

Finding of No Significant Impact and Decision for Bird Damage Management in Colorado

The U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS) program responds to a variety of requests for assistance from individuals, organizations, and agencies experiencing damage caused by wildlife in Colorado. WS activities are conducted in cooperation with other federal, state, and local agencies, as well as private organizations and individuals. Ordinarily, according to APHIS procedures implementing the National Environmental Policy Act (NEPA), individual wildlife damage management (WDM) actions may be categorically excluded (7 CFR 372.5(c), 60 Fed. Reg. 6000-6003, 1995). However, WS prepared an environmental assessment (EA) to comply with APHIS NEPA implementing regulations and interagency agreements, to facilitate planning, interagency coordination, streamline program management, and to involve the public. The EA, released by the Colorado WS Program November 28, 2012, documented the need for bird damage management (BDM) in Colorado and assessed potential impacts of various alternatives in relation to issues analyzed for responding to bird damage problems.

The proposed action was to allow the use of all BDM methods on any lands authorized in the State for the protection of agriculture, property, natural resources, and public safety. WS cooperates closely with the Colorado Department of Agriculture (CDA), Colorado Parks and Wildlife (CPW), and U.S. Fish and Wildlife Service (USFWS), and other agencies as necessary. In Colorado, most bird species are protected and managed by USFWS and CPW. WS, under the necessary USFWS and CPW permits, assists landowners, local governments, and organizations to resolve bird damage problems. WS would also assist public entities and Tribes with BDM when requested.

The EA evaluated ways that BDM could be carried out to resolve conflicts with bird species in Colorado. BDM is an important function of WS. Appendix C listed all bird species that have been found in Colorado with Table C1 listing those species that have the highest probability of coming into conflict with people in Colorado or being part of disease surveillance projects.

WS is a cooperatively funded and service oriented program. Before operational BDM is conducted, *Agreements for Control* or *WS Work Plans* must be signed by WS and the land owner/administrator. WS cooperates with private property owners and managers and with appropriate land and wildlife management agencies, as requested, with the goal of effectively and efficiently resolving wildlife damage problems in compliance with all applicable federal, state, and local laws.

Public Involvement

Nine draft EAs were sent to agencies with professional expertise and regulatory authority covering different aspects of the EA for their review and comments. The comments that were received from these agencies were incorporated into the EA. Following interagency review of the draft EA, an EA was prepared and released to the public for a 34-day comment period. A Notice of Availability which included a link to view the EA, as well as an address and phone number to obtain a hard copy of the EA, was sent directly to 67 interested parties on National and State mailing lists compiled from direct requests for WS EAs and previous NEPA document mailings including Native American Tribes, agencies, interested groups, and individuals. A "Notice of Availability" of the predecisional EA was published in the Denver Post, the newspaper with statewide coverage, for 3 consecutive days, November 30-December 2, 2012. The EA was also made available for public review at the WS State Office at 12345 W Alameda Pkwy., Suite 204, Lakewood, CO 80228 or from requests received by personal contact at the office or via telephone ((303) 236-5810), mail, or e-mail. No member of the

public requested a copy of the EA as a result of the legal “Notice of Availability.” The deadline for comments was December 31, 2012.

Public Comments

Two comment letters were received in response to the Notices of Availability or mailings for the EA. One comment letter was received from the People for the Ethical Treatment of Animals and the other from a Colorado Airport.

Major Issues

Cooperating agencies and the public have helped identify a variety of issues deemed relevant to the scope of this EA. These issues were consolidated into the following 4 primary issues that were considered in detail in the predecisional EA:

- Effects of BDM on Target Bird Species Populations
- Effects of BDM on Nontarget Species, Including Threatened and Endangered (T&E) Species
- Effects of BDM on Public and Pet Safety and the Environment
- Effects of BDM on Aesthetics

Affected Environment

The proposed action was to continue conducting BDM where birds are causing damage to agriculture, property, natural resources or public health and safety to private, public, and Tribal properties and resources in Colorado. BDM will only be conducted where the appropriate *Agreement for Control* or *Work Plan* is in place allowing BDM methods to be used and at the request of private landowners, CDA, CPW, Tribe, or other agency that manages land or resources in need of protection. The current program’s goal and responsibility is to provide service when requested within the constraints of available funding and manpower.

Alternatives Analyzed in Detail

Four potential alternatives were developed to address the issues identified above. Six additional alternatives were given, but not analyzed in detail. A detailed discussion of the anticipated effects of the alternatives on the objectives and issues is described in Chapter 4 of the EA. The following summary provides a brief description of each alternative and its anticipated impacts.

Alternative 1. Integrated BDM Program (the Proposed Action/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. Consideration of the No Action alternative is required under 40 CFR 1502.14(d), and provides a baseline or the environmental *status quo* for comparing the potential effects with the other alternatives. In this EA, the No Action Alternative is consistent with CEQ’s definition.

In the case of the BDM EA for Colorado, the No Action Alternative was the equivalent of the Proposed Action Alternative and the Current Program. Alternative 1 was determined to benefit individual resource owners/managers, while resulting in only minimal levels of impact to target and nontarget wildlife populations including T&E species, very low risks to or conflicts with the public, pets, and the environment, minimal potential to disrupt the enjoyment of wildlife for the public, but positive improvements of the aesthetic values of properties and other resources damaged by birds. Current

lethal methods available for use are highly selective for target species and appear to present a balanced approach to the issue of humaneness when all facets of the issue are considered. WS responds to requests for BDM to protect human health and safety, agricultural crops and resources, property, natural resources, T&E species, and forestry in Colorado. To meet the goal, WS has the objective of responding to all requests from individual and corporate landowners, CDA, CPW, other public agencies, and Tribes for assistance with, at a minimum, technical assistance or self-help advice, or, where appropriate and where cooperative or congressional funding is available, direct damage management assistance with professional WS Specialists conducting damage management actions. An Integrated WDM approach would be implemented which allows the use of any legal technique or method, used singly or in combination, to meet the needs of requestors for resolving conflicts with birds. Agricultural producers and others requesting assistance would be provided with information regarding the use of effective nonlethal and lethal techniques. In many situations, the implementation of nonlethal methods such as exclusion-type barriers would be the responsibility of the requestor to implement which means that, in those situations, the only function of WS would be to implement methods difficult for the requestor to implement, if determined to be necessary. BDM implemented by WS would be allowed in the State, when requested, on private property sites, public facilities or other locations where a need has been documented, upon completion of an *Agreement for Control or Work Plan*. In addition, lethal management actions would require a bird take permit from USFWS or CPW, depending on the species being controlled. All management actions would comply with appropriate Federal, state, and local laws.

Alternative 2. Nonlethal BDM Only. Under this alternative, WS would use only nonlethal methods to reduce damage by birds. Private landowners and state agencies would still have the option of implementing their own lethal control measures with the appropriate USFWS or CPW permit. Risks to or conflicts with target species would be about the same as Alternative 1. Risks to public and pet safety, the environment, and nontarget and T&E species, on the whole, including private efforts at BDM, would probably be somewhat greater than Alternative 1, but slightly less than or about the same as Alternative 3 or 4 because WS would provide some assistance. Aesthetics would only be minimally affected under this alternative, but would only be slightly positive for resolving damage problems that affect aesthetics, less than under Alternative 1. The hypothetical use of illegal methods could occur as under Alternative 4, but be similar or slightly higher than under Alternative 1.

Alternative 3. Technical Assistance with BDM Only. Under this alternative, WS would not provide any direct control assistance to persons experiencing bird damage problems, but would instead provide advice, recommendations, and limited technical supplies and equipment. Lethal BDM would still occur, but would likely be conducted by persons with little or no experience and training, and with little oversight or supervision. Most persons conducting lethal BDM could obtain bird take permits from USFWS or CPW. It is likely that BDM impacts on the target species, birds would be about the same as under Alternative 1. Risks to public and pet safety, the environment, and nontarget and T&E species would probably be more than Alternative 1, but only slightly more than or about the same as Alternative 2. The effects of BDM on the enjoyment of wildlife would probably be similar to the proposed action, but aesthetic values of resources damaged by birds would be more negatively affected this alternative than Alternative 1. Finally as discussed above, frustrated resource owners that have endured recurring losses may resort to the use of illegal or inappropriate techniques that could result in unknown consequences.

Alternative 4. No Federal BDM Program. This alternative would consist of no federal involvement in BDM in Colorado. Neither direct operational BDM nor technical assistance on BDM techniques would be available from WS. The majority of the formerly federal BDM assistance would be borne by CDA or CPW. Private individuals could increase their efforts if CDA or CPW were unable to respond adequately which means more BDM would be conducted by persons with less experience and training,

and with little oversight or supervision. Risks to the public, pets, nontarget and T&E species, and the environment would probably be greater than under Alternative 1. The enjoyment of wildlife would likely be only minimally affected under this alternative, but aesthetic values of resources damaged by birds would be the most negatively affected under this alternative than any of the other alternatives. Target species take would likely be less, but similar to the Proposed Action Alternative. Lastly, frustrated resource owners that have endured recurring losses may resort to the use of illegal or inappropriate techniques that could result in unknown consequences, and would likely be highest under this alternative.

Alternatives Considered, but Not Analyzed in Detail

1. Lethal BDM Only
2. Compensation for Bird Damage Losses
2. Short Term Eradication and Long Term Population Suppression
3. Use of Bird-Proof Feeders in Lieu of Lethal Control at Dairies and Cattle Feeding Facilities
4. Lethal BDM Only by WS
5. Relocation Rather Than Killing Problem Wildlife
6. Biological Control

Comments Regarding the Issues

One commenter provided comments associated with the issues of target take, nontarget take, effects to pets and the environment, and humaneness in the EA which will be addressed here. The comments were that: (1) Lethal methods fail to keep birds away from areas where they are unwanted and can actually increase populations; (2) Traps set out in the open for nuisance birds and avicides pose grave risks to nontarget wildlife; (3) Avicides pose risks to pets and the environment, including fish; (4) All animals are capable of pain and distress and no animal should be made to suffer a long and agonizing or unnecessary death; (5) Leghold traps and avicides cause immense pain and suffering; and (6) Live birds used in decoy traps suffer from immense stress and exposure or attacked by predators and left to suffer long agonizing deaths.

Lethal Methods Fail to Keep Birds Away and Increase Populations. Sections 2.1.1 and 4.1.1.1 discusses the species targeted by WS and considered all impacts where data was available for target species. The available data for analysis was WS BDM take, permitted depredation take (USFWS), and hunting harvest. The commenter believes lethal methods fail to keep birds away and can actually increase populations because when animals are killed, the supply prompts birds in outlying areas to move in and use the available resources, and survivors and newcomers breed at an accelerated rate. This is an unfounded claim for birds with no literature to support it. There is no question that the removal of birds from an area opens up habitat for new birds to use, but this usually takes some time. The best example is with pigeons where a flock is using a building. Sometimes the best solution would be to remove the local population (exclusion and other nonlethal methods often do not work while the resident population is still around), and then use nonlethal methods such as exclusion from nesting sites, cat-claw on roost structures, and removal of manure and feathers that serve as an attractant. Recolonization could occur, but usually, at most, to a lesser number if at all. This often takes a year or more. Another example would be the removal of starlings from a feedlot. This occurs during late fall through late winter when, for the most part, a finite number of birds are present in a general area. If snow and colder temperatures move starlings into a feedlot and the finite number of birds, though it is often in the thousands, was removed from the entire area, they would not be replaced until birds from other areas migrated into that area. However, if several feedlots are in an area and only one conducts control, then that feedlot will likely get more birds until many of the birds from the area are removed. However, it is likely that the number at the feedlot would be considerably reduced. Starlings are often

not drawn to the same feedlot daily, so more could come to the feedlot, but then surrounding feedlots would have less starlings. This would not affect the number breeding in that area necessarily depending on the number of migrants that was present. However, nesting is often limited by the available nesting habitat. Additionally, since food sources often change from winter to summer (e.g., for starlings, high protein grain in winter to invertebrates during nesting), less starlings at one time of the year does not necessarily equate to increased food supply. Additionally, a feedlot supplies an endless amount of food because what the starlings consume has to be replaced to ensure the cattle are gaining proper weight.

Lastly, WS nationally takes starlings more than any other species and their population is decreasing as discussed in the EA. Even though they are decreasing, we believe that the decrease is more a function of available nesting habitat with better construction rather than removal of starlings.

Thus, we believe that, at times, lethal methods may fail to keep birds away for some projects, but overall they are very effective when used in the right damage situation. We also believe that target species' populations will not increase as a result of BDM projects and an increase in the population could occur from a wide array of factors.

Traps and Avicides Pose Grave Risks to Nontarget Wildlife. We believe that Sections 2.1.2 and 4.1.2 adequately discuss the effects that BDM has on nontarget species was addressed in the EA and refer the commenter to those sections. Additionally, it was found that impacts to nontarget wildlife would be minimal and least under the proposed action.

Avicides Pose Risks to Pets and the Environment. Risks to pets and the environment were adequately discussed in the EA in Sections 2.1.3 and 4.1.4. Following the Environmental Protection Agency labeling requirements, WS believes that avicides pose minimal to nonexistent threats to pets and the environment.

All Animals Are Capable of Feeling Pain and Suffering – No Animal Should Be Made to Suffer Long Agonizing Deaths. Humaneness of BDM was discussed in Section 2.1.5.1 and WS Standard Operating Procedures to minimize pain and suffering were discussed in 3.5.2.5. It has been found that under the current proposed action that pain and suffering would be the least of all of the alternatives. WS strives to minimize pain and suffering of animals taken in BDM.

Leghold Traps and Avicides Cause Immense Pain and Suffering. Modified leghold traps are used on pole traps in BDM to mostly capture and relocate birds from airfields while avicides, mostly DRC-1339, are used primarily to target starlings, pigeons, blackbirds and other birds to protect resources such as feed at confined animal feeding operations and buildings. The leghold traps are typically modified to have minimal tension on them so that a bird's foot is not injured and these are checked frequently (up to several times a day) when in use to get the bird out of the trap quickly for relocation. DRC-1339 causes a quiet death with minimal pain while Avitrol causes convulsions, but animals apparently are unconscious at that point, and thus not painful. In humans (suicide attempt), high doses of Avitrol caused abdominal discomfort and acidosis. Thus, we do not feel that the pain and suffering is that immense. WS realizes that some pain will be felt, but is the least under the proposed action.

Live Birds Used in Decoy Traps Suffer from Immense Stress and Exposure or Attacked by Predators and Left to Suffer Long Agonizing Deaths. Decoy traps are small flight pens and give birds more room than cage traps to fly around. Roost perches are normally placed in the wings of the trap above the entrances where birds can loaf. Food and water are replenished as necessary (up to a few times a day where birds are abundant), but typically checked once daily. The decoy birds do not suffer from immense exposure. The birds and food are the attractants to other birds and, therefore, keeping the

decoy birds alive and food replenished is paramount to being successful. We realize that sometimes predators, primarily small hawks, can enter the cages and kill the decoy or trapped birds and that some people find this as causing a long agonizing death. However, hawks gaining access into a trap is an infrequent occurrence and a long agonizing death occurs rarely (birds are often killed fairly quickly), thus, we believe that the chance of this occurring is rare. Therefore, we do not believe decoy traps cause immense stress and exposure.

Comments Regarding the Alternative Selection

Both commenters gave comments regarding alternative selection or alternative methods. Comments included: 1) Continue with current program because it is effective (Proposed Action); 2) The integrated wildlife damage management program should focus on repellents, exclusion, and deterrents; and 3) alternative methods to steel-jaw/leghold traps and decoy traps include box/cage traps or nets baited with seed or corn coupled with euthanasia.

Continue with Current Program. Thank you for your comment.

The Integrated Wildlife Damage Management (IWDM) Program Should Focus on Repellents, Exclusion, and Deterrents. This is the Current Program Alternative. Under the Current Program Alternative, WS gives preference to nonlethal techniques such as these where they will work. Table 10 in the EA gives the number of birds deterred from damage situations which reflects how often deterrents such as pyrotechnics are used (it is difficult to determine how many birds are repelled or excluded). These are used where practical and effective and cooperators are often encouraged to use these techniques where it would be more feasible for them to use. However, under the Current Program WS does not rely on these methods exclusively because for several damage situations, rather IWDM is used as described in Section 3.3.1.3 and all legal BDM methods are available for use. Therefore, we believe that WS does focus on the use of repellents, exclusion, and deterrents where practical and effective. Thank you for your comment.

Alternative Methods to Steel-Jaw/Leghold Traps and Decoy Traps Include Box/Cage Traps or Nets. This would eliminate padded-jaw leghold pole and decoy traps from the IWDM program as described in Section 3.3.1.3. These are very effective methods for some damage situations. Padded-jaw leghold traps are often used to capture and relocate raptors from damage situations, such as at an airfield; steel-jaw leghold traps are not used. Decoy traps are often used to capture flocking birds such as starlings and pigeons; as described above, decoy traps do not cause animals to suffer as the commenter believes, but rather give the decoy and trapped birds food, water, roosts, and space to fly. We believe that both these are effective methods that should be used in some situations. It should be noted that unintentional mortality can occur with any of the above methods, including cage traps and nets, but that it is infrequent as noted in Section 4.1.2.1.

Finding of No Significant Impact

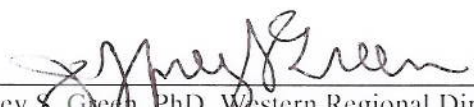
The November 2012 Colorado BDM EA is accepted as the final EA as all concerns have been addressed. The EA analyzed higher levels of take than those taken and found that WS would not significantly impact any bird population at the higher levels. Thus, lower levels of take as is currently occurring would not result in significant impacts. Thus, I hereby accept this as the Final EA for BDM in Colorado. The analysis in the EA indicated that there will not be a significant impact, individually or cumulatively, on the quality of the human environment as a result of the proposed action. I agree with this conclusion and therefore find that an Environmental Impact Statement need not be prepared. This determination is based on the following factors:

1. BDM, as conducted by WS in Colorado, is not regional or national in scope. It is a statewide program and the scope was discussed in the EA. Under the proposed action, WS would continue to assist individuals and entities with bird damage as necessary. Even if WS were not involved, under state law most BDM would be conducted by private individuals or entities, or state and local government that are not subject to compliance with NEPA.
2. The proposed action would pose minimal risk to public and pet safety. No injuries to any member of the public are known to have resulted from WS BDM activities. In addition, a risk assessment has analyzed the use of BDM methods used by WS (USDA 1997, Appendix P) and these were found to pose only minimal risks to the public, pets, and nontarget wildlife species. This issue was addressed in the EA and the Proposed Action Alternative was found to have the least impacts.
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 except positively.
4. The effects on the quality of the human environment are not highly controversial. Although there is some opposition to bird control, 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 BDM program on the human environment would not be significant. The effects of the activities under the proposed action are not highly uncertain and do not involve unique or unknown risks. If WS were unable to respond adequately under the other alternatives, a potential exists that could involve unique and unknown risks by non-professionals implementing BDM and frustrated property owners that have been ineffective with BDM methods resorting to the illegal or unwise use of BDM methods such as chemicals.
6. The proposed action would not establish a precedent for any future action with significant effects. All issues under the proposed action were discussed thoroughly, and these would not add cumulatively to any known future actions that would result in significant effects.
7. No significant cumulative effects on the quality of the human environment were identified through the EA.
8. The proposed BDM 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. If anything, the proposed action would have beneficial effects on these resources.
9. This action will have no adverse effect on T&E species as supported a Section 7 consultation between WS (2011) and USFWS (2011). WS reviewed the current list of T&E species to ensure that these findings are still valid. USFWS provided comments on the EA and concurred with WS on the potential effects of BDM to T&E species, as well as migratory birds.
10. The proposed action would be in compliance with all federal, state, and local laws imposed for the protection of the environment. The proposed activity does not violate the Endangered Species Act or any other law. As allowed by state and federal law, BDM could be conducted by private individuals or entities, or state and local agencies that are not subject to compliance with NEPA if WS were not involved.
11. There were no irreversible or irretrievable resource commitments identified in this EA, except for a minor consumption of fossil fuels for routine operations.

Decision

I have carefully reviewed the EA, interagency comments, and lack of public input resulting from the public involvement process. I believe the issues and objectives identified in the EA would be best addressed through implementation of Alternative 1 (the Proposed or No Action Alternative to continue the current program). Alternative 1 is therefore selected because (1) it offers the greatest chance at maximizing effectiveness and benefits to affected resource owners and managers within current program funding constraints; (2) it will maximize selectivity of methods available; (3) it offers a balanced approach to the issue of aesthetics when all facets of the issue are considered; (4) it will continue to minimize risk to or conflicts with the public and pets; and (5) it will minimize risks to nontarget and T&E species. WS will continue to use an IWDM approach in compliance with all the applicable standard operating procedures listed in Chapter 3 of the EA.

For additional information regarding this decision, please contact Michael Yeary, USDA-APHIS-WS, 12345 W Alameda Pkwy., Suite 204, Lakewood, CO 80228 ((303) 236-5810).


 Jeffrey S. Green, PhD, Western Regional Director
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1/7/13
 Date

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- Wildlife Services (WS). 2011. Biological Assessment for the management of wildlife damage in Colorado to protect agricultural and natural resources, property, and human health and safety: Analysis of potential impacts on threatened and endangered species. 5/12/11. USDA-APHIS-WS, 12345 West Alameda Pkwy., Suite 210, Lakewood, CO 80228. 75 pp.