

FINDING OF NO SIGNIFICANT IMPACT

Issuance of an Endangered Species Act 10(a)(1)(A) Enhancement of Survival Permit for the Port Blakely Tree Farm Morton Block Safe Harbor Agreement for the Northern Spotted Owl and the Marbled Murrelet.

Introduction

The U.S. Fish and Wildlife Service (FWS) has completed an Environmental Assessment (EA) for the proposed issuance of an Enhancement of Survival Permit (Permit) for the Port Blakely Tree Farm Morton Block Safe Harbor Agreement (SHA). Issuance of the Permit would be done under the authority of section 10(a)(1)(A) of the Endangered Species Act (ESA) and would be conditioned upon full implementation of the SHA. The proposed Permit term is 60 years and would authorize incidental take of the northern spotted owl (*Strix occidentalis caurina*) and the marbled murrelet (*Brachyramphus marmoratus*) (Covered Species).

The proposed issuance of a Permit by the FWS is a Federal action that may affect the human environment and therefore is subject to review under the National Environmental Policy Act (NEPA). The EA analyzed the effects to the human environment from two alternatives, the No Action Alternative and the Proposed Action Alternative.

Decision Rationale

Following a detailed review and analysis of the EA and SHA, the FWS has selected the Proposed Action Alternative because it provides the greatest net conservation benefit for the northern spotted owl and the marbled murrelet and implementation of the proposed action is not expected to have any significant adverse effects to the human environment. This decision is based on the following information:

Northern Spotted Owl

- Dispersal habitat will be provided in a Federal Conservation Support Area (CSA) and also outside of the CSA.
- Dispersal habitat will be provided in excess of the baseline for permit term.
- Dispersal habitat will improve in quality over the permit term.
- A snag conservation and creation program will be implemented.
- The rotation age will average 60 years.
- Special-Set-Aside Areas and Special Management Areas will be protected.
- Created snags will be monitored and provide opportunity for future research.

Marbled Murrelet

- Protection of 498 acres of potentially suitable habitat is ensured.
- There will be an increase in marbled murrelet habitat on private lands where there currently is little to none.
- The increased distribution of habitat that may provide some resilience from stochastic events.

Human Environment

- There will be no significant impacts to other fish and wildlife species.
- There will be no significant impacts to the human environment including vegetation, wetlands, water quality, geology and soils, cultural resources, land use, socioeconomics, and climate change.

Description of the Alternatives

No Action Alternative

Under the No Action Alternative the SHA would not be implemented and the FWS would not issue a Permit. Under this alternative, Port Blakely would continue to conduct its forest-management activities in accordance with applicable Forest Practices Rules and would not develop a Landowner Option Plan (LOP) to address the Spotted Owl Special Emphasis Area (SOSEA) goals for northern spotted owls nor develop a Cooperative Habitat Enhancement Agreement (CHEA) for marbled murrelets. Potential impacts on the human environment from the No Action Alternative were analyzed in the Environmental Impact Statement prepared for the Forest Practices Habitat Conservation Plan (USFWS and NMFS 2006) and are considered to be the baseline condition for the covered lands.

Proposed Action Alternative

Implementation of the Proposed Action (the SHA) is consistent with the 2008 *Recovery Plan for the Northern Spotted Owl*. The *Recovery Plan for the Northern Spotted Owl* identified CSA's on private and State-owned lands between or adjacent to Federal lands that could contribute to spotted owl recovery. The SHA occurs between Federal lands in the Mineral CSA. The stated purpose of the Mineral CSA is for demographic and dispersal support; however, 99 percent of Port Blakely lands in the CSA occur in the area designated for dispersal support. Thus, the SHA has been developed for the purpose of improving dispersal habitat. In addition, Recovery Action 13 in the recovery plan for the northern spotted owl identified SHA's as an important tool for nonfederal landowners to voluntarily contribute to spotted owl recovery.

Implementation of the SHA is also consistent with the 1997 *Recovery Plan for the Marbled Murrelet*. Recovery efforts should be directed toward increasing the size and distribution of marbled murrelet populations and not furthering the gap in distribution between the Olympic Peninsula and southwestern Washington. The primary goal for nonfederal lands is the protection of occupied sites. There currently are no occupied sites on SHA lands; however, over the permit term as forest stands over 81 years old mature, the likelihood of occupancy increases. The SHA will protect all stands that are both over 81 years old and more than 7 acres in patch size for the life of the SHA. These areas total 498 acres. The 1997 Recovery Plan (section 3.2.2) also states the importance of developing habitat and improving the distribution of habitat, which the SHA is intended to accomplish. There is no designated critical habitat on any Port Blakely lands proposed to be covered under the SHA. There is one very small Port Blakely parcel (approximately 40 acres) adjacent to critical habitat.

Implementation of the SHA will provide enhanced forest conservation and management that will directly benefit the two covered species, will indirectly benefit other forest-dependant species, and will not lead to significant impacts to the human environment, including vegetation, wetlands, water quality, geology and soils, cultural resources, land use, socioeconomics, and climate change.

Public Involvement and Review

A Federal Register notice (73 FR 76680) for the draft Safe Harbor Agreement and draft Environmental Assessment was announced on December 17, 2008, for a 30-day public- review period. The Federal Register notice referenced the Western Washington Fish and Wildlife Office web site for availability of draft documents for this proposal. The options to respond electronically, by telephone, or in writing were all available. A news release went to State and Federal elected officials, Native American Tribes, nongovernmental organizations, and the media. The FWS received only one comment letter, from the Washington Department of Fish and Wildlife (WDFW). The letter from the WDFW was supportive of the SHA, but did ask for certain areas of clarification. The comments and the response are attached to this document.

Conclusions

Based on review and evaluation of the information contained in the supporting references, I have determined that the Proposed Action is not a major Federal action that would significantly affect the quality of the human environment, within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969, as amended. Accordingly, the FWS is not required to prepare an environmental impact statement for this action. Furthermore, I have found that implementing the Proposed Action will provide conservation benefits to the northern spotted owl and the marbled murrelet and have no significant impacts on any of the environmental resources identified in the EA.

This Finding of No Significant Impact and supporting references are on file and are available for public inspection, by appointment, at the following U. S. Fish and Wildlife Service offices:

Washington Fish and Wildlife Office
510 Desmond Drive SE
Suite 102
Lacey, WA 98503
Contact: Mark Ostwald

Pacific Region Office
911 NE 11th Ave
Portland, OR 97232
Contact: Rick Amidon

Interested and affected parties are being notified of our decision.

for Ken S. Berg

David J. Wesley
Deputy Regional Director

3/12/09

Date

Documents Incorporated by Reference

- ICF Jones & Stokes. 2009. Safe Harbor Agreement, Landowner Option Plan, and Cooperative Habitat Enhancement Agreement: Port Blakely Tree Farms, Morton Block. February (ICF J&S 00209.07). Olympia, Washington. Prepared for Port Blakely Tree Farms, L.P.
- U. S. Fish and Wildlife Service. 2009. Final Environmental Assessment for the Port Blakely Tree Farms Morton Block Safe Harbor Agreement. February 2009. U. S. Fish and Wildlife Service. Lacey, Washington
- U. S. Fish and Wildlife Service and National Marine Fisheries Service. 2006. Final Environmental Impact Statement for the Proposed Issuance of Multiple Species Incidental Take Permits or 4(d) Rules for the Washington State Forest Practices Habitat Conservation Plan. U.S. Fish and Wildlife Service, Portland, Oregon and National Marine Fisheries Service, Seattle, Washington

Literature Cited

- U.S. Fish and Wildlife Service. 1997. Recovery Plan for the Threatened Marbled Murrelet (*Brachyramphus marmoratus*) in Washington, Oregon, and California. U.S. Fish and Wildlife Service. Portland, Oregon, 203 pp.
- U.S. Fish and Wildlife Service. 2008. Final Recovery Plan for the Northern Spotted Owl, *Strix occidentalis caurina*. U.S. Fish and Wildlife Service, Portland, Oregon. xii + 142pp.

**Port Blakely Tree Farms Morton Block Safe Harbor Agreement
Response to Comments on Public Draft Environmental Assessment and Safe Harbor Agreement**

Comment Number	Comment	Response
Safe Harbor Agreement		
1	Page 1-4. There is a statement made relative to the predominant function of the Federal Recovery Plan Conservation Support Area being that of managing for dispersing juvenile spotted owls between Federal lands. This is the predominant conservation function in the state Forest Practices Rules for the Mineral SOSEA. However in reviewing the Federal recovery plan, we found no specific reference to a predominant conservation function for this landscape. Please clarify this.	The paragraph has been revised to clarify that the CSA is between two Federal Managed Owl Conservation Areas (MOCA) designated in the Recovery Plan and that it is the function of the CSA to provide dispersal support.
2	Page 4-35, section on take of Marbled Murrelets. There are two references to incidental take of marbled murrelets that raised an issue we believe should be clarified wherever they may occur in the EA or the Safe Harbor Agreement. Reference to "nest trees developing and becoming occupied" and "take associated with known occupied nest trees" should be modified to indicate "occupied sites" rather than "known nest trees". Other language in these sections referenced "occupied sites", and we believe this is the language of intent.	References to occupied nest trees have been changed to occupied nest sites.
Environmental Assessment		
1	Page 1-2, Figure 1-1. The key indicates a SOSEA boundary and the 50-mile range of the Marbled Murrelet; however, neither is depicted on the map.	<p>The following changes were made to Figures 1-1 and 3-3:</p> <ul style="list-style-type: none"> ▪ SOSEA boundary was added to Figure 1-1; ▪ The reference to the 50-mile MAMU range was removed from the legend in Figure 1-1; ▪ SOSEA boundary was added to Figure 3-3; and ▪ The color for land ownership was changed in Figure 3-3 so that it is distinguishable from the background of the legend.

Comment Number	Comment	Response
2	<p>Page 1-4, bottom paragraph. The concept of "enhancing the survival" is mentioned here for the second time in the document. It may be helpful to define this term as it relates to Safe Harbor Agreement criteria and the Endangered Species Act.</p>	<p>The following text was added: Specifically, SHAs provide regulatory assurance for non-Federal land owners who voluntarily aid in the recovery of listed species by improving or maintaining wildlife habitat and allow such landowners to return the property to an agreed-upon baseline condition at the end of the agreement, even if this means incidentally taking the species.</p>
3	<p>Page 2-3, bottom paragraph. Language in this paragraph indicates that certain components of the Proposed Action would not be included in the No Action alternative, and that this would include "provisions for protecting new spotted owl and marbled murrelet nests discovered in the covered area during the term of the Permit." As written, this statement is interpreted as indicating that Port Blakely would not protect owl or marbled murrelet sites under the No Action alternative. We suggest some clarification to this statement in order to show consistency with existing Forest Practices Rules for the protection of owl habitat under the no action alternative.</p>	<p>The paragraph has been revised to specify that the nest site protections under the proposed action would differ from the requirements of the Forest Practices Rules (No Action).</p>

Comment Number	Comment	Response
4	<p>Page 3-5, Table 3-2. Nearly all citations included in this table are a bit dated and could be replaced by more recent publications. Using older citations may cause some readers to question whether the most relevant information was included in the table and elsewhere in the document.</p>	<p>1 species (Vaux's swift) references the most current WDFW management recommendations so no change was made.</p> <p>2 species (peregrine falcon and fisher) were updated to reflect the most current management recommendations/recovery plan based on other comments.</p> <p>9 species (northern spotted owl, marbled murrelet, bald eagle, northern goshawk, pileated woodpecker, Pacific western big-eared bat, Larch Mountain salamander, Van Dyke's salamander, and Cascade torrent salamander) were updated to reflect the most recent management recommendations or recovery plans in response to this comment.</p> <p>10 of the species (olive-sided flycatcher, grizzly bear, gray wolf, long-eared myotis, long-legged myotis, elk, black-tailed deer, Cascades frog, Cope's giant salamander, tailed frog, and western toad) do not have recent management recommendations or recovery plans and the citations were not updated.</p>
5	<p>Page 3-5, Table 3-2. We have two comments relative to this table: 1) Peregrine Falcons that nest on cliffs in the Cascade Mountains foothills don't necessarily prey on waterfowl or flocking species. 2) The fisher has been extirpated from Washington and only recently was it reintroduced to the Olympic Peninsula.</p>	<p>1.) Updated table text and citation to reflect most current WDFW management recommendations (Hays and Milner 2004).</p> <p>2.) Added language reflecting extirpation and recent reintroduction; also updated habitat description and citation to reflect recovery plan (Hays and Lewis 2006).</p>

Comment Number	Comment	Response
6	<p>Page 3-9, first full paragraph. Port Blakely conducted assessments of habitat in proposed harvest units and documented 115 acres of Spotted Owl habitat, 49 acres of which was inside an owl management circle. Because this assessment did not include all lands on the plan area we recommend that an additional statement be made that a small amount of additional young forest marginal habitat may be documented if additional habitat assessments were to be conducted.</p>	<p>The last sentence of the paragraph was revised to state that additional areas of YFM habitat may be discovered during future habitat assessments.</p>
7	<p>Page 3-11, first paragraph in section on spotted owl occurrence on the covered lands. Language in this paragraph indicates that owl habitat in one circle can't be counted toward another, overlapping circle. This should be clarified. Only the habitat within 0.7-mile of a spotted owl site center can't be counted in an adjacent owl circle.</p>	<p>Text was revised to indicate that habitat within the inner (0.7-mile radius) circle cannot be counted as providing habitat for more than one site center. Verified in WAC 222.10.041.4(b)(ii). See attached March 6, 2009, Errata Sheet for clarification.</p>
8	<p>Page 3-12, partial paragraph at top of page. Language in this paragraph indicates that information is lacking with which to make conclusive statements regarding occupancy of sites on adjacent federal lands. Perhaps this statement should be generalized to apply to lands for which surveys have not been conducted on the covered area. This would be consistent with the acknowledged (slight) uncertainty associated with the amount of habitat present and the spatially limited survey effort.</p>	<p>Paragraph revised to include portions of the covered area lacking current survey information.</p>
9	<p>Page 3-13, end of first paragraph. It would be helpful to more explicitly state that Port Blakely's use of stand age as a surrogate for marbled murrelet habitat resulted in an overestimate of marbled murrelet habitat on the covered landscape.</p>	<p>Text was revised to state that this would likely result in an overestimate of the amount of potential marbled murrelet nesting habitat in the covered area.</p>
10	<p>Page 3-16, section on Peregrine Falcon. The final sentence has internal redundancy. We suggest: "Cliffs in the covered area may provide suitable Peregrine Falcon nesting habitat."</p>	<p>Sentence revised as suggested.</p>
11	<p>Page 4-3, incomplete paragraph at top of page. We found a wording issue and a substance issue in this text. Wording issue. It is stated that "more than 40% of both of these circles contains suitable Spotted Owl habitat." This sentence should be rewritten, perhaps as follows: "Both of these circles contain more than 40% Spotted Owl habitat." Substance issue. It is stated that "... it is likely that Port Blakely would harvest the young forest marginal habitat in the covered area." We recommend something like the following: "As long as the owl circles remained above 40% (i.e., assuming there were no disturbances that reduced the habitat amount) Port Blakely would be able to, and likely would, harvest the available young forest marginal habitat according to State forest practices rules."</p>	<p>Wording issue: sentence was revised as suggested. Substance issue: sentence was revised to clarify that greater than 40% of each circle contains YFM or better on National Forest land, and that Port Blakely would likely harvest YFM in excess of the minimum requirement in the covered area, provided the circles continued to contain 40% habitat, as allowed under Forest Practices Rules.</p>

Comment Number	Comment	Response
12	Page 4-3, second paragraph from bottom of page. While this paragraph regarding the no action alternative is accurate, we suggest adding some language that would make clear that while protections of owl habitat in any new owl circles would be provided via the Forest Practices Rules, the likelihood of new sites being established in the planning area is unlikely.	Paragraph was revised to state that because of shorter rotation times under the No Action Alternative, new site centers are unlikely to be established in the covered area, particularly outside of RMZs
13	Page 4-5, section on Fisher. This species does not occur on the plan area, as it has been extirpated (although it is being reintroduced to the Olympic Peninsula).	Text was revised to recognize the potential for fisher to occur in the covered area in the future based on the stated goals of the Washington State recovery plan to establish populations in the Cascades both north and south of I-90 (Hays and Lewis 2006).
14	Page 4-7, third paragraph. We recommend adding a parenthetical comment that the canopy is expected to noticeably close within 5 to 10 years following commercial thinning.	Text revised as suggested.
15	Page 4-11 (section on "Birds") and Page 4-12, Table 4-3. Vaux's Swift is associated with very large and hollow-topped snags. Describing the benefits to this species in the same section with the Pileated Woodpecker does not adequately convey the possible benefits to the species. Whereas Pileated Woodpeckers will likely benefit from a snag management program as described in the draft SHA, Vaux's Swifts will only benefit from the retention or recruitment of large-diameter snags that extend to or above the forest canopy. Such snags will recruit only from large trees, and these trees will be much more localized and less common than those that would potentially benefit Pileated Woodpeckers.	Text revised to differentiate between habitat for pileated woodpecker and Vaux's swift. Section 3.2.2 also updated to reflect habitat description in current WDFW management recommendations (Lewis et al 2004).

Environmental Assessment – Errata Sheet

Port Blakely Tree Farms Morton Block Safe Harbor Agreement
U.S. Fish and Wildlife Service
March 2009

This errata sheet contains a single correction to the February 2009 Environmental Assessment (EA). This error was brought to our attention by the Washington Department of Fish and Wildlife (WDFW).

On March 6, 2009, David Whipple of WDFW sent an e-mail to Port Blakely and the U.S. Fish and Wildlife Service (Service) which stated that “Our EA comment # 7 was addressed, but was done so incorrectly. We pointed out that owl habitat within 0.7-mile of a site center can’t be double-counted in an adjacent owl circle. The revision incorrectly indicates that habitat within 0.7-mile of a site center can’t be counted as part of the habitat within 0.7-mile of a different owl site center.

Washington Administrative Code 222-10-041(4)(b)(ii) states that in Spotted Owl Special Emphasis Areas such as the one addressed in the EA, a total of 2,605 acres of suitable spotted owl habitat within the median home range circle (1.8 mile radius) are generally assumed to be necessary to maintain the viability of the owl(s) associated with each site center. It also states that suitable spotted owl habitat identified outside 0.7 mile of a spotted owl site center may support more than one median home range circle. The Service notes that the median home range of a spotted owl in the western Cascades is generally defined as a 1.82-mile radius circle.

The Service concurs with WDFW’s interpretation of the WAC and we intended to describe the regulations accordingly in the Final EA. We note that this error does not change the proposed project, the alternatives, or the assessment of impacts. The correction below is intended to remedy the error and clarify the State rules.

On page 3-13, first paragraph, lines 10, 12, and 13, the text is amended to read as follows:

Spotted Owl Occurrence on the Covered Lands

At present, there are no known nesting spotted owls in the covered area. However, nine owl circles associated with site centers on adjacent ownerships (primarily national forest land) overlap portions of the covered area. Of these, six are Status 1 (breeding pair) and three are Status 3 (territorial single). An additional two owl circles affect Port Blakely forest management operations because, although these owl circles are located entirely on adjacent ownerships, they overlap owl circles that extend into Port Blakely ownership such that they influence acreage assessments of owl habitat in the circles on Port Blakely land. Under Forest Practices Rules, suitable habitat needs for each inner (0.7-mile radius) owl circle within a SOSEA are assessed independently and cannot be double-counted; i.e., habitat identified as suitable in one inner circle cannot be identified as suitable habitat for another ~~inner~~ median home range circle. Thus, the amount of habitat that must be protected under Forest Practices Rules is affected by the amount of existing habitat that may occur within ~~two different but~~ overlapping inner and median home range circles on and adjacent to Port Blakely's ownership.