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Western Environmental Law Center • WildEarth Guardians

May 13, 2013

The Honorable Barack Obama  
President of the United States  
The White House  
Washington D.C. 20500

**Re: Increased Protections Needed for Threatened Marbled Murrelet**

Dear President Obama:

On behalf of the undersigned conservation and scientific organizations, we are writing to respectfully request that your administration and the relevant federal agencies adopt more stringent protective measures for the Marbled Murrelet, a federally threatened bird species whose precarious status warns of the demise of the nation's most precious old-growth forests. The accelerated decline of this species is an indication that current protections for its old-growth forest habitat need to be augmented, benefitting clean air, clean water, wild salmon runs, carbon sequestration and other ecosystem services uniquely provided by these irreplaceable forests.

**Additional Habitat Protections Needed for Marbled Murrelet**

The Marbled Murrelet is an amazing seabird that in the Pacific Northwest nests in mature and old-growth trees. Due to extensive habitat loss caused by widespread logging near the coast of central to northern California, Oregon, and Washington State, a distinct population segment of the Marbled Murrelet is federally listed as threatened under the Endangered Species Act.

A recent peer-reviewed study by the U.S. Fish and Wildlife Service (FWS) and U.S.D.A. Forest Service (USFS) found that distinct population segment of the Marbled Murrelet had declined by 29% over the last decade.<sup>1</sup> This trend is consistent with the government's 2009 five-year status review of the species that concluded the population could be extinct outside of the Puget Sound area within 100 years.<sup>2</sup>

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<sup>1</sup> Recent Population Decline of the Marbled Murrelet in the Pacific Northwest. Authors: Sherri L. Miller, Martin G. Raphael et al. *The Condor*, Vol. 114 (November 2012), pp. 771-781. Cooper Ornithological Society.

([http://www.fs.fed.us/psw/publications/miller/psw\\_2012\\_miller001.pdf](http://www.fs.fed.us/psw/publications/miller/psw_2012_miller001.pdf))

<sup>2</sup> Marbled Murrelet Five Year Review [http://www.fws.gov/wafwo/pdf/Mamu2009\\_5yr\\_review%20FINAL%2061209.pdf](http://www.fws.gov/wafwo/pdf/Mamu2009_5yr_review%20FINAL%2061209.pdf)

These findings indicate that current measures to eliminate threats and protect habitat are inadequate and that additional measures are urgently needed. We urge your support for expanding habitat conservation for the murrelet on federally managed forests, including public acquisitions of private lands from willing sellers. These efforts could dovetail with salmon conservation efforts, because carefully designed conservation efforts can benefit both species.

### **Maintain Existing Critical Habitat Provisions for Marbled Murrelets**

We remain concerned about FWS's commitment to protecting murrelet critical habitat. With the recent federal district court rejection of a proposed agreement which would have vacated Marbled Murrelet critical habitat until 2018, the question of critical habitat defense remains.<sup>3</sup> While there may be reason to update the murrelet critical habitat rule to increase habitat protections, it is essential to keep the existing critical habitat in place until the regular public process to develop a new rule can run its course.

In the 5-year status review, FWS stated that although the Northwest Forest Plan protects some murrelets, without critical habitat, "conservation benefits would not likely extend to all areas currently protected for the murrelet." In addition, the protections these birds enjoy under the Northwest Forest Plan may change as forest plans are revised. Both the Bureau of Land Management (BLM) and USFS are currently undertaking plan revisions in the region that seek to alter the Plan's management standards.<sup>4</sup>

There are interests seeking to increase clearcutting and commercial thinning on federal forests and shrink the forested buffers for streams.<sup>5</sup> All of these will have serious adverse consequences for Marbled Murrelets. The administration should provide clear guidance to maintain the conservation elements of the murrelet's recovery plan, and the standards and guidelines for management spelled out in the Northwest Forest Plan.

The 1997 Marbled Murrelet Recovery Plan,<sup>6</sup> page 143, recommends greater conservation of mature forests so they can grow and provide future murrelet nesting habitat:

Consistent with the Forest Plan Record of Decision, thinning within Late-Successional Reserves should be restricted to stands younger than 80 years.... 3.2.1.2 Protect 'recruitment' nesting habitat to buffer and enlarge existing stands, reduce fragmentation, and provide replacement habitat for current suitable nesting habitat lost to disturbance events. Stands (currently 80 years old or older) that will produce suitable habitat within the next few decades are the most immediate source of new habitat and may be the

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<sup>3</sup> American Forest Resource Council v. Ashe, No. 12-111-JDB (D.D.C. March 29, 2013) (Memorandum Opinion), *available at* [http://www.biologicaldiversity.org/species/birds/marbled\\_murrelet/pdfs/2353\\_D-50\\_memorandum\\_opinion.pdf](http://www.biologicaldiversity.org/species/birds/marbled_murrelet/pdfs/2353_D-50_memorandum_opinion.pdf)

<sup>4</sup> BLM RMPs for Western Oregon, <http://www.blm.gov/or/plans/rmpswesternoregon/> and Okanogan/Wenatchee Forest Plan Revision, [http://www.fs.usda.gov/detail/okawen/landmanagement/planning/?cid=fsbdev3\\_053653](http://www.fs.usda.gov/detail/okawen/landmanagement/planning/?cid=fsbdev3_053653).

<sup>5</sup> Scientists Call Plan to Log Spotted Owl Habitat "Giant House of Cards"  
<http://www.abcbirds.org/newsandreports/releases/121009.html>

<sup>6</sup> Marbled Murrelet Recovery Plan  
<http://www.fws.gov/arcata/es/birds/MM/documents/Recovery%20Plan%20for%20the%20Threatened%20MAMU%20in%20OCA,%20OR%20and%20WA%201997-optimized.pdf>

only replacement for existing habitat lost to disturbance (e.g., timber harvest, fires, etc.) over the next century...Such stands should not be subjected to any silvicultural treatment that diminishes their capacity to provide quality nesting habitat in the future. Within secured areas, these "recruitment" stands should not be harvested or thinned.

### **Protections Needed To Buffer Marbled Murrelets from Active Management**

We remain concerned that the final 2012 Northern Spotted Owl critical habitat rule encourages active management in owl critical habitat, which, in part, overlaps with that of the murrelet. Agency analysis included in the owl rule's draft environmental assessment<sup>7</sup> indicates this active management would likely be harmful to the Marbled Murrelet:

Active forest management that is in the vicinity of murrelet nesting stands may be detrimental to the species survival and recovery. (p. 61).

Logging (clearcutting and commercial thinning) increases fragmentation, opening the forests to nest predators such as crows, ravens, and jays.<sup>8</sup> There is no prohibition in the final Northern Spotted Owl Critical Habitat Rule on the proposed active management to ensure murrelet nesting stands will not be disturbed.

### **Reserve Network on Federal Lands Needs to be Bolstered**

The existing network of late-successional reserves on federal lands in the Pacific Northwest that was designated in 1994 to conserve old growth ecosystems, including Northern Spotted Owls and listed salmon stocks, are insufficient to maintain the Marbled Murrelet on federal lands. There is inadequate mitigation of the apparent negative effects of fragmentation and human disturbance on both public and private lands to nest survival. To supplement recovery efforts we urge the Administration to halt sales of mature and old-growth forests throughout the tri-state range of the murrelet.

### **Habitat Conservation Plans are Inadequate to Protect the Marbled Murrelet**

Degradation of murrelet habitat on private, state, and federal lands continues despite the Habitat Conservation Plans (HCPs) and other agreements in place. One recent study documented a 30% loss of murrelet habitat on non-federal lands within the tri-state range between 1996 and 2006. That same study recognized timber harvest as the primary cause of habitat loss on non-federal lands.<sup>9</sup> Meanwhile, Washington State has failed to comply with its federally-approved Trust Lands HCP, which required it to develop a long-term marbled murrelet conservation strategy for approximately 1.6 million acres of state-managed trust lands

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<sup>7</sup> Draft Northern Spotted Owl Environmental Assessment, [http://www.fws.gov/oregonfwo/Species/Data/NorthernSpottedOwl/Documents/CH\\_DRAFTEnvAssmnt\\_6.1.12.pdf](http://www.fws.gov/oregonfwo/Species/Data/NorthernSpottedOwl/Documents/CH_DRAFTEnvAssmnt_6.1.12.pdf)

<sup>8</sup> Marbled murrelet nest predation risk in managed forest landscapes: dynamic fragmentation effects at multiple scales, <http://www.ncbi.nlm.nih.gov/pubmed/19688934>

<sup>9</sup> Falxa et al. 2011. *Marbled Murrelet Effectiveness Monitoring; Northwest Forest Plan; 2009 and 2010 Summary Report; Executive Summary* at 2.

within the range of the murrelet. And despite the Conservation Plan now being ten years overdue, Federal and state agencies in Washington continue to allow significant fragmentation to take place through timber extraction activities.

In Oregon where no murrelet HCPs currently exist, a federal judge has temporarily halted eleven proposed timber sales in murrelet habitat on State Forests in Oregon including the Elliott State Forest. It is also notable that the Elliott State Forest was excluded from the murrelet's 1996 final critical habitat rule because it was included in the State of Oregon's HCP at the time. Subsequently, the State of Oregon pulled out of the HCP to increase timber production in murrelet habitat.

### **Recommendations to Improve Marbled Murrelet Protections**

Based on the ongoing decline of this species and the rarity of its remaining mature and old-growth forest habitat, we offer the following recommendations and request you direct the USFS and BLM to develop an environmental impact statement for Marbled Murrelet conservation under the direction of scientists and murrelet conservation experts. Restoring the Marbled Murrelet population will necessitate:

- Protecting existing suitable habitat, both occupied and unoccupied, from logging and other harms.
- Recruiting additional suitable nesting habitat, by letting mature and younger forests grow.
- Preventing fragmentation (including clearcutting or commercial thinning) of the land around suitable habitat, maintaining protective cover from nest predators.
- Increasing the size of and strengthening the standards for buffers surrounding the nesting sites.
- Maintaining federal ownership and Forest Service, BLM, and U.S. Park Service management control of murrelet habitat on federal lands.

In addition, the following measures should be taken near occupied sites to minimize the risks of predation and disturbance:

- Minimize the construction of campgrounds, roads, and off-highway vehicle trails in close proximity to murrelet nesting and suitable habitat. In areas where campgrounds occur in or near murrelet habitat, nesting success is near zero.<sup>10</sup> The primary issues are the presence of garbage and food, which attract predators, and the propensity of humans to feed birds and other wildlife. Noise is less of a concern, although human presence of any kind attracts corvids (ravens, jays and crows) from miles around.<sup>11</sup>
- Install predator proof trash cans at all day use areas and campgrounds within murrelet habitat;
- Erect educational signs at all day use areas and campgrounds, and produce and distribute brochures to educate the public about murrelets and the negative effects of

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<sup>10</sup> (Santa Cruz Mountains; Peery et al. 2004)

<sup>11</sup> (Rosenberg et al. 2004; T.L. George, pers. comm.)

feeding wildlife;

- Inform residents within murrelet habitat about murrelet ecology and the negative effects of feeding wildlife (including bird feeders) and noise disturbance;
- Minimize the number of motorized trails near occupied sites or restoration areas.

These steps would offer hope for the Marbled Murrelet, a threatened species declining towards extinction, and help to preserve an ancient forest legacy for the benefit and enjoyment of current and future generations of Americans. Thank you for your attention to these concerns.

Sincerely,

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