State Trust Lands HCP
Implementation Consultation Documents
Fiscal Year 2012

Implementation of the DNR's State Trust Lands Habitat Conservation Plan (HCP) often requires interpretation of its conservation strategies and how they may apply to an HCP covered management activity. There are times when strict compliance may not result in the right outcomes or would conflict with other HCP objectives. There are also times when, unintentionally or inadvertently, an activity deviates from an HCP strategy. In all of these cases, consultation may be needed to devise appropriate plans of action for complying with HCP objectives and conservation strategies, to develop alternative plans of action to avoid conflict with HCP objectives, or to rectify unintended consequences of an activity.

The following memos and reports document implementation consultations for fiscal year 2012 between DNR and the Federal Services (USFWS & NOAA Fisheries) and/or between DNR's Forest Resources Division and Regions and/or Programs. They represent the cooperative problem-solving that is sometimes necessary in the course of HCP implementation.

Three types of situations are documented; the majority of these are consultations in which DNR has had an operational constraint to work around on a timber sale and requested assistance and approval for a mitigation plan. There are also three joint concurrence letters between DNR and the Federal Service(s). One formalizes an agreement on a modification of the Riparian Forest Restoration Strategy, and two letters document a minor amendment to the HCP (Trust Lands HCP Minor Amendment #2) concerning the Marbled Murrelet Interim Conservation Strategy as it applies to Southwest Washington. Finally, one HCP Non-compliance issue is documented, in which errors made in the layout phase of a timber sale resulted in non-compliance with an HCP conservation strategy.

List of Implementation Consultation and HCP Deviation Memos

Implementation Consultations:

1.	Alder Ego VRH sale	1-11-12
2.	Little Yeti sale	1-30-12
3.	Q3000 Road Culvert Removal	2-29-12
4.	Diamond Chuckles FIT sale	2-29-12
5.	Dowan's Rd. sale	3-14-12
6.	Mailbox Peak Trail Construction	3-26-12
7.	FM Truck Sale	4-25-12

Joint Concurrence:

8.	Riparian Forest Restoration Strategy Joint Concurrence letter	3-19-12
9.	HCP Minor Amendment 2 (2 Documents)	5-29-12

HCP Non-compliance issue:

10.	Texas T sale	6-28-12

MEMORANDUM January 11, 2012

To: Clay Sprague, HCP Implementation Assistant Division Manager

From: Alan Mainwaring, South Puget Sound Region Wildlife Biologist

Subject: ALDER EGO VRH- CONSELTATION ON YARDING CORRIDORS THROUGH NSO MOVEMENT HABITAT

Issue: The proposed Alder Ego timber sale is a 3 unit, approximately 86 acre Variable Retention Harvest (VRH) in the Elbe Hills State Forest located approximately 5 miles north of the town of Elbe (southern Pierce County). The sale is located in the Elbe Hills Spotted Owl Management Unit (SOMU) which is currently at 36.87% of habitat objective (NSO *movement habitat* or better). The sale units are located in 65-70 year old hardwood dominated areas of mapped *non-habitat*.

South Puget Sound Region requests approval for the removal of *movement plus habitat* to efficiently manage areas of *non-habitat*.

Yarding Corridors: A .14 acre jog in *movement plus habitat* screens out the uphill cable yarding of a proposed VRH harvest unit in *non-habitat*. The timber type change at this location is indistinguishable and follows the FRIS boundary which is under slung below an existing road.

Ground base and downhill yarding could be utilized as an alternative; however, the ecological impacts would be a net loss with extra road construction and ground scarification the result. Three yarding corridors and associated landings are requested through the *movement plus habitat*.

Background: PR 14-004-120 Northern Spotted Owl Management (Westside) does not provide a clear provision for access through identified NSO habitat to access areas of *non-habitat*. Walking through the procedures flow chart for SOMU's associated with Dispersal Management Areas leads to:

> **Maintain at least current habitat except:**
>
> - *with LMD approval,* may allow taking below habitat
> - Activities restricted 3/1-8/31 within .7 miles of Status 1 and 2 site centers

Discussion: The proposed Alder Ego VRH in *non-habitat* is a NSO habitat enhancement activity as the harvest will accelerate the rate in which *movement habitat* parameters are achieved by converting a hardwood dominated stand to a conifer dominated stand. Permitting the reduction of approximately .14 acre of identified *movement plus habitat* to enable uphill yarding will lower the overall ecological impacts of this harvest and reduce costs. The Alder Ego VRH timber sale is consistent with the goals and objectives of DNR's HCP and the South Puget Planning Units Forest Land Plan's NSO conservation objectives.

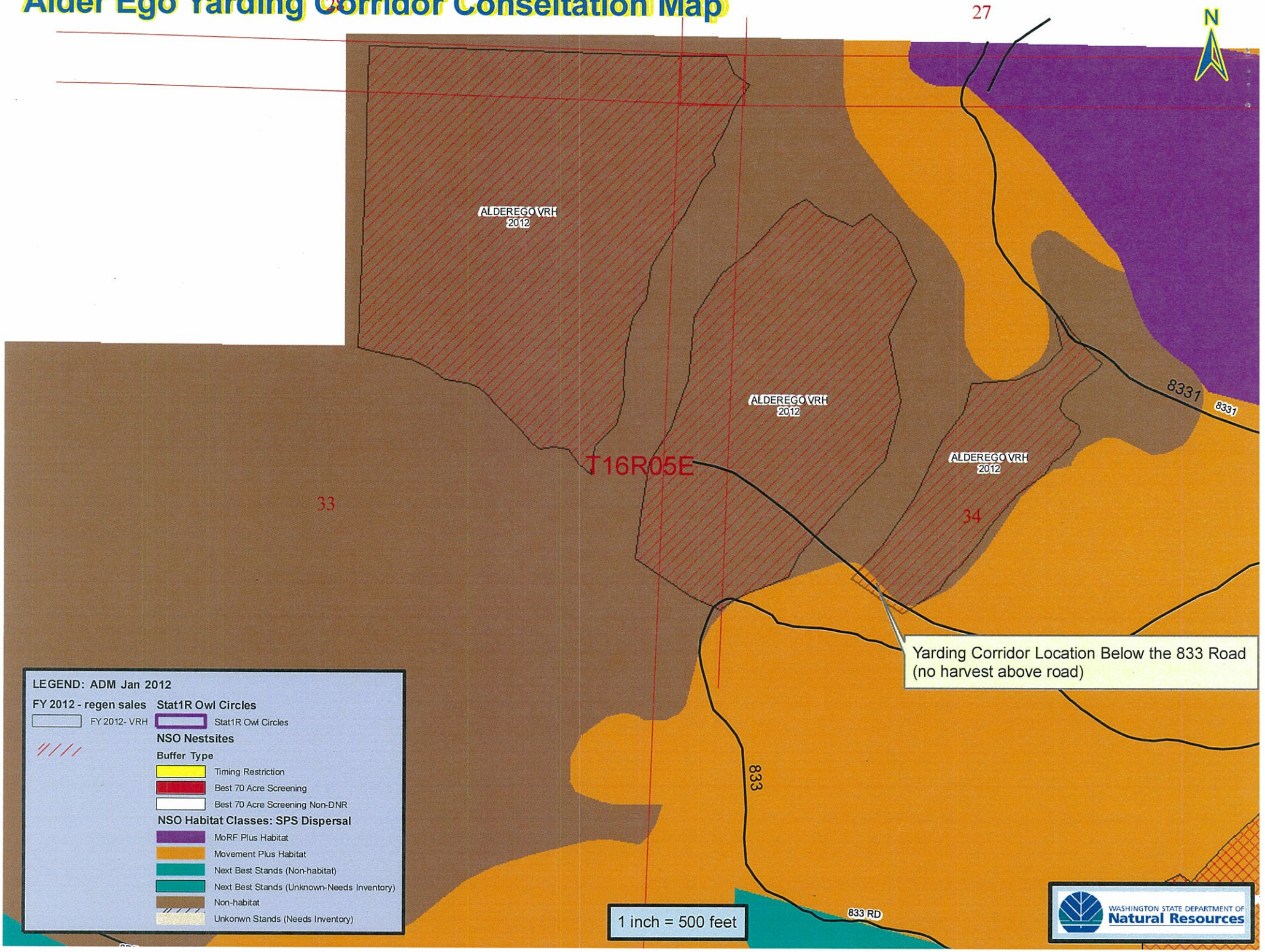
Please contact me if you have any questions or need any additional information. If you concur with this proposal, please sign below.

Thank you.

Clay Sprague 1/12/12

HCP Implementation Manager Date

Alder Ego Yarding Corridor Conseltation Map



MEMORANDUM January 30, 2012

To: Clay Sprague, HCP Implementation Assistant Division Manager
From: Alan Mainwaring, South Puget Sound Region Wildlife Biologist

Subject: LITTLE YETI VRH CONSULTATION- REQUEST FOR ROAD CONSTRUCTION IN A SOMU BELOW NSO DISPERSAL HABITAT THRESHOLD

Issue: The Elbe unit has requested to re-engineer a road in the Tahoma Spotted Owl Management Unit (SOMU). To do so will require the harvest of .1 acre of NSO next best habitat and .05 acre movement habitat. The proposed road work would eliminate a safety concern and reduce haul mileage related for the Little Yeti VRH Timber Sale and future NSO habitat enhancement timber sales.

Background: The request is for the construction of a 367 foot long tie-through road to allow gravel and log trucks traveling south on the 1 Road to turn onto the 12 Road to most efficiently exit the forest. The existing road network was designed to flow north on the 1 Road and across the Nisqually River. The storms of 2007 washed out the Nisqually Bridge, which has yet to be replaced therefor the alternate route. The existing technique of a 10 point turn to get rock trucks turned around to use the alternate route is not feasible for log trucks. Without the tie-through, trucks are forced to use a much longer haul route which adds traffic through the recreation based town of Ashford and increases the cost associated with a Road Use Permit with the USFS. The additional distance also consumes more fuel and increases the miles of road wear/maintenance adding cost to an already low value sale.

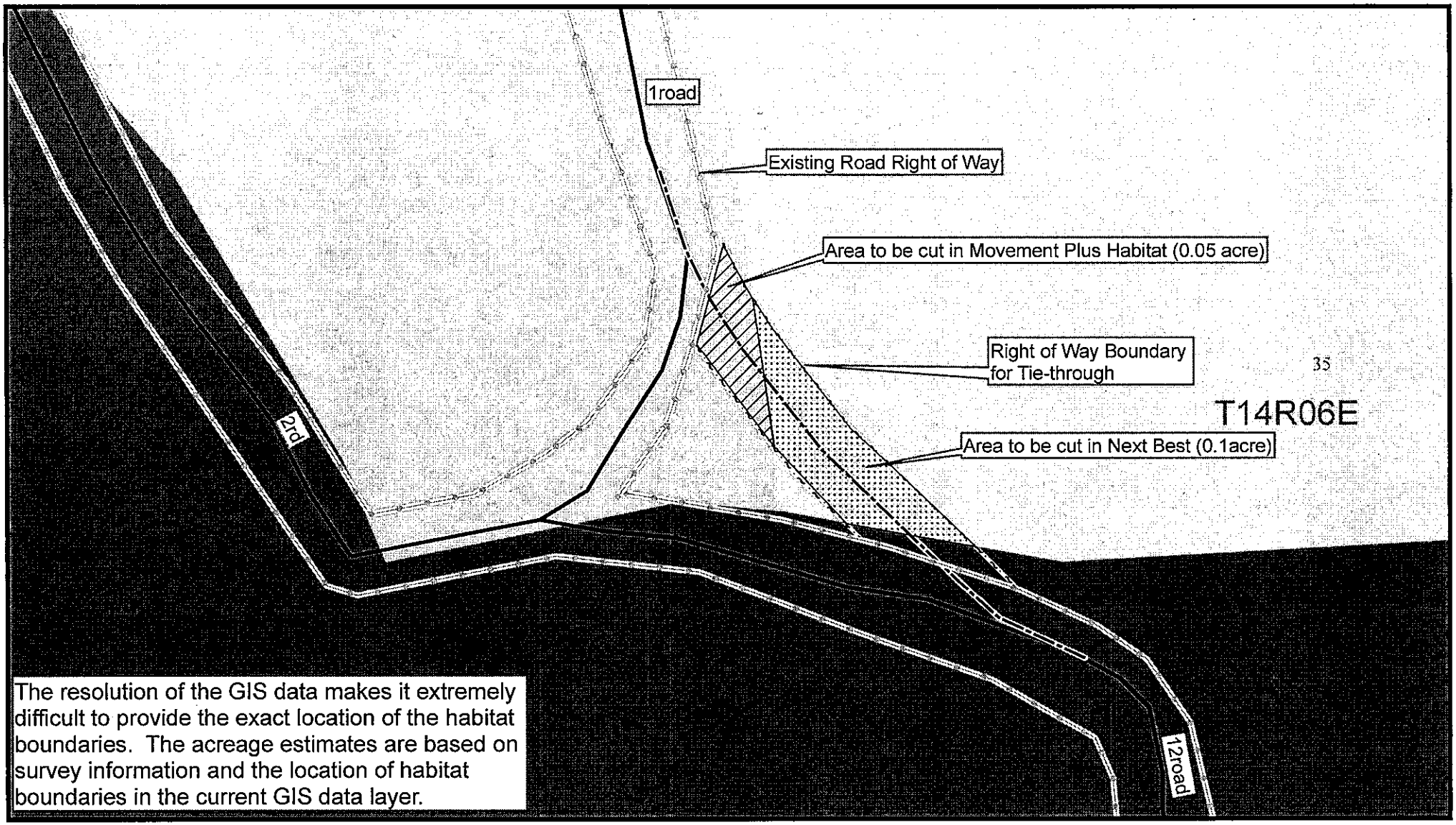
Discussion: I support the request to remove approximately .15 acres of a 27 acre polygon of NSO habitat to facilitate safe travel in support of this and other habitat enhancement activities. The habitat conditions are of a simplistic one story stand of Douglas fir and Western Hemlock with sparse understory. The stand origin date is 1958 and was pre-commercial thinned approximately 20 years ago. The Tahoma SOMU is currently at 16.97% habitat threshold. The Little Yeti VRH Timber Sale is located in stands designated as non-habitat. This harvest and the subsequent planting and maintenance of a vigorous conifer stand will support DNR's efforts of attaining the 50% NSO Dispersal Habitat Threshold in this landscape.

Please contact me if you have any questions or need any additional information. If you concur with this variance request, please sign below.

Thank you.

Clay Sprague 1/30/12

HCP Implementation Manager Date



N
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Option A Recommended: 1Rd to 12Rd Tie-Through for Little Yeti Timber Sale

WASHINGTON STATE DEPARTMENT OF
Natural Resources

0 50 100 Feet

1 inch = 75 feet
Date: 12-9-11
Drawn by: MDB

Legend

- MoRF Plus Habitat
- Movement Plus Habitat
- Next Best Stands (Non-habitat)
- Next Best Stands (Unknown-Needs Inventory)
- Non-habitat
- Unkonwn Stands (Needs Inventory)
- Active/driveable
- 1rd to 12rd Tie-Through
- Tie-Through Right of Way

February 29, 2012

TO: Clay Sprague, HCP Implementation Manager

THROUGH: Drew Rosanbalm; State Lands Assistant Manager, Olympic Region

FROM: Scott Horton, Wildlife Biologist

SUBJECT: Removal of trees for culvert replacement within unsurveyed, reclassified marbled murrelet habitat

Background: The area of interest is on the western Olympic Peninsula near the town of Clearwater, Jefferson County, in the NW corner of Section 29 T24N R12W (Figure 1). A 3-acre polygon of unsurveyed, deferred, marbled murrelet reclassified habitat intersects with the project area for a culvert replacement mandated to improve fish passage on a small tributary to the Clearwater River where it is crossed by the Q-3000 road. DNR procedures that implement the HCP currently preclude timber harvest in all marbled murrelet (MM) habitat types within the OESF. While no timber will be harvested, the project will require a Forest Practices Permit and some small trees must be removed to facilitate the replacement of a culvert that impedes fish passage. As described by Jason Mettler, Design and Construction Engineer for the project, "In order to replace this culvert with a fish passable structure, some trees will need to be cut to facilitate removal of the existing culvert, installation of the fish passable structure, and placement of streambed material inside of the culvert." Mettler estimated that removal would consist of 9-14 small trees (young conifer and alder, none larger than 12" dbh) from the roadside.

On-site observations: I visited the site on January 27, 2012 to observe stand characteristics relative to features of murrelet habitat and to conduct a detailed examination of the area proposed for clearing. Figure 2 provides a close-up view of the area which illustrates approximate clearing boundaries and habitat typing viewed over 2006 aerial photography. I observed that most forest cover in the small habitat polygon regenerated following timber harvest 25 years ago (1988 origin) with scarce occurrences of older, larger, more structurally complex trees that were not harvested even though it was allowed under then-contemporary Forest Practices Rules. Near the road, including the area proposed for clearing, the overstory is composed of small alder, 10-12" dbh, with an understory of salmonberry, sword fern, and hemlock saplings. Several western hemlock, sitka spruce, and western redcedar (all less than 12" dbh) also occur in the work area. Neither the work area or the 3-acre habitat polygon have the structure and composition of what is traditionally considered murrelet habitat, large trees with large limbs in a complex-canopied stand. Figures 3 and 4 provide two perspectives of the project area from the road. This small polygon of habitat has not been identified as potentially having a role in the long-term MM conservation strategy as discussed in the MM Science Team Recommendations. See Figures 1-4 for supplementary information.

Proposal: Permit this clearing of 9-14 small diameter trees in this very small polygon of apparently low-quality reclassified murrelet habitat that is unlikely to be occupied. This will help our riparian conservation objectives to expand fish passage and habitat. In consultation with your staff, daily timing restrictions during the critical nesting season will be applied during this proposal's activities. If you concur that this proposal is consistent with HCP Conservation Strategies and other Department Procedures and that this proposal may proceed, please sign below.

Clay Sprague 2/29/12

Clay Sprague, HCP Implementation Manager Date

Figure 1. Location of the proposed roadside clearing within marbled murrelet habitat, T24N R12W Section 29, Jefferson Co., WA. DNR-managed lands are pink unless they are classified as habitat for marbled murrelets (reclassified habitat is solid green), private lands are white. The area of interest is within the red circle.

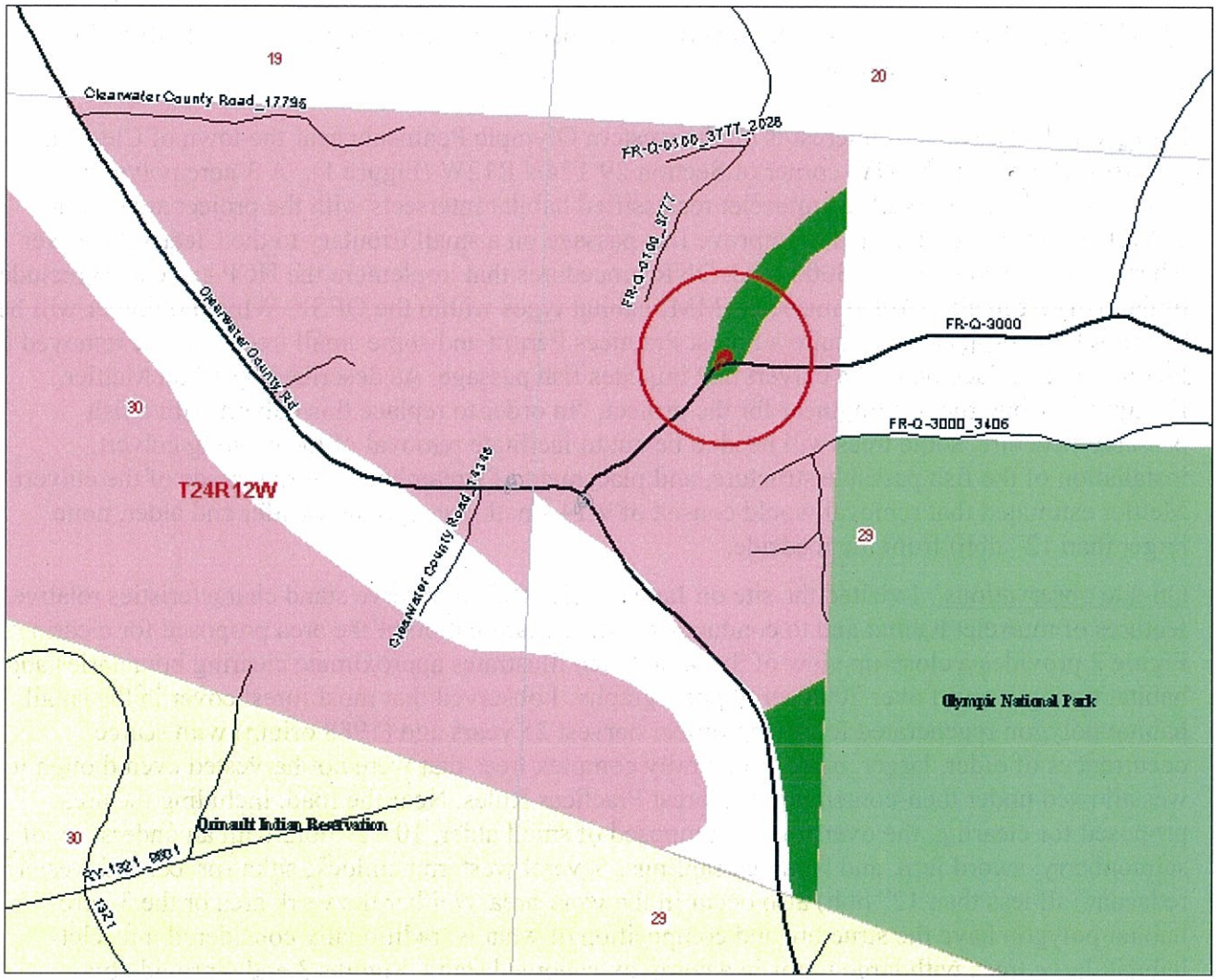


Figure 2. Close-up, aerial view (2006 photography) of the location of proposed roadside clearing within marbled murrelet habitat, T24N R12W Section 29, Jefferson Co., WA. Reclassified murrelet habitat is outlined in yellow. The culvert location is marked with a red symbol while the pink oval marks approximate clearing limits. The yellow bar is 200' long for reference. Red and yellow arrows mark the locations from which the pictures for Figures 3 and 4, respectively, were taken.

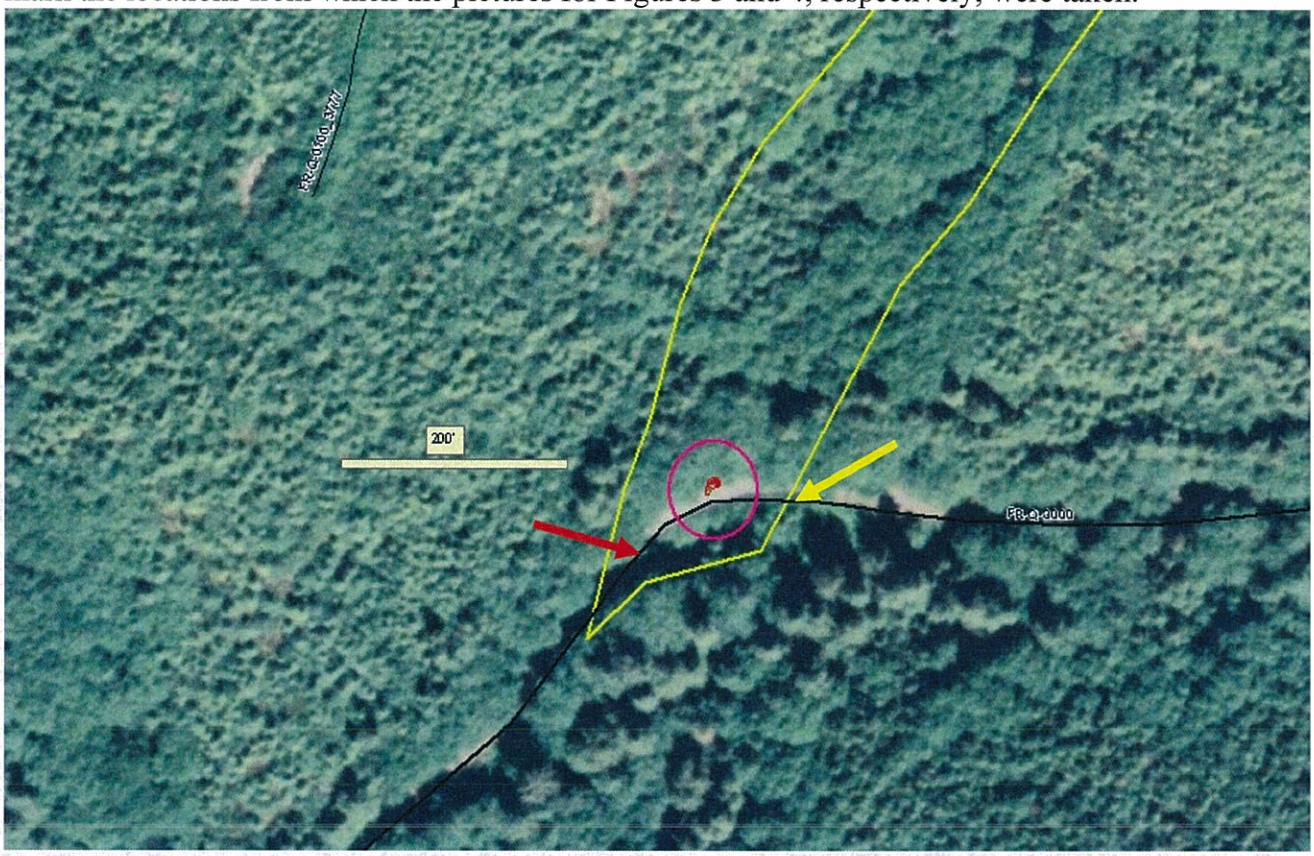
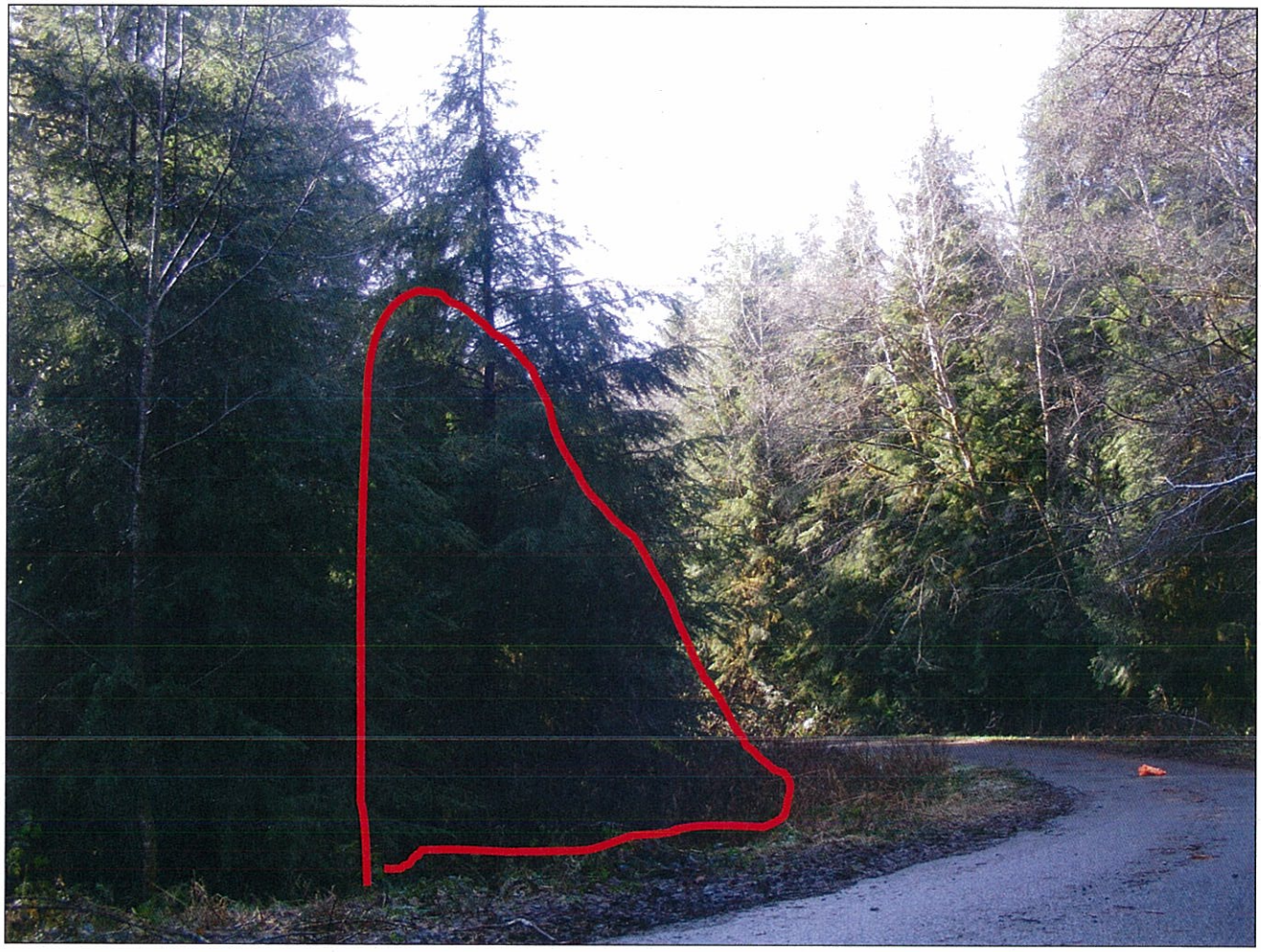


Figure 3. View from the Q-3000, looking east from just within the habitat polygon as indicated by the red arrow in Figure 2. The orange vest marks the center of the culver that will be replaced. Trees proposed for clearing on the upstream side of the road are approximately encircled by the red line. Note that the conifers within the clearing area are small in stature.

Figure 4. View from the Q-3000, looking west from just within the habitat polygon as indicated by the yellow arrow in Figure 2. The orange vest marks the center of the culver that will be replaced. Trees proposed for clearing on the downstream side of the road are approximately encircled by the red line. Note that the conifers within the clearing area are small in stature.



MEMORANDUM

February 29, 2012

TO: Clay Sprague, HCP Implementation Manager

THROUGH: Ken McNamee, Alpine District Manager

FROM: Bruce Livingston, Natural Resource Scientist
Acting SE Region Biologist
Forest Resources and Conservation Division

CC: Diamond Chuckles FIT Timber Sale File: Agreement #30-084023 - #30-084026

SUBJECT: Diamond Chuckles FIT U#5 Spotted Owl Habitat Assessment

Diamond Chuckles FIT Unit #5 is a 47 acre timber sale unit located in Section 8 T11 R13E. Unit 5 is within a dispersal management area in the Yakima HCP Planning Unit. I was asked to complete a spotted owl habitat assessment of this unit in late June, 2011 when this unit was part of the Norwegian Wood timber sale. This unit is a high elevation, southern aspect (~4800'-5100') mixed conifer stand with primary species that include subalpine fir, lodgepole pine, and Engelmann spruce; and secondary species of mountain hemlock and western larch. Within the last 10 years, this stand has experienced significant mortality in the overstory lodgepole pine component due to outbreaks of mountain pine beetle. The stand has not yet been harvested, and management options await the results of this habitat evaluation. This memo is to document findings from that assessment of whether or not this stand continues to meet the definition of suitable habitat because on-going mortality appears to have greatly reduced the number of large live trees. This unit was classified as suitable habitat on the region's habitat layer and is in a ¼ township that is below the 50% habitat threshold. Because of the habitat status and ¼ township threshold level below 50%, the original prescription for this unit was designed to thin the stand to try and maintain suitable habitat post-treatment.

A systematic, random sample of nine plots (1 plot/5 acres) was located and sampled in the 47 acre unit and inventory data were gathered in order to determine if the forest management unit still met minimum thresholds for suitable spotted owl dispersal habitat. Results from the sampled plots were compared to the original inventory data gathered in 2004 (see attached data results). These results show that the stand has rapidly deteriorated and that more than half the trees $\geq$ 11 inches dbh have died since 2004 (83 live tpa in 2004 to 43 live tpa in 2011). Suitable dispersal habitat requires at least 40 live trees/acre greater than 11 inches dbh in order to maintain canopy closure of 50%. Additionally, live trees $\geq$ 4 inches dbh have declined from 264/acre in 2004 to 131/acre in 2011. Trees across all diameter classes have exhibited this high level of mortality. The data suggests on-going mortality rates of about 7% per year. At that rate the stand will not meet minimum habitat definitions within one to two additional years. I have also consulted with our division silviculturalist, and based on the results from

the sampled data, he concluded that the stand has no chance to remain habitat after harvest and really no chance to remain habitat given the rate of mortality.

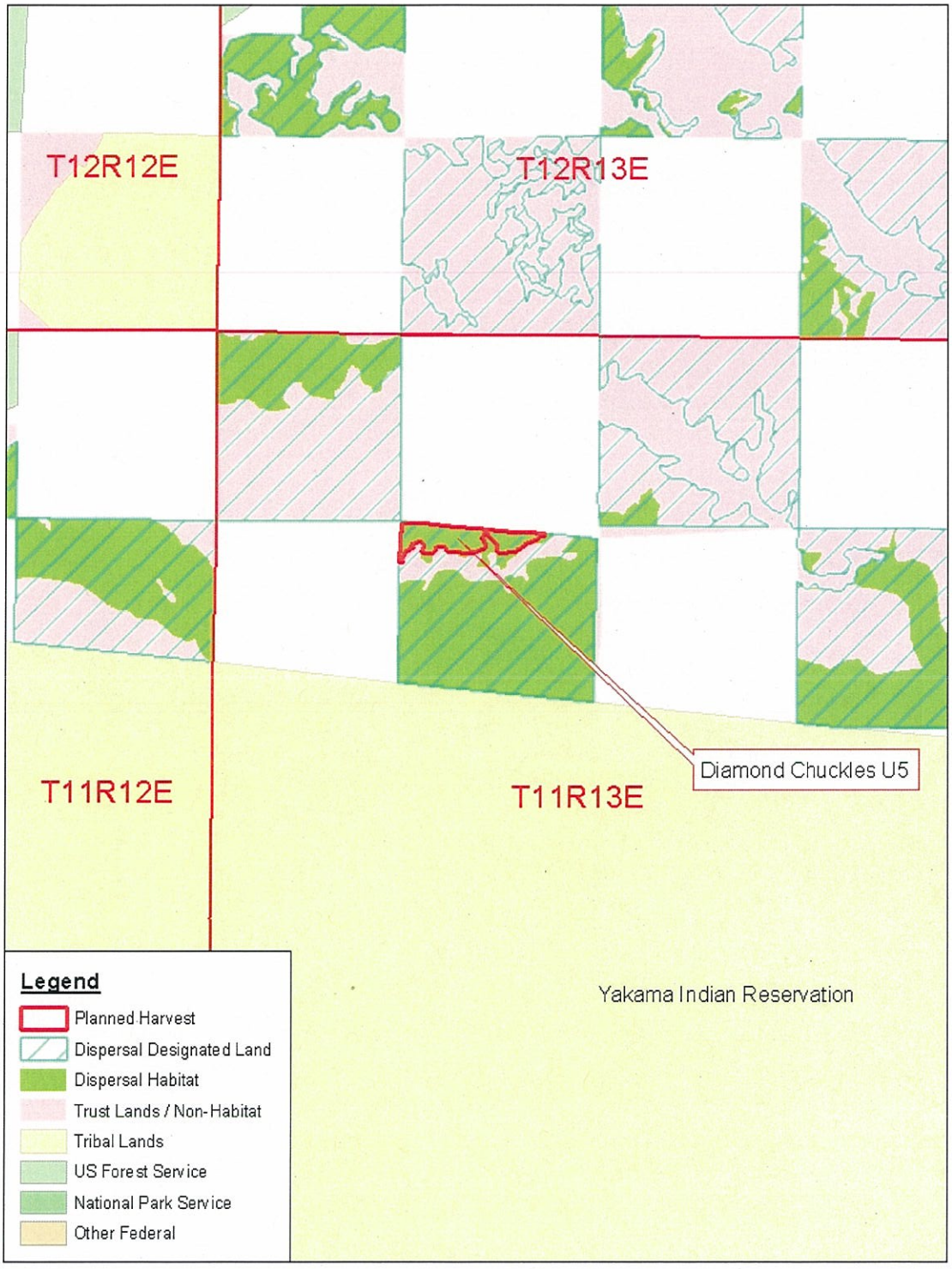
Due to the high level of mortality in this stand, I would recommend that this 47 acre unit be harvested with a regeneration harvest now, retaining only healthy leave trees suited to this site. This type of treatment will facilitate the development of the next stand that should be more resilient to stress and disease, with the objective of developing suitable dispersal spotted owl habitat more quickly.

If you concur that this recommendation is consistent with the HCP Conservation Strategies and other Department Policies/Procedures and that this proposal may proceed, please sign below.

_____ Date 3/20/12

Clay Sprague, Assistant Division Manager
HCP and Scientific Consultation Section

The following map displays the orientation of the harvest unit with regards to other landowners, dispersal management areas and habitat.



The following three pictures illustrate the mortality that is consistent throughout the unit.

United States Department of the Interior
Fish and Wildlife Service

Washington State
Department of Natural Resources

U.S. Fish and Wildlife Service
510 Desmond Dr SE, Suite 102
Lacey, Washington 98503

WASHINGTON STATE DEPARTMENT OF
Natural Resources
Washington State
Department of Natural Resources
1111 Washington Street SE
Olympia, Washington 98504-7000

In Reply Refer To:
USFWS Reference:
01EWFW00-2012-TA-0149

Mark Eberlein
Regional Environmental Officer
U.S. Department of Homeland Security
Federal Emergency Management Agency
Region X
130 228th Street SW
Bothell, Washington 98021

Dear Mr. Eberlein

This letter concerns the Dowans Creek Road Emergency Repair Project (Project). At issue is the rerouting of the damaged road through occupied marbled murrelet (*Brachyramphus marmoratus*) (murrelet) habitat on state trust land that is managed under a Habitat Conservation Plan (HCP) by the Washington Department of Natural Resources (WDNR). The murrelet is listed as a threatened species under the Endangered Species Act (ESA). The purpose of this letter is to communicate to the Federal Emergency Management Agency (FEMA) the position of the WDNR and the U.S. Fish and Wildlife Service (USFWS) on the mitigation proposed by FEMA and Jefferson County to comply with the WDNR HCP as outlined below.

History and Purpose of the Proposed Project

The Dowans Creek Road is a single-lane gravel county road located on the south side of the Bogachiel River in Jefferson County, Washington. Jefferson County proposes to construct approximately 1,690 feet of new road on lands managed by the WDNR. The road provides access to 53 rural parcels and services approximately 9 full or part-time residences. A portion of the road, located on an old deep-seated landslide, was damaged during heavy rains in December 2007. The damaged section is approximately 120 feet above the Bogachiel River and any additional erosion is likely to cause the loss of this section of the road. Because of this circumstance and to ensure access to the lands and residences, Jefferson County determined that the best course of action was to relocate the road farther away from the river. Jefferson County qualifies for Federal assistance from FEMA to address infrastructure damages incurred during the 2007 floods.

During the environmental review process for the proposed action, Jefferson County and FEMA considered several route alternatives, including upgrading existing logging roads and relocating the at-risk section of the road away from the river (preferred alternative) to avoid or minimize impacts to listed species and provide access for residents. Unfortunately, all of the alternatives that would have used existing logging roads were determined to not be viable due to significantly higher costs associated with replacing bridges, new road construction, and the increased distances for emergency response and travel times.

Jefferson County and FEMA's preferred alternative reroutes the road away from the river and constructs new road through occupied murrelet habitat on WDNR managed lands. The primary threats to the continued existence of the murrelet are the loss or degradation of suitable nesting habitat and low productivity, the combination of which is contributing to a 7.31 percent annual decline of the population in Washington. Formal consultation on the preferred alternative between FEMA and the USFWS is required pursuant to section 7 of the ESA.

The WDNR is obligated to manage state trust lands in accordance with the ESA permit issued in 1997 by the USFWS for implementation of the HCP (HCP I.1). The HCP defines forest management activities that the WDNR (IV. 203) receives incidental take coverage for species listed under the ESA, including the marbled murrelet. Degrading occupied marbled murrelet nesting habitat, which this action would do, would be inconsistent with the WDNR HCP without appropriate mitigation.

For the Dowans Creek Road Emergency Repair Project to move forward as described, the WDNR HCP requires that appropriate mitigation needs to be provided (IA. 25.3 (2)). In order to meet FEMA's obligation under section 7 of the ESA to ensure its action does not jeopardize the continued existence of the murrelet, FEMA is proposing to mitigate the impacts caused by the proposed Project as described below.

Compensatory Conservation Strategy

Marbled murrelets are relatively long-lived (average lifespan is 15 yrs) and express strong site-fidelity to nesting areas. The ability of the murrelet population to recover from impacts that reduce reproductive success is extremely low. The continued loss and degradation of nesting habitat, coupled with other threats across the species' listed range, is expected to result in continued, serious declines. Federal agencies, with the assistance of the USFWS, must ensure that their actions do not appreciably reduce the likelihood of survival and recovery of the murrelet. Efforts to avoid or compensate for the loss or degradation of nesting habitat may therefore be necessary to meet this obligation.

To address the issue of new road construction in occupied murrelet nesting habitat, the USFWS, FEMA, Jefferson County, and the WDNR (Project Partners) worked cooperatively over the last three years to identify options and develop a compensatory conservation strategy that would ensure that the preferred alternative for the Project would maintain the conservation objectives of the WDNR HCP.

The primary purpose of the Compensatory Conservation Strategy is to purchase and protect properties that would, either now or within a short period of time, replace the habitat function that is being impacted by the preferred alternative and protect the replacement habitat in perpetuity through transfer to the State or a Land Trust. The occupied stand that will be impacted by the preferred alternative for the Project has a stand origin date of 1934 but also contains scattered remnant older trees (most likely from the 1921 windstorm). Even though the patch of suitable habitat is relatively small (approx. 20 acres in size) and isolated, the fact that it has been determined to be occupied means that it functions as nesting habitat.

The USFWS identified the following three approaches (listed in order of priority) for identifying replacement parcel(s) for acquisition:

1. "In-kind" - same habitat function/value
    - Occupied or suitable habitat (> 80 yrs old) threatened with removal – near the site
    - Occupied or suitable habitat threatened with removal – far from the site
2. "Out-of kind" – not currently suitable nesting habitat, but could be suitable in the near future
    - Future suitable habitat (approx. 50 to 80 yrs old) adjacent to larger blocks of habitat or protected areas – near the site (west side of Olympic Peninsula)
    - Future suitable habitat adjacent to larger blocks of habitat or protected areas – far from the site (east side of Olympic Peninsula or SW Washington)
3. Young forest (<50 yrs) – this option is not considered viable because of the length of time it will take for these stands to function as suitable nesting habitat
    - Isolated younger stands (<50 yrs old) – close to the project
    - Isolated younger stands far from the site but adjacent to protected areas - highest mitigation ratio

<u>Priority 1 (In-kind Replacement of Habitat Function) Options:</u>

After some initial investigation, this approach was determined to be not viable for several reasons:

1. Existing privately-owned occupied murrelet habitat is already adequately protected by Washington Forest Practice Rules (222 WAC).
2. Private companies are often not interested in selling murrelet encumbered property at appraised value
3. WDNR realizes no benefit or advantage on behalf of the Trusts by accepting murrelet encumbered land as trust land and was not willing to manage small isolated properties as reserves.

Jefferson County, FEMA and the USFWS then pursued options of finding land trust entities to purchase and manage conservation properties. The North Olympic Land Trust, Hoh River Land Trust and Jefferson County Land Trust were all identified as potential conservation managers and were contacted. The Hoh River Land Trust did not have any current properties on their list and most of the remaining private parcels within the land trust boundaries were too young or recently harvested stands that did not meet the priority for mitigation. Although there were more options for parcel acquisitions that had forests with the same or similar habitat functions within the service areas of the North Olympic and Jefferson County Land Trusts areas, FEMA stated that they could not fund the required endowments and/or maintenance costs associated with long-term land conservation management required by land trust entities. Thus, the options of purchasing and protecting occupied habitat close to the Project site were not feasible.

The USFWS also searched for opportunities for land acquisitions in other geographic areas (e.g. southwest Washington) that were identified as priority areas for marbled murrelet recovery within the affected recovery zone. However, this option was not viable for several reasons: 1) distance from the Project site proved problematic for both FEMA and the county, limiting the options to sites within Jefferson County and 2) trees on the parcels were too young.

Priority 2 (Out-of-kind Habitat Function Replacement) Option:

This option involves purchasing parcels for management by the WDNR under other authorities, such as Natural Area Preserves (NAP) or Natural Resources Conservation Areas. Purchasing parcels for inclusion into the Dabob Bay Natural Area, which includes both designations, meets many of the objectives of the Conservation Strategy and constraints discussed above:

1. This area has been identified by the USFWS as a priority area for ESA Section 6 land acquisitions. Many of the properties within the boundary of the Dabob Bay NAP are forested and have the potential to be suitable murrelet nesting habitat in the near future (stand ages > 50 yrs)

2. The Dabob Bay NAP is in Jefferson County and is managed by the WDNR in permanent conservation under RCW 79.70 and 79.71. This protection would be in perpetuity.

3. Although the Dabob Bay NAP is in a different murrelet conservation zone than the project location, research (radio telemetry data) indicates that murrelets nesting on the west side of the Olympic Peninsula often forage in Puget Sound. The USFWS concluded because the mitigation site could provide benefits to murrelets from both conservation zones, mitigation land located in a different conservation zone was not an issue for the Conservation Strategy.

The Compensatory Conservation Strategy relies on purchasing private forest property and transferring it to the State for permanent protection of murrelet habitat. The number or size of parcels that need to be purchased will depend on the amount of time needed for the trees on the properties to meet the definition of suitable murrelet nesting habitat.

Acquisition and transfer of the replacement lands is contingent on full funding by the FEMA and Jefferson County. WDNR would receive transaction and staff costs in addition to land and appraisal costs to cover transaction and realty costs. This option would include land value equal to the current estimated market value to replace habitat loss (approximately $200,000, depending on parcel size and habitat), plus the costs to appraise the land (estimated at $10,000 to $15,000) and all WDNR administrative transaction staff costs (estimated at $10,000 to $15,000). It would also involve a fixed level of funding for mitigation that could be transferred to the WDNR and would be used to supplement or leverage larger ongoing land acquisitions in Dabob Bay, such as those with multiple funding sources.

The WDNR is already working toward acquisition of multiple parcels in Dabob Bay that appear to be good candidates for mitigation as described above. Some of these acquisitions already have funding identified that would be supplemented by the FEMA mitigation dollars. The WDNR Special Lands Transactions Program will review these parcels with the USFWS and identify those to be acquired as mitigation by end of March 2012. Once WDNR and the USFWS agree on the parcels to be acquired WDNR Special Lands Transactions Program will negotiate a Purchase and Sale agreement with the sellers to acquire the property. The goal for acquisition and transfer to WDNR Natural Areas Program is by the end of 2012.

In summary, we think the Priority 2 Option is the most viable approach for FEMA to implement and all of the affected parties support this option. Either option, if implemented as characterized above, will assist FEMA to comply with the ESA section 7 obligations and maintain the integrity of the WDNR HCP. If the mitigation opportunities in the Dabob Bay NAP do not work out for some reason, the option of protecting currently suitable or near-suitable murrelet habitat using a land trust or other WDNR authorities may need to be explored further.

If you have any questions regarding this letter, please call Martha Jensen of the Service at (360) 753-9000, or Clay Sprague of the WDNR at (360) 902-1788.

Sincerely,

Ken S. Berg, Manager
U.S. Fish & Wildlife Service
Washington Fish and Wildlife Office

Clay Sprague 3/14/12
HCP Implementation Manager
Department of Natural Resources

MEMORANDUM

TO: **Clay Sprague**

FROM: **Alan Mainwaring, Region Biologist**

SUBJECT: **Mailbox Peak Trail Construction Consultation**

DATE: **March 26, 2012**

Overview- The South Puget Sound Region plans to build a new hiking trail to Mailbox Peak as an alternate to the existing steep user-built trail. The new trail will be much safer for hikers and built to a sustainable standard that can safely accommodate the increasing number of hikers. The new Mailbox Peak Trail will depart from a trailhead at the entrance to the Middle Fork Snoqualmie River Valley outside of North Bend in East King County and climb 4020 vertical feet in elevation to reach the summit in 5 miles. Because the terrain is somewhat remote and steep, the trail will be largely constructed by hand with crews and volunteers. On the lower sections of trail a mini trail excavator will be used. The first mile of trail is along an old road. This project has funding from the Washington Wildlife and Recreation Program, the Federal Highway Administration as an enhancement to the Middle Fork Road paving project, Natural Areas Program capital and a grant from the Ira Spring Foundation (Heintz, 2012).

This trail construction project is located in the HCP's North Puget Planning Unit (NPPU) in the Middle Fork Natural Resources Conservation Area. DNR's habitat database indicates a polygon of suitable marbled murrelet habitat (132 acres) located towards the top of the slope near the peak. Both the existing Mailbox Peak trail and the new trail cross this habitat. An additional 48 acres of suitable habitat was identified in the field and added to this polygon. The newly identified suitable habitat was not picked up with the predictive modeling efforts due to a young stand age, incipient dwarf-mistletoe and scattered remnant old-growth.

Current HCP Policy- Habitat Status- A Pacific Seabird Group (PSG) marbled murrelet protocol survey has not been conducted on either the existing or newly identified marbled murrelet habitat. The existing habitat (reclassified) shall be treated as if occupied while in the HCP's interim marble murrelet conservation strategy. No timber harvest is permissible inside the habitat or within a 165 foot buffer. Timing restrictions within ¼ miles of the identified habitat polygons apply prohibiting harvesting, road construction and the operation of heavy equipment during the Critical Nesting Season (April 1-August 31) during Daily Peak Activity of the marbled murrelet which is from 1 hour before sunrise to 2 hours after sunrise -and- 1 hour before sunset to 1 hour after sunset.

Marbled Murrelet habitat in the NPPU is also managed under a concurrence letter dated February 23, 2007 (Berg, 2007). The objective of the letter is to provide guidance for protecting Marbled Murrelet habitat while in the interim phase of the HCP's long term conservation strategy. The letter primarily addresses how to deal with newly identified suitable habitat and the continued protection of high quality habitat. Guidance is provided for road construction and/or yarding corridors. Recreation trail construction was not specifically mentioned.

While a tree by tree habitat assessment to accurately measure the total platform per acre density has not been performed, I believe the suitable habitat in question exceeds Criteria 3 discussed in the concurrence letter (Habitat ≥ 20 acres with > 15 platforms per acre). As such buffers and timing restrictions apply during the interim conservation strategy. No road construction would be permitted. Road construction would represent habitat removal whereas trail construction would not.

Trail Construction Consultation- I support the Natural Areas Programs request to build a new alternative Mailbox Peak trail provided they follow guidelines designed to protect potential nesting Marbled Murrelet. Please review the following trail construction sideboards and indicate if the Forest Resourced & Conservation Division supports this proposed project.

Recommended Trail Construction Sideboards-

-Trail layout designed to facilitate modern trail construction standards yet minimize impacts to Marbled Murrelet habitat. For example: minimize trail length in Marbled Murrelet habitat.

-No motorized equipment use inside of suitable Marbled Murrelet habitat or 165 foot buffer during Critical Nesting Season (April 1-August 31). To include all motorized equipment such as chainsaws and powered toaters. Blasting, if necessary, would also be prohibited.

-Adherence to ¼ mile timing restriction during Daily Peak Activity of the marbled murrelet.

-Felling of timber greater than 12 inches will be prohibited.

-Felling any platform tree will be prohibited.

Please contact me if you have any question or need any additional information. If you concur with this project request, please sign below.

Thank you.

HCP Implementation Manager Date 4/2/12

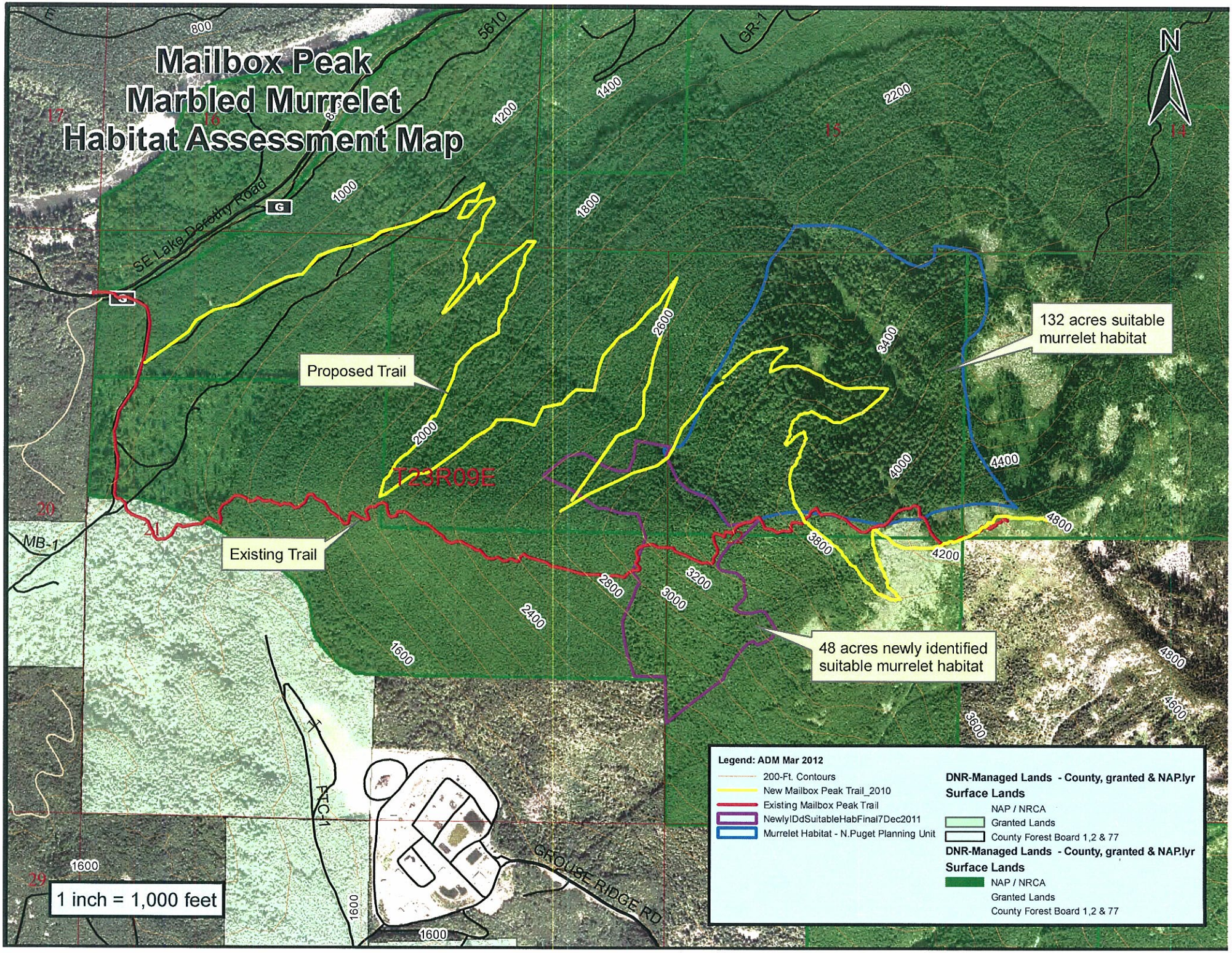
Citations

Heintz, Kelly. Natural Areas Manager. 2012. Personal Communication. South Puget Sound Region, Washington State Department of Natural Resources, North Bend, WA.

Berg, Ken. 2007. February 23, 2007 Concurrence Letter on Interim Conservation Strategy for the Marble Murrelet. Lacey, WA.

Washington State Department of Natural Resources. 1997. Final Habitat Conservation Plan. Washington State Department of Natural Resources, Olympia, WA.

Washington Forest Practices Board. 2002. Washington Forest Practices Board Manual. Washington State Department of Natural Resources, Olympia, WA.


Mailbox Peak
Marbled Murrelet
Habitat Assessment Map
N
SE Lake Dorothy Road
Proposed Trail
Existing Trail
132 acres suitable murrelet habitat
48 acres newly identified suitable murrelet habitat
T23R09E
MB-1
GR-1
GROUSE RIDGE RD
1 inch = 1,000 feet
Legend: ADM Mar 2012
200-Ft. Contours
New Mailbox Peak Trail_2010
Existing Mailbox Peak Trail
NewlyIDdSuitableHabFinal7Dec2011
Murrelet Habitat - N.Puget Planning Unit
DNR-Managed Lands - County, granted & NAP.lyr
Surface Lands
NAP / NRCA
Granted Lands
County Forest Board 1,2 & 77
DNR-Managed Lands - County, granted & NAP.lyr
Surface Lands
NAP / NRCA
Granted Lands
County Forest Board 1,2 & 77

WASHINGTON STATE DEPARTMENT OF
Natural Resources

PETER GOLDMARK
Commissioner of Public Lands

April 25, 2012

TO: Clay Sprague, HCP Implementation Manager

THROUGH: Laurie Bergvall, NW Region State Lands Assistant

FROM: Peter McBride, Northwest Region Fish and Wildlife Biologist.

SUBJECT: Requesting permission for operational access through criteria 1-newly identified marbled murrelet habitat – "FM Truck Trail" timber sale.

During the course of presales field work for the planned FM Truck Trail timber sale in the fall of 2011, forester Dwayne Shotton found several murrelet platform trees, and notified me that there could be newly-identified murrelet nesting habitat in the area. During my first field visit (October 11), we reviewed the stand in the Unit 2 area, finding a scattered occurrence of second-growth DFs with broken tops, comprising suitable if generally low-quality platform structures. Following this initial review Dwayne continued mapping platform trees throughout the area, before I returned to verify and finalize the habitat mapping. Due to a prevalence of fogginess on this mountainside site, this verification work required several visits (including one by Lisa Egtvedt) between December 2011 and January 2012, and can be summarized as follows.

The stands being reviewed are located on the upper SW flank of Frailey Mountain, between 1600-2500' elevation, and according to FRIS originated between 1944 and 1954; see attached map. In these second-growth stands, about 148 platform trees were recorded, almost entirely in DF (two WH also mapped); many of these trees being about 18-24" dbh, with a few ranging up to perhaps 38". It is noteworthy and unusual that there are no old-growth remnants, nor factors such as mistletoe-induced brooming nor mossiness to create concentrations of suitable platform structures anywhere in these stands. Instead, the available structure derives from some source of historic top-damage, resulting in forked and broken tops and the occasional isolated enlarged limb among the DFs. Individually, the platform trees range from marginal to suitable if low-grade, with only a few reaching moderate quality. This is reflected in the fact that only two trees were recorded with more than one (two each) platform apiece, while most trees had only one marginal to fair platform each.

Due however to the occurrence of these low-grade structures at intervals throughout the stand, collectively they comprise suitable habitat. To the west, H33061894 (or H1894) is a 15-acre block of this marginal habitat, containing 63 platform trees. H1894 is Criteria 1 (low quality) newly-identified habitat, as despite the acreage, the platform density remains low (4/acre).To the east another 9-12 acres of similar habitat comprises H33061895 (or H1895), including 40-60 platform trees. Note that the habitat verification work has not been completed on the far (east) side of H1895, though it is clear from the low platform density that this would at best be Criteria 2 (intermediate) habitat, and is more likely to be Criteria 1 as well. Due to the proximity of an occupied murrelet site just over the crest of Frailey Mountain (most of H1895 is within a quarter-mile of the occupied habitat), this block would be effectively treated as Criteria 2 habitat regardless (i.e., it would require surveys prior to allowing operational access through it). H1894 is located over 2000' (0.38 mile) from the occupied site, and is thus unaffected. Finally, H1894 and H1895 are separated by 2000-2200', amid which interval are scattered two-dozen platform trees, but too widely spaced to establish contiguity or comprise suitable habitat themselves.

An abandoned road traverses the hillside through the middle of block H1894. In order to harvest unit 3 east of this block, this road will be re-constructed. There are no reasonable alternatives to building this road. Four alternative road locations to access unit 3 were considered. One option would involve rebuilding the same abandoned road from the east of unit 3 through newly identified marbled murrelet habitat block H1895. As this habitat block is closer to the occupied

marbled murrelet site, this option would have more potential negative impacts to marbled murrelets . The other 3 options would require constructing brand new roads over relatively steep ground and constructing new stream crossings on steep and potentially unstable ground, which would likely create more sedimentation to streams than re-building the abandoned road which is located on a flat benches at it's stream crossings. Also, all four of these alternative road options would require significantly longer roads than the abandoned road re-construction, and thus utilizing one of these longer options would violate the Department's HCP road management strategy of minimizing active road density. (HCP chapter IV, page 64).

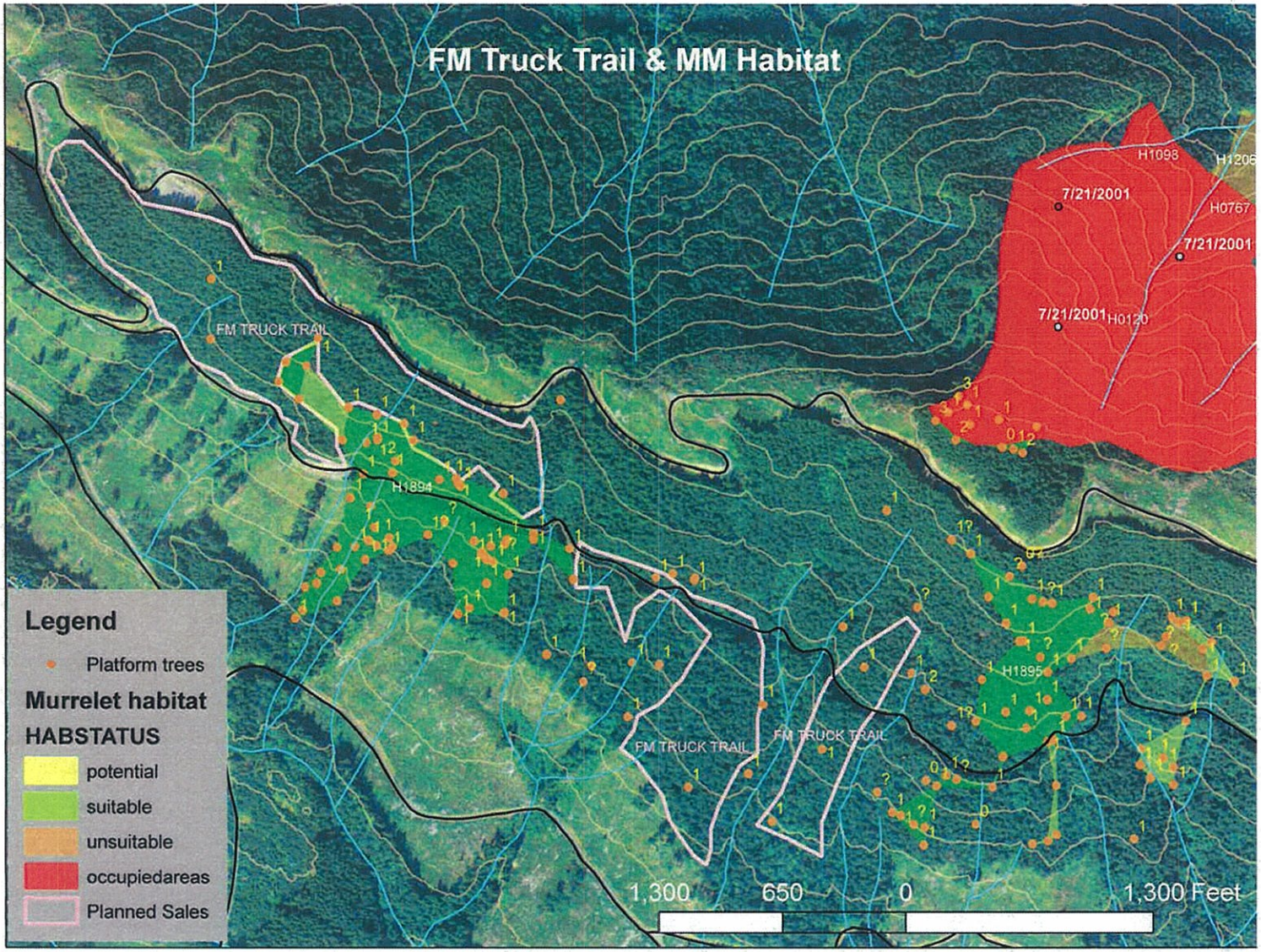
The abandoned road has partly grown in with hardwoods; during our field review Dwayne and I noted 6-11" dbh RAs growing on the road, and BLM up to 20"dbh growing on the cut bank immediately adjoining the running surface; these would all be removed in re-constructing the road. Two platform trees along the abandoned road would need to removed. These are not multi-platform trees. They are: a 26" dbh second-growth Douglas Fir, and a 30" dbh second-growth Douglas fir each with one platform in a forked top. No yarding corridors would be necessary within this habitat block. It is possible that guylines from tailholds would need to be anchored on trees within this habitat block. This could be accomplished without falling any platform trees. The unit 3 harvest area ends 300' west of H1895.

In summary, during the FM Truck Trail presales fieldwork two blocks of lower-quality, newly-identified habitat were found. Operational access (re-constructing road) is requested through the western block, H1894, which is distinctly marginal, not only being Criteria 1 habitat, but also being devoid of any individual platform trees of significant quality. Despite the general proximity of an occupied site, the very limited structural elements and stand characteristics here (all second-growth/low grade) provide little habitat value; this is a case where operational access needs present little risk. Beyond the requirements for road building described above, no additional removals or habitat modification are part of this proposal. Please contact me for any additional information needs regarding the habitat quality or its assessment.

Clay Sprague HCP Implementation Manager Date

Attachments (1)

c: FM Truck Trail Timber Sale File



From: Bell, Gary W (DFW)
Sent: Monday, April 23, 2012 2:34 PM
To: SPRAGUE, CLAY (DNR)
Cc: Mark_Ostwald@fws.gov; Jackson, Terry (DFW); Desimone, Steven M (DFW)
Subject: RE: Marbled Murrelet Timber Sale Issue

Hi Clay,

I've reviewed the memo prepared by Peter McBride. In knowing how meticulous he and Lisa Egtvedt are in evaluating murrelet habitat in NW Region and developing appropriate harvest management strategies/alternatives (my kudos to both of them), and after reviewing WDFW GIS information concerning the area of interest, I'm comfortable with the proposal to remove the two low-quality platform trees in order to reconstruct the road system to access the harvest area.

As such, please accept this email on behalf of WDFW as our concurrence that the proposal will not result in measurable negative impacts to marbled murrelets or murrelet habitat that may be present in the vicinity.

Feel free to contact me if you need any additional consultation from WDFW concerning this matter.

Sincerely,
Gary

Gary Bell, Wildlife Biologist
WDFW Habitat Program
Protection Division - Forest Habitats
600 Capitol Way North
Olympia, WA 98501
360.902.2412 Office
360.628.0728 Cell
gary.bell@dfw.wa.gov

From: Mark_Ostwald@fws.gov [mailto:Mark_Ostwald@fws.gov]
Sent: Monday, April 23, 2012 2:49 PM
To: SPRAGUE, CLAY (DNR)
Cc: Mark_Miller@fws.gov
Subject: FM Truck Trail timber sale

Hi Clay,
Thanks for providing the March 2, 2012 memo from Peter McBride (Northwest Region DNR wildlife biologist) to you concerning reconstruction of an old road through newly identified marbled murrelet habitat (polygon H1894). The project occurs in second growth forest on the southwest flank of Frailey Mountain. The road reconstruction would appear to remove primarily hardwood trees that have subsequently grown on the grade, however, two Douglas fir trees with single platforms would be removed. It is my understanding that no other harvest of platform trees is proposed from the road.

Peter has identified that this road reconstruction project would be consistent with our agencies February 23, 2007, interim marbled murrelet conservation strategy as a criteria 1(page 5) both for polygon size and platform density. The newly identified habitat is considered low quality. Thanks for providing this information and coordinating with me. If you have any questions, let me know.

Mark Ostwald
U.S. Fish & Wildlife Service
(360) 753-9564

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WASHINGTON STATE DEPARTMENT OF
Natural Resources

PETER GOLDMARK
Washington State Commissioner of Public Lands

March 19, 2012

Steven Landino, Washington State Habitat Director
NOAA Fisheries
510 Desmond Drive, Suite 103
Lacey, WA 98502

Ken Berg, Manager
Washington Fish and Wildlife Office
US Fish and Wildlife Service
510 Desmond Drive, Suite 102
Lacey, WA 98502

Subject: State Trust Lands HCP - Joint Riparian Forest Restoration Strategy Concurrence Letter

Dear Mr. Landino and Mr. Berg:

I am writing in reference to our 1997 State Trust Lands Habitat Conservation Plan and the management of riparian zones as described in the Riparian Forest Restoration Strategy (RFRS, 2006). The RFRS was developed by a Technical Review Committee (TRC) consisting of technical staff from Washington Department of Natural Resources (WDNR), National Oceanic and Atmospheric Administration, U.S. Fish and Wildlife Service, Northwest Indian Fisheries Commission, and the Washington Department of Fish and Wildlife.

A three year Implementation Period for the RFRS ended January 1, 2009. During this time, WDNR monitored the five implementation commitments outlined within the RFRS for their application to WDNR management operations. As per the agreement in the RFRS, DNR convened the TRC on April 27, 2011 to review WDNR's need to continue seeking concurrence from the Federal Agencies (the SERVICES) on specific implementation period topics.

The TRC met (absent Washington Department of Fish and Wildlife who were later consulted) and supported WDNR's request to conduct restoration, when appropriate, regardless of stand age. The other existing conditions to RFRS implementation will remain in effect. In addition, WDNR embraces TRC's suggestion to document stand development stage in order to reinforce management to more complex stand conditions. The following table is from a presentation given to TRC during the April 2011 meeting and summarizes WDNR's position on anticipated implementation period commitments.

Table 1. RFRS implementation period commitments and their current relevance.

Implementation Period Commitments	Continued Relevance to implementation
Type II and Type III thinning to a RD 30.	Not an issue; In theory desirable, not practical with existing thinning guidelines, thinning to RD 30 is anticipated only in rare cases.
Specific forest practice activities for salvage logging in riparian areas.	Plan for the future; salvage situations will always be case-by-case, pre agreement on guiding principles and process would be of value.
Conducting more than two commercial silvicultural restoration treatments within the same portion of the riparian area during the 70- to 100-year term of the HCP.	Not an issue; In theory multiple thinnings are of value, not anticipated in the foreseeable future.
Conducting a Type III thinning in stands greater than 70 years of age. *This approach to thinning older stands will be reviewed by the Technical Review Committee at the end of the three-year initial Implementation Period.*	Primary issue; Emerged as a major implementation and strategy effectiveness hurdle, 50% of stands harvested are 70 years and older. There is no scientific foundation for restricting thinning to stands below 70 years.
Specific non-timber resource activities (see non-timber section).	Not an issue; updating roads guidance

With support from the TRC (see minutes of the April 2011 meeting), WDNR is requesting concurrence from the SERVICES to conduct RFRS management where appropriate in stands older than 70 years to accelerate forest complexity in stands, without the need to request future concurrence from the SERVICES.

The main objective of all riparian silvicultural activities is to put the riparian management zone on an accelerated trajectory toward the riparian desired future condition (RDFC). With this goal in mind, for riparian stands approaching or over 70 years old, the Type III thinning prescription is applied. Type III thinnings are intended to be applied prior to stands having recognized structural complexity specifically the Large Tree Exclusion or the Understory Development stage of stand development (RFRS, Appendix 1, page 53). If a riparian stand has progressed past these stages, they are no longer eligible for restoration. Additionally, stands that are satisfactorily progressing toward the RDFC, or have already achieved the RDFC, do not require restoration.

In keeping with our existing RFRS implementation constraints and the addition of determining stand development stage from the TRC, WDNR will document the following through an activity based checklist and provide results annually to the TRC for their review. The checklist will ensure three conditions are met and documented prior to implementing RFRS activities. This will ensure that restoration will:

1) Not be conducted in stands that have progressed past the Understory Development stage of stand development (RFRS, Appendix 1, page 53);
2) Not be conducted in stands where the RDFC characteristics of basal area ($300ft^2/ac$) and the QMD (greater than 21 inches) has been reached; and
3) Accelerate the development towards the RDFC; this will be evaluated with forest stand modeling.

The RFRS checklist will be completed by WDNR staff trained in determining stand development stage and taking the necessary riparian forest measurements. The information collected on stand development stage, basal area and QMD will facilitate reporting results to the SERVICES and TRC. Information from the RFRS checklist will be presented to the TRC and the SERVICES as part of the regularly scheduled meeting in April and will be annually reviewed and evaluated. An initial review and discussion will occur at the TRC meeting in 2012. WDNR will work with the TRC and the SERVICES to ensure reporting and documentation standards are acceptable and that WDNR is achieving the desired outcome.

Within two years of this concurrence letter we will fully evaluate the process outlined above to ensure it is achieving the HCP riparian conservation objectives and the elements of the RFRS. The two year time frame is expected to provide sufficient examples of implementation and determine if changes may be necessary for continued application. If, after discussions with the TRC and the SERVICES, modifications are needed to the approach specified herein, WDNR will work closely on making those changes with the TRC and the SERVICES.

We mutually agree that WDNR no longer needs to request concurrence on a case-by-case basis from the SERVICES to thin in riparian stands older than 70 years and instead will now follow the approach specified in this concurrence letter. Each representative's signature at the bottom of this letter will serve as the PARTIES written approval according to HCP Implementation Agreement Section (HCP Appendix B, page 12, section 25.3a).

Clay Sprague
HCP Implementation Manager
Washington State Department of Natural Resources

March 20, 2012
Date

Steve Landino
Washington State Habitat Director
NOAA Fisheries

3/28/12
Date

Ken S. Berg
Manager of Washington Fish and Wildlife Office
US Fish and Wildlife Service

3/28/12
Date

c: RFRS Technical Review Committee

WASHINGTON STATE DEPARTMENT OF
Natural Resources
Peter Goldmark - Commissioner of Public Lands

May 1, 2012

Ken Berg, Manager
Washington Fish & Wildlife Office
U.S. Fish & Wildlife Service
510 Desmond Drive SE
Lacey, WA 98503

Subject: HCP Minor Amendment

Dear Mr. Berg:

I am pleased to respond to the letter you sent me on June 7, 2011. In your letter, you recommended that "a minor HCP amendment be made to the interim [marbled murrelet conservation] strategy in southwest Washington (Columbia and South Coast planning units) that would allow timber harvest in reclassified murrelet habitat outside the proposed "Marbled Murrelet Management Areas" (MMMAs) until the long-term strategy is completed by the end of 2013." Pursuant to your recommendation and Section 25.3(2) of the Implementation Agreement (IA) governing the Department of Natural Resources' (DNR) Final Habitat Conservation Plan (HCP) for state trust lands, I am hereby providing written notice that DNR intends to make a minor amendment to its HCP. This amendment alters the HCP commitment to defer harvest of surveyed, unoccupied, reclassified marbled murrelet (murrelet) habitat in southwest Washington until either "(a) the long-term plan ... 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" (HCP IV.40). Specifically, DNR intends to harvest timber and carry out associated activities such as road construction and maintenance, reforestation, and vegetation control within surveyed, unoccupied, reclassified murrelet habitat in southwest Washington outside the MMMAs proposed in the report titled, "Recommendations and Supporting Analysis of Conservation Opportunities for the Marbled Murrelet Long-term Conservation Strategy" (Science Team Report). Because this minor HCP amendment will not increase the level of incidental take and appropriate mitigation will be provided, it will not require an amendment to DNR's Incidental Take Permit (ITP, see Section 25.3(2)c. of the IA). Thus, the existing ITP will remain in effect.

Pursuant to the Washington State Environmental Policy Act (SEPA), a Determination of Nonsignificance was issued for this HCP amendment. Subsequently, public comments were received during a 3-week public comment period. After considering all comments, the SEPA Responsible Official issued a modified Determination of Nonsignificance (DNS), which included responses to comments and an Addendum to the DNS. I have enclosed the final SEPA

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determination, DNS Addendum, and the related SEPA Checklist for your information. This letter represents DNR's commitment to fulfill non-project, landscape-level mitigation documented in the Determination of Nonsignificance. This mitigation is as follows:

1) DNR will work to complete its HCP long-term murrelet conservation strategy by December 31, 2014; and

2) From now until the HCP long-term murrelet conservation strategy is completed, DNR will shift the majority of timber harvest volume previously contemplated within proposed MMMAs in southwest Washington to areas outside proposed MMMAs. During this period, DNR will apply the following measures to timber sales situated within proposed MMMAs in southwest Washington:
   a) no timber sale will be situated in occupied or reclassified habitat;
   b) only thinning sales will be situated within 0.5 miles of occupied habitat;
   c) thinning sales adjacent to occupied or reclassified habitat will be buffered with a 165-foot no-entry buffer, directional felling will be employed to prevent damage to trees within the buffer;
   d) leave trees for stand replacement sales will be selected to favor murrelet habitat;
   e) advanced (i.e., older than normal) planting stock will be used to reforest stand replacement sales; and
   f) stand replacement sales will be prioritized for intermediate silviculture, to promote stand development.

Until the HCP long-term murrelet conservation strategy is completed, DNR will consult with U.S. Fish & Wildlife Service (USFWS) for each individual timber sale situated within a proposed MMMA in southwest Washington. Each individual timber sale also will undergo a site-specific analysis of environmental impacts under SEPA. DNR will not mitigate this minor amendment by any changes to its activities within the Olympic Experimental State Forest (OESF) HCP Planning Unit. DNR is prepared to address any issues or concerns that USFWS may have with its activities in the OESF as a separate matter.

I need to emphasize that this mitigation does not represent endorsement or adoption of any of the recommendations in the Science Team Report, nor indicate any commitment to follow the recommendations in the Science Team Report as part of the long-term murrelet conservation strategy. "The Science Team developed [its] conservation recommendations without consideration for DNR's fiduciary responsibility to the trusts, with the exception of special considerations for Wahkiakum and Pacific Counties" (emphasis added, Science Team Report, p. 3-1). However, DNR's fiduciary duty to the state trust lands beneficiaries is a core principle in our existing HCP and must always be at the forefront in our decision making.

Hence, it is important to recognize that while the long-term murrelet conservation strategy developed by DNR will utilize the best available science, DNR's fiduciary responsibilities will be foremost.

Sincerely,

Peter Goldmark
Commissioner of Public Lands

Enclosures (2)

cc: Board of Natural Resources

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington Fish and Wildlife Office
510 Desmond Dr. SE, Suite 102
Lacey, Washington 98503

May 29, 2012

Peter Goldmark
Commissioner of Public Lands
PO Box 47000
Olympia, WA 98504-7000

RE: Your notice and rationale for minor amendment for the Washington State Lands Habitat Conservation Plan

Dear Commissioner Goldmark:

I recently received your request, dated May 1, 2012, for a minor amendment to the referenced Habitat Conservation Plan (HCP). We concur with your request, and therefore the minor amendment is effective today, May 29, 2012.

I appreciate the commitment that you and your staff have made to effective implementation of the HCP. I look forward to continuing to work together on the marbled murrelet long-term conservation strategy.

Sincerely,

Ken S. Berg

Ken S. Berg, Manager
Washington Fish and Wildlife Office

WASHINGTON STATE DEPARTMENT OF
Natural Resources
Peter Goldmark - Commissioner of Public Lands

Caring for
your natural resources
... now and forever

June 28, 2012

To: Mark Ostwald, United States Fish and Wildlife Service

Matt Longenbaugh, NOAA Fisheries

From: Clay Sprague, DNR HCP Implementation Manager

Subject: Texas T Timber Sale

Please find attached the final report for the Texas T timber sale and HCP deviation that occurred. The report contains the background, summarizes the presales processes, deviations from HCP riparian and marbled murrelet conservation strategies, reasons for those deviations, and mitigation and corrective actions the department has taken and will take as a result.

I appreciate your patience as we've worked through the complicated issues associated with this sale and reach final resolution of needed follow up actions and mitigation. We are immediately moving forward to conclude the remainder of the sale and implement the mitigation measures outlined in the report.

Texas T Report - Prepared for the USF&WS and NOAA Fisheries

This report is prepared for the U.S. Fish & Wildlife Service (USF&WS) and NOAA Fisheries to describe an occurrence of non-conformance with Habitat Conservation Plan (HCP) requirements associated with a Department of Natural Resources (DNR) Timber sale. This report also describes courses of action and mitigation in response to this situation to both correct the situation and prevent similar occurrences in the future.

I. Background

The Texas T timber sale is located approximately 26 miles east of Arlington in Snohomish County in DNR's Northwest Region. It is a 289-acre variable density thinning with several complex design elements and strategies intended to accelerate development of Northern Spotted Owl (NSO) habitat and riparian forest condition while protecting other environmental conditions including Marbled Murrelet (MM) habitat on lands designated as Spotted Owl Nesting Roosting Foraging (NRF) management areas by DNR's Habitat Conservation Plan. It was auctioned September 23, 2009, awarded to Hampton Tree Farms and scheduled to be completed by September 30, 2011.

While assessing an adjacent stand for suitable MM habitat in the spring of 2011, DNR discovered that several MM platform trees were present within the Texas T sale area raising questions as to whether harvest activity had occurred or was about to occur in newly identified suitable MM habitat. Harvest of newly identified MM habitat in this case is not consistent with DNR's 2007 letter of concurrence with the USFWS. The sale is not currently active and all future harvest activities have been suspended pending resolution of this issue. Approximately 119.5 acres (41%) of the sale were harvested.

II. Stand Analysis and Presales Process

Presales field work was conducted on this sale between 2006 and April 2009. When the sale was first assigned, it was 660 acres. The forester took hundreds of plots throughout this potential sale area. After running the data through a growth model, roughly 400 acres was identified that would benefit from thinning and which were operationally feasible. All field work was completed for these 400 acres. Subsequently 130 acres were removed because of difficulties acquiring a road use permit from the US Forest Service. In addition to the usual resource protection concerns, this was a Nesting Roosting and Forage (NRF) thinning that involved: 1) the recently completed riparian restoration strategy; 2) a variance to apply the riparian strategy in 70-year-old stands; 3) a separate previously-identified suitable murrelet habitat block through which a temporary road was constructed; 4) several areas of potentially unstable slopes; 5) significant stream typing challenges; 6) costly, extensive road construction; 7) challenging yarding situations; and 8) issues with hauling and yarding on roads managed by the USFS and others. Overall, field work

continued for roughly 18 months on Texas T before the packet was delivered to the timber sales office. This was a large, complex project.

Marbled Murrelet Habitat Analysis

DNR field foresters are usually trained to note potential MM platforms when doing presales reconnaissance and layout and then get assistance from Region Wildlife Biologists to confirm, identify and delineate suitable MM habitat so the field foresters can defer it from harvest. This is done to comply with the February 23, 2007 letter of concurrence between the DNR and USFWS. Two wildlife biologists worked with the field foresters on the western portion of the sale to help delineate MM habitat that had been previously identified by the DNR's habitat modeling efforts (reclassified plus). The biologists did not visit the eastern portion of the sale because there was no modeled habitat in that location. Lack of communication resulted in the field foresters assuming that the entire sale had been visited by the biologists and all marbled murrelet habitat identified. Consequently, the field foresters did not note additional potential marbled murrelet platform trees within the sale.

During spring 2011 field reconnaissance for an adjoining timber sale, platform trees were identified. Following the mitigation established for the Nocab Timber Sale, the platform tree assessment was extended 300-feet from the boundary of the new timber sale, which resulted in MM habitat being identified within the Texas T timber sale. The assessment identified approximately 20-acres of a 46-acre habitat block within Texas T that had been thinned. There are sufficient platform trees remaining in the thinned area to continue to meet the MM habitat threshold. Three smaller blocks of new MM habitat (6 – 11 acres) were also found within the sale area, each with some adjacent thinning that does not appear to involve any tree removal from the identified habitat blocks.

HCP implementation, as reflected in the February 23, 2007 letter of concurrence is clear in the expectations for identifying and delineating MM habitat. However, in this case a mistaken assumption by the field foresters that the Region's Wildlife Biologists had already reviewed the sales unit led to some harvesting that would not have occurred otherwise.

Riparian Prescription Analysis

Approximately 41.7 acres of riparian management zones (RMZ) along three Type 4 streams (Compartments 3, 4, and 5) and 2.3 acres of RMZ along one Type 3 stream (Compartment 3) were targeted for restoration treatment according to the Riparian Forest Restoration Strategy (RFRS). The RMZ for Type 4 streams is a 100-foot width buffer and for Type 3 streams it is the site potential tree height which for this site is an average width of 180 feet. The adjoining uplands had the same thinning prescription as the riparian management zones, therefore the 25-

foot no-harvest inner zone was the only boundary marked in the RMZ. The riparian prescriptions for these areas are as follows:

Compartment 3
Cut all red alder, cut all bigleaf maple 7-14 inches dbh, cut all western hemlock and Douglas-fir 7-12 inches.

Compartment 4
Cut all red alder, cut big leaf maple 7-14 inches dbh, cut Douglas-fir 7-9 inches dbh

Compartment 5
Cut all red alder, cut big leaf maple 7-18 inches dbh, cut western hemlock 7-12 inches dbh, cut Douglas-fir 7-14 inches dbh

III. Compliance

The cutting prescriptions were appropriate and if carried out as prescribed would have enhanced both spotted owl and riparian habitat. However, the compliance of the contract and thinning prescription by DNR staff was inadequate. The problems observed in this category are primarily confined to the southern portion of Unit 2. This is the area with the highest ecological sensitivity and greatest risk. In some areas many required take trees were left standing resulting in under utilization, while in other areas many leave trees were permitted by the Contract Administrator to be removed for operational and safety reasons resulting in not achieving the intended post-harvest stand condition.

The southern portion of Unit 2 was harvested with equipment that was unsuitable for the job. This resulted in too many corridors, too many additional trees removed and insufficient lift which contributes to potential erosion issues. Multiple factors contributed to this result. DNR compliance staff was inexperienced, undertrained and unfamiliar with the contract requirements. Due to workload not enough time was spent by DNR staff overseeing the contractor and investigating contractor capability to meet the requirements of the contract

In addition, the contract requirement for on-site pre-work meetings including the Contract Administrator, biologist, operator and fallers prior to commencement of operations was neither understood nor followed. In addition, a new operator began harvesting in the winter of 2010/2011 after a lengthy work stoppage. As indicated above, it appears this operator was working with little or no supervision in the area of highest ecological sensitivity and key contract elements designed to ensure the desired post-harvest condition was achieved were not enforced.

Riparian

There were three prescription compliance problems identified with RMZs in Compartments 3 and 4, and two problems identified with RMZs in Compartment 5.

Compartments 3 and 4 - trees larger than what were specified in the contract were harvested. There are cut conifer stumps in the 16 to 20-inch range within the RMZ which are larger than the 9 to 12-inch DBH limit required by the contract. There were approximately 30 conifer trees harvested that should have been left to provide for future riparian function. These larger stumps were observed down the entire length of the RMZ in the eastern half of Compartment 3 and the western portion of Compartment 4.

Secondly, cable corridors were placed so close to the RMZ that in a few instances, along the eastern edge of Compartment 3, corridors were located within the RMZ for the Type 4 streams. This has resulted in unintended open areas within the RMZ.

The third issue occurred as a result of unforeseen consequences of the applied prescription.. A large portion of Compartment 3 was predominantly hardwood. The prescription required the removal of all red alder and a large portion of bigleaf maple which left larger than anticipated openings up to 1/10 acre in size. That, coupled with corridor placement, has left openings in proximity of, and within, RMZs on several Type 4 streams and a section approximately 500 feet in length along a Type 3 stream amounting to approximately 5 acres in total area.

Compartment 5 - the RMZ located in the southwest corner had trees harvested that were larger than what was specified in the timber sale contract. There were approximately six conifer trees harvested that should have been left to provide for future riparian function. These larger stumps were observed along approximately 300 to 400 feet of the RMZ.

Secondly, a cable corridor was placed so close to the Type 4 RMZ that many buffer trees were harvested.

IV. Mitigation

Organization, Presales Process and Training

(The following steps have already been implemented)

- Created an additional state lands district to reduce the span of control of unit foresters and district managers in order to provide more oversight, mentoring, and training of field staff.

- Realigned staff reporting structure; wildlife biologists now report to state lands district managers to ensure a more effective working relationship between field foresters and biologists and ensure that the biologists are key part of the presales teams.

- Implement an internal training program within the district to ensure new staff build professional knowledge and develop a network with subject experts within the Region and the Department

- Reviewed all timber sales 6 months forward and backward in the pipeline to ensure compliance with all HCP procedures and objectives. This includes all sold sales, as well as sales in the presales process.

- Instituted rotation of work duties among staff to ensure that all staff have the opportunity to become competent in all aspects of land management and HCP requirements.

Presales and Sales Compliance Training and process emphasis (in process)

- Add and/or strengthen training, presales and compliance process' toaddress the following:
    - Ensure use of qualified operators only;
    - Ensure use of proper equipment for site specific conditions
    - Require limitations on yarding corridors such as minimizing number of corridor through wider spacing and narrower widths.

- Ensure yarding corridor placement is consistent with management objectives in riparian buffers.

Riparian Management Zones

Apply herbicides in created openings to control brush and prepare the site for replanting (hardwood areas completed as of fall of 2011)

- Plant openings, with western red cedar and Douglas-fir mix; plant equivalent of 360 seedlings per acre or 11 foot spacing in order to ensure a well-established stand to reforest the openings as quickly as possible (completed during 2012 planting season).

- Monitor the planted areas by scheduling surveys in P&T to keep track of conifer seedling growth and future vegetation competition until seedlings are free-to-grow. Treat resprouted bigleaf maples within three years of planting to help ensure the continued growth of the planted and naturally seeded conifer (scheduling completed).

- Complete the Riparian Forest Restoration Strategy treatments as specified in the timber sales contract including:
    - Require additional thinning of RMZs, while ensuring strict compliance to the riparian thinning prescription;
    - In riparian zones adjacent to harvested areas, directionally fall three trees per acre toward the nearest stream to be left on the ground for down woody debris. Trees to be felled shall be within 25-50 feet of the stream;
    - Girdle two trees per acre from the largest diameter class for future snag recruitment.

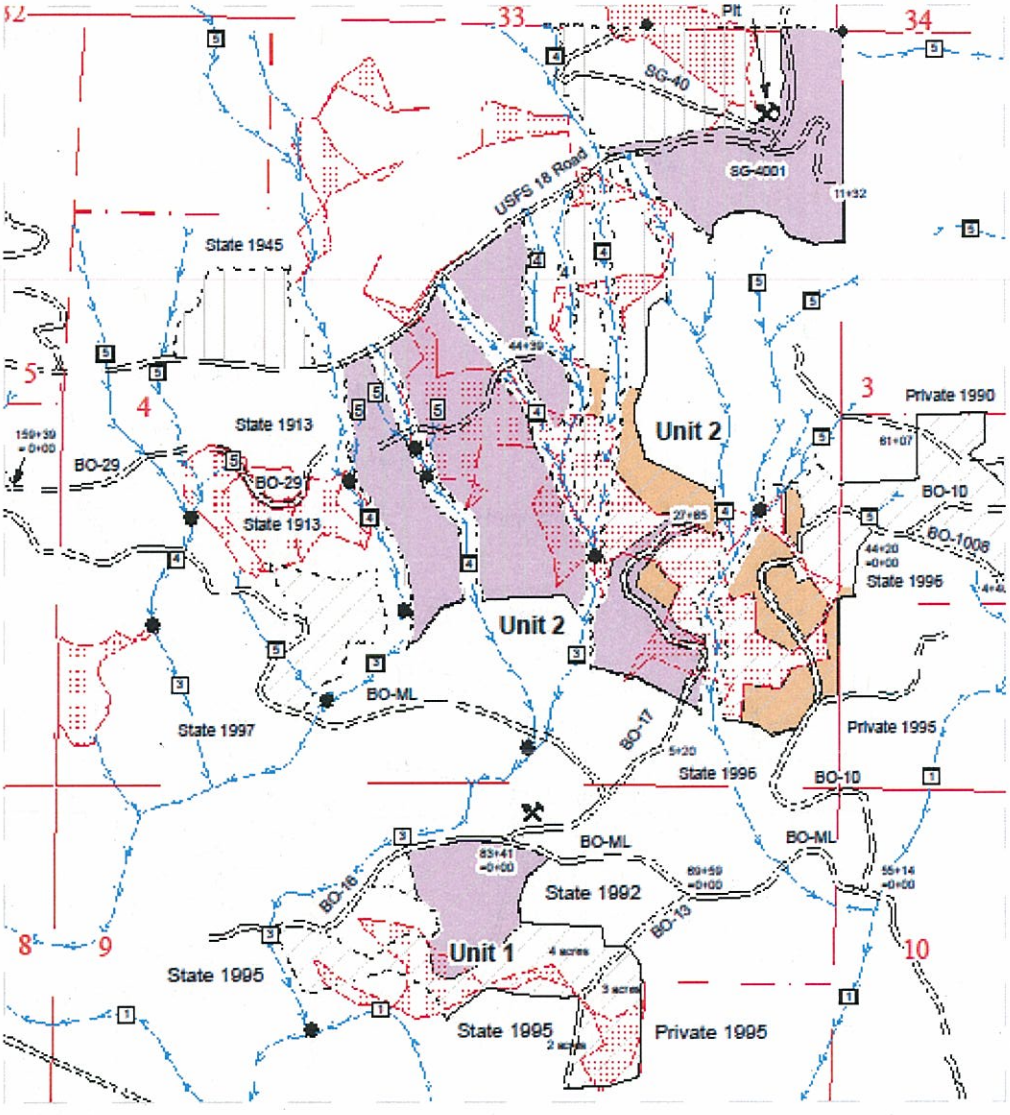
Marbled Murrelet

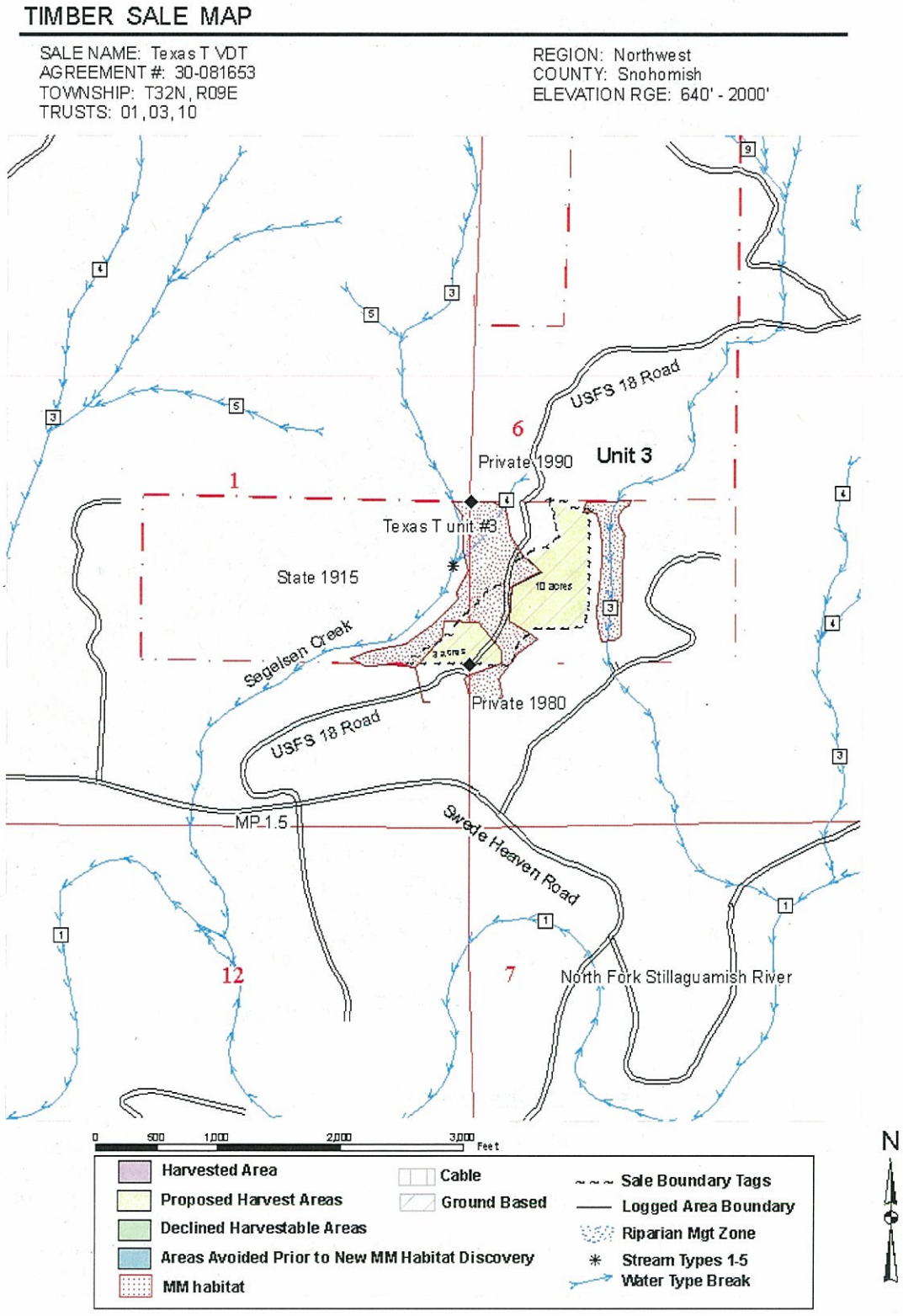
- Identify all remaining marbled murrelet habitat contained within the sale units (completed – see attached sale map).
- Add 100 meter no-harvest buffers adjacent to the un-harvested newly identified habitat area to mitigate for the approximate 20 acres of newly identified marbled murrelet habitat that was impacted by harvesting. These buffers are where additional harvest is otherwise planned. Buffer acreage will approximate acreage of impact (20 acres). See attached map showing buffer areas removed from harvest area. This buffer will be in place only during ongoing implementation of the interim marbled murrelet conservation strategy.

TIMBER SALE MAP

SALE NAME: Texas T VDT
AGREEMENT #: 30-081653
TOWNSHIP: T32N, R09E
TRUSTS: 01, 03, 10

REGION: Northwest
COUNTY: Snohomish
ELEVATION RGE: 640' - 2000'




TIMBER SALE MAP
SALE NAME: Texas T VDT
AGREEMENT #: 30-081653
TOWNSHIP: T32N, R09E
TRUSTS: 01, 03, 10
REGION: Northwest
COUNTY: Snohomish
ELEVATION RGE: 640' - 2000'
USFS 18 Road
6
Private 1990
Unit 3
1
Texas T unit #3
State 1915
10 acres
3 acres
Segelsen Creek
Private 1980
USFS 18 Road
MP 1.5
Swede Heaven Road
12
7
North Fork Stillaguamish River
0 500 1,000 2,000 3,000 Feet
Harvested Area
Proposed Harvest Areas
Declined Harvestable Areas
Areas Avoided Prior to New MM Habitat Discovery
MM habitat
Cable
Ground Based
Sale Boundary Tags
Logged Area Boundary
Riparian Mgt Zone
Stream Types 1-5
Water Type Break
N