



FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

- Clark County; Cities of Las Vegas, North Las Vegas, Henderson, Boulder City, and Mesquite, NV; Nevada Department of Transportation

2. AUTHORITY-STATUTES	
16 USC 1539(a)	
REGULATIONS (Attached)	
50 CFR 17.32	
3. NUMBER	
PRT-801045	
4. RENEWABLE	5. MAY COPY
<input checked="" type="checkbox"/> YES	<input checked="" type="checkbox"/> YES
<input type="checkbox"/> NO	<input type="checkbox"/> NO
6. EFFECTIVE	7. EXPIRES
8/1/1995	7/31/2025

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business)	9. TYPE OF PERMIT
Jay Bingham, Chairman Clark County Board of Commissioners	Incidental Take Permit PRT-801045

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

Non-Federal lands in Clark County, Nevada, for Cities and Clark County; NDOT activities in Clark, Lincoln, Esmeralda, Mineral, and Nye Counties.

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13. AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

SEE ATTACHED

ADDITIONAL CONDITIONS AND AUTHORIZATIONS ON REVERSE ALSO APPLY

12. REPORTING REQUIREMENTS

ISSUED BY	TITLE	DATE
	Deputy Regional Director	JUL 11 1995

ORIGINAL

SPECIAL PERMIT CONDITIONS
PRT 801045

- D. Acceptance of this permit serves as evidence that the permittees understand and agree to abide by the "General Conditions for Native Endangered and Threatened Wildlife Species Permits" (copy attached).
- E. The permittees [Clark County (County), the Cities of Las Vegas, North Las Vegas, Henderson, Boulder City, and Mesquite (Cities), and the Nevada Department of Transportation (NDOT)] and their designated agents, are authorized to take (kill, harm, harass) all desert tortoises (*Gopherus agassizii*) incidental to grading or other earth-moving activities necessary for private or public development projects on 111,000 acres of non-Federal land in Clark County, Nevada, and on 2,900 acres associated with NDOT activities in Clark, Lincoln, Esmeralda, Mineral, and Nye Counties, Nevada, as described in the permittee's application and supporting information. For the purposes of the permit, all habitat below an elevation of 5,000 feet is assumed to be occupied by desert tortoises. The permit does not authorize take of desert tortoises on lands disposed of within Desert Wildlife Management Areas (DWMAs) subsequent to issuance of this permit.
- F. The authorization granted by this permit is subject to full and complete compliance with, and implementation of, the Clark County Desert Conservation Plan (CCDCP) as described in the Final Environmental Impact Statement for Issuance of a Permit to Allow Incidental Take of Desert Tortoises in Clark County, Nevada (May 1995) and Implementation Agreement (IA). This permit will not be effective within the jurisdiction of a given permittee until the IA is signed and appropriate ordinances are passed to implement collection of the mitigation fee described below.
- G. An Implementation and Monitoring (I&M) Committee will be appointed by the Clark County Board of Commissioners (Commissioners) that shall monitor implementation of the terms and conditions of this permit and provide a forum for comments regarding management decisions and budget requests received from resource managers. Other duties of the I&M Committee shall be performed as specified in the CCDCP.
- H. The permittees shall impose a mitigation fee of \$550 per acre, as outlined in the CCDCP, for all land disturbance activities on non-Federal lands below an elevation of 5,000 feet throughout Clark County that are subject to permitting by the County or the Cities. The \$550-per-acre fee shall be used to fund the CCDCP. This fee shall be paid at the time ~~the~~ *development* permit is issued and prior to any land disturbance. The fee will not be imposed on land disturbance activities not subject to permit by the County or the Cities, such as the conversion of desert lands to agriculture. However, the conversion of agricultural lands to other types of development will require the payment of the fee at the time of such conversion.

In addition, NDOT shall pay the same fee for all lands it disturbs outside of Desert Wildlife Management Areas (DWMAs) (whether or not the disturbance involves the actual take of tortoises) in all tortoise habitat south of the 38th parallel, prior to the land disturbance. This permit does not authorize take of desert tortoises associated with NDOT construction activities within DWMAs, but does authorize the take of desert tortoises associated with normal and emergency maintenance activities within DWMAs. If more than 69 tortoises are taken per year (4 killed or injured and 65 harassed) as a result of normal and emergency maintenance activities in DWMAs, additional conditions may be imposed to minimize take. Information on take shall be reported by NDOT annually to the County and included in the annual report submitted by the County to the Service's Las Vegas Sub-office in Las Vegas, Nevada.

- I. The permittees shall expend \$1.35 million per year, and up to \$1.65 million per year for the first 10 years, to minimize, monitor, and mitigate the potential loss of desert tortoise habitat to meet the objectives set forth in the biennial management plan and budget. Although a portion of this amount will go toward funding measures to minimize and monitor authorized take, the majority will go toward funding measures to mitigate impacts of take. The funds will be administered adaptively, based on a biennial management plan and budget. The biennial management plan and budget will be prepared jointly by State and Federal resource managers, and will focus on appropriate measures and expenditures to reach recovery goals for the desert tortoise. Priorities will be determined and funds allocated accordingly, with final review by the Fish and Wildlife Service (Service). These monetary figures are in 1994 dollars, and will be adjusted biennially for inflation, not to exceed 4 percent per year. The measures listed below are intended to supersede and replace measures in PRT 756260; however, they may be modified pursuant to the biennial management plan, as approved by the Service. A complete description of each measure can be found in the CCDCP.

Minimizing and Monitoring Measures

1. Tortoise Pick-Up Service and Transfer/Holding Facility. The permittees shall provide a county-wide pick-up service to collect desert tortoises displaced by development or in harm's way within urban areas. All tortoises collected by the pick-up service will be transported to a Service-approved transfer/holding facility. At this time, the Clark County Transfer and Holding Facility, currently co-located with the Desert Tortoise Conservation Center, is the approved facility. The permittees shall provide an estimated \$110,000 per year for operation of the pick-up service and the transfer/holding facility.
 - a. All tortoises shall be maintained at the transfer facility in a clean, orderly, and humane manner, utilizing a protocol approved by the Service (within 6 months of issuance of this permit) to minimize the transmission of disease among tortoises at the facility.

- b. Desert tortoises collected which are seriously injured or show evidence of upper respiratory tract disease will be euthanized and released to an institution holding appropriate Federal and State permits per their instructions. Should no institutions want the desert tortoise specimens, or if it is determined that they are too damaged for preparation as a museum specimen they shall be buried or cremated.
 - c. Each tortoise collected will have a permanent identification tag affixed or implanted. The applicant will maintain records on the number, age class, sex (if known), health, wild or escaped captive, purpose of use (e.g., study, adoption, etc.), and date of disposition for all collected tortoises. This information shall be reported on a monthly basis to the Service's Las Vegas Sub-office in Las Vegas, Nevada, and included in the annual report to the Service prepared by the County.
 - d. Individuals who handle desert tortoises in association with the pick-up service or at the transfer/holding facility shall be authorized in writing by the Service or under the direct on-site supervision of authorized personnel.
2. Tortoise Placement Efforts. Disposition of collected tortoises will be subject to approval by the Service and Nevada Division of Wildlife (NDOW). The tortoises may not be sold, traded, donated, transferred, transported out of Nevada, or released back into the wild without written authorization of the Service. Tortoises may not be used for commercial purposes. Accurate records shall be maintained regarding all tortoises which have been accepted, delivered, or euthanized at the transfer facility. The permittees shall expend up to an estimated \$30,000 per year to facilitate the placement of tortoises, including funding of adoption programs.
3. Tortoise Translocation Program. The permittees shall develop a translocation program that must be approved in writing by the Service and NDOW prior to implementation. This program will have two components: (1) A sanctuary area where displaced tortoises can live out their lives in suitable habitat, and (2) a research program to determine successful methods for translocation and the impact of translocations on resident tortoises. Only the proposed sanctuary area is addressed in the CCDCP. Up to 5 percent of the principal of the endowment fund may be expended on this program, with the concurrence of the Service and the Commissioners. However, expenditures from the principal may not jeopardize the existence of the fund for the term of the permit or its primary purpose of providing funds to mitigate the loss of tortoise habitat and to contribute to the survival of tortoise populations, as described in the CCDCP.
4. Nevada Department of Transportation Rights-of-Way. During normal maintenance and construction activities, NDOT shall incorporate measures to

avoid or minimize impacts to tortoises, as described in the CCDCP. Funding to implement these measures will be provided by NDOT. These measures include (but are not limited to): (1) Mowing vegetation from June 16 through February 28 only; (2) inspecting thick shrubbery for tortoises and burrows prior to mowing; (3) staying within the right-of-way during all routine maintenance; (4) having only trained personnel handle tortoises; (5) excavating occupied burrows with hand tools; (6) collapsing burrows to prevent re-entry; (7) providing an educational program for all workers on projects in tortoise habitat; (8) conducting surveys of material and construction sites prior to disturbance; (9) removing tortoises from harm's way; and (10) installing and maintaining permanent fencing around material pits and installing temporary fencing around construction sites.

During emergency maintenance activities, the first priority for NDOT will be to protect the safety of the public. During emergency situations (i.e., casualties, disasters, national defense, or security crises) work on roadways in tortoise habitat will be conducted in an expedited manner. When possible, work will be confined to the road shoulder or previously disturbed areas. If necessary to work in undisturbed tortoise habitat, NDOT will pay the \$550-per-acre mitigation fee to the County, and will recontour and rehabilitate the disturbed tortoise habitat upon roadway clearance and repair.

5. Public Information and Education Program. The permittees shall establish a public information and education program to: (1) Inform the public of the terms and conditions of this section 10(a)(1)(B) incidental take permit; (2) enlist public support of the measures in the CCDCP to minimize and mitigate the impacts of incidental take; (3) encourage the public to respect, protect, and enjoy the tortoise and the ecosystem in which it lives; and (4) suggest actions and activities which may enhance recovery of the tortoise and its habitat. The permittees shall expend approximately \$75,000 per year to develop and implement this program.
6. Project Monitoring and Reporting Process. The permittees shall require that a project land disturbance report be completed prior to the issuance of any permit which allows or authorizes land disturbance. This report will state the location and number of acres of land disturbed and the fee collected or paid; NDOT reports will itemize the amount of land disturbed according to category (construction, or emergency maintenance). The Cities and NDOT shall send quarterly land disturbance reports to the County, which will be summarized by the County, in an annual report to the Service's Las Vegas Sub-office in Las Vegas, Nevada.

Mitigation Measures

1. Additional Law Enforcement. The permittees shall provide an estimated \$150,000 to \$200,000 per year to the Bureau of Land Management (Bureau), National Park

Service (NPS), and/or NDOW to enable them to provide 3 to 4 additional rangers or wardens to enforce conservation rules and regulations designed to protect the tortoise and its habitat within DWMA's and other conserved areas. These funds will augment, not replace, existing agency funding levels for law enforcement.

2. Construction and Maintenance of Tortoise Barriers Along Roads and Other Linear Features. The permittees shall fund a 1-year pilot program to field test road barriers, as approved in writing by the Service. After completion of the field testing phase, the permittees shall expend up to \$500,000 per year to construct and maintain such barriers in areas where they will be most effective in reducing tortoise mortality. The I&M Committee, in conjunction with NDOW, NDOT, the Federal Highway Administration, the Bureau, and the Service will prioritize the areas for barrier placement and will determine those areas where it may be necessary or appropriate to place fences and/or suitable signage along DWMA boundaries to advise the public that access to or certain activities in those areas are restricted.
3. Designation, Signing, and Closure of Roads and Rehabilitation of Habitat. The permittees shall provide an estimated \$50,000 to \$100,000 per year to the Bureau and NPS to enable them to: (1) Designate roads and trails as open or closed to off-highway vehicle (OHV) activities within DWMA's; (2) post roads and trails that are open to OHV activities; (3) actively maintain posted road signs; (4) develop a priority list of roads, trails, and other disturbed areas to be rehabilitated; and (5) rehabilitate disturbed areas and monitor for 3 years to determine success. Additional funds may be expended during the first few years to initiate the program, as provided for in the CCDCP.
4. Tortoise Inventory and Monitoring. The permittees shall provide an estimated \$50,000 to \$100,000 per year to inventory and monitor tortoise populations within DWMA's to determine the level of recovery of the population. Up to \$150,000 per year could be made available during the first few years to establish baseline information. Any funds provided to State and Federal resource agencies for inventory and monitoring purposes will augment, not replace, existing funding available to the agencies for those purposes. The survey methodology to be used and the hypotheses to be tested will be reviewed and approved by the Service, NDOW, and independent peer reviewers.
5. Multi-Species Protection. The permittees shall fund programs to inventory the biological resources of Clark County, to provide protection for species which appear to be in danger of extinction, and to conserve species at risk through ecosystem protection. The permittees shall provide an estimated \$100,000 per year for this purpose. During the first few years, up to \$250,000 per year could be

made available to provide data for DWMA management, as provided for in the CCDCP.

6. Purchase and Exchange Programs Affecting Grazing Privileges. The permittees shall make funds available under the CCDCP to purchase grazing privileges from willing sellers for a period of 2 years after the issuance of the section 10(a)(1)(B) permit. The purchase price will be the fair market value at the time of the purchase. Funds required for any purchase may be taken from the principal of the endowment fund and are not expected to exceed \$1 million. Withdrawals from the principal of the endowment fund may not endanger the ability of the fund to meet other conservation measures set forth for the entire term of the permit, as described in the CCDCP.
7. Purchase of Conservation Easement. Upon purchase of lands under the Eldorado Valley Transfer Act, Boulder City shall convey a conservation easement affecting 85,000 acres to an entity designated by the County, which will guarantee that those lands will be managed and protected for the benefit of the tortoise. Boulder City shall be responsible for supervising and regulating the activities which it authorizes or permits within the area in a fashion consistent with this Permit and the terms of the CCDCP. Boulder City will annex those lands and adopt an ordinance which will incorporate the terms of the conservation easement to make it illegal to carry out any activity prescribed by the conservation easement as incorporated in the ordinance. Boulder City and the County will contract to provide law enforcement services to enforce the terms of the conservation easement and the ordinance.
8. Protection and Defense of Grazing Privileges. The permittees shall provide funds to maintain the non-use status of grazing privileges purchased within DWMA as mitigation for the desert tortoise and to prevent others from using the land for grazing purposes. Grazing privileges shall be maintained in nonuse until such time, if ever, that grazing is prohibited by the Stateline Resource Management Plan, or until it has been scientifically determined that grazing is consistent with recovery of the tortoise as defined in the Desert Tortoise (Mojave Population) Recovery Plan (Recovery Plan). If appropriate, grazing privileges outside of DWMA may be sold. The proceeds from any such sale will, however, remain an asset of the CCDCP and will be used to fund other conservation measures within DWMA.
9. Maintenance, Operation, and Preservation of Property and Water Rights. The permittees shall ensure that the lands which were acquired with the purchase of grazing privileges will be managed in a manner consistent with the surrounding DWMA. Water rights will be protected against appropriation by others. If appropriate, land improvements and water rights outside of DWMA may be sold.

The proceeds of such sale shall be used to provide other conservation measures within DWMA's consistent with the CCDCP.

- J. This permit does not authorize incidental take for activities on Federal lands or involving Federal permits, funds, etc. Such activities that may affect desert tortoises or other listed species must undergo section 7 consultations between the Federal agency and the Service.
- K. NDOT will locate a single material site, 720 acres in size, within the Piute-Eldorado DWMA in Sections 29, 30, and 32, Township 28 South, Range 62 East to meet its needs within the Piute and Eldorado Valleys. NDOT, the Bureau, and the Service will confer regarding the relinquishment of other unused or unneeded material sites within the Piute-Eldorado DWMA. The results of the conference will be reported to the I&M Committee. If relinquished, these sites shall be returned to the Bureau for management for the benefit of desert tortoises.
- L. The Service will not require section 10(a)(1)(A) permits for desert tortoise research conducted in association with the CCDCP. Research proposals shall be submitted to the Service's Las Vegas Sub-office in Las Vegas, Nevada. Research shall not be considered authorized until approved in writing by the Service.
- M. Contractors who voluntarily choose to search for and remove tortoises from lands to be developed within the permit area shall contract or appoint a qualified individual to oversee the process. Only individuals trained to handle desert tortoises in accordance with Service-approved guidelines shall be authorized to handle desert tortoises unless they are in imminent danger. Currently the Service approved handling guidelines are Guidelines for Handling Desert Tortoises During Construction Projects, Desert Tortoise Council, 1994.
- Tortoises in harm's way may be relocated only if suitable habitat exists within 1,000 feet from the point of encounter and permission of the landowner receiving the tortoise has been obtained. Tortoises that cannot be relocated as described above must be collected by the County pick-up service. Tortoises shall not be transported more than 1,000 feet from the point of encounter or taken and released to other individuals for adoption or for unauthorized relocation.
- N. The following information shall be maintained by the County and submitted in an annual report to the Service's Las Vegas Sub-office in Las Vegas, Nevada: (1) Number and disposition of desert tortoises collected; (2) location and number of acres disturbed within the permit area; (3) amount of money collected from mitigation fees and the principle of and income earned by the endowment fund; and (4) amount of money disbursed and implementation status of each minimization, monitoring, and mitigation measure described in the CCDCP.
- O. The permittees shall consolidate individual joint management plans and budget reports

prepared by State and Federal resource managers, which have responsibility to both plan for and implement conservation measures within DWMAs. The biennial management plan will set forth their proposed expenditures to implement conservation measures required in the CCDCP during the ensuing 2-year period and provide an evaluation of the effectiveness of conservation measures undertaken during the past 2 years. The permittees shall provide the biennial management plan and budget to the Service's Las Vegas Sub-office in Las Vegas, Nevada.

- P. The permittees shall fund an independent audit of the compliance of each jurisdiction with the requirements of this permit. Such an audit will be conducted every 4 years from the date this permit is issued. The audit shall focus on the completion of land disturbance reports, the collection and expenditure of mitigation fees, and the implementation status of each minimization, monitoring, and mitigation measure.