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## Whitehall taxidermist charged with illegal filming

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Whitehall taxidermist charged with illegal filming

By Nick Gevock of The Montana Standard mtstandard.com | Posted: Saturday, January 15, 2011  
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A Whitehall taxidermist who was acquitted in two jury trials of illegally guiding bighorn sheep hunts last year pleaded not guilty this week in federal court to illegally filming hunts on public land.

John Edward Lewton, 50, entered his plea Thursday before U.S. Magistrate Keith Strong in Great Falls federal court. He was charged last month with illegally filming sheep hunts in 2008 in the Upper Missouri Breaks National Monument and on national forest land in lower Rock Creek near Clinton, court records said. Both charges are federal misdemeanors.

Lewton was charged in 2009 in state district court with illegal outfitting, possession of a game animal and trespassing in connection with an undercover Montana Department of Fish, Wildlife and Parks investigation. He went through jury trials in Jefferson and Chouteau counties because the alleged crimes occurred in both and was acquitted twice by juries.

The case was highly controversial because during the operation Justin Gibson, the undercover FWP warden, shot a trophy bighorn ram. Lewton and two assistants accompanied Gibson and a second undercover warden on the hunt and filmed it.

Jack Morris, a Helena lawyer who represented Lewton in the case, argued his client was targeted by FWP because of the agency's close ties to the outfitting industry. Morris said Lewton refused

payment for his work and was not outfitting but rather making films, as he's done many times before.

Morris said Friday that the federal charges smack of an attempt to convict Lewton on bogus charges at the request of FWP.

"What I find disturbing is that Lewton has gone through two jury trials in two separate jurisdictions and his charges in Blaine County were thrown out on double jeopardy," he said. "The state of Montana failed in its repeated attempts to convict Mr. Lewton - they've run out of cards and passed it on to the U.S. Attorney's office to try to convict Mr. Lewton."

Morris added that FWP has recently taken part in a reality television show focusing on game wardens that included filmmaking on public land. He questions whether the agency required the filmmaker to get the needed permits.

Assistant U.S. Attorney Jessica Fehr could not be reached for comment Friday.

Lewton has sued the state of Montana in an effort to get back the ram that was killed by Gibson, charging that he paid for the trophy and is its lawful owner. Morris said he doesn't see what the federal interest in this case is and questioned whether anyone has ever faced charges on the commercial filming law in Montana.

Federal court records list Sept. 16, 2008, as the date of the illegal film making on Bureau of Land Management land in the Missouri Breaks. The second count pertains to filming on national forest land in lower Rock Creek on Oct. 6, 2008.

The taxidermist and filmmaker is charged with two counts of engaging in commercial activity for financial gain on public land with a license. He is released under special conditions.

If convicted, Lewton faces penalties of up to one year in prison, a \$100,000 fine and one year of supervised release.

Reporter Nick Gevock may be reached via e-mail at [nick.gevock@mtstandard.com](mailto:nick.gevock@mtstandard.com).

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## Acquittal rendered in bighorn sting case

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Acquittal rendered in bighorn sting case

Associated Press The Billings Gazette | Posted: Saturday, July 3, 2010 10:34 pm | (11) Comments

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FORT BENTON — A Chouteau County jury has acquitted a Whitehall taxidermist who was charged with trespassing and unlawful outfitting after an undercover game warden shot a huge bighorn sheep.

The jury returned the verdict at 10:30 p.m. Friday after deliberating about three hours, finding John Lewton not guilty of two misdemeanor counts of hunting without landowner permission, felony unlawful possession of a game animal and misdemeanor outfitting without a license.

Prosecutors alleged that Lewton didn't have a license, was using two-way radios and was crossing private land without permission while taking an undercover game warden on a bighorn ram hunt in September 2008.

The warden, Justin Gibson, shot the trophy bighorn ram in the Missouri River Breaks south of Big Sandy in 2008 so he wouldn't blow his cover after intentionally missing several times.

The ram scored 204 inches under the Boone and Crockett record scoring system, a fraction below the current Montana record bighorn.

In closing arguments Friday, Lewton's defense attorney, Jack Morris, called Gibson the "trigger man" and a "trained liar, trained to deceive and entice people into committing crimes."

The prosecutor, Assistant Attorney General Barb Harris, told jurors it shouldn't matter how they felt about the death of the sheep, and she reminded them of testimony she said showed Lewton broke

the law, arguing that

Lewton provided services to Gibson.

Lewton has said he did not charge Gibson for outfitting but accompanied him on the hunt to videotape it.

In other court action surrounding the shooting of the bighorn, a Jefferson County jury acquitted Lewton in March of illegally buying the sheep from Gibson.

Lewton had been charged last August with felony unlawful purchase of a game animal after he paid \$5,000 for the ram's head and cape.

Late last month, Lewton sued Montana Fish, Wildlife and Parks seeking the return of the head and cape of the trophy ram seized in the case.

Lewton's civil suit filed in District Court in Helena also seeks more than \$100,000 in attorney fees.

The bighorn sheep

cape and horns are being held by the state's wildlife agency.

In Blaine County, Lewton still faces a charge of felony possession of a game animal.

Lewton argued that the charges in separate counties amounted to double jeopardy and sought to have some of them dismissed, but a judge ruled that the charges, while stemming from the same incident, dealt with different actions in each county.

Authorities said they began investigating Lewton in 2005 after other outfitters complained about him.

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## Jury acquits taxidermist

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Jury acquits taxidermist

By Nick Gevock of The Montana Standard mtstandard.com | Posted: Thursday, March 25, 2010  
12:00 am | (25) Comments

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**BOULDER - A jury here acquitted a Whitehall**

taxidermist Wednesday of buying an illegally killed bighorn ram from an undercover state game warden

following a five-day trial.

Jurors in about two hours found that John Lewton was not guilty of buying the ram, which was shot by a state game warden during a September 2008 sting investigation of Lewton for illegal outfitting. Lewton shook the hand of Jack Morris, a Whitehall lawyer representing him, as Judge Loren Tucker read the jury's decision in Boulder district court.

"The verdict speaks for itself," Morris said.

Morris is under a gag order requested by the state in the case and because charges are pending against Lewton in two other counties said he could not comment further.

The case arose from the undercover operation that the Montana Department of Fish, Wildlife and Parks undertook. The department had received several complaints that Lewton, a filmmaker, had for years been illegally outfitting clients on bighorn hunts in the Missouri River Breaks country east of Great Falls.

During the operation Justin Gibson, a game warden working undercover, shot a large bighorn ram after purposely missing it three times. Lewton weeks later bought the ram from Gibson for \$5,000 at Lewton's Whitehall shop Cape Horn Taxidermy.

The state alleged that purchase was illegal because Lewton knew it was killed illegally. It presented evidence that Lewton and his assistants Blake Trangmoe and James Reed used two-way radios to lead Gibson and another undercover agent to the ram, illegally trespassed across private land and illegally went off road with all-terrain vehicles.

But Morris in his closing arguments pressed the defense he used all week - that the state was in the wrong for killing the ram. He worked to cast doubt in jurors about whether any of those crimes applied to Lewton because it was Gibson who had the tag. State officials issued the tag to Gibson under an alias as part of the operation.

Morris told jurors if they convicted Lewton, they would set a precedent by which they could be charged if accompanying a family member who broke a game law. And he said FWP was trying to cover up its botched investigation after Gibson killed a trophy quality ram.

"When things don't look good, you point the finger at guys like John Lewton," Morris said. "You have to find in order to convict John Lewton that he was the hunter, and he wasn't."

Morris said Gibson planted one of the radios that was recovered a week later in the effort to prove the devices were used. Morris said Lewton is disliked by licensed outfitters because he takes people out hunting for free to videotape their hunts, which costs them money.

But Assistant Attorney General Kathleen Jenks urged jurors to look at the facts in the case about all the illegal activity that she said Lewton took while leading the hunt. She said Lewton, Trangmoe and Reed were clearly hunting that weekend when they helped chase the ram.

"The term hunt includes pursuing the sheep, it includes chasing the sheep," she said. "Mr. Lewton was right there telling Mr. Gibson what to do, where to hunt, which ram to shoot, when to shoot."

Jenks said that's why Lewton was seen on tape coaching Gibson not to tell anyone about the radio use or the crossing of private land. She said that demonstrated that he purposely and knowingly broke the law.

"He's telling Mr. Gibson what to say when he checks that ram because he knows there's a problem with this hunt," Jenks said.

Jenks did not comment after the verdict, saying the state still has two cases pending against Lewton in Blaine and Chouteau counties, including charges of illegally outfitting, trespassing and illegal possession of a game animal.

Bob Page, jury foreman, said the 11-man, one-woman jury listened to Tucker's instructions carefully and applied them during two hours of deliberations. He did not go into details about what evidence led them to the unanimous not guilty verdict.

"We considered everything presented and it was a lively discussion," he said. "Reasonable doubt was a key element in our determination."

Jim Kropp, FWP chief of law enforcement, said before the verdict was announced that undercover investigations are part of the state doing its job to shut down illegal wildlife activity. He said officials knew there was a chance a game warden would have to shoot a ram in the case, as sometimes happens in wildlife investigations of repeat offenders.

"It's not about courtroom theatrics, it's not about accusing our officers of lying or planting evidence," he said. "This investigation focuses on the protection of our treasured resources for the future."

- Reporter Nick Gevock may be reached at [nick.gevock@mtstandard.com](mailto:nick.gevock@mtstandard.com)

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Killing of trophy ram by undercover warden erupts in firestorm

## One tough case

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One tough case

By Nick Gevock - 09/05/2009 mtstandard.com | Posted: Saturday, September 5, 2009 11:00 pm |  
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Photo courtesy of the Billings Gazette From left, James Reed, Blake Trangmoe and John Lewton show off the state record bighorn sheep ram killed last fall in the Missouri River Breaks. The ram was shot by an undercover state game warden investigating Lewton for illegally outfitting. The case has erupted a plethora of criticism for the state's killing of the ram.

This was not how Montana's record bighorn sheep ram was supposed to be taken. Instead of stories about a remarkable hunt and photos of a hunter smiling over an incredible animal, the new

Boone and Crockett state record bighorn is sitting in an evidence room. And it's at the center of a firestorm of criticism against state wildlife officials.

That's because in the end, it was a Montana Department of Fish, Wildlife and Parks undercover game warden who pulled the trigger on a ram in the Missouri Breaks last fall that reportedly scored more than 204 B&C points.

The ram's shooting occurred during a 2008 undercover operation in which FWP investigated John Lewton, a Whitehall taxidermist and filmmaker, after receiving complaints that he was illegally guiding sheep hunters, according to court records. Lewton is not a registered outfitter in Montana, but has accompanied numerous hunters while pursuing bighorns for over a decade. He bills himself as a filmmaker who enjoys sheep hunting and goes along on bighorn hunts for free to capture footage of the hunt.

But the fact that it was the undercover warden and not Lewton who killed the ram has some people saying the state went too far.

"Does law enforcement have the right to burn down my home to prove that you're an arsonist?" said Gray Thornton, president of the Wild Sheep Foundation, the leading organization for sheep conservation. "That's a Montana resource and a representative of the people of Montana killed that resource to up the ante on the prosecution." Thornton said he's not defending Lewton. He said if Lewton is found guilty of the crimes he's accused he should be punished.

But he questions whether the warden had to shoot the animal to prove the crime for which Lewton was initially being investigated.

Jim Kropp, FWP enforcement chief, has said the agency will not comment further until the case is resolved. Barbara Harris, assistant attorney general prosecuting the case, refused to comment as well.

But FWP has taken a beating for how the case went down.

To some, it was a botched wildlife sting that robbed Montana sportsmen of the chance at the ram and illustrated an out-of-control investigation. Columnist Allen Jones, with NewWest.com, called the state's actions a "betrayal of trust" and said the state should have to account for killing the ram.

But to others, it was a long overdue cracking down of a hunting scofflaw who under the guise of filmmaking was really guiding people to trophy bighorns and profiting off the venture.

"There's been substantial illegal outfitting out here going on for these sheep for years," said Matt Wickens, a rancher and owner of Dog Creek Outfitters near Winifred. "Every outfitter in this area is probably relieved that these guys doing it illegally are finally going to be punished." Lineup of charges Lewton, who owns Cape Horn Taxidermy in Whitehall, was charged in Chouteau County

District Court in Fort Benton last month with felony possession of a game animal. He was also charged with misdemeanor trespassing and hunting without landowner permission and outfitting without a license in Chouteau County. In Jefferson County, Lewton was charged with felony unlawful sale of a game animal for allegedly trying to buy the ram several days after the hunt.

In addition, Blake Trangmoe of Glendive and James Reed of Rexburg, Idaho, were charged in Chouteau County District Court with two misdemeanor counts of hunting without landowner permission, one count of outfitting without a license and one felony count of unlawful possession of a game animal for taking part in the hunt.

Jack Morris, a Whitehall attorney defending Lewton, said the state's case is full of holes. For starters, his client's long history of making quality films shows his intentions during the hunt.

"He takes video of people hunting trophy animals, that's how he makes a living," Morris said. "People pay him to videograph their hunts." But Harris, the lead prosecutor in the case, paints a far different picture in court records. She alleges Lewton located by airplane and then led the warden to the ram for \$1,000.

The records show Court records indicate a hunter who had drawn a bighorn ram tag in the Missouri River Breaks in 2008 reported to an FWP warden that Lewton had offered to guide him for \$11,500, with about half going to Keith Atcheson, of Butte, a licensed outfitter. Lewton allegedly approached Atcheson and asked if he could guide for him, which Atcheson declined.

That summer the undercover warden, identified as "J.G." in court records, went into Lewton's shop and said he had a bighorn tag for hunting district 680, on the north side of the Missouri River south of Big Sandy. Lewton allegedly told J.G. he'd "taken" the last nine holders of the statewide governor's sheep tag, which is auctioned off every year and often goes for more than \$200,000. But Lewton also told J.G. he was not an outfitter and could not charge for service.

Lewton allegedly said he would be flying the area to scout for another hunter and could do so for J.G. for \$1,000, which they agreed to, court records said. In September, Lewton called J.G. and said he'd found a big ram, urging him to get to the area immediately.

J.G. and another undercover agent, C.R., met up with Lewton and Trangmoe and pursued the ram under Lewton's guidance, court records said. Lewton showed a picture of the ram and stated that was the one they were after. They had to cross private property to get to the hunting area that was posted no trespassing, to which J.G. agreed.

Later they met up with Reed, who said he had watched the ram for three days, according to court records. After getting to the coulee where the ram was, Reed allegedly stayed on a vantage point and directed Lewton via radio to the ram.

Lewton allegedly told J.G. not to shoot until the camera was ready and Lewton had picked the proper ram. The warden shot and purposely missed.

The next day Lewton, Reed and Trangmoe allegedly again led the two undercover agents to the ram using radios. J.G. shot twice, again purposely missing, before the ram was chased into a steep sided coulee.

"It was clear that J.G. must shoot the ram, which was now in close proximity to the hunters, or reveal his true identity," court records said.

J.G. squeezed off a shot and the ram was dead.

That moment is when the state overstepped its bounds, Morris said. He blasted the agency for having its agent kill the animal to bolster its case against Lewton.

"The state of Montana and its undercover agent by shooting that ram made it a felony," he said. "He chose to shoot that animal, which deprived every other hunter that drew the tag of the opportunity to hunt that animal." And that throws into question whether the ram was illegally killed, Morris added. It's unclear whether FWP officially issued the officer a tag, but if it did the ram would not have been illegally killed.

He said Lewton is well known and regarded in hunting circles for his films. And Morris noted that Lewton had the required permit in hand to film on public land.

Morris added there was no threat for the officers in this case.

"He's the only one who has a firearm and he was with another agent," Morris said. "John Lewton doesn't have any criminal history; he's a business man." Furthermore, he threw into question the state's claims that the ram was killed illegally because they used radios to locate and pursue the ram, which is against state law. Morris said it was the warden who was hunting, not Lewton.

"John Lewton never forced this guy to go chase this ram," he said. "I don't know how a jury's going to convict my client of illegally possessing a game animal when an undercover agent shot the ram.

"It's pretty problematic for the state's case." Carcass for conviction?

But Marc Glines, a retired FWP game warden who worked undercover for two years, said the case illustrates some harsh realities about prosecuting persistent game violators. A carcass is often needed to get a conviction.

He worked in the early years of Montana's undercover warden program and once had to watch a poacher shot a cow moose.

"I don't envy the warden a bit, because he's going to be scrutinized and chastised, but nobody wants to see a critter get killed illegally; it goes against an officer's grain," he said. "Unfortunately you have to have a critter fall before you can file charges." Glines defended the warden in question and said those situations are incredibly tense for officers. There's a lot of anxiety posing as a hunter that your cover will be blown.

And as difficult as it is for an officer to shoot an animal, he said the ram did not die in vain.

"He was going to guide someone illegally to take a sheep and by doing it with an undercover agent, that guy is out of business," Glines said. "It would have continued on for the next big sheep and the next big sheep." Outfitters relieved While there are numerous critics, other people are supporting FWP's actions in the case. Among them are outfitters who work the Missouri River Breaks.

Bill Brown, a rancher and owner of Chase Hill Outfitters whose land was allegedly crossed by Lewton and the hunting party to get to the ram, said he has mixed feelings about the operation. He knew the particular ram killed and said it spent a lot of time on his property. It pains him to see an animal he "was darn proud of" killed in the manner it was, but in the end, he said it was necessary.

"It is very unfortunate that such a large sheep was taken, but I believe that these types of individuals need to be caught and prosecuted at almost any cost," he said.

And he scoffed at the notion that Lewton was not guiding, but rather just along to film a hunt. He said when a person spots and leads a hunter to a particular animal, that's not just coming along.

"You are posing as a guide," he said.

Wickens agreed. He said while he's aware of the sharp criticism of FWP, it's not coming from his area. He's heard nothing among the outfitting community but praise for FWP in the matter.

"If we sacrifice one 200-inch ram to bring some integrity back to the outfitting industry, to me it's worth it," he said.

Reporter Nick Gevock may be reached at [nick.gevock@mtstandard.com](mailto:nick.gevock@mtstandard.com).

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