

Updating the Endangered Species Act

By Tom Rogers, Fish & Wildlife Department

Every October, Fish & Wildlife's Steve Parren and a team of volunteers head to the beaches of Lake Champlain for some fall cleaning. Although some standard debris and weed removal fall into their day's work, the team is there for a unique, and actually threatened, reason. The spiny softshell turtle, a state-threatened species since 1987, requires undeveloped lakeshore habitat for nesting. Increased waterfront activity, armoring, and construction has forced these turtles to lay the majority of their eggs in only a few select beaches on the lake. So while volunteers clear debris and rearrange rocks, they also look for treasure -- turtle hatchlings. Some that have not yet managed to reach the lake for winter hibernation are moved to the ECHO Lake Aquarium and Science Center in Burlington for overwinter care, promoting a viable breeding population in the future.



The critical habitat of this male spiny softshell turtle hatchling may be affected by proposed changes to the Vermont Endangered Species Law.

While the turtles themselves receive protection, their known nesting beaches on Lake Champlain do not. A new twist on the Vermont Endangered Species Law aims to change that. The law, first written in 1981 to protect and restore endangered species populations, does not protect the habitat that is important for the survival of listed species. Working with a group of stakeholders, the Fish & Wildlife Department is crafting new legislation that would update and modernize the state's endangered species law. According to Deb Markowitz, Secretary of Vermont's Agency of Natural Resources, "Our goal is to ensure the survival of vulnerable plants and animals while simplifying the process for landowners to get permits for activities that might impact these species."

Although the state owns and conserves land that provides habitat for some endangered and threatened species, it does not have the legal means under the current law to protect their needed habitat. If the land a species inhabits is altered while it is absent so that it no longer serves its needs, there is presently no legal recourse, despite the possibility that the species population may decline. Parren, the Wildlife Diversity Program manager for the Fish & Wildlife Department, explains. “Bald eagles often use the same tree to nest year after year, so cutting down the nest tree when the eagle is not actively nesting there could prevent it from nesting successfully in the future. We would also want to avoid activities near caves that host endangered and threatened bats during their winter hibernation that could alter the cave environment needed for successful hibernation. Even during the summer months, some activities could make the cave unsuitable for winter hibernation.” Critical habitat that might also be considered for listing include winter habitat for Vermont’s two small timber rattlesnake populations and rare wetland complexes where the Northeastern bulrush is found.



The proposed change to the law would allow biologists to identify and protect critical habitat needed for the survival of endangered and threatened species. But before an area can receive official critical habitat designation, the Agency of Natural Resources Secretary must initiate rulemaking that entails providing a public notice, at least one hearing, and an opportunity for the public to comment. Only habitats that are clearly delineated and necessary for the recovery or conservation of the listed species would be designated as critical habitat through this process.

The Fish & Wildlife Department has gathered input and hopes to garner support from stakeholders including conservation groups, utility companies, businesses, government agencies, foresters, and interested members of the public. Questions and

concerns raised during a public meeting are guiding revisions to the proposed legislation, which the Fish & Wildlife Department plans to present at the beginning of the 2016 legislative session.

The Fish & Wildlife Department continues to seek public input. Questions or comments can be sent via email to ANR.EndangeredPermit@state.vt.us. A copy of the proposed changes to the statute is available at <http://www.anr.state.vt.us/site/cfm/etstp/index.cfm>.