



December 30, 2013

**Notice of Final Determination**  
**Riley Rotor Timber Sale, App. No. 88957**  
**FPA No. 2813697**  
**File No. 13-120601**

The Department of Natural Resources issued a  Determination of Non-significance (DNS),  Mitigated Determination of Non-significance (MDNS),  Modified DNS/MDNS on December 6, 2013 for this threshold determination under the State Environmental Policy Act (SEPA) and WAC 197-11-340(2).

This determination is hereby:

Retained.

Modified. Modifications to this threshold determination include the following:  
Proposal reduced by 4.4 acres due to new LiDAR information received.

Withdrawn. This threshold determination has been withdrawn due to the following:

Delayed. A Final Determination has been delayed due to the following:

Summary of Comments and Responses (if applicable):  
See attached.

Date: 12/30/13

Laurie Bergvall, Acting Northwest Region Manager

December 30, 2013

Response to comment received on SEPA, File No. 13-120601, Riley Rotor Timber Sale No. 88957 (FPA 2813697)

Attachments

- (1) Riley Rotor Specialists Field Visit Details
- (2) Riley Rotor Timber Sale, Marbled Murrelet Habitat Search
- (3) 160-Year-Old Tree Documentation

**Responses in Relation to Potential Impacts on Marbled Murrelets**

WFLC Comment – Unfortunately, in its SEPA Checklist for the Riley Rotor sale, DNR indicated that “No stands of “newly-identified” habitat are in the vicinity of this proposal” and provided no further details about how this determination was made.

DNR Response - See SEPA Checklist A.13, attachment 1, and attachment 2. Field inspections for marbled murrelet habitat revealed no habitat meeting HCP definitions or the definition for newly identified habitat for the marbled murrelet exists within the proposal or near the proposal.

WFLC Comment – It appears DNR may have underestimated the age of the stands proposed for harvest. In contrast to the 79-85 year old reported age, predictive vegetation maps generated using the gradient nearest neighbor method (Ohmann et al. 2010) show stand ages up to 440 years old and extensive areas over 100 years old within the harvest units.

DNR Response - See SEPA Checklist A.11.b., SEPA Checklist B.4.b.1, and attachment 1, attachment 2, and attachment 3. DNR relied upon data collected in the field to estimate the age of the stands proposed for harvest. The model referenced (Page 5, Ohmann et al. 2010) is inconsistent with and unsupported by the DNR data collected in the field.

WFLC Comment – A recent nesting habitat suitability model shows large areas of moderate to high nesting habitat suitability throughout the proposed harvest units. DNR failed to describe any field measurements taken in these stands demonstrating that they do not fit the definition of “newly identified suitable habitat”.

DNR Response – See SEPA A.13, attachment 1, and attachment 2. The model referenced (Page 5, Raphael et al. 2011) is inconsistent with and unsupported by the DNR data collected in the field.

WFLC Comment – Multiple pairs of murrelets have been documented nesting in forest stands immediately north and south of the Riley Rotor sale on lands managed by the DNR and the U.S. Navy extending along a contiguous band of habitat for several miles. Steller’s jays may therefore be able to reach further into the interior of these occupied sites, likely within the range of murrelet nests.

DNR Response - See SEPA A.13, attachment 1. The closest known occupied marbled murrelet site is over 1 mile to the northeast from the harvest proposal. The proposal does not contain suitable marbled murrelet habitat.

### **Responses in Relation to Potentially Unstable Slopes & Impacts on Aquatic Species & Public Safety**

WFLC Comment – While the SEPA documentation stated, “all areas of potential instability are located outside of the proposed harvest boundary”, no mention was made of the large historic landslide in unit 1 and a Geotechnical Report was not prepared for the sale.

DNR Response - See SEPA question B.1.d (3) and attachment 1. No geotechnical report is required for this proposal under forest practices since no class IV special features are present in the proposal.

WFLC Comment – Because steep inner gorges are commonly associated with type 5 streams, we argue that *all* type 5 streams be *fully* buffered within the proposed harvest units.

DNR Response - See SEPA question B.1.a (2), B.1.d (1-4), and attachment 1. All type 5 streams in the harvest area have been evaluated for inner gorges. None of the type 5 streams within the proposal meet the criteria for an inner gorge. Buffering the type 5 streams is not required under forest practices and the HCP. DNR did not think it was necessary to provide additional buffering on type 5 streams for this proposal given the site characteristics.

WFLC Comment –If these known unstable slopes have “the potential to deliver sediment or debris to a public resource or have the potential to threaten public safety”, then the FPA for this sale was improperly designated as a Class III in violation of the Forest Practices Rules.

DNR Response – See SEPA question B.1.a (2), and attachment 1. No unstable slope features, as defined in WAC 222-16-050(1) (d) (i), were identified in the proposal during the reviews conducted by geologists.

WFLC Comment –Although the “named” Rule-Identified Landforms may have all been properly identified and excluded from the proposed harvest, the steepness, high hazard rating, and documented landslide activity suggest that the “Unnamed RIL category (WAC 222-16-050(1)(d)(i)(E)) may apply.

DNR Response - See SEPA B.1.d (1-4), and attachment 1. No rule identified features were found within the proposal area during proposal layout, including any WAC 222-16-050(1) (d) (i) features during the geologists’ field reviews or during the pre-application ID team. See attachment 1.

A decision in the field was made by the proponent to exclude an area that might be potentially unstable on 12/17/13, when LIDAR became available for the entire proposal.

### **Trust Land Management**

WFLC Comment – White Paper

DNR Response – DNR’s fiduciary standards in managing State Forest Lands, as analyzed in the December 3, 2013, WFLC white paper, are beyond the scope of this SEPA review.

## **Mitigation of Determination of Non-significance**

### **WFLC Comment – EIS Request**

**DNR Response** – After reviewing the proposal as designed, the comments received, and the clarifications provided, the standard for requiring an EIS, a probable significant adverse environmental impact, has not been met. The mitigation measures in the proposal include the avoidance of unstable slope features, the buffering of one type 3 stream and eleven type 4 streams, installation of temporary bridges on two type 3 stream road crossings, the retention of green and wildlife trees, and the use of helicopter yarding systems. The site was evaluated for the presence of marbled murrelet habitat. None was found. See attachments 1 and 2.

**Memorandum**

**To: Laurie Bergvall, acting Northwest Region Manager**

**From: Mark Arneson, acting Cascade District Manager**

**Date: December 24, 2013**

**Subject: Riley Rotor Specialist Field Visit Details**

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**1. Slope Stability Related**

The State Lands geologist made 3 different site visits to the sale since 2011. The first visit was to evaluate concerns of slope stability for a preliminary road location for the original timber sale plans. No platforms were recorded. This plan was later abandoned by the proponent.

In Late July 2013, the state lands geologist returned to the sale area for an official screening of unstable slopes for the current Riley Rotor timber sale. All boundaries were set based on staying off slopes greater than 70% draining into a stream. This was a full day with extensive coverage of the sale area.

Towards the end of the sale setup, an area that raised concern to a field forester brought the geologist back out to the sale. It was decided that the area of concern was a one sided inner gorge feature and was bound out of the sale.

On 11/6/2013, a pre-application ID team was assembled to office review and visit areas of concern on the site. In attendance were the presales unit forester, state lands geologist, forest practices forester, representative from Tulalip tribe and a geologist from the Tulalip tribe. According to ICN#134232, portions of the proposed timber sale boundary were reviewed for potentially unstable areas as they appeared on the contour maps and LiDAR imagery. The ICN also states that all potentially unstable slope features were excluded from the reviewed portions of the sale area.

On 12/17/2013, additional LiDAR data was made available for the project area that was previously unavailable. The Geologist and unit forester reviewed the data from the office and determined there was a small area of approximately 3.2 acres that may have convergent topography with slopes over 70%. While portions of this area could potentially be harvested, the geologist and unit forester felt that it was a prudent management decision to exclude this area of potential instability from the sale area. The unit forester bound out this portion of the acreage of the sale on December 18, 2013. While bounding this feature out of the sale, the unit forester decided to extend an area upslope that was previously excluded from the sale area. This removed an additional 1.5 acres from the sale area. The change also adds 0.3 acres from the leave tree patch, which results in a total change of 4.4 acres removed from the sale area.

**2. Wildlife Screening Related**

During the initial stages of the sale preparation, office reconnaissance was performed for potential wildlife features. This includes screening the proposed sale area and the areas surrounding the proposal

habitat. Field wildlife screening for the Riley Rotor sale started in 2011 when the proposed plan was to construct road into the harvest areas. The road right-of-way was screened for marbled murrelet platform trees and none were found.

*Screening for marbled murrelet habitat usually involves one person or a group that will walk through the stand looking up in the canopy for potential platform trees. To qualify as a platform tree, it must meet 3 criteria based on the 2007 Ken Berg memo, which the department abides by:*

- *Contain a 7" wide platform in the form of a large branch, mossy branch, broken top, forked/split top, or mistletoe.*
- *Be 50' above the ground*
- *Be in the live crown of the tree the platform is in.*

*These potential platform trees must be within 300' of one another, and must form a polygon >5 acres to be protected under current direction. Scattered platform trees can occur in a stand, but if they do not meet the criteria for a polygon, then they stand alone. If possible, they are left as leave trees.*

In the summer of 2012, two foresters did a preliminary screening of the sale for platform trees. In addition on 12/18/2013, State Lands NW Region Biologists visited the proposed timber sale to verify the stand screening the field foresters had performed. In summary; 11 platform trees were found in 2012 and 2013. No polygon of 5 acres was found within the sale boundaries. Three months of daily field work done by trained field foresters yielded no signs of potential newly identified marbled murrelet habitat, other than the 11 platform trees that were left as leave trees.

**December 23, 2013**

**TO:** Joel Dryden, Unit Forester

**FROM:** Tom Bloxton, Wildlife Biologist

**SUBJECT:** Riley Rotor Timber Sale, Marbled Murrelet Habitat Search

This memo serves as documentation of biologist field visit and review of the Riley Rotor Timber Sale in the N half of section 29, T32N R07E. On December 18, 2013, I visited the site, along with Biologist Lisa Egtvedt and Unit Forester Joel Dryden to confirm the findings of “unsuitable” with respect to marbled murrelet habitat. The area is characterized by Douglas-firs with many, small limbs and occasional western redcedars with larger limbs providing some potential platforms. Between previous search efforts and our visit on December 18<sup>th</sup> we found a total of eleven platform trees spread widely throughout the area. Some areas with mossy limbs occur at lower elevations; however, most of the limbs are well below seven inches in diameter even with moss included. The sparse distribution of the eleven platform trees results in no habitat polygon of five acres or larger. Therefore, I conclude that the Riley Rotor Timber Sale does not contain any suitable murrelet habitat, including newly identified habitat.

**Riley Rotor Timber Sale**  
App. No. 30-088957  
160-Year-Old Tree Documentation

The Washington State weighted old growth habitat index (**WOGHI**) was reviewed for the proposed Riley Rotor timber sale. This proposal does not include stands or points with a moderate or high WOGHI index (50+), either within or directly adjacent to the proposal.