



Backgrounder

Oregon Department of Fish and Wildlife

The Marbled Murrelet and the Oregon Endangered Species Act

The Issue

A petition to reclassify the Marbled Murrelet was filed in June 2016. Cascadia Wildlands and five other co-petitioners assert that the Marbled Murrelet has declined to such a point that endangered status is warranted under the Oregon Endangered Species Act (OESA). The Oregon Fish and Wildlife Commission must decide whether to reclassify (uplist) the Marbled Murrelet from threatened to endangered under the OESA. The OESA requires action within one year of a petition being filed if it is accepted by the Commission; however, the Commission may extend this deadline for up to 12 additional months if the Commission determines that the information available is limited or other appropriate circumstances require the extension.

Commissioners will be asked to decide whether circumstances meet legal requirements to justify reclassification of the Marbled Murrelet as endangered. Oregon Department of Fish and Wildlife biologists and administrators will consult with affected public agencies, federally-recognized Indian tribes, and interested individuals and organizations prior to the final hearing. This briefing paper is part of that consultation effort.

The following information provides background on Marbled Murrelet life history, its legal status in Oregon and elsewhere in its range, and details about the OESA.

Marbled Murrelet Description and Current Legal Status

The Marbled Murrelet (*Brachyramphus marmoratus*) is a small seabird that breeds along the Pacific Coast from Alaska to central California.



Photo Credit: Rich MacIntosh, USFWS

Marbled Murrelets spend most of their lives in marine waters and forage at sea on small fish and invertebrates. However, they are unique in that they fly inland (sometimes considerable distances) for nesting and depend upon old growth and coastal late-successional forests for nest sites. Marbled Murrelets are federally listed as threatened under the U.S. Endangered Species Act in Washington, Oregon, and California, and state-listed as threatened in Oregon and endangered in Washington and California. In British Columbia, Marbled Murrelets are listed as threatened under the Canadian Species at Risk Act.

Loss and degradation of late-successional forest nesting habitat were primary factors contributing to federal and state listings. Mortality from oil spills and net fisheries, nest predation, disease, reduced prey availability and quality, marine pollution, disturbance, and climate effects on marine and terrestrial habitat are among other potential threats to the species across its range.

Applying Oregon ESA Reclassification Criteria

The OESA sets out specific criteria and procedural requirements which must be met to reclassify a species. In order to reclassify a native species as endangered, the Oregon Fish and Wildlife Commission is required to determine, based on documented and verifiable information, that the likelihood of survival of the species has diminished such that the species is in danger of extinction throughout any significant portion of its range within Oregon. In addition, the Commission is required to determine that one or more of the following factors exists: (a) that most populations of the species are undergoing imminent or active deterioration of their range or primary habitat; (b) that overutilization of the species or its habitat for commercial, recreational, scientific, or educational purposes is occurring or is likely to occur; or (c) that existing state or federal programs or regulations are inadequate to protect the species or its habitat.

Staff will prepare a biological status review for the Marbled Murrelet in Oregon that specifically addresses these reclassification criteria.

Oregon ESA Effects

The most direct effect of listing a species as threatened or endangered under the OESA is on state-owned or leased lands. Private lands are not directly affected by the OESA except through the Oregon Forest Practices Act, which requires special protection for both federal and state-listed species. The state law is only advisory for federal land managers.

State agencies work together to implement conservation programs adopted by the Oregon Fish and Wildlife Commission, and Oregon Department of Fish and Wildlife biologists act as scientific consultants to other land and water managers to advise whether a management action can affect survival or recovery of a listed species.

The OESA requires particular state agencies to develop plans for the management and protection of endangered species, and to comply with 'survival guidelines' adopted by the Oregon Fish

and Wildlife Commission for threatened species. Survival guidelines are quantifiable and measurable guidelines necessary to ensure the survival of individual members of the species. They may include take avoidance and protecting resource sites such as nest sites or other sites critical to the survival of individual members of the species. Under the OESA, "take" is defined as "to kill or obtain possession or control of any wildlife".

Implications of Uplisting

If the Marbled Murrelet were to be uplisted, the Oregon Fish and Wildlife Commission would be required to establish survival guidelines for the species at the time of reclassification and to work with state land owning and managing agencies to determine if state land can play a role in the conservation of the species (note that survival guidelines are not already in place for the murrelet since it was first listed in May 1995, and the survival guidelines requirement was not approved until July 1995). Survival guidelines would serve as interim protection until endangered species management plans were developed by applicable state agencies and approved by the Commission.

Additional Information

Oregon Administrative Rules (OARs) for Oregon fish and wildlife:

<http://dfw.state.or.us/OARs/oars.asp#Wildlife>. See the Division 100 (Wildlife Diversity Plan) section for OARs pertaining to listed species/reclassification.

Oregon Fish and Wildlife Commission meetings:

<http://www.dfw.state.or.us/agency/commission/>.

Questions? Contact the Oregon Department of Fish and Wildlife at odfw.marbledmurrelet@state.or.us or 503-947-6301.



Photo Credit: David Patte, USFWS