

**DECISION
AND
FINDING OF NO SIGNIFICANT IMPACT**

Environmental Assessment: Wildlife Hazard Reduction: John F. Kennedy International Airport

The United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS) program in cooperation with the United States Fish and Wildlife Service (USFWS), the National Park Service (NPS), the New York State Department of Environmental Conservation (NYSDEC), the New York City Department of Environmental Protection, and the Port Authority of New York and New Jersey (PANYNJ) completed an Environmental Assessment (EA) on alternatives for reducing bird damage and threats to passenger safety at John F. Kennedy International Airport (JFK) (USDA 2020). 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 February 3 to March 13, 2020. The document was made available through a Notice of Availability (NOA) published in the *AM New York Metro*, 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 15 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 Nontarget 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 on JFK property or off-site within several miles of the airport. 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, municipal, and private properties. Areas where damage or threats of damage could occur include, but would not be limited to natural resource areas, park lands, and historic sites, property in or adjacent to subdivisions, businesses, industrial parks, and pastures, private and public 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 2020); below is a summary of the alternatives.

Alternative 1 - Continuing the Current Integrated Approach to Managing Wildlife Damage (Proposed Action/No 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 in and around JFK. This approach would integrate the most practical and effective methods available to prevent or 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. JFK personnel, city/town managers, property owners, and others requesting assistance would be provided information regarding the use of appropriate nonlethal and lethal techniques. Management on NPS property would continue to be restricted to the former Pennsylvania and Fountain Avenue landfills and Rulers Bar Hassock, require approval and permitting by NPS on a case-by-case basis, and, be consistent with the methods described under “Drive traps” followed by euthanasia, “Nest/egg destruction”, and “Egg oiling” in Appendix B of the EA.

To be most effective, damage management activities should begin as soon as birds begin to cause damage or pose a threat to future 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 JFK 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 JFK.

Under this alternative, WS would respond to wildlife hazard situations in three ways: 1) taking no action if warranted, 2) providing only technical assistance to JFK on actions they could take to reduce damages caused by birds, or 3) providing technical assistance and operational assistance to JFK. Operational assistance by WS may include work done by WS under WS’ permits or work done by WS under the PANYNJ permit.

The removal of birds can only legally occur as authorized by the USFWS and the 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 and the NYSDEC 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 - Wildlife Damage Management by WS using only Nonlethal Methods

Under this alternative, WS would be restricted to only using nonlethal methods to prevent or resolve damage caused by birds. Nonlethal methods recommended and used by WS may include resource management, physical exclusion, human behavior modification, habitat modification, repellents, reproductive control, frightening devices, trap and translocation, and other deterrents. 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. JFK 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 request assistance (nonlethal or lethal) from a private or public entity other than WS.

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. JFK personnel, city/town managers, property owners, and others requesting assistance would be provided information regarding the use of appropriate nonlethal techniques.

To be most effective, damage management activities should begin as soon as birds begin to cause damage or pose a threat to future 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 JFK 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 JFK.

Under this alternative, WS would respond to wildlife hazard situations in three ways: 1) taking no action if warranted, 2) providing only technical assistance to JFK on actions they could take to reduce damages caused by birds, or 3) providing technical assistance and operational nonlethal assistance to JFK.

Alternative 3 - No Wildlife Damage Management Conducted by WS

This alternative precludes any activities by WS to reduce threats to human health and safety, and alleviate damage to property in and around JFK. 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, JFK 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, and/or 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. However, mute swans are an exception to this and require authorization from NYSDEC under Environmental Conservation Law. All methods described in Appendix B would be available for use by those persons experiencing damage or threats except for the use of DRC-1339 for crows, pigeons, blackbirds, starlings, cowbirds, grackles, magpies and gulls, which can only be used by WS.

CONSISTENCY

Wildlife damage management activities conducted at JFK are consistent with work plans, MOU's, and policies of WS and the cooperating agencies. 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 certain 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 nontarget 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 and around JFK, 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 nontarget 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
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Raleigh, North Carolina

APPENDIX A RESPONSES TO COMMENTS

This Appendix contains issues raised by the public during the comment period for the 2020 Wildlife Hazard Reduction at John F. Kennedy International Airport EA and the WS response to each of the issues. WS received 15 comment letters/postings regarding the EA. Only one response contained a substantive comment for WS to consider. Below in bold text is the submitted comment. The WS response follows the comment and is written in standard text.

- 1. Many of the animal rescue groups, and Audubon Society and ornithologists could give advice & probably even help do that. I see no comments from any of them. Have you notified them of the intended Wildlife Services ES? If not I request you extend the comment due date & contact them & give them plenty of time to respond.**

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 *AM New York Metro*. This notice was published on three separate days. Additionally, WS provided a notice in the APHIS stakeholder registry, Regulations.gov, and the WS website. The Audubon Society is registered on the APHIS stakeholder registry, but chose not to comment. WS exceeded all mandatory provisions for public notices.

APPENDIX B
LITERATURE CITED

USDA (U.S. Department of Agriculture). 2020. Environmental Assessment: Wildlife Hazard Reduction: John F. Kennedy International Airport. USDA APHIS WS, Rensselaer, NY.