



**Testimony of Bob Sallinger  
Conservation Director  
Audubon Society of Portland**

**Before the Committee on Natural Resources  
Subcommittee on Insular Affairs, Oceans and Wildlife**

**H.R. 2062: The Migratory Bird Treaty Penalty and Enforcement Act of 2009**

**May 13, 2009**

Madam Chairman and Members of the Subcommittee:

I am Bob Sallinger, Conservation Director of the Audubon Society of Portland. Thank you for the opportunity to testify today regarding H.R. 2062 and the other important bills being considered by the committee for the benefit of bird conservation. I commend you for holding this important hearing today.

I am offering my testimony today on behalf of both the Audubon Society of Portland and the National Audubon Society.

The Audubon Society of Portland and National Audubon Society strongly support H.R. 2062, The Migratory Bird Treaty Act Penalty and Enforcement Act of 2009. We would like to thank Congressman DeFazio for his leadership in introducing this important legislation to strengthen bird conservation in this country. We believe that it is critical that Congress update the Migratory Bird Treaty Act of 1918 (MBTA) to allow for the most egregious violations of the law to be treated as felonies and to establish a reward system to raise awareness and encourage reporting of violations of the Act. Today, despite more than a century of progress, we remain deeply concerned that federal law

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does not adequately protect bird species from indiscriminate, malicious, intentional killing. At a time when bird populations are experiencing unprecedented population declines, it is critical that egregious violations of the MBTA be met with serious and substantial repercussions.

We also strongly support H.R. 2188 and H.R. 1916, which would provide critically important support for bird conservation efforts in the United States, and thank Congressman Kratovil and Congressman Dingell for their leadership in introducing these important bills.

## **Background**

Audubon Society of Portland's concern with establishing strong statutory protections for bird species dates back to our founding in 1902. One of our earliest priorities was passage of the Oregon Model Bird Protection Act, one of the nation's earliest bird protection statutes and a forerunner of the Federal Migratory Bird Treaty Act of 1918. We also advocated for establishment of some of the first national wildlife refuges in the west at Three Arch Rocks, Malheur and Klamath in part to protect bird species from indiscriminate slaughter for use in the millinery trade. In the early 1900s, we helped pay for the first patrol boat and game officers at Klamath National Wildlife Refuge.

Today we have grown to be one of the largest chapters of the National Audubon Society with over 11,000 members in the Portland Metropolitan Area, twenty-seven staff and more than 500 active volunteers. Each year, more than 100,000 people visit our bird sanctuaries and directly participate in our citizen science initiatives, environmental education programming, and conservation advocacy initiatives. The success of our programs reflects a nationwide trend. The popularity of birdwatching continues to increase; currently, according to the U.S. Fish and Wildlife Service, one in every four adults is a birdwatcher.

A significant portion of our resources continue to go towards addressing the wanton, illegal destruction of native birds. In 1996, we established a "Migratory Bird Protection Fund" to provide rewards to citizens of up to \$1,500 for information leading to arrests and convictions in Oregon for violations of the Migratory Bird Treaty Act. Dozens of the 2,500-3,000 birds treated annually at our Wildlife Rehabilitation Center are victims of illegal shooting. These cases represent some of the worst and most troubling situations we see at our rehabilitation facility. For example, in the spring of 2008, we treated two osprey that were shot illegally and left to die in front of their active nests with their young left to starve to death overhead. Unfortunately, most of the cases we see continue to go unresolved and we recognize that what we see is just the tip of the iceberg as most illegally killed birds are never discovered.

Our hope was that the cases that we and other bird conservation organizations were seeing nationwide were isolated, individual events. However in 2007, citizens across the United States were saddened and sickened to learn about the Roller Pigeon Cases. An undercover investigation by the US Fish and Wildlife Service revealed that pigeon clubs across the Western United States that raise and compete "roller pigeons"

were intentionally targeting protected raptors that preyed upon their birds while they were flying free in the environment. Roller pigeons are domestic pigeons which are bred to possess a specific genetic defect which causes them to tumble or roll when flying. The US Fish and Wildlife Service estimates that clubs on the West Coast were killing 2,000-3,000 birds of prey annually, focusing specifically on peregrine falcons, Cooper's hawks and red-tailed hawks, and using methods that included shooting, rigging pigeons with jackets covered in fishing hooks, baiting raptors into glass panels, trapping and clubbing birds and trapping and poisoning birds.

These killings were flagrant violations of the MBTA and viciously brutal, conducted with no remorse. One club member bragged about spraying a combination of bleach and ammonia into the eyes and mouths of birds that he trapped and watching as they suffered and suffocated. The national president of the club bragged to an undercover officer about "pummeling" trapped raptors to death with a stick, describing the activity as a "great thing." These activities occurred in residential neighborhoods and on properties adjacent to public parks and wildlife refuges. Club members bragged openly on websites about their activities and methods for trapping and killing raptors. The investigation resulted in charges against 16 individuals in Oregon, Washington, California and Texas.

These cases had particular meaning for Portland Audubon. One Oregon roller pigeon club member, who was later convicted as part of this investigation, bragged on a publicly accessible website about a fellow club member who killed peregrine falcons that were raised and released by our facility. It took nearly 40 years to recover peregrine falcons in the United States from the brink of extinction. Portland Audubon spent hundreds of thousands of dollars participating in this effort and hundreds of volunteers assisted with our work. The club member wrote:

*"I laughed and I laughed when I heard this story because of all the hard pain staking measures to get these birds to adolescence and then to have someone take them out simply was bliss!...use the 3-S system shoot, shovel and shut-up!"*  
(see attached document for full quote)

These cases drew outrage across Oregon and across the nation. In Portland, the story was front page news in the state's largest daily newspaper, the *Oregonian*, and generated two editorials calling for strong prosecutions. Hundreds of citizens, including the Mayor of Portland, and organizations, including the Oregon Department of Fish and Wildlife, sent letters calling for significant penalties as well. (See attached documents.)

Unfortunately, the Roller Pigeon Cases instead brought into stark view the failings of the Migratory Bird Treaty Act as currently enacted. Documents from the club website and statements to undercover agents by club members make it clear that the club members were aware of the Migratory Bird Treaty Act but believed that they would face only limited penalties if caught. Sadly, their beliefs proved accurate. Club President Juan Navarro, who was convicted of 16 counts of violating the MBTA in California for his brutal treatment of protected raptors, was sentenced to pay only a \$10,000 fine and \$15,000 restitution and was given a six month suspended sentence and was placed on

probation for five years. Other club members who pled guilty faced far lower penalties. In Oregon, a Federal Judge sentenced two club members, who pled guilty to MBTA violations, to \$2,000 fines and \$2,000 community service payments and 120 hours of community service despite the recommendation made by the prosecutor to seek \$10,000 fines. The judge even ignored a recommendation made by the defense attorney to allow a fine of \$7,500 and instead substituted his own much lighter penalty. In Washington, a Federal Judge rejected a prosecutor's call for a \$2,500 fine for a defendant who was convicted of killing a peregrine falcon, and instead gave the defendant 120 hours of community service, declaring that a significant fine would be "overkill."

The slight penalties sparked widespread outrage in Oregon and across the nation. In an October 20, 2007 editorial, the *Oregonian* wrote,

*"That's an outrage. What the judge handed down was the equivalent of a parking ticket... With their time, their energy and, indeed, their pocketbooks, Oregonians have time and again made clear just how seriously they take the business of wildlife conservation. It is time, once again, for Uncle Sam to throw his shoulder to that wheel."* (See attached document)

The penalties stand in stark contrast to another recent local wildlife violation case involving the illegal taking of a single bull elk which was subsequently transferred from Oregon to California in violation of the Lacey Act. This single violation resulted in a \$50,000 penalty, a \$4,700 payment to the State of Oregon, a lifetime hunting ban in 24 states and three years probation.

### **The Migratory Bird Treaty Act of 1918: The Need for Updating**

Audubon Society of Portland strongly supports the passage of H.R. 2062, sponsored by Congressman DeFazio. The bill is designed to specifically address the most egregious violations of the Migratory Bird Treaty Act such as those epitomized by the Roller Pigeon Cases. We believe that H.R. 2062 represents an important amendment to the nearly century old Migratory Bird Treaty Act of 1918.

The Migratory Bird Treaty Act was one of the United States' first environmental laws. It was inspired in part by the senseless eradication of the Passenger Pigeon. The Passenger Pigeon was once the most populous bird species in North America, a species which the naturalist Alexander Wilson described as present in an "inconceivable multitude." However, the Passenger Pigeon was driven to extinction over a period of only a few decades by wanton, indiscriminate slaughter.

The Migratory Bird Treaty Act represented a clarion call to reverse the growing threat of species extinction by enacting strict regulations restricting take of native birds. The MBTA implements four international treaties signed by the United States with Great Britain on behalf of Canada (1916), Mexico (1936), Japan (1974) and Russia (1978) designed to protect migratory bird species that move back and forth across respective

international orders. The spirit of these treaties is captured in the 1916 Treaty with Great Britain which reads,

*“Whereas, many species of birds in the course of their annual migrations traverse certain parts of the United States and the Dominion of Canada; and whereas many of these species are of great value as a source of food or in destroying insects which are injurious to forests and forage plants on the public domain, as well as to agricultural crops,...but are nevertheless in danger of extinction or extermination though lack of adequate protection during the nesting season or while on their way to and from their breeding grounds; The United States and... Great Britain...being desirous of saving from indiscriminate slaughter and of insuring the preservation of such migratory birds as are either useful to man or are harmless, have resolved to adopt some uniform system of protection...”*

The MBTA prohibits the unauthorized take of more than 800 bird species native to North America. §704 of the MBTA allows the Secretary of the Interior to issue permits to “take” protected bird species based on the Secretary’s determination that the take is compatible with conservation goals for the species and the Treaty’s objectives. Under existing law, violations of the take provision of the MBTA, except those infractions specifically involving sale or baiting, are treated as Class B Misdemeanors punishable by fines of up to \$15,000 and/ or 6 months in jail. The Class B Misdemeanor is applied on a strict liability basis.

While the Migratory Bird Treaty Act was ground-breaking at the time of its passage, it has lagged behind more recent environmental legislation in terms of its impact and enforcement. The MBTA has long been viewed as something of a “paper tiger,” poorly understood and recognized by the general public, rarely enforced by the Fish and Wildlife Service, and, when enforced, often resulting in very minor penalties even in the most egregious cases. Although the Class B Misdemeanor prescribed for violation of the MBTA take provisions allows for fines of up to \$15,000 and/or six months in jail, large fines and jail time are virtually unprecedented over the statute’s 91-year history.

Even in the most egregious cases, such as the above described Roller Pigeon Cases, prosecutors and courts have demonstrated great reluctance to utilize the full range of penalty options available under the MBTA. Prosecutors and courts point to the precedent of nearly a century of limited penalties, as well as the Class B Misdemeanor provisions, as a basis for perpetuating a history of weak enforcement.

But the problem extends beyond court interpretations of the MBTA to the law itself. First, the MBTA provides only for a Class B Misdemeanor, a minor infraction. Under current law, the intentional illegal killing of American peregrine falcons, a species that the United States spent nearly four years recovering from the brink of extinction, is given the same penalty status as using the Smokey Bear logo without the permission of the Forest Service. We have been told repeatedly by prosecutors and law enforcement officials that if Congress wanted MBTA violations treated with greater seriousness, it would ascribe a higher level of penalty to them.

Second, the MBTA has a long history of limited enforcement; we have been repeatedly told that courts are hesitant to run counter to long standing precedent without some sort of change in the law to justify changes in the way crimes are addressed. Today, the MBTA stands in stark contrast to other federal wildlife laws such as the Lacey Act, Endangered Species Act and Marine Mammal Protection Act, which contain much more robust penalty provisions and a much stronger history of enforcement.

The need for strong regulatory protections for native birds is reflected in the current state of our native bird populations. Today, our North American bird populations are faced with unprecedented challenges. According to the *State of the Birds Report* released by the US Fish and Wildlife Service just recently in March 2009, nearly one in every four bird species in the United States is facing serious long-term population declines. The primary cause of most bird population declines is loss and fragmentation of their habitat. However, bird populations also continue to suffer from a variety of other threats. These threats take on greater significance when populations are already depleted and vulnerable.

At the same time, birding has reached all-time heights of popularity. Today, "wildlife watching" generates \$122 billion in economic output annually and one out of every four Americans is a birdwatcher (*State of the Birds* at 3). Millions of Americans participate in voluntary bird conservation activities: everything from naturescaping their yards for wildlife, to habitat restoration projects, to donating their hard-earned money to conservation initiatives and donating their time to citizen science activities such as the Christmas Bird Count, Great Backyard Bird Count and Project Feeder Watch.

It is critical that the millions of Americans who support bird conservation with their time, their money, and their votes know that public and private investment in bird conservation will not be wasted. No action strikes more acutely at the heart of this public trust than the deliberate, wanton and indiscriminate killing of protected bird species. Sadly, nearly a century after such behavior was prohibited by the passage of the MBTA, these types of behaviors remain all too common.

### **The Significant Strengths of H.R 2062, The Migratory Bird Treaty Act Penalty and Enforcement Act of 2009**

H.R. 2062 addresses two significant deficiencies in the Migratory Bird Treaty Act of 1918: It creates more substantial penalty provisions for the most egregious crimes, and it creates a reward program that will increase awareness of the statute and encourage reporting of violations.

First, it would create a new class of penalties under the Migratory Bird Treaty Act specifically for violations of the Act's take provisions that are "intentional" and "malicious" in nature. Currently violations of the MBTA's take provisions are Class B Misdemeanors applied on a strict liability basis. If H.R. 2062 is enacted, prosecutors could continue to apply the Class B Misdemeanor for less serious infractions on a strict liability basis, but also would have discretion to apply a felony provision for violations that are both "intentional" and "malicious."

Whereas the Class B Misdemeanor allows for sentences of up to \$15,000 and/or 6 months in jail, the proposed felony provision would allow for jail sentences of up to 2 years and/or fines of up to \$250,000.

H.R. 2062 does not target run of the mill violations; it is designed specifically to address the most egregious violations. The MBTA has a strong tradition of prosecutors using discretion in application of the statute. We see no reason to believe that this would change with the addition of the felony provision. We expect that most cases would continue to be prosecuted using the Class B Misdemeanor provision. However, in the worst cases, the cases that most strike at the heart of the public trust and that most violently disagree with the conscience of millions of Americans who value the natural world, prosecutors would now have a stronger tool to apply that would place the MBTA on par with other existing environmental statutes.

Second, H.R. 2062 would allow the US Fish and Wildlife Service to use fines levied for violations of the MBTA to provide rewards to individuals furnishing information leading to both arrests and criminal convictions for violations of the Migratory Bird Treaty Act. This provision would allow organizations such as Audubon to build awareness of the Act and promote reporting of violations.

We understand that the Fish and Wildlife Service has raised concerns that this provision may conflict with established funding mechanisms for the North American Waterfowl Management Plan. We have no desire to undermine this important conservation initiative and would like to work with the US Fish and Wildlife Service, Congressman DeFazio, and the Committee to ensure that the proposed reward mechanisms compliment existing conservation initiatives.

Finally, we would note that while H.R. 2062 adds new provisions to the MBTA, it does not alter any of the Act's existing provisions. We believe that it is critical to maintain the MBTA's existing provisions, especially the Act's strict liability Class B Misdemeanor provisions. The strict liability Class B Misdemeanor has proven to be an invaluable tool for addressing serious impacts on bird species and should be retained intact. H.R. 2062 in no way represents a substitute for the existing Class B Misdemeanor provisions. Instead, it would add another valuable tool to ensure proper penalties and enforcement of the Act's most egregious violations.

### **H.R. 2188 Would Benefit Migratory Birds, But Needs to Recognize Critically Important Habitat Designations**

The Audubon Society of Portland and National Audubon Society support H.R. 2188, which is needed to support innovative, cooperative strategies and conservation projects to benefit migratory birds. We would like to thank Congressman Kratovil for his strong leadership in introducing this legislation as well as Ranking Member Brown, Congressman Kind, and Congressman Wittman for their support of the bill. H.R. 2188, the "Joint Ventures for Bird Habitat Conservation Act of 2009," would provide important Congressional support and guidance for the successful Joint Ventures program, which has helped to strategically target bird conservation efforts, promote science-based

conservation planning, and maximize the efficient and effective use of funds appropriated by Congress for bird conservation. While the legislation recognizes the value of Joint Ventures for implementing critically important federal wildlife laws such as the Neotropical Migratory Bird Conservation Act for the benefit of migratory birds, and also recognizes the value of Joint Ventures in implementing major bird conservation plans such as the North American Waterfowl Management Plan, we believe the bill would be strengthened by also explicitly recognizing the value of Joint Ventures in supporting the goals of the major habitat designations developed through cooperative planning processes, such as sites designated by the Western Hemisphere Shorebird Conservation Network, Important Bird Areas, and Wetlands of International Importance designated by the Ramsar Convention. We look forward to working with Congressman Kratovil, the Committee staff, and the Fish and Wildlife Service to incorporate recognition of our most important tools for targeting conservation efforts toward bird habitats with unique, internationally significant values.

### **H.R. 1916 is Needed to Support Migratory Birds and Wildlife Refuges**

I am pleased to offer the support of the Audubon Society of Portland and National Audubon Society for H.R. 1916 as well. We would like to thank Congressman Dingell for his leadership in introducing this important legislation as well as Congressman Wittman for his co-sponsorship of the bill. H.R. 1916, the “Migratory Bird Habitat Investment and Enhancement Act,” would increase the price of the Duck Stamp at a time when the revenues from stamp sales are sorely needed to support bird conservation. Duck Stamps have been used to conserve more than 5 million acres of bird habitat, much of which has been added to the National Wildlife Refuge System. Increased revenues from this legislation are needed to meet the challenges facing America’s wetlands and grassland habitats. The recent State of the Birds report from the Fish and Wildlife Service shows that grassland birds are among the fastest declining bird species in the country. Many non-hunters support the Duck Stamp program by purchasing Duck Stamps due to the great conservation value of the habitat conservation projects it supports, for both non-game and game species.

### **Conclusion**

Audubon Society of Portland believes that the most egregious, deliberate violations of our bird protection laws ought to be treated as felonies. Nearly a century after the passage of the Migratory Bird Treaty Act, intentional, illegal destruction of native birds remains a significant problem in the United States. Current penalties are not sufficient to act as a deterrent and recent prosecutions of egregious violations that resulted in small penalties have sent a chilling message to both potential violators and to the general public that even the worst violations will result only in limited repercussions. At a time when bird populations are experiencing unprecedented declines, it is critical that the public know that deliberate, brutal, malicious killings of native birds will be



treated with the severity that they deserve. By passing Congressman DeFazio's bill, H.R. 2062, the Congress will send a strong and important message that our bird protection laws need to be taken seriously. We hope that you will be able to support H.R. 2062 in its entirety.

We are also pleased to support H.R. 1916 and H.R. 2188, which also would provide critically needed support for bird conservation efforts in the United States.

Madam Chairman and Members of the Subcommittee, this concludes my prepared statement. I would be happy to answer any questions that you may have.



Robert Sallinger  
Conservation Director  
Audubon Society of Portland

**Oregonian Editorial: "A Twisted View of Nature" June 12, 2007**

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The Oregonian (Portland, Oregon)

June 12, 2007 Tuesday

Sunrise Edition

SUMMARY: If pigeon hobbyists are convicted of killing raptors, tough sentences would deter similar crimes

Remember the peregrine falcon chicks saved from construction near their nest atop the St. Johns Bridge in 2003? Many Oregonians were fascinated by the rare, beautiful birds and cheered when they were successfully reintroduced to a wildlife refuge.

Apparently those peregrines are dead now, killed by roller pigeon hobbyists that federal authorities believe have trapped or shot thousands of protected hawks and falcons in the Northwest and California in recent years. Until just a few days ago, a Web site for pigeon fanciers included postings mocking concern for the Portland birds. "I laughed and laughed," one pigeon hobbyist wrote. "All the painstaking measures they took to get these birds to adolescence and then (sic) to have someone take them out was simply bliss!"

Bliss. The federal court documents released Friday allege that 11 pigeon enthusiasts, including three leaders of an Oregon pigeon club, set out to kill hawks and falcons. The allegations, if proven, amount to one of the most serious crimes involving protected birds in decades.

Roller pigeons carry a genetic trait that causes them to stop flying and tumble in the air before they right themselves and fly on. Hobbyists fly them in competitions scored by judges who rate the birds on the quality of their "roll" and other factors. Of course, a pigeon tumbling through the air looks like crippled and vulnerable prey to a hawk, falcon or other bird of prey. And since a good roller pigeon is worth more than \$100, according to the Web site of the National Birmingham Roller Club, the pigeon hobbyists go to some lengths to protect their birds from predators.

Apparently, that includes setting out to destroy Cooper's hawks, red-tailed hawks, peregrines and other birds protected under the Migratory Bird Treaty Act. The documents and Web posts describe pigeon hobbyists setting backyard hawk traps, shooting birds of prey on sight, laughing about suffocating hawks in garbage bags and advocating a "3-S" system -- "shoot, shovel and shut up."

The national roller club has posted a statement on its Web site insisting that it does not condone or promote killing birds of prey. But the U.S. Fish and Wildlife Service, which spent months investigating pigeon enthusiasts, including sending an agent into the local group, tells another story. Said David Patte, a Fish and Wildlife spokesman in Portland, "About 95 to 99 percent of the members freely talk about their taking and killing of hawks as a regular part of their hobby."

The national club also whined on its Web site that the federal government has ignored its pleas for help relocating Cooper's hawks, and compared their predation problems with ranchers who suffer losses to wolves, coyotes and cougars. What do you think: Should the feds trap and transplant birds of prey to make the skies safe for roller pigeons and their fanciers? Of course not. If roller pigeons can't coexist with wildlife, it's not the protected birds of prey that should be removed.

It's the pigeons.

## The Oregonian

### **Group seeks tougher penalties for killing birds**

#### **Crime - An Audubon leader says two pigeon keepers got a slap on the wrist for killing hawks**

Tuesday, October 16, 2007

**MICHAEL MILSTEIN**

**The Oregonian**

Frustrated by the sentences of two Portland-area pigeon hobbyists who tried to kill protected hawks and raptors, the Audubon Society of Portland wants Congress to establish more severe penalties for killing migratory birds.

The group said U.S. District Judge Ancer Haggerty broke faith with the public last week by letting the two pigeon keepers off with \$4,000 each in penalties and a year of probation.

Audubon leaders said the sentences for some of the most egregious offenses against birds in the region show courts do not take wildlife crimes seriously enough.

Prosecutors had sought fines of \$10,000 each, and the defense attorney for one of the men suggested a fine of \$7,500, said Bob Sallinger, conservation director at the Audubon Society of Portland. The prosecutors cited public outrage over the case, in which one of the men boasted of suffocating hawks in garbage bags.

The sentences issued by Haggerty were "nothing more than a stiff slap on the wrist," Sallinger said. Though the penalties were substantial for the charges -- misdemeanor violations of the Migratory Bird Treaty Act -- they did not measure up to the egregious nature of the crimes, he said.

"These cases send a terrible message to both future hawk killers and the

community at large," he said.

Sallinger is talking with Oregon's congressional delegation about amending the Migratory Bird Treaty Act so that intentional, wanton killing of protected birds could be treated as felonies carrying much stiffer sentences. Jillian Schoene, a spokeswoman for U.S. Rep. David Wu, said Wu's office is discussing options with the Audubon Society.

Portland Mayor Tom Potter and Metro Council President David Bragdon both called for tough penalties against the men who targeted hawks and other raptors. Federal officials also received letters and e-mails from the public demanding serious sanctions.

Peter Kaufman and Ivan Hanchett were sentenced Thursday after pleading guilty. A third defendant has pleaded guilty but has yet to be sentenced.

Two others also have been charged.

Kaufman and Hanchett were leaders of a local group called the Northwest Roller Jockeys, centered on roller pigeons that are known for their habit of tumbling in flight. The tumbling tended to attract hawks and other raptors looking to prey on the pigeons, and the men described to undercover agents their practice of trapping and killing the hawks.

Kaufman had a trap set in his Southeast Portland backyard to catch hawks or falcons, agents reported in court documents.

Hanchett told an agent that Kaufman had killed 30 hawks in a 45-day period. Hanchett admitted shooting hawks on many occasions, including an incident in which he shot one with a shotgun that led Hillsboro police to respond to a report of shots fired.

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## **Oregonian Editorial: "Let Us Now Prey" October 20, 2007**

**Let us now prey**

Saturday, October 20, 2007

**The Oregonian**

We wonder what kind of person it takes to trap a creature as glorious as a peregrine falcon, stuff it into a plastic sack and suffocate it. And to do so often. And to boast about it.

U.S. District Judge Ancer Haggerty told us last week what kind of person he thinks it takes: a person deserving a \$4,000 penalty.

That's an outrage. What the judge handed down was the equivalent of a parking ticket.

This business all started more than a year ago when federal agents in several Western states began looking into what turned out to be widespread carnage, the calculated capture and killing each year of thousands of federally protected birds. In Oregon, attention quickly focused on some men who raise, and show, roller pigeons. It wasn't exactly hard to track them down. They were bragging about their kill count on their Web sites.

Roller pigeons, you see, carry an unusual genetic trait that prompts them to tumble, or roll, in flight. This attracts the attention of hawks and other raptors that prey on wounded birds. Roller pigeon fanciers seem to view this particular slice of nature as unfair competition. Hence their fondness for shotguns, traps, poisons and, yes, suffocation.

Bob Sallinger, conservation director with the Audubon Society of Portland, thinks he has the answer. And it's not just for judges to start handing out higher fines. Sallinger wants members of Oregon's congressional delegation to introduce an amendment to the 1918 Migratory Bird Treaty Act. He thinks wanton slaying of protected birds should be a felony.

Currently, killing a protected bird is a Class B Misdemeanor. "This puts shooting a peregrine falcon," Sallinger says, "in the same category as unauthorized use of the image of Smokey Bear."

Could Oregon really lead the nation into a higher level of protection for some protected birds? Sallinger reminds us it's happened before. In 1903, Oregon Audubon, precursor to the Audubon Society of Portland, successfully advocated for passage of what became the nation's first federal law to protect non-game birds.

With their time, their energy and, indeed, their pocketbooks, Oregonians have time and again made clear just how seriously they take the business of wildlife conservation. It is time, once again, for Uncle Sam to throw his shoulder to that wheel.

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# Oregon

Theodore R. Kulongoski, Governor

Elicker-

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August 23, 2007



Karin J. Immergut  
Mark O. Hatfield United States Courthouse Attorney  
1000 SW Third Avenue, Suite 600  
Portland, Oregon 97204-2902

Dear Ms. Immergut;

I am writing on behalf of the Oregon Department of Fish and Wildlife regarding the charges that were recently brought by your office against some Oregon roller pigeon enthusiasts for alleged violations of the Migratory Bird Treaty Act. The department respectfully encourages the USDOJ to prosecute these alleged crimes and send a strong message to the public that these types of actions will not be tolerated.

The department along with its partners has expended tremendous resources protecting, monitoring and restoring raptor populations. These avian predators play an important role in maintaining the health of our ecosystems. Factors including illegal killing, pesticides and habitat loss have caused some raptor populations to go into steep decline over the past century. For example, it has taken nearly four decades for peregrine falcon, bald eagle and osprey populations to recover from the impacts of the pesticide DDT. Of these three species, falcons, one of the species allegedly targeted by those charged, were removed from the State Endangered Species List in April 2007. The State and its partners have already expended millions of dollars to restore peregrines and have committed to a significant financial commitment over the next decade to monitoring populations to ensure that nothing jeopardizes this successful recovery.

The department believes that a strong message needs to be sent that killing of federally or state protected wildlife will not be tolerated. The fact that the recent killings apparently spanned several states, involved club leadership and were discussed openly on websites and at club meetings is particularly chilling. This case is being closely watched by the media and the general public, and presents an opportunity to send a strong message that killing birds of prey is a crime that will be taken seriously.

These charges, all centered on the Portland Metro Area, come at a time when a broad based coalition of partners are stepping up and recognizing the important role that urban areas play in protecting biodiversity. The Portland area is home to innovative,

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community based raptor protection efforts including Portland International Airport's Non-lethal Raptor Management Program, Portland Audubon's Peregrine Program and PGE's Raptor Management Program (which will allocate \$300,000 over the next several years to prevent raptor electrocutions on power lines). The City of Portland is one of five cities within the United States, identified by the U.S. Fish and Wildlife Service as a "migratory bird treaty partner" based on its commitment to protect and restore local migratory bird populations. At a time when Oregonians are stepping up and actively investing in the protection of birds of prey, it is important that the U.S. Attorney's Office support that commitment with serious penalties for illegal activities that directly and deliberately undermine those efforts.

The department greatly appreciates your consideration of our concerns. Please contact me at (503) 947-6312 if we can be of any further assistance.

Sincerely,



Ron Anglin  
Wildlife Division Administrator

cc: Roy Elicker  
Curt Melcher



Taken From All Roller Talk Website

[http://www.roller-pigeon.com/Roller\\_Discussion.html](http://www.roller-pigeon.com/Roller_Discussion.html)

Posted on April 12, 2007 by Ivan Hanchett aka "Flyin' Hawaiian"

The peregrines referred to in the posting were raised and released by Audubon Society of Portland at Ridgefield National Wildlife Refuge after their nest was disrupted by bridge construction activity.

Hey Scott,

It appears to me after doing all the prescribed suggestions and hoping that the food chain becomes more available through the feral birds etc that our rollers are really filet mignon on the wing. I submit that what would seem to work would be the old antherage of fighting fire with fire. Either set yourself up with a portable loft of culls which would have to be rollers of coarse or better yet pay for the feed bill for some guy to fly the culls for you everyday and clean the air space for you. This would have to be planted in the direction in which you think they maybe coming. Just thinking out loud here is all. Which reminds me of a story. A few years ago the city of Portland decided it was time to paint the St Johns Bridge in the process of prepping the bridge they had discovered a pair of Falcons that took up residency on the bridge. In futher investigating they found two chicks in a nest on one of the highest cross beams on the bridge at the nesting site. They had a plan as to what to do with them to get them to maturity. Over the river in Ridgefield Washington the tax payers supported a bill to build a hack site on the wildlife refuge area where many song birds , ducks, whooping cranes etc would feed. This would be the ideal location to get the young falcons situated and learn to hunt. Well low and behold just across the street from the wildlife refuge lives a roller flyer and when the young became airbourne they found alot of led in the air space across the street where the rollers were flying LOL!! I laughed and laughed when I heard this story because of all the pain staking measures they took to get these birds to adolescence and than to have somone take them out simply was bliss!! I think the odds are against us guys even if we all could shoot but let me leave you with this. When and if you do use the 3- S system shoot, shovel and shutup!

Scott I think you may know who I am referring too.

Ivan,

Brought a smile to my face.

I've had a couple of reasons to smile personally. Need the opportunity to do some more of it if you know what I mean. Climbing over the brick wall that Brian mentioned.

Gregg.

Thanks Ivan for the story lol