



WASHINGTON STATE DEPARTMENT OF
Natural Resources

Peter Goldmark - Commissioner of Public Lands

Marbled Murrelet Long-term Conservation Strategy and Western Washington Sustainable Harvest Calculation

For Forested State Trust Lands
A Report to the
Board of Natural Resources

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March 2015



DNR's Trust Mandate

**DNR's "trust mandate" -
fiduciary obligation to
manage state trust lands
for the benefit of:**

- Federal Granted Lands Beneficiaries, including Common Schools, Universities, and certain institutions
- Counties



DNR's Trust Mandate

As manager of state trust lands, DNR has legal fiduciary responsibilities under the State Enabling Act and Constitution that includes duties to:

- Generate revenue and other benefits for each trust, in perpetuity
- Preserve the corpus of the trust
- Exercise reasonable care and skill
- Act prudently to reduce the risk of loss for the trusts
- Maintain undivided loyalty to beneficiaries
- Act impartially with respect to current and future beneficiaries



Washington Supreme Court Decision: *Skamania County v. State*

- **Duty of Undivided Loyalty**

“It may not sacrifice this goal to pursue other objectives, not matter how laudable those objectives may be.”



State Trust Lands Management

- **DNR must comply with:**
 - Federal Laws, such as:
 - Endangered Species Act (ESA)
 - State Laws, such as:
 - Forest Practices Act and Applicable Rules
 - State Environmental Policy Act (SEPA)



Endangered Species Act

- **Purpose** is to protect and recover imperiled species and the ecosystems upon which they depend
- **Species may be listed** as endangered or threatened on the basis of biological status and threats to existence



Endangered Species Act

Once listed, endangered and threatened species and their habitats are protected by prohibiting the “take” of listed animals, except under Federal permit.

- Take is “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct.”
- “Harm” is an act which actually kills or injures wildlife. This may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.



Endangered Species Act

- State of Washington is required to comply with ESA in its land management activities
- Compliance tools include Habitat Conservation Plans and Safe Harbor Agreements, as well as take avoidance



State Trust Lands Management

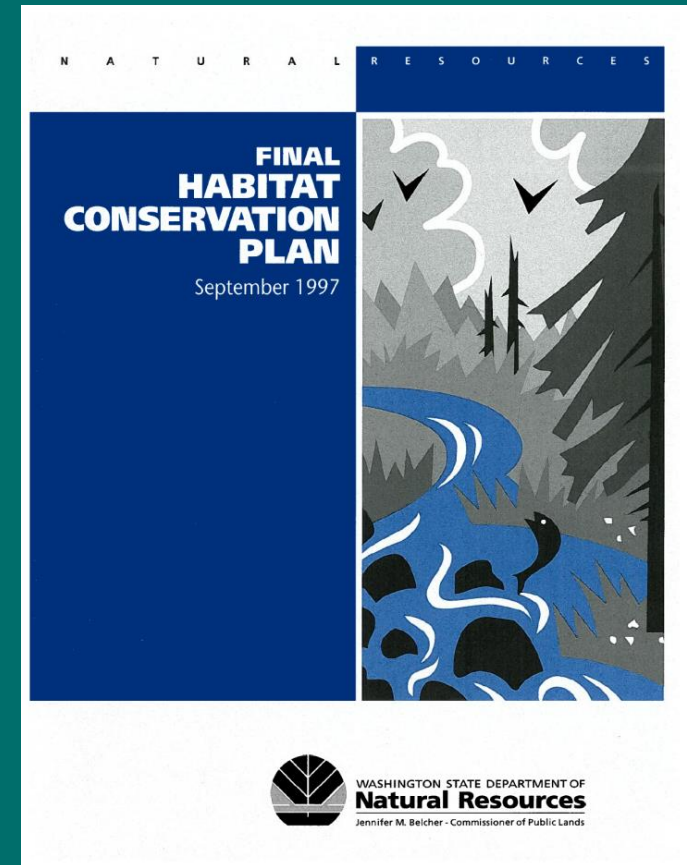
- **Habitat Conservation Plan**
 - Section 10 of ESA authorizes a landowner to negotiate a habitat conservation plan (HCP) to minimize and mitigate any incidental impact to threatened and endangered species
 - HCP may allow the landowner to develop habitat at the landscape level
 - Voluntary by landowner, but required if landowner wants an Incidental Take Permit



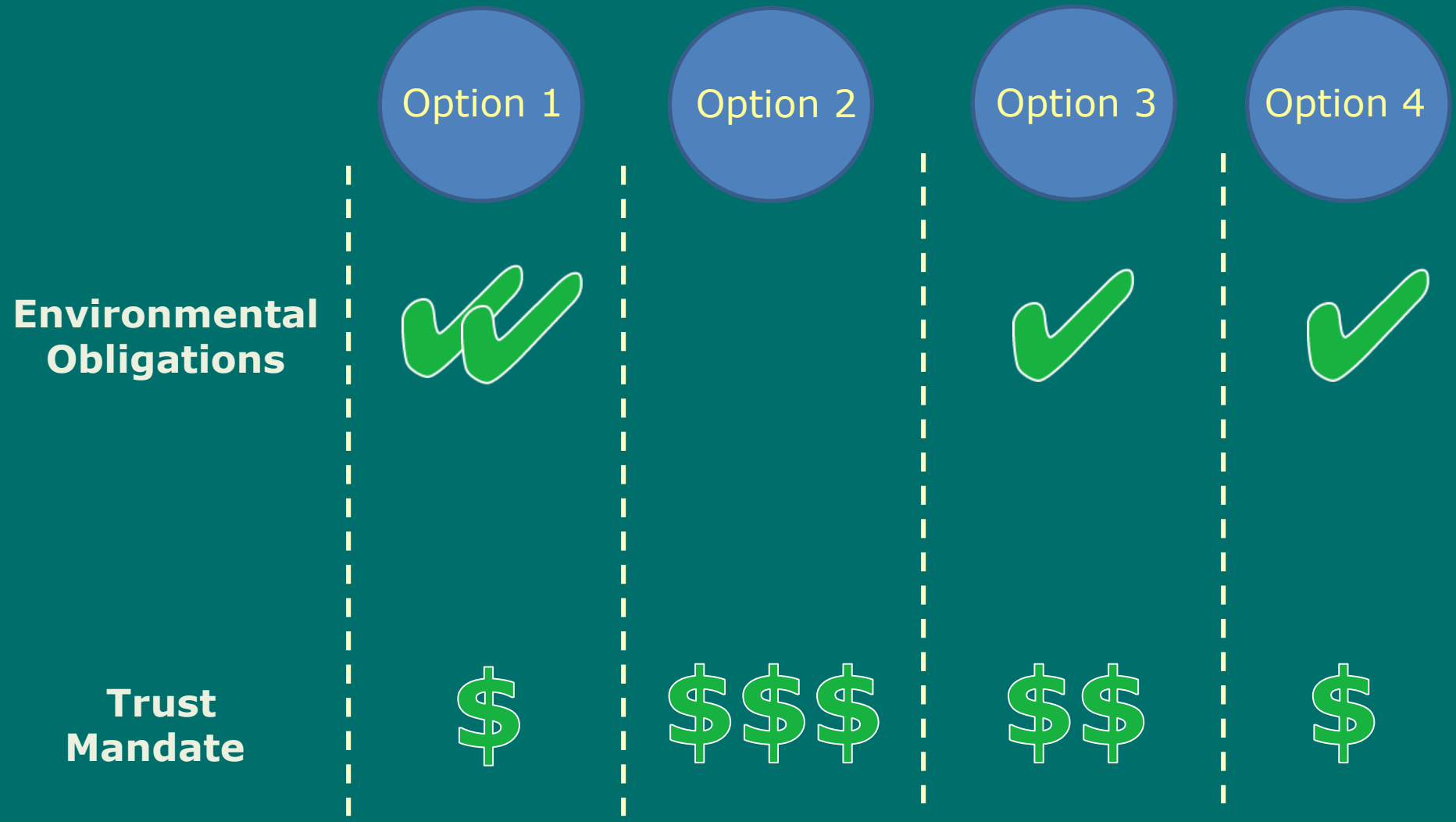
1997 State Trust Lands Habitat Conservation Plan

HCP is expected to allow DNR to better fulfill its duties as a trust manager by providing greater:

- Certainty in management
- Stability in harvest levels
- Flexibility in operations



Environmental & Fiduciary Responsibilities



SHC and MMLTCS Concurrent Process

- **Advantages**

- Quickest way to complete all planning efforts
- Public comment informed by both processes
- Incorporates financial analysis for MM in SHC

- **Risks**

- Project timelines depend on each other
- Many interrelated decisions may be confusing



MMLTCS Before SHC

- **Advantages**

- One USFWS approved MMLTCS would analyzed in SHC
- MMLTCS may get done more quickly

- **Risks**

- Increases overall time to complete the projects
- BNR may make MMLTCS decision without complete information



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