



Fran Cafferata  
Public Forum

December 6, 2019

Oregon Fish and Wildlife Commission  
4034 Fairview Industrial Drive SE  
Salem, OR 97302

**RE: Listing decision for marbled murrelet in Oregon**

Director Melcher and members of the Commission:

For the record my name is Fran Cafferata Coe, I am a Certified Wildlife Biologist®. As a reminder, the focus of my work is to assist large and small landowners manage intentionally for wildlife. Much of my work is within the range of the marbled murrelet. In addition, my family owns and manages forest land in Yachats, Oregon. I have nearly 20 years of experience in environmental consulting. I'm a Past President of the Oregon Chapter of The Wildlife Society and past Chair of the Oregon Society of American Foresters – and a current member of both. Being active in both societies allows me the opportunity to help wildlife and forestry professionals communicate and discuss common goals.

Because the marbled murrelet is found predominately in forested lands of western Oregon where I have spent my career, I have extensive expertise developing wildlife plans in the range of the murrelet. I help manage over a half million acres. It's my job to be familiar with the science that informs our understanding of wildlife behavior and habitat needs and to help landowners protect those needs in accordance with sound scientific principles.

I have testified before on the topic of marbled murrelet status in Oregon. I am here today to support your earlier decision to retain the status of the marbled murrelet as threatened in Oregon. This decision is still valid because:

1. USFWS monitoring efforts continue to show that murrelet populations in Oregon are stable or increasing. USFWS concludes that there is a statistically significant upward trend in population (<https://www.fs.fed.us/r6/reo/monitoring/murrelet/NwfpAnnualMonitoringReportMurrelet2018.pdf>).
2. There is no evidence that murrelet habitat is limiting or in decline in coastal Oregon. Rather, there is evidence that the amount of nesting habitat available to nesting murrelets is increasing in Oregon.

Nothing has changed since your decision to retain the status of the murrelet as threatened in Oregon. I strongly recommend that you provide the requested documentation for your decision and close this issue.

Thank you

A handwritten signature in blue ink that reads "Fran Cafferata Coe".

Fran Cafferata Coe, CWB®  
Cafferata Consulting, LLC & Oregon Small Woodland Owner



## Woodland Owners Who Love Their Land

December 6, 2019  
ODF&W Commission

RE: Marbled Murrelets

My name is Jim James. I am the Executive Director of the Oregon Small Woodlands Association. Family Forest owners own 43% of Oregon's private forests. There are over 70,000 family forest owners in Oregon who own between 10 and 5000 acres. OSWA members and myself testified at hearings to uplift to endangered the marbled murrelet. The Commission made the right decision not to uplift the murrelet in June of 2018. There was no evidence that uplifting was warranted then nor is there any different evidence now.

- As reported in a USFW and FS report by the Northwest Forest Plan Interagency Regional Monitoring Program, Marbled murrelet populations are on an increasing trend since 2002.
  - There is nothing to suggest that will change.
- USFW has decided that uplifting from Threatened to Endangered in the Northwest is not warranted.
- FIA plot data is showing murrelet habitat is increasing about 64,700 acres every year. This will continue.
- Oregon State University is in the 3<sup>rd</sup> year of a 10-year study of marbled murrelet habitat needs and are uncovering new information about murrelets. Some previous restrictive assumptions are being proven wrong.
- You have already determined critical habitat conditions.

All this confirms the Commissions June 2018 decisions are justified. OSWA recommends the Commission follow the judges request for a better defined rationale for your decision on the marbled murrelet and stick with the already sound decision you have made.

You may or may not know. The Board of Forestry is evaluating the need to have sensitive species protections for murrelets on private forestland. Uplifting the marbled murrelet, at this time, would accomplish only one thing. It would take away any incentive a family forest owner might have to grow any older timber on their property in fear of unjustified regulations that would impact their ability to generate needed revenue from their forest. The current status quo is working for murrelets. Do not do something that changes that to a negative.

Jim James  
Public Forum



# Oregon

Kate Brown, Governor

## Department of Forestry

State Forester's Office

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December 02, 2019

Mr. Michael Finley, Chair  
Oregon Fish and Wildlife Commission  
4034 Fairview Industrial Drive SE  
Salem, OR 97302

**Re: Oregon Department of Forestry management for marbled murrelets**

Chair Finley,

As you are aware, the Oregon Department of Forestry (ODF) has previously provided the Oregon Fish and Wildlife Commission information and testimony on the State Forests Division operational policies for marbled murrelets on state forestlands under its jurisdiction, and on the current rulemaking process for the marbled murrelet under the Forest Practices Act, being led by the Private Forests Division. Biologists from both the State Forests and Private Forests Divisions have previously provided input on the status review. The State Forests Division appreciates this opportunity to provide updated information in support of the current Commission process for review of the previous listing decision.

ODF manages both Board of Forestry Lands (BOFL) and Common School Forest Lands (CSFL) to provide a variety of benefits to Oregonians. While the management direction of these two types of forestland differ, they share a common requirement to utilize sound science and management practices, and to avoid the "take" of listed species under the Federal and State Endangered Species Acts.

ODF has maintained a robust program for 27 years that includes surveys for, and protection of, marbled murrelets on these lands. An important component of the development and ongoing implementation of that program has been coordination with biologists from our sister agency, ODFW. This includes collaboration on the development of the advisory survival guidelines, which we are implementing, as well as collaboration on development of a Habitat Conservation Plan which proposes to include marbled murrelets as a covered species.

We respectfully defer to your agency's experts for any specific recommendations for uplisting of the marbled murrelet to endangered under the State Endangered Species Act, and to the process and the Commission on whether a decision for uplisting is warranted. We look forward to continued collaboration on the development of management plans for BOFL and CSFL within the range of the marbled murrelet, should the Commission make a decision to uplist.

Sincerely,

Liz Dent  
Chief, State Forests Division  
Oregon Department of Forestry

cc: Doug Cottam  
Curt Melcher  
Peter Daugherty

OCA is the voice for ranchers across our state. Our producers are stewards of Oregon's natural resources and rely closely on these resources for their livelihoods. As one of Oregon's largest sectors, we are an economic engine for the state economy. Our member's operations are more than small businesses; they are part of Oregon's history and culture.

OCA has always worked closely with the Commission to ensure protection of Oregon's environment as well as a sustainable environment for Oregon's agricultural industry. Our members pay the direct and indirect costs to ensure the viability of the whole spectrum of Oregon's fish and wildlife populations. These are four points of critical concern to OCA:

1. Upholding the decision to reverse the uplisting can be critical to ranchers who've already experienced challenges over listing decisions.
2. In cases such as this, when the data shows its appropriate, conservation goals can still be achieved without a listing: For example, the status of sage grouse, the delisting of wolves east of 395.
3. Listing can have significant negative consequences on grazing, access to public lands and the ability of ranching families to keep working lands managed and working.
4. Most importantly, our members urge the continued reliance on science-based decisions using the best available data. We know the Commission made the right choice, and we know the data exists, so we ask you to provide the necessary documentation for your decision in June 2018.

OCA is committed to advocating on behalf of our members. Both those who are generally concerned with the ramifications and precedent of hasty listing decisions, as well as those who specifically own timberlands or rely on partnerships with private landowners affected by the marbled murrette listing.



### Marbled Murrelet Scientific Summary Oregon Fish and Wildlife Commission December 6th meeting

In February of 2018, following a presentation by the Department, Oregon State University, and the Oregon Department of Forestry on the best available Marbled Murrelet science, the Commission officially found the Marbled Murrelet endangered and satisfied the statutory criteria in ORS 496.176. At a subsequent June meeting, the Commission reversed itself against the recommendations of the Department. The justification for this reversal was primarily based on timber industry assertions that the murrelet's decline had abated, which were based upon a couple years of annual at-sea surveys. These assertions were inaccurate and woefully misrepresented the Marbled Murrelet's continued risk of extinction, ultimately leading the Commission to erroneously and illegally reverse itself.

Our organizations request that the Commission address this issue head on. We submit this brief summary of Marbled Murrelet scientific research focusing on the documented drastic declines of this species in Oregon and the Pacific Northwest, the link of these declines to loss and fragmentation of nesting habitat, ongoing studies and monitoring efforts indicating very low breeding productivity, and the very real likelihood of extinction of this species in Oregon. As discussed below, the at-sea surveys do not indicate that the species is secure because:

- In Oregon, at-sea survey results through 2016 do not indicate an overall population trend because of high variability in the estimates increasing uncertainty associated with the survey method.
- Warming ocean temperatures are degrading foraging conditions and requiring birds to spend more time at sea searching for food and closer to shore where they are more easily observed.
- New evidence indicates only a small percentage of female birds in Oregon are actually nesting -- another consequence of warming ocean temps and poor foraging conditions.
- Ongoing habitat loss -- the primary driver of historic population declines -- remains the most important factor in determining Marbled Murrelet distribution and trends.

#### Current Population Trends

Oregon's Marbled Murrelets have suffered major population declines over the last 100 years (Ralph 1994, Piatt et al. 2007) leaving a small population vulnerable to genetic bottlenecks and other impacts inherent to small populations (Gilpin and Soulé 1986). At-sea surveys from 1992 to 1999 documented a significant decline in Oregon's Marbled Murrelet population (Strong 2003) and a significant 30% decline from 2000-10 across Washington, Oregon, and northern California (Miller et al. 2012, Raphael et al. 2011). Due to small population size and low breeding success, the Department's peer-reviewed status review (ODFW 2018) concluded that "[a]ll available demographic information, which is admittedly sparse, indicates that recruitment is too low for birds to replace themselves." The Department's review further noted that these estimates about the murrelet's extinction risk were based on demographic models using "optimistic population parameters." In other words, the only verifiable science out-there concludes that the "natural reproductive potential of the species is in danger of failure."

Because Marbled Murrelets are difficult to locate and monitor on land, population estimates for Oregon are based on at-sea surveys that were initiated in the 1990s in accordance with the USFWS Recovery Plan (USFWS 1997). Along the west coast, surveys are conducted in six "recovery zones". Oregon is split into Zones 3 and 4 (see figure below). Up until 2014 all zones were surveyed annually. Starting in 2015, due to funding constraints, zones have been surveyed in alternate years so a given annual population estimate for Oregon is an interpolation of data from two different survey years. Relying on an



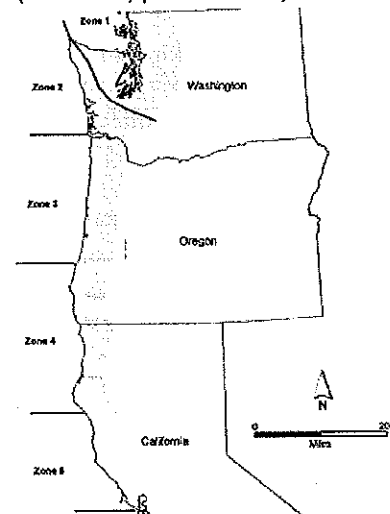
interpolation typically provides a less precise estimate due to between year differences in factors that may influence murrelet behavior (e.g. sea conditions, weather, prey availability, etc.).

The latest Oregon population estimate interpolates survey data from 2016 Zone 3 and 2017 Zone 4 which indicates there are 10,945 birds (2015 estimates indicated 10,975 birds) with an estimated error of 2,927 birds (McIver 2019). More recent surveys have been conducted (Zone 3 in 2018 and Zone 4 in 2019) and are currently being analyzed to update the Oregon estimate and should be available in early 2020 (pers. Comm. C. Strong). While these annual surveys indicate a slight uptick in populations, the survey explicitly does not make any predictions about murrelet populations moving forward, and explicitly warns against drawing such conclusions. As summarized in the Department’s Status Review: “[r]ecent at-sea surveys (2000-2015) did not find evidence of a population decline in Oregon during that period, but a growing body of evidence indicates that Marbled Murrelet distribution and trend are most closely tied to the amount and trend of suitable nesting habitat, for which the trend is downward in Oregon (see Raphael et al. 2016).”

In short, the at-sea surveys indicate the species is now hovering around an incredibly low, new baseline, but the best available scientific information on the species has concluded that the murrelet numbers are so low that the species will not be able to replace itself because its breeding habitat has been largely eliminated and continues to be eliminated. Oregon saw a 9.2% reduction in higher-suitability murrelet habitat from 1993 to 2012, representing a reduction in 78,595 acres (Raphael et al. 2016). Further information about habitat loss and species decline is summarized below.

### Uncertainty Surrounding At-Sea Counts

There are a number of factors that are increasing uncertainty in at-sea estimates. These factors are related to recent years of warmer surface water in the North Pacific that influence murrelet foraging behaviors. First, only <12% (12 of 101) of female murrelets tagged as part of the Oregon Marbled Murrelet Project during the first 3 years of the study (2017-19) nested (K. Nelson, pers. comm.). All tagged birds had brood patches indicating they were preparing to nest. The fact that a huge majority of birds did not nest in each of these years reflects the poor ocean conditions which have been an issue in the North Pacific since 2014. Sea surface temperatures have been above normal, upwelling has been inconsistent, and timing of upwelling has been late. This has affected the murrelets ability to find forage fish in the nearshore. This evidence suggests many murrelets in Washington and Oregon are moving south to find food as conditions in California have been much better for forage fish prey. This likely has influenced the higher at-sea estimates reported in Zone 4 in recent years (McIver 2019). Additionally, this further reinforces previous studies that have indicated very low breeding levels and success. Second, warmer waters appear to be driving birds to a thin strip of cooler water closer to shore to forage (C. Strong, pers. comm.) thus enhancing the detectability of birds during at-sea surveys (Lorenz et al. 2016). Finally, since many murrelets are forgoing nesting they are spending more time on the water - again increasing detectability during at-sea surveys. All of these caveats further confound interpretation of the at-sea population estimates.





### **Nesting habitat loss & fragmentation**

Loss and fragmentation of old-growth and late-successional coastal forest nesting habitat is the prime factor for the historic population decline of Marbled Murrelet in the Pacific Northwest. Estimates derived from early vegetation mapping and reconstruction indicate a drastic decline in old-growth coastal northwest forests, during the past 100-150 years (Ripple 1994, Strittholt et al. 2006, Ohmann et al. 2007) down to ~28% of historic levels due mainly to timber harvest. The most recent habitat assessment has documented further fragmentation and net declines in older forest habitat across the Northwest Forest Plan area from 1993-2012 (Raphael et al. 2016). In Oregon, higher-suitability murrelet nesting habitat declined 9.2% between 1993-2012 with the greatest losses on nonfederal lands (~21.1%), of which 98% was attributed to timber harvest (Raphael et al. 2016). A growing body of evidence indicates that Marbled Murrelet distribution and trend are most closely tied to the amount and trend of suitable nesting habitat, which, as described above, is on a downward trend (Raphael 2016). The serious threat to habitat loss and fragmentation has even led Oregon Department of Forestry to designate Marbled Murrelet habitat as “specified resources sites” under the Forest Practices Act, and the rule making for this process is currently underway.

### **Evidence for pathway to extinction**

Despite difficulties in relying on the at-sea population estimates, a wealth of research has indicated that the Oregon Marbled Murrelet population is currently headed toward extinction. We highlight the most important documentation below:

Demographic Modeling: Predictions of the population trajectory of Marbled Murrelets in Oregon, based on optimistic population demographic parameters indicates the probability of extinction in Oregon exceeds 80% by 2060 (Zone 4) and exceeds 80% by 2100 (Zone 3) (McShane et al. 2004).

Reproductive potential: Nearly all available estimates for this species indicate poor breeding success (McShane et al. 2004, Peery et al. 2004, Lorenz et al. 2017). Ratios of juveniles to adult birds counted at sea provide recent productivity indices of 0.025-0.060 for Oregon (CCR 2008) which are an order of magnitude lower than what is necessary to maintain a stable population (0.18-0.28). The most recent evidence from the Oregon Marbled Murrelet Project indicates only a fraction of Oregon murrelets are nesting the past 3 years and only 5 of 10 nests that have been successfully monitored have produced young (Rivers 2019).

Ocean conditions & Climate Change: A growing body of evidence suggests that emerging marine environment phenomena, including ocean acidification, harmful algal blooms, hypoxia (oxygen depleted dead zones), and warming surface temperature events (“warm blob”) that are increasing in frequency pose cumulative threats and challenges for Oregon’s murrelets and are likely related to the reduced recruitment documented for this species in Oregon (Peery et al. 2004, Becker and Beissinger 2006, Gutowsky et al. 2009) since these adverse events negatively impact forage fish prey abundances that murrelets depend on for food.

Predation: In Oregon, almost 90% of the potential murrelet habitat on nonfederal land is considered “edge” habitat making any nests in these areas vulnerable to nest predation by corvids (jays, crows, ravens) (Marzluff and Neatherlin 2006, Goldenberg et al. 2016).

**In conclusion, the full weight of scientific evidence indicates the Oregon Marbled Murrelet population is in danger of extinction unless more intensive measures are taken to strengthen protections. Accepting the original Commission decision to uplist the species from Threatened to Endangered in Oregon would be an important step forward.**



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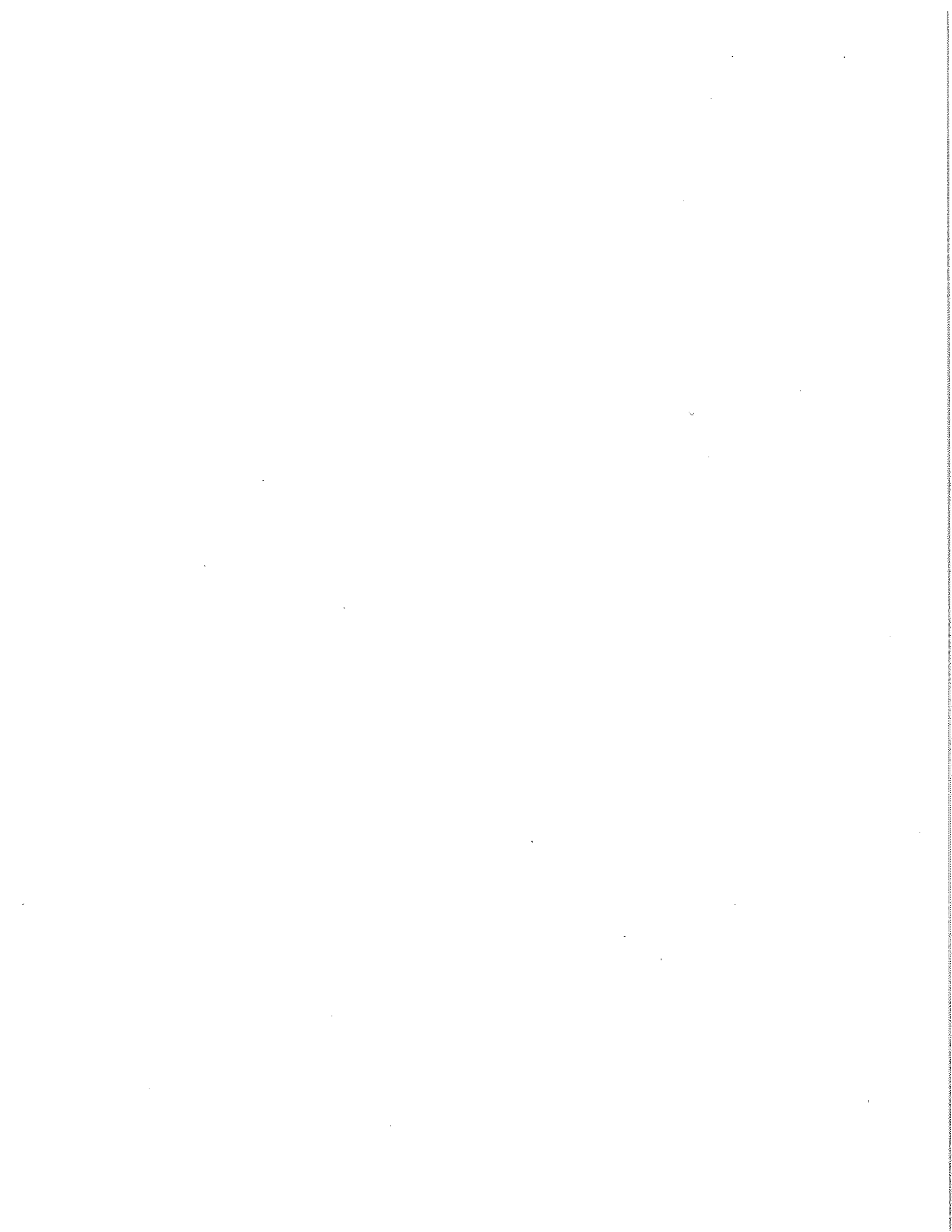
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Chair Wolley, Director Melcher, and members of the Commission, for the record my name is Seth Barnes, and I am a Forester with the Oregon Forest & Industries Council. Collectively sitting before you today is a panel representing working farm and forestland owners from across Oregon. We want to address briefly an item that does not appear on your agenda, that of the marbled murrelet.

As you are aware, a decision was made by this commission in June of 2018 not to "uplist" the murrelet from it's current level of Threatened to Endangered on the State Endangered Species Act list (ESA). That decision came after much deliberation and two meetings of public testimony. You'll recall that at the February 2018 meeting the commission sat through nearly 2 hours of testimony in Portland before voting to begin the process towards "uplisting" the species, including preparing survival guidelines for State Agencies to follow. The June meeting was the scheduled second half of that decision- where the Commission would ultimately decide if "uplisting" was appropriate or not. After another full day of testimony and deliberation in June, the commission ultimately voted not to "uplist" the species. Parties not satisfied with that decision then opted to file suit, and the topic of discussion today- as we understand it- will be a consideration of options for moving forward.

First- the commission's decision in June was a sound decision based on current information.

1. The marbled murrelet population in Oregon is on the rise - Best Available Science demonstrates a statically significant positive trend since the year 2000.

Ongoing interagency monitoring work conducted by USFWS and USFS continue to show an increase in the marbled murrelet population in Oregon between 2000 and 2017- to the point where these agencies conclude that a statistically significant positive trend in population within Oregon over that period is evident. This was published by the Northwest Forest Plan Interagency Regional Monitoring Program in their May 2018 report. This report is still the most current information regarding the population of murrelets in Oregon;

<https://www.fs.fed.us/r6/reo/monitoring/murrelet/NwfpAnnualMonitoringReportMurrelet2018.pdf>

Figures displaying this positive trend line were included in the report (see figure 1 below).

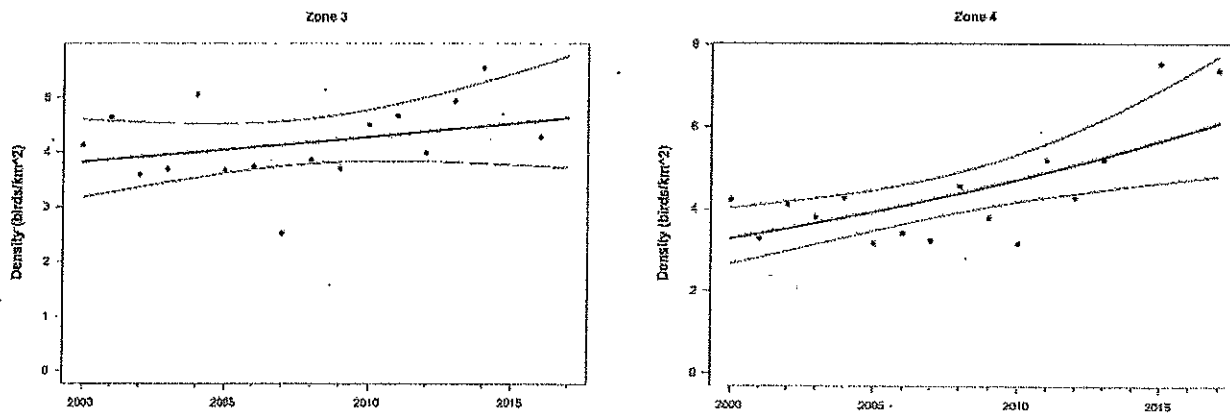


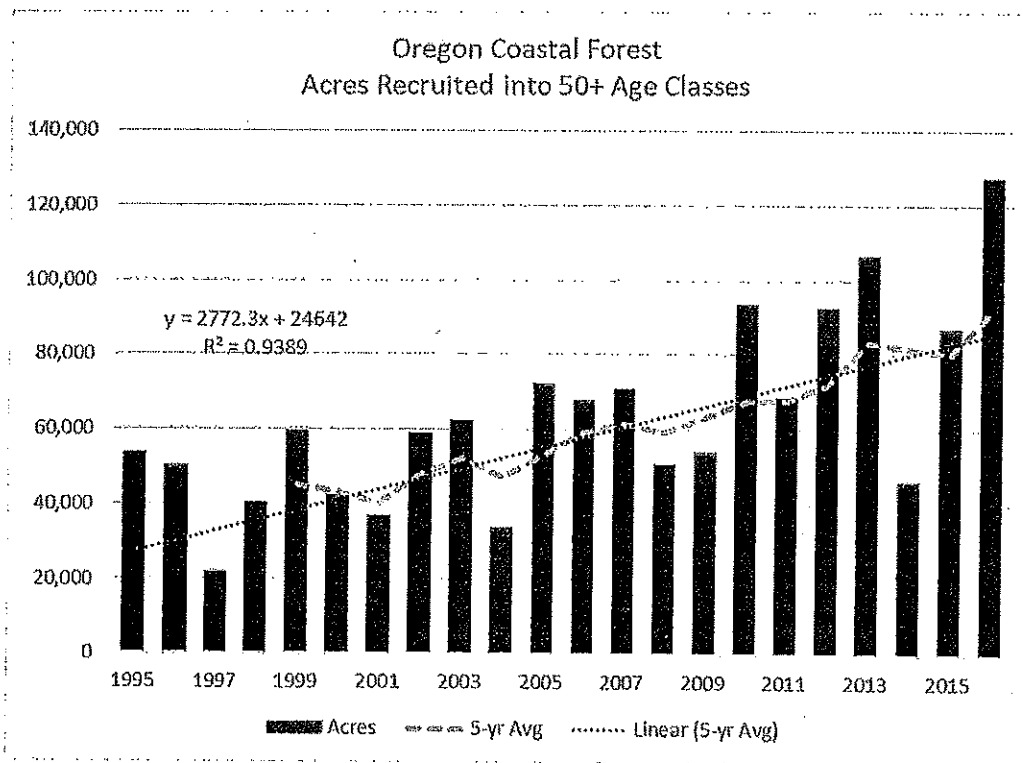
Figure 1. Observed Trends from Pearson et al. (May 2018).

- In May of 2019 US Fish and Wildlife Service also concluded their 5-year review of the status of murrelets across Oregon, Washington, and California. They also concluded that “uplisting” was not warranted.  
<https://www.fws.gov/oregonfwo/Species/Mamu/2019%20Five%20Year%20Review.pdf>

- Thousands of acres of habitat for murrelets continues to be recruited every year.

We have abundant habitat in Oregon. More older forest structure exists today than we’ve had in decades and continues to grow across ownerships. A review of federal plot data reveals that since 1995, an average of 64,710 acres have been added annually to the 50+ age class (Figure 2) across ownerships in Oregon. The trend has been increasing: 226,400 acres were added from 1995-1999, and about double that amount (460,864) were added from 2012-2016. Therefore, according to the most recent inventory data, during 2012-2016, an average of 92,173 acres have been recruited annually into the 50+ age class, while only an average of 28,011 acres in that age class have been harvested, yielding a net recruitment of over 64,000 acres annually.

Figure 2.



Furthermore, the Advisory Survival Guidelines created by the Commission following the June 2018 meeting are being followed by the State Agencies, including the Oregon Department of Forestry and the Department of State Lands. It is my understanding that ODFW staff has documentation on file acknowledging those commitments.

And lastly, Oregon is making unprecedented research investments into murrelets at OSU, and these are showing promise for better data on this secretive bird. OSU is in the middle of the largest single investment in marbled murrelet research in US history. Prior to this study, understanding of the bird was based on documentation of only 75 nests. After considerable investments from the Oregon legislature, this study has tagged and tracked over 100 birds and has demonstrated behaviors previously unheard of by experts in the field, including real time observation of nesting behaviors and flight patterns. These observations are directly challenging conventional wisdom that was based on incomplete information.

In conclusion, we reaffirm our position that "uplisting" the species is not warranted. Furthermore, knowing the breadth of issues this commission has to work through, taking more valuable time on this subject when there has been no NEW information to consider seems like a poor use of time and resources. The public process has been robust, a decision was made by a healthy cross-section of the Commission at that time- documentation of that decision should be sufficient for all of us to move forward.

