

**DECISION
AND
FINDING OF NO SIGNIFICANT IMPACT**

Environmental Assessment: Managing Damage to Resources and Threats to Human Health and Safety Caused by Birds in the Commonwealth of Virginia

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 Virginia (USDA 2021). The EA documents the need for action and assesses potential impacts on the human environment of three alternatives to address that need.

PUBLIC COMMENTS

WS provided the EA for review and comment from April 12 to May 17, 2021. WS provided the document through a Notice of Availability (NOA) published in the *Richmond Times Dispatch*, and sent to interested parties through the APHIS Stakeholder Registry. WS also published the document on the program website and Regulations.gov. WS will make this Decision document available to the public in the same manner. Appendix B includes WS' responses to public comments. WS maintains all correspondence on the EA at the WS State Office, P.O. Box 130, Moseley, VA 23120.

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 and Regulated Harvest
- Issue 2 - Effects of Damage Management Activities on Nontarget animals, including Threatened and Endangered species
- Issue 3 - Effects of Damage Management Activities on Human Health and Safety
- Issue 4 - Humaneness and Animal Welfare Concerns
- Issue 5 – Effects of Damage Management Activities on the Aesthetic Values of Birds

AFFECTED ENVIRONMENT

Bird damage or threats of damage can occur statewide wherever those bird species occur. However, WS would only conduct bird damage management when requested by a landowner or manager and only on properties where WS and a cooperating entity signed a cooperative service agreement or other comparable document. Upon receiving a request for assistance, WS could conduct activities 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

WS developed the following three alternatives to respond to the issues identified in Chapter 2 of the EA. Chapter 3 provides a detailed discussion of the effects of the alternatives on the issues (USDA 2021); below is a summary of the alternatives.

Alternative 1 - WS Would Continue to Address Bird Damage through an Adaptive Integrated Approach (Proposed Action / No Action Alternative)

The proposed action/no action alternative would continue the current implementation of an adaptive integrated approach utilizing nonlethal and lethal techniques to reduce damage and threats associated with birds. WS could respond to requests for assistance by: 1) taking no action, if warranted, 2) providing technical assistance to property owners or managers on actions they could take, or 3) providing technical assistance and direct operational assistance to a property owner or manager experiencing damage or threats of damage. WS could provide direct operational assistance when funding is available through federal appropriations or cooperative funding. Persons receiving technical assistance could 1) take no action, 2) choose to implement WS' recommendations on their own, 3) use the services of a private nuisance wildlife control agent, 4) use volunteer services of private individuals or organizations (e.g., hunters), 5) use the services of local law enforcement or animal control authorities (in the case of free-ranging domestic and feral birds) or 6) use the services of WS (direct operational assistance) when available. WS would only conduct direct operational assistance after agreeing to a memorandum of understanding, cooperative service agreement, or other comparable document listing all the methods authorized by the property owner or manager on property.

The most effective approach to resolving any animal damage problem is to use an adaptive integrated approach (IWDM) that may call for the use of several methods simultaneously or sequentially. IWDM may incorporate both nonlethal and lethal methods depending upon the circumstances of the specific damage problem. Nonlethal methods disperse or otherwise make an area where the damage is occurring unattractive or unavailable to the species causing the damage, thereby reducing the presence of those species in the area. WS would give nonlethal methods priority when addressing requests for assistance. When effective, nonlethal methods would disperse birds from the area resulting in a reduction in the presence of those birds at the site.

Lethal methods remove individuals or active nests (nests with eggs or chicks present) of the species causing the damage, thereby reducing the presence of those species in the area and the local population. WS often employs or recommends lethal methods to reinforce nonlethal methods and to remove birds that have been identified as causing damage or posing a threat of damage as part of an integrated approach. The number of birds or active nests removed from the population using lethal methods under the proposed action would be dependent on the number of requests for assistance received, the number of individual birds or active nests involved with the associated damage or threat, and the efficacy of methods employed.

Depredation Permits

Lethal take of individual birds or active nests can occur without a permit (if those species are non-native), during hunting seasons, under 50 CFR 21.43, under §29.1-529 of the Code of Virginia, or through the issuance of depredation permits by the United States Fish and Wildlife Service (USFWS). As part of the application process, the USFWS requires that permittees contact WS to obtain a recommendation (technical assistance) for how to address the wildlife damage problem. WS would evaluate the situation and then issue a recommendation that describes the damage, species involved, number of individual birds

involved, previous actions taken to address the problem and recommendations for how to address the problem. Recommendations could include nonlethal actions and when appropriate, the recommendation that the USFWS issue a depredation permit for lethal actions. However, the USFWS requires that permittees use available nonlethal actions where possible and practical and show these nonlethal actions to be ineffective prior to issuing a permit for lethal actions. The USFWS also requires permittees continue long-term nonlethal actions to eliminate or reduce the need for permitted lethal removal.

Alternative 2 - WS Would Address Bird Damage by Providing Technical Assistance and Nonlethal Direct Operational Assistance

WS could continue to provide those persons requesting assistance with managing damage and threats associated with birds with technical assistance as described in Alternative 1. Additionally, WS could provide direct operational assistance, but would only utilize nonlethal techniques. When the circumstances of a specific damage problem called for the use of lethal methods, WS could recommend that persons: 1) implement lethal methods on their own, 2) use the services of a private nuisance wildlife control agent, 3) use volunteer services of private individuals or organizations (e.g., hunters), or 4) use the services of local law enforcement or animal control authorities (in the case of free-ranging domestic and feral birds).

This alternative would place the immediate burden of lethal operational damage management work on the resource owner, other governmental agencies, private businesses and/or private individuals. Those persons experiencing damage or threats could use those methods legally available to resolve or prevent damage associated with birds as permitted by federal, Commonwealth, and local laws and regulations or those persons could take no action.

Alternative 3 – WS Would Not Address Bird Damage

WS would not conduct technical or direct operational assistance to reduce threats or alleviate damage associated with birds. WS would not be involved with any aspect of managing damage associated with birds. WS would refer all requests for assistance to the USFWS, the Virginia Department of Wildlife Resources (VDWR), the Virginia Department of Agriculture and Consumer Services (VDACS), local law enforcement or animal control authorities and/or private entities. This alternative would not prevent other federal, Commonwealth, and/or local agencies, including private entities from conducting damage management activities directed at alleviating damage and threats associated with birds.

This alternative would place the burden of technical and operational damage management on the resource owner, other governmental agencies, private businesses and/or private individuals. Those persons experiencing damage or threats could use those methods legally available to resolve or prevent damage associated with birds as permitted by federal, Commonwealth, and local laws and regulations or those persons could take no action.

MONITORING

WS 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. Additionally, WS will annually review the EA to ensure that the analyses are sufficient.

REVIEW OF ALTERNATIVES

WS identified no significant cumulative environmental impacts from any of the three alternatives, including the proposed action. Under the proposed action, WS' lethal removal of birds would not have significant impacts on statewide bird populations when known sources of mortality were considered. WS identified no risk to public safety from providing services to requesting individuals 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 if persons rejected assistance and recommendations under Alternative 2 and conducted their own activities, or when WS provided no assistance under Alternative 3. However, under all 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 Environmental Impact Statement (EIS).

Based on the analyses in the EA, selecting Alternative 1 and applying the associated protective measures best addresses the need for action and the identified issues. 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 threatened and endangered (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. WS may provide further analysis 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 Commonwealth, 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 associated protective measures.

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' protective measures 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 may be 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, the effects of the proposed damage management program on the human environment would not be significant. The possible effects of the proposed activities on the quality of the human environment are not highly uncertain and do not involve unique or unknown risks. This EA uses conservative population estimates and evaluates the upper limit of take to provide upper bounds on the impacts that might occur. Consultation and coordination with state and federal agencies with management responsibility for preserving sustainable populations of target and nontarget species and ecosystems, in addition to project monitoring, helps ensure that program activities do not have significant unintended adverse impacts. The proposed activities are routinely employed to alleviate wildlife damage across WS.
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.
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 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, WS would continue to provide effective and practical technical assistance and direct management techniques that reduce damage and threats of damage.

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

Date

APPENDIX A
LITERATURE CITED

USDA (U.S. Department of Agriculture). 2021. Environmental Assessment: Managing Damage to Resources and Threats to Human Health and Safety Caused by Birds in the Commonwealth of Virginia. USDA, APHIS, WS, Moseley, VA.

APPENDIX B RESPONSES TO COMMENTS

This Appendix contains substantive issues raised by the public during the comment period for the 2021 Virginia bird damage management EA and the WS response to each of the issues. A substantive comment provides new information about the proposed action, an alternative, or the analysis; identifies an alternative and reasonable suggestion to solve the problem; points out a specific flaw in the analysis; suggests alternate methodologies and the reason(s) why they should be used; makes factual corrections or identifies a different source of credible research which, if used in the analysis, could result in different effects.

Substantive 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. I can't deny that managing the bird population is the easiest and most economical way to solve the problem, but birds play critical roles in our ecosystem. Birds are critical in pest control, waste control, pollinating, and seed spreading. Other than managing the bird population, returning the habitats to birds may be another approach to reduce human-wildlife conflicts. One of the main reasons that we destroy the birds' habitat is agricultural overproduction. According to Journal of Sustainable Agriculture, the world's farmers produce enough food to feed 1.5x the global population. That's enough to feed 10 billion, and we are at 7.5 billion currently. In the United States, 40% food is wasted.**

WS does not have the authority to dictate habitat use or agriculture production to the public. WS does provide technical assistance to resolve wildlife conflicts that include crop selection and scheduling, habitat management recommendations, and human behavior modifications. Appendix E in the EA described these nonlethal technical assistance options.

- 2. We should not destroy things just because they don't hold enough value to us. By us enacting a population control on these birds, we would be inflicting more damage to them than they ever have to humans.**

Page 157 of the EA, Issue 5 – Effects of Damage Management Activities on the Aesthetic Values of Birds, provides a detailed analysis on the effects of wildlife damage management to values placed on birds. The commenter's suggestion that the proposed action inflicts more damage to birds than damage incurred by humans is subjective. WS found no significant impacts from any of the alternatives for this issue.

- 3. No species regardless of circumstances should be subjected to cruel neurotoxins such as AVITROL, especially when alternatives exist. This neurotoxin also indiscriminately poisons other important species such as hawks, cats, and dogs.**

Section 2.3, page 147, and Appendix E provide detailed descriptions of WS protective measures and the Avitrol hazard profile that minimize initial or secondary poisoning to nontarget wildlife and domestic animals.