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# HCP Update Edwards Aquifer RIP

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# Why are we here?

- Conservation Planning is Good Public Policy
- Process leads to an HCP
- There is a problem
- Process leads to Incidental Take Permits



# The Endangered Species Act

- Section 4 – The listing process
- Section 9 – Prohibition of “take”
- Section 7 – Federal agency consultations
- Section 10 – Incidental take provisions

## Section 9

- Prohibits **take** defined as
  - “...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct”.

## Section 7

- ESA Consultation for federal actions
- Federal agencies:
  - ...carry out programs furtherance of the purposes of the ESA
  - ...ensure that their actions are
    - Not likely to jeopardize listed species
    - Adversely modify critical habitat
- Issuance of ITP is a federal action

# Section 10 – Incidental Take Provisions

- Added in 1982
- Incidental take permits
- Habitat Conservation Plans
- Voluntary process on the part of the applicant
- Issuance of the permit is a Federal action requiring NEPA review

Applicant Identifies Potential ESA Issues

Avoidance

Meets Applicant's Need

Doesn't Meet Applicant's Need

No Take

Federal Nexus

No Federal Nexus

Section 7

Section 10



# Developing an HCP

- Mandatory Elements of an HCP
- Issuance Criteria
- Identifying the Project and Its Impacts
- Mitigation Programs and Standards
- Monitoring Measures
- Unforeseen Circumstances
- Funding
- Alternatives Analyzed
- Additional Measures-Implementing Agreements

# Mandatory Elements of an HCP

- Impacts likely to result from the proposed taking of the species for which permit coverage is requested
- Measures the applicant will undertake to monitor, minimize, and mitigate such impacts
- Funding that will be made available to undertake such measures
- Procedures to deal with unforeseen circumstances

# Mandatory Elements of an HCP

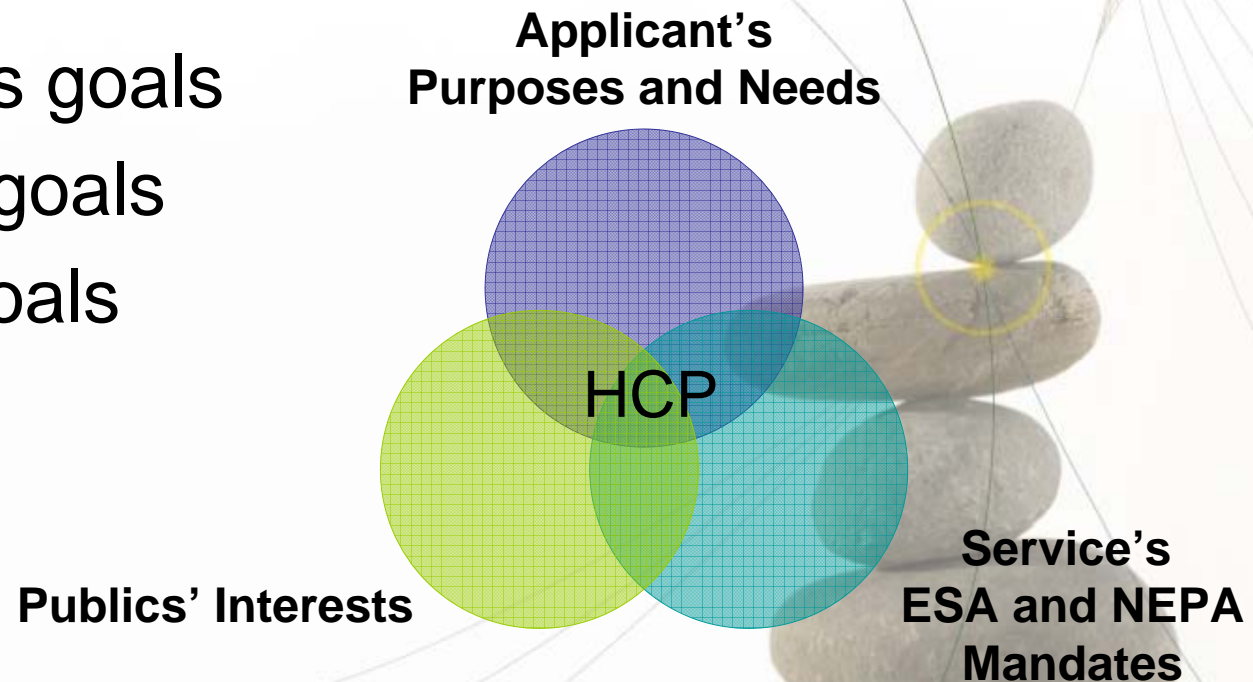
- Alternative actions that the applicant considered that would not result in take and the reasons why such alternatives are not being utilized; and,
- Additional measures FWS or NMFS may require as necessary or appropriate for purposes of the plan.

# Issuance Criteria for 10(a) Permits

- Taking will be incidental
- Applicant will minimize and mitigate impacts
- Will ensure adequate funding/address unforeseen circumstances
- Will not reduce the likelihood of survival and recovery of the species in the wild
- Other measures that are required will be provided
- Assurances that the HCP will be implemented

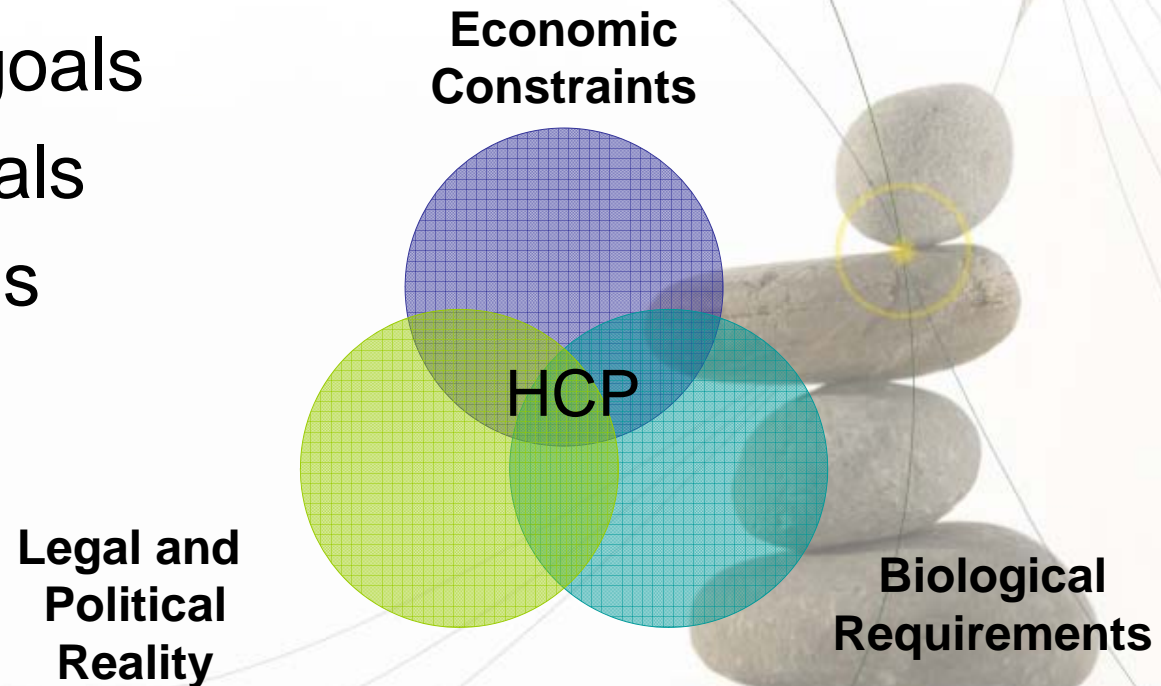
# Goals of the HCP Process

- Applicant's goals
- Service's goals
- Publics' goals



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# Goals of the HCP Process

- Applicants goals:
  - Resolve conflict between ESA and normal activities
  - Solution that makes sense in terms of time, cost, and scope
  - Serve the needs of the constituent or regulated communities
  - Not create conflict with other imperatives

# Goals of the HCP Process

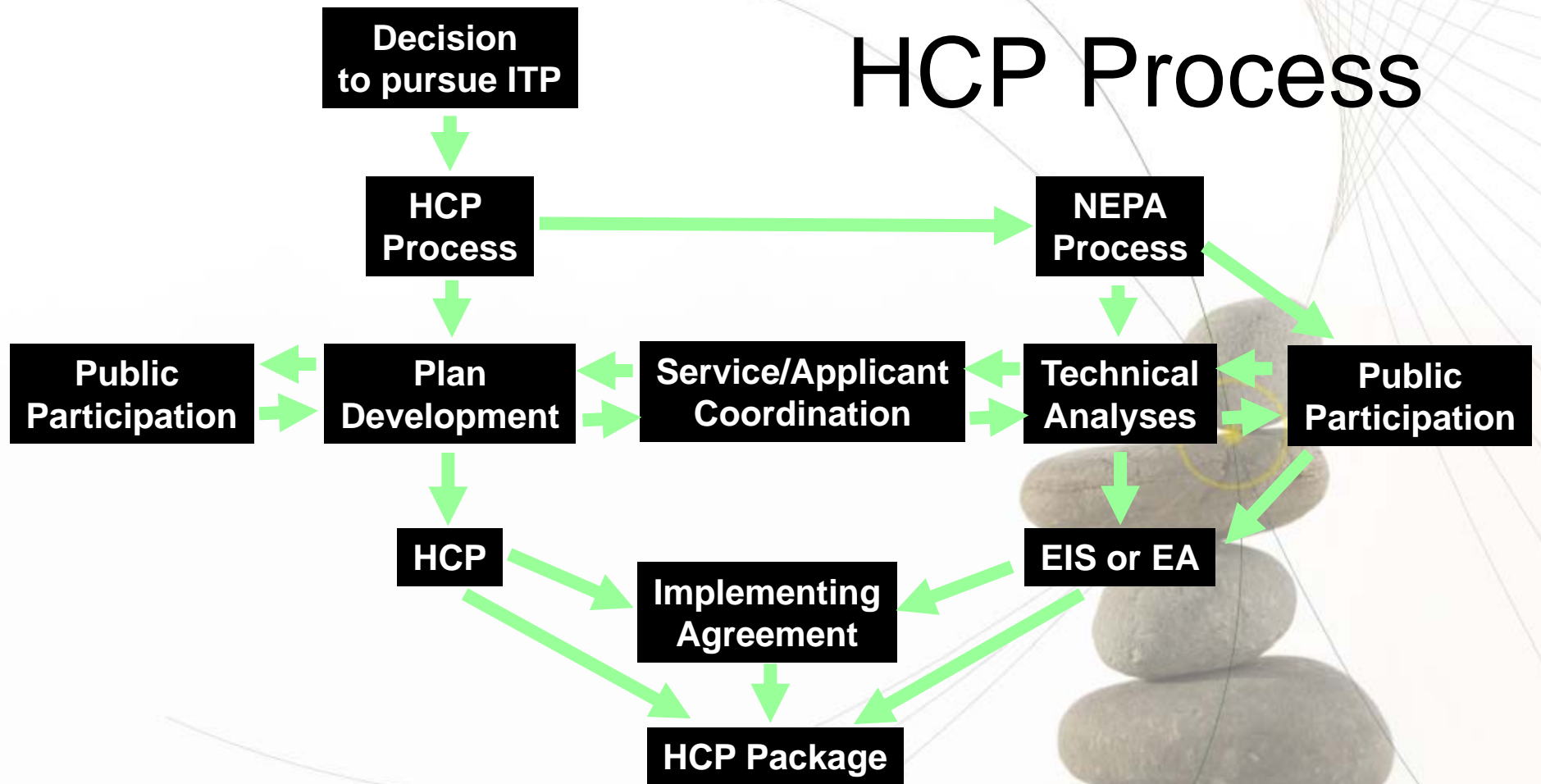
- Service's goals:
  - Section 10(a) – allowed take is incidental, does not preclude survival and recovery
  - NEPA – HCP least damaging alternative (or best alternative balancing purpose, need, and other issues
  - Section 7 – issuance of ITP does not jeopardize continued existence of species, result in adverse modification



# Goals of the HCP Process

- Publics' goals:
  - Conservation of threatened/endangered species
  - Consideration of environmental perspectives
  - Consideration of private property rights/land user perspectives
  - Balance of interests for the “public good”

# HCP Process



# Other Issues to be Addressed

- Applicants for the Permit
- Plan Area/Covered Activities/Covered Species
- Term of the Permit
- Unforeseen Circumstances/Extraordinary Circumstances
- Funding
- Alternatives



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