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# MEMORANDUM

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Date: October 19, 2010

To: The Honorable Chairman and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator 

Re: **Endangered Species Act Section 10(a) Permit Application**

Pima County has cautiously approached submitting a formal application for a Section 10(a) permit, which would provide "incidental take" protection under the Endangered Species Act. Discussions with public stakeholders began in 1999, and the first draft of the Pima County Multi-species Conservation Plan (MSCP) was issued to the public in 2003. Since 2003, five additional versions of the MSCP have been released for public review, but no formal application has yet been made under the Endangered Species Act by Pima County.

With the recent completion of the draft ecological monitoring plan, Pima County is positioned to submit our permit application to the United States Fish and Wildlife Service (Service). The permit application is not complicated; at 15 pages long, most of it consists of instructions. The application is accompanied by an Implementing Agreement and an administrative draft of the MSCP, which describes the proposed covered activities; the anticipated impacts; and the countering avoidance, minimization and mitigation measures that will be provided. Both the Town of Marana and the City of Tucson have already submitted applications for their habitat conservation plans.

Before the application package is submitted later this year, I have directed staff to gather and address the concerns of stakeholders with regard to Draft Six of the MSCP, which was released in December 2009. I have determined that broader coverage for private-sector parcels that do not go through rezonings will need to be included in our proposal. Staff has also been directed to continue dialogue with the Service to ensure our application is complete.

The application (Federal Form 3-200) will initiate the following federal process:

1. Pima County submits its permit application to the Service.
2. The Service issues a Draft Environmental Impact Statement (DEIS) that will examine a range of alternatives for coverage under the permit, including no action (no Section 10(a) permit). The DEIS will likely be combined with the draft MSCP.

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3. The Service notifies the public of the availability of the DEIS/MSCP for comment.
4. A 90-day comment period provides the public and other federal agencies an opportunity to comment on the proposed plan and alternative actions.
5. The Service prepares a biological opinion.
6. The Service makes its decision as to whether to issue a permit, and if so, under what conditions.
7. A final MSCP, Implementing Agreement, and EIS are issued. The proposed action in the final MSCP can be different than in the draft, so long as it is in the range of alternatives.
8. The Board of Supervisors approves and enters into an Implementing Agreement with the Service.

The attached federal flowchart provides additional detail. Please note that Pima County expects the Service to provide a 90-day DEIS comment period, not the 45-day statutory minimum shown in the chart.

The entire process is expected to take approximately 12 to 14 months to complete; however, actual timing could be influenced by factors beyond County control. The content of the actual permit is, however, within County control. The permit will not be issued unless the terms of the Implementing Agreement are acceptable to Pima County. Even then, some administrative details will remain outside the federal process for implementation by the County.

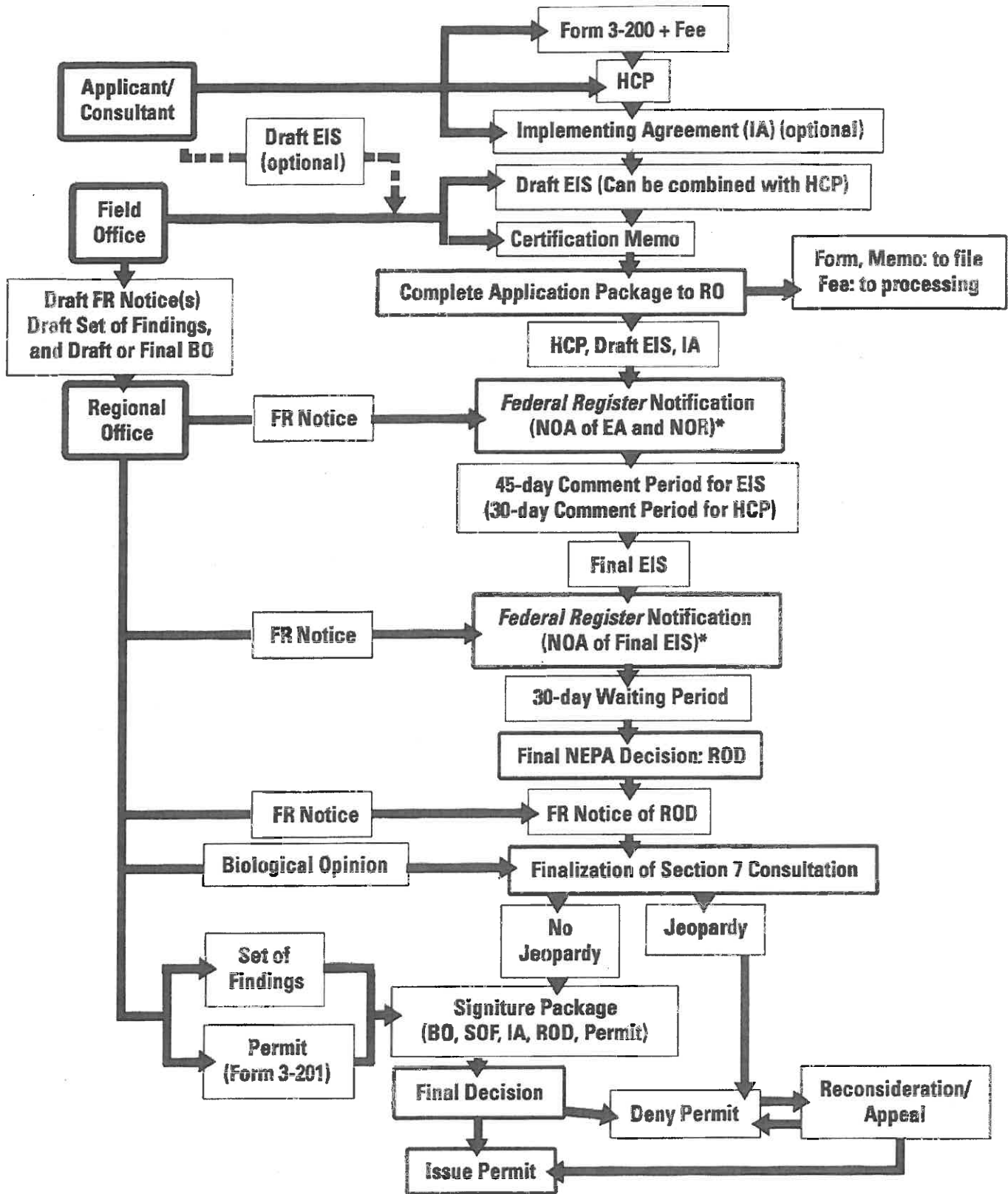
I will send the Board additional information regarding the MSCP in the near future, including detailed responses to stakeholder concerns and an overview of the administrative draft MSCP that Pima County will submit to the Service.

CHH/mjk

Attachment

c: Nicole Fyffe, Executive Assistant to the County Administrator  
Julia Fonseca, Environmental Planning Manager

**Figure 3: Typical Processing Steps for Section 10(a)(1)(B) Incidental Take Permit Applications Requiring an EIS**



\*NOA-Notice of Availability/  
NOR-Notice of Receipt of Permit Application