

Attachment 4

ESA No Effect Letter

April 10, 2020

Amanda Barbieri
Project Manager
U.S. Army Corps of Engineers
P.O. Box 3755
Seattle, Washington 98124-3755

Re: Endangered Species Act No Effect Letter for the Golden Eagle Farms Property Drainage Modifications Restoration Project

Dear Ms. Barbieri,

This letter is being provided on behalf of US Golden Eagle Farms LP (Golden Eagle Farms) to provide an Endangered Species Act (ESA) effect determination rationale for the Golden Eagle Farms Property Drainage Modifications Restoration Project (Project) located in Everett, Washington. Nine ESA-listed species occur in the region, including Chinook salmon (*Oncorhynchus tshawytscha*), steelhead (*O. mykiss*), bull trout (*Salvelinus confluentus*), marbled murrelet (*Brachyramphus marmoratus*), yellow-billed cuckoo (*Coccyzus americanus*), streaked horned lark (*Eremophila alpestris strigata*), Oregon spotted frog (*Rana pretiosa*), North American wolverine (*Gulo gulo luscus*), and gray wolf (*Canis lupus*). Based on a review of the Project activities and potential habitat in the vicinity of the Project area, no ESA-listed species are expected to be affected by the Project, and a no effect determination is appropriate for ESA-listed species due to no known species occurrences and a lack of suitable habitat.

The following includes a brief Project summary followed by a no effect determination analysis for ESA-listed species.

Project Location and Background

The project is located on multiple parcels comprising approximately 55 acres and located to the west of the Marshland Canal and east of Larimer Road in Everett, Washington (Section 9, Township 28 North, Range 5 East). The parcels were purchased by Golden Eagle Farms in 2013 to support agricultural activities (the development of a blueberry farm). A restoration plan, project area survey, hydraulic flood analysis, and geotechnical analysis have been prepared to bring the property into compliance with City of Everett Municipal Code and with a settlement agreement between Golden Eagle Farms and Daniel and Shavonne Tonnes after some drainage ditches were rerouted.

Project Summary

A Restoration Plan has been prepared to stabilize new drainage ditches and address erosion that has been occurring on and near the Project area. Specifically, the restoration activities are planned to include the following actions:

- Fill in the unnamed tributary (UNT) located at the southern boundary of the Project area, between the US Golden Eagle Farms property and the Tonnes property, and seed and vegetate this area to ensure soil stability.
- Relocate the UNT from its current east-west location so that it runs north-south and extends to the northern boundary of the Golden Eagle Farms property.
- Fill in approximately 200 feet of the south end of the ditch on the east side of the Tonnes property boundary that is shared with the Golden Eagle Farms property (Ditch 3) and seed and vegetate this area to ensure soil stability.
- Relocate the remainder of Ditch 3 to the east so that it is at least 15 feet from the Tonnes property boundary. This area will also be seeded and vegetated to ensure soil stability.
- Fill the 15 feet to the level of the Tonnes property to alleviate slope stability concerns.

No Effect Determination Analysis

The Project is anticipated to result in “no effect” on the ESA-listed species that may occur in the vicinity of the Project. These species are listed in Table 1. Justification for these determinations is provided in the text following Table 1.

Table 1
Federally Listed Species, Endangered Species Act Status, and Critical Habitat Status with Life History and Habitat Requirements that Do Not Occur in the Project Area

Species	Distinct Population Segment/Evolutionarily Significant Unit	Status	Agency	Critical Habitat
Chinook salmon (<i>Oncorhynchus tshawytscha</i>)	Puget Sound Evolutionarily Significant Unit	Threatened	NMFS	Designated, but not within Project area
Steelhead (<i>O. mykiss</i>)	Puget Sound Distinct Population Segment	Threatened	NMFS	Designated, but not within Project area
Bull trout (<i>Salvelinus confluentus</i>)	Coastal-Puget Sound Distinct Population Segment	Threatened	USFWS	Designated, but not within Project area
Marbled murrelet (<i>Brachyramphus marmoratus</i>)	Not applicable	Threatened	USFWS	Designated, but not within Project area
Yellow-billed cuckoo (<i>Coccyzus americanus</i>)	Western Distinct Population Segment	Threatened	USFWS	Proposed, but not within Project area
Streaked horned lark (<i>Eremophila alpestris strigata</i>)	Not applicable	Threatened	USFWS	Designated, but not within Project area

Species	Distinct Population Segment/Evolutionarily Significant Unit	Status	Agency	Critical Habitat
Oregon spotted frog (<i>Rana pretiosa</i>)	Not applicable	Threatened	USFWS	Designated, but not within Project area
North American wolverine (<i>Gulo gulo luscus</i>)	Not applicable	Proposed Threatened	USFWS	None designated or proposed
Gray wolf (<i>Canis lupus</i>)	Not applicable	Endangered	USFWS	Designated, but not within Project area

Notes:

NMFS: National Marine Fisheries Service

USFWS: U.S. Fish and Wildlife Service

Chinook salmon, steelhead, and bull trout are found in the Snohomish River, which is located approximately 0.5 mile to the east of the Project area (WDFW 2019). The Marshland Canal is an agricultural canal that connects to both the Snohomish River and the drainage ditches on the Project area. The Marshland Flood Control District operates a pump station at the confluence of the Snohomish River and the Marshland Canal that prevents any direct connection with the Snohomish River. Some resident fish could survive in the ditches after a flood; however, it is unlikely that they would be present near the property, and no anadromous fish can access the property. As it is possible that non-listed fish could be present in the ditches, discussions with the Washington Department of Fish and Wildlife will occur as part of the permitting process, and if necessary, a fish rescue plan will be developed for the work.

The occurrence of marbled murrelets in the Project area is expected to be rare. Marbled murrelets feed in marine water but nest in old-growth forests (USFWS 2020a). The Project is located in a suburban environment that does not include suitable nesting habitat for marbled murrelets. The closest marbled murrelet critical habitat to Golden Eagle Farms is located approximately 16 miles east of the Project area near the Cascade Mountains (USFWS 2018).

The occurrence of yellow-billed cuckoos in Washington is rare. Riparian habitat in the Project area does not contain large areas of forested habitat typically associated with yellow-billed cuckoos (WDFW 2020a). Because the Project area does not contain potential breeding habitat and suitable forested habitat preferred by yellow-billed cuckoos is not located within the Project area, yellow-billed cuckoos are not expected to be found in or near the Project area.

Streaked horned larks prefer wide open spaces with no trees and few or no shrubs. Data indicates that sites used by streaked horned larks are generally found in open landscapes of 300 acres or more. They nest on the ground in sparsely vegetated sites dominated by grasses and forbs (USFWS 2020b). Potential habitat for streaked horned larks is not located within or near the Project area.

Existing populations of Oregon spotted frogs occur in large, shallow wetland systems associated with a stream or stream network. Breeding habitat is in seasonally flooded margins of wetlands and areas of extensive shallows (WDFW 2020b). The City of Everett does not identify any wetlands as occurring on or adjacent to the Project area (City of Everett 2019). A site visit was conducted on April 9, 2019, and no wetland features were observed within the Project area. In addition, the Snohomish River watershed is not identified as a watershed or subbasin that is occupied by Oregon spotted frogs (79 Federal Register 51663); therefore, they are not expected to occur within the Project area.

North American wolverines occupy alpine and subalpine forest habitats in Washington State, largely restricted to the North Cascades (WDFW 2020c). Potential habitat for North American wolverines is not found within or near the Project vicinity.

In Washington, gray wolves are most commonly found in relatively flat forested areas, rolling hills, or open spaces such as river valleys and basins, where prey animals are easier to chase and catch. Wolf populations fare best in areas away from humans and their activities. These tend to be remote, relatively unpopulated areas with extensive public lands, few roads, and few or no livestock (WDFW 2020d). Potential habitat for the gray wolf is not located within or near the Project area.

Conclusion

Based on an evaluation of potential ESA-listed species that could occur at the Project area, it is Anchor QEA, LLC's recommendation that the Project will have **no effect** on ESA-listed species.

Thank you for your continued coordination on this Project. Please contact me if you have any comments or questions about the Project by telephone at (503) 924-6196 or by email at gsummers@anchorqea.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'G S', with a stylized flourish at the end.

Greg Summers
Principal Scientist

cc: Nick Tennant, Aquilini Investment Group

References

- USFWS (U.S. Fish and Wildlife Service), 2018. "Marbled Murrelet – Final Critical Habitat Map." Accessed July 30, 2019. Available at: <https://www.arcgis.com/home/item.html?id=eec1f0315cc047249c8ffc088f78c408>.
- USFWS, 2020a. "Marbled Murrelet." *Washington Fish and Wildlife Office*. Accessed March 11, 2020. Available at: <https://www.fws.gov/wafwo/articles.cfm?id=149489592>.
- USFWS, 2020b. "Streaked Horned Lark." *Washington Fish and Wildlife Office*. Accessed March 11, 2020. Available at: <https://www.fws.gov/wafwo/articles.cfm?id=149489605>.
- WDFW (Washington Department of Fish and Wildlife), 2019. "SalmonScape Web Mapping Application." Accessed March 11, 2020. Available at: <https://www.arcgis.com/home/item.html?id=1e56a648718543ab952e75ff9971f086>.
- WDFW, 2020a. "Yellow-Billed Cuckoo" *Washington Department of Fish and Wildlife – Species in Washington*. Accessed March 11, 2020. Available at: <https://wdfw.wa.gov/species-habitats/species/coccyzus-americanus>.
- WDFW, 2020b. "Oregon Spotted Frog." *Washington Department of Fish and Wildlife – Species in Washington*. Accessed March 11, 2020. Available at: <https://wdfw.wa.gov/species-habitats/species/rana-pretiosa>.
- WDFW, 2020c. "Wolverine." *Washington Department of Fish and Wildlife – Species in Washington*. Accessed March 11, 2020. Available at: <https://wdfw.wa.gov/species-habitats/species/gulo-gulo>.
- WDFW, 2020d. "Gray Wolf." *Washington Department of Fish and Wildlife – Species in Washington*. Accessed March 11, 2020. Available at: <https://wdfw.wa.gov/species-habitats/species/canis-lupus>.