**QUICK REFERENCE**

**VW SETTLEMENT – ELEMENTS OF A FUNDING REQUEST**

**Appendix D / 5.2 Funding Requests:** Beneficiaries may submit requests for Eligible Mitigation Action funding at any time by filing with the Trustee a Beneficiary Eligible Mitigation Action Certification form (Appendix D-4), containing each of the certifications required by subparagraphs 5.2.1 through 5.2.13, as applicable. Each request for Eligible Mitigation Action funding must be submitted to the Trustee in electronic and hard-copy format, and include:

**5.2.1** An explanation of how the funding request fits into the Beneficiary’s

Mitigation Plan;

**5.2.2** A detailed description of the proposed Eligible Mitigation Action,

including its community and air quality benefits;

**5.2.3** An estimate of the NOx reductions anticipated as a result of the proposed

Eligible Mitigation Action;

**5.2.4** A project management plan for the proposed Eligible Mitigation Action,

including a detailed budget and an implementation and expenditure timeline;

**5.2.5** A certification that all vendors were or will be selected in accordance with state public contracting laws;

**5.2.6** For each proposed expenditure exceeding $25,000, detailed cost estimates

from selected or potential vendors;

**5.2.7** A detailed description of how the Beneficiary will oversee the proposed

Eligible Mitigation Action, including but not limited to:

**5.2.7.1** Identification of the specific governmental entity responsible for

reviewing and auditing expenditures of Eligible Mitigation Action funds

to ensure compliance with applicable law; and

**5.2.7.2** A commitment by the Beneficiary to maintain and make publicly

available all documentation submitted in support of the funding request

and all records supporting all expenditures of Eligible Mitigation Action

funds, subject to applicable laws governing the publication of confidential

business information and personally identifiable information, together with an explanation of the procedures by which the Beneficiary shall make such documentation publicly available;

**5.2.8** A description of any cost share requirement to be placed upon the owner of each NOx source proposed to be mitigated;

**5.2.9** A description of how the Beneficiary complied with subparagraph 4.2.8 *[see end of this QuickReference]*;

**5.2.10** A description of how the Eligible Mitigation Action mitigates the impacts

of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions; and

**5.2.11** A detailed plan for reporting on Eligible Mitigation Action implementation.

**5.2.12 DERA Option.** To the extent a Beneficiary intends to avail itself of the

DERA Option described in Appendix D-2, that Beneficiary may use its DERA proposal as its funding request for those Eligible Mitigation Actions funded through the DERA Option.

**5.2.13 Joint Application.** Two or more Beneficiaries may submit a joint request

for Eligible Mitigation Action funds. Joint applicants shall specify the amount of

requested funding that shall be debited against each requesting Beneficiary’s allocation.

**5.2.14 Publication of Funding Requests.** The Trustee shall post each funding

request on the Trust’s public-facing website upon receipt.

**5.2.15 Reliance on Form.** The Trustee may rely on, with no further duty of inquiry, and shall be protected in acting upon, any Beneficiary Eligible Mitigation Action Certification form (Appendix D-4) reasonably believed by it to be genuine and to have been signed or sent by the proper person or persons.

**5.2.16 Approval of Funding Requests.** The Trustee shall approve any funding

request that meets the requirements of this State Trust Agreement and its Appendices. If a Beneficiary submits multiple pending Eligible Mitigation Action funding requests that exceed the allocated funds available to the Beneficiary, the Trustee shall contact the Beneficiary for direction regarding the allocation and timing of payments for each such request. Within 60 Days after receipt of each Eligible Mitigation Action funding request, the Trustee shall transmit to the requesting Beneficiary and post on the State Trust’s public-facing website a written determination either: (i) approving the request; (ii) denying the request; (iii) requesting modifications to the request; or (iv) requesting further information. A Beneficiary may use such written determination as proof of funding for any DERA project application that includes Trust Funds as a nonfederal voluntary match, as described in Appendix D-2. The Trustee shall respond to any modified or supplemental submission within 30 Days of receipt. Each written determination approving or denying an Eligible Mitigation Action funding request shall include an explanation of the reasons underlying the determination, including whether the proposed Eligible Mitigation Action meets the requirements set forth in Appendix D-2 or Appendix D-4. The Trustee’s decision to approve, deny, request modifications, or request further information related to a request shall be reviewable, upon petition of the United States or the submitting Beneficiary, by the Court.

**5.2.16.1 Disbursement of Funds.** The Trustee shall begin disbursing funds within 15 Days of approval of an Eligible Mitigation Action funding request according to the written instructions and schedule provided by the Beneficiary, unless such date is not a Business Day and then the payment shall be made on the next succeeding Business Day.

**5.2.17 Unused Eligible Mitigation Action Funds.** Upon the termination or completion of any Eligible Mitigation Action, any unused Eligible Mitigation Action funds shall be returned to the State Trust and added back to the Beneficiary allocation.

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**4.2.8 Notice of Availability of Mitigation Action Funds.** Each Certification

Form must certify that, not later than 30 Days after being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, the Certifying Entity will provide a copy of this Agreement with Attachments to the U.S. Department of the Interior, the U.S. Department of Agriculture, and any other Federal agency that has custody, control or management of land within or contiguous to the territorial boundaries of the Certifying Entity and has by then notified the Certifying Entity of its interest hereunder, explaining that the Certifying Entity may request Eligible Mitigation Action funds for use on lands within that Federal agency’s custody, control or management (including but not limited to Clean Air Act Class I and II areas), and setting forth the procedures by which the Certifying Entity will review, consider, and make a written determination upon each such request.