



AGENDA ITEM SUMMARY

BACKGROUND

The Marbled Murrelet was reclassified from threatened to endangered under the Oregon Endangered Species Act (OESA) in July 2021 by the Oregon Fish and Wildlife Commission (Commission). The most direct effect of listing a species as threatened or endangered under the OESA is through management decisions on state-owned, managed, or leased lands. Private lands are not directly affected by the OESA (ORS 496.192) except that no person is allowed to “take” a listed species anywhere in the state, and through the Oregon Forest Practices Act (FPA) (ORS 527.610-.992, OAR Chapter 629 Divisions 600-680), which requires special protection for specified resource sites for both federal and state-listed species. Under the OESA, “take” is defined as “to kill or obtain possession or control of any wildlife” (ORS 496.004(16)).

The OESA requires that state agencies comply with survival guidelines adopted by the Commission (or alternative process as described in ORS 496.182(3)), and requires particular state agencies to develop plans for the management and protection of endangered species (ORS 496.182(8), OAR 635-100-0140(6)). Survival guidelines are quantifiable and measurable guidelines necessary to ensure the survival of individual members of the species (OAR 635-100-0100(13)). Survival guidelines serve as interim protection measures until endangered species management plans are developed and approved by applicable state agencies (required within 18 months of uplisting) and reviewed and approved by the Commission (required within 24 months of uplisting) (ORS 496.182(8)(a)(C), (D)).

Oregon revised statute and administrative rule require that within four months of the listing decision, the Commission, in consultation and cooperation with the state land owning and managing agencies, determine which land owning or managing agencies can play a role in conservation of the species (ORS 496.182(8)(a)(A)). To make this determination, the Commission and the land owning or managing agency must consider Marbled Murrelet biology and geography of the land base to determine if the species or its habitat is found on state land. If the species or its habitat is not found on a state agencies land, the Commission shall determine that the agency has no role to play in the conservation of the species.

The Commission delegated the consultation and cooperation role to the Director at the September 2021 meeting. The department engaged with the appropriate state agencies and has developed a recommended list of state agencies that have lands that can play a role in the conservation of the Marbled Murrelet. Following Commission approval of the list, the department will continue to work with the designated agencies as they determine the role their land shall serve in the conservation of Marbled Murrelet, and develop their endangered species management plans, which the agencies will submit to the Commission for review within 18 months of the listing decision (filed with Secretary of State on July 15, 2021).

PUBLIC INVOLVEMENT

- Consulted with state agencies listed in rule as “state land-owning or managing” to review ownership maps for overlay with Marbled Murrelet habitat. Discussed the components of Marbled Murrelet biology and geography of the land base as outlined in the department’s June 2021 Biological Assessment.
- Addressed questions of interested persons, including the news media.
- Maintained/updated department’s Marbled Murrelet webpage to help keep the public informed of continued process and to facilitate public involvement.
- The Commission’s determination will be made at a public meeting after interested members of the public have the opportunity to provide comment for the Commission’s consideration.

ISSUE 1

Determination of State Land Owning and Managing Agencies that can Play a Role in the Conservation of the Marbled Murrelet

ANALYSIS

For the purposes of determining which state land owning or managing agencies can play a role in conservation, OAR 635-100-0160(1) requires the Commission consider the following agencies:

- (a) Oregon Department of Fish and Wildlife;
- (b) Oregon Department of Forestry;
- (c) Oregon Parks and Recreation Department;
- (d) Oregon Department of Administrative Services;
- (e) Oregon Division of State Lands (all proprietary programs);
- (f) State Land Board;
- (g) Oregon Department of Education;
- (h) Oregon Department of Transportation;
- (i) Oregon Military Department;
- (j) Oregon State Hospital;
- (k) Department of Veteran’s Affairs (except as provided in ORS 496.182(6));
- (l) Department of Corrections;
- (m) Oregon State Board of Higher Education; and
- (n) Any other state agency that owns, leases or holds a recorded easement for land.

The department used the State Lands Inventory (SLI) Database (managed by Department of State Lands), the Oregon Watershed Enhancement Board's (OWEB) Easement Acquisition polygon dataset, and the National Conservation Easement Database (NCED; managed by Ducks Unlimited and Trust for Public Lands) to identify state owned or managed lands within 35 miles of the Oregon Coastline. The U.S. Forest Service Northwest Forest Plan's 2012 Marbled Murrelet Habitat Model was downloaded from the NW Forest Plan website, and any properties that did not include any modeled Marbled Murrelet habitat were removed from the analysis. The size of each property mapped in the SLI and OWEB dataset was calculated using GIS (no additional state agency land was identified from the NCED). Maps and total acreage were generated for each agency with potential Marbled Murrelet habitat. Department staff consulted and coordinated with those state agencies to discuss and verify the initial assessment of their ownership of Marbled Murrelet habitat.

After a review of these outputs, staff recommends Commission approval to notify the following state agencies that they own, manage, lease, or hold recorded easements on lands that can play a role in the conservation of Marbled Murrelets in Oregon:

1. Oregon Department of Fish and Wildlife (ODFW);
2. Oregon Department of Forestry (ODF);
3. Oregon Parks and Recreation Department (OPRD);
4. Oregon Department of State Lands (ODSL);
5. Oregon Department of Transportation (ODOT);
6. Oregon Military Department (OMD);
7. Oregon Department of Corrections (ODOC);
8. Oregon Department of Aviation (ODA);
9. Oregon Youth Authority (OYA); and
10. Oregon Watershed Enhancement Board (OWEB) (recorded easements).

OPTIONS

Option 1 – Approve the staff recommendation of the list of state land owning or managing agencies that can play a role in the conservation of the Marbled Murrelet.

Option 2 – Modify the staff recommendation of the list of state land owning or managing agencies that can play a role in the conservation of the Marbled Murrelet.

STAFF RECOMMENDATION

Option 1

DRAFT MOTION:

I move to approve the staff recommendation and determine that the following state land owning or managing agencies can play a role in the conservation of the Marbled Murrelet in Oregon: ODFW, ODF, OPRD, ODSL, ODOT, OMD, ODOC, ODA, OYA, and OWEB. Staff is directed to prepare a letter for Chair Wahl to notify those agencies of the Commission's determination.

Effective Date: *Upon Approval*