

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[FWS-R1-ES-2019-N109;
FXES11140100000-190-FF01E00000]

**Final Environmental Impact Statement
for Amending the 1997 Washington
State Trust Lands Habitat
Conservation Plan To Include a
Marbled Murrelet Long-Term
Conservation Strategy**

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), and the Washington State Department of Natural Resources (WDNR) have jointly developed a final environmental impact statement (FEIS), which analyzes the WDNR's proposal to amend the 1997 State Trust Lands Habitat Conservation Plan (HCP) to include a long-term conservation strategy (LTCS) for the federally listed marbled murrelet. This FEIS is intended to satisfy both the National Environmental Policy Act and the State Environmental Policy Act. The WDNR has requested an amendment to its existing incidental take permit (ITP) under section 10 of the Endangered Species Act. The proposed ITP amendment would allow the WDNR to implement a LTCS, and would replace the interim conservation strategy for the marbled murrelet, which is currently being implemented under the HCP. If approved, the LTCS is expected to be in place for the remainder of the ITP term, which is approximately 50 years.

DATES: The Service's ITP decision will occur no sooner than 30 days after publication of the U.S. Environmental Protection Agency's (EPA) notice of availability of the FEIS in the **Federal Register**, and will be documented in a record of decision (ROD).

ADDRESSES: You may obtain copies of the documents by any of the following methods:

- **Internet:** <https://www.fws.gov/wafwo/> or www.dnr.wa.gov/non-project-actions.

- **Upon Request:** You may call Tim Romanski, at 360-753-5823, or Heidi Tate, WDNR, 360-902-1662 to request alternative formats of the documents, or to make an appointment to inspect the documents during normal business hours at the U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Dr. SE, Suite 102, Lacey, WA 98503 or Washington Department of Natural Resources, SEPA Center, 1111 Washington Street, Olympia, WA 98504-7015.

FOR FURTHER INFORMATION CONTACT: Tim Romanski, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office (see **ADDRESSES**); telephone: 360-753-5823; email: Tim_Romanski@fws.gov. Hearing or speech impaired individuals may call the Federal Relay Service at 800-877-8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a final environmental impact statement (FEIS) addressing the Washington Department of Natural Resources' (the applicant's) proposed amendments to their Habitat Conservation Plan (HCP). The applicant is seeking an amendment to their incidental take permit (ITP) authorizing take of marbled murrelet (*Brachyramphus marmoratus*), listed as threatened under the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*). If issued, the ITP would authorize take of the marbled murrelet that may occur incidental to forest management activities on 1.38 million acres of Washington State trust lands managed by WDNR within the range of the marbled murrelet. The original ITP also authorized take of several other species, including the northern spotted owl (*Strix occidentalis caurina*) and the bull trout (*Salvelinus confluentus*); no changes to the take authorization for these species have been requested.

The proposed HCP amendment describes the anticipated amount of take of the marbled murrelet, and the steps the applicant will implement to minimize and mitigate the impacts of that taking. The HCP amendment also describes the life history and ecology of the marbled murrelet, the impact of the anticipated taking on affected murrelet populations, adaptive management procedures, and take monitoring procedures.

The Service prepared the FEIS in response to an ITP application from WDNR. The Service considered comments received on the draft environmental impact statement (DEIS), and a revised draft environmental impact statement (RDEIS), in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*).

Background

The marbled murrelet, a seabird, was listed as threatened in 1992 under the ESA. In 1996, the WDNR released its draft HCP addressing the conservation of multiple fish and wildlife species, including the marbled murrelet, and forest management activities on 1.6 million acres of forested State Trust

lands within the range of the northern spotted owl in Washington.

A DEIS, dated March 1996, was jointly developed by the Service, the National Marine Fisheries Service (NMFS), and the WDNR to address the issuance of two proposed ITPs (one by the Service and one by NMFS) for the HCP, and was announced in the **Federal Register** on April 5, 1996 (61 FR 15297). The 1996 DEIS analyzed a reasonable range of alternatives, including the HCP, for forest management activities on forested State Trust lands that would be covered by the ITPs. A notice of availability for the FEIS was published in the **Federal Register** on November 1, 1996 (61 FR 56563). On January 30, 1997, the Service issued its ITP (Permit No. 812521) for the WDNR HCP. The Service's ITP decision and the availability of related decision documents were announced in the **Federal Register** on February 27, 1997 (62 FR 8980).

The WDNR HCP commits the WDNR to developing a long-term conservation strategy (LTCS). At the time the HCP was being developed, the Service and WDNR determined that producing an LTCS was not yet possible because of the lack of scientific information about the marbled murrelet and its relationship to State Trust lands. For this reason, the WDNR developed an interim conservation strategy for the marbled murrelet, which is currently being implemented. Briefly, pursuant to the interim marbled murrelet conservation strategy: (1) Suitable murrelet habitat blocks were identified and deferred from harvest; (2) a habitat relationship study was conducted using marbled murrelet occupancy surveys to determine the relative importance and quality of occupied habitats; (3) the lowest quality habitat blocks were made available for timber harvest (these were expected to contain about 5 percent of the marbled murrelet occupied sites on covered lands); (4) the higher quality habitat blocks were surveyed for marbled murrelet occupancy, and occupied (along with some unoccupied) habitats were protected; and (5) the WDNR developed an LTCS for WDNR lands. The HCP and ITP amendment process is the final step in considering and potentially approving implementation of a LTCS.

If approved, the LTCS is expected to be in place for the remainder of the permit term, until January 2067. Additionally, the term of the ITP may be extended up to three times. Each extension would be for an additional 10-year term.

Endangered Species Act

Section 9 of the ESA and its implementing regulations prohibit “take” of fish and wildlife species listed as endangered. The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31).

Under section 3 of the ESA, the term “take” means to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct” (16 U.S.C. 1538). Under section 10(a) of the ESA, the Service may issue permits to authorize incidental take of listed fish and wildlife species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Section 10(a)(1)(B) of the ESA contains provisions for issuing ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

1. The taking will be incidental;
2. The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
3. The applicant will ensure that adequate funding for the plan will be provided;
4. The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
5. The applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

National Environmental Policy Act

The proposed amendment of the WDNr ITP and the 1997 WDNr HCP to cover a marbled murrelet LTCS is a Federal action that triggers the need for compliance with NEPA (42 U.S.C. 4321 *et seq.*). The Service and WDNr have jointly developed the FEIS for the purpose of analyzing the impacts of the LTCS on the human environment for the different alternatives. The FEIS analyzes the Service’s and WDNr’s preferred alternative, six additional alternatives, and a no action alternative.

WDNR manages approximately 1.38 million acres within 55 miles of marine waters, which is the known inland limit of the nesting range for the marbled murrelet. The alternatives in the FEIS would all occur within this area. The alternatives represent a reasonable range of approaches to long-term marbled murrelet habitat conservation on WDNr lands. The alternatives differ in the amount and location of WDNr-managed forest land designated for long-term conservation of the murrelet, and also

include a variety of conservation measures proposed to protect marbled murrelet habitat. The alternatives also differ in the amount and quality of marbled murrelet habitat that will be removed through timber harvest. The alternatives are discussed in detail in the FEIS.

Public Involvement

A **Federal Register** notice of intent (77 FR 23743) to conduct public scoping meetings and to prepare an EIS for WDNr’s LTCS was published on April 20, 2012. Four public information meetings were held in Olympia, Sedro-Woolly, Cathlamet, and Forks, Washington.

A **Federal Register** notice of availability (81 FR 89135) for the DEIS was published with a 90-day comment period on December 9, 2016. The 2016 DEIS did not specify a preferred alternative. Four public information meetings were held on the DEIS in Sedro-Wolley, Seattle, Port Angeles, and Cathlamet, Washington.

In 2017, the WDNr selected a preferred alternative based on direction from the Washington Board of Natural Resources and public comments received on the DEIS. This action necessitated the development of a revised DEIS (RDEIS). A **Federal Register** notice of availability (83 FR 45458) for the RDEIS for the LTCS was published for a 60-day comment period on September 7, 2018. Four public information meetings were held in Ballard, Burlington, Cathlamet, and Forks, Washington. A **Federal Register** notice (83 FR 55394) was published on November 5, 2018, notifying the public the Service was extending the comment period on the RDEIS for 30 additional days.

EPA’s Role in the EIS Process

The EPA is charged with reviewing all Federal agencies’ EISs and commenting on the adequacy and acceptability of the environmental impacts of proposed actions in EISs. Therefore, EPA is publishing a notice in the **Federal Register** announcing this EIS, as required under section 309 of the Clean Air Act (42 U.S.C. 7401). EPA’s notices are published on Fridays. EPA serves as the repository (EIS database) for EISs prepared by Federal agencies. All EISs must be filed with EPA. You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

Next Steps

The Service will evaluate the permit amendment application, associated

documents, and public comments in reaching a final decision on whether the application meets the requirements of section 10(a) of the ESA (16 U.S.C. 1531 *et seq.*). We will evaluate whether the proposed permit action would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue an ITP amendment. If ESA section 10 ITP issuance criteria are met, we will issue the ITP amendment to the applicant. We will issue a ROD and issue or deny the ITP no sooner than 30 days after publication of the EPA’s notice of availability of the FEIS in the **Federal Register**.

Public Review

We are not requesting public comments on the FEIS and HCP amendment, but any written comments received will become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Robyn Thorson,

Regional Director, U.S. Fish and Wildlife Service.

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