



320 Central Avenue Suite 312
PO Box 611
Coos Bay, OR 97420
(541) 267-2046
coastrangeforestwatch@gmail.com
www.coastrangeforestwatch.org

**Senate Committee On Environment and Natural Resources
Testimony in Support of Senate Bill 847
March 20th, 2017**

Hello. Coast Range Forest Watch is an all volunteer non-profit based in Coos Bay, OR. We advocate for sustainable forestry practices, continued public ownership of the Elliott State Forest, and for preserving the native forest therein. Our primary project is to conduct certified marbled murrelet surveys. The marbled murrelet is a rare seabird that nests in coastal old growth; they are listed under the Endangered Species Act.

We want to thank Chairman Michael Dembrow, Vice-chair Alan Olsen, and fellow members of the Senate Committee on the Environment and Natural Resources Herman Baertschiger Jr., Floyd Prozanski, and our own senator Arnie Roblan, for the opportunity to submit testimony in support of Senate Bill 847.

Through a legislatively funded trust land transfer program, Washington State has transferred 123,188 acres of environmentally sensitive land, or non-performing assets, out of their Common School Fund by appropriating \$862,901,000 as of 2015, it's higher now (from WA Department of Natural Resources). These transfers protect important habitat for fish, wildlife, and recreation.

Establishment of a Trust Land Transfer program in Oregon is urgently needed. Currently a majority of the 2017 Land Board are operating under the assumption that a fiduciary mandate requires them to liquidate the Elliott State Forest (ESF) for a fraction of its true value. The legislature has already precluded the sale of the Elliott by passing ORS 530.450. The Constitution states that "the powers and duties of the State Land Board shall be prescribed by the Legislature," i.e. by law (see the attached memo *State Land Board Constitutional and Trust Obligations Regarding the Elliott State Forest*). There is a lawsuit over ORS 530.450 pending in the Oregon court of Appeals. A Trust Land Transfer program is about more than the Elliott State Forest, but the Elliott is under the immediate threat of privatization, and is a prime example for why such a program is needed today.

Roughly half the Elliott State Forest has never been logged and contains the most contiguous amounts of native forest remaining on the Coast Range. The Elliott grew back from a stand-replacing fire in 1868. Unlike any forest ever clearcut, the Elliott regenerated naturally with all native species intact. Whereas, in industrial style logging the forest is clearcut, the slash is burned, the topsoil is disturbed, invasive species encroach due to the disturbance, the land is sprayed with herbicides, and densely planted to an even-age monoculture. The resulting tree farms do not come close to approximating the biological diversity or serving the ecological functions of a native forest. It is of the utmost importance that the native forest stands within the Elliott are preserved and retained in public ownership. They are critical for the protection and recovery of Oregon Coastal Coho salmon, supporting close to a quarter of the state's wild population. Coastal native forest also sequesters more carbon

than any other ecosystem. The 2011 Ecotrust ESF Carbon Analysis found that if no logging occurred on the Elliott, it would be equivalent to removing 40,000 cars from the roads annually.

The Elliott also has high recreational value. With most of the Coast Range locked behind private gates, and timber companies now charging steep fees for access, outdoorsmen are very concerned about the privatization of the ESF. Many families in our area have founded traditions and even livelihoods accessing the Elliott. The 2014 Elliott Alternatives report by Evergreen Economics and Landvest estimates that recreation in the Elliott (mostly hunting) generates \$1.72 million in spending annually in Coos County. ODF has not invested one dollar in recreation on the Elliott, because recreation has actually been discouraged. These figures could be easily increased with a few marked trails and interpretive signs, and this is money my community can rely on year after year. Furthermore, the Elliott is situated at the southern end of the Siuslaw National Forest and adjacent to the Oregon Dunes, popular surf and clamming beaches, South Slough National Estuarine Reserve, and several state parks including Sunset Bay.

A good thing to come out of the Elliott Ownership Transfer Opportunity, for the purpose of decoupling the land from the Common School Fund (CSF), was a low appraisal value. The native forest portions of the Forest contain irreplaceable habitat for endangered species and have superior environmental and public value. However, they have almost no value to the CSF due to federal laws restricting logging, the recent appraisals commissioned by the state reflect this, and so the most ecologically sensitive portions of the Elliott can be purchased/decoupled cheaply. This is a wonderful opportunity for the legislature to retain and protect ecologically valuable habitat. The entire 93,000 acre ESF was once valued at close to \$1 billion. Due to endangered species restrictions the 82,500 acres of CSF land remaining in the Elliott has now been valued at only \$220.8 million. The native forest portions of the 82,500 acres (approximately 40,000 acres) were assessed in the recent appraisals to have almost no value and should be a priority for buy-out. Additionally, Coast Range Forest Watch has documented further acreage in the Elliott that should be discounted due to the presence of marbled murrelets. Please see attached report titled *CRFW, Supplement to ESF Appraisals*.

To review what happened, the state walked away from negotiations for new a Habitat Conservation Plan in 2011, which would have provided protection from lawsuits, because federal agencies wouldn't agree to allow logging to almost double on the ESF to 40 million board feet per year. Then the state was sued in 2012 for illegally logging endangered species habitat and 28 timber sales had to be cancelled in the Elliott. This lawsuit was avoidable; the court found that Oregon Department of Forestry (ODF) staff had intentionally "misinterpreted" survey results showing endangered species presence within the sales. Timber sales are quite expensive to plan, they have to be cruised, surveyed, etc. Because ODF generally gave winning bidders of timber sales 3 summers to complete work, cancelling so many sales at once caused the Elliott to operate at a deficit for the next 3 years. In 2013 the Forest lost about \$3 million dollars, in 2014 it lost about \$400,000, and \$200,000 in 2015. The DSL just reported that the Elliott actually earned \$1.3 million in 2016, showing that even while operating under a no-take policy, the Forest can still make money.

It is important that we invest in our most ecologically sensitive assets, not lose them. Public land is our legacy. The Elliott is Oregon's first state forest and contains some of the oldest trees on state land. Native forest is our legacy; no amount of money can replace it. Please support SB 847 sponsored by your honorable committee member Senator Roblan, and work to fund a Trust Lands Transfer program.

We support the plan to buy and manage the Elliott proposed by the Portland Audubon Society and others entitled *Keeping the Elliott State Forest Public and the Common School Fund Whole for the Benefit of This and Future Generations of Oregonians* (attached) which has been discussed with the Governor, Treasurer, and select legislators.

Please contact me if you have any questions. Thank you for your time.

Janét Moore

Co-Director

Coast Range Forest Watch

arrowstraighterthan@yahoo.com

(541) 391-6708



March 16, 2017

To: Interested Parties

From: Josh Laughlin, Executive Director

Re: State Land Board Constitutional and Trust Obligations Regarding the Elliott State Forest

Following the State Land Board Meeting on February 14, 2017, it became clear that there were significant misconceptions concerning the fiduciary responsibilities of the Board. It has been claimed that the State Land Board has a Constitutional mandate to maximize revenue from the Elliott State Forest for the Common School Fund, and therefore is compelled to sell the forest since timber sale receipts from logging on the forest have declined in recent years. This position is incorrect as outlined below.

CONSTITUTIONAL MANDATE

It has been repeatedly claimed that there is a “constitutional mandate to maximize revenue” from Common School Fund lands. However, the Oregon Constitution contains no such “maximization” provision, current Oregon law stresses the contrary, and any older authority describing maximization has been fundamentally altered by public referendum that amended the Constitutional provisions in 1968. Article VIII, section 5 of the Oregon Constitution states:

(1) The Governor, Secretary of State and State Treasurer shall constitute a State Land Board for the disposition and management of [Common School Fund] lands. Their powers and duties shall be prescribed by law. (2) The board shall manage lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management.

Far from simply requiring the State Land Board “maximize revenue,” the Constitution actually requires the State Land Board to manage Common School Fund lands to obtain the “greatest benefit for the people of the state.” Such management is constitutionally limited to that which is “consistent with the conservation of this resource under sound management techniques.”

As an initial matter, permanently disposing of Common School Fund land is not “consistent with conservation of this resource.” The phrase “this resource” in Article VIII, section 5 refers to the “lands” managed under the State Land Board’s jurisdiction. The State cannot conserve this land for the greatest benefit of the people if the land itself is permanently divested from public ownership and transferred in fee simple to a private entity. The sale of the Elliott State Forest is thus inconsistent with Article VIII, section 5.

The confusion about the constitutional mandate stems largely from the prior version of Article VIII. Before 1968, the Constitution strictly required the State Land Board to raise money for

schools, and included ‘exclusive’ and ‘irreducible’ clauses that mandated that all funds from the Constitutionally dedicated lands be used only for the maintenance of schools. The 1968 voter-approved amendments to Article VIII, however, explicitly eliminated the “strict cash income objective.” In *Johnson v. Dept. of Rev.*, 292 Or 373, 379, 639 P2d 128 (1982), the Oregon Supreme Court analyzed both the original and current versions of Article VIII, and explained that the original Constitution “dedicated certain lands to the common school fund and narrowly restricted the use of proceeds and interest derived from such lands. The words ‘exclusive’ and ‘irreducible’ mandated that all funds from the constitutionally dedicated lands be used only for the maintenance of schools. Any other use would clearly be unconstitutional.” *Johnson v. Dept. of Rev.*, 292 Or 373, 379, 639 P2d 128 (1982). The Court then explained that “the 1968 amendments to the Oregon Constitution *radically changed the operation of sections 2 and 5*” through the elimination of the “exclusive” and “irreducible” clauses. *Id.* at 380 (emphasis added).

In fact, the preamble to the 1968 Constitutional amendment specifically addresses the need to stop selling off state lands to fund schools. It states:

Whereas the framers of the Oregon Constitution more than a century ago contemplated the ultimate sale of nearly all lands owned by this state, and the retention of the sale proceeds in the Common School Fund; and

Whereas vast areas of such lands have not been sold, *and conditions prevailing in this century may require the State of Oregon to retain some or all of these lands for an indefinite period*; and

Whereas it is essential that the State of Oregon, through the State Land Board, manage such retained lands with the object of obtaining the highest returns for the people of this state, *consistent with the conservation of this resource* under sound techniques of land management developed from time to time; and

Whereas it is essential that the State of Oregon use and invest the assets of the Common School Fund with the object of conferring maximum aid to education in this state, consistent with prudent investment practices prevailing from time to time; and

See Johnson, 292 Or at 381 (quoting preamble to the 1968 amendments) (emphasis added).

It is thus clear from the preamble that the intent of the 1968 amendments was to, among other things, (1) introduce for the first time a policy of conservation to the management of Common School Fund lands, and (2) change the State’s policy from one of disposal of state lands for quick profit to one of retention of state lands for the benefit of the people. Ultimately, there was no longer a requirement that proceeds of Common School Fund lands be used “exclusively” for educational purposes.

Further, the amendments to Article VIII, section 5 of the Constitution clearly delineate that the powers and duties of the Land Board are prescribed by law, and as such, determinations on the proper use of Common School Fun assets is a legislative determination:

Section 5, as amended, calls for the formation of the State Land Board to dispose of and manage lands described in section 2, and also lands owned by the state placed under the

State Land Board's jurisdiction by law. *The powers and duties of the Land Board were and are to be prescribed by law.* Section 5(2) contains the requirement that such lands be managed with the object of obtaining the greatest benefit for the people of Oregon. *Reading this provision according to its most plain and practical meaning, and consistently with the legislative history, the determination of the proper use of common school funds is a legislative one,* subject to the overall requirement that the use have as its goal the greater public benefit.

Johnson, 292 Or at 382 (emphasis added).

The Oregon Legislature has made numerous determinations, regulations and restrictions on the use of Common School Fund assets. Notably here, the Legislature has expressly prohibited the sale of the Elliott State Forest. ORS 530.450. Additionally, the legislature interferes with and has restricted logging on the Elliott State Forest, ensuring compliance with the Oregon Forest Practices Act, ORS 527.610 to 527.770 and ORS 530.450 to 530.520, which restricts logging near streams and rivers, limits the acreage of clearcutting units, requires the state to spend money on reforestation, and “results in a high probability of maintaining and restoring properly functioning aquatic habitats for salmonids, and other native fish and aquatic life; (b) Protects, maintains, and enhances native wildlife habitats; (c) Protects soil, air, and water; and (d) Provides outdoor recreation opportunities.” OAR 629-035-0020(2). Finally, the legislature has also expressed its interest in having the Elliott State Forest managed for, among other things, recreation, fish and wildlife protection, carbon sequestration, and land conservation. ORS 530.500(3), (4), (7), and (8).

In summary, the 1968 amendments to the Oregon Constitution have given the Land Board greater freedom and discretion to manage Common School Fund assets including the Elliott State Forest. The “maximization of revenue” obligation does not exist anywhere in Oregon law or valid caselaw following the amendment. This discretion is bound by Legislative restrictions, but these are few and far between. Aside from the Oregon Forest Practices Act, ORS 530.450 forbids the sale of approximately 69,000 acres of Common School Fund land in the interest of conserving this resource. The Common School Fund land base originally totaled nearly 3.4-million acres. Therefore, ORS 530.450 applies to approximately two percent of all Common School Fund lands. The state has already been free to dispose of millions of acres of land, and it currently holds another 700,000 acres of Common School Fund land that are not withdrawn from sale under ORS 530.450.

TRUST OBLIGATION

It has also been argued that the Land Board’s unique trust obligation compels the sale of the forest. It is arguable that the Constitutional amendments have not altered the fundamental trust obligations upon the Board in relation to Common School Fund assets. Regardless of likely disagreements on what those trust obligations entail and what is of the “greatest permanent value” to Oregonians, it is undisputed that when certain lands are of no good economic use, the Board’s discretion and flexibility regarding management and disposition of these lands is dramatically increased. *See Crookham Attorney General Opinion No. 8223, July 24, 1992.*

“The Board may have good trust reasons for conserving resources that have little or no commercial value at the present time” in order to preserve “non-commercial resources

such as water and soils” or to “secur[e] the environmental and social benefits of preserving habitat for endangered or threatened species.”...Thus if the Board determines that a particular parcel of Admission Act land does not currently offer revenue-generating potential, the Board is free to manage it for any values that obtain the greatest benefit for Oregonians, consistent with the conservation of the resource under sound techniques of land management.” *Id.* At 483.

The Elliott State Forest was officially designated as an underperforming asset by the State Land Board largely due to the presence of federal endangered species and the state’s inability to log the older forests therein. The presence of federal endangered species, the cause of this underperformance, is inherently temporary. Either these species will recover and be removed from the list, or they will go extinct. There is also the distinct possibility the federal government will eliminate the Endangered Species Act altogether.

It would thus behoove the State Land Board “to set lands aside temporarily for the purpose of “banking” an asset while its economic value appreciates” in order to “maximize economic return to the Common School Fund over the long term.” Crookham Opinion at 482. We believe that banking the Elliott, and focusing management on restoring older forest and enhancing educational/recreational opportunities could position the asset for greater potential in the future as carbon markets develop and recreational focus on the forest expands. But regardless of your reasons for banking the Elliott, taking the conservative approach and not selling the asset while it is undervalued makes economic sense and would not amount to a violation of any potential trust obligations given the forest’s current position and the Land Board’s determinations up to this point.

Therefore, if the Board proceeds with a land sale of the Elliott, it would likely be required under trust obligations to “obtain full market value” for the land sale. *Id.* at 481. However, given the current losses sustained by management of the Elliott, the Board has wide fiduciary discretion on the disposition of the forest and is free to manage it for any values that obtain the greatest benefit for Oregonians, which pursuant to law, specifically include management for “fish and wildlife environment, landscape effect, protection against flood and erosion, recreation and production and protection of water supplies.” ORS 530.500(4).

In conclusion, as a result of the 1968 amendments to Oregon’s Constitution, the State Land Board currently has wide discretion on the management of Common School Fund assets, including the Elliott State Forest. However, certain restrictions have been placed on the forest’s disposition and management by the Legislature and must be respected. The Land Board is in no way obligated, or pursuant to trust responsibilities, bound to sell the forest at its currently low valuation. In fact, the current efforts to sell the Elliott while it is temporarily burdened by the presence of federally threatened and endangered species and at its low valuation may prove a violation of the Board’s fiduciary responsibilities to obtain the “greatest benefit” for Oregonians and certainly can be argued is a failure of the Board to obtain “full market value” for the land.

Please do not hesitate to contact me with thoughts or questions, jlaughlin@cascwild.org or 541-434-1463.



320 Central Avenue Suite 312
PO Box 611
Coos Bay, OR 97420
(541) 267-2046
coastrangeforestwatch@gmail.com
www.coastrangeforestwatch.org

To whom it may concern,

You are receiving this letter because you or your organization has expressed interest in the Department of State Lands' Elliott Ownership Transfer Opportunity. It has come to our attention through this process that our group has important additional information about the Elliott State Forest that may have not been provided to potential new owners of the forest by the Department of State Lands.

Coast Range Forest Watch is a volunteer-run organization that performs citizen science surveys for the marbled murrelet in Oregon's coast range. The mission of this group is to provide scientifically sound information to managing agencies and local residents about endangered ecosystems in the area.

Coast Range Forest Watch Marbled Murrelet Survey Project

The marbled murrelet is a small seabird that nests on the thick, mossy branches of old growth trees. They are protected under the federal Endangered Species Act and were federally listed as threatened in 1992 and state listed as threatened in 1996 primarily due to extensive habitat loss. The Elliott contains one of the last reserves of mature, coastal rainforest on the Oregon coast, making it a critical refuge for nesting marbled murrelets; this fact is mentioned in the marbled murrelet recovery plan (USFWS 1997). Surveys for murrelets have been conducted on the Elliott by contractors since 1992. Since 2013, CRFW has been surveying for marbled murrelets in the Elliott State Forest.

The marbled murrelet survey season, from May 1 to August 5, requires hiking into potential murrelet habitat before the season begins to set up stations, performing surveys, and submitting data to the appropriate agencies after the conclusion of the breeding season.

Marbled murrelet survey trainings are held in the Prairie Creek Redwoods in late April. All of our surveyors must complete the training course, which includes a field exam with a minimum threshold of detecting murrelets. This training course is the same course that all professional murrelet observers must pass to perform inland murrelet surveys. The Pacific Seabird Group (PSG) designed the training course and considers those who have attended this training to be certified to conduct murrelet surveys in any location.

Surveys take place 45 minutes before sunrise and are complete 75 minutes after sunrise; this is the time in which murrelets are most active in the forest canopy. Specific murrelet behaviors are considered indicators of occupancy. These behaviors include sub-canopy flights within and adjacent to potential habitat, circling above canopy, and above to below canopy flights such as dives. Other behaviors such as flying straight above canopy and vocalizations indicate murrelet presence and may indicate occupancy

(can be determined on follow-up surveys). Depending on the behaviors observed during the survey there are three classifications applied to survey areas; probable absence, presence, and occupied. Once a stand or area has been determined to be occupied by nesting murrelets, it is considered occupied and protected indefinitely.

It is important to note that marbled murrelets are very difficult to survey for. Even after the requisite number of surveys conducted by ODF contractors, murrelets could have easily been missed in some areas of the Elliott. The revision of the PSG marbled murrelet survey protocol indicates that the number of surveys required in the past (from 2003-present) were not adequate to detect occupied behaviors with certainty. Our follow up surveys in some areas of the Elliott point to the inadequacy of previous surveys and show that additional effort can document murrelets that were there but missed due to an inadequate number of visits to an area. In the forthcoming update to the PSG protocol, a halving of the area covered by each survey is expected. This change will increase the likelihood of finding murrelets in future surveys as well as increase the cost of surveying for marbled murrelets in the forest.

Once the survey season is complete on August 5, our data is compiled and sent to many agencies and organizations with a stake in the conservation of the marbled murrelet in Oregon. Agencies that receive certified mail copies of our results include the Oregon Department of Fish and Wildlife, the U.S. Fish and Wildlife, Oregon Department of State Lands, Oregon Department of Forestry, and Oregon State University. We also make our results available to conservation groups, any applicable private landowners, as well as the general public.

In addition to CRFW's survey results, we also propose protected areas around the occupied detections in our data. Using the guidelines set forth by the PSG, the Northwest Forest Plan Record of Decision and the Marbled Murrelet Recovery Plan, we propose that all potential habitat within a 0.5 mile radius of an occupied detection be protected from any activity that may compromise the ability of a marbled murrelet to nest in the stand or area.

To date, we have performed 116 surveys on the Common School Lands portion of the Elliott State Forest. We have documented 9 occupied sites on these lands, five of which have not been classified as Marbled Murrelet Management Areas by the Oregon Department of Forestry or Department of State Lands. In total, there are 1118 acres of occupied marbled murrelet habitat likely unaccounted for in this process, 820 of which fall outside of current ODF marbled murrelet management area boundaries. Maps of these sites are included with this letter.

It is also clear after review of the three independent appraisals of the property that our data was not considered in the appraisals. This may be partly due to the fact that the appraisals were well underway by the time our 2016 data was submitted to the DSL and ODF. In addition, data on murrelet occupied areas in the Elliott State forest, available in the Oregon marbled murrelet survey database, housed at Oregon State University, may also have been omitted from the appraisal package, although it is cited as a data source in one of the appraisals.

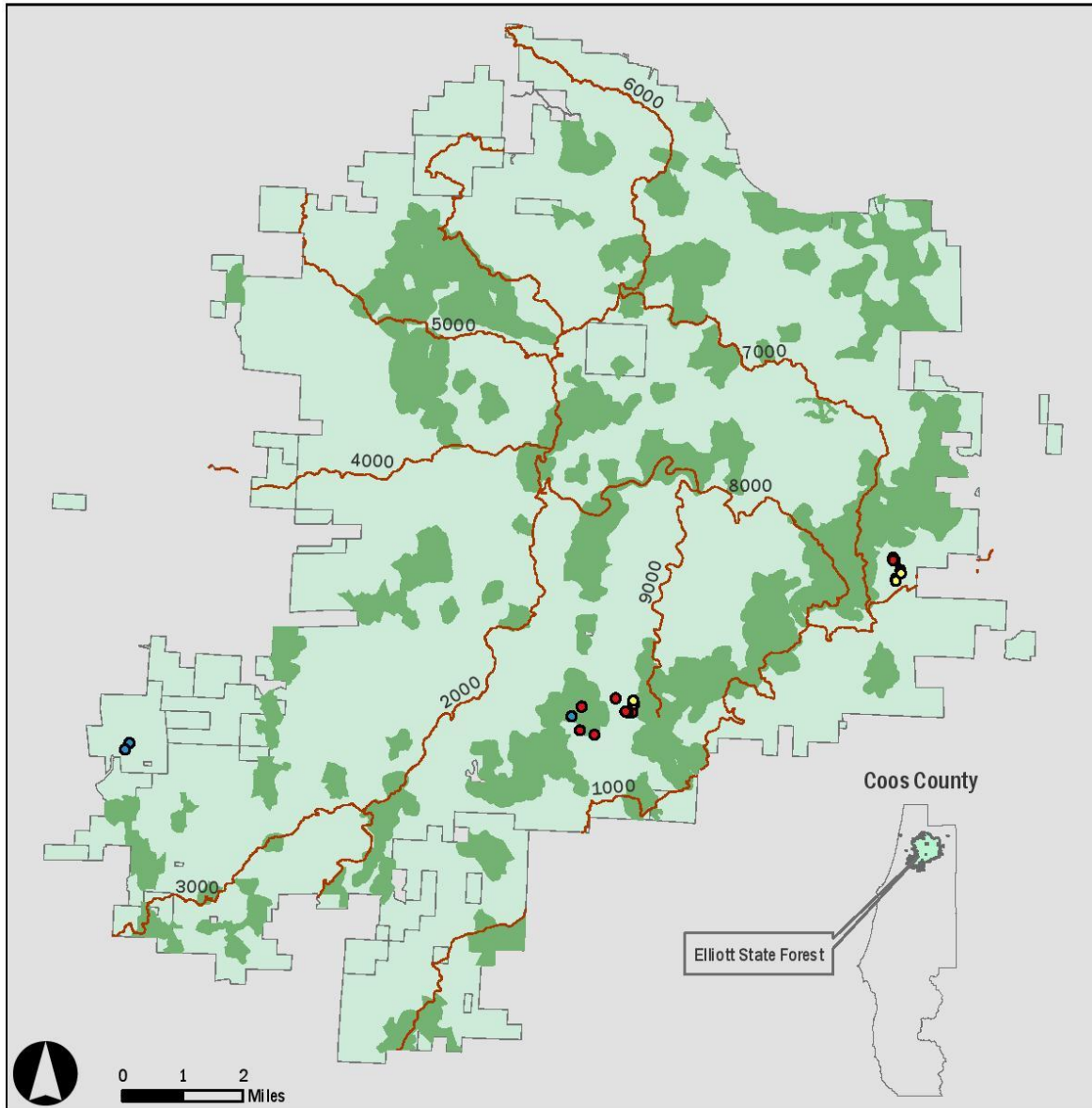
Maps and Data

Below are three series of maps. The first series is annual CRFW survey effort and results for each year starting in 2013 and ending in 2016. Second is maps of the five occupied sites on Common School Lands in the Elliott that have not been included in ODF's marbled murrelet management areas. Third is maps of restricted harvest areas from each of the three appraisals, showing that our sites are not included in the appraisals. Maps, survey forms and GIS data can be downloaded by following this link:

<https://www.dropbox.com/sh/9sf1k1zsh6fpdxi/AAB1HB7AGBG10z5w5LygBcw7a?dl=0>

2013 Marbled Murrelet Surveys

Coast Range Forest Watch: Elliott State Forest



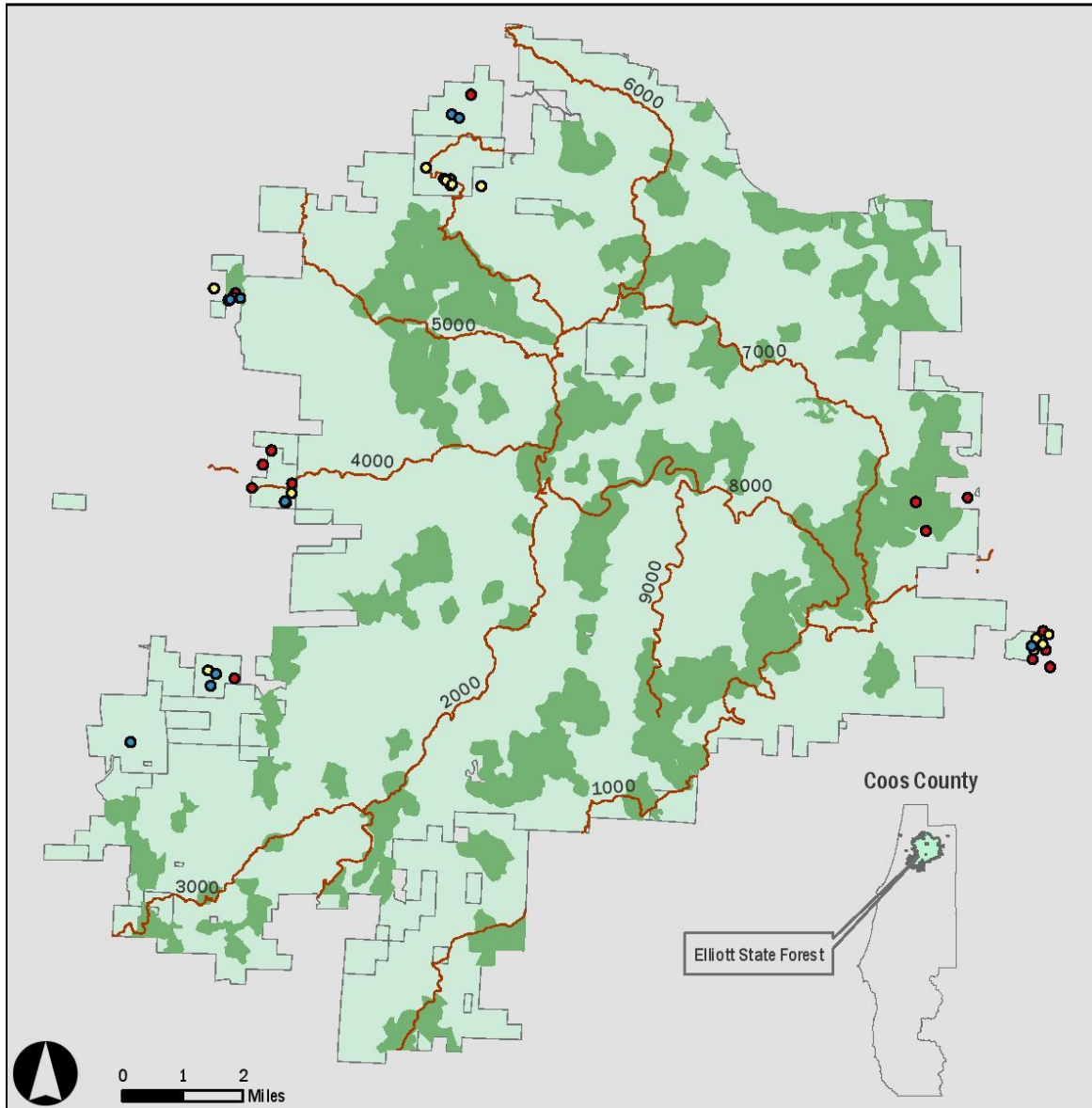
Survey Points

- O (Occupied)
 - P (Present)
 - PA (Probable Absence)
- Marbled Murrelet Management Areas
 - Elliott State Forest Boundaries
 - Roads

NAD 1983 StatePlane Oregon South FIPS 3602 Feet
 Data layers courtesy of Oregon Department of Forestry
 Map by Coast Range Forest Watch, August 2016

2014 Marbled Murrelet Surveys

Coast Range Forest Watch: Elliott State Forest



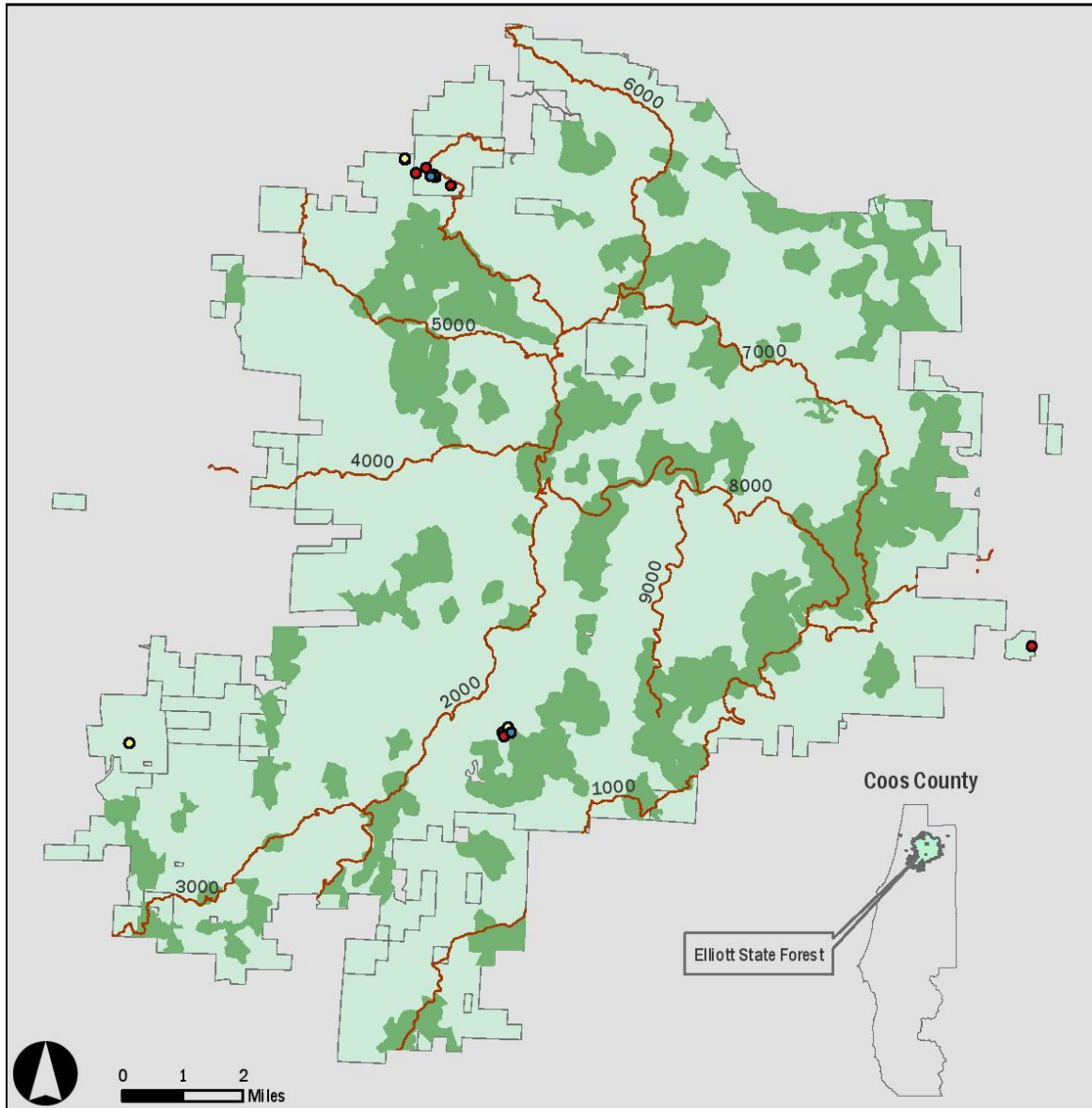
Survey Points

- O (Occupied)
- P (Present)
- PA (Probable Absence)
- Marbled Murrelet Management Areas
- Elliott State Forest Boundaries
- Roads

NAD 1983 StatePlane Oregon South FIPS 3602 Feet
 Data layers courtesy of Oregon Department of Forestry
 Map by Coast Range Forest Watch, August 2016

2015 Marbled Murrelet Surveys

Coast Range Forest Watch: Elliott State Forest



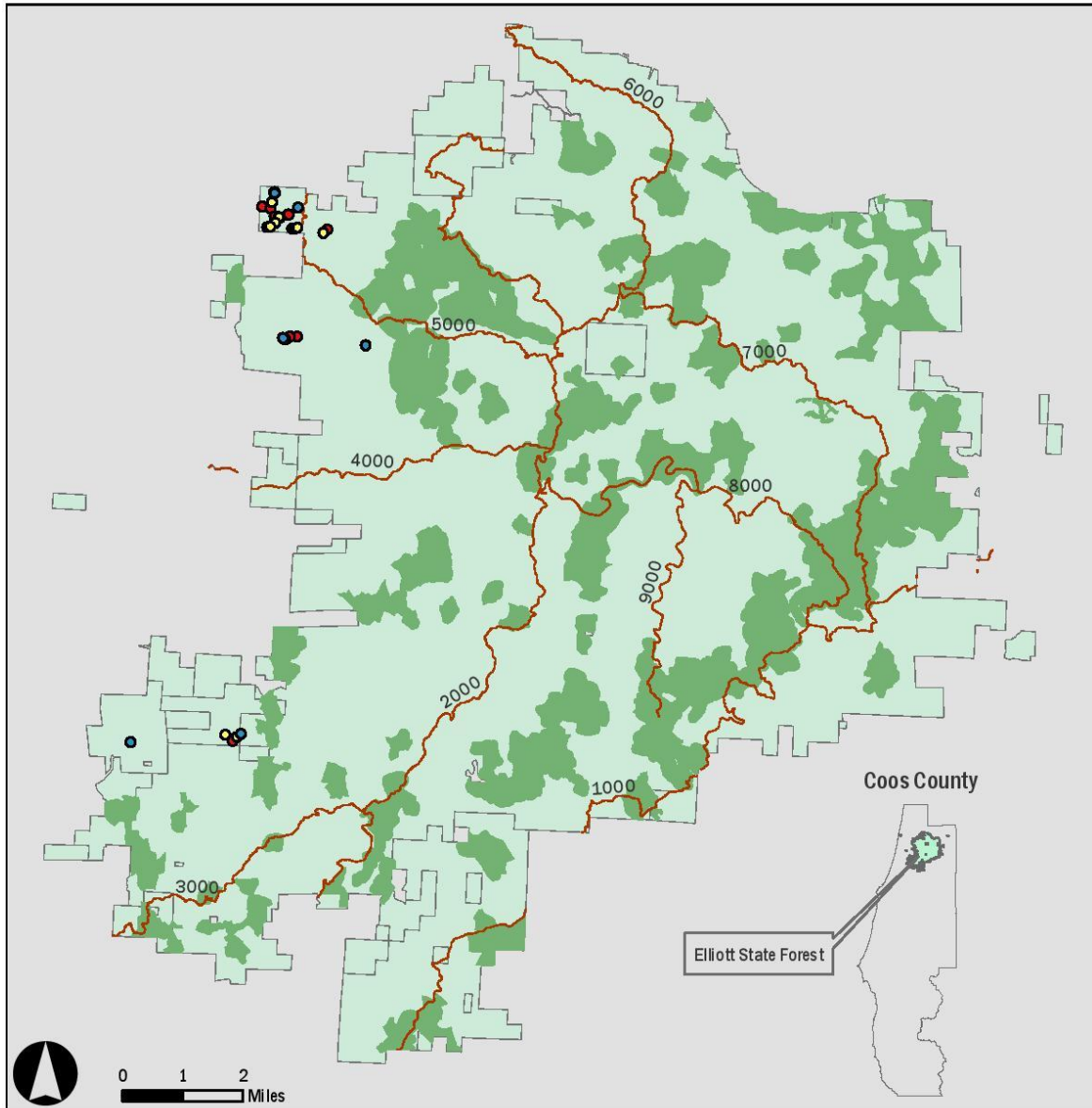
Survey Points

- O (Occupied)
 - P (Present)
 - PA (Probable Absence)
- Marbled Murrelet Management Areas
 - Elliott State Forest Boundaries
 - Roads

NAD 1983 StatePlane Oregon South FIPS 3602 Feet
 Data layers courtesy of Oregon Department of Forestry
 Map by Coast Range Forest Watch, August 2016

2016 Marbled Murrelet Surveys

Coast Range Forest Watch: Elliott State Forest

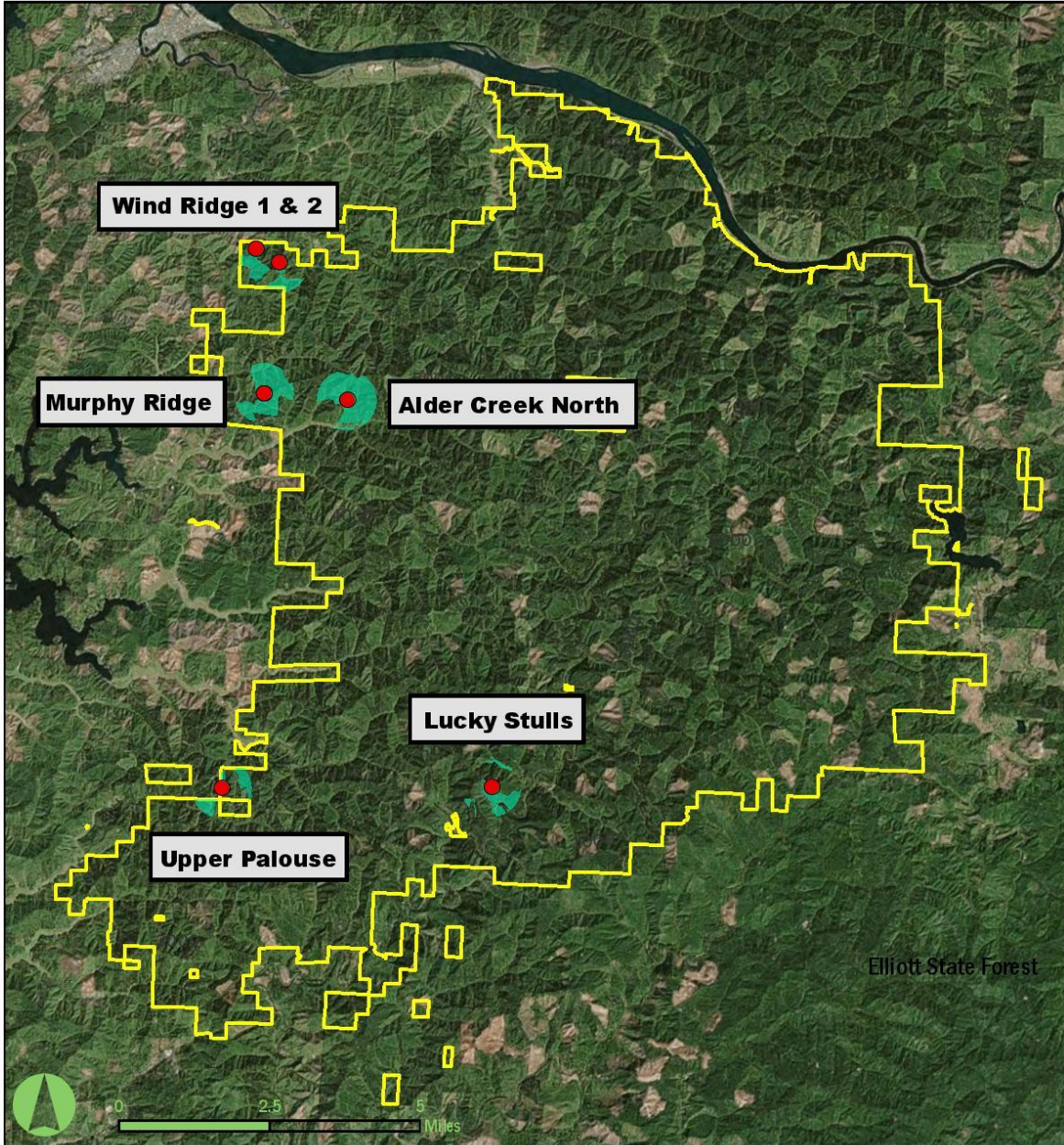


Survey Points

- O (Occupied)
- P (Present)
- PA (Probable Absence)
- Marbled Murrelet Management Areas
- Elliott State Forest Boundaries
- Roads

NAD 1983 StatePlane Oregon South FIPS 3602 Feet
 Data layers courtesy of Oregon Department of Forestry
 Map by Coast Range Forest Watch, August 2016

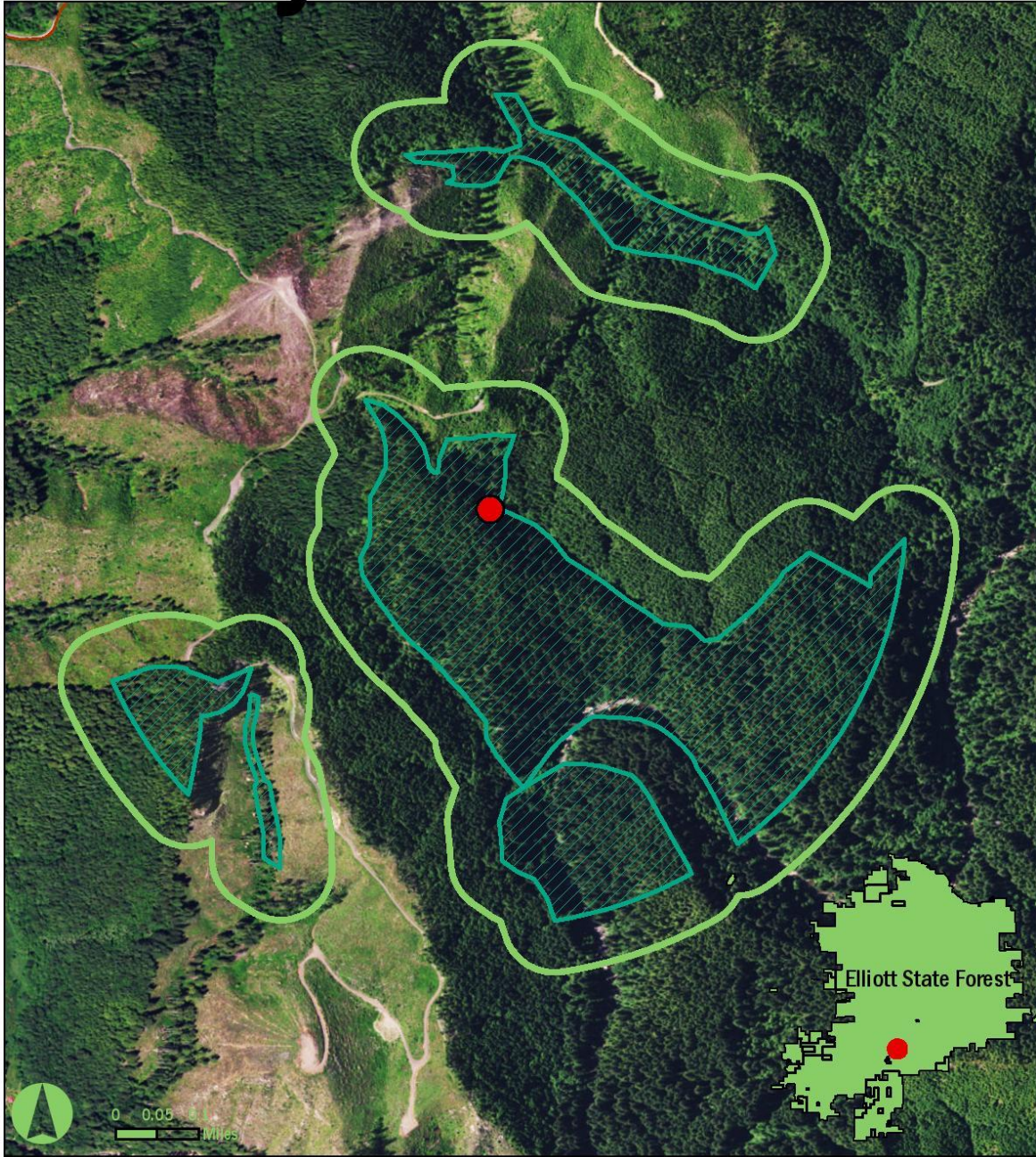
Unprotected Occupied MAMU Sites From CRFW Surveys - School Lands



● Occupied Detection + New Occupied Habitat

NAD 1983 StatePlane Oregon South FIPS 3602 Feet
Data layers courtesy of Oregon Department of Forestry
Map by Coast Range Forest Watch, September 2016

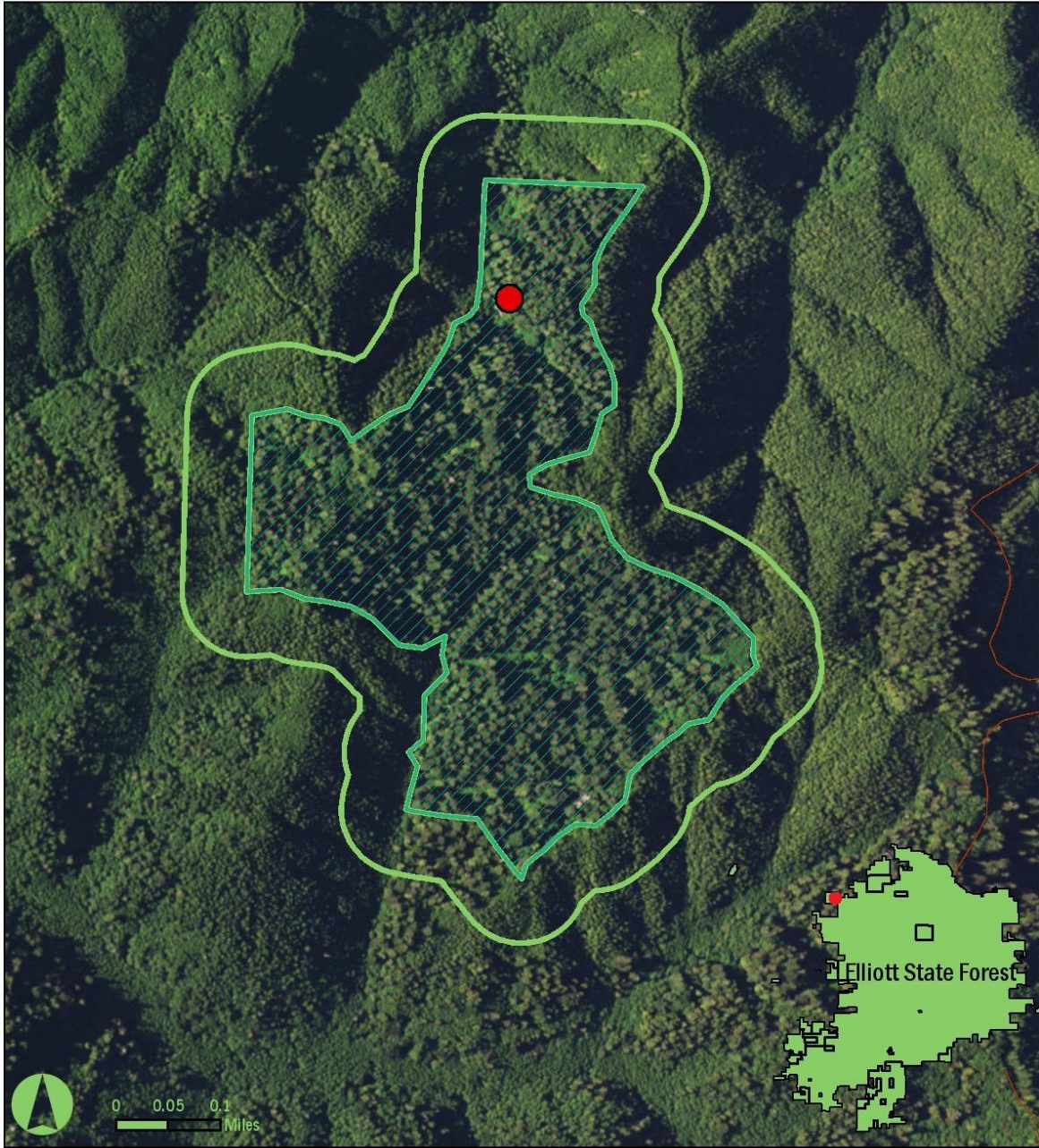
Lucky Stulls 2015



-  Occupied Detection
-  New Occupied Habitat
-  Marbled Murrelet Management Areas
-  100 Meter Buffer

NAD 1983 StatePlane Oregon South FIPS 3602 Feet
Data layers courtesy of Oregon Department of Forestry
Map by Coast Range Forest Watch, September 2016

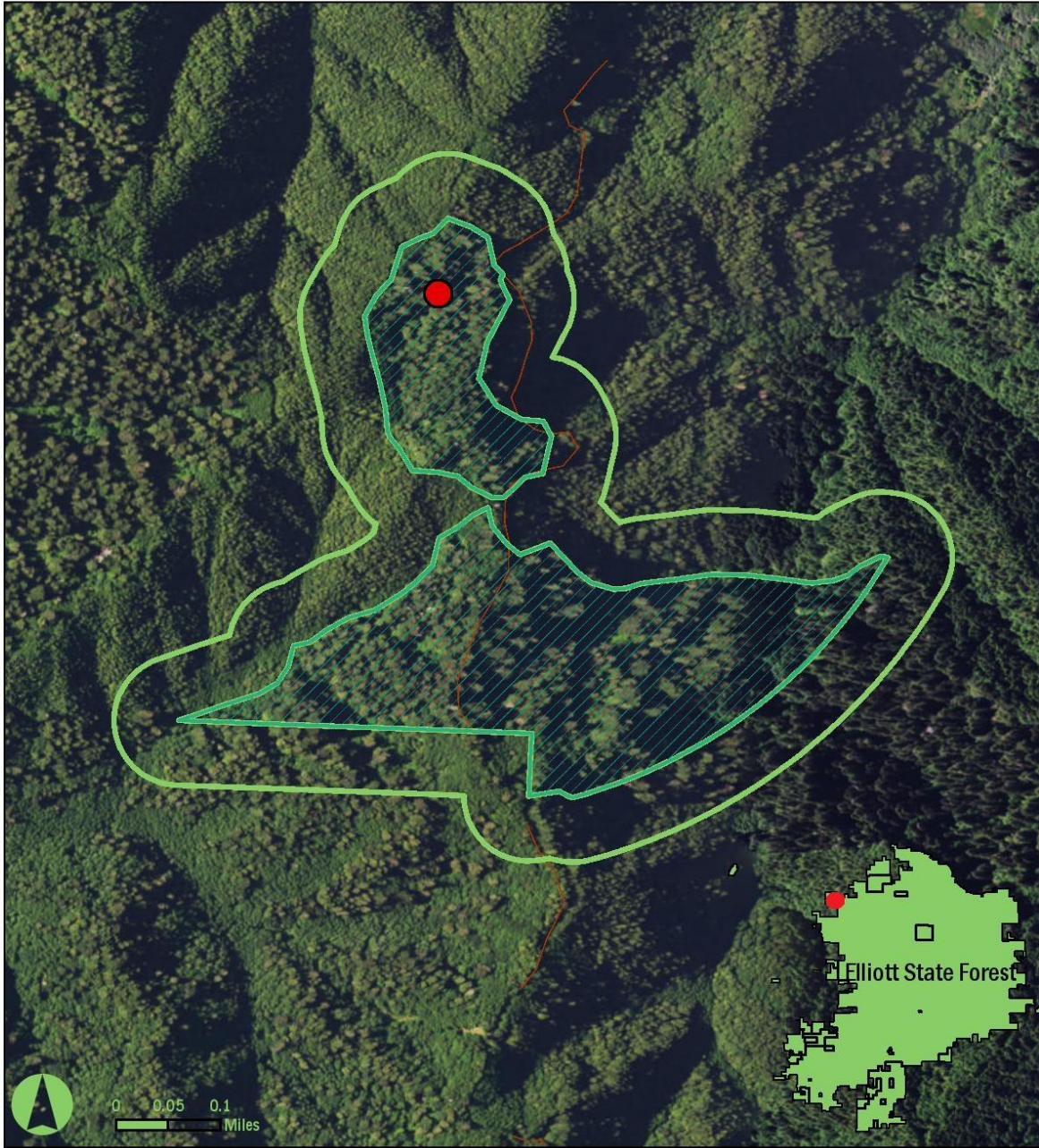
Wind Ridge 1 2016



- Occupied Detection
- New Occupied Habitat
- Marbled Murrelet Management Areas
- 100 Meter Buffer

NAD 1983 StatePlane Oregon South FIPS 3602 Feet
Data layers courtesy of Oregon Department of Forestry
Map by Coast Range Forest Watch, September 2016

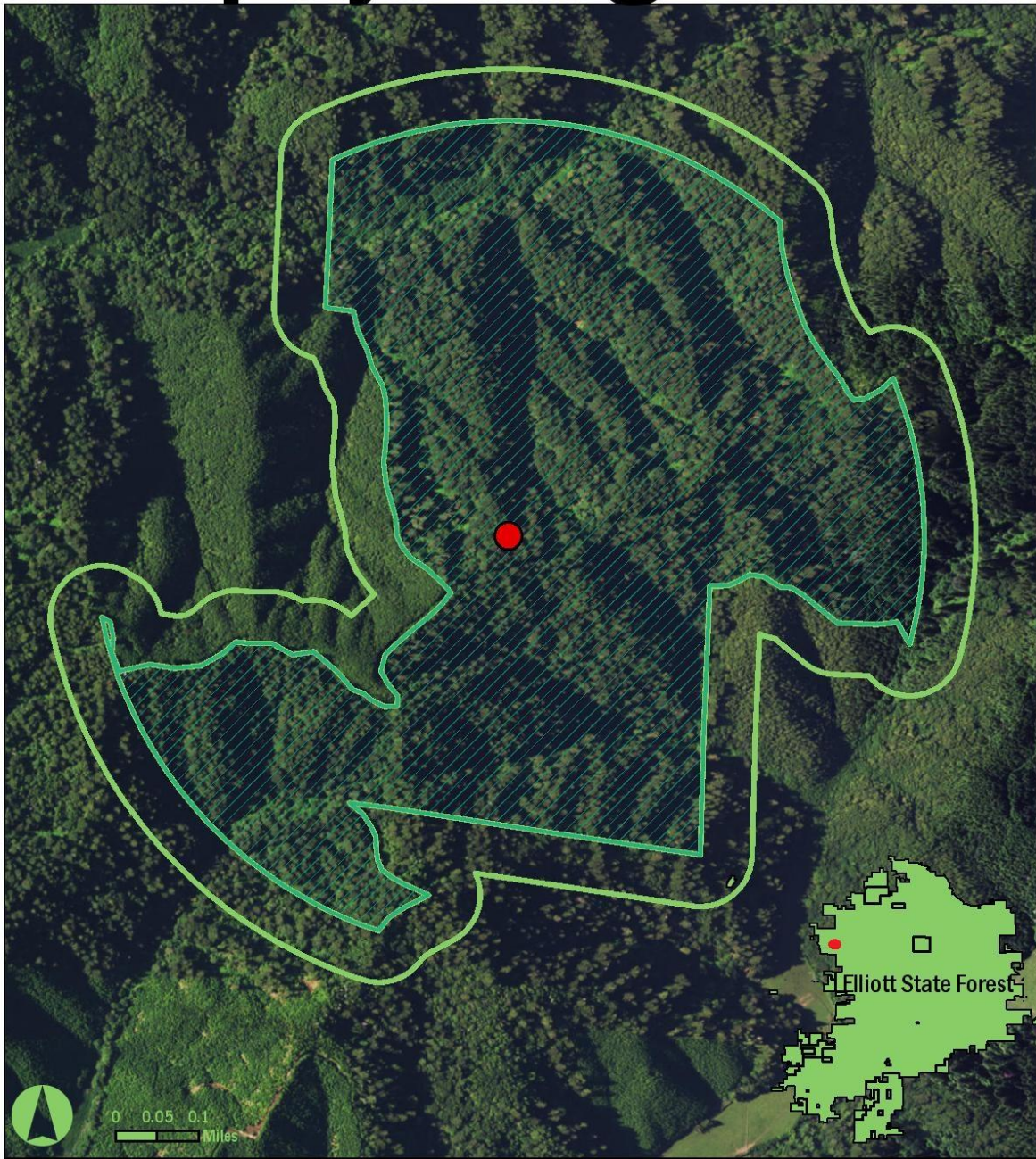
Wind Ridge 2 2016



- Occupied Detection
- Marbled Murrelet Management Areas
- ▨ New Occupied Habitat
- ▭ 100 Meter Buffer

NAD 1983 StatePlane Oregon South FIPS 3602 Feet
Data layers courtesy of Oregon Department of Forestry
Map by Coast Range Forest Watch, September 2016

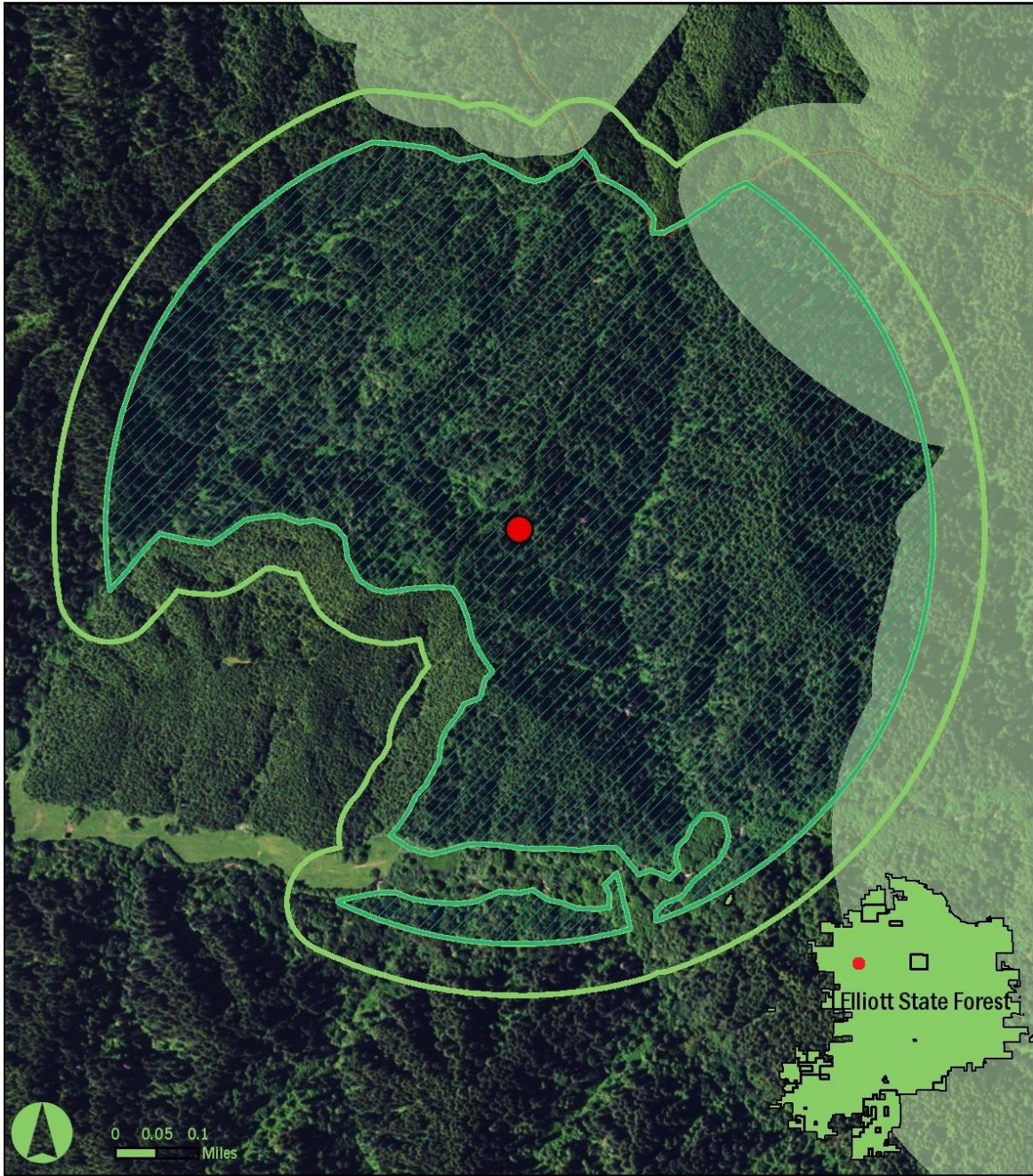
Murphy Ridge 2016



- Occupied Detection
- New Occupied Habitat
- Marbled Murrelet Management Areas
- 100 Meter Buffer

NAD 1983 StatePlane Oregon South FIPS 3602 Feet
Data layers courtesy of Oregon Department of Forestry
Map by Coast Range Forest Watch, September 2016

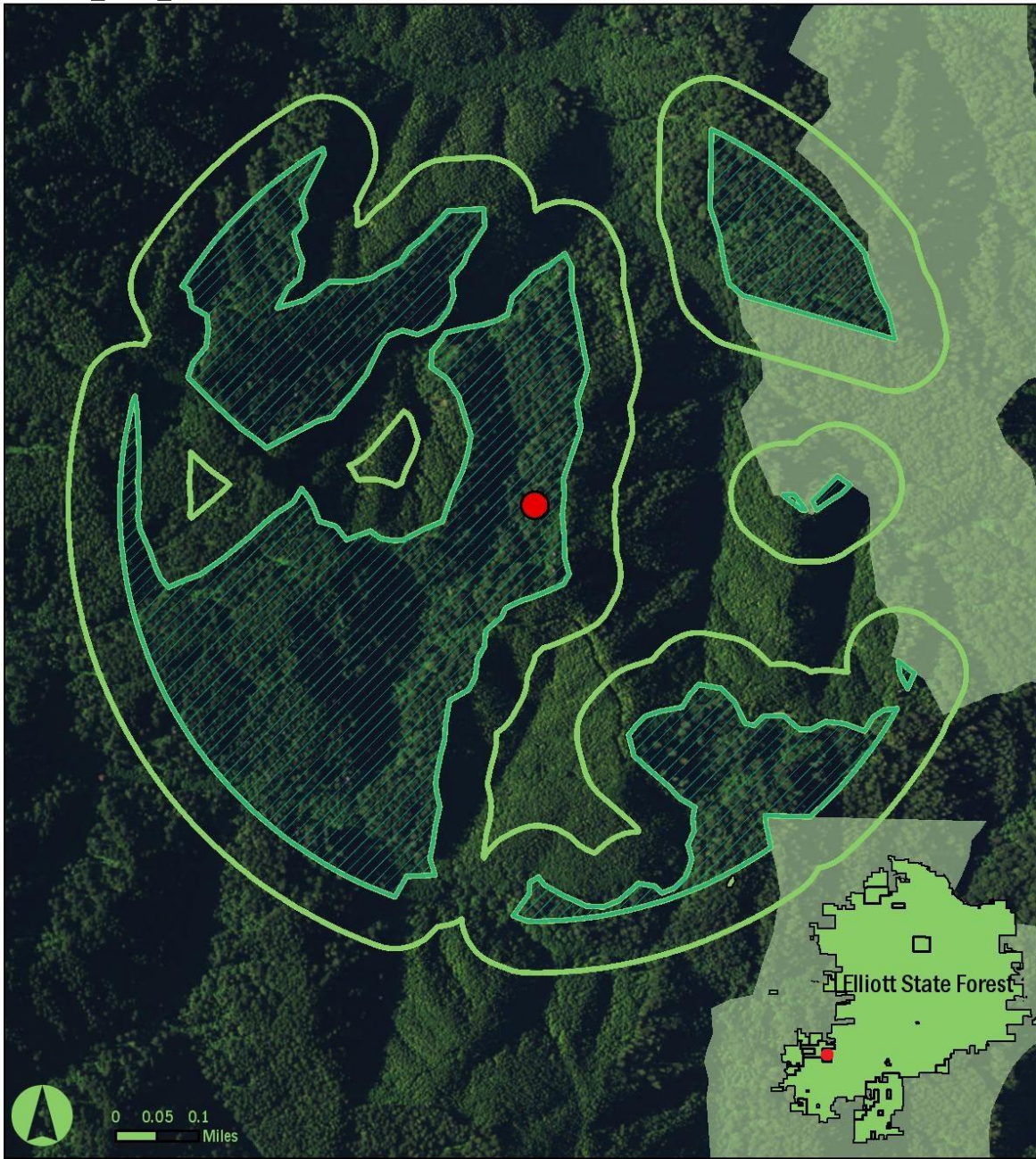
Alder Creek North 2016



- Occupied Detection
- Marbled Murrelet Management Areas
- ▨ New Occupied Habitat
- ▭ 100 Meter Buffer

NAD 1983 StatePlane Oregon South FIPS 3602 Feet
Data layers courtesy of Oregon Department of Forestry
Map by Coast Range Forest Watch, September 2016

Upper Palouse 2016

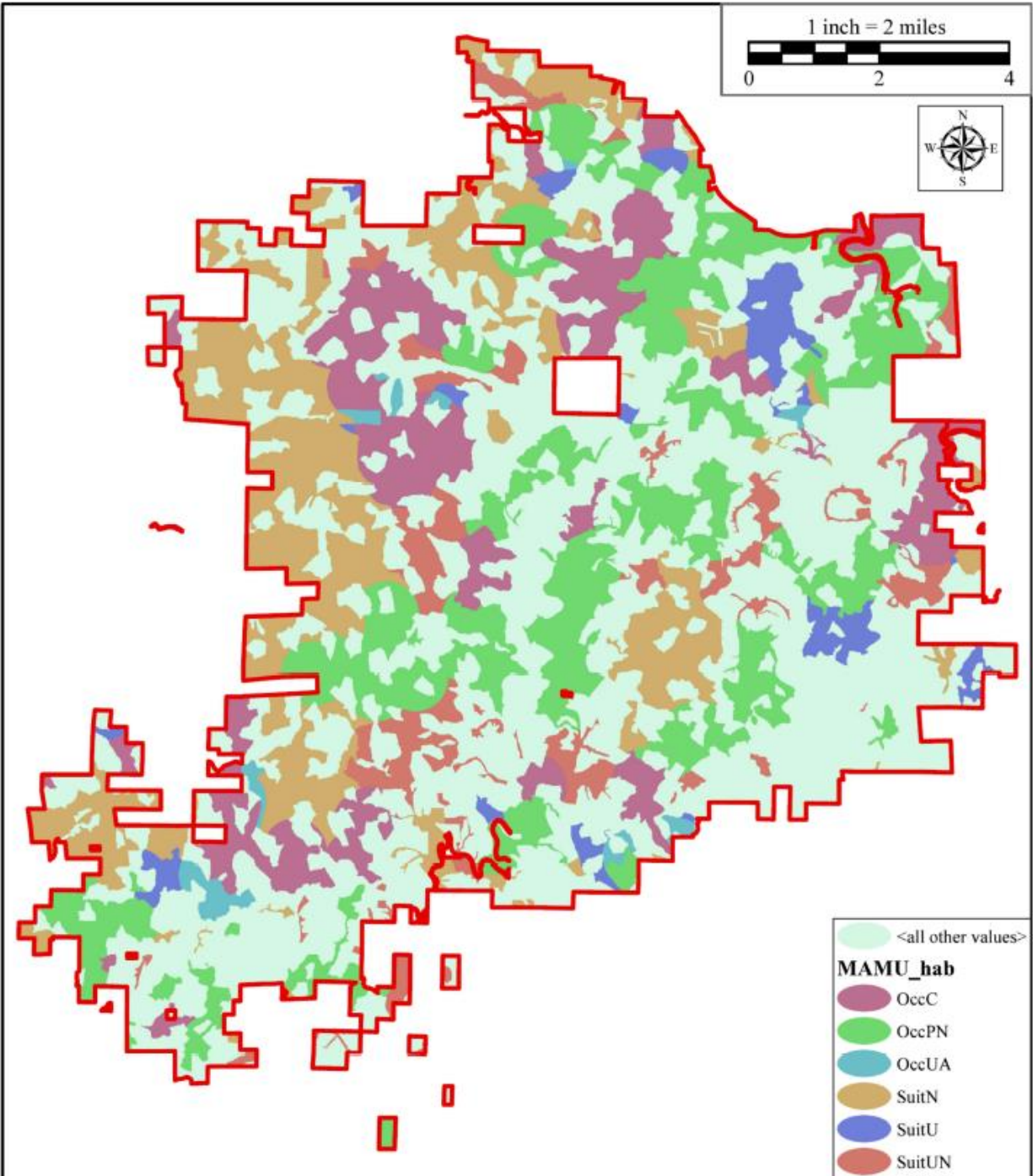


-  Occupied Detection
-  New Occupied Habitat
-  Marbled Murrelet Management Areas
-  100 Meter Buffer

NAD 1983 StatePlane Oregon South FIPS 3602 Feet
Data layers courtesy of Oregon Department of Forestry
Map by Coast Range Forest Watch, September 2016

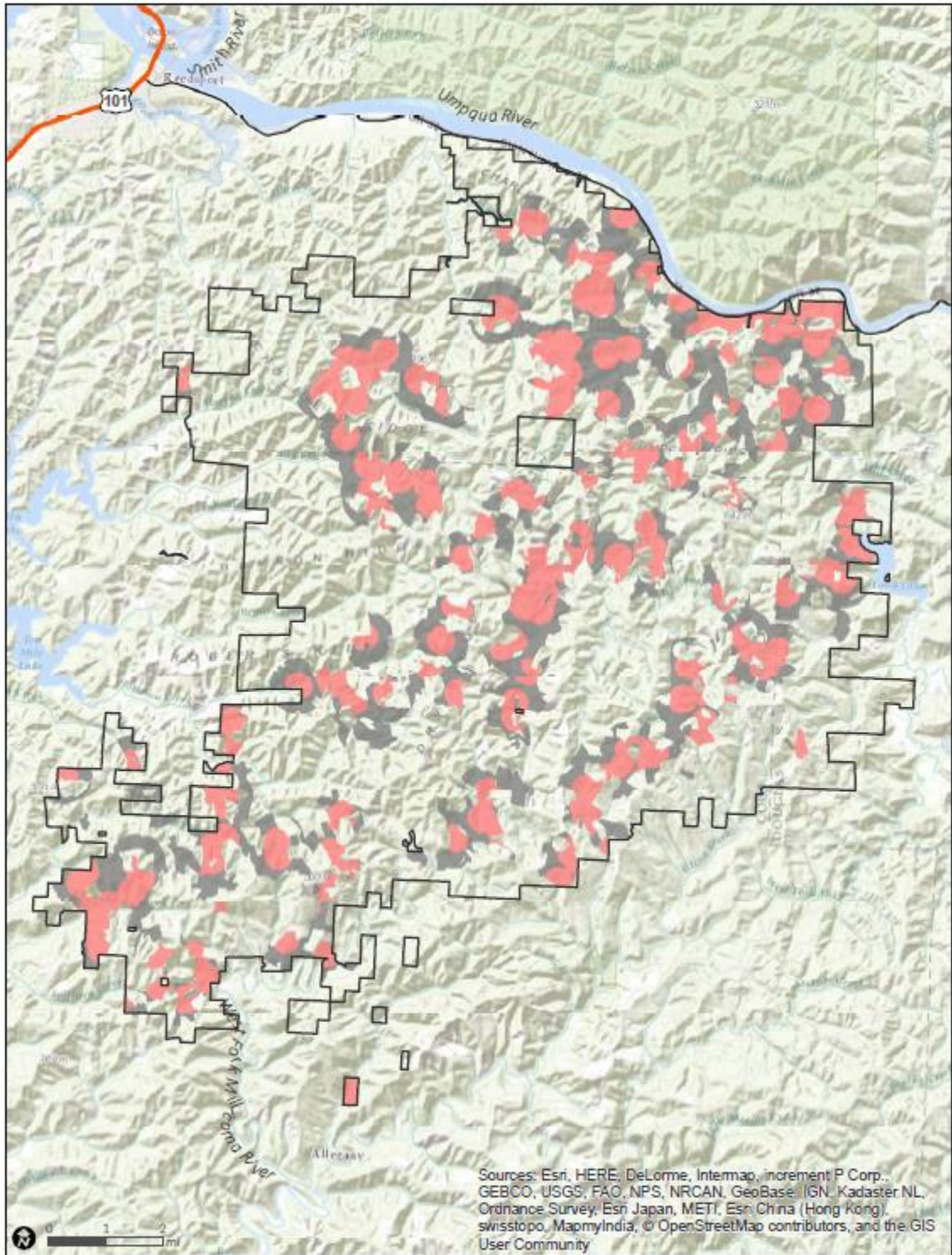
Marbled Murrelet Restricted Areas in Appraisal Packages

Map From Foster Appraisal



OccC = Currently Occupied Habitat, OccPN =Previously Occupied Habitat, OccUA = Current surveys with no sub-canopy detections, SuitN =No surveys, 40% probability of harvest, SuitU = Surveys with no sub-canopy detections, SuitUN = Surveys expired with no sub-canopy detections

Map from Sewall Appraisal



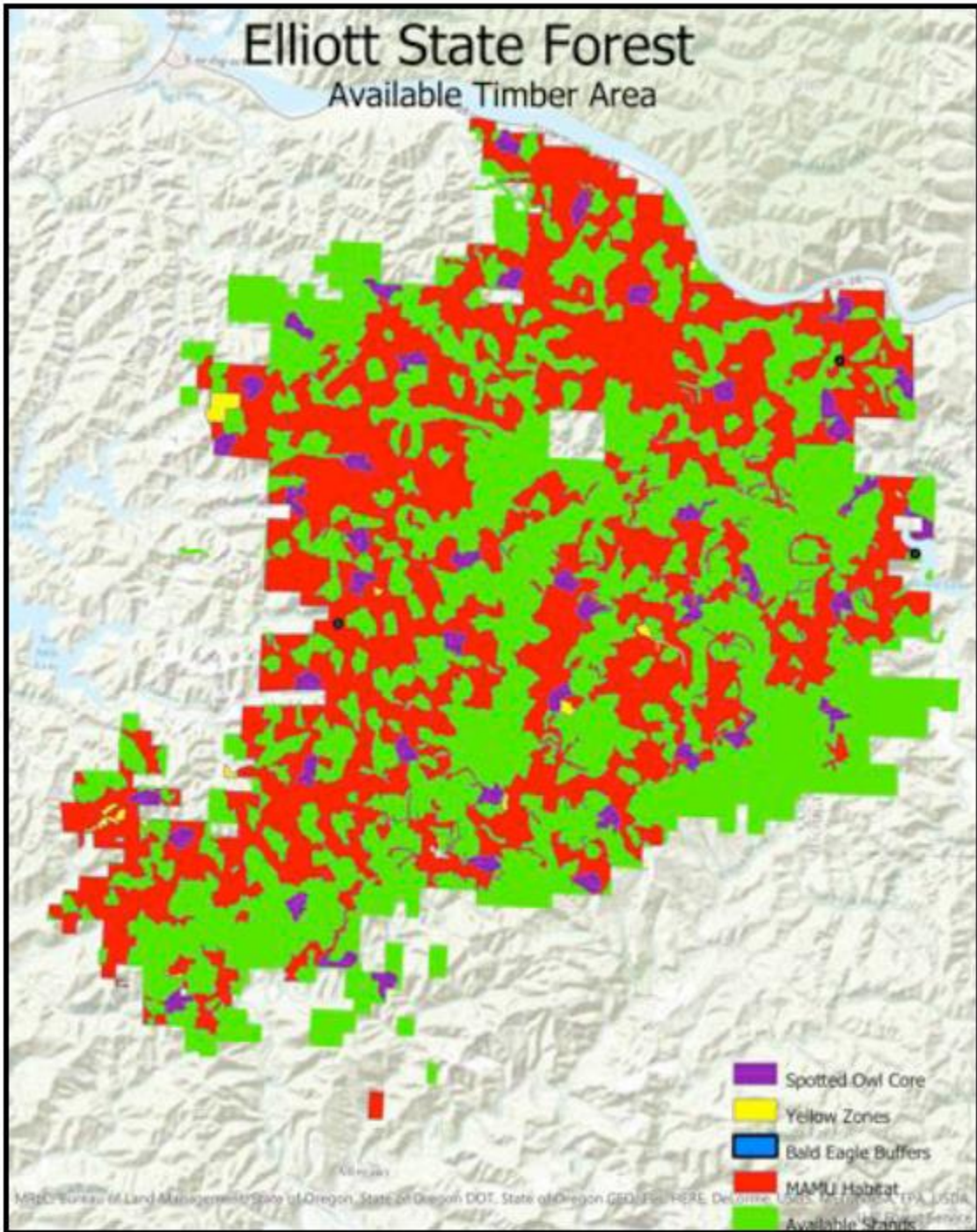
Marbled Murrelet (MAMU) Restrictions

- Forest Practices Act MAMU Restricted
- Subject Property
- MAMU Gray

Copyright Sewall, 18 May 2016
Data: ESRI, TetraTech
Coordinate System: NAD_1983_ Oregon_Statewide_Lambert_Feet_Intl



Map From Healy Appraisal



Please do not hesitate to contact us if you have any questions.

Thank you,

A handwritten signature in blue ink, consisting of stylized initials and a long horizontal line extending to the right.

Max Beeken
Co-Director
Coast Range Forest Watch
max@coastrangeforestwatch.org

Keeping the Elliott State Forest Public and the Common School Fund Whole for the Benefit of This and Future Generations of Oregonians

Summary

Rather than privatize the Elliott State Forest (ESF) it is proposed to utilize state bonding authority and trust transfer legislation to acquire the ESF from the Common School Fund (CSF) and transfer it to a new management entity to manage the ESF for this and future generations of Oregonians. The goals are to:

- preserve public ownership and use;
- conserve and restore the ESF to benefit multiple imperiled species, water quality and carbon sequestration;
- support the local economy by creating jobs and a stable timber supply; and—most importantly—
- meet the State Land Board’s fiduciary responsibilities to the people of Oregon and keep the Common School Fund whole.

(This proposal would directly affect 86,367 acres of ESF. It would not address the 8,906 acres of the ESF that are Board of Forestry lands.)

Key Elements

- 1. Establish a Trust Land Transfer Fund.** The Oregon Legislature would establish a Trust Land Transfer Fund (TLTF) to acquire and manage under-performing land assets of the Common School Fund that have high public and ecological value such as recreation, watershed health or biological diversity. Of the most immediate concern is the Elliott State Forest, which is scheduled to be sold into private ownership Spring 2017.
- 2. Three General Obligation Bonds Over Three Biennia.** The Oregon Legislature would approve three general obligation bonds (“trust land conservation bonds”) over three biennia (\$100 million in 2017-18, \$75 million in 2019-20 and \$63 million in 2021-22) to “acquire” the ESF from the CSF for the appraised value of \$220.8 million.
- 3. One-Time Capitalization of Trust Lands Transfer Fund Management Entity.** \$5 million is projected as start-up working capital for the new TLTF management entity. For the ESF, the new management entity will be funded from the net receipts that result from commercial timber sales that provide commercial timber in ways more friendly to imperiled species. The start-up loan could come from an inter-fund loan.
- 4. Three Principal Payments to the Common School Fund Over Three Biennia and Annual Interest Payments on the Unpaid Balance.** The Common School Fund would receive three principal payments of \$86 million, \$68 million and \$67 million in 2017, 2019 and 2021. It would also receive annual interest payments on the unpaid balance in 2018, 2019 and 2020. The proposed annual interest rate on the unpaid balance is 4.5%, which is the high end of the range (2.2% to 4.5%) for return on asset value (ROAV) projected in the Oregon Department of State Lands 2012 Real Estate Asset Management Plan projected for forestlands. (Both the amount of bonding each biennium and the number of biennia over which the bonding is done can be adjusted with the same end result, but resulting in paying more interest.)

5. Highest Conservation Value Lands Acquired First. In exchange for each principal tranche, the State Land Board would convey portions of the ESF, starting with those lands that have the highest conservation value (generally the oldest forest stands and associated streamside zones) to the new management entity, equal in market value (per the existing appraisal) to the principal payment.

Multiple and Varied Benefits

Benefits to the Common School Fund. Ability to secure more stable investment, not subject to the vagaries of the log market

Benefits to the State Land Board. *The obligation to comply with, and exposure to litigation under, the federal Endangered Species Act ends.* Any ESA exposure would fall to the new management entity, but since that management entity would not be guided by the requirements of the Common School Fund, its management would likely avoid conflict with the ESA.

Benefits to the People of Oregon. *The Elliott State Forest remains in full public ownership for full public access for full public benefits.* Continued public ownership and access is assured. The ESF would be managed for conservation purposes. Previous clearcut logging of the ESF contributed to the demise of the marbled murrelet, northern spotted owl and coho salmon. Scientifically sound ecological restoration thinning timber sales can contribute to the recovery of these imperiled species and also cover management costs.

Benefit to Timber Supply. *A reliable supply of commercial logs to local mills.* It is anticipated an average of 6 million board feet (mmbf) annually of commercial logs can be generated for several decades from scientifically sound ecological restoration thinning in previously managed (clearcut and planted) stands that will put such stands on a track to again become structurally diverse and ecologically intact older forests. If the ESF is kept in public ownership, any logs can not be exported, but must be processed locally.

Benefit to Jobs. *69 timber and watershed restoration jobs.* The annual sale of 6 mmbf of commercial logs would result in 53 direct, indirect and induced jobs. It is also projected that the new management entity would contract for \$1 million annually in watershed restoration, which would produce 16 direct, indirect and induced jobs. No estimate is made for any jobs associated with public recreation (hunting, fishing, hiking, birding, etc.), commercial fishing (fish habitat will be fully conserved and restored), etc.

Benefit to Imperiled Species. *Contributing to the reversal of the trend toward extinction.* The clear-cutting of approximately half of the Elliott State Forest, along with such logging of almost all private lands and much federal public lands resulted in habitat loss that is the fundamental cause of the decline of the marbled murrelet, northern spotted owl and coho salmon, which are now protected by the federal Endangered Species Act. Conserving the remaining native unlogged forest stands on the Elliott will prevent further harm to these species from ESF management. If degraded (previously logged) forest stands are managed in a way that provides timber, but also makes those forest stands more friendly to the imperiled species, then a contribution could be made toward the recovery (“de-listing”) of these species.

Benefit to the Climate. *Reduced carbon emissions and increased carbon sequestration.* The combination of not logging the remaining natural stands and doing ecological restoration thinning timber sales in degraded stands will result in both avoided carbon dioxide emissions to and increased sequestration from the atmosphere.

Full Public Ownership of the Elliott State Forest and Full Divestiture From the Common School Fund			
Initial Cost 2017	\$220,800,000		
Annual Interest on Unpaid Balance	4.5%		
Biennium	Bonds Sold		
2017-2018	\$99,892,000		
2019-2020	\$74,826,000		
2021-2022	\$62,800,000		
TOTAL Bonding Over Three Biennia	\$237,518,000		
		Unpaid Balance Due the Common School Fund	Payment to Common School Fund
Initial Cost		\$220,800,000	
One-Time Capitalization of New Management Entity	\$5,000,000		
2017 Principal Payment	\$86,000,000	\$134,800,000	\$86,000,000
2018 Interest Payment	\$6,066,000		\$6,066,000
2019 Interest Payment	\$2,826,000		\$2,826,000
2019 Principal Payment	\$72,000,000	\$62,800,000	\$72,000,000
2020 Interest Payment	\$2,826,000		\$2,826,000
2021 Principal Payment	\$62,800,000	\$0	\$62,800,000
<i>Total to Common School Fund</i>			\$232,518,000