BPA FIXED CREDIT CAPITALIZATION/LAND ACQUISITION CONCEPT: QUESTIONS AND ANSWERS

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1. Question: In this fixed credit concept, can the required agreement (MOA) involve multiple entities who collectively bring acquisitions together to meet capitalization requirements?

Answer: BPA would be willing to explore a multi-party MOA. For example, BPA could negotiate an MOA with parties A, B, and C, in which A, B, and C commit to providing BPA a total of XX wildlife habitat units for YY-YY million dollars in three years time. The key issue for negotiation would be how to identify and ensure contract performance for each of the participating entities: would each be responsible for a specific share of the total credits and related funding? Would A, B, and C accept joint and several liability for contract performance, i.e., each party would be liable for ensuring the agreed upon wildlife credits were obtained even if another party failed?

BPA expects it would be easier to negotiate an MOA with a single entity that served as the central point for all acquisitions even if other entities participated. For example, BPA could negotiate an MOA with party A for a total of XX wildlife habitat units for YY-YY million dollars in three years time, and entities B and C could agree to assist party A in meeting the acquisitions needs (prime to sub-contractor-like arrangement). BPA will not require this approach, however.

2. Question: In the case of a multi-party MOA, would title to the parcels still have to be held by a single entity?

Answer: No. The requirement that all parcels be held by the same entity is necessary when BPA is funding the acquisition of multiple parcels, without a guarantee of a fixed number of credits up front. In that case, we need to demonstrate how the project (the multiple parcels) is functionally interdependent as a whole, and title held by a single entity is one of the possible elements to demonstrate this. When the project is for a fixed number of credits from multiple parcels, the fixed credits serve to integrate them as a project, and so there is no need to meet all of the additional elements of functional interdependence. The following is how BPA proposes to clarify its fish and wildlife capitalization policy language to accommodate this fixed credit concept (additions in underline):

Acquisitions must cost $1 million or more. If an acquisition includes more than one parcel the acquisition may be capitalized if it meets the following additional criteria:

- The parcels together must total at least $1 million in acquisition cost; AND
- The parcels must all be providing mitigation for a single FCRPS hydroelectric project; AND

- The parcels must all be purchased within a single fiscal year (unless the parcels are acquired to satisfy a binding commitment made to BPA for a fixed number of credits, in which case the parcels must be acquired within the term of the agreement); AND
- The parcels must be in an area identified by a single fish and/or wildlife habitat protection, mitigation and enhancement plan created prior to December 21, 2000 or be located in the same Council-defined sub-basin, whichever encompasses the greatest area ; AND
- The parcels must be shown to be functionally interdependent by meeting one of the following elements:
  - Title will be held by the same entity; or
  - Parcels are acquired to satisfy a binding commitment made to BPA for a fixed number of credits; or
  - Parcels are contiguous; or
  - If not contiguous with each other, each parcel is contiguous with a unified block of lands that are already permanently managed for protection of fish and/or wildlife (e.g., a wildlife refuge, a former ranch now permanently managed for wildlife, etc); or
  - If not contiguous, would establish a properly functioning habitat unit appropriate to the species life history needs addressed by the acquisition project, e.g., a migration corridor, winter range, or genetic refuge.

3. Question: In the fixed credit approach, will BPA provide the agreed-upon funding up front, at the time of the agreement?

> Answer: No, BPA will not provide advance payments. As with current land acquisitions practices, BPA will provide funding for the cost of the identified parcel(s) at closing.

4. Question: In the fixed credit approach, can the costs of acquiring the property be capitalized?

> Answer: Yes, in the fixed credit approach, the costs of acquiring the property may be capitalized, potentially sooner than compared with standard grouped land acquisitions. As noted in BPA's fish and wildlife capitalization policy, projects with multiple parcels will mostly likely have a longer preliminary project stage and result in a greater amount of preliminary costs being expensed prior to the determination being made that a project meets the policy for capitalization. With a fixed credit agreement, however, the determination can be made at the time of the agreement, and as a result, the costs of acquiring the property to meet that agreement may be capitalized rather than expensed. BPA may provide a separate procurement contract for these services, although the amount of funding would be negotiated in the MOA.

5. Question: Can planned restoration or enhancement projects proposed for the parcels be included as a cost of the capital project for this fixed credit approach?

> Answer: No, not unless the restoration or enhancement projects themselves meet the capitalization policy (a useful life of 15 years or greater, and a cost of $1 million or more), and these specific costs were included in the rate case as required by accounting standards.

6. Question: Can operation and maintenance costs be included as a cost of the capital project for a fixed credit approach?

> Answer: No, O&M costs may not be included as a cost of the capital project, regardless of whether a fixed credit approach is used or not. Any O&M funding would need to be provided via a separate expense contract.

7. Question: What happens if the project sponsor fails to obtain the credits committed to in the MOA?

> Answer: This would be a breach of the agreement with BPA. Depending on the circumstances, BPA could extend the time for performance, terminate the agreement and provide no additional funding to the sponsor (assuming that sufficient credits and expenditures have occurred to meet the capitalization policy), or the sponsor would have to obtain additional credits at no cost to BPA. This could be achieved, for example, by the sponsor using its own funding to purchase additional lands to provide the agreed-upon HUs, or the sponsor could give BPA additional credits for lands already owned by the sponsor that were not funded by BPA. If this is not possible, BPA will likely require the ability to pursue a cause of action for damages against the sponsor for breach.