



# OSC Overview

May 22, 2024



Dedicated to:

- Planning, coordinating and implementing State's actions to preserve protect and restore species listed as candidate, threatened, and endangered under the federal ESA.

Vison:

- Provide leadership and guidance for state, federal and private stakeholders with the conservation of rare and declining species, and recovery and delisting of ESA listed species.

# Aquatic



**Bull Trout**



**Sockeye Salmon**



**Steelhead Trout**



**Spring/Summer Run  
Chinook Salmon**



**Fall Run Chinook Salmon**



**Kootenai River White  
Sturgeon**



**Bliss Rapids Snail**



**Banbury Springs Limpet**



**Bruneau Hot Springsnail**



**Columbia Oregonian Snail**



**Snake River Physa Snail**



**Western Ridged Mussel**

# Wildlife Species



Canada Lynx



Grizzly Bear



Northern Idaho Ground Squirrel



Greater Sage-Grouse



North American Wolverine



Grey Wolves



Yellow Billed Cuckoo



Little Brown Bat



Woodland Caribou

# Pollinators and Plants



Monarch Butterfly



MacFarlane's four-o'clock



Slickspot Peppergrass



Suckley's Cuckoo Bumble  
Bee



Spalding's Catchfly



Whitebark Pine



Western Bumble Bee

# ENDANGERED SPECIES ACT

London Boquist

## STATE MANAGEMENT OF WILDLIFE

States are the primary entities managing wildlife in the United States

Unless the federal government exercises authority over wildlife through a specific law (ESA, MBTA, etc.) the states have jurisdiction to manage the wildlife.

Acts which laid the foundation for funding state wildlife management agencies:

- Migratory Bird Treaty Act of 1918
- Migratory Bird Hunting and Conservation Stamp Act of 1937
- Sport Fish Restoration Act of 1950 (Currently known as the Pittman-Robertson and Dingell-Johnson Act)

Now a large portion of funding also comes from sportsman license purchases





## NORTH AMERICAN MODEL OF WILDLIFE CONSERVATION

7 basic tenets to support the notion that: Wildlife is a public trust, American Birthright, and that species need to be managed to sustain populations forever.

- 1.) Wildlife as a Public Trust Resource
- 2.) Prohibition on Commerce of Dead Wildlife
- 3.) Rule of Law
- 4.) Opportunity for All
- 5.) Wildlife Should only be Killed for a Legitimate Purpose
- 6.) Wildlife as an International Resource
- 7.) Scientific Management of Wildlife



## SECTION 3

## DEFINITIONS

### CRITICAL HABITAT

(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found **those physical or biological features**

(I) **essential to the conservation of the species** and (II) **which may require special management considerations or protection;** and

(ii) specific areas **outside the geographical area occupied** by the species at the time it is listed in accordance with the provisions of section 4 of this Act, **upon a determination by the Secretary that such areas are essential for the conservation of the species...**

### ENDANGERED SPECIES

means any species which is in danger of extinction throughout all or a significant portion of its range...

### THREATENED SPECIES

which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range

### SPECIES

includes any **subspecies** of fish or wildlife or plants, and any **distinct population segment** of any species of vertebrate fish or wildlife **which interbreeds when mature.**

## SECTION 4: DETERMINATION OF ENDANGERED AND THREATENED SPECIES



(a)(1) The Secretary shall... determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) the present or threatened destruction, modification, or curtailment of its habitat or range;

(B) overutilization for commercial, recreational, scientific, or educational purposes;

(C) disease or predation;

(D) the inadequacy of existing regulatory mechanisms; or

(E) other natural or manmade factors affecting its continued existence.



## SECTION 4 CONTINUED...

(3)(A) The Secretary, by regulation promulgated in accordance with subsection (b) and **to the maximum extent prudent and determinable:**

(i) shall, concurrently with making a determination under paragraph (1) that a species is an endangered species or a threatened species, **designate any habitat of such species which is then considered to be critical habitat;** and

(ii) may, from time-to-time thereafter as appropriate, revise such designation.

(b) **BASIS FOR DETERMINATIONS.**—(1)(A) The Secretary shall make determinations required by subsection (a)(1) **solely on the basis of the best scientific and commercial data available** to him after conducting a **review of the status** of the species and **after taking into account those efforts, if any, being made by any State or foreign nation**, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction, or on the high seas.



## SECTION 4 DEADLINES: 90-DAY AND 12-MONTH

(3)(A) To the maximum extent practicable, **within 90 days after receiving the petition .... whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted.** If such a petition is found to present such information, the Secretary shall promptly commence a review of the status of the species concerned....

(B) **Within 12 months** after receiving a petition that is found under subparagraph (A) to present substantial information indicating that the petitioned action may be warranted, the Secretary shall make one of the following findings:

- (i) **Not warranted,**
- (ii) **Warranted and prompt publication of a proposed regulation, or**
- (iii) **Warranted but precluded**

# SECTION 4(D)

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## PROTECTIVE REGULATIONS.

Whenever any species is listed as a **threatened** species pursuant to subsection (c) of this section, the Secretary shall issue such **regulations as he deems necessary and advisable to provide for the conservation of such species.** The Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants, with respect to endangered species;

\*\*\* Blank rule automatically applies endangered species protections to species listed as threatened



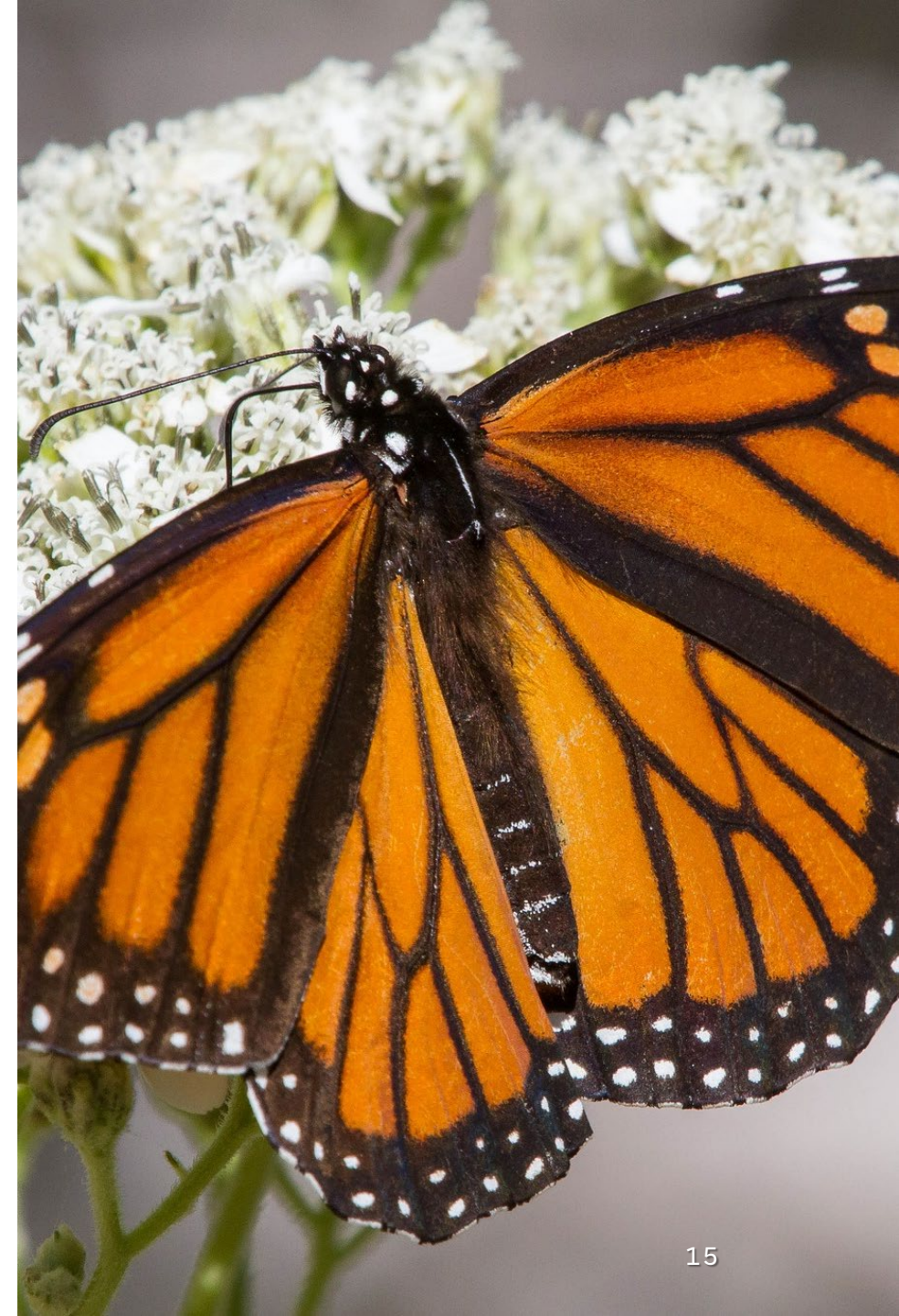
## Section 6: Cooperation with States

- (a) GENERAL.—In carrying out the program authorized by this Act, the Secretary shall **cooperate to the maximum extent practicable with the States....**
- (a) The Secretary may enter into agreements with any State for the **administration and management of any area established for the conservation of endangered species or threatened species.** Any revenues derived from the administration of such areas under these agreements shall be subject to the provisions of section 401 of the Act of June 15, 1935 (49 Stat. 383; 16 U.S.C. 715s).



## COOPERATIVE AGREEMENTS

(1) IN FURTHERANCE OF THE PURPOSES OF THIS ACT, THE SECRETARY IS AUTHORIZED TO ENTER INTO A **COOPERATIVE AGREEMENT** IN ACCORDANCE WITH THIS SECTION WITH ANY STATE **WHICH ESTABLISHES AND MAINTAINS AN ADEQUATE AND ACTIVE PROGRAM FOR THE CONSERVATION OF ENDANGERED SPECIES AND THREATENED SPECIES.** WITHIN ONE HUNDRED AND TWENTY DAYS AFTER THE SECRETARY RECEIVES A CERTIFIED COPY OF SUCH A PROPOSED STATE PROGRAM, HE SHALL MAKE A DETERMINATION WHETHER SUCH PROGRAM IS IN ACCORDANCE WITH THIS ACT. UNLESS HE DETERMINES, PURSUANT TO THIS PARAGRAPH THAT THE STATE PROGRAM IS NOT IN ACCORDANCE WITH THIS ACT, **HE SHALL ENTER INTO A COOPERATIVE AGREEMENT WITH THE STATE** FOR THE PURPOSE OF ASSISTING IN IMPLEMENTATION OF THE STATE PROGRAM.



## SECTION 7: CONSULTATION

(a) (2) **Each Federal agency** shall, **in consultation** with and with the assistance of the Secretary:

- insure that any action **authorized, funded, or carried out** by such agency
- is not likely to **jeopardize the continued existence of any endangered species or threatened species** or result in the **destruction or adverse modification of habitat** of such species
- shall use the **best scientific and commercial data available.**





# CONSULTATION- BIOLOGICAL ASSESSMENT

## (c) BIOLOGICAL ASSESSMENT.

(1) To facilitate compliance with the requirements of subsection (a)(2), each Federal agency shall, with respect to any agency action of such agency... request of the Secretary information **whether any species which is listed or proposed to be listed may be present in the area of such proposed action.**

If the Secretary advises, based on the best scientific and commercial data available, that such species **may be present**, such agency shall conduct a **biological assessment** for the purpose of identifying any endangered species or threatened species which is likely to be affected by such action.

Such assessment shall be completed within **180 days** after the date on which initiated... and, **before any contract for construction** is entered into and before construction is begun with respect to such action.

Such assessment may be undertaken as part of a Federal agency's compliance with the requirements of section 102 of the **National Environmental Policy Act** of 1969 (42 U.S.C. 4332).



# CONSULTATION- BIOLOGICAL OPINION

(b) OPINION OF SECRETARY.—(1)(A) Consultation under subsection (a)(2) with respect to any agency action **shall be concluded within the 90-day period** beginning on the date on which initiated or, subject to subparagraph (B), within such other period of time as is mutually agreeable to the Secretary and the Federal agency.

(3)(A) **Promptly after conclusion of consultation** under paragraph (2) or (3) of subsection (a), the Secretary shall provide to the Federal agency and the applicant, if any, **a written statement setting forth the Secretary's opinion**, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat. **If jeopardy or adverse modification is found, the Secretary shall suggest those reasonable and prudent alternatives which he believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action.**



# CONSULTATION- INCIDENTAL TAKE STATEMENT

If after consultation under subsection (a)(2), the Secretary concludes that—

- (a) the **agency action will not violate such subsection**, or offers **reasonable and prudent alternatives** which the Secretary believes would not violate such subsection;
- (b) the **taking** of an endangered species or a threatened species **incidental** to the agency action will not violate such subsection; and
- (c) if an endangered species or threatened species of a marine mammal is involved, the taking is authorized pursuant to section 101(a)(5) of the Marine Mammal Protection Act of 1972;

the Secretary shall provide the Federal agency and the applicant concerned, if any, with a written statement that—

- (i) **specifies the impact** of such incidental taking on the species,
- (ii) specifies those **reasonable and prudent measures** that the Secretary considers necessary or appropriate to minimize such impact,
- (iii) in the case of marine mammals, specifies those measures that are necessary to comply with section 101(a)(5) of the Marine Mammal Protection Act of 1972 with regard to such taking, and
- (iv) sets forth the **terms and conditions** (including, but not limited to, reporting requirements) that must be complied with by the Federal agency or applicant (if any), or both, to implement the measures specified under clauses (ii) and (iii).

## Section 9- Prohibited Acts

(a) GENERAL.—(1) Except as provided in sections 6(g)(2) and 10 of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act it is **unlawful** for any person subject to the jurisdiction of the United States to—

(A) **import** any such species into, or **export** any such species from the United States;

(B) **take** any such species within the United States or the territorial sea of the United States;

(C) take any such species upon the high seas;

(D) **possess, sell, deliver, carry, transport, or ship**, by any means whatsoever, any such species taken in violation of subparagraphs (B) and (C);

(E) **deliver, receive, carry, transport, or ship in interstate or foreign commerce**, by any means whatsoever and in the course of a commercial activity, any such species;

(F) **sell or offer for sale** in interstate or foreign commerce any such species; or

(G) **violate any regulation** pertaining to such species or to any threatened species of fish or wildlife listed pursuant to section 4 of this Act and promulgated by the Secretary pursuant to authority provided by this Act.



## Prohibited Acts for Plants

(2) Except as provided in sections 6(g)(2) and 10 of this Act, with respect to any endangered species of **plants** listed pursuant to section 4 of this Act, it is unlawful for any person subject to the jurisdiction of the United States to—

(A) **import** any such species into, or export any such species from, the United States;

(B) **remove and reduce to possession** any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law;

(C) **deliver, receive, carry, transport, or ship in interstate or foreign commerce**, by any means whatsoever and in the course of a commercial activity, any such species;

(D) **sell or offer for sale** in interstate or foreign commerce any such species; or

(E) **violate any regulation** pertaining to such species or to any threatened species of plants listed pursuant to section 4 of this Act and promulgated by the Secretary pursuant to authority provided by this Act.



Spalding's Catchfly

# Section 10- Incidental Take Permit

(B) If the Secretary finds, after opportunity for **public comment**, with respect to a permit application and the related conservation plan that—

(i) the taking will be **incidental**;

(ii) the applicant will, to the **maximum extent practicable, minimize and mitigate** the impacts of such taking;

(iii) the applicant will ensure that **adequate funding** for the plan will be provided;

(iv) the taking will not **appreciably reduce the likelihood** of the survival and recovery of the species in the wild; and

(v) the measures, if any, required under subparagraph (A)(iv) will be met; and he has received such other assurances as he may require that the plan will be implemented, **the Secretary shall issue the permit**. The permit shall contain such **terms and conditions** as the Secretary deems **necessary or appropriate** to carry out the purposes of this paragraph, including, but not limited to, such reporting requirements as the Secretary deems necessary for determining whether such terms and conditions are being complied with.

(Also exceptions for hardship and antiques)



## Section 10(j)- Experimental Populations

(1) For purposes of this subsection, the term "experimental population" means any population (including any offspring arising solely therefrom) authorized by the Secretary for release under paragraph (2), **but only when, and at such times as, the population is wholly separate geographically from nonexperimental populations of the same species.**

(2) (A) The Secretary may authorize the release (and the related transportation) of any population (including eggs, propagules, or individuals) of an endangered species or a threatened species **outside the current range of such species if the Secretary determines that such release will further the conservation of such species.**

(B) Before authorizing the release of any population under subparagraph (A), the Secretary shall by regulation identify **the population and determine, on the basis of the best available information, whether or not such population is essential to the continued existence** of an endangered species or a threatened species.

(C) For the purposes of this Act, each member of an experimental population shall be treated as a **threatened species;**

(i) solely for purposes of section 7 (other than subsection (a)(1) thereof), an experimental population determined under subparagraph (B) to be **not essential to the continued existence of a species shall be treated**, except when it occurs in an area within the National Wildlife Refuge System or the National Park System, as a species **proposed to be listed under** section 4; and

(ii) **critical habitat shall not be designated** under this Act for any experimental population determined under subparagraph (B) **to be not essential to the continued existence** of a species.



QUESTIONS ON ESA?