Northwest Public Power Association
Resolution 2019-11
Urging Consideration of Economic Impacts of the
Endangered Species Act

Background

The Endangered Species Act (ESA) was enacted by Congress in 1973 as a law intended to protect species from extinction. The ESA is administered by the U.S. Fish and Wildlife Service within the Department of Interior and the National Marine Fisheries Service within the Department of Commerce. Plant and animal species under the ESA are categorized as either “endangered” or “threatened” based on risk of extinction with other species designated as “candidates” for listing.

The ESA expired in 1992, but Congress has continued implementation of its principles through annual legislative appropriations since its expiration in 1992. The total number of “listings” under the law has grown considerably since the ESA was first enacted.

Species listed in the Act may impact energy extraction, production and transportation because these species may be affected by energy operations. The electric utility industry must obtain permits, licenses, easements and rights-of-ways in order to serve customers. All these activities can be affected, and in some cases obstructed, by the presence of threatened or endangered species or their habitat.

NWPPA’s Position

• NWPPA supports the ESA’s goal of preserving species that are endangered or threatened.
• NWPPA believes voluntary conservation efforts should be the preferred means of species protection, including safe harbor agreements and “no surprises” provisions.
• NWPPA urges increased State and Local involvement, including voluntary cooperative management agreements for listed species, and improved consultation procedures for state and local efforts.
• NWPPA urges clarification of the scope and application of Section 4(d) Rules, including consideration of a species-specific approach and improvements in Recovery Planning that includes timelines for recovery.
• NWPPA supports revising the listing, delisting, and petitions process, including notification to the states to provide for greater state involvement in the process.
• NWPPA members provide an essential service which must be granted access to closed or unidentified roads in emergency situations, such as a transmission or distribution line failure, or rangeland wildfire threatening a power line. NWPPA believes that the implementation of the ESA should not result in a threat to public safety and electric reliability.

• NWPPA supports an open and sound decision-making process, including requiring public availability of information on the internet so it can be commented on as part of the notice and comment process.

• NWPPA supports litigation reforms, including limits on the award of attorneys’ fees.

• NWPPA believes that habitat conservation plans (HCPs) that allow for reasonable economic activity, including energy production and delivery, and certainty for regulated entities, should be the preferred means used by the federal government to protect species. Properties included in HCPs should not be subject to additional requirements related to critical habitat designation. In addition, benefits to other, non-covered species under an existing HCP should be recognized and credited under any future ESA action.

Origination Date: 1997. Revised: March 2005 – Proposed to Archive in 2008 (Res. 32-08)