



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Nevada State Office
P.O. Box 12000 (1340 Financial Blvd.)
Reno, Nevada 89520-0006
<http://www.nv.blm.gov>



August 17, 2010

In Reply Refer To:
6841(930) P

EMS TRANSMISSION 08/18/2010
Instruction Memorandum No. NV- 2010-062

To: District Managers, Nevada

From: State Director, Nevada

Subject: Memorandum of Understanding between the Bureau of Land Management and the United States Fish and Wildlife Service to Coordinate the Management of Compensation Fees to Benefit the Mojave Population of the Desert Tortoise (*Gopherus agassizii*) in Nevada.

Program Area: Threatened and Endangered Species, Wildlife, Renewable Energy, Land Use Planning, Realty (Right-of-Way Management)

Purpose: This Instruction Memorandum (IM) provides guidance and direction to ensure a consistent use of compensation fees as mitigation for residual impacts to desert tortoise habitat from actions authorized by the U.S. Bureau of Land Management (BLM). This MOU (Attachment 2) outlines direction on how the 1991 Management Oversight Group (MOG) Report on Compensation for the Desert Tortoise (Hastey et al. 1991) will be implemented in Nevada. A subsequent IM will be developed to address account withdrawals.

Policy/Action: Desert tortoise compensation funds shall be used for the sole purpose of implementing action(s) that benefits desert tortoise over time, including management and recovery in Nevada. Compensation funding will be used to fund the highest priority actions in Nevada. BLM and Fish and Wildlife Service (FWS) will identify and give priority to actions that directly tie to the impacts that lead to the need for compensation. Compensation funds shall not be used when appropriated funds are otherwise identified for a particular action.

Determining the need for compensation:

The attached 1991 MOG Report on Compensation for the Desert Tortoise outlines the process for determining compensation:

“Compensation is to be used to offset the residual impacts after all reasonable on-site mitigation measures are incorporated into an action. This is determined through the Environmental Analysis and the Biological Assessment (or Evaluation) process. The goal of compensation is to make an action’s net result neutral or positive to the desert tortoise. If an action can be fully mitigated (no net impact to the tortoise) without compensation, then no compensation need be required. Likewise, if a “no effect” determination is appropriate for an action in threatened desert tortoise habitat, then compensation for the tortoise is not necessary.”

Uses of Compensation:

The use of compensation will follow the direction provided in the 1991 MOG Report on Compensation for the Desert Tortoise. The following direction is outlined in the report:

“Compensation funds will be used for management actions expected to provide a benefit to the desert tortoise over time. Actions may involve habitat acquisition, population or habitat enhancement, increasing knowledge of the species biological requirements, reducing loss of individual animals, documenting the species’ current status and trends, and preserving distinct population attributes.”

Desert tortoise compensation funds shall be used for the sole purpose of implementing action(s) that benefits desert tortoise over time, including management and recovery in Nevada. Compensation funding will be used to fund the highest priority actions in Nevada. BLM and FWS will identify and give priority to actions that directly tie to the impacts that lead to the need for compensation. Compensation funds shall not be used when appropriated funds are otherwise identified for a particular action.

When mitigation funds are received the following steps are to be taken.

1. Complete the Section 7 Land Disturbance Fee Payment Form (Attachment 1). Instructions for filling out the form are included in the second tab on the spreadsheet. The Project Proponent should fill out the amount paid, date, and check or money order number.
2. The Project Proponent will submit the payment with the Fee Payment Form to the BLM Nevada State Office Information Access Center (IAC). Funds will be deposited into the Desert Tortoise Conservation Program Account LNV930000L71220000.JP0000LVTF10008000).
3. The IAC will provide a copy of the Fee Payment Form and payment receipt to the BLM Nevada State Office Threatened and Endangered Species Program Lead, who will then provide copies of both documents to the appropriate District Office(s). The District Office(s) will provide documentation of the payment to the appropriate agencies (Fish and Wildlife Service, Counties, etc).

Background: The Endangered Species Act of 1973 (ESA), as amended, and its implementing regulations, require Federal agencies to determine whether their actions may affect listed species. Compensation is a mitigation technique used to make up for residual impacts of an action that remain after other mitigation measures are incorporated. The FWS Biological Opinions issued to BLM pursuant to Section 7 of the ESA for various proposed actions by BLM including land use

plans and applicant proposed projects include, as reasonable and prudent measures, requirements that BLM collect compensation fees to mitigate disturbance to desert tortoise from activities authorized by the BLM.

Timeframe: Effective immediately upon receipt

Contact: Any questions concerning the content of this IM should be directed to BLM Nevada State Office, Division of Natural Resources, Lands and Planning. Points of contact include Sandra Brewer at (775) 861-6626 and Kim Dow at (775) 861-6681.

Signed By:
Ron Wenker
State Director

Authenticated By:
Ellyn Darrah
Administrative Assistant

Attachments:

1. IM-NV-2010-A01-Section 7 Land Disturbance Fee Payment Form
2. IM-NV-2010-A02-Signed MOU