

**FWS ENVIRONMENTAL ACTION STATEMENT SCREENING FORM
FOR SAFE HARBOR AGREEMENTS (SHA)**

I. Project Information

A. Project name: Safe Harbor Agreement with Scott Erion for Streaked Horned Lark Habitat Restoration

B. Affected species: Streaked horned lark (*Eremophila alpestris strigata*) (“larks”)

C. Project size (in acres): 315 acres

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

The primary objectives of the Safe Harbor Agreement (SHA) are to maintain, restore, and increase the amount of available suitable habitat for larks. The lands enrolled under this Agreement are located within the range of larks in the Willamette Valley in Oregon and the existing baseline is “zero larks.” Some incidental take may occur associated with management activities such that Scott Erion (Cooperator) is applying for an Endangered Species Act (ESA) section 10(a)(1)(A) enhancement of survival permit (permit). A special rule established under section 4(d) of the ESA exempts certain agricultural activities and noxious weed control activities on non-Federal lands from the take prohibitions of the ESA and the U.S. Fish and Wildlife Service’s (Service) regulations in order to provide for the conservation of the lark (78 FR 61452 - 61503; October 3, 2013). The applicant seeks the particular assurance of an SHA even if incidental take associated with the conservation management activities on the enrolled lands might otherwise be exempted under the 4(d) rule.

Potential restoration actions taken include mowing, disking, prescribed fire, herbicide application to control weeds, and reseeded with native plants. Specific treatments and follow-up management actions will be implemented under an adaptive framework in coordination between the Service and the Cooperator. For activities that will occur during the lark nesting season (April 1 to August 31), pre-project surveys will be conducted using survey methods approved by the Service to determine presence/absence of larks in suitable habitat. Information acquired through these surveys will be used to direct restoration activities away from likely nesting areas and/or stagger treatments to allow nests to be incubated, hatched, and fledged on known occupied sites. Surveys will be conducted for larks annually and to monitor responses to management activities and to assess population trends. The duration of the SHA and permit is 10 years. The Cooperator may then return his enrolled property to baseline conditions for the larks after he has undertaken these voluntary efforts to benefit the species.

II. Does the SHA fit the following Department of Interior and Fish and Wildlife Service categorical-exclusion criteria? *The answer must be “yes” to all three questions below for a positive determination. Each response should include an explanation. If the answer is “no” to any question, the action cannot be categorically excluded, and an Environmental Assessment or an Environmental Impact Statement must be prepared.*

A. Will the issuance, denial, suspension, and revocation of permits for activities involving fish, wildlife, or plants regulated under 50 CFR Chapter 1, Subsection B, cause no or negligible environmental disturbance? (516 DM 8.5(C)(1))

Yes. The Cooperator's property was been used for agricultural purposes since approximately the 1950s and is now being retired from farming, with the intent to restore the habitat to native prairie and provide habitat suitable to larks. The existing baseline is "zero larks." While the entire enrolled property is 315 acres, about 65 acres of that will receive management activities specifically for larks—which represents a small portion of lark habitat within the Willamette Valley, Oregon.

B. Are the effects of the SHA minor or negligible on all other components of the human environment, including environmental values and environmental resources (e.g. air quality, geology and soils, water quality and quantity, socio-economic, cultural resources, recreation, visual resources, environmental justice, etc.)? (40 CFR 1508.14; 43CFR 46.205)

Yes. Any ground disturbance is expected to be minimal, even though tractors/farm machinery will be used for creation of berms and to maintain/improve the habitat on the enrolled property. Between 2018 and 2019 the Service conducted a cultural resource/historic property investigation of the subject 315-acre property to meet Service responsibilities in complying with Section 106 of the NHPA for a habitat restoration project funded through the Service's Partners for Fish and Wildlife program. The Partner's project included restoration of 10 ephemeral wetlands totaling 27 acres and management of habitat for streaked horned larks throughout the 315-acre parcel. The Service effort included coordination with the Oregon State Historic Preservation Office (SHPO), Tribal consultation, archival research, visual inspection of the Area of Potential Effect (APE), and development of a regional prehistoric, ethnographic, and historic context (Rennaker and Raymond 2019). The SHPO responded by letter dated September 6, 2019, concurring that a good faith effort was implemented to identify historic properties and that the project will likely have no effect on any significant archaeological objects or sites (SHPO 2019). The Service anticipates there will be no to negligible effects on cultural resources based on the results of the Historic Properties Identification and Evaluation Report (Rennaker and Raymond 2019) the Service completed for the National Historic Preservation Act (NHPA) section 106 compliance process and review of the entire property. The area is predominantly an upland site, with some seasonal wetland areas, but it is anticipated that lark habitat restoration activities should not negatively affect water quality and quantity. The proposed activities will occur on private land in a rural area and are expected to have minor, negligible, or no effect on environmental, socio-economic or cultural values or resources. Maintaining the native prairie conditions in a grass-dominated/agricultural area will have minor or negligible effects on visual resources. Since the land is privately owned and fenced, the permit will have no effect on recreation, or neighboring landowners, and will not have any effects associated with environmental justice.

III. Do any of the exceptions to categorical exclusions (extraordinary circumstances) listed in 43 CFR 46.215 apply to this SHA? If the answer is "yes" to any of the questions below, the project cannot be categorically excluded from additional NEPA analysis, and an Environmental

Assessment or an Environmental Impact Statement must be prepared. Each “no” response should include an explanation.

Would implementation of the SHA:

A. Have significant impacts on public health or safety?

No. The proposed activities are on privately-owned land and will occur on approximately 65 acres (out of the entire 315 acres) and are routine methods of controlling vegetation that have been previously used by the Cooperator. Managing and restoring habitats on the covered lands is not expected to have significant impacts on public health or safety.

B. Have significant impacts 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. Activities that may occur on the enrolled lands are not expected to result in any major ground disturbance that could affect the types of resources listed above. The covered lands are in private ownership, so no Federal resource lands that fit the categories above will be affected. The covered lands are considered upland prairie habitat. There are no places on the covered lands listed on the Department's National Register of Natural Landmarks. A review under section 106 of the NHPA has already been conducted for a habitat restoration project funded through the Service's Partners for Fish and Wildlife program and it's been determined that no historic properties will be affected (Rennaker and Raymond 2019), with SHPO concurrence.

C. Have highly controversial environmental effects? *see 43 CFR 46.30 for definition of controversial*

No. Given the negligible impacts to all resources there is no scientific controversy over the environmental effects of implementing the SHA. The area has been farmed for years (primarily grass seed production), including the usage of machinery and various invasive vegetation management techniques. The proposed restoration and conservation measures described in the SHA will involve the continuation of some of these practices. Improving the quality of lark nesting habitat is not going to change the overall character of the landscape in such a way that we would expect to be controversial as to environmental effects. Activities that will occur on the enrolled property are not expected to affect adjacent properties.

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

No. Management activities have been on-going on the enrolled lands and the proposed activities are a more targeted approach to address the habitat needs of larks. The proposed activities are routine methods of controlling vegetation that are in common practice. Managing

and restoring native prairie habitats does not pose highly uncertain, unique or unknown environmental risks.

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

No. As mentioned above, the types of activities that may occur under the SHA have been occurring for many years and are not uncommon with other properties in the area. Targeted habitat improvements using common restoration practices that are site specific are not expected to set a new precedent that could result in potentially significant environmental effects.

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

No. Between 2018 and 2019 the Service conducted a cultural resource/historic property investigation of the subject 315-acre property to meet Service responsibilities in complying with Section 106 of the NHPA for a habitat restoration project funded through the Service's Partners for Fish and Wildlife program. The Partner's project included restoration of 10 ephemeral wetlands totaling 27 acres and management of habitat for streaked horned larks throughout the 315-acre parcel. The Service's effort included coordination with the Oregon State Historic Preservation Office (SHPO), Tribal consultation, archival research, visual inspection of the Area of Potential Effect (APE), and development of a regional prehistoric, ethnographic, and historic context (Rennaker and Raymond 2019). The SHPO responded by letter dated September 6, 2019, concurring that a good faith effort was implemented to identify historic properties and that the project will likely have no effect on any significant archaeological objects or sites (SHPO 2019). Based on the results of the previous investigation, we have determined that no historic properties will be affected by implementation of SHA's habitat restoration and management activities.

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

No. The baseline for the enrolled lands is established as "zero larks." The enrolled lands contain no designed Critical Habitat for larks. We anticipate that the restoration and enhancement of habitats favored by larks for nesting will result in an increased number and/or distribution of larks on the enrolled lands. A net conservation benefit to larks is expected to occur for the duration of this SHA.

H. Violate a Federal law, or a State, local, or tribal law, or a requirement imposed for the protection of the environment?

No. Prior to conducting work, all permits will be obtained and regulations will be followed, as applicable.

I. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?

No. Management actions under the SHA will occur entirely on private lands and will only involve vegetation management on a portion of those private lands. These actions will have no disproportionately high and adverse effect on low income or minority populations.

J. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007)?

No. The enrolled lands are in non-Federal, non-tribal ownership. No Federal resource lands that fit the categories above will be affected.

K. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)?

No. Management actions are intended to create and enhance native prairie habitat suitable for larks, in part, through the reduction, elimination, or otherwise control of noxious and invasive species.

IV. ENVIRONMENTAL ACTION STATEMENT

Based on the analysis above, the Safe Harbor Agreement and section 10(a)(1)(A) enhancement of survival permit with Scott Erion for Streaked Horned Lark Habitat Restoration Project falls within a class of actions which 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 43 CFR 46.215; 516 DM 2, Appendix 1 and 516 DM 6, Appendix 1; and 516 DM 8.5(C)(1). A more extensive NEPA process is unwarranted, and no further NEPA documentation will be made.

Other supporting documents:

- Oregon State Historic Preservation Office. 2019. SHPO Case No. 18-1834. Salem, Oregon. 1p.
- Rennaker, P. and A. Raymond. 2019. Erion Wetlands and Prairie Project Linn County, Oregon. National Historic Preservation Act, Section 106 Historic Properties Identification and Evaluation Report. U.S. Fish and Wildlife Service. 4 pp.
- U.S. Fish and Wildlife Service. 2016. Recovery Outline for the Streaked Horned Lark (*Eremophila alpestris strigata*). Portland, Oregon. 42 pp.

Signature Approval:

Paul Henson, Phd.

State Supervisor
Oregon Fish and Wildlife Office

Date