

## From the Seattle Times

# Feds give new scrutiny to clash between Whidbey Island Navy jets and endangered seabirds

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Two marbled murrelets, threatened seabirds, swim in Puget Sound off Lopez Island. (Steve Ringman / The Seattle Times, 2014)

EA-18G Growlers, with some of the San Juan Islands in the background, prepare for an exercise at Naval Air Station Whidbey Island. (Ken Lambert / The Seattle Times, 2016)

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What happens when a reclusive seabird is spooked by a close encounter with a low-flying Navy Growler jet?

The Navy and the U.S. Fish and Wildlife Service (USFWS), under pressure from state Attorney General Bob Ferguson, will take another look at the effects on the marbled murrelet of an increasing number of EA18-G Growler training flights out of Air Station Whidbey Island.

Under a March decision by the Navy, those flights are authorized to increase by a third, to 97,500 annually, as the Growler fleet expands from 82 jets to as many as 118.

But Ferguson's office, along with a citizens group, has challenged the adequacy of an environmental impact study regarding marbled murrelets, birds listed as threatened under the federal Endangered Species Act and listed as endangered by the state of Washington. Their population has declined by 44%, to about 7,500 birds, in Washington since 2001.

Threats to marbled murrelets range from a scarcity of herring to abandoned fishing gear that can entangle and kill them to the loss old growth forests where they make their nests. In a 2018 analysis, the USFWS noted that birds may alter foraging and feeding routines, which would increase the birds' risk of illness or death, when exposed to the noise of Growlers.

Such stressful incidents were estimated to occur more than 66,000 times annually on average. But in June 2018, the USFWS concluded that increased Growler flights will not likely jeopardize the species.

Now, that finding will receive more scrutiny.



In an Aug. 20 letter to USFWS, Capt. M.L. Army, commanding officer of the Whidbey Island air station, asked to reopen a joint consultation about the bird, and refine and clarify some of the analysis that states the increase in flights would not violate the federal Endangered Species Act.

The review is expected to take about 135 days. During that time, the Navy is not expected to scale back training flights, which will average about 80% of the levels analyzed in the 2018 study about the effects on the birds. In his letter, Army noted that analysis of flights through August of this year indicates that less of the bird's habitat is being exposed to the Growlers than was previously forecast.

This federal action appears to be triggered by a July Notice of Intent to Sue sent to federal Defense and Interior department officials by Ferguson's office. That notice alleged that the earlier federal assessments of the Growlers' impact on the murrelet produced a flawed biological opinion, which violated the Endangered Species Act.

The current monitoring of the Growlers' effect on the birds involves tracking the number of flight operations, and reporting that information to the USFWS. That fails to create a clear standard for what constitutes illegal killing or harassment of the birds, and thus violates federal law, argued Bill Sherman, a state assistant attorney general, in the July letter.

The letter drafted by Sherman was delivered on the same day that Ferguson filed a lawsuit over the Growler flight expansion that alleged other violations of federal laws. Sherman said that in his experience it is unusual to get a response to such a letter.

"Our hope is that they recognized — in reviewing our letter — that they should do a better job," Sherman said.

The Growler aircraft, which jams communications and launch systems, is a key part of U.S. military electromagnetic warfare, and the crews repeatedly deploy to overseas conflict zones.

The Oak Harbor air station is a huge economic force on Whidbey Island and has many supporters who are not happy about legal challenges to the environmental review.

"I don't see what more consultations about a bird is going to resolve," said Joe Kunzler, a Skagit County resident who likes to go to the Oak Harbor airstrip, equipped with hearing protection, and watch training flights.

But the noise generated by the Growlers in practice takeoffs and landings at Oak Harbor and nearby Outlying Field Coupeville has generated years of complaints, including concerns about health impacts, and resulted in a well-organized opposition movement.

The biggest increase in training flights is at the Coupeville airstrip, which is located in a rural area south of Oak Harbor.

Zachary Griefen, an attorney representing an opposition group, Citizens of Ebey's Reserve, said he has a "wait-and-see position" regarding the Navy's review of the marbled murrelet. While it is being conducted, he says, the Navy should suspend training flights at the Coupeville field because the Navy is out of compliance with environmental laws.

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