

X. PUBLIC COMMENT ON DEIS AND SERVICE RESPONSE

A. INTRODUCTION

Approximately 429 people attended the eleven public meetings and over 2,700 submitted written comments. Written comments were received from 2,657 private individuals, 33 State wildlife resource agencies, 37 non-governmental organizations, 29 local governments, 5 Federal/State legislators, 4 Flyway Councils, 4 Federal agencies, 3 tribes, 3 businesses, and 2 State agricultural agencies. Of the 2,657 comments received from private individuals, 56% opposed the preferred alternative and supported only non-lethal control and management alternatives, while 40% supported either the proposed alternative or a general depredation order. Because the total number of comment pages is considerable, we have chosen not to reproduce the comments in this document. Copies of the public comments are available upon request from the U.S. Fish and Wildlife Service, Division of Migratory Bird Management. It was not practical to address each comment individually. Where appropriate, we summarized comments that revolved around a central theme and itemized them as single comments.

B. ISSUES AND RESPONSES

1. Questions

1) Why didn't the Service select Alternative A (No Action) as the preferred alternative/proposed action?

In recent years, it has become clear from public and professional feedback that the status quo is not adequately resolving resident Canada goose conflicts for many stakeholders or reducing the population. Furthermore, our environmental analysis indicated that growth rates were more likely to be reduced and conflicts were more likely to be resolved under other options than under Alternative A.

2) Why didn't the Service select Alternative B (non-lethal control and management) as the preferred alternative/proposed action?

In the wildlife management field, the control of birds through the use of humane, but lethal, techniques can be an effective means of alleviating resource damages, preventing further damages, and/or enhancing non-lethal techniques. It would be unrealistic and overly restrictive to limit a resource manager's damage management methods to non-lethal techniques, even if "non-lethal" included nest destruction and/or egg oiling. Lethal control techniques are an important, and in many cases necessary, part of a resource manager's tool box.

3) Why didn't the Service select Alternative C (non-lethal control and management with permitted activities) as the preferred alternative/proposed action?

Our analysis indicated that under Alternative C population growth would continue and be more pronounced than under the No Action alternative. Further, our analysis indicated no real appreciable advantage of this alternative over Alternative B (non-lethal control and management) other than the permitted take of nests and eggs.

4) Why didn't the Service select Alternative D (expanded hunting methods and opportunities) as the preferred alternative/proposed action?

We did select Alternative D, only we combined the components of Alternative D with other components into our proposed Alternative F (see section **II.B. Principal Alternative Actions** for a full description of alternatives).

5) Why didn't the Service select Alternative E (control and depredation order management) as the preferred alternative/proposed action?

We did select Alternative E, only we combined the components of Alternative E with other components into our proposed Alternative F (see section **II.B. Principal Alternative Actions** for a full description of alternatives).

6) Why didn't the Service select Alternative G (general depredation order) as the preferred alternative/proposed action?

Environmentally, the impacts under Alternative G were similar to those under our proposed alternative, Alternative F. However, practically and administratively the impacts are much different. Under Alternative G, the State would be virtually eliminated from decisions regarding resident Canada goose management, unless they decided on their own to become involved. We continue to believe that this alternative would not be in the best interest of either the resource or the affected entities. Management of resident Canada geese should be a cooperative effort on the part of Federal, State, and local entities, especially those decisions involving the potential take of adult geese. These decisions, regardless of population status, should not be taken lightly. Further, these actions warrant adequate oversight and monitoring from all levels to ensure the long-term conservation of the resource. To do otherwise, we believe, would be an abrogation of our and the State's responsibility.

7) In the DEIS, did the Service consider a range of reasonable alternatives?

Yes. We selected the seven alternatives in the DEIS based on the public scoping period and NEPA requirements. The alternatives adequately reflected the range of public comments and represented what we considered to be all reasonable alternatives. Alternatives we considered but eliminated from analysis is discussed in section **II.E. Alternatives Considered but Eliminated from Detailed Analysis**. Comments received during scoping are discussed in Scoping/Public Participation Report for Environmental Impact Statement on Resident Canada Goose Management (Appendix 8).

8) Why didn't the Service more fully consider the option of removing resident Canada geese from the list of birds protected under the Migratory Bird Treaty Act?

In our view, this is not a "reasonable alternative." Canada geese have been protected under the MBTA since the original treaty was signed with Canada in 1916. Seeking to remove Canada geese from MBTA protection would not only be contrary to the intent and purpose of the original treaties, but would require amendment of the original treaties - a lengthy process requiring approval of the U.S. Senate and President and subsequent amendments to each treaty by each signatory nation. At this time, there appears to be adequate leeway for managing resident Canada goose conflicts within the context of their MBTA protection and, thus, we believe this approach is neither practical nor in the best interest of the migratory bird resource.

9) Why doesn't the Service just allow resident Canada goose populations to regulate themselves?

Available information indicates that goose populations would continue to grow in most areas until they

reach, or exceed, the carrying capacity of the environment. Further, given the relative abundance and stability of breeding habitat conditions, the bird's tolerance of human disturbance, their ability to utilize a wide range of habitats, and their willingness to nest in close proximity to other goose pairs, we believe it likely resident Canada geese remain significantly below their carrying capacity (see section **IV.A.1.a. Resident Canada Goose Populations**). While we generally agree that at some future point, it is possible that density-dependent regulation of the population would occur, the timing, likelihood, and scale of a population decline of this nature is unpredictable. Thus, conflicts are likely to not only continue, but increase under the No Action alternative. Therefore, we do not believe that we, the States, the affected parties, or the general public, can afford to allow resident Canada goose populations to regulate themselves.

10) Doesn't the proposed alternative violate the Migratory Bird Treaty Act by abrogating the Federal role in managing migratory birds?

No, it is an exercise of the authority of the MBTA. First of all, Alternative F (proposed alternative) by no means puts an end to the Federal role in migratory bird management. The conservation of migratory bird populations is and will remain the Service's responsibility. Second, while the MBTA gives the Federal government (as opposed to individual States) the chief responsibility for ensuring the conservation of migratory birds, this role does not preclude State involvement in management efforts. Bean (1983) described the Federal/State relationship as such:

“It is clear that the Constitution, in its treaty, property, and commerce clauses, contains ample support for the development of a comprehensive body of federal wildlife law and that, to the extent such law conflicts with state law, it takes precedence over the latter. That narrow conclusion, however, does not automatically divest the states of any role in the regulation of wildlife or imply any preference for a particular allocation of responsibilities between the states and the federal government. It does affirm, however, that such an allocation can be designed without serious fear of constitutional hindrance. In designing such a system, for reasons of policy, pragmatism, and political comity, it is clear that the states will continue to play an important role either as a result of federal forbearance or through the creation of opportunities to share in the implementation of federal wildlife programs.”

Nowhere in the MBTA is the implementation of migratory bird management activities limited to the Federal government. In fact, the statute specifically gives the Secretary of Interior the authority to determine when take of migratory birds may be allowed and to adopt regulations for this purpose. Additionally, we are proposing to take action and have adopted these regulations in accordance with the applicable Conventions (Treaty).

11) Is the level of analysis conducted in the DEIS sufficient according to the requirements of the National Environmental Policy Act? Did the Service properly evaluate the environmental impacts of the proposed action?

Yes on both counts. The analysis included, as required by NEPA, a discussion of the environmental impacts associated with the various alternatives, unavoidable adverse environmental effects associated with the proposed action, the relationship between short-term uses and long-term productivity, and any irreversible or irretrievable commitments of resources associated with the proposed action. Where new information has come out since publication of the DEIS, this was used to augment the discussion in the FEIS.

12) *In violation of the National Environmental Policy Act, has the Service “failed to justify the purpose and need for action”?*

No. We disagree. NEPA does not require “justification,” but instead requires that the purpose and need for the action be identified. As stated in 43 CFR 1502.1, the purpose of an EIS is “to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government.” We are confident that we fulfilled this purpose in the DEIS and FEIS.

13) *Did the Service fail to disclose or evaluate the environmental impacts of the proposed action on threatened or endangered species?*

No. In the DEIS, the Service listed species that “may be affected” by resident Canada goose management as a precursor to its completion of the Section 7 consultation. The consultation evaluated any impacts on listed species and was completed for the FEIS.

14) *Isn’t the proposed alternative essentially an “unfunded mandate” for the States?*

No. The proposed alternative is not a requirement being forced upon the States (or any other agency) by the Federal government. The decision ultimately lies with individual States to choose whether or not to use the authority granted to them by the proposed alternative. It will be up to them to decide whether resident Canada goose control and population reduction is a high enough priority within their budget allocation processes.

15) *Were public comments fairly and completely considered?*

Yes. As documented in the public scoping report (**Appendix 8**), all comments, written and verbal, received during the scoping period were fully considered in determining the scope of issues and the range of alternatives addressed in the DEIS. All the comments received on the DEIS were also fully considered and responded to here in the FEIS.

16) *Is there sufficient evidence to justify the proposed action?*

What constitutes “sufficient” evidence to justify resident Canada goose control is, to a certain extent, a question of values. Among all stakeholders concerned with resident Canada goose management, we can safely say that there is considerable disagreement over whether or not the proposed action is justified (with many even arguing that the proposed action does not go far enough). Service and Wildlife Services, as the lead and cooperating agencies in the EIS process, jointly agree that there is sufficient evidence of impacts from goose/human conflicts and the probability these impacts would continue to increase to justify the proposed action.

17) *Will the Service remain the lead agency in overseeing resident Canada goose control and management efforts?*

We fully understand the necessity of retaining national oversight of resident Canada goose populations and therefore of any resident Canada goose management program, especially one that authorizes States, other agencies, and public and private entities to conduct control activities without a Federal permit. While the proposed alternative gives States and other entities more authority to decide when to conduct resident Canada goose control, we will retain our oversight role in order to keep track of resident Canada

goose management activities from a national perspective. The proposed alternative is by no means intended to inhibit regional or national coordination of resident Canada goose management activities.

18) *Will the Service provide funding to agencies that carry out resident Canada goose management under the proposed alternative?*

We currently have no plans to fund other agencies or entities. However, in our Congressional budget request, we have asked for increased financial resources to implement the proposed action. This figure specifically includes money that could be used in cooperative efforts with States and other agencies to conduct resident Canada goose management, research, and monitoring.

19) *How will the Service ensure that resident Canada goose populations remain healthy and sustainable?*

There are a number of methods that, collectively, the Service can use to keep track of the status of resident Canada goose populations. Population monitoring is the best means for understanding changes in a species population over time. Along with the various State wildlife agencies and the Canadian Wildlife Service, the Service annually monitors resident Canada goose populations. In addition, the Service will be able to estimate both take and harvest, via reporting requirements, and will keep track of how many resident Canada geese are taken under authority of the various control and depredation orders. We will also continue to support and be involved in research efforts.

20) *Will the Service provide more detail in the FEIS on monitoring and population survey requirements? Will the Service establish guidelines for agencies to use in population monitoring?*

No, because we do not feel that this level of detail is necessary. While we understand the importance of uniformity in data collection, we have to consider other factors as well. We want agencies to monitor populations and adequately report results from management actions on resident Canada geese, but we don't want the requirements to do so to be cost prohibitive or burdensome. They only need to be sufficient to allow us to conduct proper oversight. In addition, because resident Canada geese are a game species, the Service and the States already have in place annual monitoring programs (in particular, nationwide harvest monitoring and widespread population monitoring) that provide both a historical data base as well as providing future annual data.

21) *What does the Service plan to do to educate the public about resident Canada geese?*

We have prepared fact sheets for public distribution. Information about resident Canada geese is available at our website <http://migratorybirds.fws.gov/issues>. Our intention is to distribute fact sheets on the various control and depredation orders and the other components of the proposed alternative in the near future.

22) *Will agencies or other entities acting under the various control and depredation orders in the proposed alternative be authorized to designate agents?*

Yes, as long as "agents" abide by the purpose, terms, and conditions of the order.

23) *Will State oversight be preserved under the proposed alternative?*

Yes, in addition to complying with the Federal rules, any agency or agent acting under the proposed alternative must follow all applicable State laws. For example, if a State permit is required to authorize a

particular control activity, such permit must be obtained before that activity can be conducted.

24) *Will the Service more clearly describe allowable control activities in the FEIS/final rule?*

Yes. Management activities authorized under the proposed action will be clearly stated in the final rule.

25) *Will the Service clarify the procedures by which an agency's or other entities authority to act under the proposed alternative would be revoked?*

Yes, the final rule will reflect this clarification.

26) *Is the proposed action the most cost effective management alternative?*

Cost effectiveness is only one consideration among many on which the preferred alternative decision is based. This is a cost effective alternative, although probably not significantly more or less so than other alternatives.

27) *How can the Service be sure that increased control under the proposed action will result in alleviation of conflicts?*

No one can predict with 100% accuracy that the proposed action will alleviate all conflicts; indeed, we don't expect the proposed action to alleviate all conflicts, especially those geese that are merely causing a nuisance. Our analysis indicates that the proposed action is highly likely to alleviate many of the impacts associated with resident Canada geese, especially over the long-term.

28) *How will the Service keep track of geese killed under the proposed alternative?*

Recording and reporting requirements are directly tied to the various control and depredation order components and the other components of the selected action. The Service will prepare reports on a regular basis summarizing activities under the proposed alternative.

29) *Does the Service have the resources to properly implement the selected action?*

The selected action is not particularly resource intensive as far as the Service itself is concerned. We anticipate that current staff in the migratory bird program will be able to handle the activities associated with the selected action.

30) *Has the Service based its management decisions on scientific evidence? Does the selected action have a sound scientific foundation?*

Yes. It is our judgement that there is sufficient biological evidence regarding the injuries to support this method of addressing the problem and to support this action.

31) *Is the Service authorizing greater control just to appease public outcry?*

No, we are authorizing greater control to manage resident Canada goose conflicts and address their impacts more effectively, to reduce population growth rates and populations, and to allow other agencies and entities more flexibility in dealing with goose conflicts.

32) *Is it right to kill birds that may have come to be a problem due to human activities (e.g., destruction of habitat, reintroduction of species, current habitat management practices, etc.)?*

Right or wrong, in this case, appears to be a matter of perspective. Attitudes about the ethics of wildlife damage management, however, vary widely, often depending on the individual's proximity to the problem. Our role is to address injuries caused by geese while ensuring that resident Canada goose populations remain healthy.

33) *Is the role of Wildlife Services as a "cooperating agency" appropriate?*

Yes. As explained in the EIS, Wildlife Services plays an important role in the management of resident Canada goose damages, especially to agricultural, airports and military airfields, and suburban/urban areas. The Council on Environmental Quality NEPA guidelines state that "any other Federal agency which has special expertise with respect to any environmental issue may be a cooperating agency."

34) *Isn't the proposed action merely an attempt on the part of the Service to "pass the buck" of resident Canada goose management on to the States?*

No. As we were considering options for addressing resident Canada goose injuries and population management more effectively, it became clear that, since many conflicts tend to be localized in nature, a sensible and flexible solution was to allow local agencies more authority in deciding when to control resident Canada geese. States are major contributors to the conservation of American fish and wildlife resources. Further, in the FEIS, in large response to comments from State agencies, we have lessened the impact of the proposed alternative on the States by removing the airport and nest and egg control and depredation orders from their responsibility and by removing the Pacific Flyway States from the agricultural depredation order, the expanded hunting methods component, and the management take component of the proposed alternative.

35) *By controlling resident Canada geese, isn't the Service dealing with a symptom rather than the underlying causes?*

Numerous deterrents, including both legal and logistical, prevent us from changing the entire American landscape to make it less desirable for resident Canada geese. We do acknowledge that controlling resident geese while their environmental needs (e.g., food and habitat) remain abundant might be seen by some as being a "bandage" approach. However, we are also implementing other program components designed to reduce resident Canada goose populations on a larger scale in addition to focusing on the alleviation of local damages.

36) *Isn't it archaic to allow the killing of a species simply because certain people find it to be a nuisance?*

We allow killing of resident Canada geese only when they are associated with a specific problem, not because they're considered a pest or a nuisance.

37) *Isn't the real problem here humans and therefore it is people who are in need of "management," not resident Canada geese?*

The answer depends on what exactly is meant by "people management." Certainly, among the broad range of stakeholders, there is a need to promote a better understanding of the biological and sociological complexities associated with resident Canada goose management.

2. Comments

1) *Resident Canada goose population reduction is necessary.*

We agree. Current populations, especially in the Atlantic and Mississippi Flyways, are well above Flyway-established population goals and continue to grow. While we acknowledge that growth rates have subsided in recent years, total population numbers are such that conflicts and problems continue to occur and show little likelihood of lessening on their own accord. Thus, we believe that population reduction is the only long-term solution to decreasing the overall impacts.

2) *States should not be given authority to manage resident Canada geese.*

We disagree. States, because of their intimate knowledge of local conflicts, issues, and problems, are the logical choice to make specific, local-based decisions on resident Canada goose management activities within the requirements and limitations in the regulation. The Service will maintain primary authority over nests and egg removal activities and airport activities and will maintain oversight authority on all other activities that participating States decide to implement.

3) *Reducing goose populations is not the same as reducing damages.*

We agree. As such that is why we have attempted to address the overall problem on several fronts. The proposed alternative addresses the depredation/damage/conflict management issue through the first component of the alternative - the various control and depredation orders contained in Alternative E - Control and Depredation Order Management. The population reduction/control objective is addressed through the other two main components of the alternative - the increased hunting methods available in Alternative D - and the management take component. In concert, we believe that the various components will serve both objectives.

4) *The Flyway Council's population objectives are arbitrary.*

We disagree. The Atlantic, Mississippi, Central and Pacific Flyway Councils are administrative units for migratory bird management in the flyway system and are comprised of representatives from member States and Provinces. The Flyway Councils work cooperatively with the Service and Canadian Wildlife Service to manage populations of Canada geese that occur in their geographic areas. As such, it should be remembered that the overall population objectives established by the Flyways were derived independently based on the States' respective management needs and capabilities, and in some cases, their objectives are an approximation of population levels from an earlier time when problems were less severe. In other cases, objectives are calculated from what is professionally judged to be a more desirable or acceptable density of geese. We further note that these population sizes are only optimal in the sense that it is each Flyway's best attempt to balance the many competing considerations of both consumptive and nonconsumptive users. However, a commonality among the various plans' goals are the need to balance the positive aspects of resident Canada geese with the conflicts they can cause. Thus, we have incorporated Flyway population objectives into the FEIS to help define our objectives for acceptable population reduction and management.

5) *The Service should develop a more integrated, community-based, scientifically sound approach to managing goose problems.*

We believe that our proposed alternative is integrated (three main components), community-based (local-

based decision in large part), and scientifically sound (preponderance of available evidence).

6) *Goose conflicts are primarily an aesthetic concern.*

We disagree. To those agricultural producers experiencing depredation from resident Canada geese and those airports experiencing goose-aircraft strikes, the conflicts are very real and substantial. Further, in those areas where excessive numbers of geese have caused substantial economic damages, the conflicts are very real. Lastly, in those areas where the public has substantial concerns over potential health threats, the conflicts are real. While we recognize that there are many people who do not experience any impacts from resident Canada geese, there are substantial numbers of people and other entities that are experiencing very real problems.

7) *Using human health as an excuse to kill geese is unsubstantiated.*

Although the human health and safety risks associated with resident Canada geese are controversial and difficult to quantify, we believe that available data clearly indicates the raised level of public concern and the potential health issues associated with resident Canada geese (see section **III.B.5. Human Health**). While we agree that the risk to human health from pathogens originating from geese is currently believed to be low, we are only beginning to understand these risks. There is a general perception among the public and a concern among resource management personnel that resident Canada geese do have the ability to transmit diseases to humans, but a direct link is difficult to establish due to the expense of testing and the difficulty of tracing the disease back to Canada geese. Studies have confirmed the presence of human pathogens in goose feces, so the presence of these feces in water or on the ground where humans may come into contact with them is a legitimate health concern. The Service and the various State natural resource agencies do not have the expertise to deal with the myriad human health/disease questions surrounding resident Canada geese in every specific instance, and therefore, must rely on other more pertinent agencies. We acknowledge that additional research is needed to assist in the quantification and understanding of these issues and concerns. However, we believe that increasingly large populations of geese, especially in localized areas, only serve to increase the uncertainty associated with these risks. Given the wide divergence of opinion within the public health community, the Service and Wildlife Services have recognized and deferred to the authority and expertise of local and State health officials in determining what does or does not constitute a direct threat to public health. We believe this is appropriate.

8) *The killing of Canada geese is philosophically wrong and is "inhumane" treatments of these birds. Further, non-lethal solutions to all resident Canada goose/human conflicts are preferred and people need to be more tolerant of wildlife. Removal of geese under these management actions are only short-term solutions.*

We are also opposed to the inhumane treatment of any birds, but do not believe the capture and relocation, or processing for human consumption, of resident Canada geese from human conflict areas is by definition "inhumane." Over the past few years, States have rounded up thousands of problem resident Canada geese and relocated them to unoccupied sites. However, few, if any, such unoccupied sites remain. Therefore, we believe that humane lethal control of geese is an appropriate part of an integrated resident Canada goose damage and control management program and ultimately a population reduction program.

We also prefer non-lethal control activities, such as habitat modification, as the first means of eliminating resident Canada goose conflict and damage problems and will specify language to this effect in the final

regulations. However, habitat modification and other harassment tactics do not always work satisfactorily and lethal methods are oftentimes necessary to increase the effectiveness of non-lethal management methods.

There are many situations where resident Canada geese have created injurious situations and damage problems that few people would accept if they had to deal directly with the problem situation. We continue to encourage State wildlife management agencies to work with not only the local citizens impacted by the management actions but all citizens. While it is unlikely that all resident Canada goose/human conflicts can be eliminated in all urban settings, implementation of broad-scale, integrated resident Canada goose management activities should result in an overall reduced need for other management actions, such as large-scale goose round-ups and lethal control.

9) *The proposed rule will make individual States vulnerable to legal challenges.*

We disagree. The conservation of migratory bird populations is and will remain the Service's responsibility. Under the proposed alternative, the Service would maintain primary authority for the management of resident Canada geese, but the individual States would be authorized to implement certain provisions of the alternative within guidelines established by the Service.

10) *The Service should take the lead role in resident Canada goose management. The proposed rule removes the Service as a full partner in goose management and establishes it as an enforcement agency.*

The Service will retain the lead role in resident Canada goose management. We disagree with the assertion that our proposed alternative removes the Service as a full partner in goose management and merely establishes us as an enforcement agency. We fully understand the necessity of retaining national oversight of resident Canada goose populations. While the proposed alternative gives States and other entities more authority to decide when to conduct resident Canada goose control, we will retain our oversight role in order to keep track of resident Canada goose management activities from a national perspective. However, since the States are the most informed and knowledgeable local authorities on wildlife conflicts in their respective States, we believe it is logical to place some of the responsibilities and decisions of the program with them, in particular those portions of the program that involve the take of adult geese. We do not see the shift of some of these responsibilities and decisions as the removal of the Service as a "full partner."

11) *The Service should hold additional public meetings.*

We held nine public scoping meetings (see **Appendix 8**) and eleven public comment meetings on the DEIS (see **Appendix 16**) across the country. We believe we have adequately fulfilled our responsibilities under NEPA.

12) *The proposed alternative is too heavily focused on lethal management. Non-lethal methods combined with public education can resolve goose problems as workable non-lethal solutions exist.*

We disagree. As we stated in our response to question #2 in section **X.B. Issues and Responses**, the control of birds through the use of humane, but lethal, techniques can be an effective means of alleviating resource damages, preventing further damages, and/or enhancing non-lethal techniques. We reiterate that it would be unrealistic and overly restrictive to limit a resource manager's damage management methods to non-lethal techniques, even if "non-lethal" included nest destruction and/or egg oiling. Lethal control techniques are an important, and in many cases necessary, part of a resource manager's tool box. Further,

our analysis indicated that under a non-lethal alternative (such as Alternative B or C), population growth would continue and be more pronounced than under the No Action alternative.

13) *The FEIS should maintain the Flyway system of population management of resident Canada geese, allowing cooperative Flyway actions. Populations should not be dealt with on a State-by-State basis.*

We believe the FEIS's proposed alternative does maintain the Flyway system of population management. It utilizes the Flyways' established goals and objectives for resident Canada geese as the determining basis for population reduction efforts and the ultimate goals of population reduction. However, because the overwhelming majority of resident Canada goose conflicts occur within the State the geese reside in (rather than a State they may be migrating through or into), the logical place to both deal with these conflicts and direct population reduction activities is within the residing State. Thus, an State-by-State approach, integrated within the overall Flyway approach, is necessitated.

14) *Problems with local resident Canada goose flocks may require control measures regardless of the status of a State's flock or the Flyway population.*

We agree that, regardless of the overall population status, conflicts will likely continue to occur at some level in some areas. Thus, the various control and depredation orders contained in Alternative F are not strictly driven by the population status but are subject to annual review and determination of continued need in order to resolve or prevent injury to people, property, agricultural crops, or other interests.

15) *There needs to be more discussion of Wildlife Service's role in managing resident Canada geese.*

The Wildlife Services program is directed by law to protect American agriculture and other resources from damage associated with wildlife. Wildlife Services' mission is to "provide leadership in wildlife damage management in the protection of America's agricultural, industrial and natural resources, and to safeguard public health and safety." As such, Wildlife Services is the lead Federal agency on matters relating to wildlife damage management and their role in the management of resident Canada geese relates primarily to damage management, including damage abatement. We rely on Wildlife Services' expertise to evaluate the various damage management strategies analyzed in the EIS and to make recommendations on the specific deployment of the proposed alternative. Further, we envision that Wildlife Services will be an integral and valuable cooperator, given their expertise, with participating State agencies, airports, agricultural producers, public health agencies, private landowners, and public land managers on the actual on-the-ground implementation of the proposed alternative. The role of Wildlife Services should not be confused with the Service's role of monitoring the status of the various resident Canada goose populations to ensure the long-term conservation of the resource.

16) *The first level of population control for resident Canada geese should be through sport harvest. Thus, allowing the greatest amount of latitude for States to use hunters to help manage State flocks should be a primary objective.*

We agree and, to date we have largely relied on that premise to address growing populations of resident Canada geese through the use of special early and late seasons. However, it has become readily apparent that sport harvest alone has not been able to adequately control resident Canada goose populations. We believe that, by implementation of a management take program and by expanding hunting methods during special early seasons, we are utilizing hunters to help reduce populations of resident Canada geese and allowing the States sufficient latitude to do so.

17) *The September 15 framework end date for the Management Take Program should be later and expanded hunting methods should be allowed anytime in September.*

We disagree. First, as we discussed in section **II.D.7. Management Take in September**, traditionally we have used special Canada goose seasons in September to specifically target resident goose populations and address some of the conflicts and problems caused by overabundant resident Canada geese. The primary issue with extending a management take type action into September is that we know some migrant geese in some areas would be taken. In particular, areas in the upper midwest (Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, and Montana) would have some level of migrant geese taken. Since the management take component, as is the entire scope of the EIS, is specifically directed at resident Canada geese, we cannot reliably extend this component into September.

Second, the needs of this management problem requires that extraordinary measures be implemented. However, we believe that caution should be exercised to ensure that other migratory game bird populations are not impacted by such measures. As such, we have eliminated the management take component from any portion of the open Treaty period (after August 31) and limited the use of expanded hunting methods to September 1 to 15. Based on data from the numerous experimental September Canada goose seasons conducted in the early implementation of these seasons, we know that the period after September 15 is highly temporally and spatially variable on whether or not a specific area contains migrant geese (either appreciable numbers or an appreciable percentage). Because of the potential of these expanded methods to significantly affect harvest, we believe that the use of these methods of take (i.e., electronic calls, unplugged shotguns, and the allowance of shooting hours to one-half hour after sunset) should be limited to the extent possible to those areas that are relatively “free” of migrant geese. Thus, initially, we will restrict the use of these new methods to the September 1 to 15 period and review their use after September 15 on a case-by-case basis.

18) *Each Flyway Council (not the Service) should determine the appropriate dates for the Management Take program.*

If the Flyway Councils wish to make recommendations to their member States on the Flyway-appropriate dates for the management take component, we have no issue with that process. However, as the lead agency responsible for the management of resident Canada geese under the MBTA, the Service is the appropriate entity for establishing the outer frameworks (August 1 to 31) for this new action.

19) *Language in the final rule should clarify that days available for use in the Management Take Program are outside of and in addition to the 107 days allowed by the Migratory Bird Treaty.*

Since the management take program can only occur from August 1 to 31, before the Treaty’s established sport hunting season, any days under the management take program are outside the Treaty’s allowance of a maximum 107-day sport hunting season.

20) *The study requirements for extending the management take program past September 15 should be eliminated for mid-latitude and southern States since evidence already exists that few migrant geese are present.*

Following initial implementation of the proposed alternative and the associated expanded hunting methods during the September special seasons (September 1 to 15), we will evaluate the September 15 restriction on a case-by-case basis. We realize that some mid-latitude and southern areas are relatively free of migrant geese well past September 15. However, we believe that caution is the prudent path.

Regarding the management take program, we have decided to restrict that program to the month of August (see section **II.D.7. Management Take in September** for further discussion).

21) *Alternative methods of take within the management take frameworks should be allowed including the use of snares, nets, and entanglement devices.*

Since the management take program uses hunters as the primary designated agents, we do not believe it is appropriate to allow the use of non-traditional hunter-based harvest tools (e.g., nets, snares, etc.) During this period. However, States are generally free to use these management tools under the existing Special Canada Goose Permit and Wildlife Services normally uses such methods under their permits. Further, any entity could continue to apply for a permit to use such methods in management activities. Such requests would be evaluated on a case-by-case basis.

22) *Any consideration of suspending the Management Take option should occur at the statewide level (not at a finer scale).*

We agree. Any evaluation of the management take program will occur on a Statewide level at a minimum. We believe it is highly unlikely we would be able to evaluate on a finer scale.

23) *The FEIS should not authorize electronic calls, unplugged shotguns, and longer shooting hours.*

We disagree. The objective of reducing the resident Canada goose population to levels more in-line with the Flyway Councils' established goals and objectives requires extraordinary measures. Currently available harvest and population data clearly indicate that current harvest is not able to significantly impact resident Canada goose population growth rates on other than a local scale. We estimate that the additional use of these methods during the September special seasons could increase harvest by at least 25 percent, or an additional 140,000 geese annually. We believe that implementation of these new hunting methods will help contribute to the overall program's objective of stabilizing and reducing resident Canada goose populations.

24) *Individuals should be allowed to dispose of birds so that human consumption of geese will be maximized instead of birds being wasted.*

We agree and will clarify the restrictions regarding the disposal of birds in any final rule implementing the proposed alternative.

25) *The DEIS underestimates cost and personnel needs of States to implement the proposed program, as such the FEIS should attempt to quantify projected costs of implementing rule provisions and identify federal sources of funding to offset those costs. The proposed program is a huge financial burden for the States.*

We have revised the EIS to reflect both updated costs and administrative changes to the proposed alternative since the DEIS. We believe they are an accurate reflection of anticipated costs.

26) *The proposed alternative mostly just transfers the permitting and reporting paperwork to the States. The Service should allow States the latitude to address their problems as needed, without creation of an immense workload.*

We are not obligating States to participate in this new program or to impose new restrictions to gain

regulatory authority of a Federally authorized activity (i.e., nest and egg removal). States may continue to handle injurious goose situations with the current permitting system on a case-by-case basis or they may opt to participate in any component of the new program. The decision is entirely the States'.

27) The requirement for States to conduct annual estimates of the breeding population and statewide distribution is unnecessary and also redundant to existing monitoring and evaluation tools currently in place. States should not have to conduct highly precise population estimates. Trend data should be adequate.

We disagree. The take of resident Canada geese under the management take component of the overall program is an extraordinary step in the effort to control and reduce resident Canada goose populations in order to ultimately reduce injuries. Thus, we believe it is incumbent upon those participating States to carefully monitor both goose populations and take of geese under the program.

28) Given the overabundance of resident Canada geese, micromanagement and detailed reporting of authorized activities is not necessary. The final rule should have less recordkeeping conditions for States and other agencies.

We do not believe our required recordkeeping and reporting constitute micromanagement. Information specific to the management activities conducted under the proposed alternative is vital to the overall evaluation of the program. However, we have scaled-back, reduced, or eliminated many aspects of the activity reporting. For instance, most of the control and depredation order participants will operate under a logbook requirement with reduced information rather than requiring a specific instance report. The reporting requirements are essential for us to be able to monitor actions and assess possible impacts to the population.

29) The Service should provide resources to expand the May Breeding Waterfowl Survey to States that don't currently participate.

We have requested additional funding in FY 2005 to help States implement surveys.

30) Airport operations should not have to consider nonlethal harassment methods first as it dangerously puts geese in flight.

Nonlethal harassment methods are an integral part of any integrated damage management program. As such, we will clarify in the final rule that airports, as other authorized entities, should use non-lethal goose management tools to the extent they deem appropriate (given the specific circumstances). Further, to minimize lethal take, authorized entities will have to implement all appropriate nonlethal management techniques in conjunction with authorized take.

31) We see little need for different date restrictions for the different management components.

The removal of nests and eggs is a much different management activity than the removal of adult geese. Resident Canada geese are nesting in some areas of the country in March with most nesting occurring in April. Migrant geese, however, are still present in many areas of the country in March and linger in northern areas until April. Because of this nesting activity and because of the potential take of migrant geese, we have decided to establish differential time constraints on the various control and depredation orders. We view these constraints as necessary safeguards for migrant populations.

32) *A component that combines Management Take with a General Depredation Order is needed.*

As we discuss in **X.B.1. Question 6**, environmentally, the impacts under the Alternative G - General Depredation Order were similar to those under our proposed alternative, Alternative F. However, practically and administratively the impacts are much different. Under Alternative G, the State would be virtually eliminated from decisions regarding resident Canada goose management, unless they decided on their own to become involved. We believe that this alternative would not be in the best interest of either the resource or the affected entities. Management of resident Canada geese should be a cooperative effort on the part of Federal, State, and local entities, especially those decisions involving the potential take of adult geese. Further, these actions warrant adequate oversight and monitoring from all levels to ensure the long-term conservation of the resource. A “management take” component would not be consistent with the general workings of Alternative G.

33) *The Environmental Protection Agency (EPA) reviewed the DEIS and stated that they did not identify any environmental concerns with our preferred alternative (Alternative F), and that the document provides adequate documentation of the potential environmental impacts. The EPA assigned a rating of Lack of Objection to the DEIS.*

Thank you for your comments.

34) *Other hunting should be allowed to continue during the resident Canada goose management take provision and the expanded hunting methods period, especially if the State opts to not allow expanded methods during the management take period*

Like the light goose conservation order, the needs of this management problem requires that extraordinary measures be implemented and that caution should be exercised to ensure that other migratory game bird populations are not impacted by such measures. As such, we have eliminated the management take component from any portion of the open season Treaty period (after August 31). Thus, allowing other migratory bird hunting seasons to be open during the management take period is now a moot point. Further, closure of crane and other waterfowl hunting seasons during the expanded hunting methods period (September 1 to 15) will eliminate or greatly reduce the possibility of increased harvest due to the use of new methods of take such as electronic calls, unplugged shotguns, and the allowance of shooting hours to one-half hour after sunset. Although some harvest opportunity on other species will be lost in some instances, we believe that the need to reduce the resident Canada goose population outweighs this loss.

35) *The stringent oversight and reporting requirements of the management take component (formerly known as the conservation order in the DEIS) are an unnecessary burden on States choosing to participate. Harvest estimates should be derived from Harvest Information Program (HIP).*

Information on hunter participation, methods used, and resident Canada goose harvest is critical for conducting a proper evaluation of the effectiveness of the management take program. There are several reasons why HIP cannot be utilized to estimate these parameters. In order to utilize HIP to estimate resident Canada goose harvest before September 1, the duration of the HIP sampling period would need to be greatly expanded. By doing so, response rates from all migratory game bird hunters will decrease, and memory bias will increase. This will negatively impact the precision and accuracy of not only resident Canada goose estimates, but estimates for all migratory game bird species, including ducks and other goose species. We do not believe the substantial negative impact to HIP estimates of duck and other goose harvest can be justified for the sake of obtaining information on management take harvest.

To avoid negative impacts to HIP estimates of other migratory game bird species, a separate resident Canada goose harvest survey could be conducted. However, the current HIP sampling frame is very large and a separate Federal survey would require large sample sizes to ensure that adequate numbers of management take participants were contacted; which is cost-prohibitive. A solution would be to implement a separate Federal resident Canada goose permit to create a sampling frame that would be used to generate harvest estimates. However, the permit would have to be enforced in order to ensure that the sample frame contained all participants. If the sample frame was incomplete, the management take estimates would be biased low. Enforcement and administration of a uniform Federal permit would be difficult. For example, States that participate in the light goose conservation order either have implemented their own permit, or they sample State duck stamp purchasers in order to obtain harvest estimates. We feel States are better equipped to develop harvest surveys tailored specifically to the management take program in their State.

36) Tribes should be treated the same as State wildlife agencies under the proposed alternative.

We have added Tribes as specifically being eligible to conduct resident Canada goose management activities under the proposed alternative's management take component, the expanded hunting opportunities component, and the agricultural depredation order. They are ineligible, as are State wildlife agencies, under the airport control order. Under the nest and egg depredation order, Tribes are treated the same as all other entities. Under the public health control order, we will continue to rely on the public health agency to make the determination that there is a direct threat to public health.

37) Under the Service's Native American Policy and Executive Orders of the President of the United States, the Service is compelled to consult with Tribal governments on a government-to-government basis.

The Service has a long history of working with Native American governments in managing fish and wildlife resources (USFWS 1994). A list of Native American tribal governments was obtained through our Tribal liaison and was used to distribute the DEIS to tribal governments for formal review and comment (see section **VI.D. Distribution of DEIS**).

38) It is unfortunate that the Service is entirely dependent on revenues from the sale of hunting permits and hunting paraphernalia. The resulting extreme bias of this agency is therefore obvious to anyone who cares to take a closer look.

The Service operates its programs with funds appropriated by Congress. It does not receive operational funds from the sale of hunting permits or licenses or hunting paraphernalia. There is no Federal hunting permit that is sold to generate revenues upon which the Service relies. Revenue from sales of State hunting permits goes to State fish and wildlife agencies and not the Service. Furthermore, the Service is not dependent on revenues of hunting paraphernalia. Federal excise taxes collected on the sale of hunting equipment under the Federal Aid in Wildlife Restoration Act is returned to State fish and wildlife agencies in the form of grants to undertake projects that benefit a variety of wildlife species. Therefore, the Service has not developed an extreme bias towards hunting interests due to a dependency on hunting permit revenues.

39) The Service reports that six times as many people participate in non-hunting activities related to migratory birds as compared to hunting them. Times have changed and so must the Service and wildlife agencies.

We examined socioeconomic considerations in section 3.5 of the EIS and reported that more citizens

participate in non-hunting than hunting activities related to migratory birds. However, the impacts of resident Canada goose populations negatively affect a variety of entities, including non-hunters as well as hunters. Furthermore, the fact that many citizens do not hunt does not negate the fact that hunting and take by hunters is a legitimate wildlife management tool. Finally, this is not a hunting program, it is a wildlife management action designed to minimize impacts from these birds.

40) Clearly the best option is to have the sportsmen harvest the overabundance of resident Canada geese. This method will come at no cost to the tax payers, is extremely effective, and will help reduce the population.

One component of our preferred alternative established regulations that will allow citizens to increase their harvest of resident Canada geese.

41) The entire concept and definition of "resident" Canada geese is invalid.

We disagree. Data clearly points out that Canada goose populations do nest in parts of the conterminous United States during the spring and summer and that these birds are increasingly causing injury to people and property. Furthermore, we are not redefining what is or is not a migratory bird under the Treaties and the MBTA. Canada geese are clearly protected by the Treaties and the MBTA and will continue to be. We are using the term "resident" to identify those commonly injurious Canada geese that will be the subject of permitted control activities within the scope of the Treaties and the MBTA.