



Environmental challenges in time of Covid-19

The year 2020 has brought the entire nation many surprises, but none as critical as the Covid-19 pandemic that has forced all of us to change the way we live, work, and play.

Like other businesses, nonprofit or profit, OFCO has been forced to change to new ways of conducting our research. Our boots on the ground inspections of forest lands will require modifications and some additional costs.

To make matters worse, the current administration has curtailed every protection in place for over twenty years and have given polluters carte

blanche to exploit sacred and pristine areas. Thankfully, environmental advocates and federal courts are a bulwark against polluters. For example, the courts have struck down the Army Corps of Engineers' permit for the shellfish industry in Puget Sound.

Setbacks need to be reversed. If that does not come to pass, our battles will turn into wars—but the environment will be the biggest loser.

Stay strong, take action, support environmental protections as we reconstruct and expand protections for ours and future generations.

Connie Gallant, President



**State Forest
Murrelet Lawsuit**



**Bird Population to Decline under
Trump administration**



**Wild Olympics and
Wild & Scenic Rivers**



Plankton & Marine Life



Federal Forest Update



Climate Crisis Response

The mission of the Olympic Forest Coalition includes promoting the protection, conservation and restoration of natural forest ecosystems and their processes on the Olympic Peninsula.



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After three years of ongoing problems with Type 2 streams (small rivers) incorrectly typed in timber sales, OFCO's comments on incorrect typing of Siwash Creek in the Boulderdash sale near Lake Ozette led to a revision of the water typing protocol that should force an improvement in water typing by foresters during sale layout. Foresters are now required to evaluate streams for Type 2 characteristics, which is important because these are larger streams and often extremely important for fish, and a wider buffer is required. During field visits we observed that numerous Type 5 (less than 2 feet, perennial) streams—frequently subsurface networks—were omitted from sale maps.

Wildlife Habitat Monitoring Project Bearing Fruit



by Catharine Copass

In 2017 OFCO launched a five-year wildlife habitat monitoring project to enable us to support stakeholder conservation decisions and actions with best available science and to directly measure and monitor impacts on habitats for threatened and endangered species from forest practices in State Trust Lands, primarily in the Olympic Experimental State Forest (OESF). Three years in, results have shown reductions in conservation measures, leading us to challenge timber sales that would harm species and to mount a legal challenge aimed at improving policy and management of the State Trust Lands.

Covid-19 has not slowed the pace of DNR's work, though it has certainly made OFCO's project more challenging. This year saw the greatest number of sales since the start of the project. Stands that had been in limbo were "released" following the Board of Natural Resources (BNR) decision last December on the Long-Term Conservation Strategy for the Marbled Murrelet. Many of these stands were older forests that had been mapped as the "next" highest quality Murrelet habitat, valuable for age, structure, biodiversity and carbon sequestration potential.



Marbled Murrelet on nest



Marbled Murrelet egg

We also found inadequate wetland delineation; wet conditions this year really highlighted cases where the full extent of the wetlands was not included in forest sale buffers. Science now suggests that smaller streams and surface waters are important in cooling downstream waters. This relationship could become more important as air temperatures continue to rise due to global warming.

As the monitoring project continues into Year 4, we will follow the direction of the Board and integrate climate change impacts more centrally into the sale reviews and comment letters.



Bird Populations To Decline Further Under New Trump Rule



by Karen Sullivan

Since her retirement as a biologist for the U.S. Fish and Wildlife Service nearly a decade ago, OFCO Board Member Karen Sullivan has brought her remarkable skill set to her tireless volunteer advocacy for wildlife and habitat protection on, above, and around the Olympic Peninsula. As Trump administration initiatives designed to emasculate protection measures reverberate across the land, this work grows more urgent, and more deeply appreciated. In recent months, she has focused her efforts and leadership on the growing peril to migratory wild bird populations. — Ed.)

North America has lost three billion birds since 1970, says a new study in the journal *Science*. Yet a billion birds still migrate each year along the Pacific Flyway, and the Olympic Peninsula is awash in birding hotspots. You can still find 400 bird species, from the outer islets and Cape Flattery through the Strait of Juan de Fuca, up to Hurricane Ridge, and even in your own backyard. Birds are important to our natural ecosystems but now birds are under one of the most serious threats in decades.

A new interpretation of the country's oldest wildlife protection law—the Migratory Bird Treaty Act (MBTA) of 1918—will not only leave more birds dead, it will add to the number of endangered species, according to the Department of the Interior's own admission. Interior's Solicitor published a legal opinion saying it's no longer illegal to kill migratory birds, as long as it isn't "on purpose." Interior now seeks to codify this into regulation.

What are the consequences of this new interpretation? The MBTA imposes strict criminal liability for "taking" protected birds - meaning harming or killing them. This happens in the normal

operations of electric utilities, oil and gas industry, communication towers, chemical spills, bridgework, artificial lighting, even in renewable energy activities. Voluntary best practices like lighting on communications towers or netting over oil or cyanide waste pits have greatly reduced that toll. Yet the oil industry alone still kills 40 million birds per year. If the rule goes into effect the next Deepwater Horizon oil spill would carry no corporate environmental liability for killing even a million birds in one disaster.

Preferential Treatment for Industry?

Department of Interior's rule announcement listed 28 "endorsements" from an industry lobby funded by Exxon and the Koch Bros. Federal "employees shall act impartially and not give preferential treatment to any private organization or individual." Another prohibition forbids an agency to share nonpublic knowledge with outside interests, which begs the question: How were lobby groups endorsements included before the public saw the *proposed* rule? In March 2020, retired senior federal employees and I wrote to the Interior's Inspector General (IG) asking that the procedural

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Bird Populations... continued

irregularities be investigated. The letter also disclosed that several biologists had quietly complained about pressure to provide misleading information to the public. The IG replied that unless the biologists were named, *no* aspect of the complaint would be investigated. In May, the group sent another letter narrowing the focus to legal inconsistencies. To date the IG has only acknowledged receipt of the communication.

Legislative Intent — and Evasion Thereof?

A federal agency may not restrict, amend, repeal, or expand a federal law without Congressional approval. An agency's ruling may not violate a statute or make it inoperable, and it must be consistent with the legislative intent of the law. Lawsuits have been filed by 8 state Attorneys General and environmental groups, including Audubon, Defenders of Wildlife, and the American Bird Conservancy. Combined with the 50,000 public comments, the administrative record clearly shows the public's opposition to this corporate giveaway.

Sources inside the government say that Interior realizes there may not be time to prepare a final EIS (Environmental Impact Statement) and publish a final rule before the November election. It is possible the Department might issue an "interim final rule," bypassing required steps and causing the new rule to become effective immediately. An agency is allowed to publish an interim rule for "good cause." For example, in April, the Small Business Administration issued an interim rule for coronavirus relief and the Paycheck Protection Act. Interior's shaky legal grounds for "good cause" in this case would allow unlimited incidental take of migratory birds by industry.

The Department of the Interior's bias could not be plainer. This battle will be fought not only in court, but also in the court of public opinion. See the full analysis, links to reports and follow developments at olympicforest.org. 

Plankton - the Foundation of the Marine Ecosystem



by Rae Deane Latham

Acidification, temperature changes and sea level rise will affect this web of marine life in unprecedented ways. Local governments are attempting to address climate impacts in the Shoreline Management policies.

For me, the word plankton conjures up images of giant baleen whales leaping high out of the water, mouths full, water emerging in a torrent from their huge maws. The incentive is food...small fish, krill and other planktonic life forms. In one mouthful a baleen whale can consume 20 pounds of krill, or one ton, in four hours of feeding. That a single whale, let alone a whole population, survives and thrives from eating something barely visible boggles the human imagination. But whales do just that.



In our own Olympic Peninsula, life from salmon to Marbled Murrelets need that same plankton to survive.

Plankton is made up of plants and animals: phytoplankton and zooplankton respectively. As

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Plankton... continued

with any terrestrial food web, there is a plant/bacteria foundation upon which a range of tiny animals feed. Those tiny animals are the young of more visibly identifiable animals like fish, crabs or squid as well as some of the actual animals themselves, like copepods, the Euphausiid shrimp known as krill, pelagic worms, jellyfish and at times benthic inhabitants like amphipods.

Nearly every oceanic animal that does not have a live birth or lay eggs on land submits their young to the whims of the sea and its currents.

A simple scoop of water may show little, if anything, to the eye but on the microscopic level a world is revealed: tiny glass pill boxes of green, floating small round green dots, striking silica-based forms with spikes or spines in shapes of triangles, rectangles or a shape barely describable. Darting in and out may be motile forms like dinoflagellates, copepods or their young called nauplii, a small tick-like form bearing no resemblance to the adult.

And then there's just detritus, eggs, bacteria, and many forms that most scientists don't even bother trying to identify except as total biomass. It is a mysterious world. But like any world, one that has its own environmental requirements. The proportion of minerals matter; the salinity matters. And much more: the temperature, the oxygen levels, the sun's depth penetration and whether there are the toxic residues of human existence—they all matter. They affect the species that survive and the abundance of the survivors.

Disparate planktonic systems are as different as the Arctic tundra is from the tropical forest. You wouldn't expect the same species in the mountainous terrain of the Olympic Mountains as in the dry landscape of Eastern Washington. And planktonic ecosystems are just as diverse.



Wild Fish Get a Boost From EPA



by Lorna Smith
OFCO Vice President

*(Summarized from Information provided by
the Wild Fish Conservancy)*

The Environmental Protection Agency (EPA) has determined that open water, fish net pen aquaculture is “likely to adversely affect” threatened and endangered salmon, steelhead, and other native fish in Puget Sound. This is very good news for the Salish Sea, for salmon species and for Orcas.

This recent action came about in response to a proposal by Cooke Aquaculture to raise hybrid steelhead in their existing net pens. Raising Atlantic Salmon in these pens was prohibited by a bill passed by the Legislature in 2018 as a result of a collaborative effort of a number of groups headed by the Wild Fish Conservancy and supported by OFCO.

Lorna Smith, OFCO Vice President, testified in Olympia at both House and Senate Hearings in support of the successful bill. Since that time, Cooke Aquaculture has sought to find a loophole. The loophole they are trying to thread is switching species in the pens to native steelhead.

This decision came after over a decade of ESA legal challenges against the EPA and NOAA Fisheries for two previous “not likely to adversely affect” determinations. In a lawsuit in 2008 and again in 2015, the Wild Fish Conservancy, (an organization that OFCO frequently partners with) argued that there is abundant scientific evidence that net pens are likely to adversely affect ESA-listed species and that the agencies need to reinstitute formal consultation and perform a biological opinion (biop). In 2018, after a federal judge dismissed the federal agencies' request to dismiss the case, NOAA and EPA finally agreed to reinstitute consultation.

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Wild Fish... continued

As a result of the EPA's recent decision, NOAA will now prepare a biological assessment (BA) to further expand upon and analyze the EPA's initial determination. The BA must incorporate a careful analysis based on the best available science, including the newest information on the spread of diseases from salmonids raised in net pens to wild fish.

This recognition of the harm net pens pose to ESA-listed species by a federal agency represents a huge step forward and will be a critical tool as efforts continue to inform the public and build the case that an environmental impact statement (EIS) on Cooke Aquaculture's new proposal to raise steelhead in net pens is necessary and prudent. It is clear that Washington Department of Ecology should withhold issuing Cooke's NPDES permit until the Biological Opinion has been issued. Without the NPDES permits, Cooke will be unable to begin planting steelhead.

The federal agencies' decision to prepare a biological opinion due to new information and events, further undermines WDFW's reliance on the outdated 1990-EIS during the 2020 SEPA review process in which WDFW found that net pen aquaculture in Puget Sound is not likely to significantly affect the quality of the environment. This is a good step to protect our native species. OFCO will update on this ongoing story at olympicforest.org.



Wild Salmon



Peggy Bruton
interviews Jill Silver



Pulling Together for the Forest

Here are two of the most important things we've learned in the last two decades of OFCO's existence: Forests, more than ever, need to be strong, diverse and resilient to withstand the persistent challenges of global climate change; and the communities of the Olympic Peninsula need to come together to save, protect, and steward the forests and foster their own economic and social health. Board member and OFCO News editor Peggy Bruton interviewed board member Jill Silver about an invasive plant control project called "Pulling Together in Restoration" (PTIR) that Jill conceptualized, launched, got funded, and nurtured under the OP-based 10,000 Years Institute, a 501C3 organization that works for science based and sustainable use and management of natural ecosystems of our regional watersheds:

PTIR employs a team of 20 - 25 local residents, mostly in their early 20s, to prevent and control invasive plants on forestlands, farms, and along roadways and watercourses on the coast.

That mission sounds like the proverbial Augean stable. Plants such as Scotch broom (worst among a host of hearty undesirables) proliferate wildly once established, and crowd out the natural succession in native plant communities on which native species and habitats depend. Scotch broom, a garden import from Europe, is highly flammable, toxic to grazers, and alters native soil chemistry and microbiota, with seeds that last many decades. Along streams and rivers, it swiftly takes over gravel bars, excluding the native early successional willows and red

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Pulling Together... continued

alder that recolonize disturbed areas, and provide the nutrients and stability required by all the large forest trees that provide shade, woody debris, and scour pools used by salmon and other aquatic species.

10KYI's project strategy not only stops seed product and eliminates new infestations, but repeatedly returns to these sites to stamp out regrowth from seed banks or new introductions recurrences—surveying 400 miles of roads and 100 miles of rivers; cutting Scotch broom, deadheading and pulling tansy ragwort, pulling herb Robert, removing seeds from reed canarygrass, and mapping all the sites for follow-up treatments and monitoring.

“Pulling Together,” and the wider effort against non-native plants, has been gathering momentum on the coast as 10KYI's project strategy gains support and community partners, working across landowner and watershed boundaries to protect fish and wildlife, forests and forestry, restoration projects and pastures alike from the deleterious impacts of these invasive species.

In 2020, DNR updated the State Forest Health Strategy to include Scotch broom and other invasive plants (reed canary grass, purple loosestrife, etc.) recognizing that controlling them will improve forest growth and species diversity, reduce fire hazard, enhance carbon sequestration, and provide opportunities for grant programs to add new rural jobs in restoration.

If we can't hold back the climate change already locked in, we can help the forest's survival prospects—by working to keep it fit. Invasive species are never going away. Every one of us walking a trail can make a significant difference by pulling that one Scotch broom or herb Robert plant, and making sure it will never go to seed.

Coming up: 10KYI is working to build a watershed and place-based Conservation Corps model—to create permanent family-wage jobs in restoration and stewardship.



**Updates from
Patricia Jones,
Executive Director**

OFCO's Climate Crisis Response: Science Based Forest Management


OFCO's efforts to promote the protection, conservation and restoration of natural forest ecosystems and their processes on the Olympic Peninsula includes responding to the climate crisis—but that work must expand in more profound ways to have any hope of slowing and stopping the environmental devastation unfolding from its impacts. Wildfires and forest management have finally entered the national debate, but in the wrong way. While the Trump Administration expresses support for “forest management”, massive cuts to the U.S. Forest Service efforts to do sustainable management, and legislative efforts to increase timber harvests and roll back environmental protections—are the actual policy of the Administration. We can and must manage to ensure healthy, fire and pest resistant forests for climate mitigation, drinking water, fisheries, and endangered species. Science is on the side of this type of “management” being essential.

OFCO's Board of Directors decided in December 2019, to develop a stronger response to the climate crisis in all program areas. We are undertaking a discernment process in 2020 to identify a science-based strategy to respond to the climate crisis. The team includes OFCO Board Member and principal investigator Catharine Copass, Ph.D., and Executive Director Patricia Jones, Ph.D. The team will survey experts and leaders, and conduct a desk review of relevant science and policy. We are grateful for the guidance of Cyndy Jayne and Ed Chadd in this effort.

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The OFCO team was invited to participate in a new study of Jefferson County's carbon footprint, using the newly developed tools being used globally and in some areas of the U.S. to assess carbon sequestration and release for forests. That project will be ongoing through 2021.

The goal of our climate discernment process is to identify actions that we may realistically undertake to advocate for a robust response to the climate crisis within our focus areas of protecting habitat on federal, state and marine waters landscapes. OFCO will work with partners and stakeholders to integrate more fully the climate crisis as a foundational principle with meaningful actions into existing programs (conserving federal and state public forest lands and associated watersheds and species of the Olympic Peninsula, conserving marine waters habitats and species of the Olympic Peninsula).

Please contact me (info@olympicforest.org) if you are interested in sharing your expertise, views or volunteering. We would be grateful for your assistance. 

"The Trump Administration is calling for more forest management—but it is not just the distracting reference to "cleaning" the forest to mitigate wildfires. What they are doing in forest policy is actually worse. They are implementing policies that pour gas on the fires of the climate crisis with environmental rollbacks as well as increasing harvest."

—Connie Gallant

OFCO's 2016 OESF Land Plan Challenge Unresolved in Technical Exchanges

OFCO's Board of Directors made the difficult decision to send a "notice of intent to sue" letter to the Department of Natural Resources (DNR) regarding the implementation of DNR's habitat conservation plan (HCP) after our monitoring of timber sales carried out under DNR's 2016 Olympic Experimental State Forest (OESF) Land Plan confirmed alarming reductions of riparian protections (exterior, interior and stream buffers). (See *Monitoring Project* article on page 2).

OFCO found a partner in Conservation Northwest, and together the groups filed a 60-Day letter under the Federal Endangered Species Act with the US Fish and Wildlife Service (FWS) in early 2018 on concerns for Bull Trout and Northern Spotted Owls, timber harvests, and climate change. The 1996 Biological Opinion and the 1997 HCP prescribed riparian protections that DNR's 2016 OESF Land Plan significantly changes. Exterior buffers are virtually eliminated, down to 1 percent. In the case of the Northern Spotted Owl, the 2016 Land Plan did not update the invalidated theory of "mosaic harvest patterns." Nor did it address invasive Barred Owls, climate change impacts for owls or Bull Trout and other riparian species. Wyatt Golding, of Ziontz Chestnut, represents OFCO and CNW.

Throughout 2018-19, DNR, FWS, OFCO, and CNW representatives met to discuss the technical elements of the Land Plan, DNR's models and data, and the latest science on forestry management and OFCO's monitoring results. DNR used extensive modeling to argue that its timber harvests, including reduced protections, will not impact endangered species.

Here's the crux of the legal matter: Are the jeopardy decision and the incidental take permit for

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the OESF still valid if even the modest protections negotiated in 1997 are significantly reduced under DNR's 2016 Land Plan and models? OFCO does not think so and is considering filing suit to require the FWS to re-initiate consultation. The best outcome would be that the FWS takes a new look at the biological conditions under DNR's Land Plan, the new modelling and OFCO's monitoring data, to ensure that DNR's measures will not indeed further endanger imperiled species. The consultation could include a new Biological Opinion and require adjustments and further mitigation as needed to avoid jeopardy to the listed species.

Follow developments at olympicforest.org.



OFCO v. Coast Seafood: Ecology Considering Permit in Quilcene Bay

Some stories seem to have no end.

Take, for example, OFCO v. Coast (Pacific Seafoods). Back in 2018, OFCO survived a motion to dismiss in U.S. District Court and at the 9th Circuit Court of Appeals, which held that Coast Seafoods must obtain an NPDES permit if it is discharging pollution from point sources into Quilcene Bay. OFCO contends that it is. However, in 2019, U.S. District Court Judge Leighton stayed the case while Pacific Seafoods obtained a permit. OFCO's attorney Paul Kampmeier, of Kampmeier & Knutsen filed public records requests with agencies responsible for the permitting process.

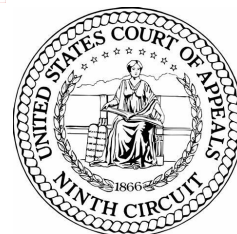
OFCO received a grant to support the case and hired a water quality expert, Mark Hersh, to examine whether Pacific Seafoods' operations were taking all practicable measures to reduce or

eliminate pollution and to recommend changes needed to mitigate impacts. OFCO alleges that Pacific Seafoods has been illegally discharging pollutants into Quilcene Bay for over 7 years and to date the transnational corporation is still working through the application process for a permit.

Last March, OFCO filed for a preliminary injunction to require Pacific to monitor and report its effluents to the public during the permitting process. The Department of Ecology, the Jefferson County Department of Public Health, nor the Port of Port Townsend are requiring Pacific to report on its effluents and impacts. An early indication of water quality deterioration came in the form of neighboring swimming beach closures in 2019 and 2020, and after citizen science monitoring found hypoxia (dangerously low oxygen levels) conditions in Quilcene Bay in September 2019. But without ongoing monitoring information from Pacific, neither local authorities, Ecology nor the public can reliably assess impacts to human health and the environment.

The Court, without explanation, declined to grant the injunction we sought. OFCO continues its case. Please watch for news and consider submitting comments during the permit public comment period. (Updates on olympicforest.org)

The recent federal court decision to nullify the Army Corps of Engineers nationwide permit for aquaculture for Puget Sound, based in large part on the fact that neither the local Corps nor Ecology was providing adequate analysis of impacts to the environment, gives some hope that both Ecology and the Court will take seriously the degradation of our marine waters by bad actors in the shellfish industry, and the impact on public health and the environment.



Murrelet Long Term Conservation Strategy Allows Habitat Timber Harvests: Courts to Consider Murrelet Cases

Over two decades late, the Washington Board of Natural Resources decided in December 2019 to accept the incidental take permit issued by the U.S. Fish and Wildlife Service on the Department of Natural Resources Long-Term Conservation Strategy for the Marbled Murrelet (LTCS).

The decision was the final step in a nearly \$5 million dollar, three-year process, unique in many ways. DNR and U.S. Fish and Wildlife, under new federal administration directives to shorten and limit the scope of Endangered Species Act procedures, carried out the federal and state environmental analysis jointly instead of sequentially. Regardless, the Strategy's Murrelet population forecasts show that adopting the DNR preferred alternative (Alternative H) will result in a population decline after 50 years. Alternative H outcomes are worse than alternatives regarded by the EPA, the U.S. Fish and Wildlife Service itself, and the Washington Department of Fish and Wildlife as more beneficial to the threatened and endangered Murrelet. The Marbled Murrelet Coalition proposed its own "Conservation Alternative," which was never given consultative status in the process by the Service nor DNR.

The Murrelet Coalition (OFCO, Washington Environment Council, Conservation Northwest, Washington Audubon, Defenders of Wildlife), represented by the Washington Forest Law Center's lawyer Peter Goldman and Murrelet biologist Kara Whittaker, proposed the alternative that would result in Murrelet population increasing after 50 years. Murrelet populations are in precipitous decline and are decreasing on an average of 4 percent per year. The primary reason for this decline is loss of habitat in forests from harvests such as those proposed by DNR's LTCS.



State Trust Land beneficiaries, and industry, and the Coalition all filed suits against the LTCS and the cases are proceeding in Thurston and Skagit Counties. (See "Whose Trust Is It?" on page 10). Industry seeks to actually increase timber harvests over even DNR's preferred alternative. Some beneficiaries are hoping to win increased revenues from timber harvests also over DNR's proposal. The Murrelet Coalition is fighting for protection of Murrelet habitat to allow the bird populations to recover, based in part on DNR's original commitment in the 1997 Habitat Conservation Plan to "make a substantial contribution to the recovery" of the Murrelet. The U.S. Fish and Wildlife Service issued the incidental take permit even though it stated in its issuance that the most ecological alternative was Alternative G, not selected by DNR. Yet again, state and federal courts may be the last resort for one of Washington's imperiled iconic species. Updates will be posted to olympicforest.org.



State Forests: Whose Trust Is It? “All the People’s”



The Board of Natural Resources made its final decision to adopt DNR’s alternative for the long-term conservation of Marbled Murrelets in late 2019, overdue by over two decades. The preferred alternative “Alt. H” projects that the Murrelet will be worse off in 50 years than if they had taken no action.

The process unfolded over three years and consumed nearly \$5 million in public resources spent in DNR staff time and modeling. DNR based its decision on a misinterpretation of their fiduciary responsibility to trust beneficiaries—schools and local governments. In DNR’s view their primary responsibility is to treat the management of public forest lands as a private trust, and their duty is to maximize revenues over all other uses including conservation and environmental uses that would protect drinking water sources, habitat, and manage carbon to mitigate climate change.

But DNR is wrong. Conservation organizations in the Murrelet Coalition, including OFCO, opposed Alt. H and proposed the “Conservation Alternative,” based on the plain language of the Washington Constitution, which provides that “all the public lands granted to the State are held in trust for all the people.” The Washington State Constitution is unique in choosing this important language—“all the people”—and its command

should be honored. This legal question is finally being put to the test in a lawsuit brought by the Coalition members and harmed individuals.

DNR says the law is settled. A case known as “Skamania” (1984) was decided, which prohibited DNR from “giving away” public assets to private timber by allowing them to not perform a contract during an economic downturn. The constitutional and enabling legislation requires the state to receive “fair market value” for timber lands when disposing of assets, designed to prevent corruption and to protect the purpose of the federal grant of land when Washington became a state – to support schools and local government.


Conservation stands on the Constitution and enabling legislation, saying that a timber sale is not a sale of the land, it is management of public resources, which the state has discretion to do and in fact must do, for “all the people.” Management can and must consider all public interests, and not be restricted in the manner of a private trust to maximize revenues. All the public interests include managing public resources in trust for present and future generations:

“Obligations to “all the people” and the statutory mandate to carry out sustained yield logging, RCW 79.10.340, manage forested lands to produce revenue. The question presented is

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whether DNR must pursue as much revenue as possible, and whether it must pursue such revenue to the exclusion of all other interests...the Legislature has expressly recognized that “it is the continuing responsibility of the state of Washington and all agencies of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may,” inter alia, “[f]ulfill the responsibilities of each generation as trustee of the environment for succeeding generations.” RCW 43.21C.010(2) (emphasis added); see also RCW 43.21C.020(3).” Plaintiff’s Response, Conservation Northwest, et al v. Franz.

OFCO, Washington Environment Council, Conservation Northwest, and individuals including OFCO’s Marcy Golde, Peter Bahls, and others brought the action. The Plaintiffs are represented by a legal team that includes the Washington Forest Law Center’s Peter Goldman and Ziontz Chestnut’s Wyatt Golding. University of Washington School of Law’s Hugh Spitzer contributed a masterful constitutional analysis.


The case, known as Conservation Northwest, et al v. Franz (convention shortens plaintiffs to the first plaintiff) was before the Court on October 2nd, for a first hearing on DNR’s motion to dismiss the case. The defendants prevailed as expected. The lower courts are bound by Supreme Court precedent. Judge Erik Price ruled from the bench finding for DNR and industry, stating that lower courts are bound by the precedent in *Skamania*, and that it was for the Supreme Court to consider the “well-reasoned” arguments and whether *Skamania* was wrongly decided. OFCO and the plaintiffs take the view that finally, *Skamania* is squarely before the Court to be considered in the circumstances of today and the climate crisis. 

Solutions Blocked in the Legislature by Industry

OFCO and the Murrelet Coalition called on Commissioner of Public Lands Hilary Franz to convene a task force of beneficiaries, conservation and industry to work out a voluntary solution to protect habitat, services, and communities on the Olympic Peninsula. Franz convened the “Solutions Table” in 2018; OFCO was invited to participate. Conservation and beneficiaries worked out an agreement to provide revenue that would protect critical habitat, fund local government services, and purchase working forests for timber for local mills and jobs.

The modest deal would protect Murrelet habitat from harvest in 2020-21 while a comprehensive solution could be agreed. Industry found very willing support in the Legislature for their unilateral power politics “*just say no to any solution other than even more harvest*” stance.

These political maneuvers are just not good enough in today’s world where Washington companies like Amazon could partner to establish carbon forests and working healthy forests with their announced billions of dollars carbon fund. Shame on the elected officials who allowed this unilateral disregard for beneficiaries and future generations.

After the fire season this year—perhaps even Washington legislators can finally see the writing on the wall that it just can’t be business as usual, and they and CPL Franz won’t let innovative win-win solutions to so easily die. 

(See updates on olympicforest.org)

Protecting Our Heritage Through Trust Lands Transfer

The Washington state Trust Lands Transfer (TLT) program funds conservation of forested areas, protects watersheds, and ensures funding for local services. The TLT program has been significantly reduced by the Washington Legislature. OFCO believes that rather than defunding this important program—the Legislature should update how the program is funded and administered. What is at stake? Forests that are found only on the Olympic Peninsula.

Peter Bahls and the Northwest Watershed Institute, shepherd important ecological lands eligible for TLT. According to Peter, two local “globally imperiled G2/S2 forests have been discovered on the Toandos Peninsula and along Dabob Bay by NWI and DNR in recent years.

The Sustainable Forestry Initiative (SFI) standards obligate DNR to protect these forests. The Olympic Region has nevertheless planned out timber sales where many of the units includes these older rare forest types—the proposed Coyle Sorts, Silver Lining, and most recently Thorndyke Junction (which is almost entire G2/S2 forest type confirmed by DNR Heritage botanists).

For a conservation solution, NWI has proposed a modest expansion of the Dabob Bay Natural Area boundary to include these rare forest areas. NWI has also been doing quite a bit of community outreach in the Coyle community and elsewhere that is showing strong support for this expansion. As a part of the campaign to protect these beautiful areas—NWI hosted field visits. Darrel Smith, OFCO’s advisor took these pictures on a visit in September. They speak for themselves about what is at stake. See updates and how to support TLT at olympicforest.org and nwwatershed.org.



Peter Bahls (on picture right) explains the critical habitat of these majestic tree stands on Dabob Bay Natural Area boundary & Toandos Peninsula. Shown are Lorna Smith, OFCO’s vice president, and Ken Wilson.



Example of old growth tree size.

Northwest Forest Plan / Forest Collaborative / Forest Staff Updates

The Obama Administration in 2012 began an update to the Northwest Forest Plan (NWFP). The Plan included hard won protections for endangered species and forests. The update comprises a science synthesis of the latest knowledge on forest management (2018), important monitoring reports covering two decades (January 2020), and most recently—a “bioregional assessment” (July 2020).

The Trump Administration’s assessment is troubling. The Wilderness Society points out key shortcomings that will affect forest management and ecological protections—the landscape covered by the Assessment is larger than the Northwest Forest Plan area. The assessment adds an extra 4.6 million acres of disproportionately dry, frequent fire ecosystems that are not in the Northwest Forest Plan Area, skewing and exaggerating its findings to implement policies and actions in favor of industry in the guise of “mechanical and fire treatment”, essentially commercial logging. This follows the Trump Administration executive order in 2018 and the Secretary of Agriculture’s orders to require the Forest Service to “treat” or “manage” 3.8 billion board feet of timber in 2019 and 4.0 billion board feet in 2020.



OFCO and 10,000 Years Institute won state funding in 2018 & 2019 for monitoring Olympic Forest Collaborative projects to ensure that ecological goals are being met.

Its members, including industry, and partners like the Olympic Natural Resources Center and the University of Washington, developed a monitoring protocol that incorporates drone photography, lidar, and vegetative surveys.

Resilient Forestry, the Collaborative’s foresters, brought their skills to the project and have established permanent monitoring plots

on four projects. The data will be made available to the U.S. Forest Service, researchers, the Department of Natural Resources (Washington), tribes, conservation organizations and the public. See the website olympicforestcollaborative.org for story maps and updates.



The Olympic National Forest announced the new forest Supervisor, Kelley Lawrence, who took up her post in late May 2020. Ms. Lawrence comes from the Naches Ranger District on the Okanogan-Wenatchee National Forest. Lawrence takes the reins from Reta La Ford, outgoing supervisor who has moved to the regional office.

The new Pacific Northwest Regional Forester, Glenn Casamassa, took up his post in September 2018 as interim. As regional forester, Casamassa will oversee management of 16 National Forests within the states of Oregon and Washington, including Olympic National Forest. Casamassa moved quickly to meet with stakeholders in Washington, including the Olympic Forest Collaborative, committing to work closely with the Collaborative to achieve its ecological and management goals. Casamassa began his Forest service as a firefighter on the Tonto National Forest in Arizona.



Wild Olympics Update: U.S. House Passes Legislation to U.S. Senate



*by Connie Gallant,
OFCO President and
Wild Olympics
Campaign Chair*

In early 2007, several activists met to talk about launching an effort to save wilderness areas and rivers on the Olympic Peninsula. With industrial pollution threatening wild lands across the country, we felt the urgency to start a campaign that would protect this beautiful jewel we call home.

Through many meetings, field trips, and drawing board presentations during 2007 and onward, we narrowed it to 126,000 thousand acres of wilderness and 19 rivers and tributaries. The designation of the rivers as "wild and scenic" (a first on the Olympic Peninsula) was a top priority. Timber sales were going forward without adequate buffers to protect salmon runs, so we had to act fast—even as we were all too aware the process could be agonizingly slow. And so it has been—13+ years so far.

During the early days, we met with major stakeholders to show our plans, get input and make changes to satisfy their concerns while still assuring adequate protection.


Our plans were not joyfully received in all quarters. Some feared loss of their right to hunt and fish in protected areas, so we took pains to assure the public: "hunting and fishing permitted." The timber industry balked at loss of revenue, but this fear too was unfounded, since the proposed wilderness areas are difficult to access for harvesting. Many folks worried the government would rush to take over their properties; wild conspiracy theories abounded; and some elected officials were reluctant to voice support, fearing voter retribution.

Despite these obstacles, we are proud to list many elected officials and over 800 businesses

on the Olympic Peninsula who support the proposal, along with over 10,000 individual supporters.

Former Congressman Norm Dicks was with us from the start, as was Senator Patty Murray. Dicks tasked his staff to meet with stakeholders, tribal leaders, and elected officials. When Derek Kilmer succeeded him, we worked to bring him up to speed, hoping he'd introduce a bill in the House.

Once again, this past December, Representative Kilmer introduced H.R. 2642, the Wild Olympics Wilderness and Wild and Scenic Rivers Act, to designate and expand wilderness areas in Olympic National Forest, and to designate certain rivers in Olympic National Forest and Olympic National Park as "wild and scenic." It passed out of the House Natural Resources Committee in 2019, and passed the full House in February 2020, with major bipartisan vote in Congress as sponsored by Senator Patty Murray and Representative Derek Kilmer. During July of 2020, the U.S. House again passed the Wild Olympics bill with a number of other public land bills as an amendment to the National Defense Authorization Act.

We are hopeful that the Senate companion bill will be approved this year, capping nearly a decade and a half of efforts by the Wild Olympics Campaign. May the stars align for this long waited victory for wilderness!" 





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