



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION ALBANY, NEW YORK 12233
LICENSE REVOCATION ORDER

NAME AND ADDRESS OF RESPONDENT

Mark W. Morehouse
[REDACTED]

Revocation Period Begins: 10/16/23
Revocation Period Ends: 10/16/28

Licenses Revoked: Hunting and Trapping

HEARING DATA

Name of Hearing Officer:
Jennifer M. Ukeritis
Environmental Impact
Examiner (Administrative
Law Judge)

Date and Time of Hearing:
n/a

INCIDENT DATA

Victim:
[REDACTED]

Call For Service #:
19-024416

Date of Incident:
09/19/2019

In the matter of the revocation of the **hunting and trapping** licenses, and all of the rights and privileges associated therewith of the individual identified above and hereinafter known as the Respondent;

Respondent having failed to answer or appear in this matter, the matter was reviewed by the above-named Hearing Officer and decided by the undersigned duly designated by the Commissioner of the Department of Environmental Conservation pursuant to Section 11-0719 of the New York State Environmental Conservation Law.

Further, having been established that a Notice of Hearing and Complaint (NOHC) was served upon the Respondent, and Respondent did not timely answer the NOHC or respond to the Motion for Default Judgement, and upon submission of the Default Summary Report, Findings & Recommendation, and Final Decision establishing that the Respondent did on the date of incident stated above while engaged in **hunting, injure another by discharging a firearm, in violation of ECL § 11-0719(2)(a)(1)(i)**, specifically, on September 19, 2019, respondent did discharge a firearm while hunting Canada geese and a BB pellet from his shot did strike [REDACTED] below her left eye while she was the passenger in a moving vehicle on [REDACTED] in the town of Newark, Wayne County, New York, it is, upon the record of these proceedings:

ORDERED AND DIRECTED, that any **hunting, bowhunting, and trapping** licenses, carcass tags, stamps and permits currently held by the Respondent are hereby revoked and now void, and the Respondent is ordered and declared to be ineligible to hold such licenses, carcass tags, stamps and permits and is ineligible to **hunt or trap** without a license until the revocation period in this Order ends and Respondent has fully satisfied all of the provisions of this Order and all other licensing requirements, and it is further,

ORDERED AND DIRECTED, that the revocation and ineligibility herein above set forth, shall be entered in the minutes of the New York State Department of Environmental Conservation, and that

a written notice thereof be forthwith served upon the Respondent by certified mail, return receipt requested, or by personal service by a representative of the New York State Department of Environmental Conservation, and it is further,

ORDERED AND DIRECTED, as provided in said Section that within five days after the service of the order and notice upon the Respondent, that the Respondent deliver to the Department of Environmental Conservation, Albany, New York, any and all **hunting, bowhunting, and trapping** licenses, carcass tags and permits issued to the Respondent for the current license year, together with any button or stamp associated with **hunting, bowhunting, and trapping**, and it is further,

ORDERED AND DIRECTED, that in addition to completing the entire revocation time period the Respondent must successfully complete a Department-sponsored course and obtain a certificate of qualification in responsible **hunting, trapping, and bowhunting** practices before being issued another **hunting, bowhunting, or trapping** license. Therefore, the Respondent should successfully complete a Department-sponsored course and submit a certificate of qualification in responsible **hunting, trapping, and bowhunting** practices to the Department during the revocation period. The certificate of qualification should be sent to the following address within 10 days from the date the certificate was issued: New York State Department of Environmental Conservation, Division of Law Enforcement, License Revocation Section, 625 Broadway, 3rd Floor, Albany, N.Y. 12233. It is further,

ORDERED AND DIRECTED, that if the Respondent fails to comply with any provision of this Revocation Order, the Respondent will become subject to the penalties prescribed by law in such cases.

10/16/23
Date


Karen E. Przyklek, Director, DLE
Commissioner's Designee for
Sportsman License Revocation Hearings

Revocation or Suspension of Licenses pursuant to Interstate Wildlife Violator Compact

Effective March 1, 2006, New York State joined the Interstate Wildlife Violator Compact (IWVC). The IWVC is a compact under which member states reciprocate regarding the suspension or revocation of licenses and permits resulting from violations concerning the pursuit, possession or taking of mammals, birds, fish, reptiles, amphibians, mollusks, shellfish and crustaceans.

If a person's license or permit privileges which come under the scope of the IWVC are suspended or revoked in one member state, they are subject to suspension or revocation in all member states. In addition to license and permit suspensions and revocations which result from a conviction for the illegal pursuit, possession or taking of mammals, birds, fish, reptiles, amphibians, mollusks, shellfish and crustaceans, failing to appear in court or to otherwise answer a ticket or summons issued for such violations will also result in license or permit suspension. IWVC member states also agree to recognize convictions and/or civil and administrative settlements for violations within the scope of the IWVC which occur in all other member states and to apply them toward license and permit suspension and revocations in the state in which the person resides. For a complete list of IWVC member states, please call DEC's Division of Law Enforcement at **518-402-8816**.

**New York State Department of Environmental Conservation
Hunting Related Shooting Incident (HRSI) License Revocation Hearing
Default Summary Report, Findings & Recommendations, and Final Decision**

**In the Matter of the Alleged Violation of Article 11
of the New York State Environmental Law (ECL) by:**

Name	Mark W. Morehouse	Address	[REDACTED]
D.O.B.	[REDACTED]	Sporting License #	[REDACTED]

HRSI General Information

Case Name:	[REDACTED]-Morehouse	Call for Service #	19-024416
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Case No.:	19-024416		
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On (Date):	09-15-2019	Victim (Name):	[REDACTED]
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Was (check one):	Injured <input checked="" type="checkbox"/> ;	Killed <input type="checkbox"/> ;	or had Property Damaged <input type="checkbox"/>
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Description of Nature of Injury or Property Damaged:	While the victim was sitting in the front passenger seat of a moving vehicle, she was struck by a pellet that traveled through the open driver side window and struck the victim in her left cheek about 1.5 inches below her left eye.
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By (Name of Responsible Party):	Mark W. Morehouse
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Location:	Town of Arcadia	County of Wayne
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This incident occurred while the Respondent and/or Victim were engaged in the following hunting activity (specify):
Canada goose hunting from a duck blind.

This matter did NOT have a hearing and was conducted solely on papers.

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Designated Hearing Officer Name and Title:	Jennifer M. Ukeritis Environmental Impact Examiner (Administrative Law Judge)
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Petitioning Officer Rank, Name, & Shield	Dusty Renee Tinsley, Esq.
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Respondent waived his right to a hearing by failing to timely answer the complaint and by failing to respond to the motion for default judgment.

APPEARANCES:

N/A

Victim(s)

N/A

Witness(es)

N/A

Others Present At Hearing

N/A

Firearm/Weapon Pertaining To The Hunting Related Shooting Incident

Make	Remington	Gauge/Caliber	12 gauge
Model	870	Owned by:	Mark W. Morehouse
Serial #	██████████	Possessed by	Mark W. Morehouse

Exhibit List

Affidavit of Service of Motion for Default Judgment of Marcia Persson, sworn to July 11, 2023

Motion for Default Judgment dated May 8, 2023, with cover letter dated July 11, 2023

Affirmation of Dusty Renee Tinsley, dated May 8, 2023, attaching five exhibits

1. Exhibit 1 Cover letter, Notice of Hearing and Complaint (NOHC), Complaint all dated February 22, 2023
2. Exhibit 2 USPS tracking and green cards for NOHC to Respondent and attorney
3. Exhibit 3 Affidavit of service for NOHC of Marcia Persson sworn to May 8, 2023, attaching 3 attachments
 - a. Attachment A green cards for NOHC
 - b. Attachment B USPS tracking
 - c. Attachment C cover letter to NOHC
4. Exhibit 4 Email from Jason Housel to Dusty Renee Tinsley dated April 25, 2023, regarding Mark Morehouse answer asking if received attached answer dated March 23, 2023, with verification dated March 25, 2023
5. Exhibit 5 Draft Order

Affidavit of ECO Keith Levanway, sworn to on April 26, 2023, attaching 26 exhibits

1. Exhibit 1 Letter dated April 2, 2021, Jason Housel retained by respondent
2. Exhibit 2 NYSDEC Call for Service 19-024416, complainant ██████████
3. Exhibit 3 Hunting Related Shooting Incident (HRSI) Report dated September 15, 2019, at 0817
4. Exhibit 4 Yates County SDG Imagemate Online Property Owner for indicated site
5. Exhibit 5 DECALS profile of Mark Morehouse
6. Exhibit 6 Ejustice Sat image retrieved 12/18/2019 by ECO Levanway (handwritten note on back)
7. Exhibit 7 Statement from Mark Morehouse taken by a NYS Trooper (signature illegible) dated September 15, 2019
8. Exhibit 8 Digital photograph record list from State Police on September 15, 2019, detailing 34 photographs (no photographs included)
9. Exhibit 9 photograph of wetland
10. Exhibit 10 photograph of road
11. Exhibit 11 photograph of side of road
12. Exhibit 12 photograph of more wetlands
13. Exhibit 13 supporting deposition of ██████████ dated September 15, 2019, taken by NYS Trooper Blind
14. Exhibit 14 Four photographs of a ██████████ with license plate ██████████
15. Exhibit 15 Three photographs up close of the floor of the middle seats of a vehicle
16. Exhibit 16 Three photographs of a woman with a mark on her face and close-ups of the mark
17. Exhibit 17 Map with scale dated December 18, 2019, at 12:01:30
18. Exhibit 18 Two photographs of shotgun shell, bottom of shell
19. Exhibit 19 International Hunter Education Association Hunting Incident Investigation Academy bullet shot and

wad template

20. Exhibit 20 NYSDMV officer copy of ticket BF7162901 charging Morehouse, Mark W with ECL 11-0931(4)(a)(1) for shooting across the road
21. Exhibit 21 Town of Arcadia Information charging Mark W Morehouse with Reckless Endangerment in the second degree by David M Worden NYSTrooper on September 15, 2019
22. Exhibit 22 certificate of conviction "CD/FEE" \$205 dated April 4, 2022, for reckless endangerment in the second degree
23. Exhibit 23 certificate of conviction 11 - 0913(4)(a)(1) shooting across road "Covered IFS" dated April 4, 2022
24. Exhibit 24 New York State Hunting and Trapping 2022 2023 Regulations
25. Exhibit 25 Hunter - Ed.com "Today's Hunter" New York copyright 2022
26. Exhibit 26 Hunter education page from DEC website

Transcript

N/A

Synopsis of Incident from Testimony, Documents, and Evidence

The synopsis rendered by me in this matter is based upon my review of the documents and evidence referenced above:

At approximately 0817 on September 15, 2019, respondent Mark W. Morehouse discharged his Remington 870 12-gauge shotgun at Canada geese from a blind on property owned by [REDACTED]. A BB from that shot did travel through the open window of a [REDACTED] being driven by [REDACTED] and struck [REDACTED] just under her left eye, leaving a mark. The BB was found in the back seat of the [REDACTED] by New York State Troopers.

Findings, Conclusions of Law, and Recommendations of the Hearing Officer

FINDINGS: The findings, including any findings of negligence or negligence and wantonness or lack thereof (as the case may be), on the part of the Respondent, by this Hearing Officer, are based upon the preponderance of the testimony, documents, and evidence presented during the hearing and held on the above date and time (*see* 6 NYCRR 622.11[c]), unless this report notes a Default Judgment without hearing in which case the findings are based solely on the documents and evidence listed in this Report and show that Department demonstrated they have a viable claim (*see* 6 NYCRR 622.15[b][3]).

1. Mark Morehouse (respondent) owns a Remington 870 with serial number [REDACTED]. (*See* Levanway Aff. ¶ 20; Exhibit 2, 3, 20.)
2. Respondent and property owner, [REDACTED], were hunting Canada geese from a blind located on the east side of [REDACTED] in the town of Newark, Wayne County. (*See* Levanway Aff. ¶¶ 7-9.)
3. Respondent has hunted on this site numerous times. (*See* Levanway Aff. ¶ 7.)
4. Respondent and [REDACTED] set up decoys in front of the blind. (*See* Levanway Aff. ¶ 9.)
5. Respondent and [REDACTED] were shooting at geese on the ground in front of the blind with the road on the far side of the pond. (*See id.*)
6. [REDACTED] was driving his [REDACTED] south on [REDACTED] and [REDACTED], the victim, was in the front passenger seat. (*See* Levanway Aff. ¶ 15, Exhibit 13.)
7. At 0817 [REDACTED] pulled his vehicle to the side of the road and called 911 reporting a pellet had gone through the open window and hit [REDACTED] below her left eye. (*See* Levanway Aff. ¶ 18, Exhibits 2, 3.)
8. New York State Troopers (NYST) arrived on scene and documented the welt and broken skin where the pellet hit [REDACTED]. (*See id.*)
9. The NYST also documented finding a steel pellet on the floor of the [REDACTED] vehicle behind the front seat. (*See* Levanway Aff. ¶ 17, Exhibit 15.)
10. [REDACTED] refused transport to the hospital. (*See* Levanway Aff. Exhibit 3.)

11. [REDACTED] left the scene before ECO Levanway arrived. (See Levanway Aff. Exhibit 2.)
12. ECO Levanway arrived on scene and walked the site with NYST Blind, respondent Morehouse, property owner [REDACTED], [REDACTED], and [REDACTED]. (See Levanway Aff. Exhibit 2.)
13. NYST Blind took numerous photos of the blind and area around the blind. (See Levanway Aff. ¶ 10, Exhibits 8 – 12.)
14. The photographs show it was a clear, sunny day. (See Levanway Aff. ¶ 10, Exhibit 9.)
15. The photographs also show that the road and the blind are at approximately the same elevation, with the pond between them slightly lower in elevation. (See Levanway Aff. ¶¶ 10 – 14, Exhibits 9 – 12.)
16. The photographs also show that the fence and vegetation along the road do not obstruct the view of the road or a vehicle traveling on the road from the blind. (See Levanway Aff. ¶¶ 11 – 12, Exhibits 9 – 11.)
17. Using an application on his phone, ECO Levanway was able to calculate the approximate distance, 115 yards, from the vehicle to the blind. (See Levanway Aff. ¶ 19, Exhibit 17.)
18. Eco Levanway examined the pellet at the State Police-Lyons office that the NYS Troopers found in the back seat of the victim's [REDACTED] and determined it was shot size "BB" per the international hunter education association bullet shot and wad template. (See Levanway Aff. ¶ 22, Exhibit 19.)
19. Respondent admitted the Remington 870 12-gauge shotgun belonged to him. (See Levanway Aff. ¶ 20.)
20. Respondent's Remington 870 12-gauge was loaded with Winchester steel BB shot. (See *id.*)
21. No other hunters in the party were using steel BB shot, except for the respondent. (See Levanway Aff. ¶ 22, Exhibits 2, 3.)
22. Respondent was charged by information with penal law section 120.20 reckless endangerment 2 by the NYS Troopers. (See Levanway Aff. ¶ 30, Exhibit 21.)
23. Respondent was issued ticket number BF 716-2901 for violation of ECL 11-0931 (4)(a)(1) shooting across a public highway or any part thereof by ECO Levanway. (See Levanway Aff. ¶ 29, Exhibit 20.)
24. Respondent's charge of reckless endangerment 2 was disposed of in Palmyra Town Court by a conditional discharge and a \$205.00 surcharge on November 9, 2020. (See Levanway Aff. ¶ 31, Exhibit 22.)
25. Respondent's ticket number BF 716290 was disposed of in Palmyra Town Court on November 9, 2020, by "covered in full satisfaction". (See Levanway Aff. ¶ 32, Exhibit 23.)

DISCUSSION: Including a discussion of the standards of negligence, or negligence and wantonness (as the case may be).

Department staff alleged in its complaint that Mark Morehouse (respondent) violated ECL 11-0719(2)(a)(1)(i) in that respondent, while engaged in hunting, caused the injury to any person by discharging a firearm. In Department staff's motion for default, staff alleged that respondent violated ECL 11-0719(2)(a)(1)(ii) in that respondent, while engaged in hunting, negligently discharged a firearm as to endanger the life or safety of another. As the notice of hearing and complaint is controlling, given it is the instrument that confers jurisdiction, this default summary report follows the charge in the complaint. (See *Matter of Robani Energy Inc. and Crystal Transportation Corp.*, ALJ Ruling dated June 28, 2004, p 3; *Matter of Kincaide*, Commissioner Decision dated June 11, 2015, p 3.) Additionally, paragraph 44 of Ms. Tinsley's affirmation and paragraph 34 of ECO Levanway's affidavit quote ECL 11-0719(2)(a)(1)(i), while mistakenly citing it as ECL 11-0719(2)(a)(1)(ii).

Procedural History

Department staff served respondent and respondent's counsel with the notice of hearing and complaint dated February 22, 2023, and respondent received it on February 25, 2023. An answer was due March 17, 2023, as directed in the notice of hearing and complaint to file an answer within 20 days of service. Staff received an email from respondent's counsel dated April 25, 2023, asking Staff to confirm receipt of an answer that was attached to the email dated March 23, 2023, with the verification dated March 25, 2023. Staff deemed this answer late and filed a motion for default judgment originally dated May 8, 2023. Via a letter dated July 5, 2023, I ruled that the motion for default judgment was denied as department staff did not include proof of service of the motion upon the respondent and his counsel, as required under 6 NYCRR 622.15(b)(6). The Department then re-served the motion for default judgment by a cover letter dated July 11, 2023. The documents re-served were all still dated May 8, 2023. An affidavit of mailing of the motion for default judgment was received on July 17, 2023. No answer to the motion for default judgment was received.

Burden of Proof

In this motion for default judgment, Department staff must show, consistent with CPLR 3215(f), proof of the facts sufficient to support the violations alleged and enable the ALJ and commissioner (or commissioner's designee) to determine that staff has a viable claim. (See 6 NYCRR 622.15[b][3].) In this matter, where a person has been injured, Department staff must show there is a viable claim that respondent (i) while hunting or trapping (ii) caused injury to another (iii) by discharging a firearm. (See 6 NYCRR 622.15[b][3], ECL 11-0719[2][a][1][i]). Department staff does not need to prove the respondent was negligent.

Department staff's proof demonstrates that the respondent, while hunting, did cause the injury to another person by discharging a firearm. Respondent discharged his firearm across the pond causing a pellet to enter a moving vehicle on the road on the far side of the pond and strike the female in the front passenger seat. The pellet caused a mark in the skin below the victim's left eye socket. The Department is entitled to a default judgment. (While the standard for default judgment is demonstrating the party has a viable claim, in this particular case, Department staff has also demonstrated by a preponderance of the evidence that respondent did injure [REDACTED] while hunting by discharging a firearm.)

Discussion

The evidence on this record demonstrates that Department staff has a viable claim that the respondent discharged his Remington 870 12-gauge shotgun from a hunting blind while hunting Canada geese and one of the BBs in the shotgun shell traveled through the open front window of the victim's [REDACTED] and struck the victim who was sitting in the front passenger seat.

(iii) Discharging a Firearm

The evidence documented by ECO Levanway establishes that both the respondent, Mr. Morehouse, and [REDACTED], the landowner, did fire at the geese in front of the blind, between the blind and the road. NYS Troopers found a pellet in the backseat of the [REDACTED]. ECO Levanway used a gauge called "International Hunter Education Associate Bullet Shot and Wad Template" to determine that the pellet found in the backseat of the [REDACTED] was a "BB" shot size. Separately and previously, respondent Morehouse admitted that the Remington 870 12-gauge shotgun belonged to him, and it was loaded with Winchester steel BB shot. Landowner [REDACTED] admitted to using a Remington SP10 10-gauge which was loaded with Winchester steel 10-gauge #2 shot. Two other males were at the blind but stated they were not hunting and did not fire any shots. ECO Levanway concluded that the pellet found in the [REDACTED] could not come from [REDACTED]'s shotgun and could only have come from the respondent's shotgun based upon the sizes of shot in the shotguns.

Department staff's proof demonstrates that respondent Morehouse was the one that fired the shot that contained the BB that hit the victim below the left eye socket.

(ii) Caused Injury

NYS Trooper Blind took photos of the victim's injury on scene. The victim, [REDACTED], and [REDACTED] were released from the scene after refusing medical treatment before ECO Levanway arrived on scene. Photographic evidence and the statement of the victim clearly demonstrate the injury received. Exhibit 16 to ECO Levanway's affidavit clearly document the injury caused by the steel BB.

While the injury was not, in this instance, life threatening, it could easily have been. The Department has demonstrated that [REDACTED] was injured by BB pellet.

(i) While Hunting

Verbal statements to NYS Trooper Blind and to ECO Levanway establish that respondent stated he was hunting in the blind owned by [REDACTED] and had many times in the past. Respondent did not sign a statement. Trooper Blind wrote a statement stating that Respondent told him "We both shot, but we were shooting towards the ground." (See Aff. ECO Levanway Exhibit 7.)

Trooper Blind also took photographs of the area around the blind and of the road to demonstrate that there was nothing to stop any shot from crossing the road or impede visibility of the road and any vehicles traveling on it. The road is to the west of the blind with the pond between the blind and the road. The photographs also demonstrated it was a clear, sunny day. ECO Levanway used an application on his phone to estimate the distance from the road to the blind at approximately 115 yards. The hunting party had set out decoys in the pond, which is at a slightly lower elevation than the blind or road. The blind and the road are at approximately the same elevation.

Department staff's proof demonstrates that respondent was hunting when he fired the pellet that ended up striking [REDACTED].

Respondent did not serve a timely answer to the notice of hearing and complaint and did not answer the motion for default judgement. Respondent has not rebutted Department's evidence. As such, I find that the Department has met its burden and grant its motion for default judgement.

Conclusion

On this record, I find that Department Staff has demonstrated that respondent, while hunting, did cause injury to [REDACTED] by discharging a firearm, in violation of ECL 11-0719(2)(a)(1)(i). The respondent, by not responding to the motion or timely answering the notice of hearing and complaint, has not established he was not negligent.

In its motion for default judgement, the Department has requested a five-year revocation. This is a reduction from the ten-year revocation requested in its notice of hearing and complaint. I find that a five-year revocation and a requirement to take a hunter safety class before a hunting license may be granted after the revocation period has expired is reasonable, consistent with previous decisions and supported by the facts in this case.

CONCLUSIONS OF LAW: The following are the Hearing Officer's conclusions of law concerning the violations established on the record of the motion for default judgement.

Respondent Mark W. Morehouse caused the injury to [REDACTED] when a BB pellet that was shot from his 12-gauge Remington 870 while he was hunting Canada geese struck her below her left eye, in violation of ECL 11-0719(2)(a)(1)(i). The respondent failed to establish that he was not negligent.

RECOMMENDATIONS: The following are this Hearing Officer's recommendations concerning the revocation of the respondent's sporting license and are subject to review by the Commissioner or the Commissioner's Designee for Sporting License Revocations.

1. That respondent Mark W. Morehouse's hunting and trapping license be revoked and that he be denied the privilege of obtaining such license and be denied the privileges of hunting and trapping with or without a license for a period of five years from the date of the Commissioner's order; and
2. That the Commissioner order respondent Mark W. Morehouse to successfully complete a Department-sponsored sportsman education course and obtain the associated certificate of qualification before being issued another license.

Hearing Officer's Name:	Jennifer M. Ukeritis	Title:	Environmental Impact Examiner (Administrative Law Judge)
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Signature:		Date:	October 5, 2023
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Central Office Review and Decision Regarding Sporting License Revocation

I have reviewed the default summary report and the record regarding this matter and adopt the default summary report of the Administrative Law Judge (ALJ) in its entirety.

I agree that Department staff demonstrated that respondent Mark W. Morehouse injured [REDACTED] by firing a shot from his Remington 870 12-gauge shotgun while hunting Canada geese from a blind, in violation of ECL 11-0719(2)(a)(1)(i). The record demonstrates that on September 19, 2019, while hunting Canada geese respondent fired at geese on a pond in the direction of a road and a BB from his shot entered the [REDACTED] through an open driver's window and struck the woman sitting in the passenger seat right below her left eye.

Finally, the five-year revocation of respondent's hunting and trapping privileges is authorized and supported by the record. Respondent shall also be required to successfully complete a Department-sponsored sportsman education course and obtain the associated certificate of qualification before being issued another license.

The sporting license privileges of the responsible party should be revoked: Yes No

Sporting licenses subject to revocation: Hunting Trapping

Length and Terms of Revocation:

Five (5) years. Respondent Mark W. Morehouse to successfully complete a Department-sponsored sportsman education course and obtain the associated certificate of qualification before being issued another license.

Commissioner or Commissioner's Designee: Karen E. Przyklek, Director, DLE

Signature: 	Shield # 381	Date: 10/16/23
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