UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
WILDLIFE SERVICES

FINDING OF NO SIGNIFICANT IMPACT AND DECISION

Reducing Ring-billed Gull, Herring Gull, Great Black-backed Gull, And Double-crested Cormorant Damage Through an Integrated Wildlife Damage Management Program in the State of New York

The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA-APHIS), Wildlife Services (WS) program responds to requests for assistance from individuals, organizations and other government agencies experiencing damage caused by wildlife in the state of New York. Ordinarily, according to APHIS procedures implementing the National Environmental Policy Act (NEPA), individual wildlife damage management actions may be categorically excluded (7 CFR 372.5(c), 60 Fed. Reg. 6000-6003, 1995). The WS program has completed an environmental assessment (EA) that analyses the potential environmental effects of a proposal to continue a cooperative, bird damage management program (BDM) for the purpose of reducing herring gull (*Larus argentatus*), ring-billed gull (*Larus delawarensis*), great black-backed gull (*Larus marinus*), and double-crested cormorant (*Phalacrocorax auritus*) damage and conflicts with human health and safety, property, agriculture, threatened and endangered species, other wildlife, natural resources, and aquaculture. The EA analyzed the proposed action and other alternatives with respect to a number of issues affecting the human environment. Comments from the public involvement process were reviewed for substantial issues and alternatives which were considered in developing this decision. The EA is tiered to the programmatic Environmental Impact Statement (EIS) for the Wildlife Services Program[1] (USDA 1997).

WS is the Federal program authorized by law to reduce damage caused by wildlife (Animal Damage Control Act of 1931, as amended (46 Stat. 1486; 7 U.S.C. 426-426c); the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1988, Public Law 100-102, Dec. 27, 1987. Stat. 1329-1331 (7 U.S.C. 426c); and the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001, Public Law 106-387, October 28, 2000. Stat. 1549 (Sec 767). Wildlife damage management is the alleviation of damage or other problems caused by or related to the presence of wildlife, and is recognized as an integral part of wildlife management (The Wildlife Society 1992). WS uses an Integrated Wildlife Damage Management (IWDM) approach, commonly known as Integrated Pest Management (WS Directive 2.105) in which a combination of methods may be used or recommended to reduce damage. WS

[1] USDA (U.S. Department of Agriculture), Animal and Plant Health Inspection Service (APHIS), Animal Damage Control (ADC). 1997 (revised). Animal Damage Control Program, Final Environmental Impact Statement. Anim. Plant Health Inspection Serv., Anim. Damage Control. Hyattsville, MD. Volume 1, 2 & 3.

wildlife damage management is but one means of reducing damage and is used as part of the WS Decision Model (Slate et al. 1992, USDA 1997, WS Directive 2.201).

Through the Memorandum of Understanding (MOU) among Cornell Cooperative Extension, NY Department of Agriculture and Markets, NY State Department of Environmental Conservation (NYSDEC), NY Department of Health, and U.S. Department of Agriculture, Wildlife Services has established a cooperative relationship among these agencies (Appendix D of the EA). This MOU authorizes WS "to reduce or control wildlife species detrimental to agriculture, public health and safety, or property" after consultation with the NYSDEC. All WS wildlife damage management activities are in compliance with relevant laws, regulations, policies, orders and procedures, including the Endangered Species Act of 1973.

Based on the analysis in the EA, I have determined 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.

Monitoring
The New York WS program will review its impacts on gulls and double-crested cormorants and other species addressed in the EA each year to ensure that WS program activities do not impact the viability of target and non-target wildlife species. In addition, the EA will be reviewed each year to ensure that it and the analysis are sufficient.

Public Involvement
The pre-decisional EA was prepared and released to the public for a 30-day comment period by a legal notice in the *Newsday* (NYC/Long Island), *The Post-Standard* (Syracuse), *Buffalo News*, and *The Albany Times Union*. The pre-decisional EA was also mailed directly to agencies, organizations, and individuals with probable interest in the proposed program. Seven comment letters were received by WS within the comment period. All comments were analyzed to identify substantial new issues, alternatives, or to redirect the program. Wildlife Services responses to specific comments are included in Appendix A of this Decision and FONSI. All letters and comments are maintained at the New York WS State Office, 1930 Route 9, Castleton, NY 12033-9653.

Affected Environment
This EA evaluates ring-billed gull, herring gull, great black-backed gull and double-crested cormorant damage management by WS to protect human health and safety, property, agriculture, threatened and endangered species, other wildlife, natural resources, and aquaculture on private and public land or facilities within the State wherever such management is requested from the WS program.

Major Issues
Several major issues were contained within scope of this EA. These issues were consolidated into the following 5 primary issues to be considered in detail:

- Effects on Target Bird Species

- Effects on other Wildlife Species, including Threatened and Endangered Species
- Effects on Human Health and Safety
- Effects on Scio-economics of the Human Environment
- Humaneness and Animal Welfare Concerns of the Methods Used

Alternatives
Four potential alternatives were developed to address the issues identified above. Three additional alternatives were considered but not analyzed in detail. A detailed discussion of the anticipated effects of the alternatives on the issues are contained in the EA. The following summary provides a brief description of each alternative.

Alternatives analyzed in detail

Alternative 1 - Integrated BDM Program (Proposed Action/No Action)
The proposed action is to continue the current WS ring-billed gull, herring gull, great black-backed gull, and double-crested cormorant damage management program in the State of New York. An Integrated Wildlife Damage Management (IWDM) approach would be implemented to reduce damage activities to property, agriculture, threatened and endangered species, other wildlife, natural resources, aquaculture, and human health and safety. Damage management would be conducted on public and private property in New York when the resource owner (property owner) or manager requests WS assistance. An IWDM strategy would be recommended and used, encompassing the use of practical and effective methods of preventing or reducing damage while minimizing harmful effects of damage management measures on humans, target and nontarget species, and the environment. Under this action, WS could provide technical assistance and direct operational damage management, including nonlethal and lethal management methods by applying the WS Decision Model (Slate et al. 1992). When appropriate, physical exclusion, habitat modification, repellants, or harassment would be recommended and utilized to reduce damage. In other situations, birds would be removed as humanely as possible using: shooting, registered pesticides, trapping, egg addling/destruction, nest destruction, or euthanasia following live capture by trapping. In determining the damage management strategy, preference would be given to practical and effective nonlethal methods. However, nonlethal methods may not always be applied as a first response to each damage problem. The most appropriate response could often be a combination of nonlethal and lethal methods, or there could be instances where application of lethal methods alone would be the most appropriate strategy. Appendix C of the EA provides a more detailed description of the methods that could be used under the proposed action. Wildlife damage management activities would be conducted in the State, when requested and funded, on private or public property, including airport facilities and adjacent or nearby properties, after an *Agreement for Control* or other comparable document has been completed. All management activities would comply with appropriate Federal, State, and Local laws, including applicable laws and regulations authorizing take of gulls and double-crested cormorants, and their nest and eggs.

Alternative 2 - Nonlethal BDM Only By WS
Under this alternative, WS would be restricted to implementing only non-lethal methods in providing assistance with bird damage problems. Entities requesting BDM assistance for damage concerns would only be provided information on non-lethal barriers or exclusionary devices, habitat

alteration, or other non-lethal methods such as harassment for most species. However, it is possible that persons receiving WS' non-lethal technical and direct control assistance could still resort to lethal methods that were available to them. Information on lethal BDM methods would still be available to producers and property owners through such sources as USDA Agricultural Extension Service offices, NYSDEC, universities, or pest control organizations. Appendix C of the EA describes a number of nonlethal methods available for use by WS under this alternative.

Alternative 3 - Technical Assistance Only
This alternative would not allow for WS operational BDM in New York. WS would only provide technical assistance and make recommendations when requested. Producers, property owners, agency personnel, or others could conduct BDM using traps, shooting, Avitrol, or any nonlethal method that is legal. Avitrol could only be used by State certified pesticide applicators. Appendix C of the EA describes a number of nonlethal methods available for use by WS under this alternative.

Alternative 4 - No Federal WS BDM
This alternative would eliminate Federal WS involvement in BDM in New York. WS would not provide direct operational or technical assistance and requesters of WS services would have to conduct their own BDM without WS input. Information on BDM methods would still be available to producers and property owners through such sources as USDA Agricultural Extension Service offices, NYSDEC, universities, or pest control organizations. Avitrol could be used by State certified restricted-use pesticide applicators.

Alternatives considered but not in detail with rationale

Lethal BDM Only By WS
Under this alternative, WS would not conduct any nonlethal control of gulls and cormorants for BDM purposes in the State, but would only conduct lethal BDM. This alternative was eliminated from further analysis because some bird damage problems can be resolved effectively through nonlethal means and at times lethal methods may not be available for use due to safety concerns or local ordinances prohibiting the use of some lethal methods, such as the discharge of firearms. For example, a number of damage problems involving the encroachment of injurious birds into buildings can be resolved by installing barriers or repairing of structural damage to the buildings, thus excluding the birds. Further, such damage situations as immediately clearing a runway of a large flock of injurious birds could not be implemented immediately, while scaring them away through noise harassment might resolve the air passengers' threat at once.

Compensation for Bird Damage Losses
The compensation alternative would require the establishment of a system to reimburse persons impacted by gull and cormorant damage. This alternative was eliminated from further analysis because no Federal or State laws currently exist to authorize such action. Under such an alternative, WS would not provide any direct control or technical assistance. Aside from lack of legal authority, analysis of this alternative in the FEIS indicated that the concept has many drawbacks (USDA 1997):

- It would require larger expenditures of money and labor to investigate and validate all damage claims, and to determine and administer appropriate compensation. A compensation program would likely cost several times as much as the current program.
- Compensation would most likely be below full market value. It is difficult to make timely responses to all requests to assess and confirm damage, and certain types of damage could not be conclusively verified. For example, it would be impossible to prove conclusively in individual situations that birds were responsible for disease outbreaks even though they may actually have been responsible. Thus, a compensation program that requires verification would not meet its objective for mitigating such losses.
- Compensation would give little incentive to resource owners to limit damage through improved cultural, husbandry, or other practices and management strategies.
- Not all resource owners would rely completely on a compensation program and unregulated lethal control would most likely continue as permitted by State law.
- Compensation would not be practical for reducing threats to human health and safety.

Short Term Eradication and Long Term Population Suppression
An eradication alternative would direct all WS program efforts toward total long term elimination of gull and cormorant populations on private, State, Local and Federal government land wherever a cooperative program was initiated in the State. In New York, eradication of native bird species is not a desired population management goal of State agencies or WS. Eradication as a general strategy for managing bird damage will not be considered in detail because:

- All State and Federal agencies with interest in, or jurisdiction over, wildlife oppose eradication of any native wildlife species.
- Eradication is not acceptable to most people.

Suppression would direct WS program efforts toward managed reduction of certain problem populations or groups. In areas where damage can be attributed to localized populations of birds, WS can decide to implement local population suppression as a result of using the WS Decision Model. It is not realistic or practical to consider large-scale population suppression as the basis of the WS program. Typically, WS activities in the State would be conducted on a very small portion of the sites or areas inhabited or frequented by problem species.

Finding of No Significant Impact.
The analysis in the EA indicates that there will not be a significant impact, individually or cumulatively, on the quality of the human environment as a result of implementing the proposed action and that these actions do not constitute a major Federal 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) Gull and double-crested cormorant damage management as conducted by WS in the State of New York is not regional or national in scope.

2) Based on the analysis documented in the EA, the impacts of the proposed action will not significantly affect public health or safety. Risks to the public from WS methods were determined to be low in a formal risk assessment (USDA 1997, Appendix P).

3) The proposed action will not have a significant impact on unique characteristics such as park lands, wetlands, wild and scenic areas, or ecologically critical areas. Built-in mitigation measures that are part of WS's standard operating procedures and adherence to laws and regulations will further ensure that WS activities do not harm the environment.

4) The effects on the quality of the human environment are not highly controversial. Although certain individuals may be opposed to managing gulls and double-crested cormorants, this action is not controversial in relation to size, nature, or effects.

5) Mitigation measures adopted and/or described as part of the proposed action minimize risks to the public, prevent adverse effects on the human environment, and reduce uncertainty and risks. Effects of methods and activities, as proposed, are known and do not involve uncertain or unique risks.

6) The proposed action does not establish a precedent for future actions, including future gull and double-crested cormorant damage management that may be implemented or planned within the State.

7) No significant cumulative effects were identified through this assessment. The EA discussed cumulative effects of WS on target and non-target species populations and concluded that such impacts were not significant for this or other anticipated actions to be implemented or planned within the State.

8) This action will not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places and will not cause loss or destruction of significant scientific, cultural, or historic resources. WS bird damage management would not disturb soils or any structures and, therefore, would not be considered a "Federal undertaking" as defined by the National Historic Preservation Act.

9) WS determined that the proposed project would not adversely affect Federally or State listed threatened or endangered species in New York.

10) The proposed action is consistent with local, state, and Federal laws that provide for or restrict WS wildlife damage management. Therefore, WS concludes that this project is in compliance with Federal, state and local laws for environmental protection.

Decision and Rational

I have carefully reviewed the Environmental Assessment (EA) prepared for this proposal and the input from the public involvement process. I believe that the issues identified in the EA are best addressed by selecting Alternative 1 (Integrated Bird Damage Management Program (Proposed Action/No Action)) and applying the associated mitigation measures discussed in Chapter 3 of the

EA. Alternative 1 is selected because (1) it offers the greatest chance at maximizing effectiveness and benefits to resource owners and managers while minimizing cumulative impacts on the quality of the human environment that might result from the program's effect on target and non-target species populations; (2) it presents the greatest chance of maximizing net benefits while minimizing adverse impacts to public health and safety; and, (3) it offers a balanced approach to the issues of humaneness and aesthetics when all facets of these issues are considered. Therefore, it is my decision to implement the proposed action as described in the EA. Copies of the EA are available upon request from the New York WS State Office, 1930 Route 9, Castleton, NY 12033-9653.

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Charles S. Brown Date
Director, Eastern Region
USDA-APHIS-WS

Literature Cited:

Slate, D. A., R. Owens, G. Connolly, and G. Simmons. 1992. Decision making for wildlife damage management. Trans. North Am. Wildl. Nat. Res. Conf. 57:51-62.

The Wildlife Society. 1992. Conservation policies of The Wildlife Society: A stand on issues important to wildlife conservation. The Wildlife Society, Bethesda, Md. 24pp.

USDA (U. S. Department of Agriculture). 1997 (revised). Animal Damage Control Program Final Environmental Impact Statement. Vol. 1-3. Animal and Plant Health Inspection Service, Hyattsville, MD.

USFWS. 2003. Final Environmental Impact Statement: Double-crested Cormorant Management. U.S. Dept. of the Interior, USFWS, Div. of Migratory Bird Management, 4401 N. Fairfax Drive MS 634, Arlington, VA 22203.

Appendix A
Response to Comments to the Environmental Assessment
"Reducing Ring-billed Gull, Herring Gull, Great Black-backed Gull, and Double-crested Cormorant Damage Through an Integrated Wildlife Damage Management Program in the State of New York"

Issue 1: *The EA fails to take into account WS impacts as they relate to the USFWS nationwide double-crested cormorant management plan. The EA should have analyzed in detail how the alternatives are affected by the preferred alternative identified (public resource depredation order) in the Management Plan.*
Program Response 1: We assume the Management Plan the commenter is referring to is the USFWS Final Environmental Impact Statement (FEIS) – Double-crested Cormorant Management in the United States (USFWS 2003). Potential cumulative impacts, including those resulting from the implementation of the FEIS by WS, have been analyzed in the EA. As stated in the description of the Proposed Action, "A*ll management activities would comply with appropriate Federal, State, and Local laws, including applicable laws and regulations authorizing take of gulls and double-crested cormorants, and their nest and eggs.*" This statement implies that any and all rules and regualtions that may result from the implemenation of the FEIS could be used by WS if applicable. Therefore, WS implementaion of the FEIS preferred alternative is considered to be part of proposed action identified in the EA.

Issue 2: *The EA fails to account for the cumulative effects of WS actions on cormorant populations, including egg addling programs being implemented in New York and WS activities as they relate to the Nationwide Management Plan.*
Program Response 2: WS potential cumulative impacts on double-crested cormorant populations, including those that could be taken as a result of implementing the FEIS, are discussed in detail in Section 4.1.1 and 4.2 of the EA. The proposed action is not anticipated to significantly impact local, regional, or nationwide cormorant populations.

Issue 3: *The EA provides no detail about how the proposed action would affect local cormorant and gull populations.*
Program Response 3: As described in Section 4.1.1 and 4.2 of the EA, WS anticipates that the proposed action will have no significant impact on local gull or cormorant populations. WS control actions would generally be restricted to local sites and to small, unsubstantial percentages of the overall population. WS activities are directed to resolving bird damage problems by taking action against individual problem birds, or local populations or groups, not by attempting to eradicate populations in the entire area or region. Gulls and cormorants in a particular area would be more limited if these birds are removed or relocated as a result of WS actions. However, immigration of birds from other areas could replace the birds removed or relocated during a damage management action. Furthermore, WS management actions rarely remove all birds or even all birds of one species from a locale where actions occur.

Issue 4: *The EA fails to consider whether the proposed action is legal under the Migratory Bird Treaty Act (MBTA).*
Program Response 4: WS actions are conducted in accordance with applicable Federal, State, and Local environmental laws and regulations, including the MBTA.

Issue 5: *Potential impacts of WS management actions on tourism, specifically those people that enjoy the presence of gulls and cormorants in their natural settings is not mentioned in the EA.*
Program Response 5: The WS program does not anticipate that the proposed action will have a significant impact on those that enjoy the presence of gulls and cormorants. The WS program does not attempt to eradicate any species of wildlife, including gulls and cormorants, in New York. As discussed in Sections 2.2.3 and 4.1.4.1 of the EA, WS management actions would generally be restricted to local sites and to small, unsubstantial percentages of the overall population (no more than 10% of the statewide population). Even though some local populations of gulls and cormorants may decline on the short term, these birds would remain common and abundant, and available for viewing by persons with that interest.

Issue 6: *Only non-lethal methods should be used.*
Program Response 6: This alternative is analyzed in detail in the EA (Alternative 2). WS recognizes the importance of non-lethal methods as part of an integrated approach to managing bird damage. As described in the proposed action, WS will continue to consider and use non-lethal methods when appropriate.

Issue 7: *Landfills should be better managed to reduce impacts to the environment.*
Program Response7: The management of landfill operations is outside of WS legal authority and the scope of this EA.

Issue 8: *A long-term solution needs to be implemented to address over-fishing and pollution effects on natural fish populations.*
Program Response 8: The management of over-fishing and pollution is outside of WS legal authority and the scope of this EA.

Issue 9: *The use of pesticides and other chemicals to manage bird damage pose unacceptable threats to birds, other wildlife, and humans.*
Program Response 9: Impacts of WS use of chemicals is analyzed in detail in the EA. It is anticipated that WS use of chemical repellants and EPA registered pesticides will have no adverse impacts on birds, other wildlife, and humans. Based on a thorough Risk Assessment, APHIS concluded that, when WS program chemical methods are used in accordance with label directions, they are highly selective to target individuals or populations, and such use has negligible effects on the environment (USDA 1997). Mitigation measures to reduce potential impacts of WS chemical use are described in Section 3.4 of the EA.

Issue 10: *WS nest and egg management actions may adversely impact non-target bird species located in breeding colonies where control actions take place.*

Program Response 10: As described in Section 2.2.1.2 and 4.1.2 of the EA, WS anticipates the proposed program will not adversely impact non-target bird species. Mitigation measures to reduce potential impacts on non-target species are described in Section 3.4 of the EA.