

Airborne Hunting, A Wildlife Disaster

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Abstract: The use of aircraft to hunt wild animals has been a problem in recent years. With the number of helicopters increasing every day, wildlife is threatened with potential disaster. Those few poachers that would take immoral, as well as illegal advantage of wild animals by hunting them from an aircraft, have the potential of destroying years of careful wildlife management. We in the wildlife law enforcement field must concentrate our efforts on stopping this type of illegal hunting.

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The air is still, and the only sound is the distant cry of a red tailed hawk in the West Texas sky. The magnificent mule deer buck warily checks for any sign of danger before he steps out of the rocky arroyo. It is late January, and the hunting season has been over for nearly two months. The men with their guns have gone back to their towns and warm houses. The big buck's hooves make flinty noises on the rocks as he moves through the cactus and low brush. Caution is ever present as the eyes below the massive horns seek any sign of movement. The buck hardly feels the damp cold that covers the land, and he does not know that he is an integral part of the wildlife conservationists' plan to perpetuate the deer herd's quality and quantity. Surveys have been made and studies performed to determine the legal harvest that will best allow the "natural selection" process to continue so that enough of the strongest and wisest like he will survive to sire others of his kind.

The wind is starting to pick up slightly, and the leaves on the thorny bushes around the old deer flutter and begin to sway. Somewhere in the distance a faint clattering sound is picked up by the cold wind. The buck's gnarled head snaps up and he looks intently into the wind, his ears point in the direction of the sound as he strains to determine its source. The sound is becoming louder now, and the hair on the old deer's back stands up. Now he can see the orange helicopter as it flies low over the brushy hills and arroyos wallowing along at ninety miles an hour. The sound becomes a frightening din as the old

buck bolts from behind the cover that has protected him all his life. He runs almost blindly now that the helicopter is following him. His speed is no match for the machine's, and soon he is running in the prop wash of the helicopter as the bushes wave and the dust swirls around him. Fright carries the deer now as he twists and turns but there is no escape. Soon he is winded, and he slows down to a slow rocking run as the helicopter hovers over him and a man leans out and ends the buck's life with a single blast from a twelve gauge shotgun. The helicopter lands, a picture is taken of the "proud" hunter with his trophy, the head is cut off and placed in one of the baskets attached to the skids of the chopper, and in minutes it is gone with nothing remaining in the silence that is left behind except the headless carcass of what was one of the best mule deer bucks in West Texas.

The helicopter moves on carrying its hunters in their rapid quest for "the biggest and the best." This, then, is airborne hunting, a method of hunting that certain terrain allows an animal no chance to hide, and no possible way to escape. It is a method of outlaw hunting with the potential to effectively destroy the gene pool of a herd of animals.

This paper, then, is not meant to be an in-depth study of the history of the Airborne Hunting Act, but rather it is meant to sound an alarm to those of us in the wildlife enforcement field. This type of outlaw hunting that has become more prevalent in the past few years must be stopped. The potential damage to big game herds or migratory birds such as eagles from airborne hunting is second only to habitat destruction.

Before World War II, wildlife biologists began to use fixed wing aircraft to survey wildlife populations. Pilots began to realize that small aircraft could be used to move or harass wildlife that was otherwise out of man's reach. Both migratory birds and game animals could be driven to a hunter's gun by using a small airplane. Federal law has protected migratory birds from "rallying" for many years but it wasn't until recently that it became illegal to use an aircraft to hunt other animals. During the 1960s, attention was focused on the killing of wolves in Alaska from aircraft. Because of this publicity and public outrage against the slaughter of animals in this manner, Congress acted in 1971 by passing into law the Airborne Hunting Act.

The Airborne Hunting Act is found in 16 United States Code 742j-1 and states in part:

(a) Any person who—

- (1) while airborne in an aircraft shoots or attempts to shoot for the purpose of capturing or killing any bird, fish, or other animal; or
- (2) uses an aircraft to harass any bird, fish, or other animal; or
- (3) knowingly participates in using an aircraft for any purpose referred to in paragraph (1) or (2);

shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

Forfeiture

(e) All birds, fish, or other animals shot or captured contrary to the provisions of this section, or of any regulation issued hereunder, and all guns, aircraft, and other equipment used to aid in the shooting, attempting to shoot, capturing, or harassing of any bird, fish, or other animal in violation of this section or of any regulation issued hereunder shall be subject to forfeiture to the United States.

As can be seen, this law is well-written and is easy to understand. Quite simply, the law makes it illegal to shoot or harass any wild animal from an aircraft or to participate in any way from the ground in so doing. The only exception to these prohibitions is permits that may be issued by the states for the taking of predators for the protection of livestock.

The best part of the law is the penalty section. Each count is punishable by \$5,000 and/or one year in jail. All equipment used, including the aircraft itself, is subject to forfeiture to the United States. When you put a seizure tag on a \$100,000 helicopter you can be assured that you will have the violators' undivided attention. The law then, offers us penalties that are commensurate with the seriousness of the crime.

In the past several years, several major cases involving airborne hunting have been successfully prosecuted in Texas. Maximum fines have been levied, and suspended jail sentences have been given to prominent businessmen and county officials with otherwise clean records. In one case in West Texas, four men were sentenced to jail terms ranging from six to eighteen months and given fines from \$6,000 to \$20,000. Several others involved received lesser sentences for their cooperation with the government. In this particular case, a helicopter pilot and a sporting goods store owner were offering helicopter hunts for a variety of animals. Those who could afford the price were set up to meet with the pilot who supplied the weapon, a Heckler and Koch Benelli .12-gauge riot shotgun. The hunter would then be taken over west Texas ranches, usually during closed season, and allowed to kill trophies of their choice from the helicopter. One prospective customer was told that if he didn't want to shoot his deer that they would run it down with the helicopter, and then he could get out and just slit its throat. These men were prosecuted and convicted. The pilot is currently in the federal correctional institution in Big Springs, Texas, and the sporting goods store owner has now appealed his \$10,000 fine and one year jail sentence to the Supreme Court.

The Lacey Act has recently been amended to make certain wildlife crimes felonies. Airborne hunting cases involving commercial transactions in excess of three hundred fifty dollars have recently been prosecuted as felonies under the new Lacey Act amendments. This has proven to be a very effective deterrent to airborne hunting. The affluent class of people that own aircraft are much less inclined to risk jail terms, loss of equipment, and felony convictions to violate game laws.

It has been the experience of this writer that conventional patrol methods are not effective in stopping airborne hunting. Every case that has been successfully prosecuted in Texas has been made through extended investigation. Not one case involving subjects being arrested in the act of violating the law has been filed. Subjects hunting from the air have all the advantages on an officer working from a patrol vehicle. More success has been had by keeping our ears to the ground rather than our eyes to the sky. Often information is received from a witness who saw an aircraft doing something suspicious. When an officer receives this type of information it is advisable to make an initial check to see if the information is valid before proceeding further. Once this has been done, the officer should consider discussing the situation with his supervisor to determine what steps to take next.

If the assistance of a U.S. Fish and Wildlife Service agent is deemed to be appropriate, a call in the early stages of the investigation is helpful. It has proven to be wise to gather as much information about this type of possible violation before making initial interviews. Simultaneous interviews of all possible witnesses, even those in different areas, also have been very effective. In Texas, the close working relationship of the state game wardens and U.S. Fish and Wildlife Service agents has been extremely effective in gathering evidence. The state wardens' knowledge of their assigned areas and the people in these areas combined with the Fish and Wildlife agents' freedom to travel across county and state boundaries has helped to solve many cases. The use of federal grand jury subpoenas for bank records, phone records, and related documents, is often needed to establish a paper trail that eventually will help convict subjects of airborne hunting as much as several years after it has happened.

Hopefully this paper will cause all of us to be aware of the danger of illegal airborne hunting. Because you never see it does not mean it's not going on in your area. It can be checked, if we will all work together to insure that the technology available to the human race is used to help wildlife and our ecology, rather than to destroy it.