ecotrust

February 6, 2012

Bob Ibanez, Manager
NMTC Program, CDFI Fund
U.S. Department of the Treasury
601 Thirteenth Street, NW
Suite 200 South
Washington, DC 20005

Re: Comments on New Markets Tax Credit Program sent via email to cdfihelp@cdfi.treas.gov

Dear Mr. Ibanez:

Based in Portland, Oregon and operating widely on the U.S. west coast and Alaska, Ecotrust's mission is to inspire fresh thinking that creates economic opportunity, social equity and environmental well-being. We integrate public and private purpose and for-profit and non-profit structures, and our many innovations include co-founding the world's first environmental bank, starting the world's first ecosystem investment fund, creating a range of programs in fisheries, forestry, food, farms and children's health, and developing new scientific and information tools to improve social, economic and environmental decision-making (www.ecotrust.org).

Ecotrust operates a Community Development Entity (Ecotrust CDE) and is working to deploy our current allocation of NMTC credits and would like to focus some of our effort on the fisheries sector, in particular - fisheries quota (sometimes referred to as IFQ, ITQ or individual transferable quota – the privilege to fish.)

In Alaska, fisheries are the second most important economic driver of the economy after oil revenues. Thus fisheries quota (without which one cannot fish) is a fundamental economic development asset for community development and stability.

In the last 20 years, fishing communities in Alaska have suffered losses of access to fisheries resources, assets of permits and quota shares, and the ability to rejuvenate boats and gear through reduced incomes, skyrocketing capital requirements, the advent and expansion of rights-based fisheries (catch shares), the consolidation and monopolization of processing, and thus markets to sell their catches. In rural coastal Alaska a 10 year (1995-2005) retrospective analysis by the National Marine Fisheries Service showed that $35M - $55M (depending on valuation) worth of fisheries quota has migrated away from rural communities causing deep economic and collateral social distress. This high capitalization has effectively squeezed many poorer, marginal fishermen out of the fishing industry. Not surprisingly, many of the fishermen who have lost their access to the resource are from Alaska native, tribal, and rural communities with lower incomes, fewer job opportunities and less home equity.

The North Pacific Fisheries Trust, a 509(a)(3) non-profit subsidiary of Ecotrust, supports the efforts of coastal communities and local fishermen to acquire and manage fishing assets that will

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allow them to participate in fisheries, thereby maintaining or recovering the employment and long-term community benefits generated by financing quota share acquisition.

We would like to leverage the lending activities of the North Pacific Fisheries Trust by using NMTC to purchase and hold fisheries quota at the community level, through vehicles such as the Community Quota Entity Program in rural coastal Alaska.

However, our understanding is that fisheries quota, while really resulting in the hard asset of "caught fish in the boat," is treated as a paper-based tradable asset (the privilege to fish) and thus is considered a non-tangible asset, thus ineligible for NMTC transactions.

The National Panel on Community Dimensions of Catch Shares recommended a clarification of the interpretation of fisheries quota as an asset under NMTC regulations, or seeks to get that changed to allow NMTC deployment for the purchase of fisheries quota.
http://www.ecotrust.org/fisheries/NPCDFCSP_paper_031511.pdf

Fisheries quota is clearly an asset that can be deployed in rural community economic development in complete congruence with the intent of the NMTC program.

We note that in section 1031 of the IRS code which addresses property exchanges, fisheries quota shares are regarded as personal property (though intangible) and can be exchanged, whereas other intangibles such as stocks and bonds are excluded from such exchanges.

We have had a discussion with Don Graves, Deputy Assistant Secretary of Small Business, Housing and Commercial Development of the US Treasury about clarifying whether fisheries quota could be classified as a tangible asset for purposes of deploying NMTC tax credits. Treasury staff indicated that this issue may need to be solved through a Private Letter Ruling with the IRS.

With these comments we wish to bring this important issued to your attention and hope to gain the advice of CDFI staff to work toward a final answer that can benefit rural fishing communities qualified to participate in NMTC programs throughout the United States.

Thank you for this opportunity to provide comments.

Sincerely,

Adam Lane

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