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Animal and
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Inspection
Service

Wildlife
Services

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DECISION
AND
FINDING OF NO SIGNIFICANT IMPACT
FOR

WILDLIFE DAMAGE MANAGEMENT IN NORTH DAKOTA
FOR THE PROTECTION OF LIVESTOCK, PUBLIC HEALTH AND SAFETY,
PROPERTY, AND WILDLIFE EA SUPPLEMENT

INTRODUCTION

U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA-APHIS), Wildlife Services (WS) is the Federal agency directed by law and authorized by congress to reduce damages to agricultural and natural resources, property and to resolve public health and safety concerns cause by wildlife. The primary statutory authorities for APHIS - WS are the Act of March 2, 1931 (46 Stat. 168; 7 U.S.C. §426-426b) as amended, and the Act of December 22, 1987 (101 Stat. 1329-1331, 7 U.S.C. §426c).

Under the Act of March 2, 1931, as amended, and 7 U.S.C. §426c, APHIS may carry out wildlife damage management programs or enter into cooperative agreements with states, local jurisdictions, individuals, and public and private agencies whereby they may fund and assist in carrying out such programs. WS activities are conducted at the request of and in cooperation with other federal, state, and local agencies, private organizations, and individuals. Accordingly, WS' authorities support and authorize its mission of providing federal leadership and expertise to reduce problems caused by injurious or nuisance wildlife.

Ordinarily, according to APHIS procedures implementing the National Environmental Policy Act (NEPA), individual wildlife damage management actions are categorically excluded (7 CFR 372.5(c), 60 Fed. Reg. 6000-6003, 1995). To evaluate and determine if any potentially significant impacts to the human environment from WS' planned and proposed program have occurred, WS reviewed USDA (1997a) and prepared a supplemental analysis.

The alleviation of damage or other problems caused by or related to the behavior of wildlife is termed wildlife damage management and is recognized as an integral component of wildlife management (Conover 2002, The Wildlife Society 2010). WS generally uses or recommends an adaptive Integrated Wildlife Damage Management (IWDM) approach (WS Directive 2.105¹), where a combination of methods may be implemented to reduce damage. IWDM is the application of safe and practical methods for the prevention and reduction of damage caused by wildlife based on local problem analyses and the judgment of trained personnel (Slate et al. 1992). The imminent threat of damage or loss of resources is often sufficient for actions to be initiated and the need for the reduction of human-wildlife conflicts is derived from the specific threats to resources. However, before any WS action is taken, a request must be received and an "Agreement for Control" must be signed by the landowner/administrator or other comparable documents must be in place². When requested, WS cooperates with land and wildlife management agencies to effectively and efficiently reduce human-wildlife conflicts according to

¹ The WS Policy Manual provides WS personnel guidance in the form of program directives. Information contained in the WS Policy Manual and its associated directives (http://www.aphis.usda.gov/wildlife_damage/WS_directives.shtml) have been used in preparation of this report, but have not been cited in the Literature Cited.

² The majority of requests for management are for predatory species whose populations are relatively high or are considered "anthropogenic abundant" (Conover 2002).



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applicable federal, state and local laws, regulations, policies, orders, and procedures, including the Endangered Species Act of 1973 (ESA) as amended (16 USC 1531-1543) (WS Directive 2.210). None of WS' human-predator conflict reduction activities in North Dakota have resulted in habitat modifications.

BACKGROUND

North Dakota WS completed a “*Wildlife Damage Management in North Dakota for the Protection of Livestock, Public Health and Safety, Property, and Wildlife*” Environmental Assessment (EA) in 1997 (USDA 1997a). The EA analyzed predator damage management (PDM) for the protection of livestock, agriculture, property, and wildlife, and to reduce any predator threat to public health and safety. North Dakota WS has agreements to conduct PDM on about 2 million acres or about 5% of North Dakota (MIS FY03-FY10). North Dakota contains Federal, State, Tribal, county, municipal and private lands. The Decision for USDA (1997a) was signed and a Finding of No Significant Impact (FONSI) was issued March 20, 1997 and later supplemented on June 25, 2003. The 2003 supplement determined the analysis in the 1997 EA was still valid and monitoring and the supplement Decision and FONSI concluded that a new EA was not warranted USDA (2003). USDA (2003) concluded that the issues analyzed in the original EA were best addressed by continuing Alternative 3 (Integrated Wildlife Damage Management for Multiple Resources and Land Classes) and articulated that WS continue to coordinate with the North Dakota Game and Fish Department (NDGFD) to monitor the WS take of predators to insure species viability; analysis in the EA focused on six predators: badger (*Taxidea taxus*), coyote (*Canis latrans*), mink (*Mustela vison*), red fox (*Vulpes vulpes*), raccoon (*Procyon lotor*), and striped skunk (*Mephitis mephitis*). The North Dakota WS program conducts conflict reduction activities with various methods on various land classes in North Dakota, as needs arise and as requested and completed a Section 7 consultation to insure WS activities do not adversely affect listed species. All North Dakota WS wildlife damage management is in compliance with relevant laws, regulations, policies, orders and procedures, including the ESA.

WS cooperates with the U.S. Forest Service (USFS), Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (USFWS), North Dakota Game and Fish Department (NDGFD), North Dakota Department of Agriculture (NDDA), North Dakota State Health Department and the North Dakota State University Cooperative Extension Service to reduce wildlife damage. The NDGFD has the responsibility to manage all wildlife in North Dakota, including federally listed T&E species and migratory birds, which is a joint responsibility with the USFWS. Memoranda of Understanding (MOUs) signed between APHIS-WS and the USFS, BLM, NDGFD, NDDA and American Indian Tribes clearly outline the responsibility, technical expertise and coordination between agencies. The MOUs with the USFS and BLM provide guidance for compliance with NEPA and the basis for the interdisciplinary process used to develop the EA. A Multi-agency Team with representatives and advisors from each of the cooperating agencies convened to assess the impacts of WS wildlife damage management in North Dakota. The USFS and BLM cooperated with North Dakota WS to determine whether the proposed action is in compliance with relevant laws, and USFS or BLM regulations, policies, orders, and procedures. All North Dakota ADC wildlife damage management is conducted consistent with the ESA and the Section 7 Consultation with the USFWS.

ENVIRONMENTAL ASSESSMENT AND EA SUPPLEMENT PREPARATION

In 2008 a five-year review was initiated to: 1) report the results of WS' PDM activities conducted in North Dakota during FY04 to FY08, 2) evaluate the accuracy of the analyses, 3) determine if the 2003 FONSI was still appropriate, and 4) take appropriate action if the affected environment or impacts have significantly changed from the analysis in the EA, as amended. It was determined, through analysis in the 5-year review, that a revision of the EA was not necessary and the 2003 FONSI remained appropriate (USDA 2009).

The purpose of this supplement is to: 1) report the results of WS' PDM activities conducted in North Dakota during Federal fiscal year (FY) 03 to FY10, 2) evaluate the accuracy of the current analyses, 3) determine if the USDA (1997a, 2003, 2009) analyses are still appropriate, 4) take appropriate action if the affected environment or impacts have significantly changed from the analysis in USDA (1997a), as amended (USDA 2003, 2009) and 5) provide an updated report and opportunity for the public to review program activities. This review uses the most currently available information which in most cases is FY03 to FY10 data. The analysis determined that the Proposed Alternative (*i.e.*, current program) is not having a significant impact, individually or cumulatively on the quality of the human environment, and the affected environment remains essentially unchanged. These discussions and analyses strengthen WS' continued implementation of an integrated PDM program in North Dakota as described in USDA (1997a). Copies of USDA (1997a), supplements, Decisions/FONSI and previous monitoring reports are available from the North Dakota WS State Office, USDA, APHIS, 2110 Miriam Circle, Bismarck, North Dakota 58501-2502.

AFFECTED ENVIRONMENT

PDM actions conducted by North Dakota WS could occur on private, Federal, State, Tribal, and municipal lands in North Dakota to protect resources from predator damage, as requested and as needs arise. The affected environment includes, but is not necessarily limited to, areas in and around agricultural and industrial areas, livestock facilities, rural and urban areas, and airports wherever predators are found causing damage to resources or posing threats to human health and safety. Areas may include federal, state, county, city, private, or other lands, where WS' assistance has been requested by a landowner or manager to reduce predator damage. The areas affected by the current program may also include property adjacent to identified sites where predation or threats to human health and safety could occur.

MAJOR ISSUES

USDA (1997a) 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).

1. Concern for the North Dakota kill of predators to cause predator population declines, when added to other mortality.
2. Concern for the North Dakota WS kill of non-target wildlife and T&E species incidental to North Dakota PDM.
3. Concern for the potential use of each PDM method.
4. Concern about the selectivity, relative cost, and effectiveness of each PDM method.
5. Concern about the effects of North Dakotas WS PDM on public health and safety.
6. Concern about the economic effects of PDM.

ALTERNATIVES THAT WERE FULLY EVALUATED

The following Alternatives were developed by the Multi-agency Team to respond to the issues. Two additional alternatives were considered but not analyzed in detail. A detailed discussion of the effects of the Alternatives on objectives and issues is described in USDA (1997a); below is a summary of the Alternatives, objectives and issues.

Alternative 1. No Action - Continue the current North Dakota ADC Program. 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). This alternative consists of the current program of technical assistance and operational IWDM (WS Directive 2.105) by North Dakota WS on USFS administered lands, Tribal, State, county, municipal, and private lands under Cooperative Agreement and Agreement for Control with North Dakota WS. Alternative 1 would not have allowed WS to meet seven of the 10 objectives for the program.

Alternative 2. No Federal North Dakota ADC Program. This alternative would have terminated the Federal PDM program in North Dakota. Alternative 2 was not selected because WS is charged by law and reaffirmed by a recent court decision to reduce damage caused by wildlife. This alternative would not have allowed WS to meet its statutory responsibility for providing assistance or to reduce wildlife damage. Alternative 2 would not have allowed WS to meet nine of the 10 objectives for the program described in USDA (1997a). Alternative 2 would have violated the MOU between WS and USFS and BLM whereby the USFS and BLM mutually recognize that management of wildlife damage on USFS and BLM managed lands is important and may involve the PDM to achieve land and resource management objectives.

Alternative 3. Integrated Wildlife Damage Management for Multiple Resources and Land Classes: (Proposed Alternative). This alternative allows for PDM based on the needs of multiple resources (livestock, wildlife, property, and public health and safety) and is implemented following consultations with the NDGFD, NDDA, Federal agencies or Tribes, as appropriate. This alternative allows for a Federal WS program to protect multiple resources on all land classes at the request of the land management agency or individual if a Cooperative Agreement, Agreement for Control and/or a Wildlife Damage Management Work plan with North Dakota WS, as appropriate, are in place. Alternative 3 was selected because it best allows WS to meet the objectives described in USDA (1997a) and is most consistent with the USFS LRMPs and BLM RMPs. Alternative 3 conforms to the MOUs between WS, the USFS and BLM that mutually recognize that the management of wildlife damage on USFS and BLM lands is important and may involve the management of predator damage to achieve land and resource management objectives. Alternative 3 allows WS to fully meet 10 of the 10 objectives for the program. Analysis of Alternative 3 shows a low level of impact to the quality of the human environment.

Alternative 4. Nonlethal Damage Management Required Prior to Lethal Control. This alternative required that nonlethal damage management be implemented before the initiation of lethal PDM by North Dakota WS. This alternative was not selected because no standard exists to determine diligence in applying nonlethal methods nor are there any standards to determine how many nonlethal applications are necessary before initiation of lethal controls. WS is charged by law to reduce damage caused by wildlife. Consideration of wildlife protection was not included with the non-lethal methods currently available nor could WS base management on the needs of designated wildlife. Alternative 4 did not allow WS to meet four of the 10 objectives described in USDA (1997a).

Alternative 5. Corrective Damage Management Only. This alternative required that livestock depredation occur before the initiation of lethal damage management. Alternative 5 was not selected because it: 1) is often difficult to remove offending coyotes quickly enough to prevent further losses once predation has begun, 2) would not allow WS to meet the objectives described in USDA (1997a), and 3) would not allow WS to meet its statutory directives; WS is charged by law to minimize damage caused by wildlife. Alternative 5 would also not allow WS to meet seven of the 10 objectives described in USDA (1997a).

Alternative 6. Technical Assistance Only. Under this alternative, North Dakota WS would not conduct operational PDM in North Dakota. The entire program would consist of only technical

assistance. Alternative 6 was not selected because it is inconsistent with USFS and BLM policy, and it is likely the USFS and BLM could not meet their management guidelines. Alternative 6 would not allow WS to meet eight of the 10 objectives described in USDA (1997a).

ALTERNATIVES CONSIDERED but not ANALYED in DETAIL:

Compensation for Wildlife Damage Losses. The Compensation alternative would direct all North Dakota WS program efforts and resources to the verification of livestock and poultry losses from predators and providing monetary compensation to the producers. This alternative was eliminated from detailed analysis in USDA (1997b) because of many disadvantages and Congress has not appropriated funds to compensate for predation or other wildlife damage to agricultural products.

Eradication and Suppression. The eradication and suppression alternative would direct all North Dakota WS program efforts toward planned, total elimination of native predatory species. Eradication of predators in North Dakota is not supported by North Dakota WS, NDGFD or NDDA. By North Dakota state statute, “*The legislature recognized the importance of maintaining close contact with living communities and environmental systems.*” The law mandates the acquisition of natural areas (North Dakota Century Code (NDCC) 55-11-01). Other statutory policies are to preserve the state’s natural resources and wildlife and to protect wetlands (NDCC 4-22-01) (Defenders of Wildlife and the Center for Wildlife Law 1996). This alternative was not be considered by North Dakota WS in detail because: (1) WS is opposed to the eradication of any native wildlife species, (2) NDGFD and NDDA oppose the eradication of any native North Dakota wildlife species, (3) the eradication of a native species or local population would be extremely difficult, if not impossible, to accomplish, (4) would be cost prohibitive, and (5) eradication is not acceptable to most people.

CONSISTENCY

Wildlife damage management is conducted on National Forest System and BLM lands consistent with MOUs and policies of WS, the USFS and BLM. Any Work Plans developed for wildlife damage management, pursuant to this decision, will be consistent with the direction provided in the Land and Resources Management Plans (LRMPs) for the National Grasslands found in North Dakota and the Resource Management Plans (RMP) for the Dakotas BLM District. On USFS and BLM managed lands, public safety and environmental concerns are adequately mitigated through jointly developing Work Plans with WS and the USFS or BLM. All PDM will be conducted in a manner consistent with the ESA and the Section 7 Consultation with the USFWS.

MONITORING

The North Dakota WS program provides the WS take of target and non-target animals to the NDGFD to determine if the total statewide take is within allowable harvest levels as determined by the NDGFD. The annual take of select predators by WS is well below the thresholds identified in USDA (1997a, b) and data compiled by NDGFD (Tucker 2011), and therefore is not having an impact on the viability of predator populations or population trends. North Dakota WS also monitors its progress toward the objectives found in Chapter 1 of USDA (1997a), including Objective A-7 to monitor the implementation of producer used nonlethal techniques.

PUBLIC INVOLVMENT

Issues related to the proposed action were initially developed by an interdisciplinary team process involving WS, USFS, BLM, USFWS, NDDA, NDSUES, and NDGFD. A Multi Agency Team of WS, USFS, BLM, USFWS, NDGFD, NDDA and NDSUES personnel refined these issues, prepared objectives and identified preliminary alternatives. Due to interest in the North Dakota WS Program, the multi

agency team concurred that North Dakota WS include an invitation for public involvement in the USDA (1997a) process. Notice of the proposed action and invitation for public involvement were placed in six newspapers with circulation throughout North Dakota. Public comments were documented from 26 letters or written comments. The responses represented a wide range of opinions, both supporting and opposing the proposal or parts of the proposal. All comments were analyzed to identify new issues, alternatives, or to redirect the objectives of the program.

As part of a public review and comment process, this Supplement was made available through a NOA published for 3 consecutive days, in *The Bismarck Tribune*, the paper used for legal notices by WS in North Dakota (Fed. Reg. 72:13237-13238, March 21, 2007). The Supplement was also available at http://www.aphis.usda.gov/regulations/ws/ws_nepa_environmental_documents.shtml and <http://www.regulations.gov>. These notices stated that WS was providing an opportunity for public review and comment for 30-days and copies of USDA (1997a), Supplement may be obtained from the USDA-APHIS-WS. All documents are maintained in the administrative file located at the North Dakota WS State Office, USDA, APHIS, 2110 Miriam Circle, Bismarck, North Dakota 58501-2502.

RELATIONSHIP of the SUPPLEMENT to OTHER ENVIRONMENTAL DOCUMENTS

WS' Programmatic Environmental Impact Statement: WS developed a programmatic Final EIS that addressed the need for wildlife damage management in the United States (USDA 1997b). The EIS contains discussions of potential impacts to the human environment from wildlife damage management methods used by WS. Information from USDA (1997b) has been incorporated by reference.

Wildlife Damage Management in North Dakota for the Protection of Livestock, Public Health and Safety, Property, and Wildlife EA: North Dakota WS issued an EA and Decision analyzing PDM activities conducted by the WS in North Dakota (USDA 1997a). USDA (1997a) included analysis of actions and methods used to reduce predator damage to protected resources, as requested. That analyses remain relevant to current program activities, including the analysis of potential impacts associated with the methods used during predator damage management. Information from USDA (1997a) has been incorporated by reference.

DECISION AND RATIONALE

The analysis provided in USDA (1997a) and the EA Supplement indicate that there will not be a significant impact, individually or cumulatively, on the quality of the human environment from implementing the proposed action (*i.e.*, current program today), and the action does not constitute a major federal action. Management actions are conducted pursuant to applicable laws, regulations, policies, and orders to reduce damages or potential damages caused by select predators in North Dakota, as requested and when needs arise. I find the current program to be environmentally acceptable, addressing the issues and needs while balancing the environmental concerns of State and federal management agencies, landowners, the general public, and advocacy groups.

The analyses in USDA (1997a) demonstrate that continued implementation of Alternative 3 provides WS the best opportunity to meet the stated objectives with the lowest impacts on: 1) non-target species and 2) designated wildlife and T&E species. Alternative 3 best: 1) addresses the issues identified in the EA and provides the environmental safeguards for public safety, 2) balances the economic effects of livestock losses to USFS and BLM permittees and private land owners, and the concerns for the other multiple use values of the USFS and BLM and 3) allows WS to meet its obligations to the NDGFD, NDDA and other cooperating agencies or entities. As a part of this decision, the North Dakota WS program will provide all requesting cooperators and cooperating Federal, State and local agencies with information on nonlethal management techniques proven to be effective for reducing predation.

The rationale for this Decision is based on several considerations. This Decision takes into account current and previous public comments, social/political and economic concerns, public health and safety, and current science. However, the foremost considerations are that PDM by North Dakota WS will only be conducted at the request of landowners/managers, when a need is demonstrated, when management actions are consistent with applicable laws, regulations, policies and orders, and no adverse impacts from management actions were identified in the analysis. As a part of this Decision, the North Dakota WS program will continue to provide effective and practical technical assistance and operational management that could reduce damage as coordinated with NDGFD.

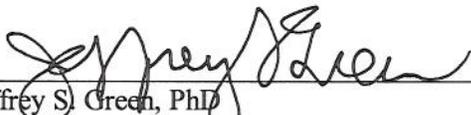
Finding of No Significant Impact

The analysis in USDA (1997a) and the EA Supplement indicates that there will not be a significant impact, individually or cumulatively, on the quality of the human environment as a result of the North Dakota WS current program. I agree with this conclusion and therefore find that an EIS need not be prepared. This determination is based on the following factors:

1. Predator damage management, as conducted by WS in North Dakota, is not regional or national in scope.
2. North Dakota WS PDM would pose minimal risk to public health and safety. No injuries to any member of the public are known to have resulted from WS PDM activities in North Dakota.
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.
4. The effects on the quality of the human environment are not highly controversial. Although there is some opposition to PDM, the expected environmental effects associated with implementing the North Dakota WS PDM program are not controversial among experts.
5. Based on the analysis documented in USDA (1997a), the USDA (1997a) supplement and the accompanying administrative file, the effects of the proposed PDM 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. Current North Dakota WS PDM activities have been occurring for decades with no significant adverse environmental impacts.
6. The North Dakota WS PDM would not establish a precedent for any future action with significant effects.
7. No significant cumulative effects were identified through this assessment. The number of animals taken by WS, when added to the total known other take of all species and population estimates or trends falls well within the allowable harvest levels.
8. The North Dakota WS PDM program 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. Formal and informal Section 7 consultations with the USFWS confirmed that the North Dakota WS PDM program would not jeopardized the continued exist of any listed species or not likely adversely affect T&E species.
10. The North Dakota WS PDM program is in compliance with all Federal, State, and local laws imposed for the protection of the environment.

Decision

I have carefully reviewed USDA (1997a) and the EA Supplement, and I believe the continued implementation of Alternative 3 will provide the best overall approach to address the issues identified in the North Dakota PDM program while also providing for a program which will best meet the needs of cooperating agencies, organizations, and individuals who may request WS assistance. Continued implementation of Alternative 3 will involve the use of no additional PDM methods beyond what are already used in the current program. For additional information regarding this Decision, please contact the North Dakota WS State Office, USDA, APHIS, 2110 Miriam Circle, Bismarck, North Dakota 58501-2502.



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8/1/11

Date

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