

Richie 02

**DECISION
AND
FINDING OF NO SIGNIFICANT IMPACT
FOR
WILDLIFE DAMAGE MANAGEMENT**

**FOR THE PROTECTION OF LIVESTOCK, PROPERTY
AND HUMAN HEALTH AND SAFETY**

CALIFORNIA ADC CENTRAL DISTRICT

INTRODUCTION

The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Animal Damage Control (ADC) program receives requests to conduct wildlife damage management to protect livestock, property and human health and safety within the state of California. ADC prepared an Environmental Assessment (EA) to analyze the environmental impacts of continuing the current program that provides assistance in response to such requests. The scope of the EA includes ADC's predator damage management (PDM) actions on private and public lands in California's ADC Central District (District). The District is made up of 16 counties: Alameda, Alpine, Amadora, Calaveras, Contra Costa, Fresno, Inyo, Kings, Madera, Mariposa, Merced, Mono, San Joaquin, Stanislaus, Tulare, and Tuolumne Counties. This decision and Finding of No Significant Impact (FONSI) are based on the analysis in this EA.

Individual actions on lands encompassed by this decision could each be categorically excluded under the APHIS Implementing Regulations for compliance with the National Environmental Policy Act (NEPA) (7 CFR 372.5(c)). This decision covers ADC's plans for future actions within the lands described in the EA. The purpose of the proposed plan of action is to alleviate damage caused by predator species. The needs for the program, as identified in the EA, are related to the fact that livestock, certain types of property, and at times, public health or safety may be adversely affected by predators.

The District program has agreements to conduct predator damage management on about 2.6 million acres, which is about 10% of the area within the District. However, ADC only conducts wildlife damage management on a portion of the area covered under agreements at limited times throughout the year. In fiscal year (FY) 1995, ADC conducted predator damage management activities on 6.6% of the total acreage within the District. Under the current program, ADC could be asked to provide services on more properties in the future; however, it is anticipated that control activities would not necessarily increase overall.

ADC is the Federal agency authorized to manage damage by predators and other wildlife. ADC cooperates with the California Department of Fish and Game (CDFG), California Department of Food and Agriculture (CDFA), and California Department of Health Services (CDHS) to minimize animal damage. The CDFG has the primary responsibility to manage all protected and classified wildlife in California, except Federally listed threatened and endangered (T&E) species. The California Department of Fish and Game manages mountain lion and black bear depredations according to CDFG Code sections 4800-4809 and 4181-4191. The CDFA is the state agency with responsibility for managing depredations to agricultural resources caused by predatory animals, rodents, and related species. CDFA Code 11221 grants CDFA this management authority and CDFA Code 11222 authorizes the agency to cooperate and contract with ADC. ADC's authority comes from the Animal Damage Control Act of March 2, 1931, as amended (46 Stat. 1486; 7 U.S.C. 426-426c), and the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1988.

The analysis in this EA relies heavily on existing data contained in published documents, primarily the USDA-APHIS-ADC Environmental Impact Statement, 1994 (ADC EIS) and the Final Environmental Document, Sections 265, 460-467, and 472-480, Title 14, California Code of Regulations regarding: Furbearing and Nongame Mammal Hunting and Trapping (CDFG 1996) prepared by the State of California, Resources Agency, Department of Fish and Game in compliance with the California Environmental Quality Act (CEQA).

Memoranda of Understanding (MOUs) signed between APHIS-ADC, CDFG, CDFA, and CDHS clearly outline the responsibility, technical expertise and coordination between agencies. National level Master MOUs were also signed between APHIS-ADC and U.S. Forest Service (USFS 1993) and APHIS-ADC and Bureau of Land Management (BLM 1995) transferring NEPA responsibilities for wildlife damage management to ADC. All wildlife damage management will be conducted in a manner consistent with the MOUs and all Federal, State, and local regulations and policies, including the Endangered Species Act of 1973.

The EA analysis provides a comparison of six alternatives for addressing predator damage management in the District. The analysis and supporting documentation are available for review at the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Animal Damage Control office, 2800 Cottage Way, Rm. W-2316, Sacramento, CA. 95825.

MAJOR ISSUES

The EA describes the alternatives considered and evaluated using the identified issues. The following issues were identified as important to the scope of the analysis (40 CFR 1508.25).

- Effects on target predator species populations

- Effects on nontarget species populations, including threatened and endangered species
- Humaneness of Control Techniques
- Effects on hunting and non-consumptive uses
- Use of Toxicants - impacts on public safety and environment
- Effectiveness of the ADC program
- Cost effectiveness

ALTERNATIVES EVALUATED

Alternative A. Continuation of the current California PDM Program in the District (No Action). The No Action Alternative was analyzed and used as a baseline for comparing the effects of the other Alternatives as required by 40 CFR 1502.14(d). Alternative A would allow ADC to meet its mission. The analysis of impacts showed that Alternative A would have low impacts on target and nontarget species, humaneness, hunting and non-consumptive uses, public safety, special management areas, and would have low cumulative impacts. Program effectiveness and cost effectiveness would be high.

Alternative B. No Federal ADC PDM - This Alternative would terminate the Federal predator damage management program in the District. This alternative was not selected because it would not allow ADC to meet its statutory responsibility for providing assistance, nor would it optimize the chances for minimizing losses. Impacts on target species were determined to be low to moderate. Impacts on nontarget species, including threatened and endangered species, were determined to be moderate. The issues of humaneness, hunting and non-consumptive uses, Toxicants (public safety), impacts on WSA's and WA's would be moderately impacted. Cumulative impacts would be moderate. Program effectiveness was none, and cost effectiveness was determined to be low.

Alternative C. The Nonlethal Control Only Alternative would allow ADC to provide technical information on nonlethal control methods. This alternative was determined to have impacts on all issues addressed similar to the No Program Alternative, with program effectiveness being low.

Alternative D. The Compensation for Predator Damage Loss Alternative was considered to require the establishment of a system to reimburse producers for predator losses. This alternative

was analyzed and discussed in detail in the ADC EIS, and was discussed in the EA. However, it is not a viable alternative at this time since a compensatory funding mechanism is not in place.

Alternative E. The Nonlethal Before Lethal Alternative would provide that lethal techniques would only be used when nonlethal controls, including husbandry, have failed to control livestock losses. The environmental analysis showed that all impacts on the issues considered were very similar to the current program, except that the program effectiveness and cost effectiveness were determined to be moderate. Essentially, effectiveness and efficiency were less desirable than the current program.

Alternative F. The Expanded Program Alternative, contingent upon increased program funding, would increase the current program efforts to cover the entire District. Analysis of this alternative shows that projected environmental impacts would not be significant, because of adherence to applicable State and Federal laws/regulations, and compliance with program mitigation measures.

MONITORING

Routine monitoring is conducted with cooperating agencies in the form of planning meetings to ensure that ADC is in conformance with agency policies and regulations, and that agency concerns are addressed. ADC monitors program impacts through its Management Information System (MIS) data collection. Section IV of the EA lists monitoring requirements.

PUBLIC INVOLVEMENT

This EA was made available for public review. Notices of availability were sent to 79 groups or individuals and published in three general circulation newspapers in the District, exceeding APHIS and Council on Environmental Quality minimal standards for public involvement. Most of the public comments received did not raise substantive issues requiring further analysis in the EA. Some of the comments made resulted in modifications and additions to the EA. Other comments received related to issues that have been adequately addressed in the ADC programmatic EIS (ADC EIS) and/or the California Department of Fish and Game Final Environmental Document on Furbearing and Nongame Mammal Hunting and Trapping (CDFG 1996). Readers are referred to those documents for more comprehensive reviews. Nevertheless, the comments received on the EA, other than editorial comments, are summarized with responses below. References are contained in the Literature Cited Section of the EA:

1. Commenters oppose use of the Livestock Protection Collar (LPC); concerns that EPA studies on LPC are biased; danger of secondary poisoning; impacts on California condor,

San Joaquin kit fox and other species are likely; cumulative impact study of LPC is insufficient; and mitigation is needed to minimize potential adverse impacts of LPC.

Sodium fluoroacetate in the LPC is registered with the EPA (EPA Reg. No. 56228-22) for private or ADC use nationwide. Before it can be used in individual states, the LPC must receive approval from the agency within the state that oversees pesticide usage. Cal EPA has approved LPC for use in California. ADC would not use the LPC on public lands.

The Risk Assessment contained in the Programmatic ADC EIS (USDA 1994) discusses the risks associated with the use of LPC. It compared APHIS findings with those of the U.S. Fish and Wildlife Service (USFWS) and U.S. Environmental Protection Agency (USEPA) and found consistent conclusions.

ADC has worked closely with the FWS to ensure compliance with the provisions of the Endangered Species Act. In a letter dated February 27, 1997, the USFWS concurred with ADC's determination that the ADC practices and management in the Central District were not likely to adversely affect the endangered California condor, the San Joaquin kit fox, or any other threatened or endangered species within the District. This determination is made based on the site specific analysis contained in the biological assessment, the Risk Assessment contained in the ADC EIS, mitigation measures developed between the FWS and ADC, and LPC Use Restrictions. Mitigation measures that would be used with the LPC are listed in the Central District EA in the biological assessment (Appendix 3), the LPC label (Appendix 6), and in section IV, Mitigation.

2. The cost effectiveness analysis is insufficient. ADC has a high cost that benefits few.

Section A. 7. in the EA provides a brief discussion of the benefits to consumers from the ADC predator damage management services. Economists with the U.S. Department of Agriculture have published studies that indicate that consumer impacts are 2.62 times greater for the public (the consumer of agricultural commodities), than the costs of production and losses on profits received by the agricultural producer to these products. This discussion is based on a more detailed analysis contained in the ADC EIS. Since agricultural producers supply commodities that are consumed by many, many benefit from cost effective damage control.

The scope and diversity of the ADC program is changing rapidly. Non-traditional users of the program now include areas such as protection of the public from human health and safety issues to protection of threatened and endangered wildlife species from other wildlife. Human health and safety issues are an increasing component of the program. Because of recent legislation restricting sport hunting methods, California is seeing higher numbers of dangerous encounters with predators. Responses to human safety incidents are generally limited to few members of the

public at any given time, but all people potentially benefit from ADC direct control and technical assistance services. Regardless of the resources, whether it is livestock, other forms of agriculture, property, or safety and health, ADC services are available to everyone.

Livestock depredation can tend to be concentrated rather than evenly disbursed, so it can appear to benefit a relative few at any given time, as compared to the general population. The economic impacts on those few affected can be devastating. However, the damage could occur at any location at any time, and ADC services would be available to those suffering damage.

Some individuals feel that wildlife damage management should not be provided at the expense of the taxpayer or that it should be fee based. ADC was established by Congress as the Federal agency responsible for providing wildlife damage management to the people of the United States. Funding for ADC comes from a variety of sources besides Federal appropriations. Generally State, county and livestock producer funds are all applied to a cooperative program under Cooperative Agreements. Federal, State and local officials have decided that ADC should be conducted by appropriating funds. Wildlife damage management is an appropriate sphere of activity for government programs, since wildlife management is a government responsibility.

3. M-44 use is not necessary. M-44 will impact nontarget animals.

The M-44 is a selective tool used by experienced ADC field specialists. M-44's are one of several tools used to effectively reduce predator damage. Various types of evidence or signs such as tracks and droppings are used to help target only the offending predators and reduce the chance of taking nontarget animals. As disclosed in the EA, nontarget take is less than 1% for all methods used. ADC strictly adheres to the mitigation measures listed in the EA when using M-44s.

4. The EA is biased. It must reflect public comments.

The ADC EIS, to which this document is tiered, was produced under contract in an unbiased manner and reviewed by an interdisciplinary, professional, technical review group. The professional credentials, disciplines, and experience of those who produced the EIS are found in Appendix D, List of Preparers. The assessment of impacts was based on well-documented evidence. This EA also relies heavily on the CDFG (1996) document, which was prepared independently by the California Department of Fish and Game. Both documents went through an extensive public participation process.

This EA was developed in cooperation with State and other Federal agencies, and made available for public review in its predecisional form. All substantive comments provided to ADC receive full consideration for additions or changes to the EA. ADC made revisions to its EA based on

input from other agencies, and organizations. APHIS ADC decision makers continue to make informed and unbiased decisions based on the best available information.

5. The Purpose and Need section is biased towards livestock, but the EA uses human health and safety to justify the program.

Protecting human health and safety from dangerous wildlife is an important component in ADC's mission, but it is not used to justify livestock protection. Livestock losses or probable losses are used to establish the need for livestock protection. The largest portion of activity and predators removed is spent on reducing damage to livestock since there are more requests for assistance in this area. More requests are received in this area since most livestock are located in rural areas with increased habitat areas for predators, and livestock are frequently vulnerable to depredation (especially during calving and lambing).

6. Impacts on human safety and nontarget animals (especially protected species) on Federal lands are not adequately analyzed in the EA.

APHIS ADC personnel are aware of and are concerned about the risks of chemicals used for wildlife damage control. The APHIS ADC program complies with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Only trained and certified applicators are permitted to apply restricted-use pesticides. When APHIS ADC personnel use pesticides, precautions are taken to assure that the materials are used in ways that pose the least possible risk to the environment and public health and safety. APHIS ADC personnel also recommend equally safe practices to private users through technical assistance activities and instruct those users to abide by applicable regulations and the EPA label instructions required by those regulations.

A substantial amount of information on potential risks associated with APHIS ADC use of chemical control methods has been developed and is included in the ADC EIS Chapter 4 and Appendix P. The risk assessment identified no potential for nationwide, adverse environmental risks from the use of chemical control agents, although some potential site-specific effects were identified. Consultation with USFWS has resulted in a Biological Opinion that identifies potential risks to threatened and endangered species from APHIS ADC activities and methods whereby potential risks will be minimized or eliminated (ADC EIS, Appendix F). Additional informal Section 7 consultations have been completed with the USFWS on a more local basis. This correspondence is contained within Appendix 3 of this EA.

Implementation of the Monitoring Plan (ADC EIS, Chapter 5) will monitor effects of chemicals that may have localized adverse environmental impacts, and the resulting data will allow adjustment of control techniques to further minimize environmental risks.

APHIS ADC program researchers devote much effort to studies of the toxicology and environmental risks associated with chemicals such as those listed in the ADC EIS, Appendix K. These studies are important in deciding if new chemicals should be registered for pesticidal uses and in modifying chemical use patterns to minimize environmental risks.

All ADC actions on public lands are coordinated with land management agencies to assure that such actions comply with the provisions of land management regulations (FLPMA, NFMA, NEPA), and other applicable laws and policies.

7. Preventive control is not justified.

Preventive control is used in areas where a pattern or history of losses has occurred and would be likely to continue or increase without intervention. For example, if a producer had experienced high lamb losses in previous years, preventive control would be done just prior to lambing in that same location to prevent recurrence and continued economic damage.

8. The Expanded Program Alternative is not needed because livestock losses are below acceptable levels. There is no economic or biological justification for predator control on Federal or State lands.

ADC acknowledges that some losses of livestock can be expected and tolerated by producers. However, in a recent letter to ADC, the California Wool Growers Association (March 31, 1997) indicated that surveys showed sheep producers continue to list predation of livestock as their number one concern. ADC has the legal mandate to respond to all requests for wildlife damage management regardless of extent of loss, and it is program policy to assist each requester to minimize losses.

The EA presents livestock losses to predation as reported to and/or confirmed by ADC. These reports are documented from livestock producers in cooperating counties involved with the ADC program, usually through a written cooperative agreement. *These losses do not reflect actual losses occurring throughout the District.* The National Agricultural Statistics Service (1996) shows that coyotes alone killed 10,800 lambs and 5,750 sheep in California in 1994. This survey was conducted by standardized random sampling. District or county breakdowns were not available from the NASS report for comparison with losses reported to ADC. NASS reports more accurately reflect the actual losses that occur since they sample all producers, not just ADC cooperators.

Studies which assessed predation when wildlife damage management was present and when it was not is sited in the literature and in the ADC EIS, Chapter 4. These studies demonstrate that when wildlife damage management was absent, livestock producers sustained greater loss of

livestock from predators. In order to fulfill ADC's mandate to protect agricultural resources, wildlife damage management is conducted to prevent or minimize damage and protect resources while complying with strict measures to ensure public safety as well as the protection of domestic animals, nontarget animals and T/E species. Wildlife damage management is a means of reducing damage, predicting future damage and is conducted using the ADC Decision Model as described in the EA and in the ADC EIS.

9. Permittees/producers should show use of nonlethal methods to receive ADC's services. ADC should focus on non-lethal methods and education.

ADC recognizes the importance of good husbandry and management practices in helping to reduce wildlife damage. ADC policy is to respond to all requests for assistance within program authority and responsibility. If improved husbandry practices would likely reduce a predation problem, ADC makes recommendations regarding these practices. Animal Damage Control is a cooperative program. Producers contribute a significant portion of program funding. Although there is no law or policy requiring livestock producers to employ good husbandry practices to protect their livestock, most California livestock producers do employ a variety of husbandry practices and nonlethal damage management methods to protect their livestock as a matter of good business.

ADC conducts an educational outreach program through which ranchers and farmers are taught how to use many of the nonlethal techniques. These techniques include fencing, scare tactics, guard dogs, and other animal husbandry practices. Emphasis will continue to be placed on methods that are more efficiently and economically applied by the livestock producer. Personnel will continue to be provided materials specific to private individual use and application.

Finally, APHIS ADC implements a strong research and development program through the National Wildlife Research Center. One of the purposes of the research currently being conducted by APHIS ADC is to develop and improve nonlethal methods and to promote broader application of these methods in the future. Examples of such research are mentioned on pages 5-2 and 5-3 of the ADC EIS.

10. What is the mechanism for enforcement or oversight of ADC actions (for compliance with regulations and to ensure responsible actions)?

ADC is subject to many Federal and state regulations, APHIS/ADC policies and directives, and interagency agreements. Many review and coordination processes exist which ensure compliance with these guidelines. The oversight entity depends on the compliance area. For example, for compliance with the Federal Insecticide Rodenticide and Fungicide Act, ADC reports to EPA and/or Cal EPA, which have enforcement responsibilities for use-related

violations. For compliance with provisions in the Endangered Species Act and Migratory Bird Treaty Act, ADC consults and coordinates with the U.S. Fish and Wildlife Service (both on a National and local level).

The environmental assessment which resulted in this decision document, in conjunction with the ADC EIS, is part of ADC's NEPA compliance process. National Environmental Policy Act compliance includes opportunities for public participation and scrutiny, as required by the Council on Environmental Quality.

National level Memoranda of Understanding have been signed between ADC and other Federal agencies such as Forest Service, Bureau of Land Management, and the Federal Aviation Administration. Coordination is required for planning and implementing activities with these agencies. Unresolvable conflicts arising from either signatory party for nonconformance with MOU provisions must be elevated for resolution. Memoranda of understanding require agencies to comply with all appropriate management regulations.

Other review and oversight mechanisms include the National Animal Damage Control Association (NADCA), a citizen committee which advises the Secretary of Agriculture on ADC policies; General Accounting Office audits, and APHIS Internal Program Evaluation and Management Control reviews.

ADC authorities, key laws and regulations, inter-relationships and the NEPA process are described in detail in Chapter 1 of the ADC EIS.

ADC has an internal review process whereby ADC Field Specialists are supervised by District Supervisors who ensure that each ADC Specialist is conducting field work in compliance with all Federal, State, and local laws, and with all USDA, APHIS, and ADC directives and policies.

11. The expanded program would increase the use of toxicants and increase nontarget take on public lands.

The overall use of toxicants could increase, however mitigative measures as listed in the EA, would be strictly adhered to. Additional mitigation could be developed for use on public lands, in coordination with the land managing agencies. The level of nontarget take would be expected to remain at the same low percentage of target take.

Historically, the California ADC has not used toxicants on public lands. LPCs are not approved for use on public lands.

12. What is ADC's commitment to the environmental assessment review process?

In addition to informal NEPA compliance reviews, ADC has decided to formally reevaluate its environmental assessments and reissue a Decision to the public on an annual basis. Public comments on any aspect of the program are always welcome.

13. Several comments stressed the support for the preferred alternative citing increasing need for the program in areas of human safety and livestock protection. Livestock producers expressed that the ADC program is vital and relied upon when producer implemented methods failed.

Thank you for your input.

14. Some comments in favor of the preferred alternative noted the indirect beneficial impacts of the program. One commenter noted the large reliance of California's economy on agriculture. Losses in agricultural operations have a multiplier effect throughout the economy. One commenter pointed out that wildlife habitat and open space is lost when producers are unable to sustain viable operations and are forced to sell to developers.

Thank you for your input.

15. The discussion of Wilderness Study Areas (WSA) should be moved to the section analyzing issues.

The EA has been revised. WSAs were moved to the "issues" section and are discussed under the environmental consequences (Section V. A. through V. F.).

DECISION AND RATIONAL

I have carefully reviewed the EA and believe the issues identified in the EA are best addressed by selecting Alternative A. Alternative A provides the best range of wildlife damage management methods considered practical and effective to accomplish ADC's Congressionally authorized activities. While Alternative A does not require nonlethal methods to be used by producers, ADC will continue to encourage the use of practical and effective nonlethal methods by livestock producers. By this decision, I am directing the California ADC Central District Program to implement Alternative A, and continue the current program.

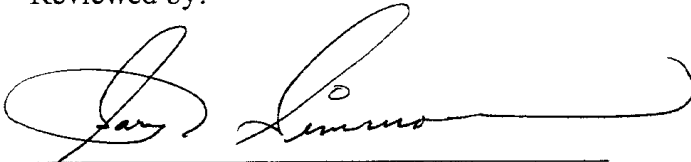
FINDING OF NO SIGNIFICANT IMPACT

The EA indicates that there will not be a significant impact, individually or cumulatively, on the quality of the human environment because of this proposed action and that these actions do not constitute a major Federal action. I agree with this conclusion and, therefore, determine that an Environmental Impact Statement will not be prepared. This determination is based on the following factors:

1. Predator damage management, as conducted in the District is not regional or national in scope.
2. Based on the analysis documented in the EA, the impacts of the predator damage management program will not significantly affect the human environment.
3. The proposed action will not have an impact on unique characteristics of the areas such as historical or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecological critical areas.
4. The proposed action will not significantly affect public health and safety. No accidents associated with ADC predator damage management are known to have occurred in California.
5. The effects on the quality of the human environment are not highly controversial. Although there is opposition to predator damage management, this action is not controversial in relation to size, nature, or effects.
6. Mitigation measures adopted and/or described as part of the proposed action minimize risks to the public and prevent adverse effects on the human environment and reduce uncertainty and risks.
7. The proposed action does not establish a precedent for future actions. This action would not set a precedent for future predator damage management that may be implemented or planned within the state.
8. The number of animals taken (both target and nontarget) by ADC annually is small in comparison to total populations. The amount of land area on which PDM services are conducted is also minor. Adverse effects on wildlife or wildlife habitats would be minimal.
9. No significant cumulative effects were identified by this assessment for this or other anticipated actions to be implemented or planned within the area.

10. Predator damage management would not affect cultural or historic resources. ADC PDM activities are not undertakings that could have detrimental impacts on districts, sites, highways, structures or objects listed in or eligible for listing in the National Register of Historic Places, nor will they cause a loss or destruction of significant scientific, cultural, or historical resources, including interference with American Indian cultural resources.
11. An evaluation of the proposed action and its effects on T&E species determined that the program would not be likely to adversely affect such species. The proposed action will comply with the Endangered Species Act of 1973, as amended. Consultation with the U.S. Fish and Wildlife Service has taken place and mitigations developed as part of that process, or mitigations that may be established as the result of further consultations, will be implemented to avoid jeopardy or significant adverse impacts.
12. This action would be in compliance with Federal, State and local laws or requirements for predator damage management and environmental protection.

Reviewed by:

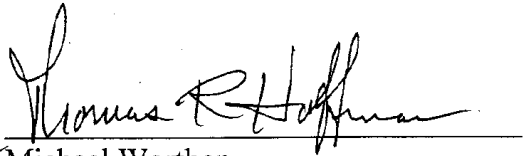


Gary Simmons
California State Director, USDA-APHIS-ADC

6-11-97

Date

Approved by:

for

acting Michael Worthen
Regional Director, USDA-APHIS-ADC

6-16-97

Date