

**BPA DRAFT PROPOSAL FOR
CAPITALIZING WILDLIFE LAND ACQUISITIONS
USING A CONTRACT OR MOA FOR FIXED HABITAT UNITS**

Proposal:

- To contract with project sponsors for wildlife habitat acquisitions using a contract or memorandum of agreement (MOA) for acquiring a set or fixed number of wildlife habitat units (HUs) within an agreed-upon fixed price range. The MOA would require the sponsor to secure a minimum level of HUs; BPA would provide funding within a negotiated range to ensure enough money is available to secure at least the minimum HUs agreed upon.

Objectives:

- To obtain appropriate wildlife habitat to mitigate for impacts from the Federal Columbia River Power System, consistent with the Council's Fish and Wildlife Program and BPA objectives
- To satisfy BPA capitalization policy requirements while increasing flexibility for project sponsors making wildlife habitat acquisitions that cross multiple fiscal years, involve multiple project sponsors, or involve individual parcels that cost less than \$1 million.

Elements:

- BPA would seek to negotiate MOAs with project sponsor to acquire a specified number of wildlife HUs over a 2-3 year period within an agreed upon price range. The MOA would set milestones for meeting the work to ensure the sponsor obtains the HUs within the contract period.
- For example, BPA would sign an MOA with a tribe for the tribe to acquire a minimum of XXX wildlife habitat units in mitigation for the XXX Federal dam, for a total of \$XX-YY million(s) of dollars. The total MOA or contract value has to exceed \$1 million to be eligible for capital funding. The parties would negotiate a percent of the HUs to be obtained in year 1. All "Xs" and "Ys" are negotiable.
- A separate procurement contract would cover pre-acquisition costs; e.g., appraisals, surveys, relocation, escrow costs, baseline habitat evaluation procedures (HEP), etc. BPA anticipates that with a fixed price MOA for a set minimum number of HUs, pre-acquisition costs associated with acquiring those HUs could be considered part of the capital cost for the project.
- Any BPA funding commitments for operation and maintenance (such as vegetation control, fencing, management planning, etc.) would not be considered part of the capital cost for the project, so O&M would still require a separate expense contract.
- This is an optional method for doing wildlife land acquisitions, and would be voluntary.

Process:

- BPA and project sponsor would negotiate the MOA, establishing the minimum number of HUs, the Federal dam being mitigated, the total price range, 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 also be included.
- As with current wildlife land acquisition procedures, the sponsors would identify appropriate lands. Appraisals, environmental reviews, title searches, etc., would still 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. Preferably, in the new MOAs the parties would identify the HUs with 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). The project sponsor would get title to the land. BPA would receive the identified HUs and the grant of a conservation easement on the parcel for permanent protection for wildlife. 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.
- Pre-acquisitions 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 price range for a set number of HUs over a set period?
- With rising land prices in many areas, can a fair price range be established that both addresses price volatility, while ensuring the mitigation is cost-effective for BPA?
- Are wildlife managers confident in their ability to identify and obtain lands with sufficient HUs to meet the commitment at the set total price range?

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.