

Lessons Learned From Habitat Conservation Plans: Applications For Wind And Endangered Species

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Objectives

- To describe a Habitat Conservation Plan (HCP) and how it can be applied for wind energy developers with endangered species issues.
- Identify lessons learned based on our experience and interviews with successful applicants that represent the difference between success and failure in the HCP and incidental take permit (ITP) application process.

HCPs/ITPs and The Wind Industry

- HCPs provide the wind industry with a method to minimize project risk.
- HCPs are applicable to projects on private land with no federal nexus and when impacts to endangered species are anticipated.



Elements of a Habitat Conservation Plan

Section 10 of the Endangered Species Act provides for incidental take of listed species by developing an HCP to obtain an ITP for listed species. An HCP is a plan that evaluates impacts and mitigation for take of endangered species and serves as the implementation guide for conditions of an incidental take permit. An HCP includes a:

- Review of the biology and population status of the listed species
- Evaluation of project impacts to species - includes direct mortality, indirect impacts (e.g., behavior), and habitat-related impacts
- Description of appropriate types and level of mitigation for species
- Description of how take will be monitored
- Description of the adaptive management that will be used to ensure that mitigation levels are tracking actual take
- Mechanism for implementing and funding mitigation and monitoring
- NEPA document (EIS or EA) as part of the ITP application.



Lesson 1 – Communication

Good communication with the USFWS is critical to the success of the HCP process.

- The HCP is the applicant's document but USFWS approval is needed for the ITP to be issued.
- Applicant should obtain buy-off on draft document review times to facilitate schedule – this includes being mindful of holidays and other large deadlines that the USFWS needs to accommodate.
- Coordinate with USFWS regarding document format preferences and the review process: whether staff prefer seeing drafts versus completed sections or the HCP/NEPA are combined or separate documents.
- Ask how early and how often USFWS would like to discuss the Project.
- Provide a clear summary to USFWS of the timing and types of impacts that results from construction and operation of a wind farm.



Lesson 2 – Anticipate “Sticking Points”

Identify and address anticipated HCP sticking points early in the process so that they do not cause delays late in the HCP process when they can result in schedule delays with cost implications.

Potential sticking points include:

- Estimate of take (numbers and population impacts)
- Mitigation of take (type and costs)
- Funding mechanisms
- Adaptive management (specificity)
- Monitoring (type and cost)



Lesson 3 – Good Biology

Biology presented in the HCP should be accurate, applicable, and verifiable.

- Take should be clearly identified through appropriate studies that include habitat delineation, presence-absence studies, and/or species-specific surveys.
- Modeling (e.g., avoidance models, population models) conducted to estimate take should use transparent methods and assumptions and should be based on the best biology available.



Lesson 4 – Mitigation

The proposed mitigation plan for each species needs to be realistic and appropriate. When thinking about mitigation, make sure to address the following questions:

- Can the applicant complete the mitigation from a cost, schedule, access/interest, and liability perspective?
- Is the mitigation biologically appropriate for the species impacted and the level of impact?
- Is the mitigation technologically and logistically feasible?



Lesson 5 – Be Realistic About Costs and Schedule

Companies engaged in the HCP process expressed frustration because of large increases in costs and schedule. These can be minimized when the entity writing the HCP has applicable experience and has the staff to be flexible to “quick burn” periods at key points within the HCP process. Other important elements to understanding costs and schedule are as follows:

- HCP costs are related to: 1) number of species covered, 2) number of states and USFWS offices involved, 3) experience of the local office with HCPs, 4) if a state HCP or ITP is required, 5) whether the species biology is well known, 6) if impacts can be easily quantified and 7) if viable mitigation options are available.
- Budgets of the interviewed groups were 2-10 times the original estimate.
- Schedule can be 2-4 times the original estimate - some projects required an additional 1-10 years beyond the target date.



Examples – Time and Cost

Number of species covered in the HCP	Acres of estimated impact	Years until completion of HCP	Cost (HCP + NEPA)
1	36	1.5	>\$1,000,000
1	222	3	\$250,000
1	264	2	\$10,000
4	345	1	\$250,000
6	717,814	10	\$9,000,000
10	1,206,578	14	~\$3,000,000

Conclusions

- HCPs are useful tools to address risk associated with listed species.
- Simple, common sense lessons learned can be applied to maximize success.
- HCPs are highly variable in costs and schedules.
- Start early.
- Budget accordingly.

