



AUDIT DEPARTMENT

# Audit Report

## Comprehensive Planning Desert Conservation Program

June 2012

Angela M. Darragh, CPA, CISA, CFE  
Audit Director

**AUDIT COMMITTEE:**

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# Audit Department

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Angela M. Darragh, CPA, CFE, CISA, Director



June 13, 2012

Mr. Don Burnette  
Clark County Manager  
500 South Grand Central Parkway, 6th Floor  
Las Vegas, Nevada 89106

Dear Mr. Burnette:

We have conducted an audit of the Desert Conservation Program for the period January 1, 2001, to December 31, 2009.

The audit objectives were to determine if the Desert Conservation Program has reported the correct number of exempt acres and if the covered permittees under the Multiple Species Habitat Conservation Plan are submitting the mitigation forms to the Program Administrator.

We found that the controls over the mitigation forms are not working as intended. We noted grading permits that had been issued with no mitigation form to document the number of acres disturbed, exempt acres, if any, or the amount paid. Due to the lack of adequate controls, we could not determine whether the acres exempted and/or fees collected as reported by the permittees to the Desert Conservation Program were correct. We found 17% of the mitigation forms are missing from permittees' records. Based on our testing, mitigation forms are not being properly submitted to the Desert Conservation Program by the permittees. The Desert Conservation Program must rely upon the permittees to submit the mitigation forms.

A draft report was provided to the Director of Comprehensive Planning for comment and her response is included. We appreciate the cooperation and assistance provided by the Desert Conservation Program staff.

Sincerely,

/s/ Angela M. Darragh

Angela M. Darragh, CPA  
Audit Director

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**BACKGROUND** On August 4, 1989, the U.S. Fish and Wildlife Service listed the Mojave Desert Tortoise within Clark County as a threatened species. In response to the listing, the Clark County Desert Conservation Program (DCP) was established.

The permit for the Clark County Multiple Species Habitat Conservation Plan (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 for government-exempt disturbance under the current plan. As of December 28, 2009, the DCP temporarily stopped permittees from exempting acres. The audit was requested by the DCP due to the uncertainty of the number of acres that have been exempted.

The DCP is responsible for ensuring compliance with the Federal Endangered Species Act through a Section 10(a) (1) (b) incidental take permit and MSHCP. The MSHCP requires a fee of \$550 be paid for each acre of disturbed land. These fees are collected by the permittees (Clark County, Nevada Department of Transportation, and the cities of Boulder City, Henderson, Las Vegas, North Las Vegas, and Mesquite) 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. These studies can be costly and time consuming for developers.

The lack of compliance to the MSHCP or adequate reporting could result in the permit being revoked. This would mean that the current Desert Conservation Plan would remain in effect but any additional land disturbance beyond what is covered by the Desert Conservation Plan would be applied for separately to the U.S. Fish and Wildlife Service by each land owner.

**OBJECTIVES, SCOPE, AND  
METHODOLOGY**

The objectives of the audit are as follows:

- Determine if the DCP has reported the correct number of exempt acres.
- Determine if the covered permittees under the MSHCP are submitting the land disturbance forms to the Program Administrator.

To achieve our audit objectives, we conducted interviews with various individuals to gain a general understanding of the DCP. We also reviewed the U.S. Fish and Wildlife and DCP websites to obtain background information on the requirements of a habitat conservation plan. We also reviewed Chapter 2 of the MSHCP, the MSHCP Permit, and the Clark County MSHCP Implementing

Agreement. Additionally, we reviewed local ordinances for Clark County and the cities of Henderson, Las Vegas, North Las Vegas, Boulder City, and Mesquite. Finally, we examined permittee's database downloads for reportable exempt acre information and examined a sample of land disturbance forms.

Our procedures covered the period of January 1, 2001, to December 31, 2009, and the last day of fieldwork was December 20, 2011. Due to the availability of data, we selected the end of 2009 as the end of our audit period. The exempt acres reported by the DCP were as of December 31, 2009.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

**RESULTS IN BRIEF** We found that the controls over the mitigation forms are not working as designed. We noted grading permits that were issued with no mitigation form to document the number of acres disturbed, exempt acres, if any, or the amount paid. Due to the lack of adequate controls, we could not determine whether the acres exempted and/or fees collected as reported by the permittees to the DCP were correct. We found 17% of the mitigation forms selected for testing was missing from permittees' records. Based on our testing, mitigation forms are not being properly submitted to the DCP by permittees. The DCP must rely upon the permittees to submit the mitigation forms.

## **DETAILED RESULTS**

**Exempt Acres not Verified** Per the MSHCP, Section 2.1.7.2, "the County shall develop a cost-effective means to provide an estimate of the number of acres of land disturbance per biennium resulting from activities not requiring payment of the development fee." As currently designed, the permittees authorize and self-report the number of exempt acres on a land disturbance mitigation fee form and submit the form to the DCP. The DCP has no control over who is allowed to authorize exempt acres. DCP tracks the number of exempt acres provided by the permittees on an Excel spreadsheet. However, the exempt acres are not verified and so they may be underreported. As program administrator, the DCP should be able to ensure exempt acres are correctly reported by the permittees. However, in this case, the DCP has to rely upon the permittees to report the correct exempt acres.

The DCP has the responsibility to administer the program but has no control over whether the permittees are correctly reporting the exempted acres.

**Detailed Permit Listing not  
Required from Permittees**

The DCP does not have the ability to verify that all permits issued by the permittees are charged the appropriate mitigation fee as required by the MSHCP or that the permit qualifies for an exemption from the mitigation fee. The permittees self-report the mitigation fees to the DCP using an Excel spreadsheet, which does not always include the amount charged.

As Program Administrator, the DCP has the responsibility to ensure that all mitigations fees have been appropriately charged and collected so that funding is available to carry conservation measures to protect endangered species.

*Recommendation*

We recommend for both findings that the DCP determine whether automated reporting and payment of mitigation fees is feasible. This would allow the DCP to ensure that land owners/developers are paying the mitigation fees, identify which owners/developers qualify for exemptions, and ensure permittees are reporting the correct number of acres. Alternatively, the DCP should request that each permittee provide a detailed system generated report each month that lists all permits issued and permit types. This report can then be used by DCP personnel to verify that mitigation fees were collected and reported by comparing the report to the land disturbance mitigation fee forms submitted by the permittees. Additionally, the DCP should have a memo of understanding with each permittee to help ensure that reported acres are assessed correctly and proper fees are collected. The memo of understanding should include a requirement that the permittee perform spot checks and self-audit reports and fees for accuracy and completeness.

**Mitigation Fee Data  
Convolutd in the System**

Clark County Development Services uses the Harward Technical Enterprise (HTE or Navaline) system to issue and track various grading, building, electric, mechanical, and other permits. There are a total of 28 permit type codes that may trigger the tortoise mitigation fee. With so many different permit types, the tracking of mitigation fees is very complex. Additionally, within the system, there is no code set up to track development of land that would qualify for an exemption of mitigation fees under the MSHCP. Further, mitigation fees can be charged to an application or a permit, project acreage may not be entered into the system, and a parcel of land may be assigned more than one application number. This further complicates the reporting of mitigation fees and exempt acres.

Without accurate system generated reports, the DCP has to manually track the collection of fees and the number of exempt acres using a spreadsheet and the submitted mitigation forms. If the mitigation forms are not properly submitted by the permittees, the information compiled by the DCP may be incomplete. This prevents the DCP from accurately reporting the number of exempt acres, the number of developed acres, and the collected fee amounts.

*Recommendation* We recommend that the DCP meet with Development Services and determine if it is possible to accurately capture mitigation fees and exempt acre information within the system.

**Missing Mitigation Forms** As part of our detailed testing, we sampled 271 Clark County grading permit numbers from a population of 2,894 and found 43 (16%) did not have a completed mitigation form. The mitigation form is the internal control which documents the number of acres being disturbed and the collection of the \$550 per acre fee. If the disturbed acres qualify for an exemption, the mitigation form reports the number of exempt acres. The control over the Clark County Development Services mitigation form for grading permits is not functioning as intended. Without completed mitigation forms, accurate records cannot be maintained to reflect the number of acres disturbed

*Recommendation* The DCP should request from Clark County Development Services a detailed system generated report each month that lists all permits issued by permit type. This report can then be used by DCP personnel to verify that mitigations fees were collected and reported by comparing the report to the land disturbance mitigation fee forms submitted by the permittees.

**Payment Missing on Three City of North Las Vegas Mitigation Forms** For the City of North Las Vegas, 28 out of 50 (56%) mitigation forms were missing. We also noted 25 permit numbers which stated the site was previously disturbed. However, no reference was made to the previously submitted mitigation form. We were unable to verify if a form was submitted or payment properly received. We also found three permits for which payment and the mitigation form was not submitted. The total was \$30,960. As currently designed, the DCP cannot verify that the permittee has submitted all mitigation forms or paid all mitigation fees since no system report is submitted that could assist the DCP to verify completeness of the mitigations forms. Without complete information from the permittee, the Program Administrator cannot accurately report the amount of income received and held for conservation measures.

*Recommendation* The DCP should request from the City of North Las Vegas a detailed system generated report each month that lists all permits issued by permit type. This report can then be used by DCP personnel to verify that mitigations fees were collected and reported by comparing the report to the land disturbance mitigation fee forms submitted by the permittees. Additionally, the DCP should require all submitted monthly reports to be certified by all permittees as to accuracy and completeness. Lastly, the DCP should collect payment from the City of Las Vegas.

## APPENDICES

### Appendix A: Management Response Letter

#### MEMORANDUM

Department of Comprehensive Planning

NANCY A. LIPSKI  
Director

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**TO:** ANGELA M. DARRAGH, Director of Audit Department  
**FROM:** NANCY A. LIPSKI, Director  
**SUBJECT:** Desert Conservation Program Exempt Acres Audit  
**DATE:** April 16, 2012

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The Department of Comprehensive Planning appreciates the opportunity to review the Exempt Acres Audit (Audit). Overall, we agree with the findings and provide detailed responses to the findings below.

#### Purpose and Focus

In late 2009, Marci Henson, Program Manager, Desert Conservation Program (DCP) requested a comprehensive audit of the exempt acres permitted under the Clark County Multiple Species Habitat Conservation Plan (MSHCP). The MSHCP and incidental take permit allow for disturbance/development of up to 145,000 acres; of this, 15,000 acres were exempt from fee collection for public purposes and reserved to the Permittees (cities of Boulder City, Henderson, Las Vegas, Mesquite and North Las Vegas; and Clark County).

The Audit primarily focused on the tracking and reporting of acres disturbed under the MSHCP and permit that are exempt from the \$550 per acre fee and reserved to the Permittees for public purposes. The DCP has reviewed the Audit and is responding to each of the five key findings.

#### Findings and Management Response

##### 1. *Exempt Acres Not Verified*

The Audit found that the current practice of self-tracking and reporting of the exempt acres by the Permittees has resulted in inconsistent and unverifiable reporting of all disturbed acres to the DCP. The Audit acknowledges that despite the fact that the DCP has provided both written procedures and periodic training to the Permittees regarding the reporting of exempt and non-exempt acres disturbed pursuant to the MSHCP and permit, the DCP has no control over the accuracy and timeliness of these reports.

The DCP will work with the Permittees to develop a centralized, automated reporting and collection system for all mitigation fee payment and for verifying appropriate application of acres that are determined to be exempt from fee collection as a long-term solution. The Permittees have previously expressed support for centralizing the fee collection and reporting function within the DCP and the DCP has begun to determine what steps are necessary to implement this recommendation. Any long-term solution must include processes and procedures that allow the DCP to independently verify that the required fees and/or exemptions have been accurately calculated and assessed. In addition, better internal controls and audits will be requested from the Permittees.

In the short-term, the DCP will request system generated monthly reports and will use these reports to verify the accuracy of the mitigation fee and exempt acres reports submitted by the Permittees. This should be effective in the short-term, given the current slow pace of permitting in general by the Permittees. As the local economy improves and the issuance of grading permits by the Permittees increases, it is unclear what effect an increase in disturbance activities by the Permittees will have on staffing resources in the DCP in reviewing and verifying mitigation fee and exempt acres reports by the Permittees.

The Program's guiding documents will be reviewed and amended, as appropriate, to address compliance and reporting issues as necessary. In addition, the DCP will explore the development of a Memorandum of Agreement among the Permittees to provide more formal standards and procedures for collecting, verifying and reporting disturbance and fee collection pursuant to the MSHCP.

2. *Detailed Permit Listing not Required from Permittees*

The Audit found that the DCP does not have the ability to verify that all grading permits issued by the Permittees are charged the appropriate mitigation fee charges as required by the MSHCP or that disturbance classified as exempt by the Permittees in fact qualify for an exemption from the mitigation fee.

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 Permittees have previously expressed support for centralizing the fee collection and reporting function within the DCP and the DCP has begun to determine what steps are necessary to implement this recommendation. In the short term, 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.

3. *Mitigation Fee Data Convolved in the System*

The Audit found that the system used by the Clark County Development Services Department does not effectively track whether authorized development activities will be subject to a grading permit and assessed the required mitigation fee. Similarly, the system does not allow for efficient and effective tracking and reporting of activities that have been exempted from the fee. As recommended by the Audit, the DCP will meet with the Development Services Department and the Assistant County Manager Office to develop methods 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 will be relying on the chain of command to ensure that problems are resolved and corrected. The DCP recommends quarterly meetings among the DCP, Development Services and Assistant County Managers Office to ensure issues are addressed and resolved among the parties.

4. *Missing Mitigation Forms*

The Audit results identified instances where grading permits were issued but the required mitigation fee forms were incomplete and/or missing. As recommended by the Audit, the DCP will meet with the Development Services Department and the Assistant County Manager Office to identify what methods are available to ensure more effective tracking and reporting of mitigation fees assessed and/or exempted. The DCP will work with the Development Services Department and Assistant County Manager's Office to come to agreement on a process that allows the DCP to independently review and verify the accuracy of these assessments.

5. *Payment Missing on Three City of North Las Vegas Mitigation Forms*

Similar to the previous finding, the Audit found multiple instances of missing and/or incomplete mitigation fee forms from the City of North Las Vegas; the Audit was unable to verify if a fee form was submitted or whether the required mitigation fee had been collected. In three instances, it does not appear that the required fee was collected and/or submitted to the DCP as required by the MSHCP and permit.

The DCP will request payment from the City of North Las Vegas unless it can provide the documentation verifying payment to the DCP. The DCP will also work with the City of North Las Vegas to request system generated monthly reports and will use these reports to verify the accuracy of the mitigation fee and exempt acres reports submitted by the City and develop a centralized, automated reporting and collection system for all mitigation fee payment and for verifying appropriate application of acres that are determined to be exempt from fee collection.