DECISION
AND
FINDING OF NO SIGNIFICANT IMPACT

ENVIRONMENTAL ASSESSMENT: REDUCING BIRD DAMAGE IN THE STATE OF NEW JERSEY

The United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS) program completed an Environmental Assessment (EA) on alternatives for reducing bird damage to agricultural resources, natural resources, property, livestock, and public health and safety in New Jersey (USDA 2014). The EA documents the need for action and assesses potential impacts on the human environment of three alternatives to address that need.

PUBLIC COMMENTS

The EA was made available for review and comment from April 3 to May 16, 2014. The document was made available through a Notice of Availability (NOA) published in *The Times of Trenton* and sent to interested parties through the APHIS Stakeholder Registry. WS also published these documents on the program website. Two comments were received. Issues raised in the letters and agency responses are provided in Appendix B. All correspondence on the EA is maintained at the WS State Office, 140-C Locust Grove Road, Pittstown, NJ 08867-4049.

ISSUES ASSOCIATED WITH BIRD DAMAGE MANAGEMENT ACTIVITIES

The EA analyzed a range of management alternatives in context of issues relevant to the scope of the analysis including:

- Issue 1 - Effects on target bird populations
- Issue 2 - Effects on non-target wildlife species, including threatened and endangered (T&E) species
- Issue 3 - Effects on human health and safety
- Issue 4 - Effects on aesthetic values of birds
- Issue 5 - Humaneness and animal welfare concerns of methods
- Issue 6 - Effects on the regulated harvest of birds

AFFECTED ENVIRONMENT

Bird damage or threats of damage can occur statewide in New Jersey wherever those bird species occur. However, bird damage management would only be conducted by WS when requested by a landowner or manager and only on properties where a cooperative service agreement or other comparable document was signed between WS and a cooperating entity. Upon receiving a request for assistance, activities could be conducted on federal, state, tribal, municipal, and private properties. Areas where damage or threats of damage could occur include, but would not be limited to agricultural fields, vineyards, orchards, farms, aquaculture facilities, grain mills, grain handling areas, railroad yards, waste handling facilities, industrial sites, natural resource areas, park lands, and historic sites, state and interstate highways and roads, property in or adjacent to subdivisions, businesses, industrial parks, timberlands, croplands, and pastures, private and public property, and locations where birds are a threat to human safety through the spread of disease. The areas could also include airports and military airbases where birds are a threat to human safety and to property.

DESCRIPTION OF THE ALTERNATIVES

The following three alternatives were developed to respond to the issues identified in Chapter 2 of the EA. A detailed discussion of the effects of the alternatives on the issues is described in the EA under Chapter 4 (USDA 2014); below is a summary of the alternatives.

Alternative 1 - Continue the Current Integrated Approach to Managing Bird Damage (No Action/Proposed Action)

The proposed action/no action alternative would continue the current implementation of an adaptive integrated approach utilizing non-lethal and lethal techniques, as deemed appropriate using the WS Decision Model. A major goal of the program would be to resolve and prevent bird damage and to reduce threats to human safety. To meet this goal, WS, in cooperation with the USFWS and in consultation with the NJDFW, would continue to respond to requests for assistance with, at a minimum, technical assistance, or when funding is available, operational damage management.

The adaptive approach to managing damage associated with birds would integrate the use of the most practical and effective methods to resolve a request for damage management as determined by site-specific evaluations. City/town managers, agricultural producers, property owners, and others requesting assistance would be provided information regarding the use of appropriate non-lethal and lethal techniques. The USFWS could continue to issue depredation permits to WS and to those entities experiencing bird damage when requested by the entity and when deemed appropriate by the USFWS for those species that require a permit.

Under this alternative, WS could respond to requests for assistance by: 1) taking no action, if warranted, 2) providing only technical assistance to property owners or managers on actions they could take to reduce damages caused by birds, or 3) providing technical assistance and direct operational assistance to a property owner or manager experiencing damage.

The most effective approach to resolving wildlife damage is to integrate the use of several methods simultaneously or sequentially. The philosophy behind integrated wildlife damage management is to implement the best combination of effective management methods in a cost-effective manner while minimizing the potentially harmful effects on humans, target and non-target species, and the environment. Integrated damage management may incorporate cultural practices (e.g., animal husbandry), habitat modification (e.g., exclusion, vegetation management), animal behavior modification (e.g., scaring, repellents), removal of individual offending animals (e.g., trapping, shooting, and avicides), local population reduction, or any combination of these, depending on the circumstances of the specific damage problem.

Alternative 2 - Bird Damage Management by WS using only Non-lethal Methods

Under this alternative, WS would be restricted to only using or recommending non-lethal methods to resolve damage caused by birds in New Jersey. Lethal methods could continue to be used under this alternative by those persons experiencing damage without involvement by WS. In situations where non-lethal methods were impractical or ineffective to alleviate damage, WS could refer requests for information regarding lethal methods to the state, local animal control agencies, or private businesses or organizations. Property owners or managers may choose to implement WS' non-lethal recommendations on their own or with the assistance of WS, implement lethal methods on their own, or request assistance (non-lethal or lethal) from a private or public entity other than WS.

Alternative 3 – No Bird Damage Management Conducted by WS

This alternative precludes any activities by WS to reduce threats to human health and safety, and alleviate damage to agricultural resources, property, and natural resources. WS would not be involved with any aspect of bird damage management. All requests for assistance received by WS to resolve damage caused by birds would be referred to the USFWS, the NJDFW, and/or private entities. This alternative would not deny other federal, state, and/or local agencies, including private entities from conducting damage management activities directed at alleviating damage and threats associated with birds.

CONSISTENCY

Wildlife damage management activities conducted in New Jersey are consistent with work plans, MOU's, and policies of WS, the NJDFW, and the USFWS. WS reviewed the list of T&E species in New Jersey as determined by the USFWS and the National Marine Fisheries Services. Based on that review during the development of the EA, WS determined that activities conducted pursuant to the proposed action would not likely adversely affect federally or state listed T&E species. The USFWS and NJDFW concurred with WS' determinations.

MONITORING

The New Jersey WS program will annually review its effects on target bird species and other species addressed in the EA to ensure those activities do not impact the viability of wildlife species. In addition, the EA will be reviewed each year to ensure that the analyses are sufficient.

CUMULATIVE IMPACTS OF THE PROPOSED ACTION

No significant cumulative environmental impacts were identified 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 bird populations when known sources of mortality were considered. No risk to public safety were identified under Alternative 1 since only trained and experienced personnel would conduct and/or recommend damage management activities. There would be a slight increased risk to public safety when persons who reject assistance and recommendations conduct their own activities when no assistance is provided under Alternative 3. However, under all of the alternatives, those risks would not be to the point that the effects would be significant. The analysis in the EA indicates that an integrated approach to managing damage and threats caused by birds would not result in significant cumulative effects on the quality of the human environment.

DECISION AND FINDING OF NO SIGNIFICANT IMPACT

I have carefully reviewed the EA prepared for this proposal and the input from the public involvement process. 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 analysis in the EA adequately addresses the identified issues, which reasonably confirm that no significant impact, individually or cumulatively, to 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 EIS.

Based on the analysis in the EA, the need for action and the issues identified are best addressed by selecting Alternative 1 and applying the associated standard operating procedures. Alternative 1 successfully addresses (1) bird damage management 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 effects 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 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.

Based on the analysis 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 EIS should not be prepared. This determination is based on the following factors:

1. Bird damage management, as conducted by WS in the state, is not regional or national in scope.

2. The proposed action would pose minimal risk to public health and safety. Based on the analysis in the EA, the methods available would not adversely affect human safety based on their use patterns and standard operating procedures.

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 bird damage management, 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 on target and non-target species populations and concluded that such impacts were not significant for this or other anticipated actions to be implemented or planned within the State of New Jersey.

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 state. In addition, WS has determined that the proposed activities would not adversely affect state-listed species.

10. The proposed action would comply with all applicable federal, state, and local laws.

11. No significant cumulative effects were identified by this assessment or other actions implemented or planned within the area.

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) bird 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 significant effects to the environment were identified in the analysis. As a part of this Decision, the WS program in New Jersey would continue to provide effective and practical technical assistance and direct management techniques that reduce damage and threats of damage.

Debra S-List

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5/27/14

Date

APPENDIX A
LITERATURE CITED

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Slate, D.A., R. Owens, G. Connolly, and G. Simmons. 1992. Decision making for wildlife damage management. Trans. N. A. Wildl. Nat. Res. Conf 57:51-62.

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APPENDIX B
RESPONSES TO COMMENTS

This Appendix contains issues raised by the public during the comment period for the 2014 New Jersey bird damage management EA and the WS response to each of the issues. Wildlife Services received two comment letters regarding the EA. Issues raised in the letters are numbered and are written in bold text. The WS response follows each comment and is written in standard text.

1. One commenter references "MDM" and "Wisconsin" in their letter.

"MDM" is a common acronym that Wildlife Services uses to signify "mammal damage management." Since the New Jersey EA addressed only bird damage management in the State of New Jersey, the references to MDM and Wisconsin are irrelevant to the context of this EA.

2. APHIS should consider the ethical reasons to eliminate all lethal and invasive methods from the perspective and experiences of the animals which may be impacted by WS.

Commenters have asserted that individual animals have interests and points of view equivalent of those of humans and that the ethics of managing species with these perceptions should be considered. This perspective is consistent with the tenants of the animal rights philosophy. The animal rights philosophy asserts that all animals, humans and nonhumans, are morally equal. Under this philosophy, use of animals, e.g. for research, food and fiber production, recreational uses such as hunting and trapping, zoological displays and animal damage management, etc. should not be conducted or considered acceptable unless that same action is ethically acceptable when applied to humans (Schmidt 1989).

Similar to the animal rights philosophy, the animal welfare philosophy seeks to minimize pain, stress and distress experienced by animals as a result of humans. However, the animal welfare philosophy does not promote equal rights for humans and nonhumans. Advocates of this philosophy are not necessarily opposed to utilitarian uses of wildlife, but they are concerned with avoiding all unnecessary forms of animal suffering. However, the definition of what constitutes "unnecessary" is highly subjective (Schmidt 1989) and results in a wide range of interpretations. In general, only a small portion of the U.S. population adheres to the animal rights philosophy, but most individuals are concerned about animal welfare.

Wildlife Services agrees that individual animal experiences matter. Decision-makers and wildlife management professionals strive to minimize animal welfare impacts on wildlife because they deeply care about animals and minimizing suffering and have committed their careers to the wellbeing of wildlife populations. The impact on individual animal welfare is one of the factors reviewed by decision-makers when balancing the need to solve a problem while also minimizing the impact on animals' lives and people with affectionate bonds for these animals. Within the context of the EA, impacts on animal welfare are considered in the review of humaneness of the alternatives (EA pg. 135-137).

One key factor to consider when evaluating the ethics of bird damage management (BDM) alternatives in New Jersey is that other entities can also conduct the activities proposed by WS. Consequently, the actions which the commenter finds objectionable would likely still occur even if WS were to choose an alternative that does not allow WS' use of lethal methods and "invasive" nonlethal methods. These entities may or may not have the training and experience needed to use BDM methods as effectively or humanely as possible. Consequently, from the perspective of the animals, there is unlikely to be much difference among alternatives, except that there may be higher risk of adverse impacts caused by inadequately trained individuals under alternatives where WS' role is limited.

3. Animals have intrinsic value.

The value that humans place on wildlife was analyzed under Issue 4 – Effects on the Aesthetic Values of Birds (EA pg. 133-135).

4. An EIS is legally required.

The commenter points out that when the cumulative analysis of a proposed action indicates that the cumulative impact on the environment (which results from the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions) will be significant, then an EIS is required to analyze that significant cumulative impact. The EA provides a thorough analysis which is adequate to determine that, for reasons presented in the FONSI, the effects of the program are not significant and therefore do not trigger the need to prepare an EIS. Cumulative impacts of all past, present, and reasonably foreseeable future actions are considered in all NEPA analysis and are not the exclusive requirement of an EIS.

5. The EA's cumulative impact analysis is lacking. The EA fails to address the cumulative loss of individuals in other states in the Northeastern and Mid-Atlantic regions and beyond.

The cumulative impact analysis can be found in section 4.2 of the EA. Cumulative impacts on birds addressed in this EA are often considered based on the best available data. Consequently, the state level frequently provides the most accurate data for analysis. However, we still considered relevant data from a regional perspective. For example, Breeding Bird Survey data from the New England/Mid-Atlantic Coast region is referenced for all species with adequate data points. The take of migratory birds can only occur when permitted by the USFWS and the NJDFW, pursuant to the Migratory Bird Treaty Act, through the issuance of depredation permits. Therefore, the take of migratory birds would only occur at levels authorized by the USFWS and the NJDFW, which ensures cumulative take by all entities is considered prior to any action being conducted.

6. The EA fails to consider whether proposed actions can create locally significant impacts on bird populations.

The WS program does not attempt to eradicate any species of native wildlife. WS operates in accordance with applicable federal and state laws and regulations enacted to ensure species viability. Methods available are employed to target individual birds or groups of birds identified as causing damage or posing a threat of damage (EA section 2.2, Issue 1). Any reduction of a local population or group would frequently be temporary because immigration from adjacent areas or reproduction would replace the birds removed. WS operates on a small percentage of the land area of New Jersey and would only target those birds identified as causing damage or posing a threat (EA pg. 46). Chapter 4 also discusses the impacts to local bird populations for each alternative.

7. The agency is required to provide a reasonably complete explanation on how its proposed action will mitigate adverse impacts on the environment.

Whereas mitigation measures are a requirement for an EIS, they are not required for an EA, particularly when a FONSI is issued as is the case for this EA. However, in the spirit of NEPA, WS performs annual monitoring of its selected alternative to ensure that actions do not result in significant adverse impacts to the human environment. As the EA explains, WS does not anticipate any significant adverse impacts from any of the alternatives.

8. **The alternatives analysis is inadequate. What is missing is an alternative that emphasizes education to alter human behavior to reduce wildlife-human encounters.**

The NEPA requires that agencies consider a reasonable range of alternatives (CEQ 1981). Alternative 2, Non-lethal Bird Damage Management Only, restricts WS to using only non-lethal methods when providing information, training, equipment loans or operational assistance for wildlife damage management. Alternative 3, No WS Bird Damage Management, would completely eliminate all educational opportunities by WS. This comment appears to be requesting an alternative in which WS provides technical and operational assistance with a restricted set of non-lethal alternatives. The new proposed alternative and its impacts would be similar to Alternative 2 in that it could be selected by managers based on the information already existing in the EA. It is our determination, that analysis of the commenter's proposed alternative would not provide sufficient new information to warrant development as an alternative addressed in detail.

9. **Consultation with the USFWS should be completed.**

See the EA on page 126 where it states "Due to updated information and the expansion of the WS program, a new Section 7 consultation was initiated with the USFWS. The USFWS concurred with WS' determinations in a letter dated March 23, 2014."

10. **Population impacts on some T&E bird species [e.g. horned larks & Eastern meadowlarks] as reported in the EA can be substantial. We recommend exploring habitat management options [on airports] such as mowing regimes and carefully monitoring numbers taken.**

We share the same concern for all T&E species, and WS collaborates with state and federal agency partners as well as external organizations to manage wildlife priorities at airports. Currently, aggressive mowing regimes are implemented at many New Jersey airports and airbases in the critical aircraft movement areas. However, mowing regimes at some civil and/or military airports are restricted away from the critical movement areas as these habitats are utilized by higher priority T&E species, such as the grasshopper sparrow (*Ammodramus savannarumand*) and upland sandpiper (*Bartramia longicauda*). Wildlife Services also restricts take of certain other species (e.g. horned lark) to only the winter migration period when large numbers concentrate on airfields. These types of decisions are common under Alternative 1 as described in the EA, pg. 51-55. For example, the management plan at one New Jersey airport, that balances the needs to protect T&E species with airport safety, was constructed collectively by WS, the NJDFW, the New Jersey Pinelands Commission, and the commenter's organization. Wildlife Services also monitors wildlife populations annually to ensure avoidance of adverse effects (see Standard Operating Procedures in the EA, pg. 58-61).

11. **For cavity nesters, locating of nest boxes in proximity to the airports may increase use of airfields. A more strategic landscape approach to nest box placement may alleviate some of the concerns and decrease the need for take or removal.**

We agree with the commenter that placing nest boxes near an airport will attract these species. Therefore, Wildlife Services does not place nest boxes near any damage location, to include airfields.

12. **A first approach that is often overlooked is habitat management [e.g. on airports]. If birds are prevented from nesting because appropriate nesting substrates are lacking, then the issue of control becomes one of managing habitat rather than take or removal.**

As the commenter states, the EA does address habitat management as part of an integrated damage management approach. WS, along with the National Wildlife Research Center, continues to explore new

habitat management methods to deter or eliminate wildlife attractants within the mission of air travel operations. For example, WS has recognized cracks in asphalt within a runway protection zone on one airport that least terns (*Sternula antillarum*) have exploited as nesting habitat. WS has recommended filling in the cracks and has utilized visual deterrents to harass terns. However, some visual deterrents had to be removed as they presented a debris hazard to aircraft. Under the WS Decision Model, WS evaluates these results and makes adjustments to further reduce damage or the threat of damage.

13. We encourage WS and the USFWS to carefully consider these options (habitat management) in the community-based decision making model.

We concur that habitat management should be considered in the community-based decision making process. The EA states that all methods are considered during this process (EA pg. 55).

14. We suggest avoiding lethal removal options for snowy owls, and a greater focus on relocation as with the other owl species.

The proposed action states "WS would first employ non-lethal methods (e.g., pyrotechnics, aversive noise, trap/relocate) to disperse or move snowy owls when appropriate and safe. If snowy owls are deemed an immediate threat to aviation safety (e.g., flying along an active runway) or if repeated non-lethal methods have failed, WS may need to implement lethal removal options" (EA pg. 92). Although lethal methods may be avoided for most owls, removal may not always be prevented due to the intensity in which some owl species migrate onto New Jersey airfields in some years.

15. Since many heron and egret species have endangered, threatened, or special concern status in New Jersey, we encourage exploring ways of keeping the birds away from aquaculture facilities through the use of disturbance and exclosures instead of lethal approaches.

The commenter encouraged using non-lethal instead of lethal methods to protect aquaculture facilities, and suggested that the population analysis for great-blue herons from the EA was insufficient. The WS Decision Model and Directives actually give preference to non-lethal methods when effective and efficient (EA pg. 51-55, EA section 3.4). The EA states on page 51 that "the USFWS requires non-lethal methods be used and shown ineffective or impractical before the USFWS will issue a depredation permit." The Decision Model and Standard Operating Procedures address WS commitment to species monitoring once a management plan has been implemented. Additionally, the majority of WS' lethal heron and egret take in the past has occurred at airports to protect air travel safety. The EA addresses the population status, trends, and cumulative take impacts for all relevant heron and egret species in Chapter 4.