

Melinda S. Eden  
Chair  
Oregon

Joan M. Dukes  
Oregon

Frank L. Cassidy Jr.  
"Larry"  
Washington

Tom Karier  
Washington



Jim Kempton  
Vice-Chair  
Idaho

Judi Danielson  
Idaho

Bruce A. Measure  
Montana

Rhonda Whiting  
Montana

November 3, 2005

## MEMORANDUM

**TO:** Committee Members

**FROM:** Lynn Palensky

**SUBJECT:** Bonneville Implementation Policy Issues - BPA/USFS Partnership Agreement and the Land Capitalization Policy

Bob Austin from Bonneville will be here to discuss with Committee members the status of two policies that affect treatment of projects coming in under the '07-'09 Provincial Review Process.

1) Bonneville's Partnership Agreement for projects on USFS land: A draft of the agreement was presented to members at the September meeting. The Council and staff generally supported the agreement. Council members asked Bonneville about its current view off *in lieu* funding is how *in lieu* is factored in to this agreement. A letter from Greg Delwiche dated October 26<sup>th</sup> to Council Chair Melinda Eden addresses the question regarding *in lieu*. Since the September meeting, Bonneville has reformatted the agreement into a memorandum of understanding and it is nearly ready for signature pending final staff comments.

2) Land Capitalization Policy: At the Eugene meeting, Greg Delwiche provided preliminary information on a new approach to meeting the financial standards to allow the use of capital funds for land acquisitions. The latest draft of this policy is attached. The policy is on Bonneville's website and open for comments.

---

w:\lp\ww\packet materials\2005\november 05\bpa policies fish4.doc

## **DRAFT PROPOSAL FOR CAPITALIZATION OF BPA-FUNDED WILDLIFE LAND ACQUISITIONS VIA CONTRACTS FOR FIXED HABITAT UNITS AT A FIXED PRICE**

### **Proposal:**

- To contract with project sponsors for wildlife habitat acquisitions using a fixed price concept for a set number of wildlife habitat units (HUs) obtained.

### **Objectives:**

- To obtain appropriate wildlife mitigation lands to mitigate for impacts from the FRCPS, consistent with the Council's Fish and Wildlife Program and BPA objectives
- To satisfy BPA capitalization policy requirements, while addressing wildlife land acquisitions that cross multiple fiscal years, increasing flexibility for project sponsors in negotiations with landowners.

### **Elements:**

- BPA would seek to negotiate Memorandums of Agreement (MOAs) with project sponsors to acquire a specified number of wildlife HUs over a 2-3 year period via wildlife habitat land acquisitions for a fixed price. The MOA would set milestones for meeting the work to ensure the HUs are obtained within the contract period.
- For example, BPA would contract in an MOA with a tribe for the tribe to acquire X wildlife habitat units in mitigation for the X FCRPS project, for a total of \$X million(s) of dollars (has to exceed \$1 million to be eligible for capital funding), with X percent of the HUs obtained in year 1. All "Xs" are negotiable.
- A separate procurement contract would be negotiated with the project sponsor for funding acquisition costs. BPA anticipates that with a fixed price MOA for a set number of HUs, acquisition costs associated with acquiring those HUs would be considered part of the capital cost for the project.
- Any BPA funding commitments for operation and maintenance (such as vegetation control, etc) would not be considered part of the capital cost for the project (are not eligible for capitalization), and would still require a separate expense contract.
- This is an optional method for doing wildlife land acquisitions, and would not be required.

### **Process:**

- BPA and project sponsor would negotiate the MOA, establishing the total number of HUs, the FCRPS project being mitigated, the total price, the period for performance, and the percent of HUs that would need to be obtained in the initial year. Other standard wildlife land acquisition MOA provisions regarding crediting, issuance of conservation easements to BPA, development of management plans etc, would be included.

- As with current wildlife land acquisition procedures, the sponsors would identify appropriate lands, and appraisals and environmental review procedures etc. would be performed.
- In addition, as with current practice for capitalized land acquisitions, a minimum number of HUs would be identified for the parcel prior to acquisition; in this fixed price proposal, however, the preferred approach for identifying the HUs would be by a baseline HEP survey in advance of acquisition of the parcel.
- If negotiations on the required terms are successful, BPA would provide the funds to pay the purchase price directly to the landowner (typically via an escrow account), in exchange for the identified HUs, and the grant of a conservation easement to BPA on the parcel for permanent protection for wildlife (i.e., there is no requirement that the project sponsor provide the funding up front and then await reimbursement from BPA).

#### **Expected benefits:**

- Because this would establish a binding commitment for total HUs up front, it allows for capitalization at the time of the commitment (i.e., the execution of the MOA).
- Because the project being capitalized is the fixed HU acquisition, and that project is defined and identifiable at the time of the MOA, the land acquisitions that fulfill the project could occur over more than 1 year.
- Acquisition costs would be expected to be part of the capital cost, as opposed to expense costs, similar to hatchery projects.
- Sponsors will have increased time and flexibility to acquire the most appropriate lands as they are available.

#### **Potential downsides:**

- Will sponsors and BPA be able to negotiate an acceptable fixed price for a set number of HUs over a set period?
- With rising land prices in many areas, can a fair fixed price be established that both addresses price volatility, while ensuring the mitigation is cost-effective for BPA? (BPA might be able to support an agreement for a fixed number of HUs for a somewhat flexible price, i.e., the HUs would be fixed, but agreed-upon funding might be limited range, e.g. X HUs for a total of \$2.5 to 3.0 million dollars, but option this requires more discussion).
- Are wildlife managers confident in their ability to identify and obtain lands with sufficient HUs to meet the commitment at the set total price?

#### **Proposal steps:**

- Seeking feedback on this proposal—questions, comments, concerns.
- BPA would be seeking 2-3 wildlife managers in the region interested in testing this concept out for existing wildlife habitat projects by negotiating pilot MOAs in FY06 for implementation starting in FY07. This approach may also be possible for resident fish habitat acquisitions in Montana, provided appropriate credits can be negotiated.

---

w:\lp\ww\packet materials\2005\november 05\draft fixed price capitalization proposal final draft.doc