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Marketing and
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Animal and
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FINDING OF NO SIGNIFICANT IMPACT

and

DECISION

for the

BIRD DAMAGE MANAGEMENT IN WASHINGTON EA

NOVEMBER 2011

INTRODUCTION

In September 2011, Washington (WA) WS released an Environmental Assessment (EA) entitled "Bird Damage Management in Washington"¹ to facilitate planning, interagency coordination, streamline program management, evaluate and determine if any potentially significant or cumulative impacts could occur, and to clearly communicate to the public the analysis of WS' proposed and continued adaptive integrated bird damage management (BDM) program. The EA documented the need for adaptive BDM in WA, assessed potential impacts of various alternatives to reduce risks to human health and safety (HHS) and respond to property and natural resource damage associated with bird activities, and this EA supersedes² several other WS BDM related EAs. WA WS proposed alternative was to "Continue the Current WA WS Bird Damage Management Program, Nonlethal³ Preferred Over Lethal Control." Under this alternative, WS would use an Integrated Wildlife Damage Management (IWDM) approach, commonly known as Integrated Pest Management (WS Directive 2.105⁴) in which a combination of methods may be used or recommended to reduce damage, but preference would be given to nonlethal methods (WS Directive 2.101). Some of the types of bird damage that resource owners/managers seek to alleviate are: 1) hazards to aviation at airports (*i.e.*, aircraft/bird strikes), 2) HHS threats (*i.e.*, aircraft/bird strikes, disease risk), 3) natural resources protection (*i.e.*, protection of threatened and endangered (T&E) salmonid smolt and eulachon) and 4) reduction of property damage. The WA WS program would conduct conflict reduction activities with various methods on various land classes in WA, as needs arise and as requested.

WS also consulted, and will continue to consult, with the U.S. Fish and Wildlife Service (USFWS) and WA Department of Fish and Wildlife (WDFW) to help evaluate impacts to birds and State wildlife populations and resources, and to ensure that the proposed action is in compliance with relevant laws, regulations, policies, orders and procedures, including: 1) the Endangered Species Act (ESA) of 1973, the Migratory Bird Treaty Act (16 U.S.C. §§ 703-712,

¹ Ordinarily individual WS damage management actions are categorically excluded and do not require an EA (7 CFR 372.5(c), 60 Fed. Reg. 6000-6003, 1995). However, to facilitate good planning and communication and to disclose the analysis of impacts, this EA was prepared.

² 1) Bird Damage Management (BDM) in the State of Washington associated with "depredating" nonnative (invasive) birds, feral domestic waterfowl, non-migratory birds, and those migratory birds as provided for in 50 Code of Federal Regulations (CFR)] (November 2000), 2) The Management of Damage Caused by Migratory Birds in the State of Washington (Migratory Bird) EA (October 2001), 3) The Piscivorous Bird EA (June 2003), 4) The management of predatory birds under the Predator Damage Management in Washington EA (May 2010), and 5) Management of Conflicts Associated with Non-migratory (resident) Canada Geese in the Puget Sound Area EA evaluated the issues and alternatives for reducing resident Canada goose damage and developed management options in the greater Puget Sound area (See "Relationship of the EA to other environmental documents").

³ In many situations, the implementation of non-lethal methods such as exclusion-type barriers, habitat modification, and repellents would be the responsibility of the requestor to implement.

⁴ WS Policy Manual provides guidance for WS personnel to conduct wildlife damage management through Program Directives. WS Directives referenced in this Decision document can be found at <http://www.aphis.usda.gov/ws/wsdirectives.html>.

as amended), the Migratory Bird Reform Act of 2004, the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. Sec. 712), 2) Executive Orders (EO) 13186⁵, and 3) MOUs between USFWS and WDFW and WS. This Decision and Finding of No Significant Impact (FONSI) are based on the analysis in the EA and consultation with the USFWS, the National Oceanic and Atmospheric Administration (NOAA) Fisheries and WDFW. The EA and supporting documentation⁶ are available for review at the USDA-APHIS-WS, WA State Office, 720 O'Leary Street NW, Olympia, WA 98502.

BACKGROUND

The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA-APHIS), Wildlife Services (WS) is the Federal agency directed by law and authorized by congress to reduce damages to agricultural and natural resources, property and to resolve public health and safety concerns cause by wildlife⁷. The primary statutory authorities for the WS program are the Act of March 2, 1931 (46 Stat. 168; 7 U.S.C. §426-426b) as amended, and the Act of December 22, 1987 (101 Stat. 1329-1331, 7 U.S.C. §426c).

Under the Act of March 2, 1931, as amended, and 7 U.S.C. §426c, APHIS may carry out wildlife damage management programs or enter into cooperative agreements with states, local jurisdictions, individuals, and public and private agencies whereby they may fund and assist in carrying out such programs. WS activities are conducted at the request of and in cooperation with other federal, state, and local agencies, private organizations, and individuals. Accordingly, WS' authorities support and authorize its mission of providing federal leadership and expertise to reduce problems caused by injurious or nuisance wildlife⁸ and other problems related to wildlife. Wildlife damage management is the alleviation of damage or other problems caused by or related to the presence of wildlife, and is recognized as an integral part of wildlife management (The Wildlife Society 2004).

AGENCY AUTHORITIES and RELEVANT LAWS, EXECUTIVE ORDERS and REGULATIONS

Under various acts of Congress, Executive Orders (EOs), and Code of Federal Regulations (CFR), WS, as requested, is authorized and directed to carry out damage management programs necessary to protect the nation's resources. The USFWS is the primary federal agency responsible for conserving, protecting, and enhancing the nation's fish and wildlife, and their habitats. WS also consulted and cooperates with other federal and state agencies, as appropriate, to ensure that WS activities are carried out in compliance with applicable federal and state laws. Some of these regulations, authorities and acts are:

- Under the Act of March 2, 1931, Public Law No. 100-202, Public Law 106-387, October 28, 2000. Stat. 1549 (Sec 767) and the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001 the Secretary of Agriculture may carry out damage management programs alone, or enter into cooperative agreements with states, local jurisdictions,

⁵ Executive Order 13186 directs federal agencies to protect migratory birds and strengthen migratory bird conservation by identifying and implementing strategies that promote conservation and minimize the take of migratory birds through enhanced collaboration between WS and the USFWS, in coordination with state, tribal, and local governments. A National-level MOU between the USFWS and WS is being developed to facilitate the implementation of Executive Order 13186.

⁶ The EA incorporates by reference information in the WS programmatic Environmental Impact Statement (EIS) (USDA 1997). Copies of the EIS are available from the USDA/APHIS/WS, Operational Support Staff, 4700 River Road, Unit 87, Riverdale, MD 20737-1234.

⁷ WS is a cooperatively-funded, service-oriented program that only responds to requests from public and private entities to protect resources after an Agreement for Control or other comparable document is signed by the property owner/administrator (WS Directives 3.101 and 3.110). WS assists the USFWS, FAA, BOR, USACE, NMFS, ODFW, WDFW and WDOT, and other agencies to resolve human-wildlife conflicts if requested and a need is established.

⁸ WS wildlife damage management is not based on punishing offending animals but as one means of reducing damage and is used as part of the WS Decision Model (Slate et al. 1992, USDA 1997, WS Directive 2.201).

individuals and public and private agencies whereby they fund and assist in carrying out such programs. The Secretary has delegated this authority to APHIS; within APHIS the authority resides with WS.

- The *USFWS* is the primary federal agency responsible for conserving, protecting, and enhancing the nation's fish and wildlife resources and their habitats.
- *Federal Aviation Administration*⁹ is the federal agency responsible for developing and enforcing air transportation safety regulations and is authorized to reduce wildlife hazards at commercial and non-commercial airports (14 CFR, Part 139.337). A MOU, developed in 1998 between the FAA and WS, established a cooperative relationship between the agencies to resolve wildlife hazards to aviation.
- The *U.S. Army Corps of Engineers* operates select dams along the Columbia and Snake Rivers.
- The *Bureau of Reclamation*, founded by the Reclamation Act of 1902, oversees water resource management, including several hydroelectric facilities along the Columbia and Snake Rivers in WA.
- *National Marine Fisheries Service* is responsible for ensuring that hydroelectric facilities do not compromise the survival of migrating salmon and steelhead under the ESA and the Magnuson-Stevens Fishery Conservation and Management Act.
- *Oregon Department of Fish and Wildlife*'s mission is to protect and enhance Oregon's fish and wildlife and their habitats for use and enjoyment by present and future generations.
- *WA Department of Fish and Wildlife* has the commission to "preserve, protect, perpetuate, and manage wildlife..." in the state under the Revised Code of WA (RCW) 77.04.012.
- *WA Department of Transportation*'s authority for managing transportation in the State is derived from RCW 47.01.011.

Compliance with Federal Laws, Executive Orders and Regulations

- *National Environmental Policy Act*: All federal actions are subject to NEPA (Public Law 91-190, 42 U.S.C. 4321 et seq.). WS follows the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR 1500 et seq.), USDA (7 CFR 1b), and WS follows the APHIS Implementing Guidelines (7 CFR 372) as a part of the decision-making process.
- *Endangered Species Act*: Under the ESA, all federal agencies are charged with a responsibility to conserve T&E species and to utilize their authorities in furtherance of the purposes of the ESA (Sec.2(c)). WS conducts Section 7 consultations with the USFWS to utilize the expertise of the USFWS to ensure that, "*Any action authorized, funded or carried out by such an agency . . . is not likely to jeopardize the continued existence of any endangered or threatened species . . .*" (Sec.7 (a) (2)). WS conducts formal Section 7 Consultations with the USFWS and NOAA Fisheries at the national level (USDI 1992) and consultations with the USFWS at the local level, as appropriate.
- The *Migratory Bird Treaty Act of 1918* (16 U.S.C. 703-711; 40 Stat. 755), as amended, provides the USFWS regulatory authority to protect species of birds that migrate outside the United States. The law

⁹ The FAA is empowered to issue airport operation certificates to airports serving air carriers, and to establish minimum safety standards for the operation of airports. Some of these regulations and policies directly involve the management of wildlife and wildlife hazards on and/or near airports (FAR 139.337).

prohibits any "take" of these species by private entities, except as permitted by the USFWS; therefore the USFWS issues permits for reducing bird damage (50 CFR 21.41). European starlings (*Sturnus vulgaris*), feral pigeons (*Columba livia*), house sparrows (*Passer domesticus*) and domestic/feral birds are not classified as protected migratory birds and therefore have no protection under the MBTA. USFWS Depredation Permits are also not required for yellow-headed blackbirds (*Xanthocephalus xanthocephalus*), red-winged blackbirds (*Agelaius phoeniceus*), Brewer's blackbirds (*Euphagus cyanocephalus*), American crow (*Corvus brachyrhynchos*), northwestern crow (*C. caurinus*), fish crows (*C. ossifragus*), cowbirds (*Molothrus* spp.), grackles (*Quiscalus* spp.), and magpies (*Pica* spp.) "found committing or about to commit depredation upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance" (50 CFR 21.43). One additional exemption to USFWS Depredation Permits is found in 50 CFR 21.46: "Landowners, sharecroppers, tenants, or their employees or agents actually engaged in the production of nut crops in WA and Oregon may, without a permit, take scrub jays (*Aphelocoma coerulescens*) and Steller's jays (*Cyanocephalus cyanocephalus*) when found committing or about to commit serious depredations to nut crops on the premises owned or occupied by such persons..." This exemption applies only to the WA counties of Clark, Cowlitz and Lewis, and only between August 1 and December 1 of any year. In other locations in WA, for other reasons, or at other times of the year, control of these species would be subject to MBTA permitting requirements.

- *Bald and Golden Eagle Protection Act (BGEPA)* (16 U.S.C. §§ 668-668d, June 8, 1940, as amended 1959, 1962, 1972, and 1978): The BGEPA prohibits the taking or possession of and commerce in bald and golden eagles, with limited exceptions. Take includes pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb. Transport includes convey or carry by any means; also deliver or receive for conveyance.
- *National Historical Preservation Act (NHPA)* of 1966, as amended: The NHPA and its implementing regulations (CFR 36, 800) require federal agencies to initiate the section 106 process if an agency determines that the agency's actions are undertakings as defined in Sec. 800.16(y) and, if so, whether it is a type of activity that has the potential to cause effects on historic properties. If the undertaking is a type of activity that does not have the potential to cause effects on historic properties, assuming such historic properties were present, the agency official has no further obligations under section 106.
- *Native American Graves Protection and Repatriation Act*: The Native American Graves Protection and Repatriation Act requires federal agencies to notify the Secretary of the Department that manages the federal lands upon the discovery of Native American cultural items on federal or tribal lands. Federal projects would discontinue work until a reasonable effort has been made to protect the items and the proper authority has been notified.
- *Occupational Safety and Health Act of 1970*: The Occupational Safety and Health Act of 1970 (OSHA) and its supplementing regulations (29CFR1910) on sanitation standards states that "Every enclosed workplace shall be so constructed, equipped, and maintained, so far as reasonably practical, as to prevent the entrance or harborage of rodents, insects, and other vermin. A continuing and effective extermination program shall be instituted where their presence is detected." This standard includes birds that may cause safety and health concerns at workplaces.
- *Environmental Justice and Executive Order (EO) 12898* - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations: Environmental Justice has been defined as the pursuit of equal justice and equal protection under the law for all environmental statutes and regulations without discrimination based on race, ethnicity, or socioeconomic status. The nature of WS' BDM activities is such that they do not have much, if any, potential to result in disproportionate

environmental effects on minority or low-income populations. Therefore, no such adverse or disproportionate environmental impacts to such persons or populations are expected.

- *Executive Order 13045 - Protection of Children from Environmental Health and Safety Risks:* Children may suffer disproportionately from environmental health and safety risks, including their developmental physical and mental status, for many reasons. Based on the Risk Assessment (USDA 1997, Appendix P), WS concluded that when program chemicals and non-chemical methods are used following label directions, normally accepted safety practices, and WS standard operating procedures, such use has negligible impacts on the environment or on HHS, which includes the health and safety of children.
- *Executive Order 13112 - Invasive Species:* Authorized by former President Clinton, EO 13112 establishes guidance to federal agencies to prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause. The EO, in part, states that each federal agency whose actions may affect the status of invasive species shall, to the extent practicable and permitted by law: 1) reduce invasion of exotic species and the associated damages, 2) monitor invasive species populations and provide for restoration of native species and habitats, 3) conduct research on invasive species and develop technologies to prevent introduction, and 4) provide for environmentally sound control and promote public education on invasive species.
- *Executive Order 13186 and MOU between USFWS and WS:* EO 13186 directs federal agencies to protect migratory birds and strengthen migratory bird conservation by identifying and implementing strategies that promote conservation and minimize the take of migratory birds through enhanced collaboration between WS and the USFWS, in coordination with state, tribal, and local governments. A national-level MOU between the USFWS and WS has been drafted to facilitate the implementation of EO 13186.

AFFECTED ENVIRONMENT

BDM actions conducted by WA WS could occur on private, federal, state, tribal, and municipal lands in WA to protect resources from bird damage, as requested and as needs arise. The affected environment includes, but is not necessarily limited to, areas in and around agricultural and industrial areas, hydroelectric dams, livestock facilities, rural and urban areas, and airports wherever birds are found causing damage to resources or posing threats to resources and HHS. Areas may include federal, state, county, city, private, or other lands, where WS' assistance has been requested by a landowner or manager to reduce bird damage. The areas affected by the current program may also include property adjacent to identified sites where birds or threats to HHS could occur¹⁰.

MAJOR ISSUES IDENTIFIED in the EA

The following environmental issues were identified as relevant and were analyzed in detail in Chapter 4 of the EA:

- Effect of methods on non-target and ESA-listed species.
- Effect of methods on populations of target species.
- Effectiveness of BDM Program in Washington.
- Humaneness of methods.

¹⁰ Permits will be issued by USFWS prior to any WS human/bird conflict reduction actions on bird species protected by the MBTA or actions would be compliant with a DO, as appropriate.

ALTERNATIVES ANALYZED in DETAIL

Four alternatives, ranging from the current program to no program, were analyzed in the EA in relation to the issues analyzed in detail identified above. The following summary provides a brief description of the each alternative and its anticipated impacts.

Alternative 1 – Continue the Current WA WS Bird Damage Management Program, Nonlethal Preferred Over Lethal Control (No Action/Preferred Alternative).

Alternative 1 is the “No Action” Alternative. The “No Action” Alternative is a procedural NEPA requirement (40 CFR 1502.14(d)), and is a viable and reasonable alternative that could be selected. This alternative was used as the baseline for comparison with the other alternatives. Therefore, information and descriptions provided under this alternative and under the analysis of its possible environmental effects may be extended to the other alternatives. WA WS provides assistance statewide, including but not limited to requests for assistance in natural resource, HHS, property, and agricultural protection. Management methods would be similar to those currently used but could include new technology or methods as they are developed and proven effective. While WS cannot anticipate everywhere it may be requested to work, the EA analyzes the effects from existing actions while trying to forecast potential needs for assistance and analyzes the impacts from those potential actions. Substantial changes or additions to the current program would be dependent on the addition of funds and support of property owners and other agencies and would be subject to further NEPA analysis, as appropriate.

This alternative consists of the current statewide program of adaptive IWDM technical assistance (TA) and operational BDM on federal, state, county, city, and private lands under Cooperative Agreement, Agreement for Control, or other comparable documents. Preference is given to practical and effective nonlethal methods when determining the damage management strategy (WS Directive 2.101). However, not all nonlethal methods are practical and effective for every damage situation. The current program employs methods specific to the risk/level of damage being caused and species involved. Operations under this alternative are directed at alleviating damage and not intended to control populations of any native species.

WS uses the most effective and biologically sound damage management methods (*i.e.*, IWDM) to resolve bird damage conflicts. In general terms, BDM is comprised of practical and effective methods to resolve a particular wildlife problem. The methods may include recommending the alteration of habitat and cultural practices, exclusion devices, nonlethal harassment, and/or lethal removal. Methods are implemented at the field level according to WS Directives 2.101 and 2.105, through the WS Decision Model (Slate et al. 1992), and guided by permits, laws and regulations, and consultations. WS BDM activities are coordinated, when appropriate, with the USFWS, NOAA Fisheries and WDFW to avoid adverse effects.

Alternative 2 – Implement All Nonlethal Methods Before Using Lethal Methods

Alternative 2 would require that all nonlethal methods described in the EA be implemented before any lethal methods are used by WS, replacing the professional judgment applied under the WS Decision Model (Slate et al. 1992) used in Alternative 1. This alternative differs from Alternative 1 in that it would require WA WS to use every nonlethal method described in the EA and find them to be inadequate/ineffective for each damage situation before lethal methods could be implemented. Even if nonlethal methods are determined to be inappropriate or ineffective, they would need to be implemented before lethal actions are used. The only exception when lethal control may be applied first, under this alternative, would be instances where it is necessary to resolve an immediate life threatening situation.

Alternative 3 - Technical Assistance BDM Program Only

Under this Alternative, WS could not conduct operational BDM activities in WA. If requested, WS could only offer TA. Alternative 3 is a modification of Alternative 1, wherein no operational BDM would be provided by WS. However, WS could recommend operational BDM, but it would be implemented by the affected agency or resource owner (e.g., home or business owner). WS would use the WS Decision Model (Slate et al. 1992) to determine recommendations.

Alternative 4 - No WS BDM Program

Under this Alternative, WS' role in BDM in WA would be terminated. Affected agencies and resource owners would need to contact other wildlife management agencies/service providers or would be left to their own devices to stop/reduce damage caused by birds.

ALTERNATIVES ELIMINATED from DETAILED CONSIDERATION

- Lethal Methods Only Alternative
- Eradication of Native Bird Species Alternative
- Wildlife Damage Must Be an Accepted Loss Alternative

MONITORING

The WA WS program would continue to provide the USFWS and WDFW WS' take data, as required by permit, to help ensure the total statewide take (WS take and sport harvest) does not impact the viability of any native bird populations, as determined by the USFWS and WDFW. The current annual take of select birds by WS is well below the thresholds identified in the EA and issued permits, and therefore is not having an impact on the viability of bird populations or population trends and the quality of the human environment.

RELATIONSHIP of the EA to OTHER ENVIRONMENTAL DOCUMENTS

WS' Programmatic Environmental Impact Statement (EIS) - WS issued a final EIS that addressed the need for wildlife damage management in the United States (USDA 1997) and Record of Decision (ROD) on the USDA APHIS WS nationwide program. The final EIS (USDA 1997) discussed BDM at the nationwide level and concluded that nationwide the WS program did not impact bird populations. Pertinent portions of the EIS are incorporated by reference.

Resident Canada Goose EIS - The USFWS prepared a Resident Canada Goose EIS in cooperation with WS in response to growing impacts from overabundant populations of resident Canada geese (USFWS 2006). Alternatives were fully described and evaluated in the Final EIS, and a ROD and Final Rule were published by the USFWS on August 10, 2006 (Federal Register Vol. 71, No. 154: 45964- 45993). In accordance with the CEQ regulations (40 CFR 1506.3), WS adopted the Final EIS to support program decisions for involvement in resident Canada geese damage reductions. On August 10, 2006, WS issued a ROD on the Resident Canada Goose Management EIS. As described in the ROD, WS will take action under the rules, depredation orders, and permits, in coordination with USFWS and WDFW to reduce resident Canada goose damage in WA. Pertinent portions of the EIS are incorporated by reference.

Bird Damage Management (BDM) in the State of Washington (As associated with "depredating" non-native (invasive) birds, feral domestic waterfowl, nonmigratory birds, and those migratory birds as provided for in 50 Code of Federal Regulations (CFR) EA evaluated ways by which WS

responsibility could be carried out to resolve conflicts with non-native (invasive) birds, feral domestic waterfowl, nonmigratory birds, and those migratory birds as provided for in Depredation Orders 50 CFR Ch. 1, §21.42, §21.43, and §21.46 in WA. Pertinent portions of the EA are incorporated by reference.

Alternative Strategies for the Management of Damage Caused by Migratory Birds in the State of Washington (Migratory Bird) EA evaluated proposed management activities to reduce or alleviate damage to agriculture, property, natural resources, and HHS caused by migratory birds. This EA examined potential environmental impacts of the proposed WS program and alternatives, as it responds to requests from individuals, businesses, associations, and government agencies to alleviate or reduce actual and potential damage, and to develop future management options for the State of WA. Pertinent portions of the EA are incorporated by reference.

Piscivorous Bird Damage Management for the Protection of Juvenile Salmonids on the Mid-Columbia River EA was based on the conclusions and mitigation measures analyzed in the United States Department of Commerce/National Oceanic and Atmospheric Administration/National Marine Fisheries Service Final EIS for Anadromous Fish Agreements and Habitat conservation Plan (NMFS 2002). The EA analyzed WS' proposal to reduce fish-eating (piscivorous) bird threats to juvenile salmonid survival at the hydroelectric dams and hatchery facilities on the mid-Columbia River as part of a comprehensive strategy outlined in NMFS (2002). Pertinent portions of the EA are incorporated by reference.

PUBLIC COMMENT/INVOLVEMENT

As part of a public review and comment process, the EA was made available to the public for a 30-day comment period through a NOA published for 3- consecutive days from October 3 through October 5, 2011 in The Olympian, the paper used for notices by WS in WA (Fed. Reg. 72:13237-13238, March 21, 2007). NOAs were also sent to interested parties to inform them that the EA was available for comment. The EA was also available to the public at the APHIS website at: http://www.aphis.usda.gov/regulations/ws/ws_nepa_public_notice_WA.shtml, or at regulations.gov: <http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0103-0001>. A NOA for the FONSI will be published in the same manner. Copies of the previous EAs and FONSI/Decisions may be obtained from the USDA-APHIS-WS, WA State Office, 720 O'Leary St NE, Olympia, WA 98502.

Comments Received from the Public on the Bird Damage Management in Washington EA

Three individuals commented during the public review period. After reviewing these comments, it was determined that they had already been considered or analyzed in the EA. One commenter supported WS' efforts in BDM, one commenter made two editorial corrections, and the third commenter supported the analysis that the "use of methods by untrained individuals could negatively affect non-target and ESA-listed species" but penalties for violating wildlife conservation and humane laws would become a law enforcement responsibility, and preferred that efforts be directed towards managing "the human species to avoid conflict with wildlife" by "encouraging nature to manage nature."

DECISION RATIONALE

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

The rationale for this Decision is based on several considerations. This Decision takes into account current and previous public comments, social/political and economic concerns, public health and safety, and current science. However, the foremost considerations are that BDM by WA WS will only be conducted at the request of landowners/managers, when a need is demonstrated, when management actions are consistent with applicable laws, regulations, policies and orders, and no adverse impacts from management actions were identified in the analysis. As a part of this FONSI, the WA WS program will continue to provide effective and practical TA and operational management that could reduce damage as coordinated with USFWS and WDFW. While Alternative 1 does not require non-lethal methods to be used in every situation, WS will continue to consider the use of nonlethal methods and provide information, and encourage the use of practical and effective non-lethal methods, when appropriate (WS Directive 2.101¹¹). As a part of this Decision, the WA WS program will provide information to requesters on biological and non-lethal management techniques that could reduce damage.

FINDING OF NO SIGNIFICANT IMPACT


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

1. BDM as conducted by WS in WA is not regional or national in scope.
2. WA WS BDM would pose minimal risk to public health and safety. No injuries to any member of the public are known to have resulted from WS bird management activities in WA.
3. There are no unique characteristics such as park lands, prime farm lands, wetlands, wild and scenic areas, or ecologically critical areas which would be significantly affected.
4. The effects on the quality of the human environment are not highly controversial. Although there is some opposition to BDM, the expected environmental effects associated with implementing the WA WS BDM program are not controversial among experts.
5. Based on the analysis in the EA and the accompanying administrative file, the effects of the proposed BDM program on the human environment would not be significant. The effects of the proposed activities are not highly uncertain and do not involve unique or unknown risks. Current WS BDM activities have been occurring for decades in WA with no significant adverse environmental impacts.
6. The WA WS BDM program would not establish any precedent for any foreseeable future actions with significant effects.
7. No significant cumulative effects were identified through this assessment. The number of animals taken by WS, when added to the total known other take of all species and population estimates or trends falls well within the allowable harvest levels.
8. The WA WS BDM program would not affect districts, sites, highways, structures or objects listed in or eligible for listing in the National Register of Historic Places, nor would they likely cause any loss or destruction of significant scientific, cultural, or historical resources.
9. WA WS program determined No Effect for T&E species protected by USFWS and has reconsulted with NOAA Fisheries for BDM activities to protect T&E fish. The WA WS program determined may affect, not likely to adversely affect for T&E fish, because WS actions have a positive effect on T&E fish. NOAA concurred with this determination in February 2003 for similar actions but in a smaller project scope. WA WS anticipates concurrence from NOAA Fisheries for this action.
10. The WA WS BDM program would be in compliance with all federal, state, and local laws imposed for the protection of the environment.

¹¹ WS Policy Manual provides guidance for WS personnel to conduct wildlife damage management through Program Directives. WS Directives referenced in this Decision document can be found at <http://www.aphis.usda.gov/ws/wsdirectives.html>.

DECISION

I have carefully reviewed the EA and the input provided during the public involvement process. None of the public comments changed the analysis; therefore I have also adopted the EA as final. I believe the continued implementation of Alternative 1 will provide the best overall approach to address the issues identified in the WA BDM program while also providing for a program which will best meet the needs of cooperating agencies, organizations, and individuals who may request WS assistance. Continued implementation of Alternative 1 will involve the use of no additional BDM methods beyond what are already used in the current program. For additional information regarding this Decision, please contact the WA WS State Office, 720 O'Leary Street NW, Olympia, WA 98502.


Jeffrey S. Green, PhD
Western Regional Director
USDA-APHIS-WS

Date

11/14/11

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