

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AM. FOREST RES. COUNCIL,

Plaintiff,

v.

**H. DALE HALL, Director, U.S. Fish &
Wildlife Serv., et al.,**

Defendants.

Civil Action No. 07-0484 (JDB)

ORDER

Before the Court is the combined motion of the Audubon Society of Portland, Center for Biological Diversity, Conservation Northwest, Environmental Protection Information Center, Gifford Pinchot Task Force, Oregon Wild, Seattle Audubon Society, Sierra Club, and the Wilderness Society (collectively, "Applicants") for leave to intervene in this proceeding as defendants pursuant to Fed. R. Civ. P. 24(a) or, alternatively, Fed. R. Civ. P. 24(b). Plaintiff does not object to the motion. Defendants take no position. Having reviewed the record in this case, the Court finds that Applicants have satisfied the requirements to intervene as a matter of right pursuant to Fed. R. Civ. P. 24(a).

Fed. R. Civ. P. 24(a) provides in relevant part:

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action . . . (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

Applicants' motion is timely because it was filed before defendants' answer to the complaint, and no briefing schedule has been entered in this case. Applicants have adequately demonstrated that they have an interest in the subject of this action. They describe themselves as conservation organizations dedicated to the preservation of bird species such as the marbled murrelet and the protection of old-growth forests that comprise critical habitat for the murrelet. These interests would be impaired or impeded by an unfavorable ruling in this action, in which plaintiff seeks, among other things, an equitable order directing defendants to propose rulemaking that would remove the three-state murrelet population from the list of endangered and threatened species. Applicants further assert that their interests are not adequately represented by defendants because the Fish and Wildlife Service has been, from Applicants' perspective, insufficiently protective of the marbled murrelet and its critical habitat in the course of past litigation and in its proposed rule changes. See also Fund for Animals v. Norton, 322 F.3d 728, 736 (D.C. Cir. 2003) ("[W]e have often concluded that governmental entities do not adequately represent the interests of aspiring intervenors."). The Court finds that this difference in interests is sufficient to support intervention under Fed. R. Civ. P. 24(a).

For the foregoing reasons, it is hereby

ORDERED that Applicants' motion to intervene as defendants [#3] is **GRANTED**; it is further

ORDERED that Audubon Society of Portland, Center for Biological Diversity, Conservation Northwest, Environmental Protection Information Center, Gifford Pinchot Task Force, Oregon Wild, Seattle Audubon Society, Sierra Club, and the Wilderness Society shall be added to this action as defendant-intervenors for all purposes; it is further

ORDERED that the Clerk of the Court shall docket the proposed answer to the complaint (Attachment B to motion to intervene, #3) forthwith; it is further

ORDERED that the Clerk of the Court shall docket the proposed partial motion to dismiss (Attachment C to motion to intervene, #3) forthwith; and it is further

ORDERED that all parties shall jointly submit a notice with the Court by not later than June 5, 2007, proposing a briefing schedule for any and all dispositive motions filed in this action.

/s/
JOHN D. BATES
United States District Judge

Dated: May 29, 2007