



**Olympic
Forest
Coalition**

Promoting the protection, conservation and restoration of natural forest ecosystems and their processes on the Olympic Peninsula, including fish and wildlife habitat, and surrounding ecosystems

March 9, 2017

Ms. Lily Smith
SEPA Responsible Official
Washington Department of Natural Resources
SEPA Center
PO Box 47015
Olympia, WA 98504-7015

Subject: SEPA File No. 12-042001, Olympic Forest Coalition Comment on Long Term Conservation Strategy Draft Environmental Impact Statement.

Dear Ms. Smith:

We are writing on behalf of the Olympic Forest Coalition to submit this comment on the Long Term Conservation Strategy Draft Environmental Impact Statement, SEPA File No. 12-042001. Please forward this correspondence to Supervisor Rickerson, Commissioner Franz, and staff of the United States Fish and Wildlife Service and the Washington State Department of Natural Resources. Thank you for the opportunity to provide comments.

The Olympic Forest Coalition (OFCO) is a membership organization based on the Olympic Peninsula working to protect endangered species, forests, marine habitats, and our communities. OFCO supports the comments and recommendations submitted by the Conservation Groups Coalition. These include: a) the Legal memorandum titled “Conservation Groups’ Comments on the Draft Environmental Impact Statement for Washington Department of Natural Resources’ Long-Term Conservation Strategy for the Marbled Murrelet”; b) the Technical Science Comment and science-based alternative referred to as the “Conservation Alternative” proposed in the memorandum from Dr. Kara Whittaker and Dr. Dov Lank; c) Comments prepared by Dr. Bert Loosmore and Dr. Derek Churchill, evaluating the economic impact of the Conservation Alternative; d) the Memorandum on the trust beneficiaries authored by Peter Goldman, Washington Forest Law Center; and e) the Conservation Groups’ comment and attachments on the Sustainable Harvest Level Draft Environmental Impact Statement.

However, we feel that it is important to submit a further comment on a new source that will adversely impact the marbled murrelet that has not yet been adequately considered: military operations in the geographic zone considered by the Long Term Conservation Strategy Draft Environmental Impact Statement (LTCS DEIS). Additionally, recently published research by U.S. Fish and Wildlife biologists documents concerns about the marine habitat of marbled murrelet in Washington state.¹ The research shows a pattern of decline of the species possibly linked to deteriorating marine habitat. The increased shipping, commercial fisheries and hatchery operations, and other potential sources of disruption and pollution of the feeding, breeding and nesting habits of the species are of concern, given the latest research. The marine waters adjacent to the LTCS DEIS have not been sufficiently considered as a potential source of adverse impacts on the species. Military operations in these areas are in rapid expansion. We recommend that the State and the U.S. Fish and Wildlife Service revise the LTCS DEIS to include an analysis of the cumulative impacts from the forest practices included in the LTCS DEIS, and the impacts from military operations and other sources of marine waters impacts.

A revised draft EIS process can play an important role in correcting inadequate and improper segmentation of impacts in other NEPA processes for military operations, and increase the protections for marbled murrelets. Additionally, it will correct a potential significant omission and fulfill the State's and the Service's duty to protect endangered species under the Endangered Species Act.

OFCO members live, work and enjoy the beautiful forests and marine waters of the Olympic Peninsula. Our members are served by the essential services of the trustee counties, schools, health services, junior taxing districts and emergency services, including fire protection and emergency ambulances. OFCO fully supports the recommendation to the Commissioner of Public Lands, in conjunction with the Governor's Office and relevant executive agencies of the state of Washington, convene a working Task Force to identify potential sustainable, predictable, alternative direct financial support for timber counties, local communities and junior taxing districts providing essential services to low income populations (fire, health care, education, housing, utilities, infrastructure), who may be potentially economically impacted by state actions to protect endangered species in the forest lands of Washington State.

The reasons for our recommendations are outlined below.

Military Operations on the Olympic Peninsula, San Juan Islands and Adjacent Marine Waters overlap the Geographic Scope of the LTCS DEIS

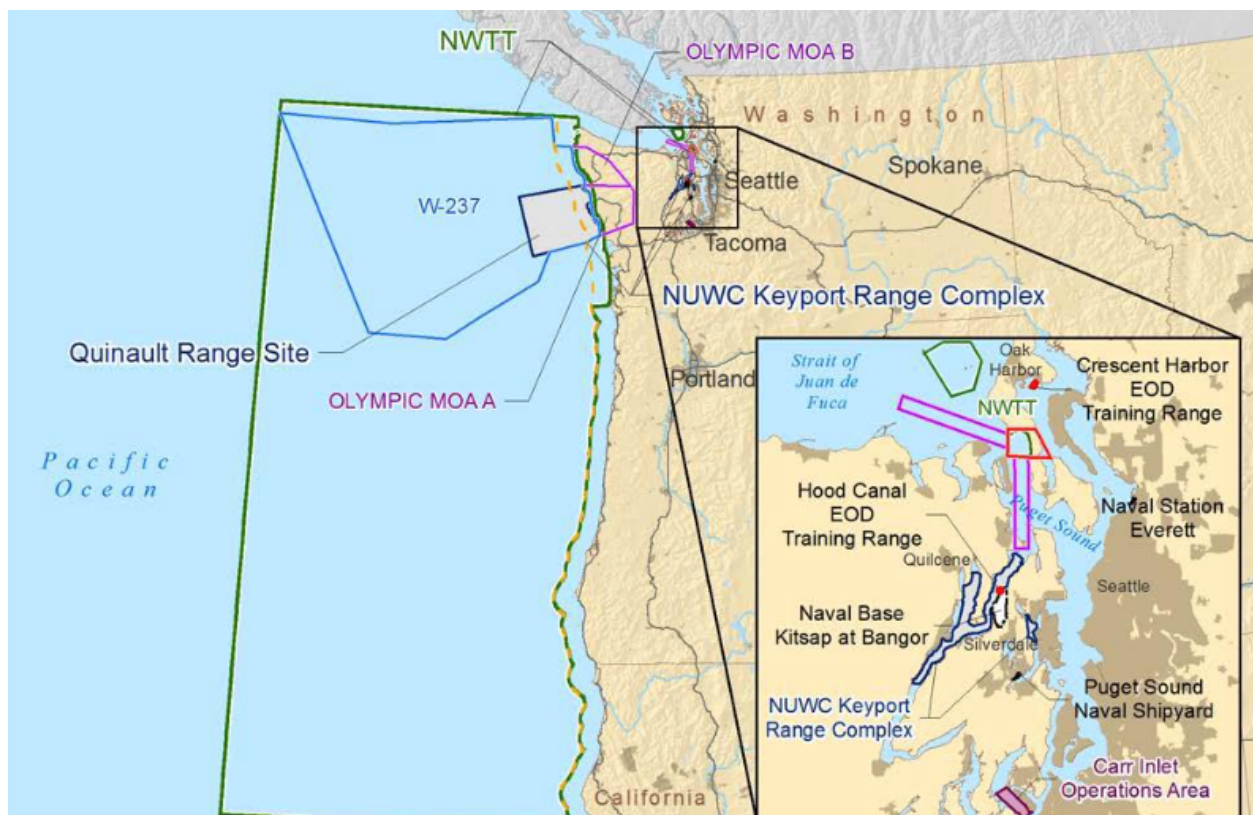
Military operations on the Olympic Peninsula, San Juan Islands, and adjacent marine waters have occurred for over 150 years as a part of territorial security measures. Military operations are subject to the federal laws that protect the environment and endangered species. This comment focuses narrowly on relevant Naval operations with potential impacts on federal and state listed endangered marbled murrelet. The U.S. Navy plans and operations on the Olympic Peninsula and related forests and seascapes correspond directly to the geographic areas analyzed in the

¹ T. Lorenz, et al, "Low Breeding Propensity and Wide-Ranging Movements by Marbled Murrelets in Washington," Feb. 2017, available at The Journal of Wildlife Management 81(2):306-321; 2017; DOI: 10.1002/jwmg.21192.

LTCS DEIS.²

The increased area the Navy is claiming for its electronic warfare testing range, its military operations area (MOA), and its marine operations, overlap with important habitat for the marbled murrelets both on forested public federal and state lands, as well as associated marine waters. The negative impacts of warfare maneuvers will increase on wildlife and livelihoods in communities around the Olympic Peninsula forests, San Juan Islands and coastal and offshore waters in the Salish Sea, Strait of Juan de Fuca, Hood Canal and Pacific Ocean. Offshore areas of naval training activities overlap with the State public lands, a Federal National Wildlife Refuge, the Olympic National Park, and the Olympic Coast National Marine Sanctuary, as well as Tribal usual and accustomed traditional places. The NEPA processes for these operations have raised controversial questions about their validity, are likely seriously flawed and may significantly under report the “take” of endangered species.

The geographic area of the impacts of the Navy training maneuvers are illustrated below.



² LTCS DEIS Map, available at http://file.dnr.wa.gov/publications/lm_mm_range_map.pdf.



Figure 2. The Navy's Northwest Training and Testing Offshore Area, part of the action area that includes the northern Pacific Ocean from the Washington coast to the Aleutian Islands of Alaska.

The LTCS DEIS directly correlates with this geographic area. The LTCS DEIS does not take into consideration the impacts of these activities. The Navy's Electronic Warfare Environmental

Assessment and Northwest Training and Testing Final Environmental Impact Statement raised serious concerns at the State Department of Natural Resources, which denied a permit for state forest lands, and at local governments such as Port Townsend, which wrote to the Navy about its concerns concerning the economic impacts and damage to historic buildings. The Navy released its North West Training and Testing Range Final Environmental Impact Statement (NWTT Final EIS) in October 2015³ without a public comment period and without completing any of the required federal and state consultations. The Navy abruptly terminated consultation with the State of Washington during the process, over the State's objections. The Navy recently announced another EIS for/and another increase in activity in the Northwest Training and Testing Range for summer 2017.

The cumulative impacts on endangered and other species will likely be significant from these expansion of activities.

LTCS DEIS Inadequate Analysis of Cumulative Impacts from Military Operations

We are concerned that the LTCS DEIS does not take into account significant sources of impacts on the marbled murrelet in its analysis, uses partial and outdated data, and may under report the decline of the species from cumulative forest practices and the military sources of impacts.

For example, the LTCS DEIS does analyze noise related to forest management, road work, recreational uses, among others, but not the additional sources of noise impacts from expanded military operations. The LTCS DEIS relies on an U.S. Fish and Wildlife Service biological opinion (2013), which has a limited scope in terms of analyzing impacts on marbled murrelets and does not include the most recent developments in the expansion of military operations discussed further below. Military operations are increasing dramatically in the zone analyzed by the LTCS DEIS, however these impacts are not taken into consideration in the analysis of cumulative impacts.

To illustrate our concern, we include here more detailed examples from two recent developments related to military operations that are not analyzed in the LTCS DEIS: a) OFCO objection to the US Forest Service permit to allow military training operations in geographic area; and b) OFCO comments on the Navy Growler DEIS on the expansion of the Growler fleet that will operate in the geographic area. Ms. Karen Sullivan, retired U.S. Fish and Wildlife Marine biologist, board member of the Olympic Forest Coalition, has provided detailed scientific and policy analysis in these two documents. Ms. Sullivan is considered an expert on the military expansion activities in our area, and has significant experience with policy and endangered species.

Our concern is that these expanded military operations have not been adequately analyzed under NEPA and underreport the cumulative impacts on the species. The underreporting of these impacts has the potential to undo the conservation efforts at the state level if not adequately analyzed in a revised draft EIS for the Long Term Conservation Strategy.

- a) Potential Cumulative Impacts from Electronic Testing and Training Operations on Murrelets

³ Available at <http://nwtteis.com/DocumentsandReferences/NWTTDocuments/FinalEISOEIS.aspx>.

The U.S. Navy applied for a limited use permit with the U.S. Forest Service to deploy electronic emitters in federal forests in the geographic scope of the LTCS DEIS on the Olympic Peninsula. The U.S. Forest Service issued its notice of decision and finding of no significant impact (ND/FONSI) in November/December, 2016.⁴ The decision and the related NEPA process are very controversial. OFCO, along with the citizens group West Coast Action Alliance, submitted an objection to the Service's ND/FONSI, appended below (WCAA OFCO OBJECTION Pacific Northwest Electronic Warfare Range). The objection outlines our concerns about the flawed and inadequate data, analysis, and conclusions in the ND/FONSI, and the likely under reporting of the impacts on the marbled murrelet.

Our concerns about the inadequate basis for the EA, the U.S. Fish and Wildlife Biological Opinion, and the ND/FONSI include:

1. the 2014 Navy Electronic Warfare EA did not address the full scope of impacts and improperly segmented the analysis to overly narrow scope, limiting it to the emitter trucks only and not functionally related activities such as the Growler overflights and ship targeting operations;
- 2.) the EA did not contain accurate maps and omitted critical details such as major rivers and lakes, Olympic National Park boundaries, including cumulative impacts endangered species and their habitats;
- 3.) the definition of terms such as "event" were not defined, and therefore could not be evaluated for impacts; the U.S. Forest Service could not accurately evaluate impacts in its Biological Opinion;
- 4.) no real baselines for noise impact evaluation based on best available science, including conducting noise studies in situ, were utilized in the EA;
- 5.) scientific inaccuracies contained in the EA impeded the U.S. Forest Service biologists from providing an adequate biological opinion on impacts to endangered species;
- 6.) the U.S. Forest Service did not conduct its own independent scientific investigations on all reasonably foreseeable impacts and cumulative analyses, in order to verify the Navy's Findings of No Significant Impacts;
- 7.) current scientific studies, and best available science on the risks from radiation coming from directed energy weaponry or mobile emitter trucks were not included, including an explanation for the reasons why the Department of the Interior sent a memo to the Federal Communications Commission in February 2014, criticizing the FCC's 30 year-old outdated standards used as a basis of analysis, and evaluate the real potential impacts on birds, amphibians and other endangered species.
- 8.) the science was flawed leading to a finding of no significant impact, therefore reasonable alternatives were not carefully considered, along with mitigation measures, to avoid or minimize adverse environmental impacts.

There is evidence that the U.S. Forest Service finding of no significant impact on marbled murrelet from the Navy training exercises is seriously flawed and underreports the "take" on the

⁴ Available at http://a123.g.akamai.net/7/123/11558/abc123/forestservice.download.akamai.com/11558/www/nepa/97011_FSPLT3_3907981.pdf.

species. The potential impacts from Navy operations should be analyzed in a revised LTCS DEIS.

b) Potential Cumulative Impacts from Growler Operations on Murrelets

The U.S. Navy released its Draft Environmental Impact Statement in December, 2016 on its expansion of the Growler fleet on Whidbey Island, and related training and operations (Growler DEIS).⁵ The Growler DEIS was limited in scope, and likely was improperly “segmented” to decrease the potential impacts on marbled murrelets. The Navy reported that it would consult with the U.S. Fish and Wildlife Service on the “potential significant impacts to endangered species” specifically the marbled murrelet during its public open house meetings in December, 2016. It is our understanding from the Navy, that this consultation is not public nor will information be made public.

In February, 2017 OFCO submitted a comment on the Growler DEIS, expressing our concerns about the marbled murrelet and requesting that the Navy revise the EIS to include likely direct, indirect and cumulative impacts from the Growler expansion on the species. The comment is appended below (Code EV21/SS Navy Growler EIS Comment OFCO WCAA Final).

The Growler DEIS contains serious deficiencies that likely result in under reporting of direct, indirect and cumulative impacts on marbled murrelets when considered together with forest practices analyzed in the LTCS DEIS. The comment analysis of the marbled murrelet begins on page 27, section number 11. The concerns include the following:

1. the Growler DEIS fails to evaluate all of the incoming new Growlers together, segmenting the impacts of their operations into tranches of delivered planes, not the actual budgeted / contracted / purchased fleet of 157-160 Growlers;
2. the Growler DEIS fails to analyze indirect and cumulative impacts to the species from takeoffs, landings and flight operations of 157-160 Growlers, not just the 36 discussed in the December 2016 Growler DEIS;
3. the Growler DEIS fails to consider noise beyond the immediate vicinity of naval facilities on Whidbey Island;
4. the Growler DEIS fails to use the new software recommended by a DOD committee, which would have accounted for noise characteristics of newer aircraft such as Growlers and provided more accurate noise level estimates;
5. the Growler DEIS fails to back up its analysis with Best Available Science, that marbled murrelets near runways are habituated to jet noise and visual disturbance,
6. the Growler DEIS failed to provide the U.S. Fish and Wildlife Service with more specific information on the seasonality and timing of training and testing to use in its July 2016 Biological Opinion;
7. the Growler DEIS failed to include marine based operations of related ship to surface exercises on marbled murrelets.

⁵ Available at:

<http://whidbeyeis.com/Documents/Whidbey%20Island%20for%20posting/Whidbey%20Island%20EIS%20volume%20I%20Full%20Document.pdf>.

The Growler DEIS concludes there will be no significant or population-level impacts to threatened or endangered species or other wildlife, including the marbled murrelet. The cumulative impacts from an increase to 130,000 flights that includes 79,000 Growler flights and frequent low-altitude flying, have not been considered. This many flights could easily impact large numbers of birds along the coast each spring and fall.

The LTCS DEIS indicates precipitously low population sizes over many decades under all alternatives described—from activities that do not include any analysis of impacts from jet noise nor marine waters operations.

As stated in our objection and comment on the military activities, it is our opinion that the Endangered Species Act (ESA) does not provide that an agency is only responsible for remediating its share of harm. Rather, the ESA mandate is simple and clear -- agencies may not undertake any action that results in jeopardy to the threatened species.⁶ No information was presented on impacts from military operations that could, when added to the impacts presented in the State’s LTCS DEIS, risk jeopardy to the species by impeding its recovery. Cumulative impacts include those effects by other actors that are “reasonably certain to occur” and that include past, present and future events and actions.

Conclusion

The State’s LTCS DEIS does not incorporate nor analyze the direct, indirect and cumulative impacts to marbled murrelets from expanded military operations in the geographic zone correlated to its analysis.

Estimated “Take” and Unknown “Take” from Military Operations in LTCS DEIS Zone

Activity / Operation / Document	Known Take Estimate	Unknown Take
4 squadrons of P-8A Poseidon Multi-Mission Aircraft		Unknown
A 2005 EA (57 Growler jets) and 2010 EIS (reaffirming the 57 Growlers that replaced Prowlers)		Unknown
2012 EA (26 Growlers including 5 from a reserve unit)	119 pairs	Unknown
NWTT Final EIS in October 2015	119 pairs	Unknown – EA inadequate, known take likely underreported (improperly segmented, incomplete, significant gaps in data, outdated data)

⁶ See, e.g., Pac. Coast Fedn. of Fishermen's Ass'ns v. United States Bureau of Reclamation, No. C02-2006 SBA, 2006 U.S. Dist. LEXIS 24893 (N.D. Cal. Mar. 27, 2006); PCFFA v. U.S. Bureau of Reclamation, 2003 U.S. Dist. LEXIS 13745, No. 02-2006 SBA, slip op. at 16 (N.D. Cal. July 15, 2003)

Pacific Northwest Electronic Warfare Range		Unknown – U.S. Forest Service ND/FONSI and the U.S. Forest Service 2016 Biological Opinion are controversial, likely improperly segmented, and under report cumulative impacts.
Growler DEIS (40 Growlers)		Unknown – the Growler DEIS does not include the full scope of potential impacts on marbled murrelet
Additional 40 Growlers Scheduled for Purchase (2017-2018)		Unknown - No information available; U.S. Navy and U.S. Fish and Wildlife consultations not made public
Summer 2017 NWTT expansion	To be determined	To be determined

Given the inadequate analysis of the potential “take” of marbled murrelet from expanded military operations on land and in adjacent marine waters which overlap with the LTCS DEIS geographic zone, there is sufficient evidence to conclude that we do not have accurate information about the direct, indirect and cumulative impacts from military expansion AND forest practices considered in the LTCS DIES.

Recommendations

The “take” of marbled murrelet from the expansion of military activities in the LTCS DEIS zone is unknown and likely significantly underreported in current NEPA/SEPA processes associated with military training and testing activities. Comprehensive and adequate cumulative impacts analysis have not been carried out. The take from the military operations will magnify the “take” from forest practices analyzed in the LTCS DEIS.

We recommend that DNR and the U.S. Fish and Wildlife Service undertake a revised DEIS to include this likely source of significant impacts on the marbled murrelet. The revised DEIS must be completed to encompass all known impacts in geographic zone, including Military operations, with adequate public information and comment period.

We also recommend that the State revise its LTCS DEIS to include an analysis of the cumulative impacts from the forest practices included in the LTCS DEIS, the impacts from military operations, and other impacts from sources of marine waters disruptions.

We further recommend that the Commissioner of Public Lands, in conjunction with the Governor’s Office and relevant executive agencies of the state of Washington, convene a working Task Force to identify potential sustainable, predictable, alternative direct financial support for timber counties, local communities and junior taxing districts providing essential services to low income populations (fire, health care, education, housing, utilities, infrastructure), who may be potentially economically impacted by state actions to protect endangered species in the forest lands of Washington State.

Thank you for your kind attention to this concern.

Sincerely,

Patricia Jones
Executive Director

Connie Gallant
President, Board of Trustees

Attachments:

1. WCAA OFCO OBJECTION Pacific Northwest Electronic Warfare Range
2. Code EV21/SS Navy Growler EIS Comment OFCO WCAA Final