



THE ENDANGERED SPECIES ACT

Kathleen Hendricks and Kim Garner
U.S. Fish and Wildlife Service
Boise, Idaho
January 8, 2016





Endangered Species Act

Conserve the ecosystems upon which endangered and threatened species depend

- ▣ Section 4 – Determination of Endangered Species and Threatened Species
- ▣ Section 6 – Cooperation with the States
- ▣ Section 7 – Interagency Cooperation
- ▣ Section 9 – Prohibited Acts
- ▣ Section 10 – Exceptions





Section 4

- ▣ Listing and Delisting is a public process
- ▣ Initiated by FWS or through receipt of a petition from outside entity
 - 90 day finding: substantial/not substantial
 - 12 month finding if substantial:
 - Not warranted
 - Warranted but precluded - Candidate
 - Warranted – T or E





Section 4

- ▣ Decision based on 5 factors
 - The present or threatened destruction, modification, or curtailment of its habitat or range
 - Overutilization for commercial, recreational, scientific, or educational purposes
 - Disease or predation
 - Inadequacy of existing regulatory mechanisms
 - Other natural or manmade factors affecting its continued existence





Section 4

- Recent examples of listing decisions in Idaho
 - Not warranted – Southern Idaho ground squirrel
 - Limited range contraction; stable populations
 - Evidence of connectivity between populations
 - Resilient to disturbance
 - Monitoring gas development





Section 4

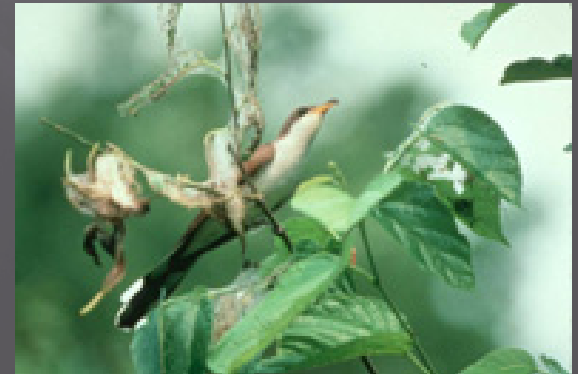
- Recent examples of listing decisions in Idaho
 - Warranted but precluded in 2010 and Not warranted in 2015-Greater sage-grouse
 - Wide ranging species 11 states / 53% Federal land
 - Sagebrush Obligate
 - Habitat degradation due to historic land use practices
 - Current threats in Idaho-wildfire and invasives
 - Destruction of habitat / Inadequate Regulatory Mechanisms
 - Land Use Plan Amendments led to not warranted





Section 4

- Recent examples of listing decisions in Idaho
 - Warranted – Western DPS of yellow-billed cuckoo
 - Occurs across 12 western states, Canada, & Mexico
 - Large woodland riparian corridors threatened by agricultural conversion, river flow management, bank protection, overgrazing, invasive vegetation
 - Critical habitat proposed





Section 4

▣ Critical Habitat –

- ▣ Areas occupied by the species at the time of listing with features essential to conservation
- ▣ Areas not occupied but essential

Similar to listing process but economics is a consideration.

Non-federal landowners may be excluded under Section 4(b)(2)





Section 4

- ▣ Recovery Plans should identify the following:
 - Actions to achieve plan goals
 - Objective, measurable criteria that could demonstrate a species has been recovered
 - Estimates of time and cost to achieve plan goals
 - Recently completed Bull Trout Recovery Plan





Section 4

- ▣ Monitoring and 5-Year Reviews
 - Updated status review
 - Evaluate whether status of a listed species should change or remain the same
 - Determine whether protections afforded by the Act remain necessary
 - Outcome is a recommendation, rulemaking must follow to make changes





Section 6

- Develop Cooperative Agreements with the States to conserve listed species
 - State has authority and expertise to manage resident listed species
 - State has a Conservation Plan consistent with the purposes of the ESA and T&E species
 - Includes funding opportunities





Section 7

- Consultation
 - Federal Nexus (fund, permit, or carry out)
 - Trigger (“may affect” a listed species or critical habitat)
 - Intent (avoid jeopardizing continued existence of the species or resulting in the destruction or adverse modification of critical habitat)





Section 7

- ▣ Types of Consultation
 - Informal Consultation
 - ▣ A streamlined process used when a species or designated critical habitat is not likely to be adversely affected
 - Formal Consultation
 - ▣ A species or designated critical habitat may be adversely affected by the Federal action
 - ▣ Biological Opinion : Determines whether species would be jeopardized, or designated critical habitat would be destroyed or adversely modified
 - ▣ Exempts agency from take prohibitions (wildlife)
 - ▣ May include mandatory terms and conditions to reduce take





Section 9

- ▣ Prohibited Acts
 - Don't take listed species unless:
 - ▣ Take has been permitted through section 6 or section 10
 - ▣ Take has been exempted through section 7
 - Violations (unauthorized take) may result in civil or criminal penalties (see section 11)





Section 10

- ▣ Exceptions/Permits
 - Take may be permitted for scientific purposes or to enhance the propagation or survival of the affected species -- 10(a)(1)(A)
 - ▣ E.g., Safe Harbor Agreements –aid in the recovery of the species
 - Take may be permitted for otherwise lawful activities if take is incidental to and not the purpose of the activity -- 10(a)(1)(B)
 - ▣ E.g., Habitat Conservation Plans (no jeopardy)





Questions?

Contact Information:

- Kim Garner (kim_garner@fws.gov), 208-378-5265
- Kathleen Hendricks (kathleen_hendricks@fws.gov), 208-378-5742

