-396, Sec. 3, Dec. 31, 1982, 96 Stat. 2005.)

Amendments 1982--Subsec. (a). Pub. L. 97-396 inserted ``of fish, wildlife, and plants" after ``species".

Transfer of Functions Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

Desert Tortoise Plan Pub. L. 100-275, Sec. 12, Mar. 31, 1988, 102 Stat. 60, directed Secretary of the Interior to review status of populations of desert tortoises on lands in Nevada and other States managed by Secretary, other than lands conveyed or leased pursuant to Pub. L. 100-275, assess nature and extent of threats to continued health or stability of such populations on such lands, and prepare a comprehensive plan to address such threats, with Secretary to consult with State officials, other Federal agencies responsible for management of lands where desert tortoise populations are located, the Desert Tortoise Council, and other persons or groups identified by Secretary as having expertise relevant to requirements of this section; such review and assessment to be completed and results to be made available to the public and transmitted to certain committees of Congress no later than two years after Mar. 31, 1988, and such plan to be developed and transmitted to such committees no later than three years after Mar. 31, 1988; with a failure by Secretary to transmit such report within such three-year period not to relieve the Secretary from requirement to prepare such plan.

Sec. 670h. Comprehensive plans for conservation and rehabilitation programs

(a) Development by Secretary of the Interior and Secretary of Agriculture; consultation with State agencies; prior written approval of concerned Federal agencies

(1) The Secretary of the Interior shall develop, in consultation with the State agencies, a comprehensive plan for conservation and rehabilitation programs to be implemented on public land under his jurisdiction and the Secretary of Agriculture shall do the same in connection with public land under his jurisdiction.

(2) The Secretary of the Interior shall develop, with the prior written approval of the Atomic Energy Commission, a comprehensive plan for conservation and rehabilitation programs to be implemented on public land under the jurisdiction of the Chairman and develop, with the prior written approval of the Administrator, a comprehensive plan for such programs to be implemented on public land under the jurisdiction of the Administrator. Each such plan shall be developed after the Secretary of the Interior makes, with the prior written approval of the Chairman or the Administrator, as the case may be, and in consultation with the State agencies, necessary studies and surveys of the land concerned to determine where conservation and rehabilitation programs are most needed.

(b) Development consistent with overall land use and management plans; hunting, trapping, and fishing authorized in accordance with applicable State laws and regulations

Each comprehensive plan developed pursuant to this section shall be consistent with any overall land use and management plans for the lands involved. In any case in which hunting, trapping, or fishing (or any combination thereof) of resident fish and wildlife is to be permitted on public land under a comprehensive plan, such hunting, trapping, and fishing shall be conducted in accordance with applicable laws and regulations of the State in which such land is located.

(c) Cooperative agreements by State agencies for implementation of programs; modifications; contents; hunting, trapping and fishing authorized in accordance with applicable State laws and regulations; regulations

(1) Each State agency may enter into a cooperative agreement with--

(A) the Secretary of the Interior with respect to those conservation and rehabilitation programs to be implemented under this subchapter within the State on public land which is under his jurisdiction;

(B) the Secretary of Agriculture with respect to those conservation and rehabilitation programs to be implemented under this subchapter within the State on public land which is under his jurisdiction; and

(C) the Secretary of the Interior and the Chairman or the Administrator, as the case may be, with respect to those conservation and rehabilitation programs to be implemented under this subchapter within the State on public land under the jurisdiction of the Chairman or the Administrator; except that before entering into any cooperative agreement which affects public land under the jurisdiction of the Chairman, the Secretary of the Interior shall obtain the prior written approval of the Atomic Energy Commission and before entering into any cooperative agreement which affects public lands under the jurisdiction of the Administrator, the Secretary of the Interior shall obtain the prior written approval of the Administrator.

Conservation and rehabilitation programs developed and implemented pursuant to this subchapter shall be deemed as supplemental to wildlife, fish, and game-related programs conducted by the Secretary of the Interior and the Secretary of Agriculture pursuant to other provisions of law. Nothing in this subchapter shall be construed as limiting the authority of the Secretary of the Interior or the Secretary of Agriculture, as the case may be, to manage the national forests or other public lands for wildlife and fish and other purposes in accordance with the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528-531) or other applicable authority.

(2) Any conservation and rehabilitation program included within a cooperative agreement entered into under this subsection may be modified in a manner mutually agreeable to the State agency and the Secretary concerned (and the Chairman or the Administrator, as the case may be, if public land under his jurisdiction is involved). Before modifying any cooperative agreement which affects public land under the jurisdiction of the Chairman, the Secretary of the Interior shall obtain the prior written approval of the Atomic Energy Commission and before modifying any cooperative agreement which affects public land under the jurisdiction of the Administrator, the Secretary of the Interior shall obtain the prior written approval of the Administrator.

(3) Each cooperative agreement entered into under this subsection shall--

(A) specify those areas of public land within the State on which conservation and rehabilitation programs will be implemented;

(B) provide for fish and wildlife habitat improvements or modifications, or both;

(C) provide for range rehabilitation where necessary for support of wildlife;

(D) provide adequate protection for fish and wildlife officially classified as threatened or endangered pursuant to section 1533 of this title or considered to be threatened, rare, or endangered by the State agency;

(E) require the control of off-road vehicle traffic;

(F) if the issuance of public land area management stamps is agreed to pursuant to section 670i(a) of this title--

- (i) contain such terms and conditions as are required under section 670i(b) of this title;
- (ii) require the maintenance of accurate records and the filing of annual reports by the State agency to the Secretary of the Interior or the Secretary of Agriculture, or both, as the case may be, setting forth the amount and disposition of the fees collected for such stamps; and
- (iii) authorize the Secretary concerned and the Comptroller General of the United States, or their authorized representatives, to have access to such records for purposes of audit and examination; and

(G) contain such other terms and conditions as the Secretary concerned and the State agency deem necessary and appropriate to carry out the purposes of this subchapter.

A cooperative agreement may also provide for arrangements under which the Secretary concerned may authorize officers and employees of the State agency to enforce, or to assist in the enforcement of, section 670j(a) of this title.

(4) Except where limited under a comprehensive plan or pursuant to cooperate agreement, hunting, fishing, and trapping shall be permitted with respect to resident fish and wildlife in accordance with applicable laws and regulations of the State in which such land is located on public land which is the subject of a conservation and rehabilitation program implemented under this subchapter.

(5) The Secretary of the Interior and the Secretary of Agriculture, as the case may be, shall prescribe such regulations as are deemed necessary to control, in a manner consistent with the applicable comprehensive plan and cooperative agreement, the public use of public land which is the subject of any conservation and rehabilitation program implemented by him under this subchapter.

(d) State agency agreements not cooperative agreements under other provisions

Agreements entered into by State agencies under the authority of this section shall not be deemed to be, or treated as, cooperative agreements to which chapter 63 of title 31 applies.

(Pub. L. 86-797, title II, Sec. 202, as added Pub. L. 93-452, Sec. 2, Oct. 18, 1974, 88 Stat. 1369; amended Pub. L. 97-396, Sec. 4, Dec. 31, 1982, 96 Stat. 2005.)

References in Text The Multiple-Use Sustained-Yield Act of 1960, referred to in subsec. (c)(1), is Pub. L. 86-517, June 12, 1960, 74 Stat. 215, as amended, which is classified to sections 528 to 531 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 528 of this title and Tables.

Codification In subsec. (d), "chapter 63 of title 31" substituted for "the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.)" on authority of Pub. L. 97-258, Sec. 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Amendments 1982--Subsec. (d). Pub. L. 97-396 added subsec. (d).

Transfer of Functions Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

Section Referred to in Other Sections This section is referred to in sections 670g, 670j, 670o of this title.

Sec. 670i. Public land management area stamps; agreement between State agencies and Secretary of the Interior and Secretary of Agriculture requiring stamps for hunting, trapping, and fishing on public lands subject to programs; conditions of agreement

(a) Any State agency may agree with the Secretary of the Interior and the Secretary of Agriculture (or with the Secretary of the Interior or the Secretary of Agriculture, as the case may be, if within the State concerned all conservation and rehabilitation programs under this subchapter will be implemented by him) that no individual will be permitted to hunt, trap, or fish on any public land within the State which is subject to a conservation and rehabilitation program implemented under this subchapter unless at the time such individual is engaged in such activity he has on his person a valid public land management area stamp issued pursuant to this section.

(b) Any agreement made pursuant to subsection (a) of this section to require the issuance of public land management area stamps shall be subject to the following conditions:

(1) Such stamps shall be issued, sold, and the fees therefore collected, by the State agency or by the authorized agents of such agency.

(2) Notice of the requirement to possess such stamps shall be displayed prominently in all places where State hunting, trapping, or fishing licenses are sold. To the maximum extent practicable, the sale of such stamps shall be combined with the sale of such State hunting, trapping, and fishing licenses.

(3) Except for expenses incurred in the printing, issuing, or selling of such stamps, the fees collected for such stamps by the State agency shall be utilized in carrying out conservation and rehabilitation programs implemented under this subchapter in the State concerned. Such fees may be used by the State agency to acquire lands or interests therein from willing sellers or donors to provide public access to program lands that have no existing public access for enhancement of outdoor recreation and wildlife conservation: Provided, That the Secretary of Agriculture and the Secretary of the Interior maintain such access, or ensure that maintenance is provided for such access, through or to lands within their respective jurisdiction.

(4) The purchase of any such stamp shall entitle the purchaser thereof to hunt, trap, and fish on any public land within such State which is the subject of a conservation or rehabilitation program implemented under this subchapter except to the extent that the public use of such land is limited pursuant to a comprehensive plan or cooperative agreement; but the purchase of any such stamp shall not be construed as (A) eliminating the requirement for the purchase of a migratory bird hunting stamp as set forth in section 718a of this title, or (B) relieving the purchaser from compliance with any applicable State game and fish laws and regulations.

(5) The amount of the fee to be charged for such stamps, the age at which the individual is required to acquire such a stamp, and the expiration date for such stamps shall

be mutually agreed upon by the State agency and the Secretary or Secretaries concerned; except that each such stamp shall be void not later than one year after the date of issuance.

(6) Each such stamp must be validated by the purchaser thereof by signing his name across the face of the stamp.

(7) Any individual to whom a stamp is sold pursuant to this section shall upon request exhibit such stamp for inspection to any officer or employee of the Department of the Interior or the Department of Agriculture, or to any other person who is authorized to enforce section 670j(a) of this title.

(Pub. L. 86-797, title II, Sec. 203, as added Pub. L. 93-452, Sec. 2, Oct. 18, 1974, 88 Stat. 1371; amended Pub. L. 100-653, title II, Sec. 201, Nov. 14, 1988, 102 Stat. 3826.)

Amendments 1988--Subsec. (b)(3). Pub. L. 100-653 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Except for expenses incurred in the printing, issuing, or selling of such stamps, the fees collected for such stamps by the State agency shall be utilized in carrying out conservation and rehabilitation programs implemented under this subchapter in the State concerned and for no other purpose. If such programs are implemented by both the Secretary of the Interior and the Secretary of Agriculture in the State, the Secretaries shall mutually agree, on such basis as they deem reasonable, on the proportion of such fees that shall be applied by the State agency to their respective programs."

Section Referred to in Other Sections

This section is referred to in sections 670h, 670l of this title.

Sec. 670j. Enforcement provisions

(a) Violations and penalties

(1) Any person who hunts, traps, or fishes on any public land which is subject to a conservation and rehabilitation program implemented under this subchapter without having on his person a valid public land management area stamp, if the possession of such a stamp is required, shall be fined not more than \$1,000, or imprisoned for not more than six months, or both.

(2) Any person who knowingly violates or fails to comply with any regulations prescribed under section 670h(c)(5) of this title shall be fined not more than \$500, or imprisoned not more than six months, or both.

(b) Designation of enforcement personnel powers; issuance of arrest warrants; trial and sentencing by United States magistrate judges

(1) For the purpose of enforcing subsection (a) of this section, the Secretary of the Interior and the Secretary of Agriculture may designate any employee of their respective departments, and any State officer or employee authorized under a cooperative agreement to enforce subsection (a) of this section to (i) carry firearms; (ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; (iii) make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view; (iv) search without warrant or process any person, place, or conveyance as provided by law; and (v) seize without warrant or process any evidentiary item as provided by law.

(2) Upon the sworn information by a competent person, any United States magistrate judge or court of competent jurisdiction may issue process for the arrest of any person charged with committing any offense under subsection (a) of this section.

(3) Any person charged with committing any offense under subsection (a) of this section may be tried and sentenced by any United States magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of title 18.

(c) Seizure and forfeiture of equipment and vessels

All guns, traps, nets, and other equipment, vessels, vehicles, and other means of transportation used by any person when engaged in committing an offense under subsection (a) of this section shall be subject to forfeiture to the United States and may be seized and held pending the prosecution of any person arrested for committing such offense. Upon conviction for such offense, such forfeiture may be adjudicated as a penalty in addition to any other provided for committing such offense.

(d) Applicability of customs laws to seizures and forfeitures; exceptions

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with the provisions of this section; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for the purposes of this section, be exercised or performed by the Secretary of the Interior or the Secretary of Agriculture, as the case may be, or by such persons as he may designate.

(Pub. L. 86-797, title II, Sec. 204, as added Pub. L. 93-452, Sec. 2, Oct. 18, 1974, 88 Stat. 1372; amended Pub. L. 101-650, title III, Sec. 321, Dec. 1, 1990, 104 Stat. 5117.)

References in Text The customs laws, referred to in subsec. (d), are classified generally to Title 19, Customs Duties.

Change of Name "United States magistrate judge" substituted for "United States magistrate" in subsec. (b)(2), (3) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

Section Referred to in Other Sections This section is referred to in sections 670h, 670i of this title.

Sec. 670k. Definitions

As used in this subchapter--

(1) The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(2) The term "Chairman" means the Chairman of the Atomic Energy Commission.

(3) The term "off-road vehicle" means any motorized vehicle designed for, or capable of, cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; but such term does not include--

- (A) any registered motorboat at the option of each State;
- (B) any military, fire, emergency, or law enforcement vehicle when used for emergency purposes; and
- (C) any vehicle the use of which is expressly authorized by the Secretary of the Interior or the Secretary of Agriculture under a permit, lease, license, or contract.

(4) The term "public land" means all lands, under the respective jurisdiction of the Secretary of the Interior, the Secretary of Agriculture, the Chairman, and the Administrator, except land which is, or hereafter may be, within or designated as--

- (A) a military reservation;
- (B) a unit of the National Park System;
- (C) an area within the national wildlife refuge system;
- (D) an Indian reservation; or
- (E) an area within an Indian reservation or land held in trust by the United States for an Indian or Indian tribe.

(5) The term "State agency" means the agency or agencies of a State responsible for the administration of the fish and game laws of the State.

(6) The term "conservation and rehabilitation programs" means to utilize those methods and procedures which are necessary to protect, conserve, and enhance wildlife, fish, and game resources to the maximum extent practicable on public lands subject to this subchapter consistent with any overall land use and management plans for the lands involved. Such methods and procedures shall include, but shall not be limited to, all activities associated with scientific resources management such as protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking in conformance with the provisions of this subchapter. Nothing in this term shall be construed as diminishing the authority or jurisdiction of the States with respect to the management of resident species of fish, wildlife, or game, except as otherwise provided by law.

(Pub. L. 86-797, title II, Sec. 205, as added Pub. L. 93-452, Sec. 2, Oct. 18, 1974, 88 Stat. 1373.)

Transfer of Functions Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

Sec. 670l. Applicability to Forest Service and Bureau of Land Management lands of public land management area stamp requirements; authorized fees

Notwithstanding any other provision in this subchapter, section 670i of this title shall not apply to land which is, or hereafter may be, within or designated as Forest Service land or as Bureau of Land Management land of any State in which all Federal lands therein comprise 60 percent or more of the total area of such State; except that in any such State, any appropriate State agency may agree with the Secretary of Agriculture or the Secretary of the Interior, or both, as the case may be, to collect a fee as specified in such agreement

at the point of sale of regular licenses to hunt, trap, or fish in such State, the proceeds of which shall be utilized in carrying out conservation and rehabilitation programs implemented under this subchapter in the State concerned and for no other purpose.

(Pub. L. 86-797, title II, Sec. 206, as added Pub. L. 93-452, Sec. 2, Oct. 18, 1974, 88 Stat. 1374.)

Sec. 670m. Indian rights unaffected; State or Federal jurisdiction regulating Indian rights preserved

Nothing in this subchapter shall enlarge or diminish or in any way affect (1) the rights of Indians or Indian tribes to the use of water or natural resources or their rights to fish, trap, or hunt wildlife as secured by statute, agreement, treaty, Executive order, or court decree; or (2) existing State or Federal jurisdiction to regulate those rights either on or off reservations.

(Pub. L. 86-797, title II, Sec. 207, as added Pub. L. 93-452, Sec. 2, Oct. 18, 1974, 88 Stat. 1374.)

Sec. 670n. Omitted

Codification Section, Pub. L. 86-797, title II, Sec. 208, as added Pub. L. 93-452, Sec. 2, Oct. 18, 1974, 88 Stat. 1374, which provided that nothing in this chapter in any way affect the jurisdiction, authority, duties, or activities of the Joint Federal-State Land Use Planning Commission established pursuant to section 1616 of Title 43, Public Lands, and that during the development of any cooperative plan for Alaska which may be agreed to under subchapter I of this chapter after the effective date of this section and of any comprehensive program for Alaska under this subchapter, such Commission shall be given an opportunity to submit its comments on such plan or program, was omitted in view of the termination of the Joint Federal-State Land Use Planning Commission on June 30, 1979.

Sec. 670o. Authorization of appropriations

(a) Functions and responsibilities of Secretary of the Interior

There are authorized to be appropriated the sum of \$10,000,000 for each of the fiscal years 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, and 1993, to enable the Secretary of the Interior to carry out his functions and responsibilities under this subchapter, including data collection, research, planning, and conservation and rehabilitation programs on public lands. Such funds shall be in addition to those authorized for wildlife, range, soil, and water management pursuant to section 1748 of title 43, or other provisions of law.

(b) Functions and responsibilities of Secretary of Agriculture

There are authorized to be appropriated the sum of \$12,000,000 for each of the fiscal years 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, and 1993, to enable the Secretary of Agriculture to carry out his functions and responsibilities under this subchapter. Such funds shall be in addition to those provided under other provisions of law. In requesting funds under this subsection the Secretary shall take into account fish and wildlife program needs, including those for projects, identified in the State comprehensive

plans as contained in the program developed pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1601-1610).

(c) Use of other conservation or rehabilitation authorities

The Secretary of the Interior and the Secretary of Agriculture may each use any authority available to him under other laws relating to fish, wildlife, or plant conservation or rehabilitation for purposes of carrying out the provisions of this subchapter.

(d) Contract authority respecting property, services or assistance affecting State agencies; appropriations requirement

The Secretary of the Interior and the Secretary of Agriculture may each make purchases and contracts for property and services from, or provide assistance to, the State agencies concerned, if such property, services or assistance is required to implement those projects and programs carried out on, or of benefit to, Federal lands and identified in the comprehensive plans or cooperative agreements developed under section 670h of this title without regard to title III (other than section 304) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251-260). Contract authority provided in this section is effective only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 86-797, title II, Sec. 209, as added Pub. L. 93-452, Sec. 2, Oct. 18, 1974, 88 Stat. 1374; amended Pub. L. 95-420, Sec. 3, Oct. 5, 1978, 92 Stat. 921; Pub. L. 97-396, Sec. 5, Dec. 31, 1982, 96 Stat. 2005; Pub. L. 99-561, Sec. 1(b), Oct. 27, 1986, 100 Stat. 3149; Pub. L. 100-653, title II, Sec. 202(b), Nov. 14, 1988, 102 Stat. 3827.)

References in Text The Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, referred to in subsec. (b), is Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (Sec. 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (d), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title III of the Act is classified generally to subchapter IV (Sec. 251 et seq.) of chapter 4 of Title 41, Public Contracts. Section 304 of that Act is classified to section 254 of Title 41. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, Public Buildings, Property, and Works, and Tables.

Amendments 1988--Subsecs. (a), (b). Pub. L. 100-653 substituted ``1988, 1989, 1990, 1991, 1992, and 1993" for ``and 1988".

1986--Subsecs. (a), (b). Pub. L. 99-561 substituted ``1985, 1986, 1987, and 1988" for ``and 1985".

1982--Subsecs. (a), (b). Pub. L. 97-396, Sec. 5(1), substituted ``1983, 1984, and 1985," for ``ending September 30, 1979, September 30, 1980, and September 30, 1981," wherever appearing.

Subsecs. (c), (d). Pub. L. 97-396, Sec. 5(2), added subsecs. (c) and (d). 1978--Subsec. (a). Pub. L. 95-420 substituted provisions authorizing appropriation of \$10,000,000 for each of fiscal years ending Sept. 30, 1979, 1980, and 1981 to enable the Secretary to carry out his functions, including data collection, research, planning, and conservation and rehabilitation programs, such funds to be in addition to those authorized for wildlife, range, soil and water management pursuant to section 1748 of title 43, for provisions authorizing appropriation of \$10,000,000 for fiscal year ending June 30, 1974, and for each of next four fiscal years to enable Department of the Interior to carry out its functions.

Subsec. (b). Pub. L. 95-420 substituted provisions authorizing appropriation of \$12,000,000 for fiscal years ending Sept. 30, 1979, 1980, and 1981 to enable Secretary of Agriculture to carry out his functions, such funds to be in addition to those otherwise provided, and provisions relating to fish and wildlife program needs including those identified in State plans developed pursuant to Forest and Rangeland Renewable Resources Planning Act of 1974, for provisions authorizing appropriation of \$10,000,000 for fiscal year ending June 30, 1974, and for each of next four fiscal years to enable Department of Agriculture to carry out its functions.

APPENDIX 2

Habitat Stamp Program State Regulation

(underline/italics added by manager for emphasis)

TITLE 19: NATURAL RESOURCES AND WILDLIFE
CHAPTER 34: WILDLIFE HABITAT AND LANDS
PART 6: PUBLIC LAND USER STAMP (SIKES ACT)

19.34.6.1 ISSUING AGENCY: New Mexico Department of Game and Fish
[19.34.6.1 NMAC - Rp, 19 NMAC 34.1.1, 12-28-01]

19.34.6.2 SCOPE: The Department of Game and Fish and all persons who may hunt, fish and/or trap on land administered by the U.S. Forest Service or the U.S. Bureau of Land Management in the State.
[19.34.6.2 NMAC - Rp, 19 NMAC 34.1.2, 12-28-01]

19.34.6.3 STATUTORY AUTHORITY: 17-1-14 and 17-1-26 NMSA 1978 provide the New Mexico Game Commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species. Public Law 93-452 (Sikes Act) permits the State and the Secretary of Agriculture and Secretary of Interior to enter into agreements for the issuance of public land management stamps.
[19.34.6.3 NMAC - Rp, 19 NMAC 34.1.3, 12-28-01]

19.34.6.4 DURATION: *March 31, 2011.*
[19.34.6.4 NMAC - Rp, 19 NMAC 34.1.4, 12-28-01]

19.34.6.5 EFFECTIVE DATE: December 28, 2001
[19.34.6.5 NMAC - Rp, 19 NMAC 34.1.5, 12-28-01]

19.34.6.6 OBJECTIVE: To provide for a public land management stamp for hunting, fishing and/or trapping on certain lands in New Mexico, requires possession of stamp, creates Citizen Review Committees, and provides for expenditure of funds from stamp revenues.
[19.34.6.6 NMAC - Rp, 19 NMAC 34.1.6, 12-28-01]

19.34.6.7 DEFINITIONS:

A. "Public Land", as used herein, means those lands, which surface areas are under the management authority of the United States Forest Service or the United States Bureau of Land Management.

B. "Sikes Act", as used herein, means Public Law 93-452, which authorizes the issuance of public land management stamps, and regulates the use of funds collected there from.

C. "Public Land Management Stamp", herein shall be referred to as "Habitat Stamp", and shall mean a stamp or validation that is affixed to or denoted on a valid hunting, trapping, or fishing license to demonstrate compliance with this regulation.

[19.34.6.7 NMAC - Rp, 19 NMAC 34.1.7, 12-28-01; A, 01-31-02]

19.34.6.8 PURCHASE AND POSSESSION:

A *Each person hunting on any public land that is under the management authority of the United States Forest Service or the United States Bureau of Land Management, except those lands under the management authority of the United States Bureau of Land Management that are contained within Game Management Unit 28, in the State of New Mexico, must purchase and possess a Public Land Management Stamp.*

B. Each resident trapper twelve years of age and over, trapping for protected furbearers, and each non-resident trapper, trapping on any public land that is under the management authority of the United States Forest Service or the United States Bureau of Land Management, except those lands under the management authority of the United States Bureau of Land Management that are contained within Game Management Unit 28, in the State of New Mexico, must purchase and possess a Public Land Management Stamp.

C. Each angler twelve years of age and over, except those resident anglers 70 years of age and older, fishing on any public land that is under the management authority of the United States Forest Service or the United States Bureau of Land Management, except those lands under the management authority of the United States Bureau of Land Management contained within Game Management Unit 28, in the State of New Mexico, must purchase and possess a Public Land Management Stamp.

D. Provided, however, that only one Public Land Management Stamp is required for any one individual to hunt, trap, and/or fish on public land within the State of New Mexico during any license year.

E. Purchase price for each Public Land Management Stamp shall be five (\$5.00) dollars.
[19.34.6.8 NMAC - Rp, 19 NMAC 34.1.8, 12-28-01; A, 01-31-02]

19.34.6.9 VALIDATION:

A. A Public Land Management Stamp must be purchased when buying a license and the vendor must check the appropriate box; or if purchased separately, affix the stamp to a valid license and sign his or her name in ink across the face of the stamp (exception: no more than one stamp must be purchased per license year). Stamps not so validated shall not be valid for hunting, fishing, or trapping on public land within the State of New Mexico.

B. Public Land Management Stamps are not transferable.

C. No one may use a Public Land Management Stamp validated by another person.

D. No hunting, fishing or trapping license used on Forest Service and/or Bureau of Land Management lands shall be valid unless a Public Land Management Stamp is purchased, possessed or affixed as prescribed by 19.34.6.8 and 19.34.6.9 NMAC.

[19.34.6.9 NMAC - Rp, 19 NMAC 34.1.9, 12-28-01; A, 01-31-02]

19.34.6.10 AVAILABILITY AND EXPIRATION:

A. Public Land Management Stamps will be sold in all offices of the New Mexico Department of Game and Fish and by hunting/fishing license vendors.

B. Public Land Management Stamp shall be valid when signed pursuant to section 9.A above and expire on the following March 31 after the date of issuance.

[19.34.6.10 NMAC - Rp, 19 NMAC 34.1.10, 12-28-01]

19.34.6.11 EXPENDITURE OF FUNDS COLLECTED:

A. The expenditure of funds collected under this regulation shall be consistent with the land management plans that have been developed by the United States Forest Service the United States Bureau of Land Management, and the plans of the New Mexico Department of Game and Fish.

B. The Department of Game and Fish shall, in cooperation with the United States Forest Service and the United States Bureau of Land Management, develop a series of regional five-year project plans for the use of the funds collected under the authority of Sikes Act and this regulation.

[19.34.6.11 NMAC - Rp, 19 NMAC 34.1.11, 12-28-01]

19.34.6.12 CITIZEN REVIEW COMMITTEES: There is hereby created five Citizen Review Committees, whose members shall be appointed by the State Game Commission, to provide citizen advice to the agencies and to place priorities on projects submitted by the citizens of New Mexico and agencies involved with the execution of this regulation.

[19.34.6.12 NMAC - Rp, 19 NMAC 34.1.12, 12-28-01]

HISTORY OF 19.34.6 NMAC:

Pre-NMAC History:

Regulation No. 648, Regulation Establishing a User Stamp Requirement on Public Lands Contained Within the Game Management Units 29, 30, 34, 36 and 37, 1-5-87.

Order No. 8-86, 4-10-87.

Order No. 4-88, 6-28-88.

Order No. 3-90, 9-4-91.

Regulation No. 676, Regulation Establishing a User Stamp Requirement on Public Lands Within the State of New Mexico, 1-12-90.

NMAC History:

19 NMAC 34.1, Public Land User Stamp (Sikes Act), 1-18-96.

APPENDIX 3

Interagency Memorandum of Understanding (including the Master USFS Collection Agreement)

MEMORANDUM OF UNDERSTANDING and JOINT POWERS AGREEMENT
between the
UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
and the
NEW MEXICO DEPARTMENT OF GAME AND FISH
and the
UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
for the operation of the
SIKES ACT
PUBLIC LAND MANAGEMENT STAMP

This Memorandum of Understanding and Joint Powers Agreement (agreement) is made and entered into by and between the New Mexico Department of Game and Fish (Department), the USDOJ/Bureau of Land Management (BLM) and the USDA/Forest Service (FS).

I. Statement of Joint Objectives

A. Purpose

This agreement will establish broad policies for the operation of a Statewide Sikes Act Public Land Management Stamp (Habitat Stamp) Program in the State of New Mexico. Representatives of each party shall formulate and compile a collaborative manual of specific procedures.

B. Objective

It is the mutual objective of the parties is to cooperate through the Habitat Stamp Program in the management of land areas under this agreement in a manner that will provide for a continuing high quality of fish and wildlife habitat, other natural resources, and the recreational experiences of the users.

C. Authorities

The Sikes Act (16 USC 670 g-n) authorizes the parties to this agreement to provide for the establishment of conservation and rehabilitation programs such as, but not limited to, protection, research, census, law enforcement, habitat management, propagation, live trapping and transplanted, regulated taking, and access controls in managing fish and wildlife resources.

The FS is the agency responsible for managing the National Forest System lands and administering the public uses under the authority of the Forest Service Multiple-Use Sustained Yield Act (16 U.S.C. 528-531) and the Sikes Act. Nothing in this

agreement shall be construed as diminishing the authority of the FS to manage National Forest System lands for wildlife habitat and other purposes in accordance with the Multiple-Use Sustained Yield Act of 1960, the National Forest Management Act or any other applicable authorities authorized by law.

The BLM is the agency responsible for managing public lands and administering for public uses under the authority of the BLM Federal Land Policy and Management Act (43 U.S.C. 1701-1782) and P.L. 98-540 (98 Stat. 2718), and Sikes Act. Nothing in this agreement shall be construed as diminishing the authority of the BLM to manage BLM lands for wildlife habitat and other purposes in accordance with the Federal Land Management Policy Act, 43 CFR Part 24, and other applicable authorities established by law.

The Department has been created under the laws of the State of New Mexico to propagate, plant, protect, regulate, and conserve to the extent necessary to provide and maintain an adequate supply of game and fish within the State of New Mexico (NMSA 1978 17-1-1). The Department's Conservation Services Division is responsible for the management, enhancement, research and conservation of public wildlife habitat (NMSA 1978 17-1-5.1). Nothing in this agreement shall be construed as diminishing the authority and jurisdiction of the State with respect to the management of wildlife within the State of New Mexico, except as otherwise provided by law. The Department enters within this agreement pursuant to Section 11-1-1 et seq. NMSA 1978.

The purchase of a Habitat Stamp is required on lands described in New Mexico State Game Commission (NMSGC) Regulation 19 NMAC 34.6. Expenditure of Habitat Stamp revenues may occur on cooperating agency lands or other lands agreed to by cooperating agencies as permitted by the Sikes Act.

D. Benefits

This program will provide a policy of management that prescribes special emphasis on providing diverse and high quality wildlife and fish resources that are harmonious with other uses and missions of the cooperating agencies. It will result in long-term conservation and rehabilitation programs, supplemental to other agency programs designed to enhance fish, wildlife, and their habitats for enjoyment and use by the current and future generations of New Mexicans.

II. Party Roles and Obligations:

A. The Department will:

1. Cooperate with the FS and the BLM in the development and administration of the Habitat Stamp Program for the conservation and rehabilitation of fish and wildlife habitat which shall be funded in whole or in part by funds generated by the sale of Habitat Stamps as provided under Sections 670h (c)(3)(F), 670i (a) and (b) of the Sikes Act and maintain accurate records and file an annual report

with the public, FS, and BLM setting forth the amount of Habitat Stamp revenue allocated for each agency and disposition of the fees collected from the sale of said stamps.

2. Authorize the Secretary of Agriculture, the Secretary of the Interior, and the Comptroller General of the United States, or their authorized representatives to have access to such records for purposes of audit and examination.

B. The FS will:

Issue collection agreements in a form as set forth in Exhibit A to the Department by local forest units where project work takes place. Each unit will seek reimbursable authority from Washington office. Bills for collection will be issued to the Department for reimbursement upon completion or partial completion of NMSGC approved project work.

Nothing in this agreement shall obligate either the FS or Department to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the FS will require execution of separate agreements and be contingent upon the availability of appropriated funds. Appropriate statutory authority must independently authorize such activities. This agreement does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.

C. The BLM will:

Based upon Department correspondence allocating funds, issue a bill for collection periodically to the Department for reimbursement upon completion or partial completion of NMSGC approved project work.

D. The FS and the BLM will:

1. Maintain accurate records and file an annual report with the Department setting forth the amount and disposition of funds received from the Department for projects approved under this agreement. Such records shall be retained for seven years.
2. Bill the department for approved projects by HSP number and fiscal year for expenses documented in internal invoice tracking systems.
3. Authorize the Department and the New Mexico State Auditor or their representatives to have access to all records pertaining to projects conducted under this agreement for purposes of audit and examination.

E. All parties will:

1. With public input, form interagency teams to coordinate, develop, and implement the Habitat Stamp Program's plans.
2. Be provided with an agreed upon percentage of allocated funding. Any exception to the allocation procedure must be by mutual agency agreement. Allocations of funds from the sale of Habitat Stamps will be determined annually by the NMSGC. The NMSGC will approve a list of prioritized projects based on citizen advice.
3. Create a separate agreement for cooperative projects to be completed utilizing cross-agency capabilities.
4. Retain ownership of improvements constructed with Habitat Stamp funds on their respective lands.
5. Be responsible for acquisitions of easements, rights-of-way, water rights, etc., upon land upon which a proposed project will be developed, unless otherwise agreed.
6. Agree that the Department may use up to 10% of total HSP revenues and the BLM may use up to 10% of the minimum agency allocation of revenues collected from stamp sales for program administrative purposes. Administrative costs are those deemed reasonable and necessary to administer the program and shall include those items such as supplies, equipment, salaries, and benefits.
7. Open project management codes upon final approval by NMSGC, generally July 1st. of each year. Parties will close project management codes and submit final bills for collection, no later than 2½ years from the project's approval.

III. Term of Agreement

This agreement is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, State of New Mexico, their agencies, officers, or any person.

This agreement takes effect upon the signature of the FS, BLM, Department, and New Mexico Department of Finance and Administration and shall remain in effect for five years from the date of execution. This agreement may be extended or amended upon written request of any party and the subsequent written concurrence of the other(s). Any party may terminate its participation in this agreement with a 60-day written notice to the other(s).

IV. Financial Support

All parties will handle their own activities and utilize their own resources, including the expenditure of their own funds, in implementing Program objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner. Upon certifying the completion of work to agency standards, and with a submission of a bill for collection, the parties who are entitled to be recipients of the Habitat Stamp funds and shall be reimbursed for actual costs incurred on projects initiated hereunder as completed up to and not to exceed the approved allocation per year. Unless otherwise allowed for in this document, support costs, including administrative, incidental, and overhead cost, will not be reimbursed by any party, but will be considered as project matching funds.

V. Key Officials:**A. BLM:**

Donald Ellsworth
Bureau of Land Management
198 Neel Avenue
Socorro, NM 87801
Telephone (505) 835-0412

Elizabeth Vargas, Budget Contact
New Mexico State BLM Office
P.O. Box 27115
Santa Fe, New Mexico 87502-7115
Telephone (505) 438-7478

B. DEPARTMENT:

Dale A. Hall, HSP Manager
New Mexico Department of Game and Fish
3841 Midway Place NE
Albuquerque, New Mexico 87109
Telephone (505) 841-8881

James Karp, General Counsel
New Mexico Department of Game and Fish
1 Wildlife Way
Santa Fe, New Mexico 87507
Telephone (505) 476-8008

C. FS:

Susan K. McDonald, Grants and Agreements Specialist
U.S. Forest Service
333 Broadway SE
Albuquerque, New Mexico 87102
Telephone (505) 842-3345

Gail Tunberg, Project Manager
U.S. Forest Service
333 Broadway SE
Albuquerque, New Mexico 87102
Telephone (505) 842-3262

VI. Special Terms and Conditions

A. Modifications

This agreement may be modified by written agreement signed by Department, FS and BLM officials.

B. Equal Opportunity Compliance

The parties agree to abide by all rules and regulations pertaining to equal opportunity. In accordance with those laws and the regulations issued pursuant thereto, the parties agree to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, age or handicap, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in performance of this agreement.

C. Appropriations

The terms of this agreement are contingent upon sufficient appropriations and authorization being made by the New Mexico State Legislature. If sufficient appropriation and authorization are not made, this agreement shall immediately terminate upon written notice from Department to the BLM and FS. Department's decision as to whether sufficient appropriations are available shall be final. Unexpended funds shall revert to the Sikes Fund.

D. Conditions

This agreement and its implementation is subject to the approval of the New Mexico Department of Finance and Administration.

VII. Signatures/Approvals

A. *BLM*

Linda Rundell
State Director

Date

B. *FS*

Harv Forsgren
Regional Forester

Date

C. *Department*

Bruce C. Thompson
Director

Date

D. *Department of Finance and Administration*

Acting Official

Date

Appendix A:

MASTER COLLECTION AGREEMENT
for Landscape Scale Habitat Stamp Program Projects
between
USDA FOREST SERVICE, SOUTHWESTERN REGION
and the
NEW MEXICO DEPARTMENT OF GAME AND FISH

This MASTER COLLECTION AGREEMENT is hereby entered into by and between the USDA Forest Service, Southwestern Region, hereinafter referred to as the Forest Service, and the New Mexico Department of Game and Fish, hereinafter referred to as the State, under the provisions of the Cooperative Funds Act of June 30, 1914 (16 U.S.C. 498, as amended by Pub. L. 104-127) and the Sikes Act of September 1, 1960 (16 U.S.C. 670g-670l, 670o, Pub. L. 86-797, as amended).

A. **PURPOSE** The purpose of this Master Collection Agreement is to establish procedures for operation of a Statewide Pilot Program for landscape scale projects under the Sikes Act Public Land Management Stamp (Habitat Stamp) Program in New Mexico. This agreement will serve as the Master Agreement for all of the Forests with lands in New Mexico and establish procedures for collecting the funds from the State for approved landscape scale projects on New Mexico Forests (see Attachment 1, Annual Operating Plan.)

B. The Forest Service contacts for each project "project manager" listed on the Operating Plan will be responsible for completing the approved projects, for providing the required "Progress Report"(see Attachment No. 2), and upon project completion, the "Project Completion Certification" to the Forest Service Program Contact and the State (see Attachment No. 3).

C. **FOREST SERVICE SHALL:**

1. Incur the costs necessary to complete each approved project out of a reimbursable account using the job code assigned to the project, per the Annual Operating Plan. These costs will include costs for contracts, material, labor, travel, and associated personnel costs. Project managers must ensure that funding limitations for the project are not exceeded. Costs incurred after the fund termination date as outlined on the Annual Operating Plan will be disallowed. Any project costs incurred after fund termination date will be absorbed by the local Forest Service unit.
2. Project managers shall submit a Progress Report to the Forest Service Program Contact, no later than March 1 annually. If substantial funding will not be expended on an assigned project, alternate projects as approved by both agencies will be initiated. Upon completion of a specific project, project managers will send the "Project Completion Certification" to the Forest Service Program Contact and the State.
3. The Forest Service, Albuquerque Service Center (ASC), will bill the State on September 30 and May 31 annually. ASC will bill the State for funds sufficient to cover the costs of the payment period. Billings to the State shall not exceed the total amount of the approved budget. All billings will include a copy of the Transaction Report for the job code.
4. Complete all funded projects according to Forest Service standards.

D. **THE STATE SHALL:**

1. Approve landscape scale habitat improvement projects in coordination with the Habitat Stamp Program Citizen's Advisory Committee and the New Mexico State Game Commission.

2. Authorize expenditures of Sikes Act funds for the completion of said projects upon approval of the State Game Commission.
3. Reimburse the Forest Service for authorized costs for the projects, upon receipt of a proper invoice.
4. Submit payments, along with a copy of the invoice, to the address indicated on the Bill for Collection.

E. IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:

1. FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552). Any information furnished to the state under this instrument is subject to the New Mexico Inspection of Public Records Act [14-2-1(NMSA 1978)].
2. MODIFICATIONS. Modifications within the scope of the instrument shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.
3. ANNUAL OPERATING PLANS. Annual operating plans will be executed by July 1 of each year, showing approved projects, project contacts, termination dates for the project funds, and job codes to be used for each project.
4. REFUNDS. Contributions authorized for use by the Forest Service, which are not spent or obligated for the project(s) approved under this instrument, will revert to the State or be authorized for use on new projects that have been approved by the State Game Commission
5. PROPERTY IMPROVEMENTS. Improvements placed on National Forest System land pursuant to an annual operating plan, shall thereupon become property of the United States, and shall be subject to the same regulations and administration of the Forest Service as other National Forest improvements of a similar nature. No part of this instrument shall entitle the State to any share or interest in the project other than the right to use and enjoy the same under the existing regulations of the Forest Service.
6. LEGAL AUTHORITY. The State has the legal authority to enter into this instrument, and the institutional, managerial and financial capability (including funds sufficient to pay nonfederal share of project costs) to ensure proper planning, management, and completion of the project.
7. PARTICIPATION IN SIMILAR ACTIVITIES. This instrument in no way restricts the Forest Service or the State from participating in similar activities with other public or private agencies, organizations, and individuals.
8. COMMENCEMENT/EXPIRATION DATE. The instrument is executed as of the date of the last signature and is effective through April 1, 2011, at which time it will expire unless extended.

9. TERMINATION. Any of the parties, in writing, may terminate the instrument in whole, or in part, at any time before the date of expiration. Neither party shall incur any new obligations for the terminated portion of the instrument after the effective date and shall cancel as many obligations as possible. Full credit shall be allowed for each Party's non-cancelable obligations properly incurred up to the effective date of termination.

10. APPROPRIATIONS. The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate upon written notice being given by the State to the Forest Service. The State's decision as to whether sufficient appropriations are available shall be accepted by the Forest Service and shall be final.

11. PRINCIPAL CONTACTS. The principal contacts for this instrument are:

Forest Service Program Contact	State Program Contact
Gail Tunberg, Project Manager	Dale A. Hall, Manager
USDA Forest Service, Southwestern Region	NM Habitat Stamp Program
333 Broadway Blvd. SE	3841 Midway Pl. NE
Albuquerque, NM 87102	Albuquerque, NM 87109
Phone: 505 842-3262	Phone: 505-222-4725
FAX: 505-842-3152	FAX: 505-222-4720
E-Mail: gtunberg@fs.fed.us	E-Mail: dale.hall@state.nm.us

Forest Service Administrative Contact	State Administrative Contact	Forest Service Billing Contact
Susan McDonnell, G&A Specialist	Luke Shelby, Asst. Director	Jeff Smith, Supervisory Accountant
USDA Forest Service, Southwestern Region	NM Dept. of Game and Fish	Financial Operations, RACA Albuquerque Service Center
333 Broadway Blvd. SE	PO Box 25112	101B Sun Ave.
Albuquerque, NM 87102	Santa Fe, NM 87504	Albuquerque, NM 87109
Phone: 505 842-3345	Phone: 505-476-8008	Phone: 877 372-7248
FAX: 505 842-3111	FAX: 505-476-8124	FAX:
E-Mail: smcdonnell@fs.fed.us	E-Mail: luke.shelby@state.nm.us	E-Mail: ajsmith@fs.fed.us

12. REIMBURSABLE BILLING. Bill the State for funds sufficient to cover the costs for the funding period. Indirect costs will be absorbed by the Forest Service. Those costs will be assessed against the applicable Forest Service appropriation, consistent with the primary purpose of the project.

Billings shall be sent to:

Dale A. Hall, Manager
NM Habitat Stamp Program
3841 Midway Pl. NE
Albuquerque, NM 87109

13. ENDORSEMENT. Any State contributions made under this instrument do not by direct reference or implication convey Forest Service endorsement of the State’s products or activities.

14. LIABILITY. Neither party shall be liable to other party for any damage incident to its performance of this agreement.

15. PROGRAM PERFORMANCE REPORTS. Forest Service Project Managers will submit a progress report by March 1 annually to the Forest Service Program Contact.

16. AUTHORIZED REPRESENTATIVES. By signature below, the State certifies that the individuals listed in this document as representatives of the State are authorized to act in their respective areas for matters related to this agreement.

 BRUCE C. THOMPSON..... Date

Director, NMDG&F

 LUCIA M. TURNER
 Deputy Regional Forester

 Date

ATTACHMENT No. 1
HABITAT STAMP PROGRAM
ANNUAL OPERATING PLAN

HSP Project No.	HSP Project Name	HSP Approved Cost	FS Project Manager (Unit Code)	FS Jobcode	Fund Termination Date	Final Bill Due date
SWFG-2007-21	Wahoo Landscape Burn for Deer	\$150,000	Marikay Ramsey Gila NF (031606)		June 1, 2008	September 30, 2008
SWFG-2007-71	Burro Mtn. Landscape Improvements for Deer	\$321,625	Bruce Anderson Gila NF (031606)		June 1, 2008	September 30, 2008
SEF-2007-20	Guadalupe Mtns. Landscape Burn for Deer	\$153,000	Danny Waldon Lincoln NF (031608)		June 1, 2008	September 30, 2008
NESF-2007-13	San Diego Landscape Burn and Water Development for Deer	\$100,000	Mary Orr Santa Fe NF		June 1, 2008	September 30, 2008
CF-2007-12	East Magdalena Landscape Burn for Deer	\$300,000	David Heft, Cibola NF		June 1, 2008	September 30, 2008
	TOTAL:	\$1,024,625				

ATTACHMENT No. 2
HABITAT STAMP PROJECT PROGRESS REPORT
Due March 1 Annually

Project Name and HSP Number: _____

Project Contact: _____

Percent of Project Completed: _____

Funds Expended: _____

Major Tasks Accomplished: _____

Will Project Be Completed on Time and Funds Expended by fund termination date?
__ Y __ N

IF NO PLEASE EXPLAIN:

Signature of Project Manager

Date

APPENDIX 4

HSP Legal Guidance Documents



United States Department of the Interior

OFFICE OF TI-IB SOLICITOR
WASENNGTON, D.C. 20240

MAR 19 1984

Memorandum

To: Director, Bureau of Land Management (240)

From: **Associate Solicitor, Energy and Resources** LTT

Subject: Using Fees Collected Under the Sikes Act for Habitat Improvement Projects and Related Activities on Non-Federal Lands

We have looked into the questions raised in your memorandum of February 27, 1984, and are able to report that fees collected under section 203 of the Sikes Act, 16 U.S.C. 5 670i (1976), may be used to fund habitat improvement projects and related activities on non-federal lands. Our conclusion comes directly from the Sikes Act itself.

Section 203(b)(3) of the Sikes Act provides that revenues generated from the sale of public lands management area stamps shall be used for "carrying out conservation and rehabilitation programs implemented under this title in the state concerned and for no other purpose." 16 U.S.C. 670i (b) (3) (1976). By virtue of this language, the proper use of the revenues turns simply on what is meant by the term 'conservation and rehabilitation programs.'

The Sikes Act broadly defines the term "conservation and rehabilitation programs" to mean "those methods and procedures which are necessary to protect, conserve, and enhance wildlife, fish, and game resources to the maximum extent practicable on public lands..." Sec. 205(6), Sikes Act; 16 U.S.C. S 670k (6) (1976). Illustrative of the breadth of this definition is the statute's provision that "[s]uch methods and procedures shall include, but shall not be limited to, all activities associated with scientific resource management such as protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking . . ." *Id.* Nothing in the statute requires these methods and procedures to be conducted on public lands. Indeed, in defining and illustrating "conservation and rehabilitation programs," the Sikes Act only makes determinative the project's or related activity's effect on protecting, conserving or enhancing wildlife, fish or game resources on public lands. If this causal relation exists, then it is the type of program that may be funded from-revenues generated by-the sale of public land management area stamps.

Any other reading of the Sikes Act must necessarily ignore the clear import of these provisions. As is well-known, when a statute is clear and unambiguous, it must be interpreted to mean what it plainly expresses. See, e.g., Caminetti v. United States, 242 U.S. 470, 485 (1§-17-) ; 2A C. Dallas sands, Sutherland Statutory Construction, S 46.01 (4th ed. rev. 1973).

In your memorandum concern is expressed that the above review may not obtain because the Secretary of the Interior's authority under the Sikes Act presumably extends only to those conservation and rehabilitation programs on public lands under his jurisdiction. The concern is based on the charge that "the Secretary of the Interior shall implement the conservation and rehabilitation programs required under subsection (a) of this section on public lands under his jurisdiction." Sec. 201(b), Sikes Act; 16 U.S.C. 670g(b) (1976). Concerns about this charge are unwarranted. The provision merely imposes an affirmative duty on the Secretary to carry out those conservation and rehabilitation programs on public lands under his jurisdiction. In other words, the Secretary cannot abdicate this responsibility to another executive department. The above charge is therefore immaterial to whether the Secretary may use revenues collected under the Sikes Act fund conservation and rehabilitation programs on non-federal lands.

If you should have any questions -about this opinion, or require further advice, do not hesitate to contact Allan Brock (343-4036) of this office.

Paul B. Smyth 

Paul B. Smyth
Assistant Solicitor
Land Use

IN REPLY REFER TO:
6525.2 (931)

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NEW MEXICO STATE OFFICE
Post Office and Federal Building
P.O. Box 1449
Santa Fe, NM 87504-1449

SEP 17 1991

Memorandum

To: Field Solicitor, USDI, Santa Fe, NM

From: Deputy State Director, Lands and Renewable Resources, BLM,
Santa Fe, NM

Subject: Request for Opinion on Use of Sikes Act Habitat Improvement
Stamp Funds and Review of Draft Cooperative Agreement.

As you know New Mexico has had an operational prototype Sikes Act Stamp program in effect on selected USFS and BLM lands in New Mexico for several years. The State Game Commission enacted State Regulation 676 (attachment 1) on December 15, 1990 expanding the stamp program Statewide effective April 1, 1991.

Funds are being reserved for the first year of the Statewide program and are expected to be available for disbursement to BLM and USFS in May of 1992. The existing MOU (attachment 2) is now being updated to reflect the current program. This document will now become a Cooperative Agreement, since it was brought to our attention by our State Office Division of Administration that funds will be transferred.

The first part of this request is that you review this draft cooperative agreement (attachment 3) to ensure that legal requirements are satisfied.

Another issue that has developed is that of legal uses of the Sikes Act Stamp revenues under the Public Law 92-453. Under the prototype program, the cooperating agencies agreed to restrict use to construction types of wildlife projects; fencing, water developments, etc. However, under the current Statewide program no such restrictions have been applied and therefore, the range of projects being proposed is much broader.

Specific questions that have arisen are mostly on legitimacy of the use of Sikes Act Stamp funds for:

9-26-91

1. Acquisition of private lands from a willing seller for the benefit of fish and wildlife, where access is not the primary purpose.
2. Construction of public recreational facilities such as campgrounds, trails, boat docks, watchable wildlife viewing areas, and access roads.
3. Fish and wildlife habitat enhancement projects on BLM or USFS withdrawn lands administered by Bureau of Reclamation (BR) or COE such as Navajo Lake.
4. Is the stamp a requirement on BLM withdrawn lands administered by another agency such as COE, or BR?
5. Fish and Wildlife educational and public outreach projects such as videos, public displays, brochures, environmental education, training sessions or workshops, and formal awards programs.

If you require further information or clarification of this request please contact Andy Dimas, State Office Wildlife Biologist, at-FTS 476-6231.

Robert S. Armstrong
for /s/ MALCOLM J. SCHNITKER

3 Attachments

cc:
NM Dept. of Game & Fish, Director, w/o attachments
US Forest Service, Regional Forester R-3, w/o attachments
WO (240), Premier Bldg., Rm. 903, w/o attachments



United States Department of the Interior

OFFICE OF THE SOLICITOR

Field Office, Southwest Region

P.O. Box 1042

Santa Fe, New Mexico 87504-1042

*(Good guidance
I agree with
Advice. JFW)*

REFERENCE NO.

BLM.SA.0838

October 21, 1991

93
AD

MEMORANDUM

TO: State Director, Bureau of Land Management Santa Fe, New Mexico

FROM: Gayle E. Manges, Field Solicitor, Southwest Region

SUBJECT: Management of Public- Lands in New Mexico Subject to Sikes Act Public Land Management Area Stamp Funds

By memorandum dated September 17, 1991 five questions were asked concerning use of funds derived from sales by the New Mexico Department of Game and Fish of public land management area stamps under the Sikes Act as amended, 16 U.S.C. secs. 670g-670m (stamp funds). A draft cooperative agreement was reviewed by memorandum dated October 17, 1991.

The transfer of stamp funds to BLM from Game and Fish is authorized by 16 U.S.C. sec. 670i. The five questions concern the appropriate use of stamp funds by the BLM for the following purposes:

1. Acquisition of private lands from a willing seller for the benefit of fish and wildlife, where access is not the primary purpose.

Acquisition is not authorized. The Sikes Act provides for transfer to the BLM of stamp funds pursuant to a cooperative agreement for purposes pertaining to fish and wildlife habitat improvements or modifications and certain range rehabilitations. Such conservation and rehabilitation programs do not replace existing programs because the Sikes Act is supplemental to and does not replace or repeal other BLM authorities. The reference in the Sikes Act to land acquisition was included in Section 201 of the Act of November 14, 1988, 16 U.S.C. sec. 670i(b)(3), which provides that a State agency such as Game and Fish may:

acquire lands or interests therein from willing sellers or donors to provide public access to program lands that have no existing public access for enhancement of outdoor

recreation and wildlife conservation: Provided, that the Secretary of Agriculture and the Secretary of the Interior maintain such access, or ensure that maintenance is provided for such access, through or to lands within their respective jurisdiction.

Land acquisition authority for use of stamp funds is limited by the above. However, other BLM authority for land acquisitions exists such as FLPMA, 43 U.S.C. sec. 1701 et seq.

2. Construction of public recreational facilities such as campgrounds, trails, boat docks, watchable wildlife viewing areas, and access roads.

Generally yes subject to the following limitations and conditions. As set forth above the 1988 amendment authorizes use of stamp funds for acquisition of limited public access "for enhancement of outdoor recreation." However the Act otherwise makes no provision for use of stamp funds solely for outdoor recreation except in my opinion insofar as hunting, fishing and "trapping" are an inherent part of outdoor recreation. However, also in my opinion, the Sikes Act does not prohibit use of stamp funds for such public recreational facilities as boat docks, etc., whose primary purpose is part of a conservation and rehabilitation program related to, at least, hunting or fishing. It is noted that specific authority is provided the Secretary of Defense in 16 U.S.C. sec. 670f which authorizes appropriated funds generally for "development of public recreation and other facilities".

3. Fish and wildlife habitat enhancement projects on BLM or USPS withdrawn lands administered by Bureau of Reclamation or corps of Engineers such as Navajo Lake.

The response is generally yes as to Reclamation withdrawn lands and generally no as to Corps withdrawn lands, both subject to the following limitations and conditions.

This question concerns whether stamp funds are available for use by BLM for conservation and rehabilitation projects located on public lands which have been withdrawn for use by Reclamation or the Corps. If a qualified project exists on withdrawn public lands, stamp funds are available for conservation and rehabilitation programs on the lands but only so long as the lands are within the definition of public lands in 16 U.S.C. sec. 670(k) 4. This definition includes all land under jurisdiction of the Secretary of the Interior except land within:

- A. a military reservation
- B. a unit of the National Park System

- C. an area within the national wildlife refuge system
- D. an Indian reservation, or
- E. an area within an Indian reservation or land held-in trust by the United States for an Indian or Indian tribe.

The Sikes Act does not prohibit the funding of authorized projects otherwise qualified even though the project is on public lands administered by Reclamation. These would include withdrawn public lands provided that Reclamation and the BLM concur on the project in the same manner as concurrence may be required of another Interior agency administering withdrawn public lands. It is noted, however, that Reclamation is not a party to the particular cooperative agreement being reviewed.

Public lands withdrawn for the Corps would not be under the jurisdiction of this Department except possibly for mineral development or other specific uses reserved in the withdrawal or as provided for in other legislation. If public lands are withdrawn for the Corps but remain subject to jurisdiction of the BLM for wildlife management then a project could qualify and stamp funds would be available if agreement is reached with the appropriate State agency such as Game and Fish.

As to public lands withdrawn for the Corps within a military reservation you may refer to 16 U.S.C. secs. 670a - 670f as to Sikes Act authority on military reservations. As to Interior jurisdiction on public lands military reservations are excluded in the above-quoted definition of public lands under jurisdiction of Interior. In any event the cooperative agreement being reviewed includes the Forest Service, BLM and Game and Fish and not the Corps.

4. Is the stamp a requirement on BLM withdrawn lands administered by another agency such as the Corps or Reclamation.

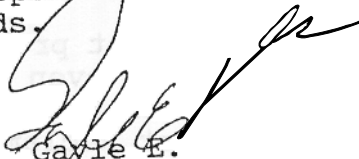
Generally no. The availability of stamp funds to BLM can apply only to qualified projects on public lands as defined above and only if agreement reached with Game and Fish in your example. This could include Reclamation withdrawn public lands as indicated above. Most public lands withdrawn for the Corps are not under jurisdiction of this Department except for mineral development and specific purposes set out or reserved in the withdrawal order or as a result of other legislation.

5. Fish and wildlife educational and public outreach projects such as videos, public displays, brochures, environmental education, training sessions or workshops, and formal awards programs.

Generally yes subject to the following limitations and conditions. As to these activities being conducted on projects on public lands as defined above, if the activity is an integral part of the approved project in my opinion you may exercise your discretion whether a particular expenditure is authorized. If the project as approved includes public educational requirements within the program the stamp funding would be authorized.

Please advise if you have other specific concerns as to a given program and transfer of stamp funds.

specific
funds.



Gayle E.
Gayle E. Manges



United States Department of the Interior

OFFICE OF THE SOLICITOR
Field Office, Southwest Region
P.O. Box 1042

Santa Fe, New Mexico 87504-1042

JUL20 REC'D

6525.2 (931)

REFERENCE NO.

July 17, 1992

MEMORANDUM

TO: State Director, Bureau of Land Management, Santa Fe, NM
Attention: Deputy State Director, Lands and Renewable Resources

FROM: Gayle E. Manges, Field Solicitor Southwest Region

SUBJECT: Use of Habitat Improvement Stamp Funds - Sikes Act

By memorandum dated October 21, 1991 responses were offered as to five questions concerning the use of stamp funds transferred from the State Game and Fish Department to the BLM under the Sikes Act as amended, 16 U.S.C. §§ 670g-670m. By memorandum dated January 22, 1992 the issues were somewhat modified, and additional comments were requested. The program under consideration includes the entire State of New Mexico and is not limited to specific projects within the State.

Enclosed was a memorandum opinion dated March 19, 1984 from the Associate Solicitor, Energy and Resources to the Director which considered revenues derived from sale of public lands management area stamps. He concluded, as follows:

fees collected under section 203 of the Sikes Act... may be used to fund habitat improvement projects and related activities on non-federal lands.

The four questions concerning possible uses of stamp funds under a statewide cooperative agreement include expenditures for the following:

1. Acquisition of private lands from a willing seller for the, benefits of, fish and wildlife, where access is not the primary purpose.

Acquisition of lands or interests therein is generally not authorized under the Sikes Act subject to limited acquisition authority vested in a state agency. The Sikes Act provides for transfer to the BLM of stamp funds pursuant to a cooperative agreement for purposes pertaining to fish and wildlife habitat improvements or modifications and certain range rehabilitations. Such conservation and rehabilitation programs do not replace

existing programs because the Sikes Act is supplemental to and does not replace or repeal other land acquisition authorities. The only applicable reference in the Sikes Act to land acquisition was included in Section 201 of the Act of November 14, 1988, 16 U.S.C. § 670i(b)(3), which provides that a State agency such as the New Mexico Game and Fish may:

acquire lands or interests therein from willing sellers or donors to provide public access to program lands that have no existing public access for enhancement of outdoor recreation and wildlife conservation: Provided, that the Secretary of Agriculture and the Secretary of the Interior maintain such access, or ensure that maintenance is provided for such access, through or to lands within their respective jurisdiction. (emphasis supplied)

2. Construction of public recreational facilities such as campgrounds, trails, boat docks, watchable wildlife viewing areas, and access roads.

Authority exists for use of stamp funds for these purposes subject to the following limitations and conditions. As set forth above, the 1988 amendment authorizes use of stamp funds for acquisition by a state agency of limited public access "for enhancement of outdoor recreation." However, the Act otherwise makes no provision for use of stamp funds solely for outdoor recreation except insofar as hunting, fishing and "trapping" are an inherent part of outdoor recreation. In my opinion the Sikes Act authorizes use of stamp funds for such public recreational facilities as boat docks, etc., whose primary purpose is part of a conservation and rehabilitation program related to, at least, hunting and fishing and possibly trapping. It is noted that specific authority is provided the Secretary of Defense in 16 U.S.C. § 670f which authorizes appropriated funds generally for "development of public recreation and other facilities."

3. Fish and wildlife habitat enhancement projects on other Federal or State lands within New Mexico.

As set forth by the Associate solicitor, Energy and Resources, stamp funds collected under section 203 of the Sikes Act may be used to fund projects and related activities on non-federal lands. This includes State as well as private lands. As to the BLM, this authority is in addition to funding improvements and related activities on public lands as defined in 16 U.S.C. § 670(k) 4 of the Sikes Act.

4. Fish and wildlife educational and public outreach projects such as videos, public displays, brochures, environmental education, training sessions or workshops, and formal awards programs.

Generally stamp funds are available for these projects and programs. If the activity is an integral part of the approved project, in my opinion, you may exercise your discretion whether a particular expenditure is authorized. The projects and programs are broad as set forth above. Generally if the project includes public-educational outreach requirements, the stamp funding for the above would be authorized.

Please advise if you have specific questions as to the above.

A handwritten signature in black ink, appearing to read 'Gayle E. Manges', with a long horizontal flourish extending to the right.

Gayle E. Manges



United States
Department of
Agriculture

Forest
Service

Southwestern
Region

517 Gold Avenue SW.
Albuquerque, NM 87102-0084
FAX: (505) 842-3800

Reply To: 2600

Date: **APR 01 1993**

Mr. Bill Montoya, Director
New Mexico Department of Game & Fish
Villagra Building
P.O. Box 25112
Santa Fe, NM 87504

Dear Bill:

We asked the Office of General Counsel to give us a legal opinion on the same questions asked of the BLM Associate Solicitor regarding the use of Habitat Stamp money on other than Federal lands. The Office of General Counsel opinion states "that the Sikes Act monies collected by the State of New Mexico can only be used on Federal lands in accordance with the statute." This opinion would not allow the Department the opportunity to use Sikes funding for projects on Department lands.

I am in agreement to your using the administrative fund to fund the Sikes Manager's salary up to a maximum of \$70,000 total. If you have questions in regard to our response, please contact Jim Lloyd, 842-3260, or Dick Cooke, 842-3266.

I think that this is a very good cooperative program and am behind it 100 percent.

Sincerely,

for

LARRY HENSON
Regional Forester

CC:

New Mexico Game & Fish Commission

BLM, State Director

Janell Ward





United States Department of the Interior



BUREAU OF LAND MANAGEMENT
New Mexico **State Office**
1474 Rodeo Rd.
P.O. Box 27115
Santa Fe, New Mexico 87502-0115



IN REPLY REFER TO:
6525 (930)

MAR 29, 1993

Mr. Bill Montoya, Director
State of New Mexico
Department of Game and Fish
P.O. Box 25112
Santa Fe, NM 87504

Dear Mr. Montoya:

Your letter of February 26, 1993 requested that future Sikes Act invoices be sent to the attention of Janell Ward, which we will do.

Regarding your request to utilize the first \$70,000.00 of stamp revenue to fund the Sikes Act coordinator position, we are in agreement. The CA should be modified at the next update to reflect this change. The support provided by the coordinator Ms. Janell Ward has been outstanding, and should be continued.

Sincerely,

Larry L. Woodard
State Director

HSP Procedures
United States
Department
Agriculture

Forest
Services

Southwest
Region

517 Gold Avenue SW
Albuquerque, NM 87102-0084
FAX: (505) 842-3800
(505) 842-3292

Mr. Jerry Maracchini, Director
New Mexico Department of Game and Fish
P.O. Box 25112
Santa Fe, MR 87504

File Code: 2610

Date: JAN 11 1996

I appreciate your staffs efforts, and particularly Jan Ward, in working closely with my Wildlife Staff as well as various employees on the New Mexico Forests regarding the future of the New Mexico Habitat Stamp Program.

As you may know, our budgets have been declining for several years. Also, due to reductions in all program areas, the wildlife program has been expected to pay a larger percentage of overhead costs than in the past. Recent congressional actions lead us to believe that budgets in general cannot be expected to return to the historic high levels of the late eighties and early nineties.

In the past several years, the costs of implementing projects on the ground have increased significantly due to appeals, lawsuits, Endangered Species Act and National Environmental Policy Act compliance, court orders and legislation. Staff time by our biologists and others has increased accordingly at the same time our budgets for covering their salaries were decreasing. This puts us in the position of having to pay administration expenses from funds, which we used in the past to do actual project work.

The Habitat Stamp Program is an important aspect of our investment needs for the wildlife program. However, pre also need to continue improvements for cavity dependent species, neotropical migrant birds, wildlife viewing and other partnership commitments.

The Forest Service has been a strong supporter of the Habitat Stamp Program and was involved from its inception. We want it to continue! However, we are finding it increasingly difficult to meet the matching contribution commitment as originally defined. So in light of these difficult financial times, I would like to implement the following strategy for the New Mexico National Forests that would begin with our fiscal year 1996 program. Since CCS funds have not decreased like the operations funds have, I will need to use CCS funds to help pay up-front administrative costs for each project in addition to paying for as much of the matched costs of the project as possible. The net effect of this change will result in the State paying a larger percentage of the project implementation phase of the program. The Forest Service will more clearly identify total costs associated with the program from project proposal phase to project completion. We will continue to support the Habitat Stamp Program throughout the State and assist in avoiding surplus funding accounts in the various regions.

Thank you for your continued and excellent support of this outstanding partnership. We look forward to hearing from you and in continuing this tremendous program an behalf of New Mexico's wildlife and citizens.

If you have any questions, please contact Jim Lloyd at 842-3260 or Leon Fisher at 842-3262.

Sincerely,



CHARLES W. CARTWRIGHT, JR.
Regional Forester

Janell Ward, NMDGF
Bruce Morrison, NMDGF Leon
Fisher, USPS
Bob Nelson, WO





United States
Department of
Agriculture

Forest
Service

Southwestern
Region

517 Gold Avenue, SW
Albuquerque, NM 87102-0084 FAX
(505) 842-3800
V/TTY (505) 842-3292

File Code: 2610
Route To:

Date: JUN 18 1999

Subject: New Mexico Habitat Stamp Program

To: New Mexico Forest Supervisors

As you know, the Forest Service and BLM have enjoyed a strong partnership with the New Mexico Department of Game and Fish over the years implementing the Federal Sikes Act PL 93-452, more commonly known in New Mexico as the New Mexico Habitat Stamp Program (HSP). Support by the public has grown each year as they have observed the on-the-ground results. 'Me program is the envy of many other states. On June 4, 1999, the New Mexico Game Commission unanimously reauthorized the HSP for 10 additional years (201 1).

I have recently been advised that some of our unit records are in need of improvement. Like all of our programs, we, as well as the State, are subject to review and audit of our records. The New Mexico Habitat Stamp Program Cooperative Agreement (I 422G9 ICA980006,III.D. 10- I 1)states that the Forest Service and BLM will:

"Maintain accurate records and file an annual report with the New Mexico Department of Game and Fish setting forth the amount and disposition of funds received from the Department for projects approved under this Agreement" and

"Authorize the New Mexico Department of Game and Fish and the New Mexico State Auditor or their representatives to have access to all records pertaining to projects conducted under this agreement for purposes of audit and examination."

To better fulfill our obligation to this program, I am directing forests to immediately-

- 1) Develop paper/electronic files for each individual HSP project. These files will contain all invoices, project manager statements, contacts, monitoring and photographic data and other pertinent information related to both cost and monitoring.
- 2) Maintain these files in the Ranger District office that was responsible for project implementation.

This direction will apply immediately to all future HSP projects. If you have questions regarding this direction, please contact Leon Fisher in the WFRP Staff Unit or Jan Ward with the New Mexico Department of Game and Fish at 505: 841-8881.

Carolyn Holbrook

for ELEANOR S. TOWNS
Regional Forester

cc: Andy Dimas- BLM
Jan Ward- NMDGF





United States Department of the Interior
BUREAU OF LAND MANAGEMENT
New Mexico State Office
1474 Rodeo Road
P.O. Box 27115
Santa Fe, New Mexico 87502-0115
www.nm.blm.gov



In Reply Refer To:
2610(93000)P

July 28, 1999

Instruction Memorandum No. NM- 0 3 7
Expires: 9/30/00

To: All Field Office Managers

From State Director, NM

Subject: New Mexico Habitat Stamp Program

As you know, the Forest Service and BLM have enjoyed a strong partnership with the New Mexico Department of Game and Fish over the years implementing the Federal Sikes Act PL 93- 452, more commonly known in New Mexico as the New Mexico Habitat Stamp Program (HSP). Support by the public has grown each year as they have observed the on-the-ground results. The program is the envy of many other states. On June 4, 1999, the New Mexico Game Commission unanimously reauthorized the HSP for IO additional years (201 1).

I have recently been advised that some of our Field Office records are in need of improvement. Like all of our programs, we, as well as the State, are subject to review and audit of our records. The New Mexico Habitat Stamp Program Cooperative Agreement (1422G91OA980006, III.D. I 0- I 1) states that the Forest Service and BLM will:

"Maintain accurate records and file an annual report with the New Mexico Department of Game and Fish setting forth the amount and disposition of funds received from the Department for projects approved under this Agreement" and

"Authorize the New Mexico Department of Game and Fish and the New Mexico State Auditor or their representatives to have access to all records pertaining to projects conducted under this agreement for purposes of audit and examination."

To better fulfill our obligation to this program, I am directing Field Offices to immediately:

- 1) Develop paper/electronic files for each individual HSP project. These files will contain all invoices, project manager statements, contacts, monitoring and photographic data and other pertinent information related to both cost and monitoring.
- 2) Maintain these files in the Field office that was responsible for project implementation

This direction will apply immediately to all future HSP projects. If you have questions regarding this direction, please contact Andy Dimas, State Wildlife Biologist at (505) 438-7422 or Jan Ward with the New Mexico Department of Game and Fish at (505) 841-888 1.



Frank Splendoria
Acting

Distribution

WO (230), 204 LS - I

NM (930, A. Dimas) - I

NM (956, Binder) - I

Jan Ward, NMDGF - I

Jerry Maracchini, NMDGF –

Leon Fisher, USFS - I



United States
Department of
Agriculture ...

Forest Service
Southwest
Region.

517 Gold A,@@., SW
NNI 87102-008
FAX (505) 842-3800

File Code: 2600
Route To:

Date; 4-20-98

Subject: Legal Opinion – Sikes Act Program

To: Regional Attorney, Office of General Counsel

Please review the enclosed letter and attachments from the Director of the New Mexico Department of Game and Fish.

The Department is requesting a final and coordinated response because of the past differences of opinion between OGC and the Office of the Solicitor, USDI.

Because of the high-profile nature of the Sikes program and in the interest of agency cooperation, I would appreciate your timely review and response to this request.

/S/ John R. Kirkpatrick

for ELEANOR S. TOWNS
Regional Forester

Enclosure

FILED: IBM
Drawer: WFRP
Folder: Correspondence
Document Name: 98-04-20-OGC.Sikesact
Author / Typist: Fisher-Martines
Date: 4-21-98 Initials: VM



United States
Department of
Agriculture

Office of the
General
Counsel

517 Gold Avenue, S.W.
Room 4017
Albuquerque, NM 87102
(505) 768-6940
(FAX) 768-6949

**ATTORNEY/CLIENT PRIVILEGE
NOT SUBJECT TO RELEASE UNDER FOIA**

June 24, 1999

TO: Jim Lloyd
Director, Wildlife, Fish, and Rare Plants
Southwestern Region

THROUGH: Leon Fisher
Wildlife Program Manager

FROM: Mary Ann Joca
Assistant Regional Attorney

SUBJECT: Use of Sikes Act Funds on State Lands

At your request I have reviewed my 1993 legal opinion on this matter and have spoken to attorneys in the Natural Resources Division of the Office of the General Counsel in Washington. It is still my opinion that, according to the act, monies collected under the Sikes Act can only be used on federal lands as defined in the statute. However, to accommodate, the Department of Interior's broad reading of the statute, I am willing to make a minor change to my previous opinion. Sikes Act monies may be used on non-federal lands when there is a real estate nexus or appurtenance involved, i.e., the state land must be located next to or in close proximity to federal land and the expenditure of the funds must directly benefit the federal land.

If you have any further questions regarding this matter, please do not hesitate to contact me,

Enc



United States
Department of
Agriculture

Office of
the General
Counsel

517 Gold Avenue, S.W.
Room 4017
Albuquerque, NM 871 2
(505) 768-6940
(FAX) 768-6949

**ATTORNEY/CLIENT PRIVILEGE
NOT SUBJECT TO RELEASE UNDER FOIA**

September 9, 1999

TO: Jim Lloyd
Director, Wildlife, Fish, and Rare Plants
Southwestern Region

THROUGH: Leon Fisher
Wildlife Program Manager

FROM: Mary Arm Joca
Assistant Regional Attorney

SLJBJECT Clarification of the June 24, 1999 Legal Opinion Regarding Use of Sikes Act
Funds on State Lands

At your request I am clarifying my previous legal opinion in regard to the use of the term "non-federal lands." Perhaps a better term to use in the context of the Sikes Act is "non-federal public lands." The lands on which monies collected under the Sikes Act can be used have to public in nature, i.e., state owned (with the appropriate nexus) or federally owned, as required by the statute. The use of these monies does not extend to any private lands.

If you have any further questions regarding this matter, please do not hesitate to contact me.



**United States
Department of
Agriculture**

Forest
Service

Southwestern
Region

517 Gold Avenue, SW
Albuquerque, NM 87102-0084 FAX (505) 842-
3900
V/TTY (505) 842-3292

Date: July 27, 1999

Ffile Code: 1580

Route To:

Subject: Guiding Principles for Cooperative Ventures

To: Forest Supervisors

Several questions have been raised on use of Cooperative Work Forest Service (CWFS), Reimbursement, and overhead charges. These questions have come up during Region 3's SEAP reviews, OIG consulting reports and standards established in the Financial Guide. Attached is a copy of Guiding Principles that must be used to establish consistency throughout the Region. Fiscal and Accounting Services and Procurement and Property will be working on a manual supplement establishing policy and more specifics on the use of Cooperative Ventures.

Any questions can be referred to T. Aragon at (505) 842-3181 or D. Rottach at (505) 842-3346.

/s/ Billy R. Graves

BILLY R. GRAVES
Director of Fiscal and
Accounting Services

/s/ Susan A. Prentiss

SUSAN PRENTISS
Acting Director for Procurement
and Property

Enclosure

cc:

T. Aragon

D. Rottach



Guiding Principles for Cooperative Ventures

Cooperative Work Forest Service (CWFS)

*CWFS - Funds must be received in advance and prohibits expenditures on the cooperative work before receiving an advance deposit.

*Deficit accounts, accounts with expenditures exceeding collection is a violation of the Antideficiency Act.

*Forest Service can not legally spend funds on a CWFS project before cooperator funds are deposited.

*There may be occasion when two accounts have to be set up. One as a CWFS account and the other as Reimbursable account. This would happen when a cooperator agrees to put up 90% of funds up front from CWFS and the Balance 10% upon completion of the Project (REIM).

Reimbursable Accounts.

*Agreements must be signed officially by both parties prior to expending any funds or performing any work.

*The Forest Service must charge overhead if we are using Economy Act.

*An exemption to the above could be made at the discretion of the approving officer if agreement is for joint services. (i.e. Co-location) Each party paying their fair share of overhead. Documentation will be part of the agreements.

Indirect/Overhead Cost.

*Must be addressed in the agreement instrument. *When each party performs their share of the work and there is no exchange of fluids involved, indirect cost may be excluded by mutual agreement.

This must be addressed in the agreement instrument,

*When the Forest Service performs work for others, indirect expenses are an inherent element of the cost doing the work and will be provided for in the agreement (mandatory).

*Insert the following statement on overhead. "Overhead at the rate of % will be assessed."

*There is no established policy as to amount of dollars or rate of percent that will be assessed. This must be negotiated.

*Exemption to the above, can be made if there is a justifiable reason to waive overhead. This normally happens when individuals, states or local agencies are making a contribution/donation to the Forest Service for performing work on National Forest Lands and not performing work for other's land. Examples are, Heritage Fund Grants being made by the State of Arizona, Sikes Act Funds provided by the State of New Mexico and Private Gifts and Donations.

*Justification statement as to exemption from indirect costs will be included in the agreement.



OFFICE OF THE GOVERNOR
STATE CAPITOL
SANTA FE, NEW MEXICO 87503

GARY E. JOHNSON
GOVERNOR

(505) 827-3000

April 25, 2001

APR 30

Mr. Larry Bell, Director
New Mexico Department of Game & Fish
P.O. Box 25112
Santa Fe, New Mexico 87504

Dear Mr. Bell:

Pursuant to NMSA 1978, § 9-1-9, I hereby approve the New Mexico Department of Game and Fish's request to establish a Habitat Stamp Program Citizen's Advisory Committee.

890

Sincerely,

A handwritten signature in black ink that reads "Gary E. Johnson".

Gary E. Johnson
Governor

File Code: 2660/1580/6500
Route To: (2600)

Date: July 1, 2002

Subject: Notification and Payment of Habitat Stamp Program

To: Forest Supervisor, Apache-Sitgreaves National Forests, Forest Supervisor, Carson National Forest, Forest Supervisor, Cibola National Forest, Forest Supervisor, Gila National Forest, Forest Supervisor, Lincoln National Forest, Forest Supervisor, Santa Fe National Forest

The Southwest Region has enjoyed a 10-year partnership with New Mexico Department of Game and Fish Game to improve habitat for wildlife and fish through the Habitat Stamp Program. Project funds are generated through a public land user fee on hunting and fishing licenses. Each year we match these funds and together spend nearly 1.5 million dollars on projects throughout the state. Recently Game and Fish announced administrative changes that you should be aware of in order to continue this important work:

1. A two year project duration was agreed to in 1999 and is now in effect. Game and Fish will disencumber funds for projects that are not completed within 2 years from date of approval. Forests should notify Game and Fish if project completion is not anticipated before the end of the second year.
2. Forests may begin project work once the Collection Agreement is signed. Funds approved by Game and Fish are available July 1st and can be expended once the Collection Agreement is signed.
3. Submit invoices to Game and Fish by June 1. An assessment of projected costs may be submitted for incomplete project work. Invoices may be submitted at any time following project completion and should be submitted no later than 6 months following project completion. Habitat Stamp funds available for Forest Service projects in 2002 are \$808,832.01. As of June 1, 2002, Game and Fish received invoices for only \$3,778.79.

Additional clarification that will help you:

1. The Forest Service will not charge overhead per R-3 manual supplement.
2. Projects should show a Forest Service match of at least 50%. In kind contributions made by agency employees should be shown as a portion of our match.

/s/ Leonard Atencio for
ABEL M. CAMARENA
Acting Regional Forester

cc: Gail C Tunberg



United States
Department of
Agriculture

Forest
Service

R3 Regional Office

333 Broadway SE
Albuquerque, NM 87102
FAX (505) 842-3800

File Code: 2610/6500

Date: January 16, 2004

Mr. Bruce Thompson
Director
New Mexico Department of Game and Fish
One Wildlife Way
P.O. Box 25112
Santa Fe, NM 87504

Dear Mr. Thompson:

In response to your October 23 letter requesting a waiver of 19.5% overhead assessment fees, we confirm that the Forest Service will not be charging 19.5% overhead assessments for projects funded under the Sikes Act Habitat Stamp Program.

A waiver is granted based on the following:

1. Habitat Stamp funds are used for on-the-ground project implementation.
2. Work performed using Habitat Stamp funds is work that the Southwestern Region would want to do in the next several years with appropriated funds.
3. The Sikes Act prohibits more than 10% of collected funds be used for overhead. As agreed in our Memorandum of Understanding, New Mexico Department of Game and Fish collects the allowable 10% for program administration. We would be in violation of the Sikes Act and our MOU if the Southwestern Region charged an additional 19.5% overhead assessment.

Our partnership with New Mexico Department of Game and Fish to restore and conserve wildlife and fisheries resources through the Habitat Stamp Program is very important to us. We are pleased to grant a waiver for overhead assessments and ensure continued success of the Program.

Sincerely,

/s/ Thomas Zimmerman, for
HARV FORSGREN
Regional Forester

cc: Don G DeLorenzo, Alan J Koschmann, pdl r3 nm mailrooms, Mailroom R3 Coronado



New Mexico Statute Annotated
April 2004

17-2-1. State Game Commission powers.

The state game commission, in addition to the powers now vested in it and not as a limitation of those powers, is expressly authorized and empowered by regulation adopted and promulgated in the manner provided in Chapter 17 NMSA 1978 to:

- A. define game birds, game animals and game fish;
- B. establish open and closed seasons for the killing or taking of all kinds of game animals, game birds and game fish and to change such open seasons from year to year and to fix different seasons for different parts of the state;
- C. establish bag limits covering all kinds of game animals, game birds and game fish and the numbers thereof which may be killed or taken by any one person during any one day or during any one open season;
- D. authorize or prohibit the killing or taking of any game animals, game birds or game fish of any kind or sex;
- E. prescribe the manner, methods and devices which may be used in hunting, taking or killing game animals, game birds and game fish;
- F. prescribe rules and regulations to prohibit any vehicle or vehicles used in transporting persons engaged in hunting, taking or killing game animals, game birds and game fish from leaving established roadways; and
- G. appoint one or more advisory committees to furnish advice, evaluations and recommendations for wildlife management projects utilizing revenue derived from the sale of public land management stamps. The advisory committees shall be created pursuant to the procedures of Section 9-1-9 NMSA 1978, provided that the restrictions on the life of advisory committees contained in Subsection F of that section shall not be applicable.