



**Notice of Public Meetings and
Request for Comments on the Scope of an Environmental Impact Statement (EIS)
under the State Environmental Policy Act (SEPA)
and the National Environmental Policy Act (NEPA)**

Description of proposal: Long-term Conservation Strategy for the Marbled Murrelet
Please see attached Statement of Need, Purpose & Objectives

The proposal is to amend the Department of Natural Resources 1997 State Trust Land Habitat Conservation Plan (State Trust Lands HCP) to include a long-term conservation strategy for the marbled murrelet. This proposal was contemplated at the time of adoption of the State Trust Lands HCP because the plan provided only an interim conservation strategy for the marbled murrelet. The interim strategy was to remain in place until more scientific information could be collected on habitat on state lands and the marbled murrelet's biological needs to make the development of a long-term conservation strategy possible. At this time, a specific conservation strategy has not been identified to define the proposal. Rather, a statement of the proposal's need, purpose and objectives has been developed to guide the creation of the long-term conservation strategy consistent with the commitments in the HCP.

Proponent: Department of Natural Resources (DNR)

Location of proposal: Six Westside Planning Units (land in range of the marbled murrelet in Clallam, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit Snohomish, Thurston, Wahkiakum and Whatcom Counties) of DNR's Trust Lands Habitat Conservation Plan

Joint Lead Agencies: Washington Department of Natural Resources
United States Fish and Wildlife Service (USFWS)

Current and Prior Scoping Details:

On September 15, 2006, DNR issued a Determination of Significance and Public Scoping Notice for the proposal to develop a long-term marbled murrelet conservation strategy, indicating that an environmental impact statement (EIS) would be prepared. Also on September 15, 2006, USFWS issued a federal Notice of Intent to conduct scoping, as joint lead agency allowing for the development of a joint EIS. After the scoping notices were issued, public meetings were conducted and public comments were received. Since then, the proposal has geographically expanded to include the North and South Puget Planning Units (referring to geographic boundaries delineated in the 1997 Trust Lands Habitat Conservation Plan).

The Joint Lead Agencies have retained and will consider all comments received during prior scoping, so it is not necessary to re-submit prior comments. However, the Joint Lead Agencies are now seeking additional comments from any person or entity interested in this proposal. Recognizing the importance of public input in the development of alternatives, DNR has opted to utilize expanded scoping so as to provide additional opportunities for public input prior to the issuance of the draft EIS. At this time, the Joint Lead Agencies are



presenting the proposal's need, purpose and objectives to assist reviewers when considering the appropriate scope of the environmental review. This is consistent with the State Environmental Policy Act (SEPA), which encourages integration of environmental analysis at the earliest opportunity in the decision-making process, because it allows for multiple opportunities for public comments as the proposal is being developed. The Board of Natural Resources (BNR) and USFWS approved the need, purpose, and objectives at the BNR's March 16, 2012 public meeting for the purposes of initiating scoping. The statement of the Need, Purpose and Objectives approved by the Joint Lead Agencies is attached and referenced as the "NPO" and the "proposal" in this scoping notice. The Joint Lead Agencies anticipate finalizing the NPO following this initial public scoping period. There will be a subsequent public scoping period upon completion of a set of conceptual alternatives for the conservation strategy, to solicit public input and allow for a fully developed range of alternatives that meet the NPO in the draft EIS.

The Joint Lead Agencies have identified the following areas for public comment related to the EIS in this initial phase of scoping:

Due to the complexity of the proposal and the fact that a preferred alternative has not been developed at this stage of environmental review, public comments during this initial phase of scoping will assist the Joint Lead Agencies in assessing needed information, focusing on environmental issues of concern, and other considerations related to developing alternatives. Please consider and comment on the key issues or broad topics to assist the Joint Lead Agencies in focusing environmental review. This may include the following:

1. Environmental issues that should be addressed based upon the proposal's NPO;
2. Issues to consider in developing alternatives that achieve the NPO;
3. Specific mitigation measures the Joint Lead Agencies should consider to address identified issues or impacts;
4. Impacts to elements of the natural and built environment resulting from the proposal that the Joint Lead Agencies should evaluate;
5. Identification of additional environmental information, studies, or reports relevant to the development of the proposal.

Although the scoping comment period will remain open until both scoping phases have been completed, please provide your comments on this phase on or before **May 21, 2012** for early consideration. A second phase of scoping will occur to gather input on a set of conceptual alternatives for the conservation strategy. Additional public meetings will occur following the publication of the second scoping notice, during late summer of 2012.

Background Information:

The proposal is a nonproject action for purposes of SEPA, which means it involves a decision on a policy, plan or program rather than a specific project. In this case, the nonproject proposal will include policy and planning decisions pertaining to an existing habitat conservation plan previously approved by the Board of Natural Resources and two federal agencies; the United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). The existing plan is called the Department of Natural Resources State Trust Lands Habitat Conservation Plan 1997 (State Trust Lands HCP), which can be found at (http://www.dnr.wa.gov/ResearchScience/Topics/TrustLandsHCP/Pages/lm_hcp_trust_land_report.aspx). Only the portion of the plan relating to the marbled murrelet will be addressed in the proposal.

When conducting nonproject environmental review, an agency is encouraged to describe a proposal in terms of alternative means of accomplishing a stated objective(s), to allow for a meaningful review of choices amongst possible alternatives. Additionally, site specific analyses are not required when evaluating a broad scale plan such as the HCP. The EIS will include a thorough analysis, based on sound science, of the environmental impacts of reasonable alternatives.

Due to the fact that the State Trust Lands HCP was adopted following the completion of a prior EIS issued jointly by DNR, USFWS, and NMFS, there is already some environmental analysis that is available for purposes of considering this proposal. However, the HCP did not include a long-term conservation strategy for the marbled murrelet and it was approved about fifteen (15) years ago. New information will need to be identified and additional analyses will need to be completed.

The DNR State Trust Lands HCP covers a number of species listed as endangered or threatened under the federal Endangered Species Act of 1973 (ESA, 7 U.S.C. § 136, 16 U.S.C. § 1531 et seq.). The resulting incidental take permit (ITP), which was issued by USFWS and NMFS in 1997, acknowledged coverage for DNR's land management activities and permitted incidental take of marbled murrelet associated with an "Interim Conservation Strategy" described in the State Trust Lands HCP,¹ pursuant to requirements of the ESA related to the approval of a proposed habitat conservation plan. The Interim Conservation Strategy was adopted because inadequate information was available to develop a credible long-term strategy for the marbled murrelet at the time of the HCP's development. Hence, it was primarily designed for two purposes, 1) to collect data about habitat on state lands managed by DNR and its significance for the marbled murrelet, and 2) defer from harvest land containing what was believed to be high quality habitat until a long-term strategy was developed.

Also in 1997, DNR, USFWS, and NMFS entered into an Implementation Agreement (IA) for the State Trust Lands HCP, which reflects the manner in which implementation issues are addressed and helps to define the scope and coverage of the HCP. The IA also confirms which lands are included, and covers most forested trust lands managed by DNR within the range of the northern spotted owl, as well as certain Natural Area Preserves and Natural Resource Conservation Areas designated as important for achieving the commitments of the HCP. These lands are generally referred to as DNR-managed lands and are depicted on maps appended to the HCP, with boundaries drawn around "Planning Units" for further geographic delineation. The Interim Conservation Strategy for the marbled murrelet did not cover all DNR-managed lands within all HCP planning units, but was limited to the six Westside planning units, which were generally identified to be those lands within the range of the murrelet. Likewise, the long-term conservation strategy will cover only these six HCP planning units. HCP maps showing all lands covered by the HCP are attached to this Notice, with boundaries showing the six westside planning units relevant to this proposal.

The current proposal involves a single species within the exclusive jurisdiction of the USFWS under the ESA. Consequently, DNR and USFWS are serving as co-lead agencies for purposes of environmental review under both SEPA and the National Environmental Policy Act (NEPA). The joint development of an EIS is intended to eliminate duplication by the two agencies and avoid delay, while recognizing each agency's independent responsibilities under SEPA and NEPA. As such, DNR and USFWS worked together to develop a combined statement of the need, purpose, and objectives of the proposal that meets each agency's needs.

¹ Page IV-39-40 of the HCP describes the Interim Conservation Strategy and is attached to this Scoping Notice.

Regulatory Decision-Making Context:

DNR is a state agency created in Washington law and is subject to various constitutional and statutory requirements in the management of state lands within its proprietary land management responsibilities, as well as being regulated under laws of general applicability. Many of these lands were granted to the state at the time of statehood. They are known as federally granted trust lands. State forest lands are another category of trust lands managed by DNR, created by statute. For both types of trust lands, DNR is subject to legally established trust responsibilities that require DNR to act in the best interests of each individual trust when taking action affecting these trust lands. Hence, prior to submission of a proposed long-term strategy for the marbled murrelet amending DNR's State Trust Lands HCP, the Board of Natural Resources (the policy making component of DNR for state trust lands) will need to confirm that DNR's trust responsibilities have been met. The inclusion of a trust objective in the NPO is intended to enable consideration of these responsibilities in the development of each alternative for the conservation strategy. The EIS will serve the purpose of developing a reasonable range of alternatives that meet the NPO for consideration by the Board and informing the Board of the environmental considerations relevant to its decision to select an alternative for the long-term conservation strategy.

Similarly, USFWS is a federal agency created in federal law and is subject to various constitutional and statutory requirements. USFWS has specific responsibilities under the ESA that require a thorough scientific analysis to support any decision it makes approving an amendment to DNR's HCP and ITP, pursuant to its authority under Sections 7 and 10 of the ESA. While USFWS has additional responsibilities related to the development of plans aimed at the survival and recovery of listed species, its obligations related to approval of an HCP amendment require USFWS to confirm the proposal meets the requirements for approving an amended ITP. In order to issue an ITP, USFWS must find: 1) the proposed taking will be incidental to an otherwise lawful activity, 2) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of the taking, 3) the applicant will ensure adequate funding for its plan, 4) the taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild, and 5) any other measures necessary or appropriate for purposes of the plan will be met.

Existing Environmental and Other Information:

Since the State Trust Lands HCP was developed, new information on a number of topics relevant to the proposal has been developed by DNR, USFWS, and others. In developing the long-term conservation strategy for the marbled murrelet, DNR and USFWS will rely on the most current scientific information available. The following information may be reviewed to consider its relevance during the development of the long-term conservation strategy (this list is not intended to be a complete list of all information that may be considered or to be an endorsement of the scientific authority of the information contained in this list):

- DNR Corporate and Survey Data
- Recommendations and Supporting Analysis of Conservation Opportunities for the Marbled Murrelet Long-Term Conservation Strategy, March 2008 (Science Team Report)
- USFWS Marbled Murrelet Status Reviews, Recovery Plan, Designation of Critical Habitat, Northwest Forest Plan Updates
- Pacific Northwest Research Station Spatial Analysis of Marbled Murrelet Habitat using MaxEnt (2011)
- Washington Department of Fish & Wildlife (WDFW) Database of Surveys using Pacific Seabird Protocol
- WDFW At-Sea Marbled Murrelet Population Monitoring Research

Relationship to Interim Conservation Strategy and Habitat Conservation Plan:

The Interim Conservation Strategy describes the current and temporary management strategy applicable to the marbled murrelet under DNR's State Trust Lands HCP. The interim strategy will cease to exist upon a final decision relating to a long-term conservation strategy for the marbled murrelet. Data developed during the implementation of this interim strategy will be utilized to the extent relevant to the long-term strategy. Consistent with the timing requirements for environmental review under SEPA, DNR has not made any decisions regarding a particular long-term conservation strategy and is initiating its proposal based upon a set of objectives that are consistent with the commitments made in DNR's State Trust Lands HCP and within DNR's authority.

Notice of Public Meetings:

Meeting Date: April 30, 2012 Meeting Time: 6:00-8:00 p.m. Meeting Location: Natural Resources Building, 1111 Washington Street SE, Room 175, Olympia, WA 98504	Meeting Date: May 3, 2012 Meeting Time: 6:00-8:00 p.m. Meeting Location: Northwest Regional Office, Department of Natural Resources, 919 N. Township Street, Sedro Wooley, WA 98284
Meeting Date: May 8, 2012 Meeting Time: 6:00-8:00 p.m. Meeting Location: Pacific Cascade / River Room, 25 River Street, Cathlamet, WA 98612	Meeting Date: May 9, 2012 Meeting Time: 6:00-8:00 p.m. Meeting Location: Olympic Region Office, Department of Natural Resources, 411 Tillicum Lane, Forks, WA 98331

Consideration of Comments:

All comments received will be considered by the SEPA Responsible Official. A summary of comments received will be prepared and made available following the conclusion of the second phase of scoping and prior to the issuance of the Draft Environmental Impact Statement.

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Date: 4/20/12

Signature: 

BOARD ENDORSED
Marbled Murrelet Conservation Strategy
Joint Proposal between the
Board of Natural Resources and the United States Fish and Wildlife Service

Need: To obtain long-term certainty for timber harvest and other management activities on forested state trust lands and to contribute to long-term conservation for the marbled murrelet, consistent with commitments in the 1997 Habitat Conservation Plan.

Purpose: To develop a long-term habitat conservation strategy for marbled murrelets on forested state trust lands in the six west-side planning units, subject to DNR's fiduciary responsibility to the trust beneficiaries as defined by law and USFWS' responsibilities under the ESA.

Objective #1 Trust Mandate: Generate revenue and other benefits for each trust by meeting DNR's trust responsibilities, including: making trust property productive; preserving the corpus of the trust; exercising reasonable care and skill in managing the trust; acting prudently with respect to trust property; acting with undivided loyalty to trust beneficiaries; and acting impartially with respect to current and future trust beneficiaries.

Objective #2 Marbled Murrelet Habitat: Provide forest conditions in strategic locations on forested trust lands that minimize and mitigate incidental take of marbled murrelets resulting from DNR's forest management activities. In accomplishing this objective, we expect to make a significant contribution to maintaining and protecting marbled murrelet populations.

Objective #3 Active Management: Promote active, innovative and sustainable management on the forested trust land base.

Objective #4 Operational Flexibility: Provide flexibility to respond to new information and site specific conditions.

Objective #5 Implementation Certainty: Adopt feasible, practical and cost effective actions that are likely to be successful and can be sustained throughout the life of the HCP.

B. Minimization and Mitigation for the Marbled Murrelet in the Five West-side and the Olympic Experimental State Forest Planning Units

Conservation Objective

DNR's objective is to develop a long-term conservation strategy for the habitat of the marbled murrelet that will provide minimization and mitigation for any incidental take of this species. However, attempts to develop such a strategy at this time were unsuccessful because of lack of knowledge about the bird's habitat needs. Instead, this proposal calls for implementation of an interim approach that will lead to a long-term strategy. This approach covers DNR-managed lands in the five west-side planning units and the Olympic Experimental State Forest; the marbled murrelet is not known to inhabit the east-side planning units.

While the amount of scientific information that is available for this species has increased dramatically in recent years, it is still extremely limited. Additionally, no recovery plan for this species has been adopted by the federal government, although a draft proposal has been recently released. A final rule for critical habitat has been published. (See the discussion of these proposals in Chapter II.)

Such factors severely limit a land manager's ability to determine the measures that might best address the marbled murrelet's situation. For example, while it is easy to assume that protection of occupied sites must be a part of any credible long-term strategy, no one knows how to do this with any certainty of success. Consider the following questions:

Are all occupied sites equally important, or is it possible that murrelets at some sites, such as those below a certain size or farther than some distance from marine waters do not successfully reproduce, making these areas less important to the population?

Once the occupied sites appropriate for protection are identified, exactly what must be done to ensure their longevity? For example, what size protected area is required?

Must a site be a "no entry" area, or can some management activities take place? Must the area be buffered and, if so, how?

Such basic questions remain unanswered for many of the issues that must be considered in a credible long-term strategy. This situation has led DNR to develop an interim approach designed to protect the marbled murrelet on DNR-managed trust lands in the area covered by the HCP while participating in collection of the information needed to develop a long-term conservation strategy.

Interim Conservation Strategy

Step 1. DNR shall identify and defer harvest of any part of a suitable habitat block (see Habitat Definitions below) while conducting Step 2.

Step 2. Within each west-side planning unit and the Olympic Experimental State Forest, DNR shall conduct a two-year habitat relationship study to determine the relative importance, based on murrelet occupancy, of the various habitat types within that particular planning unit.

Step 3. Following completion of the habitat relationship study in each planning unit, marginal habitat types that would be expected to contain a maximum of 5 percent of the occupied sites on DNR-managed lands within each planning unit shall be identified and made available for harvest. However, no known occupied sites will be released; they shall all be protected.

Step 4. In each planning unit, all acreage constituting the higher quality habitat types (i.e., those not identified as available for harvest under Step 3) shall be included in an inventory survey, using Pacific Seabird or other protocol approved by the U.S. Fish and Wildlife Service if available, to locate occupied sites. Outside of Southwest Washington¹, surveyed, unoccupied habitat will be released for harvest if it is not within 0.5 mile of an occupied site and after harvest, at least 50 percent of the suitable marbled murrelet habitat on DNR-managed lands in the WAU would remain. Within Southwest Washington¹, surveyed, unoccupied habitat will **not** be released for harvest unless (a) the long-term plan (see Step 5 below) for the applicable planning units has been completed or, (b) at least 12 months have passed since the initiation of negotiations of the draft long-term plan without completion of those negotiations.

Step 5. After Steps 1-4 are completed for each planning unit, the information obtained during these and other research efforts shall be used to develop a long-term conservation strategy for marbled murrelet habitat on DNR-managed HCP lands within that planning unit. The habitat relationship study, inventory survey, and development of the long-term strategy will occur consecutively within each planning unit - i.e., there will be no time gaps between Steps 2, 3, and 4. Negotiation of the draft long-term conservation strategy for a planning unit will commence with the U.S. Fish and Wildlife Service within 12 months of completion of the inventory surveys for that planning unit. All decisions made in Steps 1-4 above shall be reviewed as part of this process. (For example, it may be that some of the marginal habitat or surveyed unoccupied habitat made available for harvest in Step 3 or Step 4 will be identified as important to protect in the long-term strategy.) Once all individual planning unit plans are complete, a comprehensive review shall be conducted and modifications made if required. DNR will submit its proposal for long-term strategies to the U.S. Fish and Wildlife Service for approval. DNR may convene a multi-agency science team to resolve issues of disagreement over the proposal.

Notes:

- (1) While the habitat relationship and inventory surveys described in Steps 1 and 2 above are being conducted, DNR shall participate in cooperative regional research efforts to the extent possible with available funding. Information regarding prioritization of research is included in the federal Draft Recovery Plan (USDI 1995).
- (2) Any occupied site identified prior to or during any of the process outlined above shall be protected until the long-term plan is developed and implemented.

¹For the purposes of the marbled murrelet strategy, Southwest Washington is defined as that portion of the Columbia Planning Unit west of Interstate 5 and that portion of the South Coast Planning Unit that is located south of Highway 8.

Habitat Definitions

For the purposes of DNR's mitigation for the marbled murrelet, terms in italics have special meanings that are defined in this subsection. Suitable marbled murrelet habitat is referred to as a *suitable habitat block*. This