

## FINDING OF NO SIGNIFICANT IMPACT

### Environmental Assessment Issuing Depredation Permits for Double-crested Cormorant Management

Pursuant to the National Environmental Policy Act (NEPA)(42 U.S.C 4321 et seq.), the United States Fish and Wildlife Service (hereafter, USFWS) prepared an Environmental Assessment (EA). In the supporting EA, the USFWS proposes to make decisions on depredation permit applications (pursuant to 50 C.F.R. § 21.41) for the annual take (i.e., lethal removal) of up to 51,571 double-crested cormorants (*Phalacrocorax auritus*; hereafter, “cormorants”), across 37 central and eastern States and the District of Columbia. The USFWS will allocate the maximum allowable take across three managed subpopulations: Atlantic, Mississippi/Central, and Florida. The EA considered two alternatives: the proposed action; and the reduced take alternative (which is the preferred alternative).

In May of 2016, the Aquaculture Depredation Order (AQDO) (50 C.F.R. § 21.47) issued in 1998 and Public Resource Depredation Order (PRDO) (50 C.F.R. § 21.48) issued in in 2003 were vacated by the United States District Court for the District of Columbia. The USFWS stopped issuing or renewing individual depredation permits for cormorant take in states previously covered by the vacated orders because many permits issued for cormorant damage management under 50 C.F.R. § 21.41 relied on the NEPA found faulty by the Federal District Court of the District of Columbia. The EA therefore addresses the need to consider effects of issuing individual depredation permits for lethal take of cormorants in 37 central and eastern states and the District of Columbia (see Figure 1-1 in the supporting EA).

The scope of this proposed action and the preferred alternative is limited to applications for depredation permits for managing cormorants at or near aquaculture facilities, alleviating human health and safety concerns, protecting threatened and endangered species (as listed under the Endangered Species Act of 1973, as amended; ESA), and reducing damage to property. The USFWS may also issue permits to take cormorants if there is convincing evidence that cormorants are adversely affecting species of high conservation concern or rare and declining plant communities at a local scale.

The EA serves as a framework for USFWS and AHPIS/WS to make timely decisions on depredation permits pursuant to 50 C.F.R. § 21.41 for the lethal take of cormorants. USFWS staff will evaluate permit applications on an individual basis based on the scope and environmental consequences identified in the EA, conduct a tiered NEPA review, and produce a finding identifying whether any additional actions or assessments are needed. Tiering is a staged approach to NEPA described in Council for Environmental Quality’s NEPA Implementing Regulations (40 C.F.R. § 1508.28).

Under the proposed action, the cumulative authorized take of cormorants to reduce damage to aquaculture, human health and safety, federally listed threatened and endangered species, and property cannot exceed 74,396 cormorants per year; as derived by a Potential Take Level (PTL) model (see chapter 5 and Appendix 1 of the EA). Under

the preferred alternative, the USFWS would take a precautionary approach and limit the maximum allowable take to 51,571 cormorants per year. This number is based on the estimated take of cormorants and reasonably foreseeable effects. The allowable take would be capped at the estimated take of each subpopulation (Atlantic (11,634 cormorants per year), Mississippi/Central (39,726 cormorants per year) and Florida (211 cormorants per year). This reduced level of take is a precautionary approach to the already conservative PTL model and thus further reduces the potential impacts to cormorant populations. Using an adaptive management approach, in the future, the USFWS may consider transitioning from the preferred alternative to using the PTL lower limit, as additional cormorant data is available. Other management objectives and potential future policies may result in different sustainable take levels, but are beyond the scope of this EA and are not considered here. Applicants for individual depredation permits would be required to take all practicable non-lethal measures to reduce cormorant depredation.

The USFWS will assess cormorant survey data and data acquired from its Permits Information Tracking System, and update the allowable take limit at least every 10 years. During individual permit review of site-specific conditions, the USFWS may add conditions to the permit to minimize unintended impacts to cormorant populations (50 C.F.R. § 13.21 (e)(1)).

Based on our analysis within the supporting EA, we find that the issuance of permits to manage cormorant damage is a benefit to aquaculture, protects people, and alleviates damage to property. In addition, we find that the issuance of depredation permits for lethal take of cormorants, along with measures already implemented by APHIS/WS and any additional site-specific measures deemed necessary by USFWS to minimize impacts to non-target species, would not result in significant impacts to the populations of non-target species. With regard to the use of lead ammunition, the risks of impacts from use of rifles for cormorant damage management actions would be relatively low. Non-toxic shot would continue to be used when shotguns are utilized. The majority of cormorants taken are collected and disposed of, preventing lead from being left in the environment and reducing the risks that scavenger species would consume cormorants taken with lead ammunition. Accidental impacts to non-target species are minimized by use of trained personnel that reduces the likelihood of missed shots and associated deposits of spent ammunition in soil. Additionally, after a case-by-case review of the site-specific conditions, the USFWS may add conditions to the permit to minimize unintended impacts to non-target species (50 C.F.R. § 13.21 (e)(1)).

Existing permit conditions for federally listed species would prevent the both the proposed action and the preferred alternative from adversely affecting ESA listed species, and there would be *no effect* from the issuance of depredation permits for the lethal take of cormorants. If the USFWS's proposed permit conditions or requirements in an individual cormorant depredation permit may affect listed species or critical habitat not otherwise described in the supporting EA, the Regional Permit Office will coordinate intra-USFWS Section 7 consultations at the permit stage. In addition, depredation permits issued to take cormorants would also adhere to the National Bald Eagle Management Guidelines to ensure that cormorant damage management activities do not affect this species.

Lastly, neither the proposed action nor the preferred alternative have a significant effect on those who wish to watch cormorants in the natural environment because both actions ensures that current cormorant populations are maintained. Additionally, both actions would have no effect on the distribution of cormorants and thus cormorants will be available within the natural environment across the landscape for birdwatchers and others seeking to enjoy them.

Under the preferred alternative, the take associated with the various control activities— aquaculture and property protection, would likely be reduced, so cumulative impacts to cormorants would be reduced. Likewise, indirect and cumulative impacts to non-target species and the environment (e.g., lead deposition) would be reduced with this lower take limit. We determined that the alternative action, which would not have a significant effect to cormorants or the human environment, would better meet our purpose and needs. Other alternatives were considered, but rejected as not meeting our purpose and needs.

Also public engagement occurred with stakeholders. The USDA Animal, Plant Health and Inspection Service, Wildlife Services (APHIS/WS) was a consulting agency. During national Flyway Council meetings, USFWS met and discussed cormorant management with representatives from the four Flyway Councils, and State representatives. At the annual Association of Fish and Wildlife Agencies, USFWS leadership met with the Bird Conservation Committee, Human Wildlife Conflict Working Group, Partners in Flight/Shorebird/Waterbird Working Group, and the Fisheries and Water Resources Policy group with representatives from State, Federal, and Non-government agency conservation groups. USFWS met with industry groups such as Catfish Farmers of America Association and individual fish producers.

Based on review and evaluation of the information contained in the supporting documents, the issuance of individual depredation permits for lethal take of cormorants in 37 central and eastern states and the District of Columbia pursuant to 50 C.F.R. § 21.41 would not constitute a major federal action significantly affecting the quality of the human environment, within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an environmental impact statement on the proposed action or the alternative to the proposed action is not required.

Supporting Documents

1. Environmental Assessment: Issuing Depredation Permits for Double-crested Cormorant Management



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Date