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SCCA AND WCWC WIN ONE FOR THE MARBLED MURRELET IN BRITTAIN RIVER

In a decision released late Friday afternoon, Mr. Justice Catliff of the B.C. Supreme Court held that district manager Greg Hemphill of the Sunshine Coast Forest District erred in law in his approval of cutblocks in critical Marbled Murrelet habitat in the Brittain River watershed. Judge Catliff has directed the district manager to reconsider his decision to allow logging in this habitat.

The Sunshine Coast Conservation Association (SCCA) and the Western Canada Wilderness Committee (WCWC) filed the application for judicial review in fall, 2001, and the case was heard on January 10, 11 and 16th, 2002, in Vancouver, B.C. Counsel for the petitioners was Matt Pollard of Arvay Finlay, with financial support from the Environmental Dispute Resolution Fund of the West Coast Environmental Law Association.

Judge Catliff found that Mr. Hemphill erred in law and as a result "fettered the exercise of his discretion . . . and foreclosed consideration of the principles listed in the Preamble to the [Forest Practices]Code."

"We are extremely pleased to obtain some legal relief for the marbled murrelet in this region," states Maria Hunter, chair of the SCCA. "This habitat is the last of the substantial old growth that is the only hope for survival of the species in the Brittain River watershed." However, she cautioned, "Everything still depends on what the district manager does next. The public must remain vigilant to ensure that in deciding the fate of these trees the district manager recognizes how important they are to the survival of wildlife."

The SCCA is hopeful that the provincial government will now move to formally establish Wildlife Habitat Areas, which would actually protect the Marbled Murrelet, instead of logging this irreplaceable ancient forest.

"This is an important first step in ensuring that the Marbled Murrelets in the Brittain River watershed are given a chance to survive," said Pollard. "But," he stressed, "it is just the first step. The ball is now squarely back in the government's court."

With this case and many other efforts, the SCCA is seeking to protect biodiversity and the habitat of species at risk through implementation of law and policy.

Background documentation for this case is available on this web site under "current projects" and "newsletters."

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