



The voice of fish and wildlife agencies

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Public Comments Processing
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To Whom It May Concern:

On behalf of the Bird- and Fish- Related Conflict Working Group (BFRCWG), we are pleased to provide these comments on the U.S. Fish and Wildlife Service's (Service) Proposed Rule [Docket No. FWS-HQ-MB-2019-0103; FF09M29000-201-FXMB1232090000] RIN 1018-BE67 concerning Management of Conflicts Associated With Double-Crested Cormorants (*Phalacrocorax auritus*) Throughout the United States.

The BFRCWG operates under the auspices of the Bird Conservation and Fisheries and Water Resource Policy committees of the Association of Fish and Wildlife Agencies. The Working Group is comprised of state and federal agency members representing the wildlife and fisheries management disciplines across the U.S. Our charge is to develop an adaptive approach to efficiently address the challenges of managing piscivorous birds and affected fishery resources and promote a common understanding of their interactions.

Both cormorants (and other piscivorous birds) and the fisheries resources upon which they prey have a broad range of personal, cultural, economic, social, and biological values. These values are important and vary significantly across the country depending on the wildlife being considered. In some cases, however, cormorants cause significant mortality on priority fisheries resources and, thereby, warrant some population management, including lethal control as part of a suite of integrated techniques. Lethal population management may best be applied through more socially acceptable forms of take (e.g., egg manipulations and nest destruction), whereas limited take of adults in winter-feeding areas may be necessary to alleviate localized conflicts. Optimal management balances personal, cultural, economic, social, and biological values of bird and fisheries resources. We applaud the U.S. Fish and Wildlife Service for their efforts to address this complex and important issue and ask that the Service consider the following suggestions in drafting a final rule.

The BFRCWG supports a proposed rule that includes an Aquaculture Depredation Order consistent with Alternative C in the draft EIS. Re-issuance of an Aquaculture Depredation Order provides both administrative relief and efficient control of Double-crested Cormorant impacts at commercial and state- and tribal- owned facilities while gathering the necessary information to monitor impacts on cormorant populations. Indeed, Table 15 (p. 78-9) of the draft EIS shows that the effects of both a state/tribal Permit and Aquaculture Depredation Order will have similar Environmental Consequences to Alternative A. The combination of efficacy and reduced administrative burden would be welcomed by state fisheries and wildlife managers.

As written, neither the proposed rule nor any of the proposed alternatives in the draft EIS are clear on the authority of states and tribes to provide relief for depredation on fisheries resources in private waters. In many states, depredation on private fisheries resources is one of the most significant avian predation-related issues. The Service should adequately address this issue in the proposed rule. If private waters are not intended to be included, the rationale should be completely explained.

The proposed rule identifies the necessary conditions for which a permit can be issued to reduce conflicts. One of those is to reduce impacts “to threatened and endangered species (as listed under the Endangered Species Act of 1973) and listed species identified in state- or tribal-specific legislation as threatened or endangered.” Considering that not all states have legislation identifying threatened and endangered species, as worded, the Proposed Rule could create an unintended constraint. Additionally, imperiled (but not listed) nesting colonial waterbirds can be limited by co-nesting or roosting Double-crested Cormorants. As an alternative to using only state-identified threatened or endangered designation, we suggest adding Species of Greatest Conservation Need as identified in State Wildlife Action Plans as criteria for a permit.

In the same paragraph, the Proposed Rule addresses the issue of “free swimming fish” by identifying “wild and publicly stocked fish stocked by state agencies or Tribes”. We understand the intent of the statement is to make clear the fishery resources must be public as opposed to private. As worded, the statement is redundant, and we suggest it would be clearer and in keeping with the intent of the rule to say the fish are stocked and managed by state agencies or Tribes. We therefore suggest the first paragraph under the section Proposed Special Double-Crested Cormorant Permit be reworded as follows:

The Service will issue this permit only when it is expected to reduce conflicts involving depredation at state- and tribal-owned or operated aquaculture facilities (including hatcheries); impacts to health and human safety; impacts to threatened and endangered species (as listed under the Endangered Species Act of 1973) ~~and listed~~; species identified in State- and Tribal- **Wildlife Action Plans as Species of Greatest Conservation Need** or ~~in~~ state- or tribal- specific legislation as threatened or endangered; damage to state- or tribal- owned property and assets; and depredations of wild and ~~publicly stocked fish stocked~~ **managed** by state agencies or Tribes.

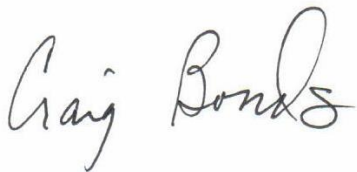
As indicated, monitoring is key to evaluating the impacts of lethal take at local, state, regional, and national scales. We recommend the Service explicitly outline in the rule a time-bound process utilizing the Flyway system to evaluate and develop, with leadership from the Service

and input from both fisheries and wildlife scientists, a best approach for adaptively monitoring take and informing development of future take allocations. Such a Flyway system approach has proven successful in the past and would fully utilize the nongame migratory bird technical sections/committees in each Flyway, the Service Regulations Committee, and the Division of Migratory Bird Management.

For reporting, steps must also be explicit to ensure data collection is timely, accurate, and completed by all persons authorized to take cormorants under this rule. One potentially applicable example is the reporting process used under the Depredation Order for Resident Canada Geese Nests and Eggs (50 CFR § 21.50). Commercial aquaculture facilities should be required to report at least quarterly.

We support the Service's efforts to once again engage in rulemaking concerning issues of piscivorous bird predation on fisheries resources. We appreciate the Service's engagement with the BFRCWG and efforts to understand the perspectives of both fishery and wildlife (particularly avian) resource management professionals. Finally, we applaud the Service for holding multiple scoping meetings in the form of webinars. Maximum public input is critical for optimizing the balance among fisheries and wildlife issues as viewed by a very broad and diverse citizenry. The BFRCWG's members remain committed to continued engagement in this cross disciplinary issue as a new regulatory approach is developed and implemented.

Thank you!



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