

**DRAFT ENVIRONMENTAL ACTION STATEMENT SCREENING FORM
FOR PROGRAMMATIC SAFE HARBOR AGREEMENT BENEFITTING PAHRUMP
POOLFISH WITHIN NYE, ESMERALDA, LINCOLN, AND CLARK COUNTIES,
NEVADA**

I. Project Information

A. Project name:

Safe Harbor Agreement (Agreement) for Voluntary Enhancement and Restoration Activities Benefiting Pahrump Poolfish within Nye, Esmeralda, Lincoln, and Clark Counties, Nevada.

B. Affected species:

Pahrump poolfish (*Empetrichthys latos*)

C. Project size:

Project area will encompass natural and manmade closed-system water bodies (e.g., ponds, lakes) located throughout in Nye, Esmeralda, Lincoln, and Clark Counties, Nevada. Within these counties, we estimate that less than 25 acres of private or non-federal lands could be affected by the Agreement. This estimate is based on our best scientific judgement concerning habitat needs, as past refugia established for the Pahrump poolfish have typically been less than 0.5 acre in size. Though we anticipate establishing multiple refugia under the Agreement, we anticipate that the footprint needed for each refugium will be small.

D. Brief project description including conservation elements of the plan:

The project (Federal Action) is the issuance of an Enhancement of Survival Permit (Permit) associated with a programmatic Safe Harbor Agreement (Agreement) between the U.S. Fish and Wildlife Service (Service) and Nevada Department of Wildlife (Department; Applicant). The purpose of this Agreement is to maintain, enhance, and recover Pahrump poolfish (*Empetrichthys latos*) on Enrolled Properties within Nye, Esmeralda, Lincoln, and Clark Counties, Nevada. Under this 50-year Agreement, the Applicant will enroll willing private landowners (Cooperators) in Cooperative Agreements (CAs) and issue Certificates of Inclusion (CIs) to enhance recovery activities and strategies for Pahrump poolfish on enrolled lands. CAs will describe agreed-upon conservation measures and are expected to be in effect for the full term of the Agreement.

When signed, this Agreement will serve as the basis for the Permit under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act) for the incidental take of Pahrump poolfish. The Safe Harbor program encourages proactive conservation measures by non-Federal landowners while providing them certainty that future property-use restrictions will not be imposed if those efforts attract any Pahrump poolfish to their enrolled property or result in increased numbers or distributions of the covered species already present. In return for voluntary conservation commitments, the Agreement will extend assurances to the Cooperators

that will allow future alteration or modification of the enrolled property to its established baseline condition. Without this cooperative government/private effort, the covered species would not occupy important recovery habitats in the foreseeable future.

The Pahrump poolfish (*Empetrichthys latos*) is listed as endangered under the Act and is extinct from its native habitat (Manse Spring). Following extirpation from their native habitat, multiple refugia populations were established for the Pahrump poolfish though these sites continue to face threats (e.g., habitat manipulation, predation, competition with exotic species, groundwater development). More recently, a successful Safe Harbor Agreement between the Service and Las Vegas Valley Water District allowed the establishment of a secure population at the Springs Preserve. This project as described would allow for the creation of additional refugia populations on private and non-federal lands.

Efforts to recover these species without involving and incorporating these private lands and landowners would limit our ability to make measurable progress towards their recovery. Therefore, NDOW intends to enroll Cooperators, in CAs, who are willing to allow the reintroduction or expansion of Pahrump poolfish within their private holdings. These CAs will offer protections and assurances to allow for inadvertent takings of the species for Cooperators who agree to provide voluntary conservation benefitting the species within their private holdings.

Conservation measures that may be implemented on enrolled properties to assist with the recovery of covered species can be as varied as the types of lands and Cooperators. While many possible conservation measures exist for each management action, not all possible measures can be anticipated. Each Cooperator will have conservation measures to be implemented that are specific to their baseline, habitat conditions, and management needs. The overall goal of the Agreement and associated CA will be to produce conservation measures that are mutually beneficial to the Cooperator and the long-term existence of the Pahrump poolfish.

The conservation measures associated with this Agreement will contribute, directly and/or indirectly, to recovery of the Pahrump poolfish. Private lands make up a significant portion of the aquatic and riparian habitats within the recovery systems that are critical to these species. Currently, private landowners are reluctant to participate in activities that will benefit the covered species due to fear of regulatory impacts from having an endangered species on their land. Having landowners participate in this Agreement will open areas to reintroduction, expansion, and preservation of Pahrump poolfish populations needed to ensure the genetic viability of the species. Some of the conservation measures that will be used to achieve this include restoration of springpool and springbrook habitats to approximate historical conditions, removal of aquatic nonnative species, control of invasive weed and plant species, modification of livestock grazing practices, and maintenance of seasonal flooding and soil moisture through pasture irrigation management strategies.

II. Does the Agreement fit the criteria as described in the Safe Harbor Agreement policy (meet the standard of net conservation benefit and contribute to recovery)?

Yes. The Agreement follows the Service's Safe Harbor Agreement final policy and regulations. The Agreement enhances both the reintroduction and recovery of Pahrump poolfish by encouraging Cooperators to maintain (voluntarily) populations of the species. Enrolling Cooperators creates opportunities for the species to utilize private lands currently unavailable to them.

Implementation of this Agreement is expected to result in increased numbers of the Pahrump poolfish in the wild. If all the landowners return their property to baseline conditions after 50 years, which is not expected, populations of the covered species will continue to exist within their current range on public and private lands.

A. Are the effects of the Agreement less than significant on the rangewide population of federally listed, proposed, or candidate species or other wildlife and their habitats covered under the Agreement?

Yes. Other federally listed species that could be affected in the Nye, Esmeralda, Lincoln, and Clark Counties, Nevada include:

- Yellow-billed cuckoo (*Coccyzus americanus*; Western U.S. DPS); Threatened
- Ridgeway's Rail/Yuma clapper rail (*Rallus obsoletus/Rallus longirostris yumanensis*); Endangered
- Southwestern willow flycatcher (*Empidonax traillii extimus*); Endangered
- Desert tortoise (*Gopherus agassizii*; Mojave population); Threatened

The potential effects of implementing this Agreement are expected to be less than significant on the range-wide population of federally protected species, which are rare in the areas found. Additionally, before establishing refuge populations of Pahrump poolfish, a biological inventory of the Cooperators property will be conducted.

B. Are the effects of the Agreement minor or negligible on other environmental values or resources (e.g. air quality, geology and soils, water quality and quantity, socio-economic, cultural resources, recreation, visual resources, etc.)?

Yes. Effects to air quality are expected to be negligible because livestock, agricultural management, other land uses and facilities, and associated maintenance are expected to occur regardless of approval/implementation of the proposed Agreement and issuance of the Permit.

Effects to geology and soils are expected to be minor since livestock, agricultural management, other land uses and facilities, and associated maintenance are expected to occur regardless of approval/implementation of the proposed Agreement and issuance of the Permit. Additionally, bank stability around water sources is expected to improve in areas that undergo riparian restoration.

Effects to water quality and quantity are expected to be minor or negligible because livestock, agricultural management actions, other land uses and associated maintenance are expected to occur regardless of approval of the proposed Agreement and issuance of the permit. Some improvement to water quality and quantity is expected in areas identified for conservation actions.

Socio-economic resource effects from this Agreement are expected to be negligible because livestock, agricultural management, other land uses and facilities, and associated maintenance are expected to occur regardless of approval/implementation of the proposed Agreement and issuance of the Permit, or beneficial as the Agreement facilitates healthy riparian and aquatic conditions with and could increase the value of the property.

Impacts to historic and cultural resources from approval of the Agreement are expected to be negligible because livestock, agricultural management, other land uses and facilities, and associated maintenance are expected to occur regardless of approval/implementation of the proposed Agreement and issuance of the Permit.

Effects to recreation are expected to be minimal since there will be no changes in public use activities at facilities that are open to public recreation. In addition, livestock, agricultural management, other land uses and facilities, and associated maintenance are expected to occur regardless of approval/implementation of the proposed Agreement and issuance of the Permit.

Effects to visual resources are expected to be negligible because livestock, agricultural management, other land uses and facilities, and associated maintenance are expected to occur regardless of approval/implementation of the proposed Agreement and issuance of the Permit.

C. Would the impacts of this Agreement, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects not result, over time, in cumulative effects to environmental values or resources which would be considered significant?

Yes. Significant cumulative effects are not expected to occur as a result of the Agreement and issuance of the Permit. Although beneficial effects to populations of Pahrump poolfish are expected because of activities being permitted, these effects will only occur on non-Federal lands. Federal regulations, such as section 7 consultation, NEPA, etc., will apply on public lands and any federally funded projects on private lands. Additionally, we anticipate that the small footprint of projects associated with this Agreement will be insignificant in terms of cumulative effects.

III. Do any of the exceptions to categorical exclusions apply to this Agreement? (from 516 DM 2.3, Appendix 2)

Would implementation of the Agreement:

A. Have significant adverse effects on public health or safety?

No. Implementation of the proposed Agreement would not have significant adverse effects on public health or safety as conservation measures would be restricted to private lands. Moreover, the management associated with various land uses (e.g., livestock, agriculture, golf courses) and associated maintenance is expected to occur regardless of approval and implementation of the proposed Agreement and issuance of the Permit.

B. Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks?

No. Implementation of the proposed Agreement would not have significant adverse effects on unique geographic characteristics, since conservation measures would be restricted to private lands. The addition of Pahrump poolfish will not have negative effects to nearby geographic features. Additionally, livestock agricultural management actions, other land uses and associated maintenance on the private are expected to occur regardless of approval and implementation of the proposed Agreement and issuance of the Permit.

C. Have highly controversial environmental effects?

No. Approval and implementation of the proposed Agreement and issuance of the Permit is not expected to generate highly controversial environmental effects because the conservation measures are intended to improve population numbers for the species, which would have beneficial effects to the environment.

D. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?

No. Approval and implementation of the proposed Agreement and issuance of the Permit would not pose highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks since it is merely the increase or addition of a native fish species to an existing closed water system.

E. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?

No. Future actions would be reviewed on their own merits for meeting requirements under the Act, its implementing regulations, and other laws. Effects from approval of the proposed Agreement are minor or negligible, therefore, would not represent a decision in principle about future actions with potentially significant environmental effects.

F. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects?

No. Approval and implementation of the Agreement is not directly related to other actions with significant cumulative environmental effects.

G. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places?

No. The amount of land that may be impacted by the proposed Agreement is small compared to the amount of land found within Nye, Esmeralda, Lincoln, and Clark Counties, Nevada. Additionally, with few exceptions, land disturbance activities would not occur. Lastly, as needed, surveys would be conducted to determine compliance with National Historic Preservation Act.

H. Have adverse effects on listed or proposed species, or have adverse effects on designated Critical Habitat for these species?

No. Potential effects of implementing this Agreement are not expected to have adverse effects on listed or proposed species because activities will occur in aquatic ecosystems, and where Critical Habitat has not been designated for any aquatic species.

I. Have adverse effects on wetlands, floodplains or be considered a water development project thus requiring compliance with either Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act?

No. Potential effects of implementing this proposed Agreement are not expected to have adverse effects on wetlands or floodplains and no activities associated with the proposed Agreement are considered a water development project. The listed conservation measures are expected to benefit these environments.

J. Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment?

No. Approval and implementation of this Agreement will be in accordance with all applicable laws. A specific condition of the Permit will be that it is carried out in accordance with all applicable federal, state, local, or tribal laws.

IV. ENVIRONMENTAL ACTION STATEMENT

Based on the analysis above, the Safe Harbor Agreement for voluntary enhancement/restoration activities benefiting Pahrump poolfish on non-federal lands in Nye, Esmeralda, Lincoln, and Clark Counties, Nevada meets the qualifications for implementation of a Safe Harbor Agreement that represents a class of actions that do not individually or cumulatively have a significant effect on the human environment. Therefore, this action is categorically excluded from further NEPA documentation as provided by 516 DM 2, Appendix 1 and 516 DM 6, Appendix 1.

Other supporting documents (list): Safe Harbor Agreement.

Concurrence:

Field Supervisor

Date