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# PHOTOGRAPHIC RECORDS — THEIR IMPORTANCE IN TODAY'S ENVIRONMENTALLY SENSITIVE BIRD MANAGEMENT PROGRAMS

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**ABSTRACT:** We are living in a day of change. Environmental awareness is a part of our everyday life in a way unprecedented in history. The courts, in their infinite wisdom, have initiated the joint and several liability (deep pocket) rules that make everyone at risk in almost all situations. Bird management programs, by their very nature, are extremely sensitive. Any project, if not evaluated, planned, carried out, and documented properly can result in adverse regulatory agency action, bad publicity, and even fines or lawsuits. Proper photographic documentation can play a vital part in helping to provide the necessary records to help prevent problems and/or defend yourself in case of lawsuit or regulatory action. In the preparation of this paper, we surveyed state pesticide lead agencies, state Department of Conservation (Fish and Wildlife) agencies, some U.S. Fish and Wildlife Law Enforcement personnel, and several individuals to get their reaction to and their comments about this concept of supplemental recordkeeping. Of those responding, a majority thought the concept of supplemental photographic recordkeeping would be an asset to individuals and organizations conducting bird management projects.

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## INTRODUCTION

Photographs have been used for many years for purposes of documentation and recordkeeping. The old family photo album brings back memories that would otherwise be forgotten and lost forever. Pictures on post office walls have kept us informed of some of the "most wanted" men in history. Moving photographic records, our movies, have both kept us informed and entertained since the early part of the century. Photographic identification has become commonplace today, along with television monitoring for security and even spy-in-the-sky cameras that are, I am told, even able to accurately record the words on the newspaper that city park visitors may be reading. Law enforcement personnel use photographic records to record crime scenes, and security cameras record the details of most bank robberies. Could not photographic records, both still and moving, be of great assistance and value to those involved in projects as sensitive as bird management?

## SURVEY FINDINGS

In order to help me to evaluate the feelings of various groups that might be involved in one aspect or another of bird management about the use of photographic records, questionnaires were sent out to the pesticide lead agencies and the Departments of Conservation (Fish and Wildlife) of the fifty states, to the district U.S. Fish & Wildlife Law Enforcement offices, and to the National Pest Control Association and their vertebrate control committee members. In this questionnaire, they were asked about their feelings of the use of photographic records for recordkeeping, if they knew of any drawbacks or potential adverse affects to this type of record documentation, and if they used it or would recommend its use.

Of the fifty state pesticide lead agency officials ques-

tioned, twenty-one responded. Two states acknowledged the current active use of photographic records in their day-to-day operation, nine stated that they felt that photographic and/or videotape recordkeeping would be advisable or useful, eleven were noncommittal, and one felt that photographic records would or should not play an important role in recordkeeping. Of twenty-four Departments of Conservation responding, five stated that they currently used photographic documentation, sixteen, an even two-thirds, felt that their use was beneficial and advisable, eight were noncommittal, and none had any negative response. Three responses were received from U.S. Department of Agriculture Animal Damage Control State Directors, and all three were very positive about the use and importance of photographic records and documentation. Of the pest control industry representatives responding, there were some concerns about the use of photos in food-processing plants, and about the possible repercussions if these were to get in the hands of FDA enforcement personnel who might use them against the FDA-regulated facility, but otherwise most felt that they would be a valuable asset to those doing bird management, both for recordkeeping and documentation as well as for training and educational purposes. The U.S. Fish and Wildlife Law Enforcement personnel were very positive about photo records, but were unsure that individuals keeping the records would be completely objective about their use. They questioned that anyone would photographically document nontarget involvement and especially a nontarget kill in a bird management project, especially if it is a threatened or endangered species. This brings up another whole area of ethics and cooperation that will be discussed later.

There were two basic trains of thought with regards to the use of photographic records and public relations. Most

who responded feel that when good records are kept, including photographic documentation of all aspects of the project, that the photographic records would be a very positive tool for public relations, as long as the project was done properly and responsibly. It is understood, however, that there are certain segments of society that will oppose all forms of bird management and control, no matter what the situation or how necessary or humane the methods of management are.

Those who warn about the indiscriminate use of this type of recordkeeping point out that if photographic documentation is kept of problems in food processing facilities, FDA persecutors could subpoena these and use them as evidence against the facility involved, without regard to the solutions which may have been found to the problem. Again this gets down to a matter of ethics. Pesticide enforcement personnel might also try to use these records against you if a problem arose during an ongoing project. If the project is not being done properly, the use of photographic records could certainly record this fact. If errors and mistakes are promptly discovered and corrected, then this can provide an excellent training tool; but if the errors, problems, or omissions are not dealt with, these very records could provide self-incriminating evidence.

Lawsuits which could be brought against a food processor for contamination or adulteration could pose a particularly sensitive situation if photographs existed of problems within a facility. Records of pest control activity can be subpoenaed by the plaintiff, and photographs of problems can present psychologically damaging evidence to a jury, far more damaging than written records alone. On the other side, however, if complete records were kept of the problem being expeditiously solved and the area cleaned up, as well as records of steps and procedures that were followed to prevent future problems of this type, these records might well be beneficial.

It must be understood that photographic records are supplemental to accurate and complete written records. They are to be used to enhance the understanding and comprehension of ideas, situations, and practices that are encountered and/or used. They, like any records, are only as credible as the individual who is keeping them. Photographs generally do not lie, but liars can certainly take photographs.

#### ETHICS AND COOPERATION

Individual, corporate, and government ethics are under close scrutiny today. Many, however, hold dual standards when it comes to this point. They feel that everyone else should be held to a high level of accountability, but they, themselves, are not necessarily obligated to the same standards. Ethics and morality have become a stick to beat others with, but no one wants it used on them. In some cases, I have been told, regulatory and enforcement personnel might be more than willing to use the records kept by conscientious individuals and firms against them, even though they did everything "by the book" and were

doing everything they knew to avoid and/or correct problems that may have occurred. This presents an extremely sensitive situation which has no easy answer.

If a FDA-regulated facility develops a problem, calls for assistance to eliminate the problem, and is willing to do whatever is necessary to solve the problem in the safest and quickest manner possible, is it right that the FDA can use the records kept by a conscientious operator against the regulated facility? If an operator is doing bird management in an approved manner, and has contacted the appropriate state, federal, and local officials prior to the project to get their input or assistance in evaluating and monitoring the project, and an unforeseeable incident occurs involving a protected or endangered species, is it right to have said operator's records used against him, especially if he keeps extensive photographic records documenting the nontarget involvement?

How much additional information could be gained on nontarget hazards that currently exist if the fear of persecution and prosecution did not hang over the heads of those involved? How much better records would be kept if there were not the fear of the use of well-kept records against us? Do these fears and concerns currently affect records kept? What can be done to improve the cooperation and communication between the parties involved? Can anything be done to lessen the concerns about "unjustified" lawsuits and prosecution?

These are some questions that need to be answered within the industry, within the regulatory community, and within our own minds. These must be settled so that we can truly decide the value of photographic records. It has been said, "Only a fool will knowingly keep records that can be used to incriminate him." Does that mean that those who are truly concerned about accurate records and the long-term environmental effects of their work are "fools"? I hope and pray that that is not and/or will not continue to be the case.

#### EQUIPMENT AND METHODS

There are two main types or methods of photographic records, still photos and slides or video recordings and movies. Both types have their benefits and limitations, and each has a distinctive role to play in recordkeeping. Each uses distinctly different types of equipment, but it is possible to keep accurate records with either.

Still photos and slides, primarily slides, are recommended for keeping detailed records of projects as a part of general recordkeeping, or when they are to be used for presentation of papers or training sessions when many and/or varied types of records from several projects are put together for a single presentation. Slides can easily be kept in notebook-sized pages with pockets specifically for slides, and can easily be catalogued by date, by project, and cross-referenced by project type, target species, control method, or by any other desired subject. There is a limit, however, to the amount of information that can be given with a silent still picture.

Video recordings can show many things that still photos cannot. Large flock movements are nearly impossible to accurately document using still photography, but video recordings can show not only movement, but record sound as well. Some cameras are capable of recording in light levels as low as one lux, levels that are too low for unaided eyesight. This type of recordkeeping is best when you need to accurately describe the situation of those unfamiliar with bird movements and problems, when gathering information for public relations, and/or when assembling material for training purposes and much detailed information about a specific project is needed. This type of record, however, might be much more difficult to store in such a way as to recall a specific piece of data or to build a cross-referenced file for quick access or review.

Both types of recordkeeping, I believe, will find much greater use in the months and years to come. Equipment is available at a price that most of those involved in bird management can afford, even on a limited budget. Top-of-the-line video camcorders are still too expensive for small operators to purchase, but in many areas video equipment can be rented at a reasonable cost for short-term specific projects. Always remember that it is important that still cameras have a data back for recording the date and/or time directly on the film, and that the video equipment have the same capability if it is to be used for documentation purposes.

#### PHOTOGRAPHIC RECORDS-WHAT TO RECORD

Photographic records can be used to record and document virtually every step of a bird management project. The initial survey involves identifying and documenting the damage or problem, determining the species and numbers of the birds causing the damage, documenting any secondary problems caused by the initial situation—lice in a building, water damage caused by stopped-up gutters, etc.—and any other safety and health problems that may be a result of the infestation or problem. Accurate target species identification can be documented with photographs, and this is highly recommended.

Identification of the environmental range of the target birds needs to be assessed. Their feeding, watering, and loafing areas need to be clearly identified. Nontarget birds and animals within that range need to be identified, with particular attention given to threatened or endangered species that may be inhabiting or frequenting the area. Areas of potential "people problems" should be identified and documented. All these together should be retained to help show how you arrived at the course of action necessary to solve the problem.

During the project, photographs should document the tools, procedures, personnel, special problems or situations encountered, methods used to protect nontarget animals and people, special safety procedures used, and day-by-day results obtained. If you are going to keep a complete and accurate set of records, even photographs of nontarget involvement and other potentially adverse situations should be kept to evaluate, in order to minimize the proba-

bility of the same type of problem recurring in the future.

Photographic records of follow-up inspections also can give you a good before-after set showing the results of a project done well, or, if it turns out that way, a project poorly done.

When conducting new types of procedures, photographs can be especially helpful in doing a follow-up evaluation of the project, and can assist greatly in finding better, safer, and more efficient ways of doing the job. The uses of photographic documentation are only limited by the imagination of those using them.

#### HANGUPS

There are a few other cases I feel need to be mentioned that provide hangups to the use of photographic records. Around most military facilities, cameras are prohibited or at least severely restricted. Many manufacturing facilities have a "NO CAMERAS ALLOWED" policy. There are four main reasons I have encountered which, seemingly, have prompted them to adopt this policy: they have "trade secrets" within the facility that might be compromised; they are concerned about facility security; they are concerned that you might record a health or safety hazard or violation, and, that if you did, employee union or regulatory personnel might become aware of the photos and try to use them against the facility operators; that's our policy, it's always been that way, and we're not going to change it for you.

When this type of situation is encountered, you must offer them a means to retain their control, while still getting the records you need. Offer them the option to review your photographs before you see them. Tell them that, if they desire, you will give them the unexposed film for them to process, and allow them to review them and remove any that they feel are unacceptable. If any photographs are removed, however, tell them that you need to know why they had to be removed, and how to avoid the situation recurring. If necessary, be willing to bring in the camera unloaded, load it in their presence, and return the film to them without taking it from the facility. If all else fails, be willing for them to have someone accompany you when you take the photos, or even allow them to take them for you. Offer them your camera to use if theirs cannot take the desired type or quality of photos, or if theirs is not equipped with a data back recorder. If these recommendations are used, most objections can be overcome.

#### SUMMARY

The use of photographic and video documentation in vertebrate pest management and especially bird management is a concept whose time has come. I firmly feel that many involved in vertebrate pest management will begin using photographic recordkeeping as an integral tool in their programs on a regular basis. I urge you to consider their use in programs in which you are involved, to look at the problems mentioned herein, and to help be a part of the solution.

