

**FINDINGS AND RECOMMENDATIONS
REGARDING
THE PROPOSED ISSUANCE OF AN ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT AMENDMENT
FOR THE
WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES
1997 STATE TRUST LANDS HABITAT CONSERVATION PLAN AMENDMENT
ADDRESSING
A LONG-TERM CONSERVATION STRATEGY FOR THE MARBLED MURRELET**

The U.S. Fish and Wildlife Service (Service) proposes to approve the Washington State Department of Natural Resources' (WDNR) proposed amendment to its 1997 State Trust Lands Habitat Conservation Plan (HCP Amendment), and to amend the associated Incidental Take Permit (ITP Amendment) (TE812521-0). The HCP Amendment and ITP Amendment replace the 1997 HCP interim conservation strategy (interim strategy) for the federally threatened marbled murrelet (*Brachyramphus marmoratus*) with a long-term conservation strategy (LTCS).

Formulation of a LTCS was required by the 1997 HCP and the associated 1997 ITP. The WDNR-proposed LTCS differs from the 1997 HCP interim strategy, and was neither authorized through the 1997 ITP nor analyzed in the biological opinion on the 1997 ITP. Therefore, in consultation with the Service, the WDNR proposed an HCP Amendment incorporating its proposed LTCS. A biological opinion on the proposed ITP Amendment is also required and is has been completed by the Service.

The ITP Amendment would be authorized under Section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (16 USC §1531-1544; ESA). The ITP Amendment would not extend the term of the current ITP. The ITP expires on January 30, 2067, but may be extended upon request by the WDNR up to three times. The term of each extension may be up to 10 years.

This Statement of Findings and Recommendations relies on the following documents: (1) the 1997 WDNR State Trust Lands HCP (WDNR 1997) and WDNR-proposed HCP Amendment which includes the LTCS (WDNR 2019); (2) the Service's Final Environmental Impact Statement (FEIS; WDNR and Service 2019) addressing the proposed ITP and HCP amendment actions pursuant to the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. § 4321 *et seq.*); (3) the Service's biological opinion (Service 2019) addressing the proposed ITP and HCP Amendment actions pursuant to the requirements of Section 7 of the ESA; and other information in the administrative record for this permit action. The decision record for these findings and recommendations is on file at the Service's Washington Fish and Wildlife Office in Lacey, Washington.

I. DESCRIPTION OF PROPOSAL

The WDNR applied to the Service for approval of HCP and ITP amendments addressing the LTCS for the marbled murrelet for the murrelet. The HCP Amendment replaces the interim strategy for the murrelet with a LTCS. This document presents the findings and recommendations of the Service regarding WDNR's application for Service approval of the HCP and ITP amendments. Based on the findings presented below, Service staff recommend approval of the HCP and ITP amendments.

Covered Activities

Covered Activities are the same as those described in Sections 16.0 (Forest Product Sales and Other Management Activities Other Than Land Sales, Purchases, and Exchanges) and 17.0 (Land Transfers, Purchases, Sales, and Exchanges of the Implementing Agreement for the 1997 HCP). No Covered Activities have been added, deleted, or modified. The HCP Amendment addresses where Covered Activities will be implemented by establishing areas for long-term forest cover, buffers, timber-harvest deferrals, and anticipated timber harvest.

Covered Lands

Covered Lands include WDNR-managed forestlands within the range of the threatened northern spotted owl, including all such lands in western Washington and on the east slopes of the Cascade Range in Washington. The ITP covered area includes approximately 1,900,000 acres of WDNR-managed forestlands. The HCP Amendment and ITP Amendment specifically address those Covered Lands located within the inland range of the marbled murrelet or otherwise considered to be within 55 miles of marine waters. Covered Lands in this specified area encompass approximately 1,380,000 acres.

Covered Species

For the purpose of these findings and recommendations, Covered Species refers only to the marbled murrelet because that is the only species for which Service approval of the HCP and ITP amendments has been requested. The 1997 HCP and ITP also covered a suite of other listed and non-listed species, which are not addressed by the proposed action. Since ITP issuance, the threatened bull trout was added to the ITP in 1999. In 2002, ITP coverage for the endangered grizzly bears expired. ITP coverage, HCP conservation measures, and the effects of ITP implementation on all other species covered by the 1997 ITP remain unchanged.

Incidental take of the murrelet could result from Covered Activities related to timber harvest and associated activities, including but not limited to road construction, road maintenance, and equipment operation. Timber harvest and thinning can remove current or potential future murrelet nesting habitat and increase deleterious edge effects at nearby areas of nesting habitat. Roads, trails, and facilities built for access to and through WDNR-managed HCP lands can also

cause direct impacts by removing habitat and increasing disturbance effects by creating forest edges. Other disturbance effects resulting from noise and visual disturbance, predator attraction, and impulsive noises can cause both direct and indirect impacts to nesting marbled murrelets (HCP Amendment, Section 5). Cumulatively, these impacts can result in reduced habitat quantity and quality (WDNR 2019). The LTCS described in the HCP Amendment protects murrelet-occupied sites and adds new areas in which murrelet habitat will be protected and allowed to develop over the remaining term of the 1997 HCP and ITP. It is expected that some of the newly added areas would be occupied at some future time by murrelets. Portions of new areas that do not develop into nesting habitat would provide important security forest in close proximity to occupied habitat.

The HCP Amendment proposes measures to minimize and mitigate to the maximum extent practicable the effects of unavoidable incidental take of the murrelet (HCP Amendment, Section 6) in accordance with the requirements of the ESA. The FEIS was prepared to comply with the Service's responsibilities under the National Environmental Policy Act of 1969 (NEPA; 40 CFR 1505.2) and analyzes, without limitation, the effects of approving the HCP Amendment and issuing an ITP Amendment on the human environment. The FEIS analyzes the effects of: not issuing the proposed ITP Amendment (the "no action" or Alternative A describing conditions that would accrue in the absence of ITP and HCP Amendments); implementing the preferred alternative (WDNR's HCP Amendment or Alternative H); and implementing a range of additional alternatives with more and less extensive habitat protections for the marbled murrelet (Alternatives B through G). The resulting effects of each of these alternatives were compared and presented in the FEIS.

II. ANALYSIS OF EFFECTS

The effects of the requested HCP and ITP Amendment actions are fully analyzed in the Service's FEIS and biological opinion. The final HCP Amendment was evaluated in terms of the impacts likely to occur to marbled murrelet with its implementation; and further information is available in the HCP Amendment, in Chapters 4 and 5 of the FEIS, and in the biological opinion.

The biological opinion concludes that approval of the HCP Amendment and issuance of the ITP Amendment is not likely to appreciably reduce the likelihood of the survival and recovery of listed species in the wild, or to destroy or adversely modify any designated critical habitat of listed species.

III. PUBLIC INVOLVEMENT

Scoping

On September 15, 2006, the Service published a Notice of Intent in the Federal Register (FR) to conduct public scoping and prepare a joint EIS on this permit action (71 FR 54515). On the same date, WDNR published a Determination of Significance and Public Scoping Notice under the State

Environmental Policy Act (SEPA), indicating that an EIS would be prepared. The geographic scope of the proposal at that time included the Olympic Experimental State Forest, Straits, South Coast, and Columbia HCP planning units only.

After the public scoping notices were published, WDNR and the Service held four public meetings on the following dates and at the following locations in western Washington:

- September 25, 2006: Olympic Natural Resources Center, Forks
- September 28, 2006: Natural Resources Building, Olympia
- October 4, 2006: Willapa Harbor Community Center, South Bend
- October 5, 2006: Lacey Community Center, Lacey

Ten scoping comments were received during the scoping comment period (September 15 through October 30, 2006). WDNR decided not to proceed immediately with development of the EIS for the LTCS because of an economic downturn and resulting budget cuts.

In January 2012, the Service and WDNR jointly resumed development of the EIS for the LTCS pursuant to their respective authorities under NEPA and SEPA, and reinitiated and expanded public scoping due to the passage of time since the original scoping notices were published. Subsequently, the two agencies prepared a statement of need, purpose, and objectives consistent with their respective authorities in order to facilitate the identification of a reasonable range of alternatives for consideration in the EIS.

Scoping for the preparation of the 2016 draft EIS (DEIS) was conducted in two, 30-day phases. Phase 1 was initiated on April 20, 2012, when WDNR published a Public Scoping Notice and the Service published a Notice of Intent in the FR to conduct scoping (77 FR 232743). In Phase 1, WDNR and the Service requested additional public comments (over and above those received in the 2006 scoping process) related to: a proposed statement of need, purpose, and objectives; a reasonable range of alternatives; impacts that should be considered; and environmental information relevant to the analysis of the LTCS. Based on consideration of public comments, WDNR expanded the geographic scope of the proposed ITP and HCP amendments to include the North and South Puget HCP planning units. Following the publication of these Notices, WDNR and the Service held four public meetings on the following dates and at the following locations in western Washington:

- April 30, 2012: Natural Resources Building, Olympia
- May 3, 2012: Northwest Region Office, Sedro Woolley
- May 8, 2012: Cathlamet County Courthouse, Cathlamet
- May 9, 2012: Olympic Region Office, Forks

In all, about 2,040 individual comments were received during the Phase 1 scoping period (April 20 through May 21, 2012). At a Board of Natural Resources (Board) meeting in August of 2012, the Board approved the “need, purpose, and objectives” statement for inclusion in the 2016 DEIS. Subsequently, WDNR and the Service decided to conduct a second phase of scoping. To that end,

on May 13, 2013, WDNR published a “Notice of Public Meetings and Request for Comments on the Scope of an Environmental Impact Statement.” Though not required under SEPA or NEPA, Phase 2 scoping increased the opportunities for the public to learn about and provide input into the murrelet LTCS process. In Phase 2, WDNR and the Service solicited public comments on a set of conceptual alternatives for the LTCS. During Phase 2, WDNR and the Service held four public meetings on the following dates and at the following locations in western Washington:

- June 5, 2013: Natural Resources Building, Olympia
- June 10, 2013: Northwest Region Office, Sedro Woolley
- June 12, 2013: Olympic Region Office, Forks
- June 19, 2013: Pacific County Courthouse Annex, South Bend

During the Phase 2 scoping period (May 13 through July 1, 2013), 1,976 individual comments were received regarding the conceptual alternatives. After considering all public comments received in the scoping process, the scope of issues for consideration in the 2016 DEIS was narrowed. Appendix A of the 2016 DEIS contains the scoping summary report provided to the Board.

In addition to the formal scoping process, WDNR presented draft alternatives to the Board on October 15 and December 3, 2015. Public comment received during those meetings were also considered and summarized in Appendix A of the 2016 DEIS.

Draft EIS

Following scoping, WDNR and the Service developed a set of management alternatives through a collaborative process. The alternatives that were identified represented a range of different management options and reflected the ideas and concerns raised by the public and stakeholders during the entire scoping process. WDNR and the Service then jointly prepared the 2016 DEIS (WDNR and Service 2016). The 2016 DEIS analyzed a reasonable range of alternatives to identify potential environmental impacts and mitigation measures under both the NEPA and SEPA processes.

On December 9, 2016, a Federal Register Notice of Availability (81 FR 89135) was published for the 2016 DEIS that initiated a 90-day public comment period in accordance with the requirements of NEPA. A Notice of Availability under SEPA was published on November 18, 2016. The 2016 DEIS analyzed six alternatives for a LTCS for the marbled murrelet on WDNR-managed lands. The 2016 DEIS did not specify a preferred alternative for the LTCS. Following publication of these Notices, WDNR and the Service held four public meetings on the following dates and at the following locations in western Washington:

- January 10, 2017: NW Region Office, Sedro Woolley
- January 12, 2017: Whitman Middle School Auditorium, Seattle
- January 17, 2017: Port Angeles High School, Port Angeles
- January 19, 2017: Julius A. Wendt Elementary School, Cathlamet

Over 5,000 individual comments were received during the comment period. Comments came in the form of individual letters, form letters, postcards, and emails. Some commenters supported one of the alternatives analyzed, some suggested new alternatives, and others suggested changes to what was analyzed in the 2016 DEIS and what should be included in a subsequent analysis. In the FEIS, WDNR and the Service responded to all public comments received on the 2016 DEIS.

Revised Draft EIS

A Revised DEIS (RDEIS) (WDNR and Service 2018) was developed in response to public comments on the DEIS. A considerable portion of the text from the 2016 DEIS was used directly in the RDEIS. However, some key changes were made in the RDEIS. For example, the Purpose and Need statements in Chapter 1 were separated by agency. Two new alternatives were added (Alternative G and Alternative H), and the document also included new and updated analyses. The discussion of murrelet conservation measures was updated, and additional changes were made in response to public comments on the DEIS. Minor changes were made to the population viability analysis. For a description of changes made between the DEIS and RDEIS, refer to the RDEIS (“Changes between the DEIS and RDEIS” at the end of chapter 1, and Appendix O).

A 60-day comment period for the RDEIS began on September 7, 2018. The comment period was extended for an additional 30 days and closed on December 6, 2018. The comment period provided the public with the opportunity to comment on the RDEIS and the draft 1997 HCP amendment. WDNR and the Service held four public meetings on the following dates and at the following locations in western Washington:

- October 9, 2018: Rainforest Arts Center, Forks
- October 11, 2018: River Street Meeting Room, Cathlamet
- October 15, 2018: Ballard Library Meeting Room, Seattle
- October 17, 2018: Burlington Public Library Rotary Community, Burlington

Approximately 4,300 individual comments were received during this comment period. Comments came in the form of individual letters, form letters, postcards, emails, and online through a survey-type comment portal. In the FEIS, WDNR and the Service responded to all public comments received on the 2018 RDEIS.

Final EIS

Following the public comment period on the RDEIS and the draft HCP Amendment, WDNR and the Service reviewed the comments received and prepared the FEIS. WDNR also prepared and proposed its final HCP Amendment (Appendix Q). The HCP Amendment is represented by Alternative H in the FEIS. The only difference between the proposed HCP Amendment and Alternative H is that the HCP Amendment includes 907 more acres of marbled murrelet-specific conservation acres in three Special Habitat Areas in southwest Washington. Alternative H is the WDNR’s and the Service’s preferred alternative, as noted in the FEIS.

A considerable portion of the text from the RDEIS was used in the FEIS. Some data changes were made as well (refer to FEIS, “Changes between the RDEIS and the FEIS” at the end of Chapter 1). Additionally, the appendices were updated and several new appendices were added in response to public comments, including summaries of comments received on the DEIS and RDEIS and responses to those comments (FEIS, Appendix S).

The availability of the FEIS was noticed in the Federal Register on September 27, 2019 (84 FR 51172). After the FEIS was published, a total of six public comments were received from the Environmental Protection Agency, the Washington Department of Fish and Wildlife, the Marbled Murrelet Coalition, the Wildlife Diversity Council, and two private citizens. The Service considered these comments and determined that they did not represent new and/or substantive information that had not been raised during previous comment periods on the DEIS and RDEIS and responded to in the FEIS (FEIS Appendix S).

IV. INCIDENTAL TAKE PERMIT CRITERIA - ANALYSIS AND FINDINGS

Section 10(a)(2)(A) of the ESA specifically mandates that “no Permit may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) unless the Permittee therefore submits to the Secretary a conservation plan that specifies- (i) the impact which will likely result from such taking; (ii) what steps the Permit will take to minimize and mitigate such impacts, and the funding that will be available to implement such steps; (iii) what alternative actions to such taking the Permittee considered and the reasons why such alternatives are not being utilized; and (iv) such other measures as the Secretary may require as being necessary or appropriate for the purposes of the plan.”

Section 10(a)(2)(B) of the ESA mandates that the Secretary shall issue a Permit if he finds:

“...after opportunity for public comment, with respect to a Permit application and the related conservation plan that - (i) the taking will be incidental; (ii) the Permittee will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (iii) the Permittee will assure that adequate funding for the plan will be provided; (iv) the taking will not appreciably reduce the likelihood of survival and recovery of species in the wild; and (v) the measures, if any, required under subparagraph (A)(iv) will be met; and he has received such other assurances as he may require that the plan will be implemented ...”

In accordance with 16 U.S.C. § 1539(a)(2)(B), the Service makes the following findings:

(i) The taking will be incidental.

We determined that Covered Activities described in the HCP Amendment, including forest product sales and related management activities and land transfers, purchases, sales and exchanges (Section 2.2), along with the measures to avoid, minimize, and mitigate take (Section 6), and adaptive management (Section 6.4) are lawful activities. The Covered Activities remain

unchanged from those described in the 1997 HCP. Any take resulting from engaging in the Covered Activities will be incidental to, and not the purpose of the Covered Activities. Therefore, we find that the taking of covered species that may occur as a result of the Covered Activities will be incidental to otherwise lawful activities.

Incidental take that may occur as a result of these Covered Activities is expected to occur primarily through; 1) timber harvest and thinning that remove current or potential future murrelet nesting habitat, and increase deleterious edge effects at nearby areas of murrelet nesting habitat, 2) roads and trails built for access to and through WDNR-managed HCP lands that cause direct impacts by removing habitat and also increase disturbance effects by creating forest edges, and 3) other disturbance effects to nesting marbled murrelets including audio-visual disturbance, predator attraction, and impulsive noise that cause both direct and indirect impacts to nesting murrelets.

(ii) The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking.

Under the HCP Amendment, WDNR has committed to implement a variety of conservation measures for the murrelet, collectively termed the LTCS, which is intended to minimize and mitigate the impacts of incidental taking of the murrelet that may be caused by Covered Activities (HCP Amendment, Section 6).

Implementing the Amended HCP will result in take of marbled murrelets that is best quantified through the use of habitat as a surrogate due to the marbled murrelet's small size, secretive nesting behaviors, and the vast plan area. To describe and compare habitat losses and gains over time and among diverse geographies within the plan area, acreages of affected habitat of various qualities and configurations were quantitatively adjusted to account for the probability of murrelet occupancy, edge effects, location, and timing (HCP Amendment, Section 5.2). The HCP Amendment anticipates the loss of approximately 38,000 raw acres¹ of existing murrelet habitat or 11,085 adjusted acres² over the remainder of the 70-year term of the 1997 HCP. An additional 114 adjusted acres of murrelet habitat will be lost due to yarding corridors and new road construction through occupied sites, occupied site buffers, and special habitat areas (10 adjusted acres lost due to yarding corridors, and 104 adjusted acres lost due to new road construction).

The effects of the taking on the murrelet are mitigated by the LTCS under the HCP Amendment, which will establish areas for the protection of existing nesting habitat and development of future

¹ Raw acres: Acres of marbled murrelet habitat that have not been adjusted for P-stage value or other factors such as forest edges and location that can reduce the quality of the habitat (FEIS Appendix B and Appendix H).

² Adjusted acres: A quantity of marbled murrelet habitat (in acres) that has been discounted or "adjusted" for P-stage habitat value and other factors that can reduce the quality of that habitat for murrelets (FEIS Appendix B and FEIS Appendix H).

murrelet nesting habitat. The LTCS is designed to result in the addition of 11,905 adjusted acres of murrelet nesting habitat to long-term forest cover over the original 1997 ITP term. Considering the HCP Amendment as a whole, the net gain in murrelet nesting habitat on WDNR-managed HCP lands over the remaining ITP term is anticipated to be 706 adjusted acres. Total raw acres of marbled murrelet habitat in long-term forest cover on DNR-managed lands are projected to increase from 207,067 today to over 272,000 acres in 2067.

The HCP Amendment incorporates conservation measures to avoid or minimize the effects of incidental take of marbled murrelet (HCP Amendment, Table A.4). The measures include, but are not limited to, silvicultural techniques, activity-exclusion areas, timing restrictions, activity-specific buffers, and recreation management. Implementation of avoidance and minimization measures will differ according to the following four categories: murrelet-occupied sites, murrelet-occupied site buffers, special habitat areas, and other long-term forest cover.

The minimization measures and the associated monitoring and adaptive management strategies described in the HCP Amendment are intended to reduce the amount of incidental take of the murrelet. The mitigation measures are intended to rectify, reduce, and compensate for unavoidable take by strategically reducing the extent of existing threats to the murrelet through protection from timber harvest, and through buffering nesting habitat from certain anthropogenic sources of significant disturbance. As a result, the HCP is likely to promote the long-term conservation of the murrelet. We find that the proposed mitigation is commensurate with the level of murrelet take anticipated and authorized over the duration of the ITP Amendment.

The HCP Amendment describes biological goals and objectives (Sections 6.1 and 6.2) as a supplement to the goals and objectives in the 1997 HCP. The objectives have measurable targets for marbled murrelet habitat protection, development, and removal by harvest. HCP monitoring and adaptive management are intended to ensure HCP compliance and effectiveness are maintained over time (HCP Amendment, Section 6.4).

WDNR has included provisions in the HCP Amendment for reasonably foreseeable changed circumstances consistent with the terms of the existing 1997 HCP and 1997 ITP (HCP Amendment, Section 7.1). These strategies ensure that the effects of potential taking of the murrelet resulting from changed circumstances will also be minimized and mitigated to the maximum extent practicable.

Based on the above, we find that the conservation program under the HCP Amendment is likely to fully offset the impact of the taking on the murrelet, and thus that the WDNR has minimized and mitigated the impacts of such taking to the maximum extent practicable.

(iii) The applicant(s) will ensure that adequate funding for the plan will be provided.

The existing HCP and Implementing Agreement commit WDNR to adequately fund implementation of the HCP. Failure by WDNR to provide adequate funds to carry out the HCP

would be grounds for suspension of the ITP. WDNR developed and committed to implement the Amendment to the HCP along with the measures in the existing HCP. The Amendment provides for the LTCS to replace the HCP's interim conservation strategy for the marbled murrelet. The Amendment describes avoidance and minimization measures, including conservation measures and best management practices that will be followed during HCP implementation. The Amendment does not modify the funding mechanisms, and maintains the funding assurance commitments described in Section V (Plan Implementation) of the 1997 HCP and Section 18 (Funding) of the existing Implementing Agreement. Because the Amendment modifies the locations of Covered Activities without changing the type of Covered Activities or their administrative costs, the structures and mechanisms in place to fund the 1997 HCP also apply wholly and completely to the Amendment.

(iv) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.

The legislative history of the ESA establishes the intent of Congress that this issuance criteria be based on a finding of "not likely to jeopardize" under Section 7(a)(2) (see 50 CFR 402.02). As a result, issuance of the amended Permit has been reviewed by the Service under Section 7 of the ESA. The biological opinion addressing the proposed action concluded that issuance of the ITP Amendment is not likely to jeopardize the continued existence of listed species in the wild or to destroy or adversely modify designated critical habitat for listed species (Service 2019).

The effects of habitat loss in the short-term (20 years) due to implementation of the HCP Amendment are not detectable from current baseline trends, and the designation of conservation areas will have immediate positive effects on decreasing the effects of past habitat fragmentation and edge effects in strategic locations in Washington. Having found no compelling evidence for an appreciable decline in habitat distribution or population-level effects at the scale of the action area, Conservation Zone 1, or Conservation Zone 2, we conclude that the effects of the proposed LTCS to reproduction, numbers, and distribution of murrelets are not appreciable range-wide.

General criteria for murrelet recovery and delisting are established under the murrelet recovery plan (USFWS 1997, p. 114-115). These general criteria include:

- Documenting stable or increasing trends in population size, density, and productivity in four of the six Conservation Zones for a 10-year period; and
- Implementing management and monitoring strategies in the marine and terrestrial environments to ensure protection of murrelets for at least 50 years.

The proposed LTCS will contribute positively to both these recovery criteria. Replacing the interim strategy with LTCS will result in an increase of large contiguous blocks of nesting habitat on WDNR-managed lands in key locations for recovery. Under positive population growth scenarios, the LTCS has a greater likelihood of reducing the rate of population decline

and contributing to population stabilization and recovery. Because the LTCS represents a conservation commitment for 50-years or more, it ensures conservation on a time-scale that is necessary to achieve significant increases in habitat on WDNR-managed lands.

(v) The measures, if any, required under subparagraph (A)(iv) will be met; and the Secretary of the Interior has received such other assurances as (s)he may require that the plan will be implemented.

The Service provided technical assistance to WDNR in the development of the HCP Amendment, including but not limited to, commenting on draft documents, participating in numerous meetings and conference calls, attending all public meetings, and working closely with WDNR throughout the planning and document preparation phases of the proposed action to ensure that the conservation needs of the murrelet would be assured and that recovery would not be precluded by the Covered Activities. The HCP Amendment adequately incorporates our recommendations for minimization and mitigation of take impacts, as well as steps to monitor the effects of the HCP and ensure its success in meeting the HCP biological objectives. The HCP Amendment does not modify WDNR's existing reporting obligations, as described in Section 20 (Reporting and Inspections) of the Implementing Agreement and Section V (Plan Implementation) of the 1997 HCP.

To supplement the HCP adaptive management program, adaptive management measures in the HCP Amendment are expected to facilitate effective monitoring and implementation of the conservation measures, and to facilitate the identification of new tools for improvements in forest inventory technology as new information becomes available (HCP Amendment, Section 6.4). The existing provisions for Unforeseen Circumstances and Extraordinary Circumstances, as described in the Implementing Agreement and in the 1997 HCP, are not changed by the HCP Amendment. For these reasons, we find that no additional measures are required to implement the intent and purpose of the 1997 HCP and the HCP Amendment and the associated ITP.

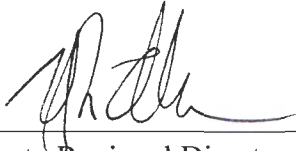
The existing ITP and Implementing Agreement establish a commitment by WDNR to implement the 1997 HCP. This existing commitment would provide assurance that the ITP Amendment will be also be implemented.

V. GENERAL CRITERIA AND DISQUALIFYING FACTORS – ANALYSIS AND FINDINGS

The Service has no evidence that the ITP Amendment should be denied on the basis of the criteria and conditions set forth in 50 CFR 13.21(b) – (c). WDNR has met the criteria for the issuance of the ITP Amendment, and there are no disqualifying factors that would prevent the ITP Amendment from being issued under current regulations.

VI. RECOMMENDATION ON PERMIT ISSUANCE

Based on the foregoing findings with respect to the proposed action, I recommend approval of the issuance of amended Permit number TE-812521-1 to the State of Washington as implemented by the WDNR, authorizing the incidental taking of fish and wildlife species including the threatened marbled murrelet in accordance with the HCP, the HCP Amendment, and the Implementing Agreement.



Acting Deputy Regional Director

NOV 14 2019

Date

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- Washington Department of Natural Resources 2019. Washington State Department of Natural Resources Final Habitat Conservation Plan Amendment: Marbled Murrelet Long-term Conservation Strategy. Olympia, Washington. 28 pp. plus appendices.
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