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.
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 MMAs in southwest Washington to areas outside proposed MMAs. During this period, DNR will apply the following measures to timber sales situated within proposed MMAs 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 MMA 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,

[Signature]

Peter Goldmark
Commissioner of Public Lands

Enclosures (2)

cc: Board of Natural Resources