



**State of Alaska
Department of Law**

Alaska's ESA Strategy

The Parnell Administration is concerned by the significant increase in Endangered Species Act (ESA) activity in its territory. Federal agency decisions to list species under the ESA, expansive designations of critical habitat for listed species, and the risk of litigation that these decisions engender threaten the development of natural resources and infrastructure, which is crucial to our economy. The State believes it is possible – indeed, it is a constitutional duty – to protect our fish and wildlife while responsibly developing our state's resources. To carry out this duty, the State has developed a five-point ESA strategy. With a recent additional \$1 million in funding for ESA-related work for the Department of Law and an additional \$250,000 for the Department of Fish and Game, we are moving forward to implement this strategy.

I. Take Action To Avoid Unwarranted Listings.

- A. Research and monitor Alaska species to determine their health and whether protections are needed. *Example: The State is conducting an assessment of the population status of Kittlitz's Murrelet and evaluating the effect of gillnet fisheries on the species.*
- B. Develop pre-listing agreements and candidate conservation plans with federal agencies to prevent listings in the first place. *Example: The State signed a conservation agreement for the Yellow-Billed Loon in September 2006.*
- C. Incorporate protections into state permits and licenses to protect species and their habitats. *Example: State regulations for permitting oil and gas exploration and development activities contain measures to ensure conservation of listed species.*
- D. Challenge unwarranted listing decisions by federal agencies through litigation and intervene in support of federal decisions not to list species when necessary to protect the state's interest. *Example: The State has filed suit to challenge the listing of the Polar Bear as a threatened species under the ESA but also intervened in related cases to support the special 4(d) rule. The State is also participating as Amicus Curiae and intervenor-defendant supporting a federal agency's decision not to list the Ribbon Seal under the ESA.*

- II. Deepen Cooperation and Exchange of Scientific Information with Federal Agencies To Ensure Federal Agencies Have Access to State Wildlife Officials' Comprehensive Data and Expertise.** *Example: In 2009 the State entered a limited cooperative agreement under Section 6 of the ESA in order to cooperate with the National Marine Fisheries Service on conservation and monitoring of several endangered, threatened and candidate species. The State has a similar agreement in place with the U.S. Fish and Wildlife Service.*
- III. Minimize the Effect of ESA Listings on Alaska's Economy.**
- A. Shape critical habitat designations and recovery plans through the federal rulemaking process and, if necessary, litigation. *Example: The State has submitted comments to federal agencies considering critical habitat designations for both the Cook Inlet Beluga and the Polar Bear with the aim of more narrowly tailoring critical habitat to the areas most important to the species and assuring economic impacts of the proposed designations are accurately assessed.*
- B. Participate in the ESA-mandated consultation process to the extent possible. *Example: The State is assisting the Knik Arm Bridge and Toll Authority in navigating the consultation process under Section 7 of the ESA. The State has also published comments addressing the National Marine Fisheries Service's biological opinion on the impact of groundfish fisheries on Steller Sea Lions in the Bering Sea, Aleutian Islands, and Gulf of Alaska.*
- IV. Seek Down-listing and De-listing of Listed Species when Data Shows Species Are Recovering.** *Example: The State has petitioned to de-list the Eastern distinct population segment of Steller Sea Lions, which appears to have met the elements of its recovery plan.*
- V. Raise Public Awareness and Develop Alliances with Other States To Influence ESA Policy.**
- A. Recruit allies through organizations such as the Association of Fish and Wildlife Agencies and the National Association of Attorneys General. *Example: The Department of Law has created an ESA Working Group under the auspices of the National Association of Attorneys General to address ESA issues of common concern for states.*
- B. Collaborate with the Alaska Legislature and Alaska's Congressional delegation on ESA matters. *Example: The Alaska Legislature approved a \$1 million increase in the Department of Law's budget directed to ESA efforts.*