

**DECISION
AND
FINDING OF NO SIGNIFICANT IMPACT**

Environmental Assessment: Reducing Bird Damage in the State of New York

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, and public health and safety in New York (USDA 2019). 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 September 30 to November 8, 2019. The document was made available through a Notice of Availability (NOA) published in the *Times Union*, and sent to interested parties through the APHIS Stakeholder Registry. WS also published the document on the program website and Regulations.gov. Wildlife Services received 215 comments. Issues raised in the comments and agency responses are provided in Appendix A. All correspondence on the EA is maintained at the WS State Office, 572 Third Ave Extension, Suite 2, Rensselaer, NY 12144.

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 of Damage Management Activities on Target Bird Populations
- Issue 2 - Effects of Damage Management Activities on Non-target Wildlife Species Populations, Including T&E Species
- Issue 3 - Effects of Damage Management Methods on Human Health and Safety
- Issue 4 - Effects of Damage Management Activities on the Aesthetic Value of Birds

AFFECTED ENVIRONMENT

Bird damage or threats of damage can occur statewide in New York 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 3 (USDA 2019); 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 nonlethal and lethal techniques, as deemed appropriate to reduce damage and threats caused by birds. This approach would integrate the most practical and effective methods available to resolve bird damage. WS, in cooperation with the USFWS and in consultation with the NYSDEC, would continue to respond to requests for assistance with, at a minimum, technical assistance or, when funding is available, operational damage management. Funding could occur through federal appropriations or from cooperative funding. City/town managers, agricultural producers, property owners, and others requesting assistance would be provided information regarding the use of appropriate nonlethal and lethal techniques.

To be most effective, damage management activities should begin as soon as birds begin to cause damage. Bird damage that has been ongoing can be difficult to resolve using available methods since birds are conditioned to feed, roost, loaf, and are familiar with a particular location. Subsequently, making that area unattractive using available methods can be difficult to achieve when damage has been ongoing. WS would work closely with those entities requesting assistance to identify situations where damage could occur and to implement damage management activities under this alternative as early as possible to increase the likelihood of those methods achieving the level of damage reduction requested by the cooperator.

Nonlethal methods recommended and used by WS may include resource management, physical exclusion, human behavior modification, habitat modification, repellents, reproductive control, frightening devices, lure crops, trap and translocation, and other deterrents. Lethal methods recommended and used by WS may include the use of shooting, live capture and euthanasia, DRC-1339, the recommendation of harvest during hunting seasons, and nest/egg destruction.

Under this alternative, WS would respond to requests for assistance in three ways: 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 operational assistance to property owners or managers experiencing damage. Operational assistance may include work done under WS' permits or under cooperator permits.

Property owners or managers requesting assistance would be provided with information regarding both the use of effective and practical nonlethal as well as lethal techniques available to achieve their goals. Property owners or managers may choose to implement WS' recommendations themselves under a permit (i.e., technical assistance), use contractual services of private businesses, use volunteer services of private organizations, use the contractual services of WS (i.e., operational assistance), or take no action. The only method currently available that would not be available for use by those persons experiencing bird damage is the avicide DRC-1339, which can only be used by WS.

The removal of birds can only legally occur as authorized by the USFWS or NYSDEC through the issuance of a depredation permit, and only at levels specified in the permit. When applying for a depredation permit, the requesting entity submits with the application the number of birds requested to be

taken to alleviate the damage. Therefore, under this alternative, the USFWS could: 1) deny an application for a depredation permit when requested to alleviate bird damage, 2) could issue a depredation permit at the removal levels requested, or 3) could issue permits at levels below those removal levels requested.

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

Under this alternative, WS would be restricted to only using nonlethal methods to resolve damage caused by birds. Lethal methods could continue to be used under this alternative by those persons experiencing damage without involvement by WS. In situations where nonlethal 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' nonlethal recommendations on their own or with the assistance of WS, implement lethal methods on their own via the permitting process through the USFWS or NYSDEC, or request assistance (nonlethal 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 NYSDEC, 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.

Despite no involvement by WS in resolving damage and threats associated with birds, those persons experiencing damage caused by birds could continue to resolve damage by employing those methods legally available. The removal of birds could occur either through: the issuance of depredation permits by the USFWS; harvest during the hunting seasons; a depredation order allowing blackbirds to be removed at any time when they are causing or about to cause damage, or posing a threat to human safety; a control order allowing Muscovy ducks could be removed. Additionally, non-native bird species could be removed without the need for a depredation permit issued by the USFWS.

CONSISTENCY

Wildlife damage management activities conducted in New York are consistent with work plans, MOU's, and policies of WS, the NYSDEC, and the USFWS. Based on the provisions and protective measures established in the EA, WS determined that activities conducted pursuant to the proposed action may affect but would not likely adversely affect those species listed in the state by the USFWS, including their critical habitats. As part of the development of the EA, WS consulted with the USFWS under Section 7 of the ESA. The USFWS concurred with WS' determinations. The list of species designated as endangered or threatened by the NYSDEC was reviewed during the development of the EA. Based on the review of species listed, WS determined that the proposed activities may affect but would not likely adversely affect those species listed by the state.

MONITORING

The WS-New York 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.
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 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 T&E species.
10. The proposed action would comply with all applicable federal, state, 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) 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 York would continue to provide effective and practical technical assistance and direct management techniques that reduce damage and threats of damage.

Willie Harris, Director-Eastern Region
USDA/APHIS/WS
Raleigh, North Carolina

Date

APPENDIX A RESPONSES TO COMMENTS

This Appendix contains issues raised by the public during the comment period for the 2019 New York bird damage management EA and the WS response to each of the issues. WS received 215 comment letters/postings regarding the EA. 143 responses contained no substantive comments for WS to consider. Some stakeholders provided multiple submissions, and many submissions contained multiple substantive comments. Similar comments were grouped together in order for WS to provide responses. Below in bold text are examples and/or summaries of grouped comments with the number of respondents for each issue in parenthesis. Additional individual substantive comments are also listed in bold below. The WS response follows each comment and is written in standard text.

1. In this disturbing bird management proposal, there are no current citations from the Audubon Society or other wildlife organizations that have been witnessing and reporting loss of bird populations...this significantly diminishes credibility and increases suspicion. (1)

On page 46 of the EA, the Christmas Bird Count (CBC) is described as a tool for assessing bird population trends. The CBC is published by the National Audubon Society. The EA relies on dozens of other professional publications to analyze effects on bird populations, such as the Breeding Bird Survey, Partners in Flight, and harvest estimates provided by other state and federal agencies.

2. Research needs to be conducted by at least two separate independent agencies to access data on whether "wildlife" is indeed responsible for environmental damage. The data from both findings then needs to be examined by one other independent source. If all findings point to wildlife damage then, all findings need to be presented to the public in a town hall format. The meeting would allow for members of the public to speak out either for or against lethal methods of dealing with wildlife. These town hall meetings would need to be presented across the state at venues easily accessible to the public. The public would be given written notice of such meetings well in advance of the meeting. (1)

The EA cites multiple agencies, including the NYSDEC, which confirm that wildlife cause damage (see page 26 of the EA). The Wildlife Society, an independent, non-government wildlife management organization, recognizes wildlife damage management as a science of reducing damage and other wildlife-related problems (see page 5 of the EA). Page 22 of the EA discusses the difficulties in predicting locations of wildlife damage. This is part of the justification for this EA; to discuss common wildlife damage issues from across the state and resolutions to the public. Page 38 of the EA further discusses how decisions are made for wildlife issues on private and public properties. The suggestion of holding town hall meetings is not feasible for wildlife damage management on private property as the public cannot mandate actions on private property. However, WS did provide a notice in the Albany Times Union per Federal Register notice docket number APHIS-2007-0037. This notice was published on three separate days. Additionally, WS provided a notice in the APHIS stakeholder registry, Regulations.gov, and the WS website. Public feedback is accepted as outlined in those notices.

3. Proper garbage and waste control can be one way to help reduce the excess of birds in the NYC area. (1)

WS considers all legal methods for managing wildlife under an integrated wildlife damage management concept. Technical assistance, which routinely includes recommendations for waste control, is described on page 36 of the EA. WS regularly recommends this method where

appropriate; however, this method alone cannot solve all bird damage problems. For example, birds do not congregate on airfields because of access to waste, but rather an attraction to natural food sources or loafing areas.

4. As far as bird strike at the airports and an over abundance of non native species, how about getting more licensed falconers to help with that issue. (1)

On the surface, falconry seems to be a good method to disperse birds from airports, and it has been attempted at some New York airports. However, it is a labor intensive and expensive tool that provides no better control than other wildlife control methods used at airports. A large number of falcons is required to adequately provide coverage throughout the day, which in turn requires multiple licensed falconers to fly the falcons. Unfortunately, falcons are also ineffective at deterring many birds, especially large birds such as geese, cormorants, swans, and osprey. Large birds pose a greater risk to aircraft when struck; therefore, airports typically prioritize the management of those large-bodied birds. Wind, heat, and cold also limit the use of falcons for wildlife control. Thus, the airports that attempted falconry in New York found that other methods are more effective at wildlife control.

5. The problem with this USDA /WS management plan is the definition of damage is very broad, generalized, vague, and ill-defined. (1)

The EA begins with a general description of wildlife damage; however, more specific descriptions and examples are provided starting on page 11 through 20. WS believes that the EA clearly defines and describes bird damage.

6. Wildlife Services' decision model is flawed, as it provides no opportunity for public input in USDA's damage assessment or wildlife management decision making, nor does it require that non-lethal management and alternative strategies be exhausted before pursuing lethal management. (27)

This EA is one of the opportunities for the public to provide input into WS' decision-making process. Furthermore, page 38 of the EA describes the "community-based decision making" process that entails a "co-managerial approach" to resolving wildlife damage issues. This process is part of the WS Decision Model as clearly articulated in the EA.

The respondents are correct that the model does not require all nonlethal methods be implemented before lethal methods are used. Section 2.5, page 42 of the EA provides the justification for this decision.

7. Nearly 3 billion birds have disappeared from North America since 1970. The number of birds in the U.S. and Canada has plummeted over the past 50 years, dropping by 29%, according to a study published in the journal *Science*. Grassland birds, such as meadowlarks and sparrows, were particularly affected. They experienced a 53% drop in population more than 720 million birds since 1970. According to Cornell's Lab of Ornithology, more than 1 in 4 native birds over the last 50 years have disappeared (for some species the population loss is actually greater). (36)

Thirty-six individuals stated or implied that WS' proposed lethal removal will contribute to further species decline by referencing the recent publication in the journal *Science* by Cornell's Dr. Rosenberg. First and foremost as the EA indicates for each species analyzed, WS' proposed removal is a relatively small percentage of the state or continental population, even when considered cumulatively with other sources of mortality; therefore, it is insignificant. Secondly, academics such

as Dr. Brian McGill of the University of Maine provide context that demonstrates a far less dramatization of Rosenberg’s implications. In a post on the academic blog *Dynamic Ecology*, he points out that, of the 2.9 billion birds lost, many belong to species that are not native to North America. Just two of those species—the European starling and the house sparrow—account for close to 15 percent of the net population loss. These are exotic species that conservation agencies have actually tried to reduce or eliminate (Slate 2019). McGill also points out that the species that are showing the greatest decline also happen to be the most abundant species on the continent (McGill 2019). Eight of the ten species with the greatest losses are considered species of “least concern” by the International Union for Conservation of Nature. The other two are considered non-threatened (McGill 2019). This is why WS performs a species-specific analysis to determine if the proposed actions significantly affect the species. Grouping species together can be misleading, and does not provide any useful information for the purposes of this EA.

8. Rather than killing already stressed avian populations, APHIS and NYSDEC should be educating landowners to change human land management practices. (1)

The EA addresses this recommendation on page 37 under the heading “Education and Outreach.” It further describes nonlethal technical assistance, including land management practices, in Appendix B of the EA.

9. The EA states the planes are affected pre-dominantly by birds that are migrating onto the airport's acreage to find suitable habitat to lay eggs. Could the airports simply destroy this habitat in hopes the migratory birds would find a place more suitable for such practices. (1)

While habitat modifications may reduce appeal for one species, another will take its place. For example, clearing a woodlot and turning it into a parking lot will still create habitat for gulls and killdeer. However, WS does provide recommendations to airports to manage their lands with the least appeal to the most hazardous species in their locale.

10. I also request that this public comment period be extended by 30 days so more of the public can be involved. This comment period was poorly announced and very short and many stakeholders did not learn of it until the week it was ending. (1)

While the NEPA requires agencies to notice an EA for only 30 days, this particular EA was noticed for 40 days. WS provided a notice in the Albany Times Union per Federal Register notice docket number APHIS-2007-0037. This notice was published on three separate days. Additionally, WS provided a notice in the APHIS stakeholder registry, Regulations.gov, and the WS website. WS exceeded all mandatory provisions for public notices.

APPENDIX B
LITERATURE CITED

McGill, Brian. 2019. Dynamic Ecology. Did North America really lose 3 billion birds? What does it mean? Accessed online< <https://dynamicecology.wordpress.com/2019/09/20/did-north-america-really-lose-3-billion-birds-what-does-it-mean/>>. Accessed 10 December 2019.

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USDA (U.S. Department of Agriculture). 2019. Environmental Assessment: Reducing Bird Damage in the State of New York. USDA APHIS WS, Rensselaer, NY.