



# Montana Fish, Wildlife & Parks

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**TO:** Chuck Jarecki, Montana Pilots' Association  
**FROM:** Michael Korn <sup>MK</sup>  
**RE:** Missouri Breaks/Aircraft Use Issues  
**DATE:** March 13, 2004

Sorry I've taken so long in responding to you but I wanted to have the chance to talk to the various Department staff, both wardens and biologists, whose districts adjoin or are within the boundaries of the proposed National Monument regarding the questions you asked. All those I spoke with felt that there is currently a considerable amount of air traffic in the Breaks in general, both during and outside the hunting seasons. Activities they have observed or been told of range from individuals flying in search of cattle on grazing allotments, coyote hunting, military aircraft on practice missions, to sport flying and people flying to spot animals with the intention of returning to hunt them.

From the point of view of most of these department personnel, aircraft use involved in hunting has presented some recurrent issues. FWP regularly receives complaints regarding such incidents, be they actually unlawful or simply perceived as such. The number of complaints ranged from 3 to 4 per year fielded by each of the department people I talked to, which translates to about 15 altogether for the area. The remoteness of the area as well as our own staffing limitations, make responding to complaints difficult unless someone happens to be on site. However, all stated that the sentiment held by the general public who recreate in the area is that those who use aircraft in the course of hunting get an unfair and perhaps, inappropriate advantage over others. Some of the complaints revolved around incidents where commercial outfitters are alleged to have used aircraft to spot trophy animals for their clients and haze them toward hunters as well as situations where pilots intentionally or inadvertently have interfered with hunters on the ground when they fly over animals at low altitude.

That being said, I'll cover the questions you posed in the order you asked them.

***1. Hunters are using aircraft to find and shoot animals on the same day.***

The regulation regarding aircraft spotting game is a FWP Commission Rule that, I believe, was originally adopted in 2000. It states:

***“Aircraft may not be used to locate big game animals for the purpose of: 1) hunting those animals within the same hunting day after a person has been airborne; 2) providing information to another person for the purpose of hunting those animals within the same hunting day after being airborne. The same hunting day in this context is defined as***

*between the earliest and latest legal shooting hours.”*

FWP has taken reports of individuals in the Breaks flying to spot animals and then, either by radio or, by returning to a pre-determined meeting point and then verbally, and in person, communicating the location of animals to other people for the purpose of hunting. As you might imagine, this is a difficult violation to prove to the standards necessary for criminal prosecution. There is a perception amongst both hunters and department staff that such activity does regularly take place in the Breaks. The actual degree and frequency is a matter of speculation based on individuals’ familiarity with the area, the kinds of hunting activity, the individuals involved and other attendant circumstances.

I did a brief check with our TIPMONT office to get a sense of reported violations associated with aircraft. Keep in mind, these are statewide totals, not just the Breaks, and do not indicate if any citations were ultimately issued. They also do not include calls that come in directly to our offices or to Game Wardens by other means. The final 2003 stats are not available yet, however, between 1995 and the first part of 2003, there were 37 calls logged with TIPMONT that identified the use of aircraft in some kind of violation. These included spotting game from the air, harassing game, herding elk, shooting at game from an aircraft, ground to air communication to spot game and spotting game from the air, landing and then, shooting game. These totals also include reports of military aircraft chasing or harassing game as well as reports of individuals using aircraft to chase or herd game *off* of private property. The years 2000 and 2002 had the most TIPMONTs regarding unlawful aircraft use, with 8 in 2000 and 9 reports in 2002.

## **2. *Aircraft harassing wildlife.***

Department personnel contacted received reports of aircraft harassing wildlife although they couldn’t place a specific number on the complaints. Some felt that there may be a degree of inadvertent running of animals by virtue of pilots fence-hopping, flying up over a ridge and suddenly encountering a group of animals they did not anticipate being present. By the same token, if activities in other parts of the state are any indication, there is probably a degree of intentional harassment also occurring. Similar incidents take place with people using motorized vehicles such as trucks, ATV’s, and snowmobiles. General harassment situations seem to take an upswing during the early spring in connection with antler hunting, particularly in areas specially managed for older, mature male animals, of which are many districts in the Breaks.

We have had complaints from hunters during the bow and rifle seasons that aircraft have ruined their hunts. In these instances, individuals on foot have been hunting or stalking animals when aircraft came upon the scene and scared the animals off. These have been reported as inadvertent and as well as intentional incidents. Some intentional occurrences have been attributed to outfitters who are trying to run people off of public land, are attempting to haze animals in the direction of paying clients or as individuals who are trying to secure an area for their own, personal hunting. Most of these have not, to this point been conclusively confirmed.

## **3. *Game populations are reduced due to aircraft activity.***

In my discussions with department personnel, no one felt that game populations per se were reduced specifically due to aircraft activity. I think we all agree and know that human activity can have affect the well-being and behavior of wildlife and that certain species (such as big horn sheep) are more susceptible to stress-induced disease and mortality when disturbed than others.

The time of year can play a big role in the effects of disturbance upon wildlife. Right now, for instance, most animals are at low ebb after winter. I refer you to Tom Carlsen's article on antler hunting that speaks to the potential effects on wildlife when disturbed on winter ranges in early spring. As he mentions, it takes very little additional stress to put a cow elk and its gestating calf in jeopardy. The same holds true for bighorn sheep that can suffer adversely if disturbed at times of lambing and rearing.

An additional consideration to the situation is the presence of the MOA (Military Operations Area) that is in place in the vicinity. As you are aware, there is a considerable amount of military air traffic in the area, which at times can be fairly intensive and operating at low altitudes. This, to some degree, probably affects wildlife (and pilots as well) but no specific data was available to me for that area at this time.

#### ***4. Game poaching by pilots is an ongoing problem.***

As mentioned before, given the amount of air traffic, there is likely some degree of illegal activity associated with the use of aircraft in the Breaks. And, it is not uncommon that individuals who are willing to break one law in the illegal pursuit of animals also violate other regulations as well in the course of these acts. The way we track citations combined with the decisions made on the spot by an officer in the field limits how much information can be garnered from a simple list of citations. For example, there may be a situation where an individual used an aircraft to spot an animal, land, take the animal, and do so without the necessary permit for the area. The warden may cite the offender but only for the unlawful taking, the penalty for which, depending on the animal, could be as much as \$720.00, along with mandatory loss of hunting privileges. If the animal was a "trophy-class" elk, for instance, statute also requires \$8,000 in restitution. However, I was unable to find any information indicating that pilots are *specifically* involved in the violation of game laws. The Breaks are remote country and even with systems like TIPMONT in place, there is unlawful activity taking place that is bound to go undetected or unreported

I hope this information was helpful. I am sending a copy of this memo to the field people I talked with and if they provide me with any additional information, I will pass it on. As I mentioned to you when we talked in Great Falls, a strong statement from MPA rejecting the illegal use of aircraft and also defining the ethical limits of aircraft use in connection with hunting or other wildlife/resource activities would, I believe, go a long way towards MPA standing out as standard bearer for aviation-based activities to the general public as well as serving notice that such behavior won't be tolerated by the aviation community at large.

Let me know if I can offer any other information to you.

c: Jeff Hagener  
Jim Kropp, Chief, Law Enforcement

25MAR04

Hi Mike,

We appreciate the reasearch that you did on the flying and game spotting problem in Montana. That was obviously quite a bit of work.

After you sent that report out we got to discussing the subject amongst ourselves and we think that the problem may not be nearly as big as it is perceived. For example, two of us were questioned by a game warden for doing the very same thing when in fact our flights were of a much different nature. Just because a call comes in reporting a low flying plane during hunting season does not consitute a violation. We know you know that but we just don't want to see the numbers skewed the wrong way.

Pasted below are the two stories that happened to us personally in the last few years.

Best regards,

Dan

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> 24MAR04

>

> Hi Nigel,

>

> I think that probably most of the so-called hunting violations are just  
> like

> your dad's. Just because someone makes a call does not mean a violation  
> occured. Those figures in Mike's message could easily be misused by the  
> wrong people.

>

> In October of 1999 I got a call from the sheriff for help looking for a  
> lost  
> hunter. We went up and scoured the area she was most likely in. We  
> didn't

> find her that day but she walked out on her own that evening. Soon  
> after I

> got back from flying that day I got a visit from the game warden. He  
> was a

> little coy about his visit asking me questions about a barrel. It came

> out  
> that he wondered why I was flying over a certain part of the forest at  
> low  
> altitudes. He should have known why and when I  
> told  
> him he left. But someone had turned me in too and that's probably one  
> of  
> the figures in Mike's list from 1999.  
>  
> The good news of that story was that the lost hunter heard us overhead  
> and  
> then knew that a search team was out looking for her. She said it was  
> reassuring to hear the engine of the plane. She became a very strong  
> supporter of our local airport and is now on the airport board with us.  
> It  
> also reinforced how hard it was to spot a person in the trees but I'm  
> convinced that if she'd had a signal mirror we would have found her very  
> quickly.  
>  
> Dan  
>  
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>  
>> Very well put Art. And I agree wholeheartedly. My father was turned in  
> by  
> a hunter in the late 90's. This so called hunter called on a cell phone  
> to  
> the the Fish and Game and said that an airplane was harrassing game and  
> chased an entire heard of elk out of a meadow. Dad was actually flying a  
> rancher from the Canyon Ferry area (Grady Ranch), looking for lost  
> cattle.  
> It was 10:30 in the morning, during the middle of hunting season. How  
> many  
> elk are going to be out feeding at 10:30 am during hunting season?!? Dad  
> said there were no elk around, but they did find the cows. Also, they  
> weren't even in the area this hunter said they were. Anyway, the game  
> warden stopped by our hangar and started to harass him about it. I was  
> there  
> and it was definite accusational harassment. Dad gave him the facts,  
> called  
> the rancher to confirm it and the Warden backed off. This is just one  
> case.  
> I'm sure that a majority of the reports are false.

>>

>> Regardless, I think that the code of ethics that Chuck and Dan are  
> working

> on is a great idea and should help our cause.

>>

>> Nigel Davis