

MSHCP Exempt Acres Audit

Background

The Desert Conservation Program (DCP) is responsible for ensuring compliance with the Federal Endangered Species Act through a Section 10(a) (1) (b) incidental take permit and Multiple Species Habitat Conservation Plan (MSHCP). The MSHCP requires a fee of \$550 be paid for each acre of disturbed land. These fees are collected by the Permittees and collectively administered by the DCP. This allows developers to disturb land without conducting individual studies on the effect of the disturbance to the Desert Tortoise and other species.

The permit for the MSHCP was issued in February 2001, and is valid for 30 years. Under the current permit, a total of 145,000 acres are available for disturbance. Of that total, 15,000 acres are allowed to be exempted from the mitigation fee if disturbed for the purpose of government use.



Figure 1 The Las Vegas Valley

Purpose of Audit

As of December 28, 2009, the Desert Conservation Program (DCP) temporarily stopped Permittees from exempting acres given the uncertainty of the number of acres that had been exempted and disturbed. The DCP initiated an audit of all Permittee acres to gain a better understanding of the situation.

Lack of compliance with the MSHCP or inadequate reporting could result in the permit being revoked.

Clark County Internal Audit conducted an audit of the DCP for the period January 1, 2001 to December 31, 2009 to determine if the correct number of exempt acres were being tracked and if the Permittees were submitting the mitigation forms to the Program Administrator, per established protocols.

The Desert Conservation Program serves as the Administrator of the MSHCP and Incidental Take Permit on behalf of the "Permittees":

- City of Las Vegas
- City of North Las Vegas
- City of Henderson
- City of Mesquite
- City of Boulder City
- Clark County
- Nevada Department of Transportation (NDOT)

Audit Findings, Management Response & Corrective Actions

The Desert Conservation Program reviewed the audit findings and responded to each of the five key findings:

Finding:

Exempt Acres Not Verified

The DCP has no control over who is allowed to authorize exempt acres and has no way to verify the exempted acres.

Corrective Action:

The DCP has requested system generated monthly reports from every Permittee and is using these reports to verify the accuracy of the mitigation fee and acres reports submitted by the Permittees.

Finding:

Detailed Permit Listing Not Required From Permittees

The DCP does not have the ability to verify that all permits issued by the Permittees have been charged the appropriate mitigation fee as required by the MSHCP.

Corrective Action:

The DCP will work with the Permittees to explore developing a centralized, automated reporting and collection system for mitigation fee payment and tracking as a long-term solution. The DCP will also work with the Permittees to determine what internal controls are in place and will request processes and procedures to obtain greater accuracy and compliance.

Finding:

Mitigation Fee Data Convolved In System(s)

Each Permittee uses different systems to issue and track various permits. There are many permit types codes that can trigger the tortoise mitigation fee and no code set up to track development of land. Further, mitigation fees can be charged to an application and acreage may not be entered, further complicating the reporting process.

Corrective Action:

The DCP will work with the Permittees to identify and develop what methods are available to ensure more effective tracking and reporting of mitigation fees assessed and/or exempted and agree to a process that allows the DCP to independently review and verify the accuracy of these assessments. The DCP recommends quarterly meetings to ensure issues are addressed and resolved among the parties.

Finding:

Missing Mitigation Forms

As part of the detailed testing, auditors sampled grading permit numbers and found 16% of the grading permits did not have completed mitigation forms.

Corrective Action:

The DCP will meet with the Permittees to identify what methods are available to ensure more effective tracking and reporting of mitigation fees assessed and/or exempted.

Finding:

Payments Missing On Mitigation Forms

As currently designed, the Program cannot verify that a Permittee has submitted all mitigation forms or paid all mitigation fees since no system report is submitted that could verify completeness.

Corrective Action:

The DCP will request payment in multiple instances of missing and/or incomplete mitigation fee forms from the Permittees, unless the Permittees can provide the documentation verifying payment to the DCP. The DCP will also work with the Permittees to receive system generated monthly reports and will use the reports to verify the accuracy of the mitigation fee.

Final Determinations

On July 7, 2012, the DCP Administrator implemented a moratorium on exempting acres for projects categorized as government use or public purpose. The moratorium shall remain in place through the term of the take permit no. TE034927 or February 1, 2031. Permittees are currently working on changes in codes and ordinances to eliminate the exemption.

June 2013, the Clark County Internal Audit Department reported to the Audit Committee that all of the corrective actions, with the exception of fee consolidation, have been implemented. (Fee consolidation, or centralizing the fee collection, is being considered and discussed as part of a larger, County-wide initiative researching an electronic payment system.)

Annual reconciliations of all disturbed acres were compared to aerial photography/GIS data and it was determined that the difference between the two was less than a 3% error rate.

LAND DISTURBANCE - TORTOISE MITIGATION ACREAGE/FEE REPORT										
7/22/2013	CC-Civil	CC-Dev Svcs	Boulder City	Henderson	Las Vegas	Mesquite	NDOT	NLV	Yr Totals	
2001 Acres	152.74	3,171.54	35.15	1,030.33	1,054.33	29.23	6.55	740.53	6,290.48	
2001 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2001 Fees	\$84,041.60	\$1,727,378.56	\$19,919.00	\$566,948.47	\$585,436.00	\$28,543.66	\$3,767.50	\$402,056.50	\$3,218,090.29	
2002 Acres	251.95	3,296.85	18.68	1,298.75	1,648.75	163.71	11.00	1,584.36	6,475.55	
2002 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2002 Fees	\$137,603.40	\$1,802,376.26	\$10,824.00	\$709,254.00	\$1,013,806.15	\$89,382.00	\$6,270.00	\$871,757.00	\$4,641,272.81	
2003 Acres	382.62	3,374.35	17.63	1,391.89	1,492.50	364.17	4.12	2,105.20	6,132.68	
2003 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2003 Fees	\$209,642.75	\$1,855,402.45	\$8,944.50	\$774,022.15	\$710,889.83	\$171,940.68	\$2,266.00	\$1,157,870.50	\$4,890,978.86	
2004 Acres	412.01	4,062.93	6.81	1,856.55	1,621.89	518.21	0.00	2,036.21	10,520.61	
2004 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2004 Fees	\$225,165.31	\$2,239,261.90	\$5,381.50	\$1,005,598.05	\$891,828.23	\$265,492.00	\$0.00	\$1,121,631.08	\$5,754,355.03	
2005 Acres	243.21	4,338.36	12.38	1,995.31	1,175.01	405.82	45.80	1,496.58	6,719.45	
2005 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2005 Fees	\$127,892.06	\$2,392,014.00	\$6,798.50	\$999,898.90	\$636,015.43	\$198,824.62	\$25,740.00	\$824,191.52	\$5,171,375.03	
2006 Acres	105.41	3,365.42	630.50	3,831.84	1,157.47	1,244.43	0.00	736.62	10,974.24	
2006 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2006 Fees	\$54,970.45	\$1,851,016.68	\$291,643.50	\$2,092,211.09	\$635,665.55	\$680,664.36	\$0.00	\$405,807.00	\$6,014,268.72	
2007 Acres	107.63	2,275.45	32.11	758.50	664.31	355.75	0.00	435.23	4,709.22	
2007 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2007 Fees	\$58,373.80	\$1,251,497.50	\$17,661.00	\$439,047.95	\$365,470.08	\$191,207.00	\$0.00	\$219,627.68	\$2,542,854.98	
2008 Acres	27.75	925.71	34.10	847.39	215.93	135.25	0.00	350.10	2,515.13	
2008 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2008 Fees	\$15,269.95	\$521,653.58	\$18,756.50	\$473,711.70	\$120,366.50	\$74,885.50	\$0.00	\$214,553.32	\$1,438,897.35	
2009 Acres	18.54	194.33	41.13	574.81	72.53	28.92	43.70	17.55	915.22	
2009 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2009 Fees	\$3,102.00	\$95,331.50	\$230,747.00	\$31,795.50	\$39,251.50	\$15,851.00	\$24,035.00	\$9,817.50	\$426,971.00	
2010 Acres	0.00	397.00	0.00	0.00	0.00	0.00	0.00	10.31	602.31	
2010 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2010 Fees	\$561.00	\$218,363.00	\$0.00	\$46,431.00	\$25,751.00	\$1,017.50	\$0.00	\$55,720.00	\$347,663.50	
2011 Acres	0.00	381.99	726.41	82.50	6.77	0.00	45.00	340.66	1,733.63	
2011 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2011 Fees	\$4,999.50	\$210,044.50	\$399,825.50	\$45,402.50	\$35,348.50	\$46,106.50	\$24,780.00	\$187,362.50	\$953,239.50	
2012 Acres	2.85	654.21	0.00	450.92	85.77	0.00	0.00	111.02	1,334.88	
2012 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2012 Fees	\$1,569.50	\$376,315.50	\$0.00	\$249,656.00	\$47,173.50	\$0.00	\$0.00	\$61,077.00	\$735,811.50	
2013 Acres	0.00	166.58	1,300.82	123.99	71.59	4.50	0.00	211.03	1,880.82	
2013 Exempt	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
2013 Fees	\$0.00	\$92,939.00	\$715,341.00	\$66,139.50	\$39,369.00	\$2,475.00	\$0.00	\$116,077.50	\$1,034,341.00	
Total acres disturbed to date									68,841.63	
Total fee Exempt acres disturbed to date (reconciled)=									\$2,513.77	
Total fees collected to date=									\$37,353,646.59	
--15,000 acres is exempt from the \$550 per acre mitigation fee for government use.										
Number of acres allowed for disturbance under current multiple species permit						145,000.00				
Less number of acres reported for which fees have been paid under current permit						68,841.63				
Less number of fee exempt acres under current permit						15,000.00				

Figure 2 MSHCP Land Disturbance & Fee Collection by Permittee Report.



For further information

Please contact amaglier@clarkcountynv.gov for more information or go to <http://www.clarkcountynv.gov/depts/dcp/Pages/default.aspx>