DECISION AND FINDING OF NO SIGNIFICANT IMPACT ENVIRONMENTAL ASSESSMENT: MANAGING DAMAGE CAUSED BY BIRDS IN THE COMMONWEALTH OF KENTUCKY

INTRODUCTION

The United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS) program and the Tennessee Valley Authority (TVA) prepared an Environmental Assessment (EA) to analyze the potential impacts to the quality of the human environment from resolving damage and threats of damage associated with several species of birds (USDA 2014). The EA addresses the need to manage damage and threats of damage associated with Snow Geese (*Chen caerulescens*), Canada Geese (*Branta canadensis*), Mallards (*Anas platyrhynchos*), feral waterfowl[1], Wild Turkeys (*Meleagris gallopavo*), Double-crested Cormorants (*Phalacrocorax auritus*), Great Blue Herons (*Ardea herodias*), Great Egrets (*Ardea alba*), Snowy Egrets (*Egretta thula*), Cattle Egrets (*Bubulcus ibis*), Black-crowned Night-Herons (*Nycticorax nycticorax*), Black Vultures (*Coragyps atratus*), Turkey Vultures (*Cathartes aura*), Ospreys (*Pandion haliaetus*), Mississippi Kites (*Ictinia mississippiensis*), Bald Eagles (*Haliaeetus leucocephalus*), Sharp-shinned Hawks (*Accipiter striatus*), Cooper's Hawks (*Accipiter cooperii*), Red-tailed Hawks (*Buteo jamaicensis*), Golden Eagles (*Aquila chrysaetos*), Killdeer (*Charadrius vociferous*), Ring-billed Gulls (*Larus delawarensis*), Herring Gulls (*Larus argentatus*), Rock Pigeons (*Columba livia*), Eurasian Collared-Doves (*Streptopelia decaocto*), Mourning Doves (*Zenaida macroura*), Snowy Owls (*Bubo scandiacus*), Common Nighthawks (*Chordeiles minor*), American Kestrels (*Falco sparverius*), Peregrine Falcons (*Falco peregrinus*), American Crows (*Corvus brachyrhynchos*), Cliff Swallows (*Petrochelidon pyrrhonota*), Barn Swallows (*Hirundo rustica*), American Robins (*Turdus migratorius*), European Starlings (*Sturnus vulgaris*), Red-winged Blackbirds (*Agelaius phoeniceus*), Eastern Meadowlarks (*Sturnella magna*), Common Grackles (*Quiscalus quiscula*), Brown-headed Cowbirds (*Molothrus ater*), House Finches (*Haemorhous mexicanus*), and House Sparrows (*Passer domesticus*).

In addition to those species, WS could also receive requests for assistance to manage damage and threats of damage associated with several other bird species, but requests for assistance associated with those species would occur infrequently and/or requests would involve a small number of individual birds of a species. Damages and threats of damages associated with those species would occur primarily at airports where individuals of those species pose a threat of aircraft strikes. Appendix E in the EA contains a list of species that WS could address in low numbers and/or infrequently when those species cause damage or pose a threat of damage.

The EA and this Decision ensures WS complies with the National Environmental Policy Act (NEPA), with the Council on Environmental Quality guidelines (40 CFR 1500), and with the APHIS' NEPA implementing regulations (7 CFR 372). WS has previously developed an EA that analyzed the need for action to manage damage associated with birds in the Commonwealth. Since the new EA re-evaluated activities conducted under the previous EA to address the new need for action and the associated affected environment, the outcome of this Decision for the new EA will supersede the previous EA.

The need for action identified in Section 1.2 of the new EA arises from requests for assistance that WS receives. The EA evaluates the need for action to manage damage associated with birds, the potential issues associated with managing damage, and the environmental consequences of conducting different

[1]Free-ranging or feral domestic waterfowl refers to captive-reared, domestic, of some domestic genetic stock, or domesticated breeds of ducks, geese, and swans. Examples of domestic waterfowl include, but are not limited to, Mute Swans, Muscovy Ducks, Pekin Ducks, Rouen Ducks, Cayuga Ducks, Swedish Ducks, Chinese Geese, Toulouse Geese, Khaki Campbell Ducks, Embden Geese, and Pilgrim Geese. Feral Ducks may include a combination of Mallards, Muscovy Duck, and Mallard-Muscovy Hybrids.

alternatives to meet the need for action while addressing the identified issues. WS and the TVA defined the issues associated with meeting the need for action and identified preliminary alternatives through consultation with the Kentucky Department of Fish and Wildlife Resources (KDFWR) and the United States Fish and Wildlife Service (USFWS). The EA analyzes three alternatives in detail to meet the need for action and to address the issues analyzed in detail. Section 1.7 of the EA identified several decisions to be made based on the scope of the EA.

AFFECTED ENVIRONMENT AND ISSUES

Bird damage or threats of damage could occur statewide in Kentucky wherever those species occur. Those bird species addressed in the EA are capable of utilizing a variety of habitats in the Commonwealth. Some of the species of birds addressed in the EA occur throughout the year across the Commonwealth where suitable habitat exists for foraging and shelter. In addition, some of the species are gregarious (*e.g.*, form large flocks) during the migration periods or during the nesting periods, which can increase damage and threats of damage.

Issues are concerns regarding potential effects that might occur from a proposed activity. Federal agencies must consider such issues during the NEPA decision-making process. Section 2.2 of the EA describes the issues considered and evaluated in detail by WS and the TVA as part of the decision-making process. In addition to those issues analyzed in detail, several issues were identified during the development of the EA but were not considered in detail. The rationale for the decision not to analyze those issues in detail is discussed in Section 2.3 of the EA. To identify additional issues and alternatives, the EA was also made available to the public for review and comment through notices published in local media and through direct notification of interested parties. WS and the TVA made the EA available to the public for review and comment by a legal notice published in *The State Journal* newspaper from December 22, 2014 through December 24, 2014. WS and the TVA also made a notice of availability and the EA for public review and comment on the APHIS website beginning on December 17, 2014. WS also sent a notice of availability directly to agencies, organizations, and individuals with probable interest in managing birds in the State. The public involvement process ended on January 30, 2015. WS and the TVA did not receive comments during the public comment period.

ALTERNATIVES

The EA evaluated three alternatives in detail to respond to the need for action discussed in Chapter 1 and the issues identified in Chapter 2 of the EA. Section 3.1 of the EA provides a description of the alternatives evaluated in detail. A detailed discussion of the effects of the alternatives on the issues occurs in Chapter 4 of the EA. WS and the TVA considered additional alternatives but did not evaluate those alternatives in detail with the rationale provided in Section 3.2 of the EA. WS would incorporate those standard operating procedures discussed in Section 3.3 and Section 3.4 of the EA into activities if the decision-maker selected the proposed action alternative (Alternative 1) and when applicable, WS would incorporate those SOPs under the technical assistance alternative (Alternative 2), if selected. If the decision-maker selected the no involvement by WS alternative (Alternative 3), the lack of assistance by WS would preclude the employment or recommendation of those standard operating procedures addressed in the EA by WS.

ENVIRONMENTAL CONSEQUENCES

Section 4.1 of the EA analyzes the environmental consequences of each alternative as those alternatives relate to the issues by analyzing the environmental consequences of each alternative in comparison to determine the extent of actual or potential impacts on the issues. Section 4.1 of the EA provides information needed to make informed decisions when selecting the appropriate alternative to address the

need for action. The proposed action/no action alternative (Alternative 1) served as the baseline for the analysis and the comparison of expected impacts among the alternatives.

The following resource values in Kentucky are not expected to be significantly impacted by any of the alternatives analyzed in the EA: soils, geology, minerals, water quality/quantity, flood plains, wetlands, critical habitats (areas listed in threatened and endangered (T&E) species recovery plans), visual resources, air quality, prime and unique farmlands, aquatic resources, timber, and range. The activities proposed in the alternatives would have a negligible effect on atmospheric conditions including the global climate. Meaningful direct or indirect emissions of greenhouse gases would not occur because of any of the alternatives. Those alternatives would meet the requirements of applicable laws, regulations, and Executive Orders, including the Clean Air Act and Executive Order 13514. The discussion below provides a summary of the environmental consequences of the alternatives discussed in the EA for each of the issues analyzed in detail.

Issue 1 - Effects of Damage Management Activities on Target Bird Populations

Under the proposed action, WS would incorporate non-lethal and lethal methods described in Appendix B of the EA in an integrated approach in which all or a combination of methods could be employed to resolve a request for assistance. Non-lethal methods can disperse, exclude, or otherwise make an area unattractive to birds that are causing damage; thereby, potentially reducing the presence of those birds at the site and potentially the immediate area around the site. Non-lethal methods generally have minimal impacts on overall populations of wildlife since those species are unharmed.

A common issue is whether damage management actions would adversely affect the populations of target bird species when employing lethal methods. Lethal methods can remove specific birds that personnel of WS have identified as causing damage or posing a threat to human safety. The number of birds removed from a population by WS using lethal methods would be dependent on the number of requests for assistance received. In addition, the number of birds removed would be dependent on the number of birds involved with the associated damage or threat, the efficacy of methods employed, and the number of individual birds the USFWS and/or the KDFWR authorizes WS to remove, when required. Based on those quantitative and qualitative parameters addressed in the EA, the lethal removal of birds to alleviate damage or threats of damage at the levels addressed in the EA under the proposed action alternative (Alternative 1) would be of low magnitude when compared to population trend data, population estimates, and/or harvest data.

The lack of WS' direct involvement does not preclude the lethal removal of birds by those persons experiencing damage or seeking assistance from other entities. If the WS program only provided technical assistance under Alternative 2 or provided no assistance under Alternative 3, those people experiencing damage or threats could remove birds themselves under any of the alternatives when the USFWS and/or the KDFWR authorizes the removal, when authorization is required. In some cases, a landowner or their designee can lethally remove individual birds of certain species at any time they cause damage without the need to have specific authorization from the USFWS (*e.g.*, depredation orders, control orders, unprotected species). In addition, a resource owner could seek assistance from private businesses to remove birds causing damage or remove certain bird species (*e.g.*, waterfowl) during the regulated hunting seasons in the Commonwealth. Therefore, WS' involvement in the lethal removal of those birds under the proposed action would not be additive to the number of birds that could be removed by other entities in the absence of WS' involvement. The number of birds lethally removed annually would likely be similar across the alternatives, since the removal of birds could occur even if WS was not directly involved with providing assistance under Alternative 2 and Alternative 3. WS does not have the authority to regulate the number of birds lethally removed annually by other entities.

Issue 2 - Effects on Non-target Wildlife Species Populations, Including T&E Species

WS' personnel have experience with managing animal damage and receive training in the employment of methods. Under the proposed action alternative, WS' employees would use the WS Decision Model to select the most appropriate methods to address damage caused by targeted birds and to exclude non-target species. To reduce the likelihood of capturing non-target animals, WS would employ the most selective methods for the target species, would employ the use of attractants that were as specific to target species as possible, and determine placement of methods to avoid exposure to non-targets. SOPs to prevent and reduce any potential adverse effects on non-targets were discussed in Chapter 3 of the EA. Despite the best efforts to minimize non-target exposure to methods during program activities, the potential for WS to disperse, live-capture, or lethally remove non-targets exists when applying both non-lethal and lethal methods to manage damage or reduce threats to safety.

However, WS' personnel have not lethally removed non-targets during prior activities targeting birds in the Commonwealth. WS' take of non-target species during activities to reduce damage or threats to human safety associated with birds in Kentucky would be expected to be extremely low to non-existent. The unintentional removal of non-targets would likely be minimal with removal not exceeding one or two individuals of any species. Although WS' employees could lethally remove non-targets, removal of individuals from any species is not likely to increase substantially. WS would continue to monitor activities, including non-target removal, to ensure the annual removal of non-targets would not result in adverse effects to a species' population. WS' personnel have not captured or adversely affected any threatened or endangered species during previous activities conducted in Kentucky.

The ability of people to reduce damage and threats caused by birds would be variable under Alternative 2 and Alternative 3, since the skills and abilities of the person implementing damage management actions or the availability of other entities capable of providing assistance could determine the level of success in resolving damage or the threat of damage. If people or other entities apply those methods available as intended, risks to non-targets would be similar to Alternative 1. If people or other entities apply methods available incorrectly or apply those methods without knowledge of animal behavior, risks to non-target wildlife would be higher under any of the alternatives. If frustration from the lack of available assistance under Alternative 2 and Alternative 3 caused those people experiencing bird damage to use methods that were not legally available for use, risks to non-targets would be higher under those alternatives. People have resorted to the use of illegal methods to resolve wildlife damage that have resulted in the lethal removal of non-target wildlife.

WS determined that activities conducted pursuant to the proposed action would not likely adversely affect those species listed in the Commonwealth by the USFWS and the KDFWR, including any designated critical habitats. As part of the development process associated with the new EA, WS re-initiated consultation with the USFWS pursuant to Section 7 of the ESA. Based on the consultation process, the USFWS concurred with WS' determination that the current program targeting bird species would not likely adversely affect the status of threatened or endangered species or their designated critical habitats in the Commonwealth (V. L. Andrews, USFWS pers. comm. 2015).

Issue 3 - Effects of Damage Management Methods on Human Health and Safety

The threats to human safety from methods would be similar across the alternatives since the same methods would be available. However, the expertise of WS' employees in using those methods available likely would reduce threats to human safety since WS' employees would be trained and knowledgeable in the use of those methods. If methods were used incorrectly or without regard for human safety, risks to human safety would increase under any of the alternatives that those methods could be employed. Although risks do occur from the use of those methods available, when people use those methods in

consideration of human safety, the use of those methods would not pose additional risks beyond those associated with the use of other methods. WS has only one reported incident in which an injury occurred to a WS' employee during bird damage management activities conducted in the Commonwealth from FY 2009 through FY 2013. In this case, a WS employee was conducting damage management with pyrotechnics when a pyrotechnic exploded in the launcher. The employee's hand was severely damaged, but the employee was the only one injured in the incident. This incident was a rare occurrence and the risks to human safety from the use of non-lethal and lethal methods, when used appropriately and by trained personnel, would be considered low.

Issue 4 - Effects on the Aesthetic Values of Birds

Birds may provide aesthetic enjoyment to some people in the Commonwealth through observations, photographing, and knowing they exist as part of the natural environment. Methods available that could be employed under each of the alternatives would result in the dispersal, exclusion, or removal of individuals or small groups of birds to resolve damage and threats. Therefore, the use of methods often results in the removal of birds from the area where damage was occurring or the dispersal of birds from an area. Since methods available would be similar across the alternatives, the use of those methods would have similar potential impacts on the aesthetics of birds. However, even under the proposed action alternative, the dispersal and/or lethal removal of birds would not reach a magnitude that would prevent the ability to view those species outside of the area where damage was occurring. The effects on the aesthetic values of birds would therefore be similar across the alternatives and would be minimal.

Issue 5 - Humaneness and Animal Welfare Concerns of Methods

WS and the TVA also identified method humaneness as an issue. Since many methods addressed in Appendix B of the EA would be available under all the alternatives, the issue of method humaneness would be similar for those methods across all the alternatives. Mesurol, alpha chloralose, and DRC-1339 would be the only methods that would not be available to all entities under the alternatives. The ability of WS to provide direct operational assistance under the proposed action alternative would ensure methods were employed by WS as humanely as possible. Under the other alternatives, other entities could use methods inhumanely if used inappropriately or without consideration of bird behavior. However, the skill and knowledge of the person implementing methods to resolve damage would determine the efficacy and humaneness of methods. A lack of understanding of the behavior of birds or improperly identifying the damage caused by birds along with inadequate knowledge and skill in using methodologies to resolve the damage or threat could lead to incidents with a greater probability of other people perceiving the action as inhumane under Alternative 2 and Alternative 3. Despite the lack of involvement by WS under Alternative 3 and WS' limited involvement under Alternative 2, those methods perceived as inhumane by certain individuals and groups would still be available for others to use to resolve damage and threats caused by birds.

Issue 6 - Effects of Bird Damage Management Activities on the Regulated Harvest of Birds

The magnitude of lethal removal addressed in the proposed action (Alternative 1) of harvestable bird species would be low when compared to the mortality of those bird species from all known sources. Based on the limited removal proposed by WS and the oversight by the USFWS and/or the KDFWR, annual removal by WS would have no effect on the ability of those persons interested to harvest certain bird species during the regulated harvest season. The WS program would have no impact on the ability to harvest those species during the annual hunting seasons for those harvestable bird species under Alternative 2 and Alternative 3 since the WS program would have limited involvement with managing damage associated with those species. However, resource/property owners and other entities may remove birds resulting in impacts similar to the proposed action alternative under Alternative 2 and Alternative 3.

The USFWS and/or the KDFWR could continue to regulate bird populations through adjustments in allowed removal during the regulated harvest season and through permits to manage damage or threats of damage.

CUMULATIVE IMPACTS OF THE PROPOSED ACTION

No significant cumulative environmental impacts are expected from any of the three alternatives, including the proposed action. Under the proposed action, the lethal removal of birds by WS would not have significant impacts on statewide populations of those species when known sources of mortality are considered. No risk to public safety is expected when activities are provided under Alternative 1 and Alternative 2 since only trained and experienced personnel would conduct and/or recommend damage management activities. There is a slight increased risk to public safety when persons who reject assistance and recommendations and conduct their own activities under Alternative 2, and when no assistance is provided under Alternative 3. However, under all of the alternatives, those risks would not be to the point that the impacts would be significant. The analysis in this EA indicates that an integrated approach to managing damage and threats caused by birds would not result in significant cumulative adverse effects on the quality of the human environment.

DECISION AND RATIONALE

I have carefully reviewed the EA prepared to meet the need for action. I find the proposed action alternative (Alternative 1) to be environmentally acceptable, addressing the issues and needs while balancing the environmental concerns of management agencies, landowners, advocacy groups, and the public. The analyses in the EA adequately addresses the identified issues, which reasonably confirm that no significant impact, individually or cumulatively, to wildlife populations or the quality of the human environment are likely to occur from the proposed action, nor does the proposed action constitute a major federal action. Therefore, the analysis in the EA does not warrant the completion of an Environmental Impact Statement.

Based on the analyses in the EA, the issues identified are best addressed by selecting Alternative 1 (proposed action/no action) and applying the associated standard operating procedures discussed in Chapter 3 of the EA. Alternative 1 successfully addresses (1) managing damage using a combination of the most effective methods and does not adversely impact the environment, property, human health and safety, target species, and/or non-target species, including T&E species; (2) it offers the greatest chance of maximizing effectiveness and benefits to resource owners and managers; (3) it presents the greatest chance of maximizing net benefits while minimizing adverse impacts to public health and safety; and (4) it offers a balanced approach to the issues of humaneness and aesthetics when all facets of those issues are considered. Further analysis would be triggered if changes occur that broaden the scope of damage management activities in the Commonwealth, that affect the natural or human environment, or from the issuance of new environmental regulations. Therefore, it is my decision to implement the proposed action/no action alternative (Alternative 1) as described in the EA.

Finding of No Significant Impact

Based on the analyses provided in the EA, there are no indications that the proposed action (Alternative 1) would have a significant impact, individually or cumulatively, on the quality of the human environment. I agree with this conclusion and therefore, find that an Environmental Impact Statement should not be prepared. This determination is based on the following factors:

1. WS' activities to manage damage in the Commonwealth would not be regional or national in scope.

2. Based on the analyses in the EA, the methods available under the proposed action would not adversely affect human safety based on their use patterns.

3. There are no unique characteristics such as park lands, prime farm lands, wetlands, wild and scenic areas, or ecologically critical areas that would be significantly affected. WS' standard operating procedures and adherence to applicable laws and regulations would further ensure that WS' activities do not harm the environment.

4. The effects on the quality of the human environment are not highly controversial. Although there is some opposition to managing damage and the methods, this action is not highly controversial in terms of size, nature, or effect.

5. Based on the analysis documented in the EA and the accompanying administrative file, the effects of the proposed damage management program on the human environment would not be significant. The effects of the proposed activities are not highly uncertain and do not involve unique or unknown risks.

6. The proposed action would not establish a precedent for any future action with significant effects.

7. No significant cumulative effects were identified through the assessment. The EA analyzed cumulative effects and concluded that such impacts were not significant for this or other anticipated actions to be implemented or planned within the Commonwealth of Kentucky.

8. The proposed activities would not affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, nor would they likely cause any loss or destruction of significant scientific, cultural, or historical resources.

9. WS has determined that the proposed program would not adversely affect any federally listed T&E species currently listed in the Commonwealth and the USFWS has concurred with WS' determination. In addition, WS has determined that the proposed activities would not adversely affect Commonwealth-listed species.

10. The proposed action would be in compliance with all applicable federal, Commonwealth, and local laws.

The rationale for this decision is based on several considerations. This decision takes into account public comments, social/political and economic concerns, public health and safety, and the best available science. The foremost considerations are that: 1) damage management would only be conducted by WS at the request of landowners/managers, 2) management actions would be consistent with applicable laws, regulations, policies and orders, and 3) no adverse effects to the environment were identified in the analysis. As a part of this Decision, the WS program in Kentucky would continue to provide effective and practical technical assistance and direct management techniques that reduces damage and threats of damage.

6/3/15

Charles S. Brown, Director-Eastern Region
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Date

LITERATURE CITED

USDA. 2014. Environmental Assessment: Managing Damage Caused by Birds in the Commonwealth of Kentucky. USDA-APHIS-Wildlife Services, 537 Myatt Drive, Madison, TN 37115.