

7 December 2023
File No. 0208183-000

BKF Engineers
1125 NW Couch Street, Suite 420
Portland, Oregon 97209

Attention: Jason White, Project Principal

Subject: Review of Threatened and Endangered Species and Habitat
3rd Street Improvement Project
NE 3rd Street - NE Adams Street to NE Johnston Street
McMinnville, Oregon 97128

Dear Mr. White:

This letter presents our findings regarding a review of the potential presence of federal and state protected species and/or potential or critical habitat at or in the property (the “site”) along 3rd Street in McMinnville, Oregon (Figures 1). Our activities included reviewing protected species information from the Oregon Biodiversity Information Center (ORBIC) for an area within 2 miles of the site and reviewing research on species distribution from the Oregon Office of the U.S. Fish and Wildlife Service (USFWS) website on protected species data and the USFWS Critical Habitat Portal, and the Oregon Department of Fish and Wildlife (ODFW). We also spoke with relevant governmental and tribal agencies to gather additional information about protected species and their potential habitat and presence on or near the site.

Site and Project Description

The site is situated along NE 3rd Street between NE Adams Street to the west and NE Johnston Street to the east in the downtown area of the City of McMinnville, Yamhill County, Oregon. The site is a tree-lined street with primarily deciduous 1- to 24-inch-diameter at breast height planted trees. Tree species are primarily maple (red, silver, and sugar cultivars, primarily columnar varieties) and basswood (two European species) with some hackberry, elm, and arborvitae. The ground surface is primarily covered by the sidewalk. A narrow strip of trimmed grass is kept in the eastern portion of the site. Proposed environmental activities will include removal and replacement of sidewalks and some of the street trees during the rehabilitation. Street trees will be planted when construction is completed.

Threatened and Endangered Species

ORBIC DATA

The ORBIC, which monitors protected plants and wildlife, performed a data search on federal and/or state protected species (endangered, threatened, candidate, species of concern, and state-sensitive species)

within 2 miles of the site. Those species occurring in this area are listed in Table 1, below. No occurrences of the species listed in Table 1 were recorded within the site by ORBIC or agencies for this project. No natural habitat for any state or federal species exists at the site. Since introduced populations of Nelson's sidalcea were planted at the library a half block away from the western edge of the site, the rare possibility exists that seeds from this population could spread into the site and germinate in or around one of the trees. The compaction of the soil around the trees in the project area would make this unlikely.

Table 1 - Protected Species Occurring near the Site					
Name	Federal Status	State Status	Approximate Location of Closest Occurrence	Approximate Distance from Site for Closest Occurrence	Occurrence or Potential Habitat on Site?
Animals					
<i>Acetropis americana</i> (American grass bug)	Species of Concern (G1)	Historical (SH)	South Yamhill River	800 meters	Very low: Historical record from 1958, no habitat present
<i>Actinemys marmorata</i> (Western pond turtle)	Species of Concern (G3)	Sensitive Critcal (S2)	Pond at 2001 NW High Heaven Road	50 meters	None, no habitat
<i>Driloleirus macelfreshi</i> (Oregon giant earthworm)	Species of Concern (G1)	S1	Near a railroad siding	1500 meters	Unlikely due to the amount of impervious pavement
<i>Entosphenus tridentatus</i> (Pacific lamprey)	Species of Concern (G4)	Sensitive (S1, S2)	Yamhill River	350 meters	None
<i>Oncorhynchus mykiss</i> pop. 33 (Steelhead (Upper Willamette River ESU, winter run)	Threatened (G5T2Q)	Sensitive (S2)	Yamhill River & Tributaries	450 meters	None
<i>Oncorhynchus tshawytscha</i> pop. 23 (Chinook salmon (Upper Willamette River ESU, spring run)	Threatened (G5T2Q)	Sensitive Critcal (S2)	Yamhill River & Tributaries	450 meters	None

Table 1 - Protected Species Occurring near the Site					
Name	Federal Status	State Status	Approximate Location of Closest Occurrence	Approximate Distance from Site for Closest Occurrence	Occurrence or Potential Habitat on Site?
Plants					
<i>Lathyrus holochlorus</i> (Thin-leaved peavine)	Species of Concern (G2?)	Listed Endangered (S2)	Historical from 1964. "13 miles S of Newberg, Hwy 99W"	unknown	None
<i>Sidalcea nelsoniana</i> (Nelson's sidalcea)	DL (G2G1)	Listed, Threatened (S2)	Introduced population: East of SE 3 Mile Lane – last observed 2005. Second population planted at McMinnville Public Library	25 meters	Unlikely, but a nearby seed source did/does? exists

Notes: G (Global) 1/S (State) 1 are critically imperiled that typically correlates to endangered species. G2/S2=are imperiled species that typically correlates to threatened. G3/S3= are rare or uncommon and typically correlates to sensitive or watch species, G4/S4 and G5/S5= species that have stable populations. T=Taxon and refers to the ranking of specific subspecies or variety.

USFWS DATA

The Information of Planting and Consultation (IPaC) database (<https://ecos.fws.gov/ipac>) was consulted for a four-square mile area centered around the site. The preferred natural habitat (shoreline, prairie, or mature forested habitat) for these species does not exist at the site. The presence of these species would only be a rare occurrence as the species are flying over the site.

Table 2 - Protected Species Occurring near the Site		
Common Name	Species	Level of Concern
Birds		
Marbled Murrelet	<i>Brachyramphus marmoratus</i>	Threatened
Northern Spotted Owl	<i>Strix occidentalis caurina</i>	Threatened
Streaked Horned Lark	<i>Eremophila alpestris strigata</i>	Threatened
Insects		
Fender's Blue Butterfly	<i>Icaricia icarioides fender</i>	Threatened
Monarch Butterfly	<i>Danaus plexippus</i>	Candidate
Flowering Plants		
Kincaid's Lupine	<i>Lupinus sulphureus ssp. kincaidii</i>	Threatened
Nelson's Checker-mallow	<i>Sidalcea nelsoniana</i>	Threatened
Willamette Daisy	<i>Erigeron decumbens</i>	Endangered

*BRC =Only a concern in particular Bird Conservation Regions; CON= a concern throughout its range; Non-BCC

Also, eight migratory birds were listed as birds of particular concern or Birds of Conservation Concern (BCC) (Table 3). Many of these are shoreline species that feed along waterways or shorelines or in the spruce-fir forests and would only be, at best, transients at the site because there is little foraging and no breeding habitat present.

Table 3 - Protected Species Occurring near the Site			
Common Name	Species	Level of Concern	Breeding Season
Bald Eagle	<i>Haliaeetus leucocephalus</i>	Non-BCC Vulnerable	Jan 1 to Sep 30
California Gull	<i>Larus californicus</i>	BCC Rangewide (CON)	Apr 15 to Oct 31
Evening Grosbeak	<i>Coccothraustes vespertinus</i>	BCC Rangewide (CON)	May 15 to Aug 10
Golden Eagle	<i>Aquila chrysaetos</i>	Non-BCC Vulnerable	Jan 1 to Aug 31
Olive-sided Flycatcher	<i>Contopus cooperi</i>	BCC Rangewide (CON)	May 20 to Aug 31
Rufous Hummingbird	<i>Selasphorus rufus</i>	BCC Rangewide (CON)	Apr 15 to Jul 15
Western Grebe	<i>Aechmophorus occidentalis</i>	BCC Rangewide (CON)	Jun 1 to Aug 31
Wrentit	<i>Chamaea fasciata</i>	BCC Rangewide (CON)	Mar 15 to Aug 10

*BRC =Only a concern in particular Bird Conservation Regions; CON= a concern throughout its range; Non-BCC
vulnerable = not a BCC bird in this area, but warrants attention because of the Bald and Golden Eagle Act.

TRIBAL AND STATE AGENCY DATA

We contacted the Oregon Department of Fish and Wildlife (ODFW) and the Grand Ronde and Siletz Tribes to gain an understanding of local natural resource conditions and the potential for impacts on protected species near the site. A summary of our conversations is presented below.

Grand Ronde Tribe Interview. We contacted Michael Karnosh, Timber Resources Program Manager with Confederated Tribes of Grand Ronde, via phone and email (503.879.2383; michael.karnosh@grandronde.org). He stated that the only federally listed species that potentially may be of interest to the Tribe is steelhead and coho salmon run in the South Yamhill River. Because the project will not impact any waterways, the Tribe would not have any concerns. Michael did state that the Tribe's preference for replanting would be native vegetation, including Oregon white oak and western red cedar, if appropriate.

Siletz Tribe Interview. We contacted Mike Kennedy, Natural Resources Manager with Confederated Tribes of Siletz Indians, via phone and email (541.444.8232; mikek@ctsi.nen.us). He responded and stated that there are no endangered species concerns other than the steelhead and coho salmon in the South Yamhill River.

ODFW DATA

In an email conversation with Ariana Scipione (971.673.1134; ariana.r.scipioni@odfw.oregon.gov) Regional Habitat Biologist with the North Willamette Watershed District of ODFW, she indicated it is unlikely that the project will impact the USFWS list of protected species identified above. She stated that, in general, ODFW advises that if trees and shrubs are to be removed, that it be done in the late fall or early winter, before general bird nest season, which is January 1st to August 1st. Ariana indicated that if any species nest is found during construction within this work window, then work should be stopped and the Conservation Biologist, Susan Barnes with ODFW, should be contacted (403.320.9617) for advice on how to proceed.

ODFW's Conservation Strategy identifies 294 Strategy Species, which are Oregon's "Species of Greatest Conservation Need". Strategy Species are defined as having small or declining populations, are at-risk, and/or are of management concern. They may also be state or federally listed, such as the Streaked Horned Lark which is very unlikely to be seen downtown. Strategy species that have been observed in the general area include:

- Acorn Woodpecker
- Chipping Sparrow
- Nelson's Checkermallow
- Northern Red-legged Frog
- Short-Eared Owl
- White-breasted Nuthatch (Slender-billed)
- Streaked Horned Lark
- Western Bluebird
- Western Pond Turtle

ODFW recommend that any replacement trees be native to the bioregion and in accordance with city tree code. Arian indicated that the city would need to apply for a free Capture, Hold, Take, Relocation CHTR permit by contacting Wildlife.Permits@odfw.oregon.gov, prior to construction. She indicated such a permit takes approximately 4 weeks to obtain.

Summary

No known species protected under the Endangered Species Act are present at the NE 3rd Street site. No critical habitat for any species exists at the site. A review of additional information on protected species distribution obtained from the USFWS and ODFW showed that none of these species or their preferred habitat is present at the site, and thus would not be harmed by proposed project activities. Yamhill River and its tributaries contain habitat for several protected species, but they will not be impacted and are over 400 meters away.

The site has at least 50 trees bordering the project on either side of 3rd Street. Generally, no impact to nesting birds would occur outside if trees were removed outside the breeding season. Because the planned actions at the site are likely limited to the site itself, where no protected species or critical habitat are known to occur, project activities will likely have no effect on them.

Sincerely yours,
HALEY & ALDRICH, INC.

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