



NFWF Impact-Directed Environmental Accounts: Long-Term Land Management and Maintenance Funds

The National Fish and Wildlife Foundation (“NFWF”) was established by Congress in 1984 as a private nonprofit corporation dedicated to supporting the conservation and management of the nation’s natural resources. Since its establishment, NFWF has directed hundreds of millions of dollars raised from federal, state and local agencies, corporations, foundations and individuals to critical projects benefitting the nation’s fish, wildlife, and natural resources. A key component of this work is NFWF’s Impact-Directed Environmental Accounts (“IDEA”) program. IDEA receives, manages, and disburses funds designated for specified conservation, mitigation, or restoration purposes arising from judicial and regulatory proceedings.

Summary

- Long-term land management and maintenance "endowments" are funding mechanisms to pay for the costs of long-term, or perpetual, land management activities as required by regulatory permits or other approvals.
- In consultation with state and federal regulatory agencies, NFWF has developed a platform to manage these funds.
- NFWF's management includes fiduciary custody of the funds, oversight of funds' investment by outside professional investment managers, disbursement of funds to the land manager over time, and reporting.
- The NFWF investment platform is executed by Commonfund, a national leader in nonprofit finance and endowment management.
- Although investment strategy is dictated or approved by the applicable permitting agency, the NFWF platform is appropriate for strategies adopting fully diversified investment portfolios seeking average annual returns, over long periods of time, of approximately 7.0 – 8.0%.

Details

Long-term Land Management and Maintenance Funds

Long-term land management and maintenance (“LTMM”) funds, also sometimes referred to as mitigation “endowments,” are a specialized class of mitigation funds that arise when a permit or other governmental approval requires that: (1) a parcel of real property be purchased or otherwise protected in perpetuity for conservation purposes; and (2) a long-term funding mechanism be established to provide ongoing payment for specified land management or maintenance activities on the property. Examples of regulatory actions or proceedings giving rise to LTMM funds or “endowments” include the U.S. Fish and Wildlife Service’s issuance of Incidental Take Permits and the U.S. Army Corp of Engineers’ approval of Bank Enabling Instruments establishing mitigation banks.

Like other permit requirements, LTMM funds are legally exacted funds and are therefore significantly different from philanthropic or other charitable funds managed by NFWF. In recognition of this difference, when NFWF receives and manages such funds, NFWF acts solely as an agent, trustee, or escrow provider for the permitting agency or the permit regime itself, in each case solely to ensure the funds are applied to pay for long-term land management and maintenance requirements specified in applicable permits, approvals (including long-term land management plans), laws, and regulations.

Calculation of Principal Amount

The calculation of the appropriate initial value of a particular LTMM fund is entirely dependent for its accuracy on the underlying inputs derived from the applicable permit and long-term land management plan. Those essential inputs are: (1) the year-by-year work items required for long-term management and maintenance of the parcel in perpetuity; and (2) the fully-loaded costs to perform each of those work items, including but not limited to appropriate contingencies to reflect the variability in tasks and costs that may occur over long periods of time.

Once the tasks, costs, and contingencies for long-term management and maintenance of a particular property have been confirmed, the next step is typically to convert that stream of annual cash needs into a lump-sum, present value amount. This conversion is often accomplished through the application of a “capitalization rate” (sometimes called the “Cap Rate”). The Cap Rate is essentially the percentage of the LTMM fund assumed to be drawn each year to meet the annual cash need to pay for work on the property. As a formula, the initial principal of the LTMM fund equals the annual cash need divided by the Cap Rate.

In calculating the Cap Rate itself, a key concept is that the Cap Rate reflects the net amount of gain that the LTMM fund investment portfolio must achieve each year on average over long periods of time. “Net” in this sense is not only net of costs such as investment manager and other administrative fees, but also net of inflation. Thus, for example, assuming administrative costs at 1% annually and inflation at 3% annually, a Cap Rate of 3% would require average gross annual returns of at least 7% over time. Because NFWF's role with respect to LTMM funds is one of agent, trustee, or escrow provider for the permitting agency or the permit regime itself, NFWF defers to the applicable permitting agency to determine the appropriate Cap Rate for an LTMM fund based on the permitting agency's view of the appropriate investment strategy – and therefore the projected investment return over time -- for the LTMM fund.

Funds Administration

Upon receipt of an LTMM fund for a specific property as required by a specific permit or approval, NFWF establishes a uniquely identifiable financial account for the funds. In this manner the funds can be tracked, accounted for, and reported on separately and distinctly at all times. For investment purposes, however, the funds are comingled and invested in the Commonfund portfolio. NFWF provides an annual financial report on each account to the applicable permitting agency showing the balance at the beginning of the reporting period, the net investment activity during the reporting period, the amounts of any disbursements, and administrative expenses such as NFWF's 1% annual management fee.

NFWF works with both permitting agencies and land stewards on the development of mechanisms to provide for the ongoing, annual disbursement of LTMM funds, including contractual arrangements and automated disbursements.

Funds Investment

Because any Cap Rate necessarily involves assumptions about future expected investment returns, it is critical that the Cap Rate be aligned with the investment strategy to be employed for the associated LTMM fund portfolio. Over the past few years, NFWF has consulted with a number of state and federal permitting agencies in California on the development and approval by these agencies of investment policy statements (“IPs”) that reflect each agency's respective desired investment parameters. Based on this consultation, NFWF's outside investment advisor, Commonfund, has constructed a fully-diversified investment portfolio that aligns with these agencies' IPs. This investment portfolio is actively managed by Commonfund.

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