



Shaping the future for birds

Please Oppose the O & C Land Grant Act, S. 1784

Logging Bill Threatens ESA Listed Birds & Forest Carbon Stores

Statement of American Bird Conservancy

Submitted to the Senate Energy and Natural Resources Committee

February 6, 2014



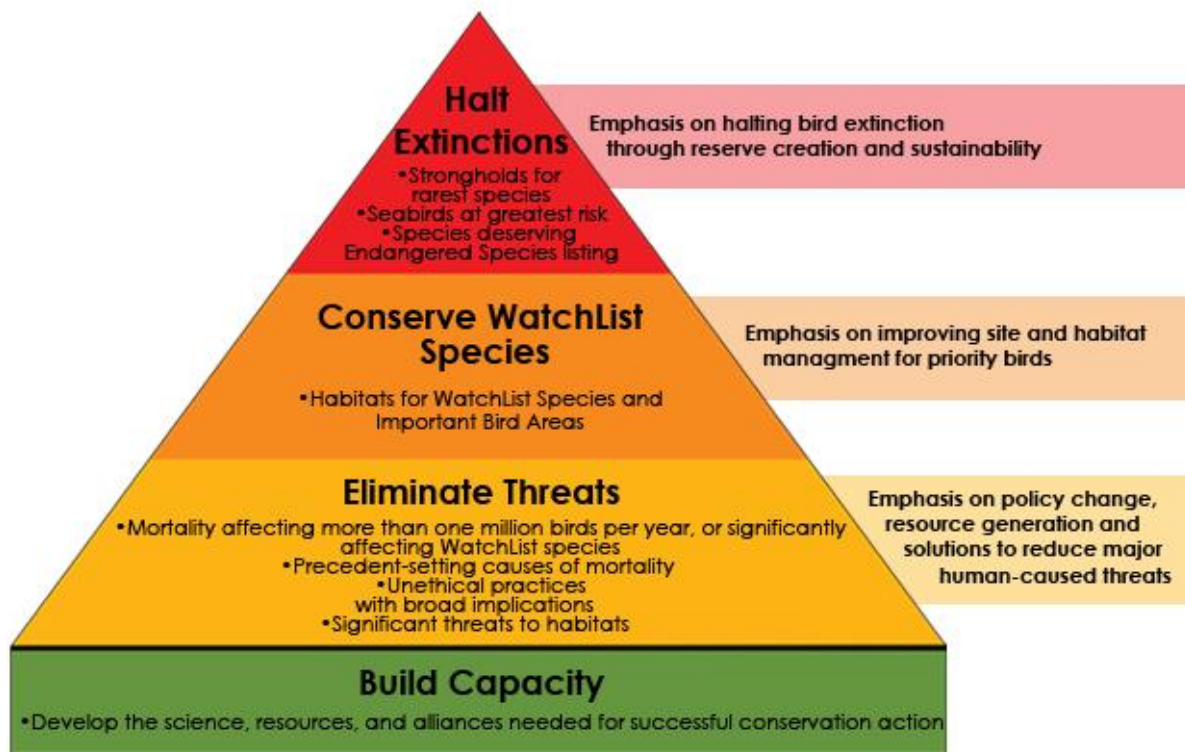
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The American Bird Conservancy Strategic Bird Conservation Framework

American Bird Conservancy works to conserve birds and their habitat throughout the Americas and has developed a unique and successful strategy to preserve bird diversity and maintain or increase wild bird populations. This strategy is fully articulated in The American Bird Conservancy Guide to Bird Conservation published in 2010 by University of Chicago Press (ISBN-13:978-0-226-64727-2).



The highest bird conservation priority is halting extinctions, followed by conserving and restoring habitats. In the case of the Northern Spotted Owl and Marbled Murrelet, it is being proposed to place lower priority general habitat needs before the specific needs of these endangered species, even to the point of allowing large numbers of Northern Spotted Owls and Marbled Murrelets to be killed (taken) and significant habitat to be degraded or completely eliminated for decades.

While the stated goal to improve future habitat conditions for the owl and murrelet are well-intended, this activity is not supported by peer-reviewed studies showing populations will benefit, and it is, in fact, pushing two already extremely imperiled species closer to extinction and should be immediately halted.

For more information about this statement and American Bird Conservancy's views on S. 1784, please contact Steve Holmer, Senior Policy Advisor, sholmer@abcbirds.org. For more information about American Bird Conservancy please see www.abcbirds.org.



Shaping the future for birds

Please Oppose the O & C Land Grant Act, S. 1784

Logging Bill Threatens ESA Listed Birds & Forest Carbon Stores

The O & C Land Grant Act, S. 1784, proposes to increase logging in habitat essential to the survival of two listed birds, the Northern Spotted Owl and the Marbled Murrelet. Recent analysis indicates that the population of the threatened Northern Spotted Owl continues to decline, and that the Marbled Murrelet is likely to be extinct outside of the Puget Sound area within one hundred years. The best available scientific evidence indicates that these two listed species need additional protections, not additional logging that eliminates habitat and further fragments the landscape.



Government agency reviews show that President Bill Clinton's Northwest Forest Plan has been effective at protecting drinking water supplies for millions of Americans, improving water quality and restoring forests that were decimated during decades of unsustainable old growth logging.

We now also know from climate researchers, that the Northwest Forest Plan has helped turn the region's federal forests from a source of carbon emissions into a sink. The moist mature and old growth forests

in California, Oregon, and Washington State represent a vast storehouse of carbon that could be lost to the atmosphere if logged, and that it would take centuries to recapture that lost carbon.

In addition to being harmful to the atmosphere, the bill seeks to ease habitat and oversight protections provided by the Endangered Species Act and National Environmental Policy Act, and it limits judicial review to prevent public review of resulting management decisions. One provision would prevent additional habitat protection if an ESA listing decision or critical habitat designation would require it based on the best available science. This is very significant because the U.S. Fish and Wildlife Service has a court ordered deadline to issue a new critical habitat rule for the Marbled Murrelet in 2015.

We anticipate that the combined loss of habitat due to increased logging, limits on additional habitat protection, and the loss of adequate regulatory mechanisms to conserve two listed species are likely to cause up-listings to endangered status and to jeopardize their continued existence. Therefore, we respectfully urge Senators to oppose S. 1784.

Impact on Listed Bird Species - Section by Section Review



Northern Spotted Owl, Nick Dunlop, USFWS

Sec. 2 (11) (B) Exclusion: This provision excludes unoccupied Northern Spotted Owl nest trees if located in a disturbance area. The provision is inconsistent with Recovery Action 12 of the Northern Spotted Owl Recovery Plan which calls for the conservation of features that take a long to form, such as large snags often used by owls for nesting. [In a letterⁱ](#), conservation groups called on the Obama administration to implement measures in the final Northern Spotted Owl Recovery Plan to protect post-fire forest habitats and structures used by the threatened owls and their prey. An Oct. 31 [letter to Congress](#) endorsed by 250 scientistsⁱⁱ says “legislation to expedite post-disturbance logging is inconsistent with the current state of scientific knowledge, and would seriously undermine the ecological integrity of forest ecosystems on federal lands.”

Sec. 2 (12) Old Growth: The bill defines moist old growth as trees older than 150 years and stands older than 120 years and for dry forests trees older than 150 years. The Northwest Forest Plan conserves

late-successional forest 80 years and older because it was determined that owls begin using habitat of that age, and to provide the necessary quantity of habitat needed to conserve the species.

Sec. 2 (13) Older Trees: The Northwest Forest Plan conserves late-successional forest 80 years and older because it was determined that owls begin using habitat of that age, and to provide the necessary quantity of habitat needed to conserve the species. Under this definition, stands in the 80-100 range within late-successional owl reserves could lose protection.

Sec. 102 (b) ESA and NEPA Redefined: This provision says covered land shall be managed in a manner that is “consistent with this Act.” This means that no NEPA or ESA requirements apply that are not specifically described in the bill.

Sec. 102 (c) Forestry Emphasis Areas: Federal lands are currently managed under a multiple use mandate that requires managers to evaluate and provide for a range of values while also maintaining the ecosystem. Designating Forest Emphasis Areas mandates a dominant use of these lands, which is likely to result in the degradation of non-commodity values such as clean water, carbon storage, flood control, non-timber forest products, recreational opportunities, tourism, attracting relocating businesses and workers, and wildlife habitat.

Throughout the bill are new conservation standards and land designations such as Forest Emphasis Areas that differ from the Northwest Forest Plan. While in some cases the protections being described

would be beneficial to listed species, on the whole the bill as drafted would result in an estimated 78,000 acres of owl critical habitat and late-successional forest being logged over the next twenty years.



This is an area being considered for ecoforestry on federal forest near Eugene. Steve Holmer.

According to [a chart](#) prepared by Norm Johnson with assistance from BLMⁱⁱⁱ, over 200,000 acres of late-successional reserve protected by the Northwest Forest Plan would be designated Forest Emphasis Areas and a total of 273,000 acres of critical habitat has been deemed suitable for logging. See maps on pages 19-21 showing Late-successional reserves, Marbled Murrelet and Northern Spotted Owl critical habitat that will be designated Forestry Emphasis Areas.

Sec. 102 (c) (1)-(2) Section 7 Waiver: Because this section describes specific non-discretionary management requirements upon BLM and does not provide explicit ESA compliance, then Section 7 consultation would not apply to these projects.

Sec. 103 (b) (5) Mixed Forests: The bill provides undue discretion to determine if a site is moist or dry. Given that the bill's protection of moist forests extends to stands that average 120 years, and dry forests only protect individual trees older than 150, it would be more beneficial to listed bird species to have mixed habitat to be designated as moist.

Sec. 103 (c) (4) Northern Spotted Owl: This provision allows for logging of habitat that Recovery Actions 10 and 32 of the Northern Spotted Owl Recovery Plan say should be protected, provided the U.S. Fish

and Wildlife Service certify the project will be beneficial to the owl over the long-term. Short-term harm cannot be considered. Please see the discussion beginning on page 16 concerning Ecoforestry and the Misuse of Ecosystem Management.

This section also allows projects which do not have to comply with the ESA and are harmful to owl habitat if the project is deemed to address a threat of disease, insects or fire. This is remarkably broad language that allows for just about any project in owl habitat to proceed despite Recovery Actions 10, 12 and 32 intended to protect nesting owls, forest structures needed by owls and prey, and high quality owl habitat.

Sec. 103 (c) (6) Nest Trees: This provision overrides Section 9 of the ESA prohibiting take of the Northern Spotted Owl through habitat modification.

Sec. 103 (c) (6) (B) Surveys: The bill states that nest trees in Forestry Emphasis Areas shall not be cut, but the cursory survey method prescribed limits surveys to only one day per 100 acres of timber sale. This is insufficient to be certain no owl nests are present. The current protocol requires two years of six surveys per year.

Sec. 103 (c) (6) (C) Information from Public: While this section allows for the public 14 days to provide information concerning the location of nest trees, there is no requirement the public will be notified when this 14 period begins via the consistency document required under section 104 (d).



Marbled Murrelet chick. USDA Forest Service

Sec. 103 (c) (7) Marbled Murrelet: This provision waives Section 7 consultation requirements for projects affecting Marbled Murrelet and requires BLM to “confer” with the U.S. Fish and Wildlife Service to see if the logging will provide benefits to a forest ecosystem. There has been no scientific analysis demonstrating Marbled Murrelets are likely to benefit from additional habitat loss or fragmentation, and growing evidence that forest fragmentation is a major threat to the species by enhancing predation of nests. [The Pacific Seabird Group](#)^{iv} recently sent a letter to the administration raising concerns about harm ecoforestry was likely to cause the Murrelet. [Additional information on the likely harm to Marbled Murrelets by ecoforestry is on page 17.](#)

Sec. 103 (d) (2) Ecological Forestry Principles: This provision outlines ecoforestry for moist forests. It is important to note that when peer-reviewers from The Wildlife Society, the Society for Conservation Biology and the American Ornithologists’ Union analyzed ecoforestry in the context of the Northern Spotted Owl Critical Habitat rule, they were very critical, concluding that there is a lack of supporting evidence that ecoforestry will benefit listed species, and a large amount of evidence it is likely to be harmful.

Sec. 103 (d) (2) (E) Early Seral: This provision states that less intense approaches to site preparation and tree regeneration (planting) would be used to nurture early seral ecosystems, but provides no specific standards to ensure that the result of treatments will not functionally be tree farms.



Ecoforestry creates more openings in a heavily clearcut and fragmented landscape. Francis Eatherington

Sec. 103 (d) (2) (F) Rotational Logging: This provision requires that stands managed by ecoforestry will be logged when the stand reaches its rotation age. This ensures that the stand will never grow old enough to provide quality owl or Murrelet habitat.

Sec. 103 (d) (2) (G) 120 Year Cap on Tree Age: This provision requires the development of a rotation system of 80 to 120, ensuring that no stands will reach the age limit requiring protection.

Sec. 103 (d) (3) (A) Regeneration Harvest Requirement: This provision requires that 8-12% of the moist Forestry Emphasis Area be designated for logging during each 10-year period using variable retention regeneration (i.e. clearcutting). Thus, every stand would on average be logged every 100 years.

Sec. 103 (e) Dry Forests: Ecological forestry has much weaker owl habitat protections than those of the Northwest Forest Plan and therefore, should be thoroughly tested before being applied across the landscape. The legislation would raise the age of forest protection from 80 years to 150 years, and unlike the Northwest Forest Plan no stands are protected, only individual trees. See addition discussion below concerning dry forests.

Sec. 103 (f) (1) Riparian Reserves in Forestry Emphasis Areas: The bill would significant reduce the size of riparian buffers compared to those provided the Northwest Forest Plan. It is important to note that riparian buffers were provided to not only protect aquatic species and water quality, but also terrestrial species covered by the Survey and Manage protocol, and to provide dispersal habitat for Northern Spotted Owls. Current climate adaptation policy indicates that to withstand predicted increased heavy rain events, creating larger riparian buffers would be the correct land management prescription.



Old Growth forests filter and store water. Steve Holmer.

Sec. 104 Streamlined Procedures: While we support the concept of landscape scale management, the requirement to develop two EISs that can plan for and identify all of the environmental impacts related to 10-years of logging projects is unreasonable and likely to result in inadequate conservation of all forest values. Due to other restrictions in the bill, this would be the only opportunity for meaningful public involvement for ten years' worth of timber sales.

Sec. 104 (a) (4) Additional Analysis: This provision states that no project specific NEPA analysis is required unless convincing new information regarding a significant environmental impact is raised that was not considered in the 10-year EIS. Even if circumstances have changed and more detailed analysis is needed to make an informed decision, BLM will not have to conduct an environmental assessment due to the very narrow circumstances provided in this section.

Sec. 104 (b) (1) Limiting Alternatives: This section limits the number of alternatives and limits their scope to a prescribed map to prevent analysis of different landscape

configurations that may be more beneficial to listed species. In addition, the analysis must follow prescribed logging levels and cannot analyze options that do not equally distribute the logging across the BLM districts.

Sec. 104 (b) (2) (A) Cumulative Impacts: The cumulative impact of logging in terms of the total habitat loss and fragmentation and resulting population declines are why the Northern Spotted Owl and Marbled Murrelet were listed under the ESA. By limiting the analysis to the specific action it authorizes this provision prevents the agency from analyzing cumulative impacts in the 10-year EISs.



Due to intensive logging on private and state lands in Oregon, the BLM checkerboard is readily apparent from the air or google earth. Steve Holmer

Sec. 104 (b) (2) (B) Analyses: The bill states that a timber prioritization plan, watershed analysis, dry forest landscape plan, and a most forest landscape must be developed

and utilized to draft the 10-year environmental impact statements. In (II) it states that these documents do not need to undergo NEPA analysis, and in (ii) it goes further and provides these documents an explicit exemption from NEPA.

Sec. 104 (b) (3) (B) Distributions: This provisions directs the agency to ensure that logging will evenly divided among BLM districts to ensure each district has adequate harvest and revenue to share with counties. This language undermines the concept of ecosystem management which requires an analysis of all affected values, not just timber volume in determining the appropriate location for logging, and areas where additional conservation may be required to protect listed species.

Sec. 104 (b) (4) Specific Environmental Impacts: This section lists specific values to be considered in the environmental impact statements. While we appreciate the inclusion of inventoried roadless areas, we are concerned that only Northern Spotted Owl nest trees were listed. The owl also requires foraging habitat, and its prey also has habitat needs that should be considered. Further, the Marbled Murrelet is very likely being endangered by the experimental logging proposed by the bill and should be given special consideration to determine the likely impact of extensive habitat loss that the bill proposes.

Sec. 104 (c) (3) Judicial Review: The bill places limits on judicial review including the available venues, objections can only be considered if the issue had previously been raised, and a very short timeframe of 30 days from when a project is approved to decide if litigation is warranted and to initiate a civil action.

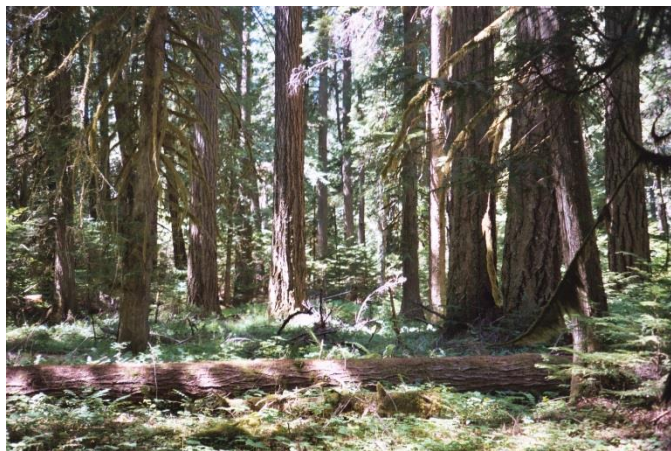


Sec. 104 (c) (3) (F) (iii) Balancing of Short- and Long-Term Effects: This provision allows the court to weigh potential long-term benefits to the ecosystem, and the possible consequences of inaction, against the certain short-term harm that is caused by removing the habitat of listed species. Given the low population numbers and declining population trends, this is a remarkable risky policy for the Marbled Murrelet and Northern Spotted Owl, that allows for essential habitat to be removed, even it may cause short-term harm to these species. The concern of course is that one or both of the species will go extinct before the long-term ecosystem benefits accrue. In the case of the Marbled Murrelet this is of particular concern because the birds like to nest in very old trees, usually 200 years and older, meaning it will be a very long time before logged Murrelet habitat will again be suitable for the species.

Sec. 104 (d) (1): Consistency Document: Instead of an environmental analysis or environmental impact statement that discloses and analyzes environmental impacts, this section requires that logging projects only need a consistency finding

that lists interested parties contacted, has a determination of no extraordinary circumstances that are undefined, and a finding that the project is “consistent” with the ten-year EIS Record of Decision.

Sec. 104 (d) (3) Cause of Action: The only challenge that can be brought against a proposed project, no matter how harmful to water quality, carbon storage, recreation hotspots or listed wildlife, concerns only whether or not it is consistent with the 10-year EIS. The only other claim that can be considered is if a species has been newly listed under the ESA. This section does not include designation of new critical habitat which is required for the Marbled Murrelet in 2015. Subsection (B) further limits the time period to only 30 days for filing a legal claim.



Jim Jontz Memorial Grove, Mt. Hood National Forest, Oregon

Sec. 104 (e) (1) (B) Assessments under the ESA: Subsection (i) requires FWS and NOAA to commence consultation within 90 days, and determine acceptable take levels for the planned projects under the 10-year EIS. We are concerned that this may be the only Sec. 7 consultation that takes place since project level consultation is made discretionary in (ii) (1). Further, severe time limits are placed on FWS and NOAA concurring that a project is not likely to adversely affect listed species or if formal consultation is required.

Sec. 104 (e) (4) Escalation: Leaves the final determination of disagreements concerning

ESA Sections 7 or 9 with the BLM.

Sec. 104 (e) (5) Applicability of the Northwest Forest Plan: This provision abolishes the Survey and Manage requirements within forestry emphasis areas. This may lead to additional species being listed under the Endangered Species Act, and will cause harm to the threatened Northern Spotted Owl by removing dispersal habitat, and to the Marbled Murrelet if nearby habitat is fragmented by logging.

Sec. 104 (e) (7) (B) Reinitiation of Consultation: This provision overturns the ESA’s Section 7 (d) prohibition against irretrievable and irreversible commitment of resources during consultation. Projects would continue while the new consultation takes place.

Sec. 104 (e) (8) Listings of Endangered Species: Under subsection (A) if new species are listed or if additional critical habitat is designated as we expect will happen for Marbled Murrelet, this provision requires some conservation areas be designated to forestry emphasis areas to compensate if forestry emphasis areas are designated critical habitat and made into conservation areas. Under subsection (B) the Secretary has 120 days to identify 10,000 acres of conservation lands that could be redesignated.

Sec. 105 (b) (1) Timber Harvest Limitations: The bill explicitly allows logging of conservation areas “to improve forest health” or in (ii) to improve the habitat of listed species over the long-term. This provision raises doubt that the conservation lands will actually be conserved, and it also appears that owl and Murrelet habitat can be logged, even if it causes short-term harm to the species, if the agency claims that there will be long-term benefits.

Sec. 115 (a) (2) Primitive Backcountry Special Management Areas: This section allows logging to improve forest health or if there is a threat of fire, insect outbreak or disease. These conditions apply to all of the approximately 43,000 acres included in the six new designations raising concern that these backcountry primitive areas may not be conserved.

Sec. 117 Land Ownership Consolidation: While we support the intent of maintaining and providing for large blocks of habitat, this language lacks specificity and based on the requirements in (a) (1-3) we are concerned that the potential impact to listed species will not be considered. The Public Interest Determination language of the bill (d) (2) does not guarantee that the public can be meaningfully involved in the determination of public interest. Further, (d) (4) limits the determination to lands of equal monetary value. Ecosystem values, and potential restoration needs and costs are not required to be considered. Based on past land exchange proposals in the region, there is valid concern is that this provision will result in old growth forests providing habitat for listed species being traded for heavily logged lands devoid of these species and in need of extensive restoration to be paid for at taxpayer expense.

Sec. 119 Closure and Decommissioning of Roads: This provision is very likely to benefit listed bird species. In subsection (iv) it prioritizes roads that if closed would enhance wildlife habitat through the restoration of large blocks of habitat. This would be particularly beneficial to owls and Murrelets. Subsection (b) authorizing the legacy roads and trails program and (4) providing \$5 million per year through 2023 will very likely benefit the forest ecosystem and listed bird species.



Oregon allows very harmful forest practices on state and private lands. Photo by Steve Holmer.

Sec. 120 Special Management Research Areas: This provision allocates 50,000 acres to carry out ecoforestry research. This includes up to 15,000 acres of conservation areas. However, subsection on (d) concerning monitoring does not require any studies to determine the impact on the populations of listed species.

Sec. 121 Compliance: This section requires the Secretary to ensure compliance only for the protection of trees 150 years and older. This is of concern because under the Northwest Forest Plan, trees within late-successional reserves 80 years and older are conserved. This bill also protects moist forest stands older than 120 years. Trees in

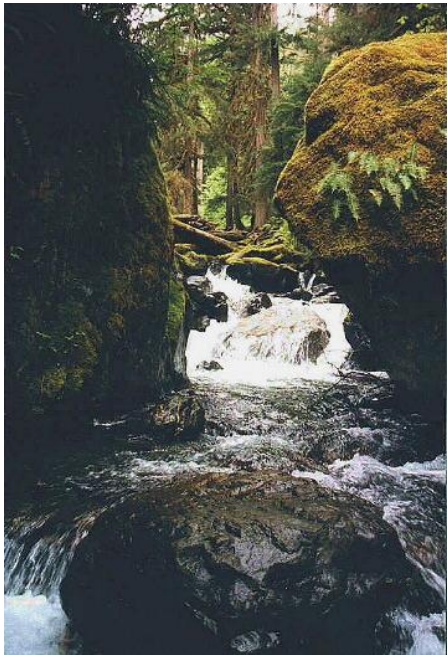
moist forests in the 120-150 age class should also be covered. In (d) (1) a penalty system is to be devised to prevent removal of old trees between the ages of 150 and 250. The provision also allows that the cutting of some small number of old growth trees cut in error. This is of great concern due to the severe shortage of very old trees capable of providing nesting platforms for the Marbled Murrelet.

Sec. 122 Review by Advisory Panel: In (a) the effect on listed species is not included on the list of values the advisory panel report must consider. It is of great concern that scientists that focus on biology are apparently being excluded from this exercise in forest policy development. The Northwest Forest Plan included a broad range of scientists, not just foresters.

Protective Designations (numerous sections): Permanently protecting forest areas should prove beneficial to the long-term well-being of the Northern Spotted Owl and Marbled Murrelet that depend on old growth forests that will likely be allowed to develop and be retained in these areas. The new designations and Old Growth Legacy Network which covers 430,000 acres of moist stands older than 120 years, protect less overall habitat than the Northwest Forest Plan late-successional reserves which protect stands older than 80 years, and has more robust riparian reserve networks. Overall, the bill promotes logging of about 60% of the forest, while only 40% is considered unsuitable for harvest.

The Northwest Forest Plan Ensures Sustainable Forest Management

[The Northwest Forest Plan](#)^v governs management of federal forests in the Pacific Northwest including the Oregon and California Lands (O & C), and according to government reviews, it is working to restore degraded forests and watersheds. The Northwest Forest Plan protects many forests over 80 years old with the goal of allowing these stands to mature into old growth and over time provide additional habitat for listed species. S. 1784 would eliminate the protection for much of the 80- to 120-year-old forests. This would prevent enough old growth forests from ever maturing and filling in the gaps in the heavily fragmented landscape to create the large blocks of wildlife habitat called for by the Northwest Forest Plan.



The Forest Service Ten Year Review of the Northwest Forest Plan found that, overall, the Plan's conservation strategy and reserve network appear to be working as designed. The total area of medium and large older forests on federal lands in the Plan increased by more than 1 million acres during the ten-year period, almost double the anticipated amount. The Plan's outcomes for Spotted Owls were expected to take at least a century. Spotted Owl population declines were expected for the first 40 to 50 years under the Plan, with owl populations stabilizing in the mid-21st Century and possibly increasing after that as owl habitat recovery exceeded loss.

A Forest Service [analysis of watershed condition](#) released in Feb. 2012 finds that the Northwest Forest Plan is working well to recover impaired watersheds across the region. Watershed Condition Status and Trend (Lanigan et al 2012) published by the Pacific Northwest Research Station analyzed data from 1994-2008, the first fifteen years of the Northwest Forest Plan and found that 69% of the watersheds in the NWFP area had a positive change in condition as a result of road decommissioning and vegetation growth. The report summary notes: "Watershed condition was most positive for congressionally reserved lands, followed by late-successional reserves, and then matrix lands."

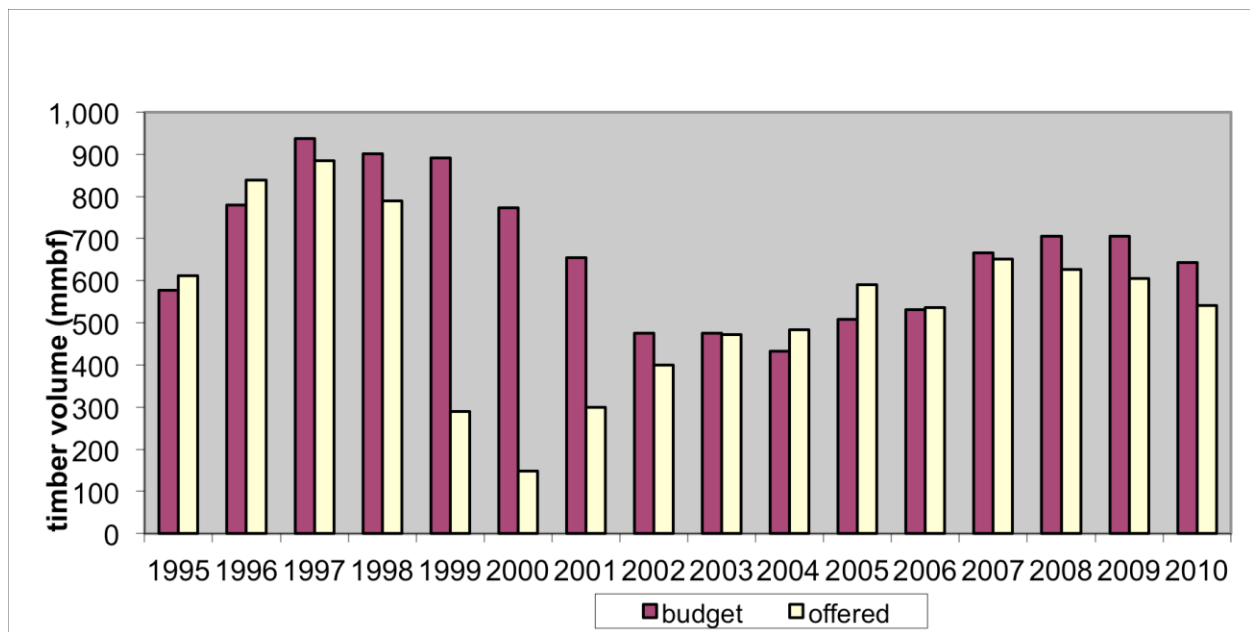
Timber Volume and the Northwest Forest Plan

While the Plan has generated complaints from interests that seek higher logging levels on federal lands, it's been producing as much timber as Congress has provided funding for, and with relatively little

controversy compared to the timber wars of the past. In addition to peace in the woods, the Plan has also provided a stable legal framework allowing for timber operations on state and private lands.

The final Northwest Forest Plan was a political compromise that under-delivered on old-growth protection by placing 42% of the remaining acres in the matrix, and overpromised on timber volume. The plan's billion board foot estimate was never realistic because it is predicated on logging old-growth, which is not supported by the public and that in practical terms has generally been ruled in violation of wildlife protection laws. The estimate was also completed prior to the designation of the riparian reserve network which turned out larger than anticipated. The Bush Administration recognized these factors to a degree, and lowered the allowable sale quantity to 800 million board feet.

A look at timber sale output in the Northwest Forest Plan region reveals the agency is at a sustainable level and meeting the volume targets budgeted by Congress. Since 2003, the budget approved by Congress and the Administration has called for 4,668 million board feet from the Northwest Forest Plan area. The agencies have offered 4,507 board feet, or 96% of the planned budget.

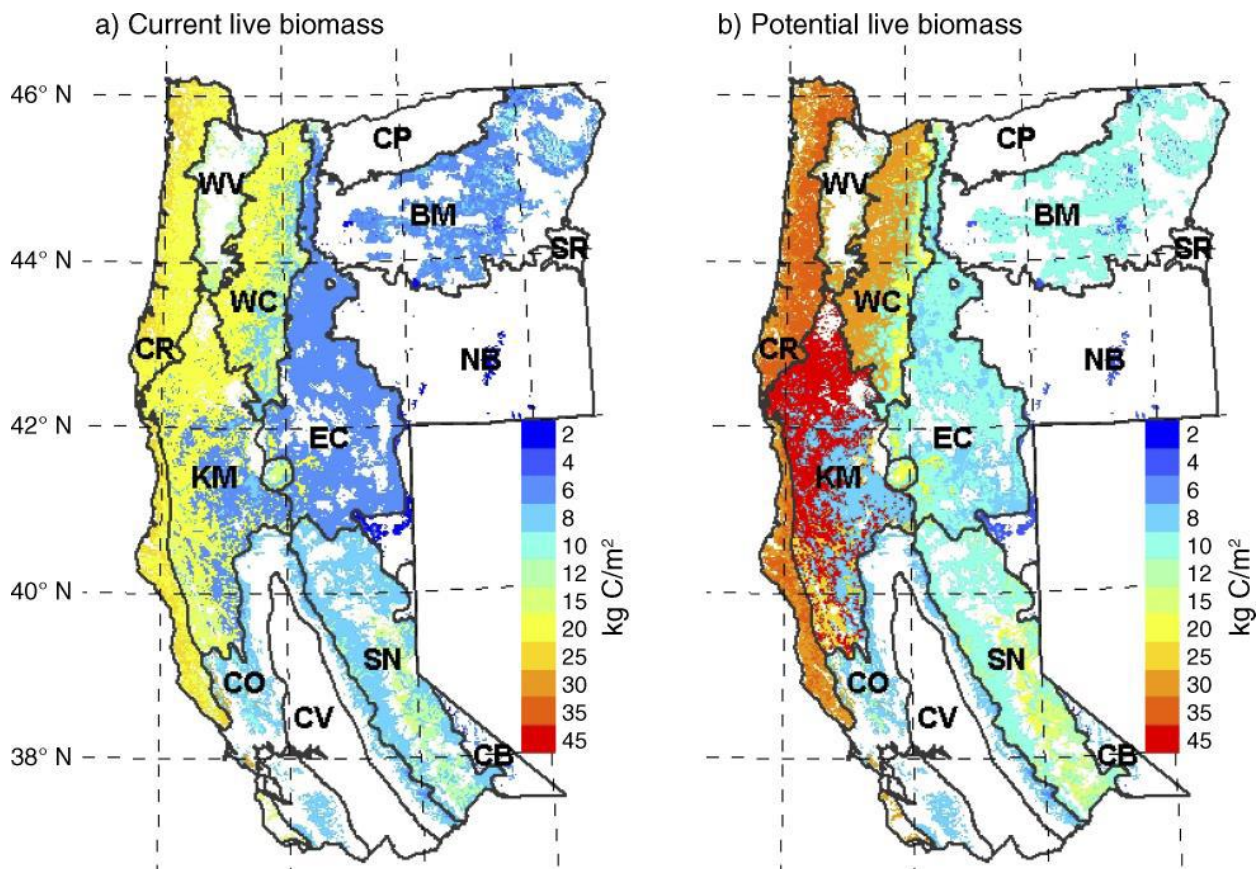
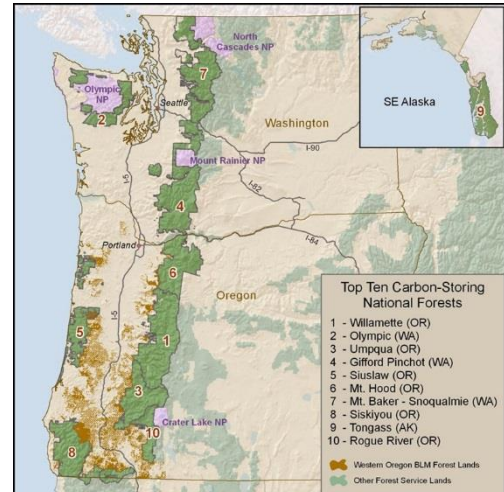


Source: Forest Service and BLM Volume Offered under Northwest Forest Plan (FY 1995 – FY 2010), Region 5 & 6, PTSAR Report, and BLM Timber Sale Information System.

In addition, [exports from the region are skyrocketing](#). In 2010 over 2 billion board feet of logs and lumber were exported from the West Coast. In 2011 it topped 3 billion. There is no shortage of logging in the Pacific Northwest.

Carbon Storage Aided by the Northwest Forest Plan

We now also know from climate researchers, that the Northwest Forest Plan has helped turn forests from a source of carbon emissions into a sink. The moist mature and old growth forests in California, Oregon, and Washington State represent a vast [storehouse of carbon](#)^{vi} that could be lost to the atmosphere if logged, and that it would take centuries to recapture that lost carbon. We also know that mature and old trees store considerably more carbon than young trees. Forest carbon scientists have concluded that these magnificent forests are only half full, in that they could store considerable more carbon if allowed to grow.

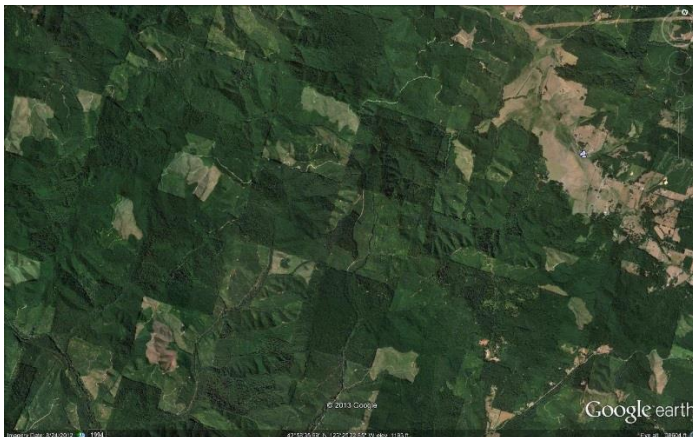


According to Dr. Beverly Law of the University of Oregon, activities to promote carbon storage in forests include allowing existing forests to continue to store and accumulate carbon, and forestation of lands that once carried forests. Natural disturbance (fire, insects) has small impact on forest carbon compared to intensive harvest, and thinning does not reduce emissions or fire occurrence. Large-scale thinning for bioenergy production is neither sustainable nor GHG neutral.

O & C Lands Critical for Maintaining Integrity of the Northwest Forest Plan

The low elevation forest lands of western Oregon managed by BLM have very high ecological values such as clean drinking water, and they provide irreplaceable habitat that links large blocks of forest in the Coast Range, Cascades, and Klamath mountains. These old, structurally-complex forests are critically important for the Northern Spotted Owl and Marbled Murrelet.

Two key assumptions behind the biological analysis supporting the Northwest Forest Plan were that (1) “[r]iparian and Late-Successional Reserves (LSRs) will retain reserve status and will not be available for timber production other than as provided in Alternative 9” and (2) “[a]lternative 9 applies to Forest Service and BLM lands; all future actions on these lands would be consistent with Alternative 9, as adopted in the Record-of-Decision (ROD).” (NWFP FEIS at 2-33 to 2-34)



O & C Checkerboard. Photo from Google Earth.

When Judge William Dwyer ruled on the legality of the Northwest Forest Plan, he indicated that the plan, which scientists had concluded must include the O & C lands to conserve listed species, was barely legal, and offered the minimum amount of protection the law allows for endangered species. The judge also confirmed that including federal forests in the plan area managed by the Bureau of Land Management was essential. This was confirmed in the analysis for the Northern Spotted Owl Critical Habitat rule:

“In some areas, for example the O & C lands, our modeling results indicated that those Federal lands make a significant contribution toward meeting the conservation objectives for the Northern Spotted Owl in that region, and that we cannot attain recovery without them.” (P. 567 draft Northern Spotted Owl Critical Habitat Rule).

Significantly altering the management of O & C Lands now is likely to upset the balance created by the Northwest Forest Plan. This could have negative implications for timber production on other federal lands managed by the Forest Service, private landowners with Habitat Conservation Plan predicated on O & C lands being conserved as well as the managers of Oregon’s state forests.

Northern Spotted Owl Critical Habitat Rule Protects Additional Federal Forests

The final Northern Spotted Owl critical habitat rule of 2012 designated 9,577,969 acres, an increase of four million acres over the old rule. It also directs the land management agencies to conserve older forest, high-value habitat, and areas occupied by Northern Spotted Owls. An estimated 1.1 million acres of occupied and high-quality owl habitat on federal lands previously designated for timber harvest now must be protected from logging.

For critical habitat designated in areas already scheduled for logging that are not considered high quality or occupied owl habitat, the rule allows “ecological forestry,” a form of clearcutting which may result in a slight, 10 percent increase in timber production over thinning. Controversy continues over this practice which is not supported by peer-reviewed studies showing that owl populations will benefit. Other studies indicate that both the Northern Spotted Owl and Marbled Murrelet will likely be harmed by ecological forestry.

Ecological Forestry

The intent of ecological forestry is to attempt to increase harvest while conserving essential habitat. In practice, ecological forestry is a more benign form of clearcutting than currently occurs on private and state lands in Oregon. But it is very important to note that currently, clearcutting is rarely allowed on federal lands as a result of impacts it has to wildlife habitat and water quality. Ecological forestry is therefore a step in the wrong direction because it would harm federal lands compared to current thinning efforts.

Misuse of Ecosystem Management



Owlets. Photo by USFWS.

The Northwest Forest Plan is first and foremost, a multispecies management plan for listed species including the Northern Spotted Owl, Marbled Murrelet and salmon stocks that provides the land management agencies with an adequate regulatory mechanism to comply with the Endangered Species Act. The Northwest Forest Plan promotes an ecosystem management approach with the specific goal of protecting those listed species and perpetuating the late-successional forest ecosystem. The Final Rule misapplies the Northwest Forest Plan’s ecosystem management approach to promote ecological forestry which has not been adequately field tested or monitored, and is

likely to be detrimental to Marbled Murrelets and listed salmon by increasing fragmentation.

Comments from Peer Reviewers

A review of the peer reviews of the draft Critical Habitat Rule indicates that:

1. There is no scientific consensus on how to manage forests within the range of the Northern Spotted Owl
2. There are currently no studies showing owl populations benefit from logging, and
3. There are numerous studies showing potential harm to the owl, its prey based, and to other listed species such as the threatened Marbled Murrelet as a result of logging.

Active Management

“Reviewers were divided on the risks posed by climate change and forest health, and whether active management should be applied within critical habitat.” (p. 491)

“Three reviewers disagreed with some of the science that was cited, or the interpretation of that science, and noted that the discussion did not adequately address studies that have documented negative effects of timber management on northern spotted owls and their prey.” (P. 494)

“Four reviewers indicated that parts of the document were unclear on whether ecological science was applied appropriately, and highlighted the lack of understanding about how such management actions may affect owls and their prey. Two reviewers specifically indicated that they did not think that approach is appropriate.” (P. 494)

“Five reviewers believed that the risks were not appropriately balanced, that the discussion was too vague in weighing the tradeoffs, or that there is too little specific scientific understanding of the explicit tradeoffs to conduct an informed discussion. Several of these reviewers indicated that there was too much emphasis on active management in the preamble to the proposed rule given the lack of understanding about how ecological forestry and restoration management might affect owls.” (P. 495)

Marbled Murrelet Threatened by Ecoforestry

Other listed species may also be harmed by the proposed active management of the Northern Spotted Owl such as the Marbled Murrelet. The draft Northern Spotted Owl Critical Habitat Rule’s Environmental Assessment found that “Active forest management that is in the vicinity of murrelet nesting stands may be detrimental to the species survival and recovery.” (p. 61 of the draft rule)



Marbled Murrelet juvenile. Photo by USFWS.

This results from increased fragmentation and opening the forests to crows, ravens, and jays, increasing predation pressure on nesting murrelets. Despite this, there was no prohibition in the final Rule on the proposed active management to ensure murrelet nesting stands will not be disturbed, and notably, the fact that active management may be detrimental to Murrelet nesting stands was not even mentioned.

Active management, if conducted near nesting murrelets will likely be harmful. There are also indications the prey base of the Northern Spotted Owl could also be harmed by active management including thinning, but these factors are glossed over by the final Rule. And unlike the Northwest Forest Plan,

there is no detailed analysis determining how other listed species will fair under the active management being proposed by the Rule.

[Conservation groups](#)^{vii} and scientific societies recently sent letters to President Obama urging the formation of a new conservation initiative for the threatened Marbled Murrelet which nests in mature and old-growth forests near the coast. A recent study by the U.S. Fish and Wildlife Service and the USDA

Forest Service finds that the Marbled Murrelet has declined by 29% over the last decade. Researchers have concluded current conservation efforts aren't sufficient to reverse this trend and that additional measures, including additional habitat protection are urgently needed.

Lack of Scientific Evidence for Active Management to Create Early Seral Habitat

While early seral habitats are desirable for some species, logging is not the best means to establish this type of habitat within the range of the Northern Spotted Owl. We recommend that agency utilize natural disturbances and refrain from post-fire logging because wildfires have the potential to create abundant high-quality early-successional habitats and features needed by the Northern Spotted Owl and its prey.



There is an overabundance of early seral habitat in Oregon, but it is of low quality due to intensive post-logging prep and tree planting.

There is no evidence the Northern Spotted Owl benefits from the creation of early seral habitat, nor is there analysis showing what potential harm may come to the threatened species if various levels of direct take and habitat loss or degradation were to occur.

The Northern Spotted Owl Critical Habitat rule draft Environmental Assessment identified two endangered species, Fender's blue butterfly and Oregon silverspot butterfly whose open, early seral habitat such as grasslands, meadows, oak woodlands, or aspen woodlands may conflict with Northern Spotted Owl management intended to maintain closed canopy forests (p. 52). But the

assessment notes that listed plant and butterfly species and their closely associated open habitats are explicitly not included in the proposed critical habitat revision (p.50). The Service concludes on page 62: *"that designation of critical habitat for the Northern Spotted Owl in this alternative would have a neutral effect on those species associated with open, early seral habitats."*

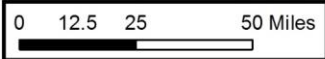
We see no justification to convert nesting, roosting, and foraging habitat of the Northern Spotted Owl to early-seral. Under the Northwest Forest Plan restoration of owl habitat, when it occurs, should hasten creation of owl habitat, not set it back by many decades.

In the final Northern Spotted Owl Critical Habitat rule the U.S. Fish and Wildlife Service recommends conserving old-growth trees and forests on wherever they are found, including in the matrix lands. The Rule also recommends that for the moist forests in the West Cascades/Coast Ranges of Oregon and Washington *"...to conserve stands that support northern spotted owl occupancy or contain high-value northern spotted owl habitat (USFWS 2011, p. III-17). Silvicultural treatments are generally not needed to accomplish this goal."*

Senator Wyden's O&C Proposal Clear-cutting Western Oregon Moving the Marbled Murrelet one step closer to extinction

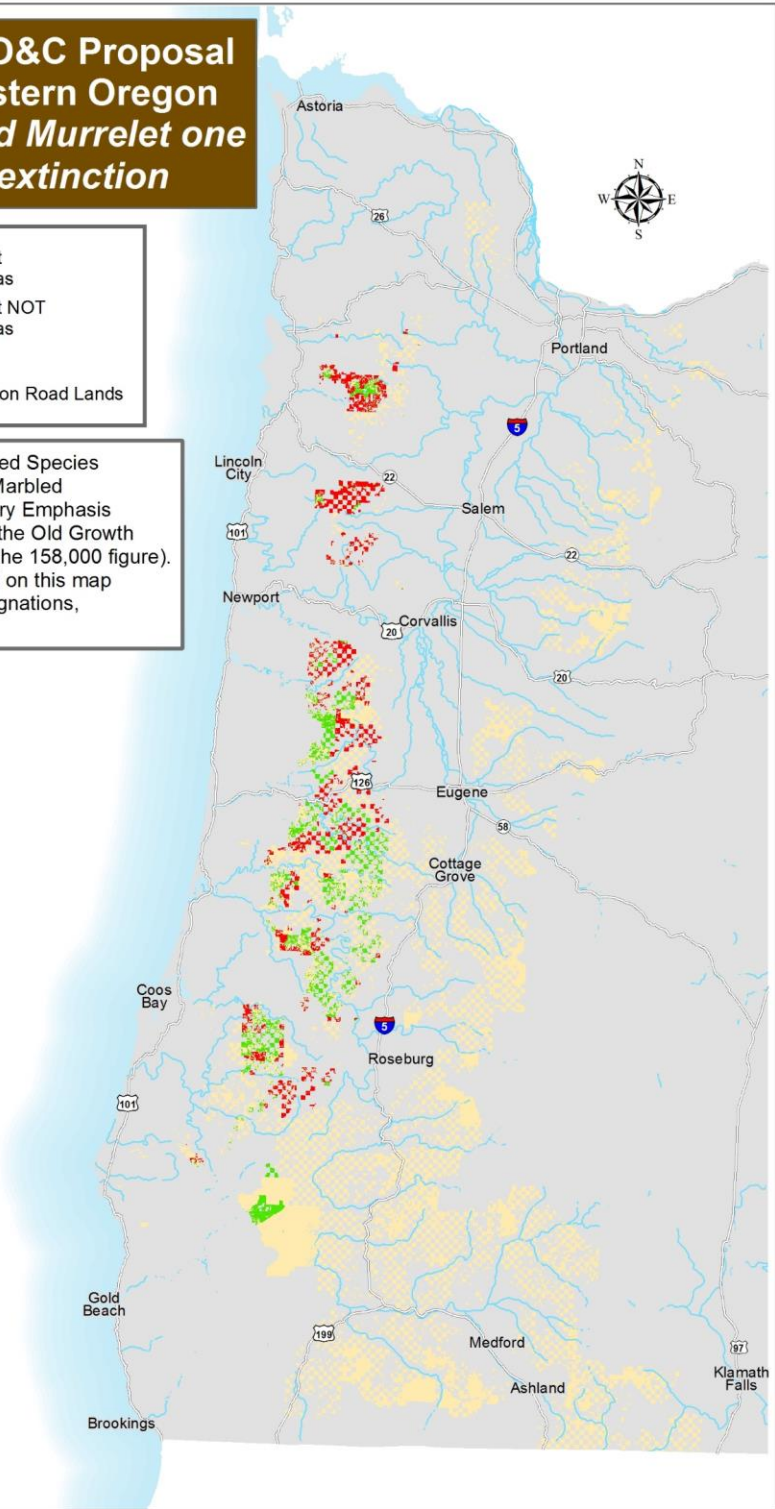
- Marbled murrelet Critical Habitat going to Forestry Emphasis Areas
- Marbled murrelet Critical Habitat NOT going to Forestry Emphasis Areas
- Rivers
- Other BLM O&C/Coos Bay Wagon Road Lands

36%, or 158,000 acres, of Endangered Species Act-required Critical Habitat for the Marbled Murrelet would be included in Forestry Emphasis Areas (those FEA lands also part of the Old Growth Legacy Network are not included in the 158,000 figure). *Other Critical Habitat on BLM noted on this map will fall into a variety of different designations, some more protective than others.



OREGON WILD

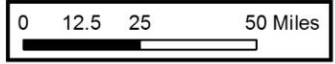
Map by Erik Fernandez 1.30.14



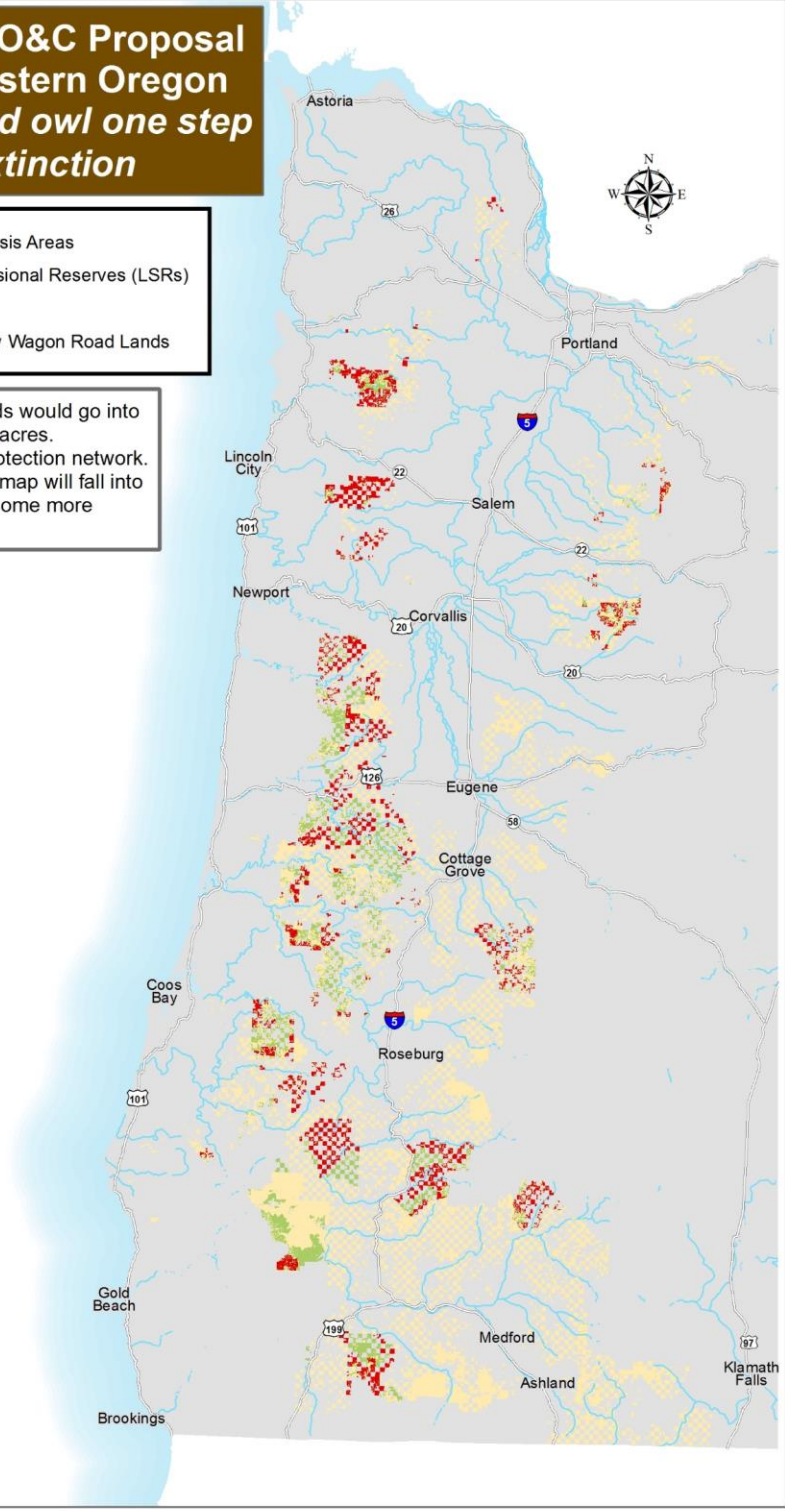
Senator Wyden's O&C Proposal Clear-cutting Western Oregon *Moving the spotted owl one step closer to extinction*

- LSRs going to Forestry Emphasis Areas
- *Other BLM O&C Late Successional Reserves (LSRs)
- Rivers
- Other BLM O&C and Coos Bay Wagon Road Lands

36% of the LSRs on BLM O&C lands would go into Forestry Emphasis Areas. 276,000 acres. This accounts for the old-growth protection network. *Other LSRs on BLM noted on this map will fall into a variety of different designations, some more protective than others.



Map by Erik Fernandez 1.29.14



Senator Wyden's O&C Proposal Clear-cutting Western Oregon *Moving the spotted owl one step closer to extinction*

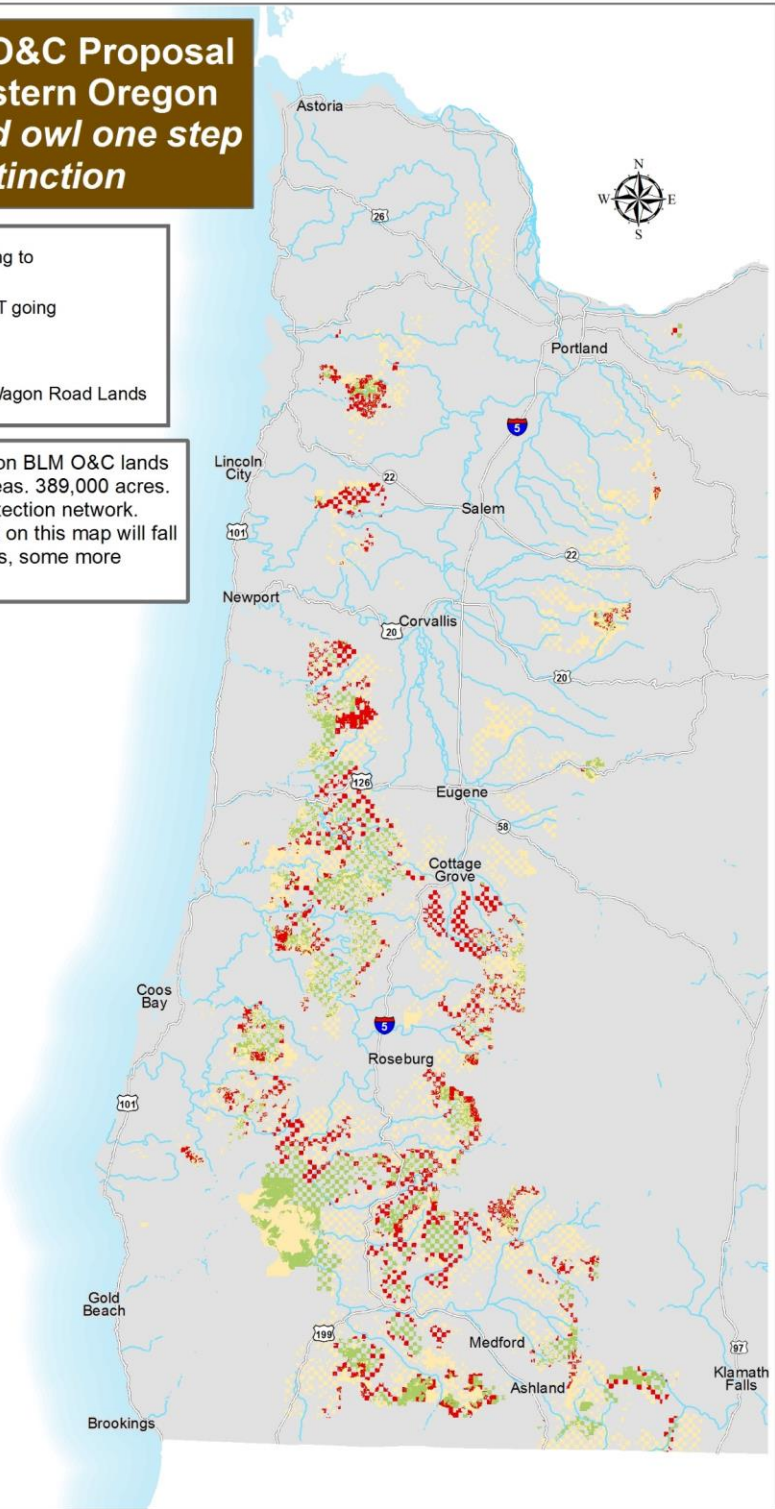
- Spotted Owl Critical Habitat going to Forestry Emphasis Areas
- Spotted Owl Critical Habitat NOT going to Forestry Emphasis Areas
- Rivers
- Other BLM OC and Coos Bay Wagon Road Lands

35% of Spotted Owl Critical Habitat on BLM O&C lands would go into Forestry Emphasis Areas. 389,000 acres. This accounts for the old-growth protection network.
*Other Critical Habitat on BLM noted on this map will fall into a variety of different designations, some more protective than others.



OREGON WILD

Map by Erik Fernandez 1.29.14



Additional Resources

- A. [Open Letter to President Barack Obama](#) from 229 Scientists in Support of Northwest Forest Plan
- B. [The Wildlife Society Peer Review](#) of the 2010 Draft Revised Recovery Plan for the Northern Spotted Owl. This peer review was highly critical of ecoforestry.
- C. [Summary of Key Findings](#), Northwest Forest Plan: The First 15 Years (1994-2008), (Davis et al 2011), R6-RPM-TP-03-2011
- D. [Watershed Condition Status and Trend](#) (Lanigan et al 2012), General Technical Report PNW-GTR-856, February 2012
- E. Comments on draft Northern Spotted Owl Critical Habitat Rule by [American Bird Conservancy](#)
- F. Comments on draft Northern Spotted Owl Critical Habitat Rule by [Society for Conservation Biology](#). This peer review was highly critical of ecoforestry.



ⁱ Conservation groups' letter on [Recovery Action 12](#),

http://www.abcbirds.org/PDFs/spotted_owl_recovery_action12_letter.pdf

ⁱⁱ http://geosinstitute.org/images/stories/pdfs/Publications/Fire/Scientist_Letter_Postfire_2013.pdf

ⁱⁱⁱ Document prepared by Norm Johnson with technical assistance from BLM staff; 11/22/13,

http://www.blm.gov/or/landgrant/files/oc_wyden_handout_11_22_13.pdf

^{iv} http://www.pacificseabirdgroup.org/policy/PSG_President.MAMU.pdf

^v

http://www.geosinstitute.org/images/stories/pdfs/Publications/FederalLandsManagement/nwfp_scientist_letter_14june2012.pdf

^{vi} Letter to President Obama in support of conserving forest carbon: http://www.abcbirds.org/pdfs/cap_letter.pdf

^{vii} http://www.abcbirds.org/newsandreports/pdf/Marbled_Murrelet_Letter_May_13_13.pdf