

Marbled Murrelet Order

Draft



Ministry of Forests, Lands, Natural Resource Operations and Rural Development

Ministerial Order

Order for the Recovery of Marbled Murrelet (*Brachyramphus marmoratus*)

Preamble

It is the goal of the Province, through land use objectives and other measures, to implement management of Marbled Murrelet (MAMU) nesting habitat on provincial Crown land to support viable populations of Marbled Murrelets across their range in B.C.

This Ministerial Order represents a statutory decision under the *Land Act* to implement a priority Action identified in the *Implementation Plan for the Recovery of Marbled Murrelet (Brachyramphus marmoratus) in British Columbia*. In addition, the Land Use Objectives Regulation requires an appropriate balance of social, economic and environmental benefits.

The purpose of this order, in relation to the maintenance of suitable marbled murrelet nesting habitat (hereafter suitable habitat) is to: 1) ensure the availability of suitable habitat meets or exceeds minimum habitat thresholds established for provincial Crown land for the West and North Vancouver Island and the Southern Mainland Coast Conservation Regions; and 2) retain 100% of the remaining suitable habitat on provincial Crown land in the East Vancouver Island Conservation Region. Provisions in the order are in place in the East Vancouver Island Conservation Region to avoid isolating and preventing access to natural resources and address safety concerns.

Minimum habitat thresholds are established for landscape unit portions and landscape unit aggregates. These thresholds influence how much suitable habitat will be maintained at those spatial scales and how suitable habitat is to be maintained and distributed across Crown land. The amount of suitable habitat must meet or exceed landscape unit portion and landscape unit aggregate minimum habitat thresholds. Landscape unit aggregates are located within the same Natural Resource District and Conservation Region; therefore, minimum habitat thresholds at the Natural Resource District and Conservation Region scales are achieved without the need to set objectives at those scales. To increase management flexibility in the West and North Vancouver Island and Southern Mainland Coast Conservation Regions suitable habitat targets are established for landscape unit portions which, combined, equal the minimum habitat threshold for the landscape unit aggregate they are located in. There is flexibility to deviate from the landscape unit portion suitable habitat targets as long as landscape unit portion and landscape unit aggregate minimum habitat thresholds are achieved.

This intent of this order is to meet the aspatial habitat management commitments outlined in the Implementation Plan. Separate and complementary measures outside the scope of this order will be implemented to meet spatial habitat management commitments through the establishment of Wildlife Habitat Areas under the *Forest and Range Practices Act* and Old Growth Management Areas under the *Land Act* so at least 80% of the minimum habitat thresholds for the West and North Vancouver Island and Southern Mainland Coast Conservation Regions are spatially mapped and protected.

Significant effort has been made to improve the accuracy of the suitable habitat mapping. It is anticipated that habitat mapping improvements will continue and support an update to this order five years in the future to be consistent with the best available information. The implementation of this Order will be monitored, and if results indicate objectives are not being met, this order may be reviewed and amended. This preamble is provided for context and background and does not form part of the order.

1. Relationship with *Forest and Range Practices Act* Objectives

- (1) Pursuant to section 93.4 of the *Land Act*, the objectives set out in paragraph 3 of this order are established as land use objectives for the purposes of the *Forest and Range Practices Act* and apply to the Crown land in the landscape unit portions and landscape unit aggregates shown on Schedule 1 attached to this order.
- (2) Nothing in, under or arising out of this order abrogates or derogates from any aboriginal rights, aboriginal title or treaty rights of any applicable First Nations and does not relieve the Province of any obligation to consult with any applicable First Nation.

2. Definitions

- (1) In this order:
 - a. The objectives set out in paragraph 3 of this order apply to the mapped polygons of marbled murrelet nesting habitat (Suitable Habitat) shown on Schedules 2 to 6 attached to this order.
 - b. Words and expressions not defined in this order have the meaning given to them in the *Forest and Range Practices Act*, the *Forest Act*, the *Range Act* and the regulations made under those Acts, unless the context indicates otherwise.
 - c. Where an objective refers to an area shown on a Schedule and the area is also defined by a spatial dataset, the boundaries of the area as defined by the spatial dataset apply in the event of any inconsistency. A complete list of spatial datasets is contained in: <ftp://ftp.for.gov.bc.ca/RCO/external/!publish/MAMU/>.

3. Objectives for Marbled Murrelet nesting habitat

- (1) Maintain Suitable Habitat as follows:
 - (a) For each:
landscape unit aggregate in the order area:
Retain all timber in an amount equal to or greater than the minimum habitat threshold listed in Column “A” in Table 1 in Schedule “7”.
 - (b) For each:
landscape unit portion in the order area:
Retain all timber in an amount equal to or greater than the suitable habitat target listed in Column “A” in Table 2 in Schedule “7”;
- (2) Despite subsection (1)(b), the amount of timber that must be retained within a landscape unit portion in the West and North Vancouver Island and Southern Mainland Coast Conservation Regions may be less than the suitable habitat target listed in Column “A” in Table 2 in Schedule “7”, provided that:
The amount of timber retained is equal to or greater than the minimum habitat threshold listed in Column “B” in Table 2 in Schedule “7”.
- (3) Despite subsection (1)(a), Suitable Habitat polygons shown in Schedule “1 to 6” in the East Vancouver Island Conservation Region may be harvested, provided that harvesting is required for road access, other infrastructure, or to address safety concerns, where there is no practicable alternative.

(4) Variance from the Objectives in Sections 3.(1) to 3.(3) for the Suitable Habitat polygons shown in Schedule “1 to 6” may be allowed, provided that:

(a) A Qualified Professional:

- (i) Completes a field assessment that identifies the characteristics of Suitable Habitat using established standards; and
- (ii) Confirms the alteration will result in no net loss or functional loss of Suitable Habitat.

(b) A Regional Ministry of Forests, Lands, Natural Resource Operations and Rural Development biologist approves the alteration of the Suitable Habitat polygons.

- 4. This Order takes effect on the day that notice of this Order is published in the Gazette.
- 5. Pursuant to section 8(2)(b) of the *Forest and Range Practices Act*, an approved forest stewardship plan in the Order area must be amended to be consistent with this order within 6 months from the effective date of this Order.

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Ministry of Forests, Lands, Natural
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Date