

Montana Ban

January 17, 2006

Steve Doherty, Chairman
Montana Fish, Wildlife and Parks Commission
1420 E. Sixth
Helena, MT 59601

Dear Chairman Doherty:

We, the undersigned hunters, and Orion - the Hunters Institute, through this letter formally ask the Montana Fish, Wildlife and Parks Commission to adopt a rule prohibiting the use of all electronic decoys for waterfowl hunting in the State of Montana. Many studies are now available that demonstrate the lethal effectiveness of electronic decoys to not only increase the take of waterfowl, but also to significantly alter natural behaviors. More importantly, perhaps, we believe the use of electronic decoys is contrary to the "fair chase" ethic that is so strongly a part of the Montana hunting tradition. Technologies that diminish the hunting opportunity, both in the sense of what the ducks can endure and the time people can spend afield, are contrary to both the North American model of wildlife conservation, and our ethical relationship with the fish and wildlife we nurture.

I. Background

The use of electronic duck decoys, particularly spinning wing decoys, has become widespread across North America since the initial development of the devices by duck hunters in California in the late 1990's. The percentage of hunters using these devices has steadily increased during the last five or six years and now exceeds 50% in some parts of the country.¹ Although no specific studies have been done in Montana, our observations as duck hunters indicate that similar increases are happening here. Like most restrictions on new hunting technologies, it is clear that the longer waterfowl managers wait to ban these devices, the more difficult such action will become.

Given both their effectiveness and their implications for fair chase hunting, electronic spinning wing decoys are similar to many other hunting devices and techniques that have been banned by the U.S. Fish and Wildlife Service [USFWS]. The rapid acceptance of spinning wing decoys by many waterfowl hunters, coupled with the generally declining scope of influence of the USFWS, has so far prevented the USFWS from addressing this issue. Nonetheless, it is useful to place the use of electronic spinning wing decoys in context by reviewing the history of how duck and goose hunting has been regulated by USFWS.

¹ Review of Electronic Motorized Decoys for Taking Migratory Game Birds, U.S. Fish and Wildlife Service, February, 2005.

With the passage of the Migratory Bird Treaty Act in 1918, USFWS and its precursor agencies began regulating waterfowl hunting. While the principle tools employed by USFWS were season lengths and bag limits, USFWS also prohibited certain hunting practices in order to limit take, preserve populations, and promote sportsmanship and fair chase. Among other actions USFWS prohibited:

- using guns larger than 10 gauge (1918),
- taking waterfowl from boats under power or sail (1918),
- using bait to attract waterfowl (1931),
- using sink boxes and batteries (1935),
- using live decoys (1935),
- using shotguns with a capacity of more than three shells (1935),
- taking waterfowl using livestock as a means of concealment (1941),
- using electronic calling devices (1957), and
- taking waterfowl with toxic lead shot (1991).

II. Electronic Decoys Dramatically Increase the Take of Waterfowl

To date, a number of studies have been undertaken to evaluate the effectiveness of electronic spinning wing decoys for waterfowl hunting. All of these studies have shown a dramatic increase in waterfowl take.

- A California study conducted by the University of California-Davis showed that in paired tests (one group using electronic decoys, the other not) harvest rates for hunters using electronic decoys was six times higher in the early season, four times higher during the mid season, and two times higher in the last season.
- A Manitoba study showed that mallard harvest was 5 times higher for hunters using electronic decoys in the marsh and 24 times higher in agricultural fields.
- A study done in Missouri showed that daily success for hunters using electronic decoys increased by 13-19% and in paired tests, harvest was 1.5 times higher in the early and late season and 3 times higher during the mid season.
- A Nebraska study using paired tests showed that hunters using electronic decoys harvest twice as many ducks in a marsh setting and that mallard harvest was three to four times higher in the late season.
- Other studies have been done in Arkansas, Illinois and Minnesota. A USFWS review of all the studies done to date concluded, “overall, about 70% of all ducks harvested in these studies were taken using spinning wing decoys, while approximately 30% were harvested when SWDs were not in use.”²

III. Because of their Effectiveness, Other States Have Banned Electronic Decoys

While USFWS has, to date, refused to act on the issue of electronic decoys, several states have moved to ban them because of their negative impacts on both waterfowl and the

² Review of Electronic Motorized Decoys for Taking Migratory Game Birds, pp 2-3, U.S. Fish and Wildlife Service, February, 2005.

sport of waterfowl hunting. In each state, Fish and Wildlife Commissions or Departments recognized that electronic decoys could excessively impact the waterfowl resource, and lead to shorter seasons and smaller bag limits, even while undermining the great traditions of duck and goose hunting.

Since ducks are attracted to spinning wing decoys over traditional decoys, hunters not using this equipment, for whatever reason, will be placed at a selective disadvantage at attracting ducks. This will lead to greater use of this equipment, greater harvests of ducks per hunter, and—ultimately—reduced populations and hunting opportunity.

Washington State acted first, in 2001, banning all use of battery-powered and motorized waterfowl decoys. In Washington, a poll determined that hunters were evenly divided on the issue, but the Fish and Game Wildlife Commission banned electronic decoys by a vote of 6-2. Commissioners noted that “robotic” decoys were not in keeping with the traditions of waterfowl hunting and because their use was a fair chase issue, it was one the Commission should decide, not public opinion.

Oregon banned spinning decoys in 2002, again because of fair chase concerns. As one commissioner noted, “We don’t hunt anymore because we need to hunt to survive. We do it for other values. We have to draw a line somewhere or we’ll have flying duck decoys.”

Arkansas, one of the great duck hunting states in the country, moved in 2004 to ban electronic decoys for the 2005-2006 hunting season. The Arkansas Game and Fish Commission was motivated to take this step by a comprehensive report on improving the quality of Arkansas duck hunting that was prepared by the Arkansas Wildlife Federation [AWF]. In the report’s discussion on spinning wing decoys, AWF’s Duck Committee wrote:

Among several startling discoveries, the AWF Duck Committee made in its investigation of the effect of mechanical or “spinning wing” decoys on duck populations. Various reports have been done...and they all reach the same conclusion: Hunters using spinning wing decoys kill more ducks, especially young ducks.

Spinners also encourage more duck hunters to go hunting and add more days in the field per hunter. This also causes more areas to be hunted because more shooters feel confident enough to go afield. In other words, spinners require less hunter effort and skill...

The AWF Duck Committee believes that the use of spinning winged decoys is so detrimental to the quality of the hunt that they should be banned through the nation. They reduce the fair-chase aspect of the sport and they remind us of tools used by market hunters long ago, such as baiting, live decoys and electric callers.³

³ Improving the Quality of Duck Hunting in Arkansas: Findings and Recommendations of the Arkansas Wildlife Federation Duck Committee, pp 20-21, August, 2003. (The full report is available at <http://www.arkansaswildlifefederation.org/>.)

In addition to the total bans in Arkansas, Washington and Oregon, Minnesota, beginning with the 2004-05 waterfowl season, prohibited their use during the first week of the duck hunting season and throughout the season on all state wildlife management areas. In 2003, California began prohibiting electronic decoys from opening day through December 1. Pennsylvania, which bans the use of electronic devices for all hunting, has never allowed spinning wing decoys.

IV. Montana Should Ban Electronic Decoys

Montana sportsmen, the Legislature, the Commission and the Department have long worked together in conserving Montana's fish and wildlife resources and protecting the public's right to hunt and fish in an ethical matter. Over the decades, Montana has shown great leadership in recognizing that hunting must occur against a backdrop of fair chase and that the conservation ethic not only includes protecting and enhancing fish and wildlife populations, but also respecting the resource by limiting the tools and technologies available to the hunter.

Beginning in the 1920's and extending until the most recent legislative sessions and elections, Montana laws and regulations reflect a basic philosophy of providing hunting opportunity to the broad public, but against a defined code of conduct. In Montana it is:

- unlawful for anyone to hunt or attempt to hunt any game animal or game bird: from any self-propelled or drawn vehicle;
- unlawful to use any recorded or electrically amplified bird or animal calls or sounds to assist in the hunting, taking, killing, or capturing of wildlife, except predatory animals and those birds not protected by state or federal law;
- unlawful to use aircraft to drive, rally or locate game animals;
- unlawful to use any boat to drive, rally or concentrate game;
- unlawful for a person, while hunting, to possess any electronic motion-tracking device that is designed to track the motion of a game animal and relay information on the animal's movement to the hunter;
- by Commission regulation, it is unlawful to use radios or walkie-talkies while hunting; and
- by voter initiative, it is unlawful for an alternative livestock licensee to allow hunting of any alternative livestock, including deer and elk, for a fee or any other type of compensation.

In adopting these laws and regulations, the legislature, the Commission and the voters all evidence a clear philosophy that allows wildlife to range free and rejects the use of electronic devices and motorized vehicles to gain advantage in the hunt. Instead, hunting skill and the individual determination of the hunter are the keys to a "fair chase" and a successful hunt, regardless of whether game is taken.

Against this backdrop of law, and in light of this wide support for fair chase, the Commission should clearly move to ban electronic decoys, devices that dramatically increase hunter success, cause waterfowl to abandon traditional behaviors, and diminish the importance of hunter skill. The studies cited in this letter unambiguously demonstrate

the effectiveness of electronic decoys. They don't, however, convey how they change bird behavior. Hunters better describe how ducks not only swarm to decoys, but do so where there is no duck habitat present. Consider this report that was posted on a website about a duck hunt in the Flathead Valley this fall.

We found a field with about 2 thousand mallards in a bunch of barley that had been lost in the rain, but it was off limits to hunting. So our only choice was across the road in a dirt field that used to be potatoes (there was nothing on it). This morning we thought it would bust (why would ducks want to land in here). At first light about 100 landed in the barley, so we scared them off. We then turned on the mojos and started to do some loud and aggressive calling. The next group that came was about 200, and once they saw the 2 mojos they poured right into us. From then on, we had hundreds of ducks at a time swarming us, which made for a quick 5-man limit of 35 mallards, 1 honker, and two bands.

Electronic decoys are legal now and many hunters with a hunting ethic to match our own use them. But we do not believe it is a fair chase, or in best interests of waterfowlers, to use devices where, with the push of a button, ducks will land in a dirt field. Given that Montana has banned similar electronic devices that were also used by ethical hunters, we urge the Commission to recognize that electronic decoys fall outside Montana's tradition of fair chase and adopt regulations banning their future use.

Outside concerns of fair chase and an ethical hunt, the use is undermining many assumptions about the impact of hunting on waterfowl populations. It stands to reason that today we could again experience unsustainable levels of additive waterfowl mortality with more frequency and across more species because of elevated numbers of waterfowl bagged per hunter per day through the use of electronic decoys.

With most wildlife species, when harvest mortality combined with natural mortality exceeds annual production, hunter harvest becomes "additive" causing populations to decline. Duck hunting has historically been additive only when harvest far exceeded annual production (from market hunting, or liberal bag limits persisting during drought episodes). Without electronic decoys, most hunters fail to bag their daily limit on each outing.

The evidence is clear; with electronic decoys these same hunters will bag more birds, prompting a number of questions...

- Will more hunters spend more time afield because they are being successful?
- Will traditional possession limits become more difficult to enforce?
- Has harvest now become additive, and do we have the requisite monitoring monies to determine if it has?
- If we reduce bag, possession, or season length, how will this perturb the waterfowling tradition?

With these combined ethical, resource, and fiscal concerns presented, we believe the technology should be banned. This action solves many more potential problems than it creates.

We also observe that waterfowl managers are calling for more studies to assess the impacts of electronic decoys on waterfowl populations. For example, a single year study of the impact of electronic decoys on mallard populations in Minnesota showed a significant increase in harvest. But the study authors also wrote:

A multi-year, flyway-wide study is needed to make stronger and more rigorous inferences regarding the potential changes in harvest distribution and annual harvest rates of mallards due to increasing use of SWDs (spinning wing decoys) by hunters in North America.⁴

For its part, the USFWS has noted that while the use of electronic decoys may be undermining the models that USFWS uses to set seasons and bag limits, budget constraints preclude funding an adequate study of this critical issue:

Expanded uses of these devices may also result in some significant shift in harvest distribution over time. Costs to improve our population and harvest monitoring databases and to more accurately detect harvest rate changes resulting from wide spread usage of these devices would likely be prohibitive for management agencies, given current budgetary constraints.⁵

Rather than studying the impacts of electronic decoys, the better course is simply to prohibit their use. At a time of tightly constrained budgets and continuing degradation of waterfowl habitat, we can think of no poorer use of limited funds than studying a device that allows hunters to kill more ducks quicker. Funds should be prioritized for habitat acquisition and protection, not expended on arcane studies of decoy effectiveness. We recognize that Montana's waterfowl harvest is small and the resource impacts of using electronic decoys here may be relatively insignificant. As part of both the Central and Pacific Flyway Councils, however, Montana representatives should strongly advocate flyway-wide bans on electronic decoys, rather than accept strategies that call for funding studies that study their impacts.

V. Conclusion

As avid hunters, we all marvel at the majesty of North America's waterfowl resource. Diminished as it is from former times, it is still a treasure for Montana and the nation. It is clear to us that protecting this resource and its wetland habitats across the continent should be the first and absolute priority of hunters and waterfowl managers alike.

⁴ Szymanski M.L and A.D. Afton, 2005. Effects of spinning wing decoys on flock behavior and hunting vulnerability of mallards in Minnesota, *Wildlife Society Bulletin* 33(3):993-1001.

⁵ Review of Electronic Motorized Decoys for Taking Migratory Game Birds, p 5, U.S. Fish and Wildlife Service, February, 2005.

At some basic level, debates over devices that allow hunters to kill more ducks and often kill them more quickly, detract and distract from this priority. A great duck hunt is an event long remembered, but it is only one reason why we go to the marsh. For duck hunting to continue, it must be built on tradition rather than technology and it must fundamentally be done in a manner that reinforces the efforts by many, many hunters to conserve the waterfowl resource. In our view, electronic decoys undermine this conservation ethic by promoting the kill rather than the hunt.

We ask the Montana Fish, Wildlife and Parks Commission to issue regulations that ban the use of electronic decoys just as it has, in the name of conservation and the ethic of fair chase, banned all manner of other electronic devices for sport hunting. We further ask the Commission to direct the Department to advocate banning electronic decoys to the Flyways Councils and the U.S. Fish and Wildlife Service.

Sincerely,

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