



Appendix 2: Policy for the Allocation of Atmospheric Benefits Where Multiple First Nations have Traditional Territories within a Forest Carbon Emission Offset Project Area

Background

First Nations are interested in exploring opportunities for managing the carbon resource through the development of Land Use Agreements within their Traditional Territories. These Land Use Agreements provide an opportunity for First Nations (Proponents) to develop a forest carbon emission offset project leading to the creation of Atmospheric Benefits from the incremental carbon sequestration or reduced emissions resulting from plan implementation. Atmospheric benefits can then be converted to Emission Offsets through a process of validation, verification, and registration. On lands where a signed agreement with a First Nation exists, the carbon resource is identified as a shared resource and an Atmospheric Benefit Agreement¹ (ABA) is entered into between the Province and the First Nation that clarifies how the ownership of Atmospheric Benefits will be allocated.

In situations where the Proponent First Nation's Forest Carbon project is located entirely on their Traditional Territory (with no additional overlapping First Nations Traditional Territory within the project area), 100% of Atmospheric Benefits available to First Nations will be assigned to the Proponent First Nation. However, First Nations frequently have overlapping traditional territories within a forest carbon emission offset project area. The Province must ensure that it considers the allocation of Atmospheric Benefits for all First Nations within the project area when negotiating an ABA with the Proponent First Nation.

With more interest from First Nations regarding the development of forest carbon emission offset projects and entering into ABA's, there is a need to establish clear rules to allocate Atmospheric Benefits to First Nations when the traditional territories within a project area overlap.

Currently, there is no clear policy guidance² for the allocation of Atmospheric Benefits when Traditional Territories overlap. The Ministry of Aboriginal Relations and Reconciliation (MARR) developed a process that was used to allocate Atmospheric Benefits among First Nations located within the Great Bear Rainforest, where each First Nation was allocated a sharing percentage of the sum of all traditional territories within the project area. Moving forward, there is a need to develop policy to ensure a consistent, reproducible approach is applied when allocating Atmospheric Benefits.

¹ The Authority to dispose of Atmospheric Benefit Rights and enter into Agreements respecting sharing of Atmospheric Benefit Rights was approved through Treasury Board Directive 2/15 on December 17, 2014.

² NRS Forest Carbon Benefits Sharing Policy Framework was developed to provide guidance regarding the management of the atmospheric benefits among the natural resource sector (NRS) government agencies in British Columbia but does not address the issue of allocating Atmospheric Benefits among First Nations with overlapping Traditional Territories.

Policy

Policy Statement

The purpose of this policy is to determine the allocation of Atmospheric Benefits (available to First Nations) among First Nations that have Traditional Territories located within a forest carbon emission offset project area.

Boundaries

The allocation of Atmospheric Benefits is determined based on the Traditional Territories of overlapping First Nations. As a result, it is important to utilize the boundary which most closely resembles the actual Traditional Territory of a given First Nation. As such, the Traditional Territory boundaries used, when allocating atmospheric benefits are listed in order of preference:

1. Asserted territory filed with the Treaty Commission,
2. Original Forest Consultation and Revenue Sharing Agreement (FCRSA), and
3. First Nation Consultative Areas Database (CAD) boundary.

ABA Project Proposal Date

The date of a particular Traditional Territory boundary is also an important consideration when determining the allocation of Atmospheric Benefits. First Nations' Traditional Territory boundaries may change or new boundaries may be asserted during the development of a forest carbon emission offset project or ABA. To ensure a consistent approach in allocating Atmospheric Benefits, the asserted boundaries in effect on the date the forest carbon project was made "known" to MARR or the Ministry of Forests Lands and Natural Resource Operation (FLNR), will be considered the final boundary for the purpose of determining the allocation of Atmospheric Benefits.

Allocation of Atmospheric Benefits

The allocation of Atmospheric Benefits, where multiple First Nations' Traditional Territories overlap within a forest carbon project area, is determined using the following process:

1. Determine the area of productive forest³ within the project area,
2. Using the Traditional Territory boundaries identified above, determine the area of each First Nations traditional territory in the project area (X_1, X_2, X_3, \dots), and
3. Utilize the following equations to determine the proportion of Atmospheric Benefits available⁴ to each First Nation that have Traditional Territories within the project areas:

³ The total productive area is used because this is the area that contributes to the Forest Carbon Project. It includes area in the Timber Harvesting Land base (THLB) plus productive areas in parks and other protected areas. It excludes lakes, rivers, and non-productive areas (alpine etc...).

⁴ "Available" refers to the proportion of Atmospheric Benefits not retained by the Province as established within an Atmospheric Benefit Agreement.

Figure 1 Atmospheric Benefit Allocation Equation

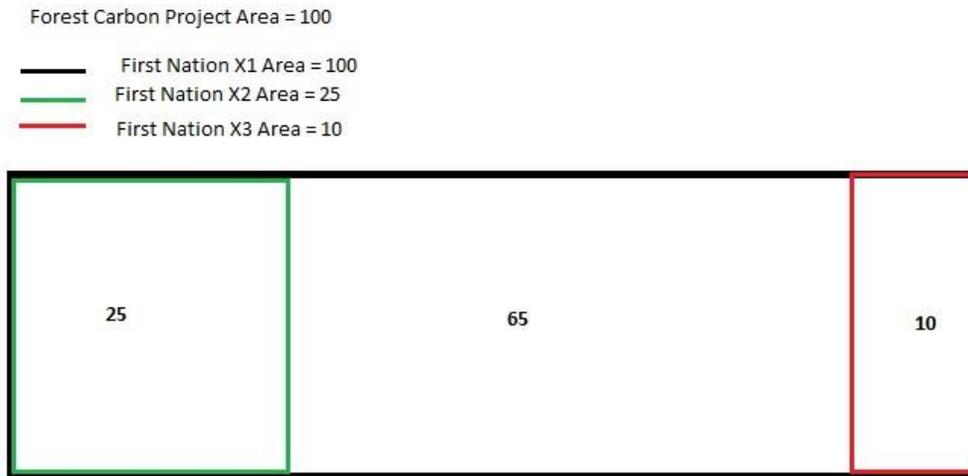
$$X_1 = 100 \left[\frac{\text{Project Area} - (X_2)(0.5) - (X_3)(0.5)}{\text{Project Area}} \right]$$

$$X_2 = 100 \left[\frac{(X_2)(0.5)}{\text{Project Area}} \right]$$

$$X_3 = 100 \left[\frac{(X_3)(0.5)}{\text{Project Area}} \right]$$

Note: Where two First Nations have overlapping traditional territory within the project area, allocation of Atmospheric Benefits is shared equally (50% each). Where 3 First Nations have overlapping Traditional Territory within the project area benefits are shared equally (33% each).

Figure 2 Allocation of Atmospheric Benefits Example



$$X_1 = 100 \left[\frac{100 - (25)(0.5) - (10)(0.5)}{100} \right] = 82.5\%$$

$$X_2 = 100 \left[\frac{(25)(0.5)}{100} \right] = 12.5\%$$

$$X_3 = 100 \left[\frac{(10)(0.5)}{100} \right] = 5\%$$

In the example above:

- First Nation X₁ would be assigned 82.5 % of the available Atmospheric Benefits,
- First Nation X₂ would be assigned 12.5 % of the available Atmospheric Benefits, and
- First Nation X₃ would be assigned 5 % of the available Atmospheric Benefits.

Benefits and Limitations

The allocation of Atmospheric Benefits described in the policy above has a number of benefits:

- The method is reproducible,
- Allows for equitable distribution of Atmospheric Benefits among First Nations,
- Does not limit the governments' ability to enter into future ABA's with other First Nations with traditional Territories within the project area,
- Implicitly allocates a greater proportion of the Atmospheric Benefits to the Proponent First Nation who develops the project (and incurs extra costs) within their Traditional Territory,
- Use of a CAD boundary may overestimate a First Nations allocation, and
- This method does not consider a First Nations' Strength of Claim⁵

Note: This process is limited to the allocation of Atmospheric Benefits that are available to First Nations and does not consider the proportion of Atmospheric Benefits retained by the Province under the terms of the Atmospheric Benefit Agreement.

⁵ Future iterations of this policy may involve the incorporation of First Nations' Strength of Claim.