



MARBLED MURRELET RULE ANALYSIS
EXPERT REVIEW OF DRAFT TECHNICAL REPORT
PROJECT CHARTER

MAY 25, 2018

REQUESTOR	SPONSOR(S)	PROJECT MANAGER	START DATE	END DATE
Oregon Department of Forestry	Lena Tucker	Jennifer Weikel	May 2018	November 2018

BACKGROUND

Context of the Forest Practices Act (FPA)

The Forest Practices act is the primary set of regulations governing forestry-related activities on nonfederal forestlands in Oregon. The FPA includes a policy statement which provides important context for this body of law (ORS 527.630 (1)):

“Forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that ensure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as provided in ORS 527.755 and to ensure the continuous benefits of those resources for future generations of Oregonians”.

Under the Forest Practices Act, specific protection standards for wildlife are addressed in Oregon Administrative Rule (OAR) Chapter 629 Division 665. These rules are known as the specified resource site rules. Section 0100 of this division addresses “species using sensitive bird, nesting, roosting, and watering sites” and section 0200 addresses “resource sites used by threatened and endangered species”. Currently, rules exist for osprey, great-blue herons, and bald eagles under OAR 629-665-0100 and rules exist for northern spotted owls under OAR 629-665-0200.

Marbled Murrelet rule analysis; background and process

In June 2016, the Board of Forestry (Board) received a Petition to Initiate Rulemaking under specified resource site rules to protect marbled murrelet resource sites. In November 2016, the Board directed the Department to initiate a rule analysis for marbled murrelets and as one of the initial steps for this project, to develop a technical report on marbled murrelets.

The process to consider federal- or state-listed threatened or endangered species for rule-development under the Forest Practices Act is laid out in Oregon Administrative Rules, (OAR) 629-680-0100. These administrative rules were developed in 1990 with the intended purpose to set criteria to inventory and protect special resources described in Oregon Revised Statutes (ORS) 527.710 (3)(a) on forestlands regulated by the Forest Practices Act. OAR 629-0680-0100 indicates that the Board’s evaluation of the protection rules for the resources sites shall be based on the best available information summarized in a

technical review paper. The paper shall demonstrate how the resource sites are sensitive to forest practices. Furthermore, the technical review paper shall be reviewed, including a technical review by experts chosen by the State Forester” (OAR 629-0680-0100 (1)(b)).

Ultimately, the Board will utilize the final technical report on marbled murrelets and other supporting information, including input from the expert reviews, to make policy decisions regarding protection of marbled murrelet resource sites.

PROBLEM STATEMENT

OAR 629-0680-0100 (1)(b) requires that, as part of the process to consider a species for rule development under the FPA, a technical report must be developed and then subsequently undergo a review by “experts”. This charter is established to describe the process to be used for the expert review of the draft technical review paper on marbled murrelets that was developed by ODF to meet the requirements of the rule analysis process (OAR 629-0680-0100).

PROJECT DESCRIPTION

Oregon Department of Forestry staff developed a draft technical report for the marbled murrelet to meet the requirements of OAR 629-0680-0100. The draft report includes general information on the life history and ecology of the species, including characteristics of nesting habitat and a summary of effects of forest landscape condition on nest selection and nesting success. The primary audience for this report is the Board of Forestry; the report was developed to assist the Board in their decision making process. As such, the technical report represents a summary of best available information on marbled murrelets and is not intended to be a complete, scientific literature review or a status review. The report is largely focused on use of forested environments by marbled murrelets. In addition, OAR 629-0680-0100 requires that a technical report contain the following information:

- 1) Identify the resource sites used by the species.
- 2) Identify the forest practices that conflict with the resource sites.
- 3) Evaluate the biological consequences of the identified conflicts.
- 4) Propose protection requirements and exceptions for the resource sites.

These policy topics are also addressed in the technical report.

Marbled murrelet nests are extremely challenging to locate and there is no efficient and effective method to locate nests. Thus, the technical report includes information for a range of possible options for the definition of a resource site that expand beyond just the nest tree. Additional work and subsequent decisions by the Board will be needed to define the resource site for marbled murrelets. In addition, protection standards are likely to vary depending on how the Board defines the resource site for this species. A range of possible options for protection strategies is discussed in the technical report.

The draft technical report was developed largely using reviews on marbled murrelets that were already developed (e.g., ODFW 2018, Raphael et al. 2016, Plissner et al. 2015, and McShane et al. 2004). Additional information was used and cited as appropriate to supplement (e.g., newer information) or to provide clarification to information summarized in the other reviews.

Input was requested and received during the development of the technical report from agency experts on murrelets (ODFW and USFWS), internal ODF staff, stakeholders, and

tribal governments.

Subsequent to the development of the Division 680 rules, other changes in forest policy have occurred that will need to be considered during future phases of this project. These include, creation of the ORS 527.714 statutes which set requirements for review prior to development of new rules under the Forest Practices Act and Measure 49 which allows for waivers or requires compensation for new rules that result in an economic impact to private landowners. This work is yet to be conducted, and this is outside the scope of this expert review.

Purpose of the expert review of the technical report: to conduct an independent review of the content of ODF's draft technical report on the marbled murrelet.

Desired outcome: to have a final technical report that is well-rounded and with an unbiased summary of the science to inform decision making to be conducted by the Board.

Goal of the expert review: to review the use of scientific information on the marbled murrelet in the draft technical report. The department wishes to have the members of the expert review group:

- 1) Identify any missing, pertinent literature that would lend merit to the Board's rule review process.
- 2) Review the report for interpretation of the science and identify any areas of concern.
- 3) Review and provide input on the scientific merit of options for resource site and protection strategies.

It will be important that the review includes specific citations and/or the location where missing documents can be obtained (for gray literature). In addition, for areas where the expert review members feel science may have been misinterpreted, it will be important to be very specific on why and how the reviewer feels the scientific information was misinterpreted.

Review comments received will be summarized in a report to be presented to the Board of Forestry. In addition, actual comments will be included in an appendix to the Board of Forestry report and will become part of the public record.

OBJECTIVES & SUCCESS CRITERIA

Objectives	How Measured
Ensure the Board has an unbiased, well-rounded technical report on marbled murrelets to help inform their decision-making process	Board has all the information needed to make a decision and accepts or rejects the final technical report.

PROJECT SCOPE

In Scope (Will be Included)	Out of Scope (Will not be Included)
Identification of missing publications on topics already discussed in the report	
Identification of topics missing from the report that will help to inform the Board's decision making process <u>AND</u> any literature on this topic that should be included. Please also include reasoning for why a topic is "in scope" for new/ missing topics.	Identification of missing topics not pertinent to inform the board's decision-making process.

Identification of areas where the reviewer believes the scientific information on the species was misinterpreted <u>and</u> a description of why/how the information was misinterpreted	Opinions on missing science or misinterpretation of information that is not described or backed up with scientific information
	Unpublished data (ODF will not have the time and resources to conduct any new analyses of data)
Publications in scientific journals (preferred); for information not otherwise available in scientific journals but that may have merit, final reports from other research or analyses may be suggested.	Unpublished or draft reports. Review needs to be focused on final products and not work in progress.
Scientific merit of policy options	Personal opinions on policy options

STAKEHOLDERS	
Interested Parties	Why Interested
Private Forest Landowners	<ul style="list-style-type: none"> • May be affected operationally and financially by the outcome of this project. • Desire to have any changes in the FPA requirements are based on sound science and best available information
Public forest Landowners	<ul style="list-style-type: none"> • Nonfederal lands subject to FPA rules, state-managed lands and other governmentally managed lands (e.g., county or city owned and managed forestland) • May be affected operationally and financially by the outcome of this project.
Conservation Community	<ul style="list-style-type: none"> • Concerned about the status of marbled murrelets and protection of the species • Desire to have any changes in the FPA requirements are based on sound science and best available information
Tribal Governments	<ul style="list-style-type: none"> • Marbled murrelets have cultural significance to some tribal governments • Some tribal lands (e.g., fee-lands) are subject to the FPA regulations. Thus, a portion of some tribally-owned and managed lands may be affected operationally and financially by the outcome of this project.
Academic/ Research Community	<ul style="list-style-type: none"> • Interest in that scientific research is interpreted correctly

RELATED PROJECTS
<p>The following materials have been used during past meetings with the Board of Forestry as part of the marbled murrelet rule analysis project and will be provided to the expert review group:</p> <ol style="list-style-type: none"> 1. Original petition to initiate rule making (June 2016) 2. Administrative rules for Chapter 629, Division 680 3. Current Forest Practices Act rulebook (dated February 2018) 4. ODF's report to the Board and review of petition (March 2017) 5. ODF's report to the Board and timeline/ checklist of next steps (April 2017) 6. ODF's report to the Board and draft technical report (April 2018) 7. Input received from agency experts (ODFW and USFWS), and stakeholders on early drafts of the Technical report (March 2018).

PROJECT TEAM		
Resource Name	Role	Responsibilities
Lena Tucker	Project sponsor	Project oversight and communication to ODF's executive staff
Jennifer Weikel	Project Manager	Oversee project planning, communicate with reviewers throughout project, interpret information received, develop report summarizing expert reviews received, develop final technical report
Josh Barnard, Kyle Abraham	Project Oversight	Support project manager, communicate internally and externally and conduct outreach as needed
Greg Wagenblast	Project Support	Assist in project management as needed

PLAN		
Task	Date Due	Milestone / Deliverable
Seek nominations from tribal governments, public forest landowners, private forest landowners, research organizations, academia, and conservation interest groups for possible individuals to participate with expert review	May 8 2018	Pool of names for consideration
Request chosen individuals to participate	By May 25	
<ul style="list-style-type: none"> Send out project charter to expert review members. Send out review materials to expert review members Answer any questions on charter 	By May 31	See list above under Related Projects
<ul style="list-style-type: none"> Conduct kick-off meeting (via webinar) prior to initiating work on the review. Describe scope and sidebars for the review. Answer any preliminary questions from reviewers. 	June 4 & 5	
Answer any questions from reviewers during the review timeline	Ongoing during review	Documentation of questions and responses
Collect final input from expert review	August 1	Reviewer input submitted to ODF
Summarize input received from reviewers into a report	September 15	Communicate to reviewers that a report with their summarized input will be shared with the Board of Forestry. Report will also be shared with the Expert Review group prior to the Board of Forestry meeting
Board of Forestry meeting	November 2018 (estimated date)	Present a summary of draft technical report content and input received during the expert review
Finalize Technical Report for Marbled Murrelets	TBD	Using input received during the expert review, finalize the technical report.

COMMUNICATION PLAN					
Deliverable/Description	Target Audience(s)	Delivery Method	Delivery Frequency	Who Responsible?	Purpose
Project Charter	Members of the expert review group and ODF staff	e-mail	Once	Weikel	Describe scope of review, set sideboards & deadlines
Documents for Project	Members of the expert review group and ODF staff	e-mail (or DropBox if needed)	Once	Weikel	Provide report for review and all background materials
Team Meetings	Members of the expert review group	Web meeting (1 st week June)	Once at initiation of the project	Weikel/ Wagenblast	Describe project and request for review; address any questions
Team communication/questions from review group	Members of the expert review group	e-mail or phone	Throughout project	Expert reviewers & Weikel	To answer any clarifying questions from reviewers during the project timeline
Final review	Members of the review group	Written document to be sent via email. Due August 1	Once at end of project	Expert reviewers	Document input from reviewers
Kick off meeting minutes & documentation of questions throughout project				Weikel & Wagenblast	
Final report for Board of Forestry	Board of Forestry & interested parties	Written report and presentation to Board	Once	Weikel & Tucker	

GROUP DECISION MAKING PROCESS
<ul style="list-style-type: none"> • Input will be collected from each reviewer independently. • If reviewers seek assistance or input from other individuals, the primary reviewer will compile all input into a single document to submit to ODF • We will not be seeking consensus as this is meant to be an independent review from the group members. • Input received, including any conflicting input on topics, will be documented in a summary that will be prepared by the Department and shared with the Board. • When developing the final Marbled Murrelet Technical report, the Department will determine what input received is appropriate to include in the final report. Any input that is out of scope will not be incorporated into the final technical report.