United States Department of the Interior

FISH AND WILDLIFE SERVICE
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IN REPLY REFER TO:
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JUL 19 2007

Memorandum

To: Director, Fish and Wildlife Service
Washington, DC

From: Regional Director, Pacific Region
Portland, Oregon

Subject: Review of Service Decisions under the Endangered Species Act, Clarification

Subsequent to the recent telephone conversation to clarify possible concerns the Service may have with involvement of a former Deputy Assistant Secretary in important Endangered Species Act decisions made by the Pacific Region during the years 2001 through 2006, I have reviewed our June 28, 2007, submission. I note that in our memorandum we state "change in science that may compromise action taken in the future, or where the Service's recommendation/decision was based on a policy interpretation made by the DAS."

As you clarified during the conversation, a Deputy Assistant Secretary for Fish, Wildlife, and Parks has the responsibility to make policy interpretations. As we noted in the June 28, 2007, memorandum, our reservations regarding decisions made for both marbled murrelet and bull trout were in regard to policy decisions. Our reservations concerning the bull trout final rule that designated critical habitat concerned policy decisions regarding the exclusion of Federal lands from designation of critical habitat. Our reservations regarding the interpretation of the five-year status review for the marbled murrelet involved a policy call on the use of an international border as a test for whether or not a population is distinct as a distinct population segment. Neither of these decisions should have been included in the Pacific Region's recommendations as neither decision involved the inappropriate use of science.

Therefore, the Pacific Region only wishes to recommend revisiting the proposed designation of critical habitat for the 12 species of picture wing flies as actions that need reconsideration in the Pacific Region. I sincerely apologize for the confusion our earlier submission may cause. Please call me if you have any questions regarding our clarification and again, my apology.