



**ORDER – BOUNDARY AMENDMENT TO WILDLIFE HABITAT AREA 2-080**  
**Marbled Murrelet – Sunshine Coast Forest District**

This Order is given under the authority of sections 9(2) and 10(1) of the *Government Actions Regulation* (B.C. Reg. 582/2004) (GAR).

1. The delegated decision maker, being satisfied that
  - i. the following amended area continues to contain habitat that is necessary to meet the habitat requirements for Marbled Murrelet (*Brachyramphus marmoratus*); and
  - ii. the habitat requires special management that is not otherwise provided for under GAR or another enactment;orders that
  - a) this Order cancels and replaces:
    - i. the Order #1 associated with Wildlife Habitat Area (WHA) 2-080 for Marbled Murrelet that was signed March 3, 1999 and titled “General Wildlife Measures – Order No. 1”; and that became effective under the *Forest and Range Practices Act* (FRPA) upon being grand-parented from the *Forest Practices Code of British Columbia Act* (FPC) into the FRPA.
    - ii. the Order #2 associated with WHA 2-080 for Marbled Murrelet that was signed June 11, 2002 and titled “Order – Wildlife Habitat Area # 2-080”; and that became effective under the FRPA upon being grand-parented from the FPC into the FRPA;
  - b) the amended area shown in the map set out in the attached Schedule A (2-080) and contained in the WHA spatial layer stored in the Geographic Warehouse; (WHSE\_WILDLIFE\_MANAGEMENT.WCP\_WILDLIFE\_HABITAT\_AREA\_POLY) is established as wildlife habitat area 2-080 for Marbled Murrelet. The centre point of the line on the attached Schedule A is what establishes the WHA; and
  - c) if there is a discrepancy between the area shown in the map set out in the attached Schedule A and the WHA spatial layer stored in the Geographic Warehouse (WHSE\_WILDLIFE\_MANAGEMENT.WCP\_WILDLIFE\_HABITAT\_AREA\_POLY), the area as detailed in the WHA spatial layer will take precedent.
  
2. The delegated decision maker, being satisfied that
  - i. the general wildlife measures (GWMs) described below are necessary to protect and conserve the habitat of Marbled Murrelet; and
  - ii. GAR or another enactment does not otherwise provide for that protection or conservation;orders that
  - a) the GWMs outlined in Schedule 1 are established for WHA 2-080.

**Definitions:**

Words and expressions not defined in this Order have the meaning given to them in the FRPA and the regulations made under it, unless context indicates otherwise.

**Director** means Director of Resource Management, South Coast Region, Ministry of Forests, Lands and Natural Resource Operations (FLNR).

**Incursion** means new timber harvesting or road construction that is located within a WHA boundary where no harvesting or road building is otherwise permitted to occur.

**Productive forest area** means forest included as either contributing, partial contributing or non-contributing as per timber supply review planning.

**Traditional and cultural activities** are as defined in the *Free Use Permit Regulation of the Forest Act*.

**Schedule 1 – General Wildlife Measures:**

*Access, timber harvesting and silviculture:*

- 1) No primary forest activities are permitted.
- 2) GWM 1 does not apply if:
  - a) it is necessary to create guyline tiebacks for safe timber harvesting associated with landings/cut blocks outside the WHA;
  - b) trees felled in accordance with GWM 2 (a) are retained on-site to function as coarse woody debris, unless the felled tree poses a forest health risk; or
  - c) cutting of trees is for the purposes of traditional and cultural activities, as authorized under a Free Use Permit issued under the *Forest Act*.
- 3) Where primary forest activities are planned immediately adjacent to the WHA, GWM 1 does not apply to the area of an incursion in/along the WHA boundary if:
  - a) The incursion is required to provide for a logical harvesting boundary or a logical road or trail location that utilizes a physical feature or administrative boundary; and
  - b) The area of the incursion, or multiple incursions cumulatively, does not exceed 3 ha of productive forest area in the WHA; and
  - c) The incursion exceeds 0.5 ha, and the area of the incursion is replaced with an equivalent or greater area of equal or better habitat continuous to the WHA such that there is no net loss; and the incursion does not affect the intent or integrity of the WHA; and
  - d) The incursion as per GWM 3 (b), and any replacement habitat as per GWM 3 (c) are provided to the Director (via ESRI shape files) prior to the commencement of primary forest activities associated with the incursion.

*Pesticides:*

- 4) Do not use pesticides, except for:
- a) *Bacillus thuringiensis* var *kurstaki* for the control of western spruce budworm;
  - b) beetle pheromones for the control of bark beetles; and
  - c) herbicides to control invasive plants or noxious weeds, if applied by:
    - i) stem injection, cut and paint, foliar wipe or other direct plant application; or
    - ii) spot spraying individual plants or a cluster of plants if direct plant application is not practicable.



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Signed this 27<sup>th</sup> day of June, 2016

Scott Barrett, Director, Resource Management, South Coast Natural Resource Region  
Ministry of Forests, Lands and Natural Resource Operations

## Appendix 1:

The following information is provided as background information and support to the Order establishing WHAs 2-080. This appendix is not part of the Order.

1. **Activities to which the Order does not apply:** Section 2(2) of the *Government Actions Regulation* states

An Order under any of sections 5 to 15 does not apply in respect of

(a) any of the following entered into before the Order takes effect:

(i) a cutting permit;

(ii) a road permit;

(iii) a timber sale licence that does not provide for cutting permits;

(iv) a forestry licence to cut issued by a timber sales manager under section 47.6 (3) of the *Forest Act*;

(v) subject to subsection (3), a minor tenure,

(b) a declared area,

(c) areas described in section 196 (1) of the Act, and

(d) areas referred to in section 110 of the *Forest Planning and Practices Regulation* (FPPR).

2. Authority to consider an exemption from these GWMs is provided in section 92(1) of the FPPR, and section 79(1) of the *Woodlot License Planning and Practices Regulation*. An exemption may be provided if the Minister's delegate is satisfied that the intent of the GWM will be achieved or that compliance with the provision is not practicable, given the circumstances or conditions applicable to a particular area. Please note that the delegated decision maker may also have to consider if the exemption affects critical habitat, as identified in an approved federal Recovery Strategy.

An exemption application should be submitted to the Minister's delegate with a rationale describing the nature of the problem and options to integrate Marbled Murrelet conservation with proposed forest and/or range practices. This submission will assist in timely consideration of the matter, and will inform the conditions, if any, of the exemption that may be granted prior to commencement of activities. Upon receipt of a complete exemption application, a determination will normally be made within 14 calendar days of arrival at the FLNR regional office. Incomplete packages will be returned to the proponent for re-submission. A template for exemption requests is available at: <http://www.env.gov.bc.ca/wld/frpa/index.html>

3. GWM 1 does not apply to road maintenance, road deactivation or brushing within the right-of-way on existing roads or trails in the WHA. All work should be carried out in a manner that will not affect the intent or integrity of habitat in the WHA.
4. Under GWM 2(a) and 2(b), persons that fell trees for guyline tiebacks, and then remove the felled trees because they are determined to pose a forest health risk, should be prepared to provide a rationale specific to the forest health risk to justify the removal. The rationale is to be made available to a government official upon request.
5. The intent of GWM 3 is to facilitate pre-authorized minor boundary exemptions provided that FLNR is notified prior to the incursion taking place. To be clear this GWM is expected to be used infrequently, to a maximum of 3 ha, and the intent is not to allow incursions to be repeated

over and over. Examples of incursions include a cut block, road, trail or landing that overlaps into a WHA boundary and: a) the intent of the WHA boundary was to follow a creek or road and in some cases the WHA boundary extends slightly beyond the creek or road due to a GIS mapping error and creates the overlap; or b) unintentional overlap occurs with an engineered primary forest activity that becomes evident when comparing map scales (e.g. 1:20000 vs 1:5000); or c) *Forest Act* agreement holders can demonstrate that the block, road, trail or landing are located in a logical location and the incursion does not exceed the amount allowed.

In almost all instances the amount of incursion is anticipated to affect a small area. No replacement area is required when the discrepancy is: a) caused by GIS boundary mapping error since the intent of the WHA has not been altered; or b) the cumulative overlap is <0.5 ha. In other situations, the intended result is that where a boundary amendment is suggested by a *Forest Act* agreement holder and when the reduction is measurable ( $\geq 0.5$  ha and <3 ha measured cumulatively in the WHA), it will result in no net loss to habitat in the WHA. Delineation of equal or better marbled murrelet habitat, in quantity and quality, will be required contiguous to the WHA. Any biological assessment to replace habitat should be conducted by a qualified professional with appropriate training and experience for the work being completed. In the case of Marbled Murrelet, implications around critical habitat identified in the approved Recovery Strategy should be considered. If replacement habitat is required and equal or better habitat is not available contiguous to the WHA then the incursion cannot proceed under this GWM. In this case, the proposed activities will require an exemption application as outlined under section 2 in this Appendix.

Boundary amendments meeting the conditions identified in GWM 3 will be periodically reviewed by FLNR and the WHA boundary officially amended under the *Government Actions Regulation*. In addition to reporting incursions to the Director prior to commencement of activities as per GWM 3 (d), it is the proponent's responsibility to keep accurate records of each occurrence. Records must also be made available to a government official upon request.

6. These GWMs do not apply to persons who must comply with the *Worker's Compensation Act* and the regulations under that Act (e.g. danger tree felling, OH&S Regulation part 26). Where a GWM cannot be achieved due to a worker safety concern, a person should consider developing a rationale related to the safety issue and keep it on file to be made available to a government official upon request. Consistent with section 2(3) of the FPPR, exemptions from these GWMs are not required to meet safety requirements.