

## **Federally Listed Species and State Species of Greatest Conservation Need.**

**Congress has directed federal agencies to “cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species.” 16 U.S.C. § 1531(c)(2). It is in the public interest to implement voluntary community-based conservation programs that benefit species listed under the Endangered Species Act (ESA) and Species of Greatest Conservation Need (SGCN).**

### **Discussion**

The intersection between state water rights and the Endangered Species Act (“ESA”) requires development of integrated solutions to water allocation conflicts. In enacting the ESA, Congress contemplated a state-federal alliance to advance the recovery of listed species and provided for the development of state-led recovery efforts. Cooperative community-based conservation programs are more effective in providing on-the-ground habitat benefits than federal or citizen enforcement actions. With site-specific information about water and land use practices and habitat requirements, targeted and effective conservation strategies can be developed and implemented that protect private property rights, and assure state primacy over water resources while, at the same time, providing natural resource protection.

The Board holds minimum stream flow water rights for 205 river reaches important to ESA-listed species and established as part of the Snake River Water Rights Settlement Act of 2004 (“2004 Water Rights Agreement”). The minimum stream flow water rights provide significant protection for ESA-listed species in the Salmon and Clearwater River Basins. The water rights for streams in watersheds with substantial private land ownership and private water use were established after consultation with local communities. Where the minimum stream flow water rights are higher than existing flows, the state works with water users on a voluntary basis to rent or otherwise acquire water to return to the streams. The Water Supply Bank and Columbia Basin Water Transactions Program are used to achieve these objectives. In conjunction with the minimum stream flows, the state agreed to work with local stakeholders and communities to address habitat concerns on a limited number of streams with degraded habitat. The work plans include measures to remove barriers to fish passage, revegetate stream banks, and restore wetlands to proper functioning.

The 2004 Water Rights Agreement also provides for the development of long-term habitat conservation plans to assist in the recovery of ESA-listed species, under section 6 of the ESA. The plans are to be developed in collaboration with local landowners and water users, affected Indian tribes, and state and federal natural resource agencies. Section 6 agreements will provide incentives for conservation through the granting of incidental take coverage to participants in the program. Such agreements would provide participating water users with protection against uncertainty and regulatory delays while contributing to the recovery of listed species. It is in the interest of the public for the Board to take a leadership role in the development of local and regional flow-related conservation strategies that contribute to the recovery of ESA-listed species and SGCN.

(Note: This section needs further discussion of other ESA issues and programs throughout the state.)

### **Implementation Strategies**

Coordinate with the Office of Species Conservation (OSC) and state natural resource agencies to implement habitat conservation plans, programs, and strategies through voluntary, community-based plans and agreements for the benefit of ESA-listed species and SGCN.

Participate in the development and implementation of Habitat Conservation Plans pursuant to section 6 of the ESA.

Cooperate with OSC, state natural resource agencies, federal agencies, affected Indian tribes, and local stakeholders, to identify and implement flow-related conservation strategies to preclude the need for listing of species and ultimately remove them from the ESA.

### **Milestones**