

SUNSHINE COAST CONSERVATION ASSOCIATION

Submission:

Recommendations for Developing the BC Implementation Plan for the Marbled Murrelet and the Northern Goshawk

March 30, 2016

About the SCCA:

Our Association is registered with the Canada Revenue Agency as a charitable society. The mission of the SCCA is to seek protection for ecologically significant lands and waters, undertake public education about conservation and provide others with assistance in achieving conservation and environmental objectives. There are approximately 30 member groups and we have 250 individual members. Our members and member groups are found throughout the greater Sunshine Coast region.

1. SUMMARY OF RECOMMENDATIONS

Marbled Murrelet Implementation Plan:

1. That the federal draft Marbled Murrelet Recovery Plan be fully implemented;
2. That implementation planning strives to achieve the federal Recovery Plan objectives for each conservation region;
3. That the implementation planning team commit to achieving the objective of protecting 85% of the nesting habitat existing as of 2002 in the South Coast mainland region and 100% of the nesting habitat remaining in the East Vancouver Island conservation region;
4. That protection of Marbled Murrelet nesting habitat be accomplished through spatially defined Wildlife Habitat Area designations;
5. That WHA designations have documentation as Class I, II or III nesting habitat and that habitat selections are reviewed for ecological suitability by the regional Senior Wildlife Biologist of MFLNRO;
6. That all MAMU nesting habitat in the Non-Contributing Land Base (NCLB), as defined in the most recent Timber Supply Review, be established as Wildlife Habitat Area;
7. That the “1% impact cap” which is limiting protection of species at risk habitat in the Timber Harvesting Land Base (THLB) be waived, as necessary, to achieve the targets set in the federal recovery plan;

8. That the planning team conduct an open process by posting a map showing the THLB boundary with an overlay of Marbled Murrelet nesting habitat. We also recommend posting all habitat data and documentation of impact to the THLB;
9. That British Columbia not compensate licensees for loss of timber harvesting opportunities within MAMU nesting habitat in the NCLB;

Northern Goshawk Implementation Plan:

10. That the intent of the implementation plan process should be to meet the federal draft recovery plan objectives;
11. That all Goshawk “home ranges” in the NCLB be protected as Wildlife Habitat Area;
12. That the size of Goshawk home range WHAs be determined scientifically and not with regard to political agendas;
13. That the “1% impact cap” which is limiting protection of species at risk habitat in the THLB be waived, as necessary, to achieve the targets set in the federal recovery plan;
14. That implementation planning for the Northern Goshawk is carried out in tandem with a process to establish a deer winter range plan for the Sunshine Coast Natural Resources District.

2. MARBLED MURRELET DISCUSSION

Marbled Murrelets and the SCCA: Our Association, and our member group the Friends of the Caren Range (FCR), have been involved in advocating for protection of nesting habitat for many years. The FCR mounted a massive volunteer effort in 1993 to find coastal BC’s first active Marbled Murrelet nest. They were also the first to observe the successful rearing and fledging of a chick. Beginning in the spring of 2000, SCCA activities on behalf of the Marbled Murrelet include a major complaint to the Forest Practices Board (FPB), a judicial review of Ministry of Forests logging approvals in the Brittain watershed, an Administrative Review process and a complaint to the Sustainable Forest Initiative about International Forest Products’ logging practices. These were all successful efforts that nevertheless failed to precipitate a comprehensive resolution. Our Association also participated in Forest Development Planning and Timber Supply Reviews and we continued to solicit special reports and investigations from the FPB. We are hopeful the current implementation plan process will finally succeed in making the changes that are so obviously necessary.

Looking Back: In 1990, the Royal British Columbia Museum, with the assistance of Environment Canada and the Canadian Wildlife Service, published Volumes I and II of *The Birds of British Columbia*. It contains a major compilation of all known documented sightings and nest records of BC birds, cross referenced to the best scientific research available at that time. The authors didn't hesitate in calling attention to the fact that the decline of the Marbled Murrelet was inextricably linked to the loss of old growth forests throughout the bird's range.

The *Birds of BC* has some interesting records. One record documents 1,700 Marbled Murrelets in the waters adjacent to Cortez Island in March, 1976. Another spring record in 1977 has 1,800 at the Sechelt Rapids near Egmont. This may be the largest concentration of nesting Marbled Murrelet pairs ever recorded. The largest flock that has ever been documented occurred during the Ladner Christmas Bird Count in 1975: 2125 individuals. Other records in the book show this species was common throughout the Georgia Strait, in Burrard Inlet, Howe Sound, English Bay and in Sechelt, Narrows and Salmon inlets, etc. Today the Marbled Murrelet is all but completely absent everywhere south and west of Jervis Inlet. We believe that it is fair comment to say that the decline of this species is industry-caused and catastrophic in scope.

Current State of Scientific Knowledge: Over the past two decades, significant progress has been made toward an understanding of the natural history of the Marbled Murrelet. Its nesting habitat is well described. Major publicly funded habitat surveys have given us a pretty good picture of where the remaining suitable habitat occurs throughout the region. Population sizes on a watershed-by-watershed basis are known. Dynamics of predation have been investigated and there is knowledge of how roads and clear-cut block edges increase predation of nests. Hazards in the marine habitat have also been extensively studied. In short: the entire picture is not complete, but we know everything we need to know in order to make effective decisions about how much land needs to be protected and where those lands are.

Conservation Status: The federally appointed body that determines the conservation status of species and ecosystems is the Committee on the Status of Endangered Wildlife in Canada (COSEWIC). Its assessments are entirely science based and do not consider social or economic factors. COSEWIC has determined that the Marbled Murrelet is Threatened (imperiled) and that this has been caused primarily by loss of nesting habitat from logging. There are also other factors contributing to this decline.

Species-At-Risk Act (SARA): The federal government has placed the Marbled Murrelet on Schedule 1 of SARA. This means that the protections provided by the Act are mandatory. One protection in the Act is the requirement for a recovery plan and identification of "critical habitat", an important element of this planning process. The Act also requires the provinces to establish their own processes that allow for implementation of the required protections. Another part of SARA allows the federal government to intervene when provinces neglect or obstruct SARA requirements. There are also a series of SARA mandated interprovincial, national and international agreements in place.

The Interests of the Public: The “public interest” is a frequently used phrase. The oath that elected people swear prior to taking office always requires that service to the public interest takes precedence over private interests, but what does this really mean? The public interest is broad and refers to society’s long term concerns. The public interest is not the same as the narrow interest of a stakeholder or vested interest. When implementing recovery planning, we are pursuing the public interest that is defined by the Species At Risk Act (SARA) and its associated agreements. Of course vested interests must be considered and compensation paid when those narrow legal rights are affected, but it is in the interests of all Canadians that our work with the implementation process is successful.

The Forest and Range Practices Act (FRPA): FRPA is the Act that governs the practice of forestry on Crown Land in BC. The goals and objectives of government for the management of environmental resources are laid out in Section 7 of FRPA. Businesses that have a licence-to-cut (Licensees) are required to show in a Forest Stewardship Plan (FSP) how they will achieve those goals and objectives. Registered Professional Foresters (RPF), are accountable to the Association of BC Forest Professionals (ABC FP). They prepare and implement FSPs and also supervise forest development. In considering how to best proceed with implementation planning, it is important to consider how well this regulatory framework functions.

The Forest Practices Board (FPB): The Forest Practices Board serves the public as the independent watchdog for sound forest and range practices in British Columbia. In the course of their work, they assess compliance with resource law and they also assess whether or not existing law is adequate to protect the public interest in forest resources. The FPB has published a number of findings about FRPA and FSPs that should be taken into account:

FPB/SIR/22 Conservation of Species at Risk Under the FRPA: Marbled Murrelets on the Sunshine Coast; April 2008: This Special Investigation Report assessed how the Marbled Murrelet is fairing under FRPA and what factors support progress towards habitat protection. The FPB considered the protective influences of government policies and agencies, the effect of professional ethics and the impact of third party certification programs.

The FPB found that certification programs had a limited but positive influence. On the effect of foresters’ ethical obligations, the FPB found no positive influence whatsoever. The forester’s professional organization, the Association of BC Forest Professionals (ABC FP), considers species at risk habitat to be a land use issue and therefore government’s domain. They refuse to hold their members accountable for damages to at-risk species’ habitat. And finally the FPB looked at government policy and resource law finding that FRPA Section 7 goals and objectives and the required FSPs are typically vague, unmeasurable and unenforceable.

FPB/SIR/44 FSPs: Are They Meeting Expectations? August, 2015: This Special Investigation Report is the FPB’s second analysis of FSPs. It finds discouraging results. The quality of FSPs in several key regards is worse than in the FPB’s original analysis in 2006. Below are several quotes that are relevant to the issue of the Marbled Murrelet in our region:

“A high proportion of the results, strategies and measures in FSPs are not measurable or verifiable and therefore not enforceable.”

“In the Board’s opinion, many results or strategies in FSPs do not demonstrate consistency with government’s objectives.

“All sampled FSPs include a professional forester’s signature and seal, yet all of these FSPs contained results, strategies or measures that were not measurable or verifiable”.

FPB/SR/52 District Managers’ Authority Over Forest Operations; December, 2015:

Prior to the introduction of FRPA, Resource District Managers were the “on the ground” government approving officials that authorized logging plans under the former *Forest Practices Code Act of BC*. The District Managers used an “adequate management and conservation” test before either approving or rejecting logging plans. Under FRPA, public officials do not approve or review logging plans, beyond FSPs, or any level of logging development. There are no independent government officials providing oversight or representing the public interest in the forest development process. To quote from the report:

“In recent years, the Forest Practices Board has seen situations arise where forestry development was putting local environmental and community values at risk, yet [government] district managers could do little to affect the development and protect the public interest.”

About the Association of BC Forest Professionals: The ABCFP professional practice guidelines state that:

“...competent members provide professional work that is measurable or verifiable...”

Currently, Registered Professional Foresters who write FSPs and undertake forest development planning are not held accountable by their professional association for damages to at-risk species’ habitat and so far haven’t been held accountable for FSPs that contain results, strategies or measures that are not measurable or verifiable.

Spatial Versus Non-Spatial Measures: Considering the above state of affairs, any measures to protect at-risk species’ habitat that default to “professional reliance” on, or the discretionary authorities of, RPFs will not be effective. Also, as long as there is no oversight by public officials of the effectiveness of FSPs and compliance with FRPA, non-spatial orders or other vague surrogate measures are unlikely to achieve the outcomes mandated in SARA. A much better approach is to designate Wildlife Habitat Areas which will create certainty, and require licensees to have a strategy in their FSPs detailing how they will ensure that logging will not impact the viability of designated WHAs.

Logging in the NCLB: The public has now experienced almost a decade of forestry under FRPA and its FSPs. This was ten years of no public oversight or enforcement and no disclosure to the public of licensees' operational planning and activity. Given the criticisms of the FPB regarding the lack of intelligible and enforceable results, we are not confident that licensees have respected the goals and objectives for the Marbled Murrelet in Section 7 of FRPA. For this reason, we recommend that there be no compensation paid to licensees that have developed logging plans in nesting habitat within the NCLB.

Sustainability and the Great Bear Rainforest: Sustainability in forestry is about maintaining all forest values and ecological services. It is not a competition. In our opinion, BC's forest industry has consistently treated non-timber values as if there is a competition and its interests in timber supply merit protection against society's interests in adequate management and conservation. We understand that some licensees have suggested that the outcome of the Great Bear Rainforest process should eliminate the need to achieve adequate management and conservation on the South Coast region. We hope that the implementation planning process will not be derailed by those outdated management assumptions.

Management Based on One Conservation Unit: Another idea that we understand has been put forward by licensees, suggests that the entire range of the Marbled Murrelet in BC should be treated as one management unit as opposed to the seven conservation regions currently under consideration. In this scenario, the federal recovery plan target of 70% nesting habitat retention, could be satisfied almost entirely by protecting land in the northern areas of the bird's range where logging opportunities and habitat options are more readily available in the short term. However, this approach would result in the extirpation of the species throughout the Georgia Basin, its adjacent inlets and Vancouver Island, as well. This approach does not lead to adequate management and conservation of this species. We need to be aware that north coast populations are also facing potential impacts in the marine environment and their future is not to be taken for granted. The SCCA vigorously supports the seven regions approach put forward by the federal Marbled Murrelet Recovery Team.

3. NORTHERN GOSHAWK DISCUSSION

The SCCA has been aware of the decline of the Northern Goshawk for some time now. Recently we became aware that a major effort was underway to find nests and research the bird's habitat requirements. We were delighted to learn in December, 2015 that implementation planning would soon be initiated. Before making recommendation we would like highlight some relevant history.

The concept of Landscape Unit Plans was introduced by government in the early 1990s as a "coarse filter" approach to general biodiversity protection. Forest Districts were divided into Landscape Units (LU) and the commitment was made that representative selections of old growth forest would be protected in each Biogeoclimatic Subzone (and variant) of each

landscape unit. The amount of land to be protected would be according to the type of “disturbance regime” and an assigned “biodiversity emphasis option” (BEO). The subsequent hue and cry from licensees caused Government to respond by permitting industry to log the old growth inventory down to 1/3 of the minimum landscape unit protection target in all the Low BEO landscapes.

The result of that decision is that today there is an enormous amount of land in forest Age Class I and II in all the low BEO landscapes. It was the lower elevation biogeoclimatic subzones that were the most dramatically impacted (primarily the CWHxm and CWHdm subzones). The most productive lower elevation old growth inventory was logged off to less than 2% (in the Chapman and Sechelt LUs, for example).

Another aggravating factor was the intense focus on trying to achieve close to zero impact on the THLB. This had several biodiversity related impacts: the old growth selections tend to be isolated fragments dispersed across the land base and these do not capture the diversity of site types and ecosystems. Another impact is that, especially in the lower elevations, old growth selections tend to be seral-stage stands, not old growth. There is a large concentration of land in Age Class I and II and a consequence of the failure to secure sound coarse-filter biodiversity protection is that the habit needed to stabilize Northern Goshawk populations is now widely unavailable.

Another traditional forest value that is not accounted for in FRPA Section 7 is deer winter range. The potential for reserving suitable land for deer winter range is severely constrained at the present time for exactly the same reasons that much of the land base can't accommodate Northern Goshawk nests – a lack of mature stands and old growth. Could there be a correlation? Perhaps there is some overlap between home ranges for Goshawks and winter ranges for deer. All we know for sure is that where landscapes are dominated by early seral stage forests, there are no winter ranges and there are also no Goshawk nests. The possibility of establishing deer winter ranges and Goshawk home ranges together should be investigated.

Thank you for considering our comments about implementing a strategy to recover populations of the Marbled Murrelet and the Northern Goshawk. We would like to participate fully in these processes.

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