

Compensatory Mitigation Program – Fees

Utah Department of Natural Resources

PROGRAM BACKGROUND

Utah Code 79-2-501 establishes a Sage-grouse Compensatory Mitigation Program to mitigate the effects of disturbance to Sage-grouse habitat and directs the Department of Natural Resources to administer the program and make rules to implement the program. The code directs the Department to collect revenue from the creation and sale of credits to offset the cost of the program including administrative costs. The Department is completing the adoption of rules for the program. These three fees were included in the rule to generate revenue to offset administration costs.

The Compensatory Mitigation Program was established to offset the impacts of permanent disturbance to Greater Sage-grouse Habitat in Utah by first, encouraging responsible economic development through avoiding and minimizing disturbance within Sage-grouse habitat in SGMAs and second, by providing Compensatory Mitigation resulting in an increase to or protection of habitat to offset the impacts from permanent disturbance after avoiding and minimizing permanent disturbance. Permanent disturbance is a human caused action that results in a loss of habitat for at least 5 years.

PROPOSED PROGRAM FEES

Application Fee = \$100/Application – Estimated Annual Income = \$2,000

The Application Fee is paid by the applicant to the Department to offset the cost of processing a compensatory mitigation application submitted to the Department.

Agreement Fee = \$5/Credit – Estimated Annual Income = \$5,000

The Agreement Fee is paid by the Credit Provider upon entering into a Term Mitigation Agreement or Conservation Bank Agreement with the Department to offset the Department's costs in administering the Agreement.

Credit Transfer Fee = \$5/credit – Estimated Annual Income = \$5,000

The Credit Transfer Fee is paid by the Credit Buyer to the Department when a Credit Provider sells Credits to a Credit Buyer to offset the Department's costs in administering this program.

THE UTAH COMPENSATORY MITIGATION PROGRAM

This program has been designed and implemented so that it can provide mitigation for permanent disturbance to Sage-grouse habitat on any land ownership anywhere in Utah. Since the program is not regulatory on those doing the disturbing, the decision on how the mitigation is completed is dependent on the landowner where the disturbance occurs.

- 1. Federal Lands.** On federally owned and managed lands, the federal land management agency will decide what mitigation is needed and which approach in the program is used to complete the mitigation. Federal agencies are strongly encouraged to use the Utah program but it cannot be mandated by the State. The program contains provisions to give federal agencies the flexibility to use the state program.
- 2. State Lands.** Lands owned and managed by state agency other than SITLA will have mitigation completed by the agency responsible for the management of those lands. The Governor's Executive Order identifies those responsibilities for each state agency. The Utah Mitigation Program provides options for the state agency to complete the mitigation.
- 3. SITLA Lands.** Lands owned or administered by the State Institutional Trust Lands Administration have a special status under the Utah Constitution. As such, mitigation for permanent disturbance is not required from SITLA under the Governor's Executive Order. The State of Utah will complete the mitigation to offset permanent disturbance on SITLA lands through the State Sponsored Program option discussed below. Requests will be made to SITLA to help fund this mitigation when possible.
- 4. Private, County and Municipal Lands.** This category of land ownership is intended to cover the remainder of lands in Sage-grouse habitat not covered by one of the preceding categories. Mitigation on these lands for permanent disturbance will operate similar to that described for SITLA lands. The State of Utah will complete the necessary mitigation and will request funding to offset the costs from the landowner or entity carrying out the disturbing activity.