**Northwest Public Power Association**

**Resolution 2023-11**

**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 fish, wildlife and plant 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 protected under the ESA are categorized as either “endangered” or “threatened” based on risk of extinction.

The ESA expired in 1992, but Congress has continued implementation of its principles through annual legislative appropriations. There are more than 1600 species listed as threatened or endangered in the United States.

Implementation of the ESA is important to the electric utility industry when energy production, transmission or distribution impacts animal or plant habitat or the species themselves. Electric utilities must obtain permits, licenses, easements and rights-of-ways in order to serve customers. These actions trigger ESA compliance, which can delay or require revision or denial of the planned activity.

**NWPPA’s Position**

* NWPPA supports the ESA’s goal of preserving species that are endangered or threatened.
* NWPPA believes any legislation or administrative rule implementing the ESA should consider the economic impact on electric utilities, and the need to protect reliability of the electric system and public safety.
* NWPPA supports implementation of the ESA in a manner that:
  + Adopts voluntary conservation efforts and habitat conservation plans that allow for reasonable economic activity as the preferred means of species protection, including safe harbor agreements and “no surprises” provisions;
  + Adopts increased tribal, state and local involvement, including voluntary cooperative management agreements for listed species, and improved consultation procedures for tribal, state and local efforts;
  + Relies on an open and sound decision-making process, including requiring public availability of information as a part of the notice and comment process;
  + Relies on scientific information that is current, accurate and as thorough as possible; and
  + Designates critical habitat only where essential physical or biological features for species are found to occur and a designation of critical habitat is essential for the conservation of the species.
* NWPPA supports improvements to the ESA that:
  + Clarify 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;
  + Revise the listing, delisting (including changes to criteria), and petitions process, including notification to the states to provide for greater state involvement in the process; and
  + Ensure equal access to courts by parties asserting an economic or social interest and limit recovery of legal fees.

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

Rewritten for Active Status: 2014; Revised in 2015, 2016, 2017, 2018, 2020, 2021, 2022, and 2023.