

Standard Collection Procedures

**Desert Conservation Program
Land Disturbance Mitigation Fee Interim Procedures
December 11, 2013**

1. Fill out all lines on the form.
2. List either the assessor's parcel number or a legal description of the property.
3. The "Type of Development Permit Being Sought" line on the form must be completed. Please identify the type of development as either "Single-Family Residential" or "Commercial".
4. The total acreage of the parcel must be filled in on the form, as well as, the total number of acres disturbed. Show the acreage to two (2) decimal places.
5. The mitigation fee assessed needs to be shown to two (2) decimal places. Do not round to more, or less than, (two) decimal places.
6. Fees are calculated only on acres to be disturbed, not the total acreage in the parcel, unless the total parcel is being disturbed.
7. Designated open space and areas too steep to grade, are not considered as area to be disturbed. Please verify with the project owner or proponent that these areas are to be left intact and not disturbed in any way during development or a later date. If they will be disturbed, then fees will apply. Please provide an explanation on the form or attach a separate sheet if necessary so that if that acreage is audited, there is an explanation of why the fee was waived for a portion of that parcel.
8. Compliance Report Fees (administrative fee) must be charged at the rate specified in the municipal code. The charge for single-family residential parcels is \$25 and the charge for commercial parcels is \$50. The \$25 single-family residential charge also includes large developments of single-family tract homes. Acreage size does not affect the administrative fee; it is simply there to cover the administrative costs of processing the form.
9. If there is exemption or reduction of fees, the bottom portion of the form must be completed **and** back-up documentation attached.
10. Forms need to be signed, and dated, by the individual collecting the fee (bottom left on the form).

11. The DCP Compliance Report Month End Summary will be due on the 10th business day of the month following the reporting month. Please refer to the Mitigation Packet Checklist in the forms section to ensure all packet requirements are fulfilled.
 12. A detailed system generated report that lists all permits by permit type and relates to grading permits issued in the reporting month must accompany the DCP Compliance Report Month End Summary Packet each month. The report must be reconciled against the forms being submitted in the monthly packet by the individual preparing the DCP Compliance Report Month End Summary Packet.
 13. The DCP Monthly Certification of Disturbed Acres & Fees Collected under Section 10(A) Permit sheet must be completed and signed by the individual preparing the monthly packet as well as signed by the individual's supervisor. The certification sheet must accompany the DCP Compliance Report Month End Summary packet each month.
 14. The monthly remittance will be due on the last business day of the month following the reporting month and must be remitted via ACH method to the Clark County Desert Conservation Program.
 15. As required by the MSHCP, the USFWS permit and the municipal codes, each Agency shall collect \$550 per acre for each disturbed acre of land. Acres disturbed for government purposes are exempt from the \$550 per acre fee up to a maximum total of 15,000 acres. If the Agency has inaccurately calculated a fee, collected the wrong amount, or erroneously exempted an applicant, the amount owed is expected to be remitted. This is required by the permit, the MSHCP, and County code. It is up to each individual Agency to determine their internal process and procedures for remitting the funds (paying it from their general fund, going back to the applicant, etc.), but the exact fees have to be remitted to the County, as Plan Administrator.
 16. Refunds to customers must be reported so the County disturbed acres report can be adjusted. If monies need to be refunded to the Agency, for the customer, please also inform the County. It is acceptable to deduct the refund from the total remittance for the month you are reporting; thereby, giving the Agency the monies right away to refund the customer. If using this method, please show it in the record submitted to the County including the acreage that is to be credited. Otherwise, please follow the refund procedures in the collection processes binder.
 17. Overages will be refunded to the Agency.
- *** Please note – As of August 1, 2012 governmental acres exempt from the fee are no longer allowable. All governmental projects with disturbance of acreage must be reported and the mitigation fee paid.



desert conservation
PROGRAM

Memorandum

TO: Nancy A. Lipski, Director, Dept. of Comprehensive Planning
FROM: Marci Henson, Planning Manager, Dept. of Comprehensive Planning *MH*
SUBJECT: Moratorium on Acres Exempted from Mitigation Fees
DATE: 7/9/2012

On December 28, 2009, I notified all Permittees via letter that effective immediately and pending the results of the exempt acres audit, that no further exemptions of land disturbance and mitigation fees should be provided on the basis of government use, public purpose projects.

From February 2001 through December 2009, the Permittees reported that approximately 2500 acres qualified as government use, public purpose projects, and based on this categorization, these acres were provided coverage under the take permit with no mitigation fee assessed. Because this number appeared to be low given the time period and the amount of development during those years, it became important to audit this number to ensure its accuracy. The Clark County Audit Department has completed the audit and determined that the DCP has no way to verify that the information provided by the Permittees is accurate. Because this number cannot be verified, it is possible that the number of acres exempted from fees were underreported and that, as a result, all of the 15,000 acres that could be exempted as government use, public purpose projects as authorized by the take permit have already been exempted.

Out of an abundance of caution, I recommend that the moratorium on exempting acres for projects categorized as government use or public purpose remain in place through the term of take permit no. TE034927 or February 1, 2031.

In 2009, I advised the Permittees to begin budgeting land disturbance and mitigation fees into project costs and they appear to have been able to absorb these fees with little to no adverse fiscal impact.

In order to effectuate this moratorium through the life of the permit, my understanding is that each Permittee will have to amend its code to delete the fee exemption for projects classified as government use or public purpose.

If you concur, please indicate below and I will begin discussions with the Permittee designated audit liaisons to make the changes necessary to permanently enforce the moratorium. If you do not concur, please advise on how you would like to proceed.

I concur with your recommendation to permanently extend the moratorium.

I do not concur and advise an alternate course of action.

Signature

Nancy Lipski
Nancy A. Lipski, Director, Dept. of Comprehensive Planning

Ann Magliere

From: Marci Henson
Sent: Wednesday, August 29, 2007 5:25 PM
To: cshih@LasVegasNevada.GOV; JANS@cityofnorthlasvegas.com; 'Ervin-Holoubek, Julia L'; Erin.Berzina@cityofhenderson.com; 'Brok Armantrout'; clorbeer@mesquitenv.gov
Cc: Catherine Jorgenson; Denise McConnell; Ann Magliere
Subject: Accuracy of Assessment, Collection and Reporting of Mitigation Fees

Good afternoon,

We've had some inquiries into how accurate and precise the assessment, collection and reporting of mitigation fees have to be among the permittees and have been asked to provide some guidance in writing.

Please refer to Section 2.12.2.4, "Failure to Accurately Report" of the MSHCP. It states "If any permittee fails to accurately report permitted land disturbances within its jurisdiction and to collect and report an accurate amount of development fees collected, USFWS may suspend or revoke the 10(a) permit within the jurisdiction of the defaulting permittee."

In addition, we have recently received an opinion from our District Attorney's office that the Clark County Code, Title 30.80.080 MSHCP Mitigation Fee, makes the correct collection of mitigation fees mandatory by the multiple use of the word "shall" throughout the code sections. Your codes may/should have similar language as the MSHCP makes it clear an exact collection of \$550/acre is required.

As Plan Administrator, we are responsible for compliance with the permit, MSHCP and for enforcement of its provisions. We are therefore working with permittee reps and staff to ensure that we are all assessing, collecting and reporting accurate fees and acres. We've been asked by a couple of permittees if the County, as Plan Administrator, can forgive inaccurate assessment and collection of fees - basically call it a wash.

We can not as we are regulated by the USFWS and do not have the authority to grant forgiveness of the errors and debt. In addition, our permit, plan, codes, NRS, etc. all make it clear that it's exactly \$550/acre and not + or - 10%, within \$50, etc.

As you may recall, we'll be setting up a mitigation fees working group to ensure these issues are corrected among us and in the meantime we've implemented an audit inquiry form to deal with mistakes we encounter when we reconcile the fee forms and deposits provided.

If in fact a permittee has inaccurately calculated a fee, collected the wrong amount or erroneously exempted an applicant, the amount owed is expected to be remitted by the permittee to Clark County, as Plan Administrator. How the permittee goes about remitting the funds (paying it from their general fund, going back to the applicant, etc.) is up to each individual permittee, but the exact fees have to be remitted to the County, as Plan Administrator, per the permit and MSHCP.

Please let me know if you have questions or concerns.

Thanks!

Marci Henson
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Respect, protect and enjoy our desert!