



**DEPARTMENT OF
NATURAL RESOURCES**

**OFFICE OF THE COMMISSIONER
OF PUBLIC LANDS**

1111 WASHINGTON ST SE
MS 47001
OLYMPIA, WA 98504-7001

360-902-1000
WWW.DNR.WA.GOV

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Travis Joseph
President/CEO
American Forest Resource Council
5100 S.W Macadam, Suite 350
Portland, OR 97239

Peter Goldman
Director and Managing Attorney
Washington Forest Law Center
615 Second Avenue, Suite 360
Seattle, WA 98104-2245

RE: Actions during Consideration of Alternatives for the Marbled Murrelet Long-term Conservation Strategy

Dear Mr. Joseph and Mr. Goldman:

Thank you for your letters to the Board of Natural Resources (board). You both raised a number of issues related to the development of the long-term habitat conservation strategy for the marbled murrelet. This letter responds broadly to the issues you raise in your letters.

DNR is Currently Managing for Marbled Murrelet Habitat in Accordance with its Interim Strategy

At the time the *State Trust Lands Habitat Conservation Plan* (1997 HCP) was issued, there was insufficient information available for the Department of Natural Resources (DNR) to develop a long-term conservation strategy for the marbled murrelet, a covered species under the 1997 HCP. To address this, DNR developed an interim conservation strategy for managing marbled murrelet habitat on DNR-managed lands. This interim strategy is described in the 1997 HCP (DNR 1997, p. IV.39) and is intended to remain in place until DNR completes a long-term conservation strategy for the marbled murrelet. The interim strategy is still being implemented per the incidental take permit issued by the U.S. Fish and Wildlife Service (USFWS) for the 1997 HCP, permit number PRT-812521.

DNR and USFWS are preparing a Joint Environmental Impact Statement (EIS) for the Marbled Murrelet Long-term Conservation Strategy

As stated in the 1997 HCP, “DNR’s objective is to develop a long-term strategy for the habitat of the marbled murrelet that will provide minimization and mitigation for any incidental take of this species.” DNR is in the process of developing this long-term strategy now, in consultation with USFWS. DNR is required to prepare an EIS analyzing potential impacts of the strategy under the Washington State Environmental Policy Act (SEPA) (WAC 197-11).

Adoption of a long-term conservation strategy for the marbled murrelet will require an amendment to the 1997 HCP and an amendment to DNR’s existing incidental take permit by USFWS. Because amending the incidental take permit is considered a major federal action that may significantly affect the quality of the human environment, USFWS is required to prepare an EIS under the National Environmental Policy Act (NEPA) (40 C.F.R. § 1501.7). To avoid duplication of effort and minimize paperwork, DNR and USFWS are preparing a joint SEPA/NEPA EIS for the marbled murrelet long-term conservation strategy.

DNR and USFWS Identified two Independent Need and Purpose Statements in the Joint EIS

Although the EIS for the marbled murrelet long-term conservation strategy is a joint document, DNR and USFWS have identified separate needs and purposes for the project, to reflect the different legal responsibilities of each agency. Therefore, when determining a range of alternatives to analyze, the range could include alternatives that meet both agencies’ purpose and need or that of one agency or the other. During negotiations on the alternatives to be included in the EIS, DNR and USFWS agreed that it would be beneficial to include a broad range of alternatives for consideration. USFWS is ultimately responsible for determining the alternatives to be analyzed in the EIS. While the USFWS may – and in the case of our process, did – confer with DNR on the range of alternatives, the alternatives USFWS selects to analyze are not required to be reasonable to DNR (USFWS 2018, p. 5-6).

Over the past year, DNR staff has worked with the board to develop DNR’s preferred alternative for the marbled murrelet long-term conservation strategy. This is represented as Alternative H in the Revised Draft EIS for the Long-term Conservation Strategy for the marbled murrelet (DNR and USFWS 2018). At the November, 2017 board meeting, the board directed department staff to develop, analyze, and submit for application a strategy based upon the board’s principles for the preferred alternative. The board directed staff to develop a preferred alternative consistent with the following principles:

- Minimize impacts
 - Conserve all existing occupied sites
 - Capture existing habitat within conservation areas
 - Meter habitat in strategic locations

- Offset impacts and address uncertainty
 - Apply a buffer on occupied sites
 - Locate conservation areas in strategic locations
 - Increase interior forest
- Reduce disproportionate financial impacts

DNR's preferred alternative meets all of these principles and meets DNR's need, purpose, and objectives for the long-term conservation strategy. It does so by integrating DNR's obligations to provide marbled murrelet conservation under the Endangered Species Act with DNR's fiduciary obligations to provide revenue to its trust beneficiaries.

The preferred alternative meets DNR's objectives for the marbled murrelet long-term conservation strategy because it:

- Allows continued generation of revenue for trust beneficiaries
- Provides marbled murrelet-specific habitat conservation within special habitat areas, occupied sites, and occupied site buffers where these occur outside of special habitat areas
- Allows active management through the continued, sustainable harvest of timber, consistent with existing laws, policies, and the 1997 HCP
- Allows DNR to continue to respond to emergency situations and would not change the existing practice of consultation with USFWS
- Includes a feasible, practical, and cost-effective approach to conservation by increasing certainty about where and how much marbled murrelet habitat will be conserved over time and by building a strategy around areas that are already deferred from harvest by existing DNR policies and regulations

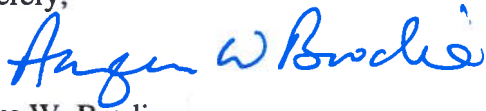
Alternatives considered in the Revised Draft EIS May not meet DNR's Need, Purpose and Objectives

Alternatives considered in the Revised Draft EIS that may not meet all of DNR's objectives for the marbled murrelet long-term conservation strategy include B, G, and F. Alternatives G and F, which generate the least revenue of all alternatives, may not achieve DNR's fiduciary objective and this is stated in the Revised Draft EIS (page 2-70). Alternatives G and F also provide mitigation in the form of habitat that greatly exceeds impacts from DNR's activities. Alternative B, on the other hand, has impacts that greatly exceed mitigation and so may not meet DNR's marbled murrelet habitat objective, which is also stated in the Revised Draft EIS (page 2-71).

For the reasons stated above, the board or DNR cannot eliminate an alternative from the RDEIS that USFWS considers reasonable as defined by their need and purpose statement. However, DNR indicates that this alternative may not be reasonable under DNR's need, purpose, and objectives in the RDEIS.

Thank you for the thoughts you have provided to our agency on this issue. The Marbled Murrelet Long-term Conservation Strategy has been a complex and lengthy process and we appreciate the time and attention you have given it. The strategy will only benefit from your involvement.

Sincerely,



Angus W. Brodie
Deputy Supervisor for State Uplands

cc: Board of Natural Resources

References:

U.S. Fish and Wildlife Service. 2018. Habitat Conservation Plan Handbook. Available at: https://www.fws.gov/angered/what-we-do/hep_handbook-chapters.html . Accessed on September 27, 2018. Last Updated January 18, 2018.

Washington Department of Natural Resources and U.S. Fish and Wildlife Service. 2018. Revised Draft Environmental Impact Statement for the Long-term Conservation Strategy for the Marbled Murrelet. DNR and USFWS, 2018. Olympia, Washington.

Washington Department of Natural Resources. 1997. Final Habitat Conservation Plan. Washington Department of Natural Resources, Olympia, Washington. 223 p.