Based on information provided in public comments, including the recommendations of the Marbled Murrelet Recovery Team (Miller *et al., In litt.* 1994), the Service is now proposing to designate selected non-Federal lands that meet the requirements identified in the Criteria for Identifying Critical Habitat section, where Federal lands alone are insufficient to provide suitable nesting habitat for the recovery of the species.

State lands are proposed for critical habitat designation where Federal lands are limited or nonexistent and where they were considered by the Recovery Team as essential for maintaining marbled murrelet populations and nesting habitat. State lands are particularly important in southwestern Washington, northwestern Oregon, and California south of Cape Mendocino. Small segments of county lands are also included in northwestern Oregon and central California.

Some private lands are being proposed as critical habitat because they provide essential elements. These areas include the Arlecho Basin supporting occupied sites in the lowlands of northern Washington; land supporting known occupied sites in southwestern Washington and in Oregon; nesting habitat and occupied sites for the at-sea murrelet population in the southern portion of the Recovery Team's proposed Marbled Murrelet Conservation Zone 4 in California; and nesting habitat for the central California population. State, county, city, and private lands contain the last remnants of nesting habitat for the southern-most population of murrelets, which is the smallest, most isolated, and most susceptible to extirpation.

Areas Not Proposed

Not all suitable nesting habitat is included in the proposed critical habitat units. Emphasis has been placed on those areas considered most essential to the species' conservation in terms of habitat, distribution, and ownership. That does not mean that lands outside of proposed critical habitat units are not important to the marbled murrelet. Some Federal lands outside of proposed critical habitat are expected to receive additional protection from the conservation measures proposed in the Northwest Forest Plan. Under the ROD, all marbled murrelet habitat will be surveyed prior to removal or degradation of habitat and all occupied sites will be protected. The Adaptive Management Areas, matrix lands, and administratively withdrawn lands contain areas of occupied habitat that would be protected from timber harvest.

Some habitat on non-Federal lands may receive protection through prohibitions of take of marbled murrelets under section 9 of the Act.

The Hoopa Valley Indian Reservation (Reservation) was considered but not proposed for critical habitat designation because no occupied sites have been documented after 3 years of surveys on various portions of the Reservation. The Reservation contains only moderate quality marbled murrelet habitat and is surrounded by Federal lands. Some of those Federal lands contain high quality habitat supporting occupied sites and are either proposed or protected as a Congressionally Withdrawn Area.

Three other areas of Tribal land were considered for inclusion in critical habitat, including portions of Quinault and Makah Reservations in Washington and lands owned by the Siletz Tribe in Oregon. The Makah Reservation was not proposed because little habitat remains in this area. The Quinault and Siletz lands support marbled murrelets and contain suitable habitat. However, the Service did not propose these areas because while they are important to the conservation of marbled murrelets, there are alternative approaches to achieving the conservation of murrelets on these lands, including consultations under section 7 of the Act and development of habitat conservation plans under section 10

The Service considered including five marine areas in critical habitat. Clean water and accessible foraging opportunities are important life history requirements for the marbled murrelet. These five areas support the highest concentrations of murrelets during the breeding season in Washington, Oregon, and California. One area consisted of the waters of Puget Sound and the Strait of Juan de Fuca in Washington, including the waters surrounding the San Juan Islands. The Service also considered near shore waters (within 2 km (1.2 mi) of the shore) along the Pacific coast from Cape Flattery to Point Grenville in Washington, from Newport Bay to Coos Bay in Oregon, from the California State border to Cape Mendocino in northern California, and from Pillar Point to Davenport in central California. While these areas are extremely important to the conservation of marbled murrelets. the Service does not believe that these areas meet section 3(5)(A)(i)(II) of the Act, in that they do not need special management consideration or protection beyond that provided by existing Federal laws and regulations, which was discussed in the Previous Management Efforts section.

While the Recovery Plan clearly indicates that marine habitat is

important to the survival of marbled murrelets, it also indicates that the primary concern with respect to declining murrelet populations is loss of nesting habitat. The Service's evaluation of the effects of actions in the terrestrial environment focuses on the impacts to the species habitat, although take of murrelets is also addressed. With respect to the marine environment, however, the Service is primarily concerned with mortality issues.

Activities or events that adversely affect marbled murrelets at sea seem to be more associated with the mortality of individual birds than with long-term destruction or adverse modification of habitat. For example, gill-net fisheries result in incidental capture of murrelets, but may not significantly adversely affect the prey base. Murrelets appear to forage opportunistically on available fish, and are likely able to respond to slight changes in fish abundance.

Murrelets are also adversely affected by spills of oil and other pollutants. Although these events undoubtedly harm the murrelet prey base, they also result in the death of birds in the area of the event. The effects of these events on the murrelet prey base are somewhat more difficult to predict, than are the effects on any murrelets that happen to be in the area. The Service's assessments of these events typically relies upon an assessment of the mortality issue rather than an assessment of habitat issues such as prey base.

Thus, given the Service's current focus with respect to impact assessment, designation of critical habitat in the terrestrial environment is appropriate; however, designation of critical habitat in the marine environment would not provide additional benefits to marbled murrelets.

Congressionally Withdrawn Areas

Congressionally Withdrawn Areas (e.g., wilderness areas and national parks) are limited in the range of the marbled murrelet in Washington, Oregon, and California. Few wilderness areas are within the flight distance of marbled murrelets from the marine environment, though some of these areas provide crucial contributions to the conservation of the species. Wilderness areas and national parks contain approximately 302,000 hectares (747,000 acres) of marbled murrelet nesting habitat, representing 29 percent of the suitable nesting habitat on Federal lands in the range of the marbled murrelet. However, a substantial portion of these areas is incapable of producing marbled murrelet nesting habitat because of