

# **Exhibit B**

**Public Correspondence received as of  
April 4, 2019**



## Brandon Reishus

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**From:** Roxann B Borisch on behalf of ODFW WildlifeInfo  
**Sent:** Wednesday, November 14, 2018 10:57 AM  
**To:** Brandon Reishus  
**Subject:** FW: LEGALIZATION OF MOTORIZED WATERFOWL DECOYS

Brandon  
Forwarding to you.  
Roxie

**From:** Ryan Fitts <rfitts11@gmail.com>  
**Sent:** Wednesday, November 14, 2018 8:48 AM  
**To:** ODFW.Wildlifeinfo@state.or.us  
**Subject:** LEGALIZATION OF MOTORIZED WATERFOWL DECOYS

November 8, 2018

Wildlife Division of the ODFW

### LEGALIZATION OF MOTORIZED WATERFOWL DECOYS

Hello, my name is Ryan Fitts. I am 16 years old and I am currently a sophomore at Central High School. I was born here in Oregon and have enjoyed hunting and fishing my whole life.

I am emailing you today regarding the legalization of motorized motion decoys. I believe that allowing hunters to utilize motion decoys for late season would be a great benefit for the waterfowl hunting community. Hunting in the late season is very difficult unless you have enough money to purchase a large decoy spread. By legalizing the electronic motion decoys it would allow hunters to use a smaller decoy spread and decoy wary birds easier.

In the study conducted by the ODFW in 2002 they concluded that the motorized decoys had no real effect on the harvest rates in mid to late season. Instead, they found that the weather, breeding habits and migration have more of an effect. The only time the decoys had an effect was in the early season when it was primarily local birds in the area being harvested.

There are 47 out of the 50 states that have allowed the motion decoys for over ten years and they aren't any more effective than they were in the past. If anything they are less effective now than before. So that is why I believe that if Oregon legalizes electronic motion decoys from November 17<sup>th</sup> to the end of the season each year, it would benefit both the waterfowl community and the duck and goose conservation efforts.

Ryan Fitts

rf

ODFW Commission  
Via email: [odfw.commission@state.or.us](mailto:odfw.commission@state.or.us)

July 19, 2018

Greetings Commissioners,

I am asking the ODFW Commission to rescind a recent change to the 2018-2019 Oregon Game Bird Regulations which I learned about yesterday. That change is found on page 33 of those Regulations and now requires a daily hunting permit for all units of the Fern Ridge Wildlife Area. This regulation change is burdensome and was passed without public input. There is no mention of this regulation change in the minutes or transcript from your April 2019 Commission meeting. Nor is there any mention in any of the supporting materials. I doubt any of you realized you were converting 2,239 acres of public land into a daily permit area.

Please consider this a request under ORS 183.400 and OAR 137-001-0070 to pass upon the validity of the rule in question prior to judicial review or in the alternative to amend the rule.

The Fern Ridge Wildlife Area is composed of nine units covering 5,261.3 acres. Its management is governed by a 2009 management plan and agreement with the Army Corps of Engineers. Prior to this regulation change, a daily hunting permit was only required in five of those units. The remaining four units and lake area (2,239 acres) did not require a daily hunting permit.

I have the pleasure of being an adjacent landowner to the Fern Ridge Wildlife Area. I have used the Wildlife Area, as do many of my neighbors, to hunt waterfowl, bird-watch, kayak and hike. As the 2009 Management Plan indicates, there are many points of access to the Wildlife Area – through the reservoir, through established parking lots, through Shore Lane or Barker Road and through adjacent land.

I am an adjacent landowner to the Amazon Dike No. 2 Unit, which did not require a permit. As a practical matter this regulation change means I can no longer walk out my backdoor to hunt. I now have to drive to the Kirk Pond check station (a distance of 2.7 miles), pick up a daily permit, drive back to my house, and at the end of the hunt drive back to the Kirk Pond check station to drop off the permit. In total this is almost 11 miles of added driving per day. I will have to do this every day I want to hunt.

I am not opposed to the collection of information about hunting effort or harvest. I participate in wing collections and surveys for waterfowl and upland birds. I am opposed to unduly cumbersome permit requirements. I am opposed to gathering of information simply for the sake of gathering information. It is unclear what this new information would be used for or how it would be incorporated into any management changes. The 2009 Management Plan noted the issue was the lack of a permit or registration system for *non-hunting* users of the Wildlife Area. Yet hunters, who largely fund wildlife areas, are the only ones this new burden is imposed upon. It does not apply to dog walkers, bird watchers or other recreational users. This is not an example of simplifying regulations or promoting hunting. It is both burdensome and unnecessary.

Now for the legal issues. This regulation was adopted without compliance with applicable rulemaking procedures. This regulation change received no public notice or an opportunity for input. The regulation change was not described in the Notice of Proposed Rulemaking in the Oregon Bulletin. It is not in the Fiscal Impact Statement. It is not in the draft Administrative Rules. It is not in the adopted amendments to OAR 635-008-0095. It is not in the Agenda Item Summary. It is not mentioned in the public correspondence. It is not in Game Bird Program Staff Summary. It is not described in the transcript or minutes of the April Commission meeting. It is not in the Army Corps of Engineers Federal Regulations

for the project. Indeed, there is no record of the Army Corps of Engineers (the underlying landowner for much of the Wildlife Area) being consulted about this change to public access to their lands. Expansion of the hunter permit requirement is not called for in the 2009 Management Plan.

At most there are three rule amendments where the “document entitled ‘2018-19 Oregon Game Bird Regulations,’ is incorporated by reference into these rules.” Adopting a regulation change by reference to a publication that does not come out until several months after the rulemaking meeting is the antithesis of an open public rulemaking process.

As required by OAR 137-001-0070(1)(a) the matter proposed to be deleted is on page 33 of the 2018-19 Oregon Game Bird Regulations (Daily hunting permits are required for all units). The proposed additions are to revert back to the prior language in the 2017-18 Oregon Game Bird Regulations (Daily hunting permits are required, must be possessed at all times by users, and must be completed and returned at the end of the day for hunting in East Coyote, West Coyote, Fisher Butte, Royal Amazon and Kirk Park units.)

As required by OAR 137-001-0070(2) the existing rule's substantive goals can be achieved by restoring the prior rule which only required a permit for the units with the highest use. Following public input and proper rulemaking procedures an alternative could be readopted in some form that is less burdensome or that covers a wider variety of recreational users. There is no continued need for the existing rule because it was just put in place and is not called for in the 2009 management plant. There is no indication what the information gathered would be used for. The existing rule is overly complicated for the reasons described above. The existing rule was adopted in conflict with state rulemaking procedures and is not called for in the Army Corps of Engineers’ federal rules. Technology, economic conditions, or other factors have not changed in the subject area affected by the existing rule, since the agency only adopted the rule recently and it was not available for public review until early July.

I ask that you rescind this change to the 2018-19 Oregon Game Bird Regulations. Whether it is legally valid or not, there needs to be public involvement and outreach before a change like this affecting 2,239 acres of public land is adopted.

Respectfully,

s/ Ben Miller

Address on file with ODFW but confidential pursuant to ORS 192.345(32)(b)

Cc: Curt Melcher  
Erin Donald

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## Brandon Reishus

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**From:** Graig Spolek <spolekg@pdx.edu>  
**Sent:** Saturday, March 16, 2019 7:13 PM  
**To:** Brandon Reishus  
**Subject:** Re: ODFW Migratory Game Bird Regulation Considerations for the 2019/20 hunting season

Brandon,

Thank you for including me in the decision-making process.

The proposed waterfowl regulations are reasonable and consistent, except for the reduction of the pintail limit from two birds to one. That decision is not born out by data. Bouncing back and forth between one bird and two birds annually demonstrates that the rule-making process appears arbitrary.

Keep up the good work.

Graig Spolek

## Brandon Reishus

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**From:** susan Massini <jmassini@yahoo.com>  
**Sent:** Saturday, March 16, 2019 6:23 PM  
**To:** Brandon Reishus  
**Subject:** Re: ODFW Migratory Game Bird Regulation Considerations for the 2019/20 hunting season

When will this state revisit motorized decoys for waterfowl? Oregon is only one of the two or three states where they are not legal. When is this state going to stop punishing its waterfowl hunters with unrealistic rules? Some rules are necessary, but this one is not.

Sent from my iPad

## Brandon Reishus

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**From:** Pete Gutbrod <gutbrodpete@gmail.com>  
**Sent:** Saturday, March 16, 2019 6:28 PM  
**To:** brandon.s.reishus@state.or.us  
**Subject:** Pintail

Thanks for the update . I am still having a huge problem with the pacific flyway having to reduce pintail limits along with the other flyways. Other areas have less mallard limits and restriction we don't. It's managed based on the numbers in areas . Why is pintail a blanket nationwide policy. We are covered up with pintail almost every hunt no matter inland in the valley or at the coast. We have a healthy strong population so why do we get restricted so bad? We see way more pintail than wigeon or mallards . Just very frustrating. I'm not a biologist and don't do counts but you don't have to be a rocket scientist to know the numbers are ok in our flyway when you hunt every third day and see the numbers we do. Thanks for your time . Pete



## Brandon Reishus

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**From:** Bob Foote <bfoote@acosta.com>  
**Sent:** Monday, March 18, 2019 8:33 AM  
**To:** Brandon Reishus  
**Subject:** RE: ODFW Migratory Game Bird Regulation Considerations for the 2019/20 hunting season

Brandon,

Comments for the seasons, I think the cackler numbers were very healthy again in the NW zone and think the spring surveys were incorrect. Not sure what hunter harvest records are but with the weather in western Oregon the hunting was terrible and the birds should come out of the winter very healthy. Shot two drake mallards the last day and they had almost a half inch of fat, usually by that time there is just skin on top of the muscle. The weather did turn a bit after duck closed but they should be very healthy heading back north.

I have managed a duck club by the Tualatin Refuge for 7 years and hunted it for over 12 and was one of the poorest years we have had. With the weather, the birds went totally nocturnal. Thousand of birds in the pond every night but no reason to come back in the day.

Another observation, seemed like the Tav populations are increasing as well. Saw more than usual. Not a lot of Specs in the area I hunt, only saw one flock all year, maybe the rest of the valley has more but not seeing the increase that the limits seem to justify. Love hunting them so I hope they are continue to increase.

Disappointing on the Pintail, we have a lot in our area and for a couple weeks they are the most prevalent duck so was nice to shoot 2 again. I had heard a long time ago that this was going back to 1.

Moving to Central Oregon so the NW zone wont affect me anyway if they increase the Cacklers but they should

On a separate note, in Central Oregon I will be looking for some wetland property to possibly buy and improve to a WRP or a even a DU type of enhancement on existing Farm ground/pot holes. Was wondering if you had a Biologist in the area that would be a good starting point if that were to happen. Moving in the next couple of months, a couple of the properties I am looking at might have a nice opportunity to create some better or new wetland habitat.

Thanks,

Bob Foote

## Brandon Reishus

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**From:** Bob and Barbara <canessab@pacifier.com>  
**Sent:** Wednesday, March 20, 2019 11:44 AM  
**To:** 'Brandon Reishus'  
**Subject:** RE: ODFW Migratory Game Bird Regulation Considerations for the 2019/20 hunting season

Brandon,

Thanks for the update. I think the regulations and seasons being similar is positive.

Bob Canessa  
Seaside, OR

## Brandon Reishus

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**From:** Doug Jones <dougjonesdr@yahoo.com>  
**Sent:** Monday, March 25, 2019 8:10 PM  
**To:** Brandon Reishus  
**Subject:** Re: ODFW Migratory Game Bird Regulation Considerations for the 2019/20 hunting season

My comments are as follows:

First: The Duck Season in Zone 2 needs to end with Goose season. Make the mid-season closure for ducks longer in order to accomplish this.

Second: Increase the limit of Canada geese in Jefferson County from 4-5. It's the easiest way to work with the farmers. I find it ironic that due to the pressure from farmers in Klamath County, the white front limit is 10. I know, your going to tell me a biology reason, but I could give you the same for Jefferson County based upon my experiences and observations. I'm a retired biologist, so I can say that. A split season as you have done in the Willamette Valley would be a disaster in Jefferson County and eastern Oregon, as the birds are pairing up in February.

Lastly: Work with Greg Walden to get the dates for spring snow goose season adjusted. In general, hunting in February for snows is non-existent in Lake, Harney, and Malheur counties. This year, the birds started to show up in Harney County the last week of the season.

Please let me know if you have any relevant questions. Thanks!

Doug Jones

On Saturday, March 16, 2019, 4:09:25 PM PDT, Brandon Reishus <Brandon.S.Reishus@state.or.us> wrote:

## Brandon Reishus

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**From:** Evan Alcantara <evan.alcantara@outlook.com>  
**Sent:** Thursday, March 28, 2019 2:46 PM  
**To:** brandon.s.reishus@state.or.us  
**Subject:** Battery Powered Decoys

Hi Brandon,

I just wanted to reiterate my points of how much I appreciate Oregon NOT allowing battery powered decoys for hunting waterfowl. They are an unnecessary, unfair advantage that increase the harvest dramatically. If they weren't effective, people wouldn't want them so bad.

Battery powered devices are not comparable to manually operated devices by the simple fact they require movement, and actual effort from the hunter.

If it came down to it, I would also support the complete ban of all spinning wing decoys.

Thank you for upholding the great decision made so many years ago to make battery powered decoys illegal, as they should remain!

Thank you,

Evan Alcantara

Sent from my iPhone

## Roxann B Borisch

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**From:** Mikal L Cline <Mikal.L.Cline@state.or.us>  
**Sent:** Tuesday, April 2, 2019 10:00 AM  
**To:** Roxann B Borisch  
**Subject:** FW: Upland game bird proposals

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**From:** Dave Budeau <dbudeau@frontier.com>  
**Sent:** Wednesday, March 20, 2019 12:14 PM  
**To:** Mikal L Cline <Mikal.L.Cline@state.or.us>  
**Subject:** Re: Upland game bird proposals

Mikal,

Good succinct justifications for the proposed changes. I agree with trying to manage hunter distribution with reopening of the Trout Creeks for GRSG as a separate hunt unit.

Thanks for the opportunity to have a look,

Dave

On Mar 20, 2019, at 10:43 AM, Mikal L Cline <[Mikal.L.Cline@state.or.us](mailto:Mikal.L.Cline@state.or.us)> wrote:

Upland game bird enthusiasts,

We are proposing a few changes to Oregon upland game bird regulations for the 2019-2020 season, primarily related to eastside fall turkey seasons. I would appreciate your review and response prior to the April 19<sup>th</sup> Commission meeting. If you would like to provide testimony, I believe we are first on the agenda in St. Helens on the 19<sup>th</sup>. Please feel free to forward these proposals to anyone who might be interested.

As a side note, no changes are proposed to the waterfowl regulations, other than the federally-mandated pintail bag limit will be reduced to 1. This is not an issue the state has the ability to change.

Kind regards,

Mikal Cline  
Upland Game Bird Coordinator  
Oregon Department of Fish and Wildlife  
4034 Fairview Industrial Dr SE  
Salem, OR 97302-1142  
(503) 947-6323 (office)  
(503) 947-6330 (fax)  
[Mikal.L.Cline@state.or.us](mailto:Mikal.L.Cline@state.or.us)

<Upland game bird regulations proposals 2019-20.pdf>