



A REPORT  
TO THE  
MONTANA  
LEGISLATURE

PERFORMANCE AUDIT

# *Game Damage Program*

*Department of Fish, Wildlife & Parks*

MAY 2015

LEGISLATIVE AUDIT  
DIVISION

14P-06

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Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Members of the performance audit staff hold degrees in disciplines appropriate to the audit process.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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May 2015

The Legislative Audit Committee  
of the Montana State Legislature:

This is our performance audit of the Game Damage program administered by the Department of Fish, Wildlife and Parks. This report includes recommendations to improve administration of the program. Recommendations include increasing supervisory oversight over game damage assistance decisions, improving communication with landowners when game damage assistance is denied, clarifying the level of public hunting required for landowners to qualify for game damage assistance, and developing a management information system to improve accountability of Game Damage program activities. A written response from the Department of Fish, Wildlife and Parks is included at the end of the report.

We wish to express our appreciation to department officials and staff for their cooperation and assistance throughout the audit.

Respectfully submitted,

*/s/ Tori Hunthausen*

Tori Hunthausen, CPA  
Legislative Auditor



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 MONTANA LEGISLATIVE AUDIT DIVISION

 PERFORMANCE AUDIT  
 Game Damage Program  
 Department of Fish, Wildlife & Parks

MAY 2015

14P-06

REPORT SUMMARY

Providing game damage assistance to private landowners is a priority for the Department of Fish, Wildlife and Parks, but the Game Damage program faces significant management challenges. The program needs to address a lack of accountability and consistency in decision making when responding to game damage complaints. This includes improving program information, increasing management oversight and clarifying the level of public hunting access landowners need to allow to qualify for game damage assistance.

## Context

The Department of Fish, Wildlife and Parks (department) defines game damage as damage caused by big game animals to real property and cultivated agricultural crops on private land. It is estimated that game damage in Montana may cost private landowners in Montana millions of dollars annually in lost crops and property damage. Department policy describes the Game Damage program as a collaborative approach between landowners, hunters, and the department to provide equitable, consistent, and cost-effective assistance to landowners to minimize damage caused by game animals. Game damage assistance can range from providing landowners with temporary fencing to implementing damage hunts and management seasons to address problem animals. Staff located in the department's seven regions respond to landowner game damage complaints. The department has spent approximately \$1.5 million over the last four years addressing game damage issues throughout the state.

State law requires the department to respond to all game damage complaints submitted by landowners. Landowners are eligible for game damage assistance if they allow public hunting during established hunting seasons or they do not significantly reduce public hunting through imposed restrictions. To receive any kind of game damage assistance

landowners must allow public hunting during the five week general hunting season. Regional staff conducts landowner eligibility reviews to determine if landowners qualify for game damage assistance. These reviews evaluate the level of public access landowners allow. This includes reviewing access restrictions, such as species or sex of animals that can be hunted, access to all or parts of the property, or if fees are charged to hunt on the property.

Game damage has been incorporated into department wildlife plans and programs, and the department considers addressing game damage issues a priority. However, audit work found the Game Damage program lacks consistency and accountability of its activities. We reviewed 586 game damage complaints registered with the department in calendar years 2010 through summer 2014. These were all the documented complaints during this time frame.

We found the program lacks consistency in how game damage issues are addressed not only between regions but also within regions. Overall, program activities were poorly documented, and the program generally relies on subjective decisions to determine if landowners meet eligibility criteria to receive assistance. We identified significant weaknesses in how the department evaluates landowner

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eligibility for game damage assistance, problems with how game damage hunts and management seasons are implemented, and a general lack of management controls related to program administration.

## Results

Audit work found the department needs to improve both the accountability and consistency of game damage assistance. Recommendations relate to:

- ◆ Clarifying policy for documenting game damage complaints including landowner eligibility.
- ◆ Defining the role of regional supervisors, wildlife managers, and warden captains regarding supervisory oversight of game damage complaints.
- ◆ Providing landowners with written decisions, including landowner appeal rights, when game damage is denied.
- ◆ Establishing a clear definition of public hunting requirements landowners need to meet to qualify for game damage assistance.
- ◆ Ending the use of supplemental game damage licenses in conjunction with game damage hunts and management seasons to address game damage issues.
- ◆ Prioritizing and implementing a management information system to better track, monitor, and improve accountability of the department's game damage program.
- ◆ Updating administrative rules and game damage policies regarding the use and issuance of cracker shells and ammunition when responding to game damage complaints.

- ◆ Implementing policy for monitoring contracts for purchasing game damage materials.
- ◆ Developing inventory controls to track inventory of game damage materials from acquisition to issuance to landowners.

Recommendation Concurrence	
Concur	10
Partially Concur	1
Do Not Concur	0
<b>Source: Agency audit response included in final report.</b>	

For a complete copy of the report (14P-06) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to [lad@mt.gov](mailto:lad@mt.gov); or check the web site at <http://leg.mt.gov/audit>  
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# Chapter I – Introduction

## Introduction

The Department of Fish, Wildlife and Parks (department) defines game damage as damage caused by big game animals to real property and cultivated agricultural crops on private land. It is estimated that game damage in Montana may cost private landowners in Montana millions of dollars annually in lost crops and property damage. Department policy describes the Game Damage program as a collaborative approach between landowners, hunters and the department to provide equitable, consistent and cost-effective assistance to landowners to minimize damage caused by game animals. Game damage assistance can range from providing landowners with temporary fencing to implementing damage hunts to address problem animals. To receive any kind of game damage assistance landowners must allow public hunting during the five week general hunting season. The department spent over \$1.5 million between 2010 and 2014 addressing game damage issues around the state. The Legislative Audit Committee prioritized a performance audit of the department's Game Damage program. This chapter discusses the scope of the audit work we conducted.

## Audit Objectives

Based on our initial audit assessment of the Game Damage program, we developed three audit objectives:

1. Assess how game damage assistance is incorporated into existing wildlife management plans and programs to help limit big game impacts on private land.
2. Determine if game damage assistance decisions are based on eligibility requirements in state law, administrative rule, and department policy.
3. Evaluate if the department has a control system to ensure accountability over the acquisition and inventory of game damage assistance materials.

## Audit Scope

State law and administrative rule establish the eligibility requirements that landowners must meet to qualify for game damage assistance. To be eligible for assistance, landowners must allow public hunting during the general game management season or not significantly reduce public hunting opportunities through imposed restrictions. We evaluated the department's process for reviewing game damage complaints and making decisions on whether landowners meet eligibility requirements to receive game damage assistance. Audit work focused on damage caused by big game animals. Audit work did not include damage caused by animals like bears and mountain lions since state law related to game damage assistance does not cover these kinds of animals.

While we reviewed how game damage assistance is incorporated into department wildlife management plans and programs, audit work did not include an evaluation of the department's big game management process.

Game Damage program policies and management information for program activities are administered by the Wildlife Division in Helena. Audit work in Helena generally consisted of reviewing program policies, evaluating management information for program activities, reviewing contracts used to acquire game damage materials, and interviewing department management and staff. We also reviewed wildlife management plans to determine how they incorporate game damage assistance into wildlife management activities. The department's seven regional offices manage day-to-day program activities on the ground. Since game damage assistance decisions are made at the regional level, most of our audit work was conducted in regional offices. Regional headquarters visited during audit work included Region 2 (Missoula), Region 3 (Bozeman), Region 4 (Great Falls), and Region 5 (Billings). Audit staff reviewed all documented game damage complaints from 2010 through summer 2014. Audit work evaluated how game damage assistance decisions were made and the level of documentation to support those decisions to determine if those receiving assistance met qualification requirements. Interviews were also conducted with management and staff in the regions we visited. Audit work also evaluated the department's inventory control system for game damage materials maintained in both Helena and in the regions.

### **Audit Methodologies**

To address the audit objectives, audit staff conducted the following audit work:

- ◆ Reviewed state laws, administrative rules, and department policy related to the Game Damage program.
- ◆ Reviewed budget and expenditure information for game damage assistance in the state.
- ◆ Reviewed department wildlife management plans including the ten-year statewide elk management plan.
- ◆ Examined documentation for all 586 game damage complaints from 2010 through summer 2014 in regions 2, 3, 4 and 5 to evaluate department decisions on whether landowners met eligibility requirements to receive game damage assistance.
- ◆ Interviewed department management and staff in Helena and in the regions including regional supervisors, wildlife managers, warden captains, wildlife biologists, and game wardens.
- ◆ Reviewed documentation for regional game damage hunts and management seasons located in the regions and on the department's Wildlife Information System.

- ◆ Evaluated management information related to the department's game damage program.
- ◆ Obtained department elk population data for the regions we visited to compare population trends to game damage complaints.
- ◆ Contacted other western states to discuss their game damage assistance programs and procedures for administering their programs.
- ◆ Interviewed sportsman and landowner stakeholder groups regarding the department's game damage assistance program.
- ◆ Reviewed department procedures to purchase game damage assistance materials including reviewing the department's purchasing delegation agreement and contracts used to acquire game damage materials.
- ◆ Evaluated how the department monitors contracts used to purchase game damage assistance materials.
- ◆ Assessed inventory controls for game damage materials through inspection of regional warehouses where game damage materials are stored.

## **Report Contents**

The remainder of this report contains chapters providing information regarding the department's Game Damage program and our audit findings, conclusions, and recommendations.

- ◆ Chapter II provides background information regarding the game damage assistance program, how game damage assistance decisions are made, methods of assistance that is available, and how game damage assistance is incorporated into wildlife management plans and programs.
- ◆ Chapter III discusses game damage eligibility reviews and recommendations to improve the process for determining if landowners meet the eligibility requirements to receive assistance.
- ◆ Chapter IV addresses needed improvements in the department's process for implementing game damage hunts and management seasons.
- ◆ Chapter V discusses needed improvements in program administration including implementation of a management information system and improving controls over the acquisition and inventory of game damage materials.



## CHAPTER II – Game Damage Assistance Process

### **Introduction**

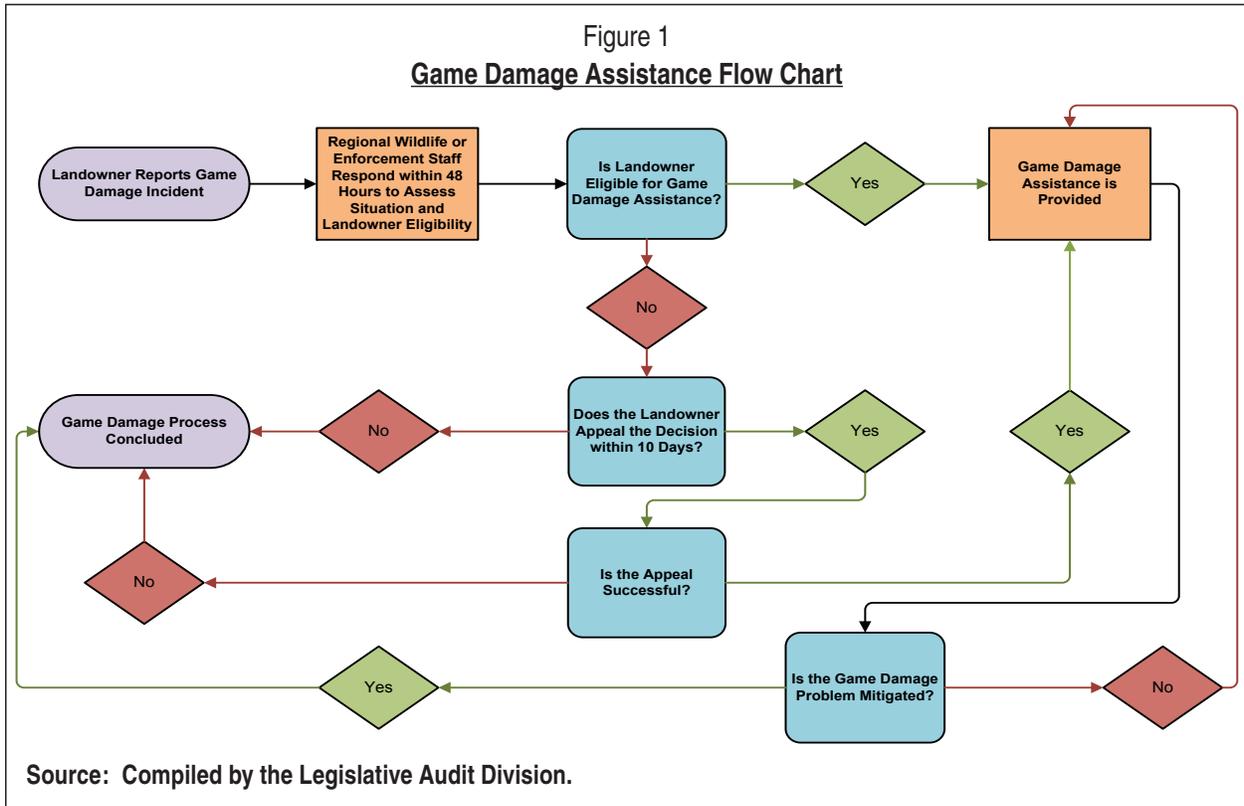
The general five-week hunting season is the Department of Fish, Wildlife and Parks (department) primary tool for regulating big game populations. However, hunter access, weather and other factors can reduce the effectiveness of the general season harvest in controlling big game populations. In some areas game damage increases as big game populations grow, while other areas experience chronic game damage regardless of populations. According to department information, two Montana Supreme court decisions ruled that private landowners are expected to accommodate a certain amount of wildlife use of their lands. However, if wildlife use of private land begins to reach levels that cause problems for landowners, the state assumes responsibilities to help eliminate, prevent, or resolve these problems. By law, the department is required to respond to all big game damage complaints. Landowners who allow public hunting access qualify to receive game damage assistance from the department. This chapter discusses the department's game damage assistance process. This includes eligibility requirements to receive assistance, the department's process to review landowner eligibility, types of assistance, and how game damage assistance is incorporated into the department's wildlife management plans and programs.

### **Background**

Game damage is defined as damage caused by big game animals to real property or cultivated crops on private land. Wildlife presence on or consumption of noncultivated grass or pastureland does not generally constitute damage qualifying for assistance. However, in certain circumstances the department may authorize assistance be provided in these situations. The Game Damage program is located in the Wildlife Division's Landowner/Sportsman Relations Bureau. The Landowner/Sportsman Relations Coordinator administers the program including developing policy and administering contracts to acquire materials used to address game damage complaints. Responsibility for responding to game damage complaints and implementing department policy lies with staff located in the department's seven regions. Regional staff involved in the game damage assistance process includes regional supervisors, wildlife managers, warden captains, wildlife biologists and game wardens.

Wardens and biologists share responsibility for receiving and responding to game damage complaints. This includes assessing the situation on-site with the landowner to evaluate the extent of damage that is occurring. Staff also evaluate if landowners qualify for assistance, recommend assistance be approved or denied based on landowner

qualifications, suggest potential actions to resolve the game damage problem, and complete and submit documentation related to the game damage complaint and landowner eligibility. Regional supervisors, wildlife managers, and warden captains are also involved in reviewing and approving recommended actions to address game damage issues. The figure below illustrates the department's process for responding to landowner game damage complaints.



The following sections describe this process in more detail. This includes the department's process for responding to game damage complaints, evaluating landowner eligibility to receive assistance and the types of game damage assistance the department provides.

### **Game Damage Assistance Eligibility**

Section 87-1-225, MCA, establishes the criteria for landowners to be eligible to receive game damage assistance. According to this law, the department is required to respond to all game damage complaints. Landowners are eligible for game damage assistance if they allow public hunting during established hunting seasons or they do not significantly reduce public hunting through imposed restrictions. However, this law allows game damage assistance to be provided when public hunting has been denied because of unique or special circumstances that has rendered public hunting inappropriate. Department staff indicated this generally relates to game damage

caused by animals not found on the property during the general hunting season or because of safety issues. State law also requires the department to investigate game damage complaints within 48 hours of receiving the complaint. After investigating the situation, the department may open a special season or destroy the animals causing the damage. Statute also allows the department to grant property owners permission to kill or destroy a specified number of the animals causing the damage.

Administrative rule further defines public hunting eligibility requirements to qualify for game damage assistance. ARM 12.9.803 states landowners must allow public hunting or not significantly reduce public hunting through imposed restrictions during established hunting seasons, including the general big game season. This rule requires the department to make eligibility determinations based on the criteria set out in this rule. To be eligible, public hunting must be allowed at levels and in ways sufficient to effectively aid in management of area game populations. This rule also states the following restrictions may significantly restrict public hunting:

- ◆ Species or sex of animals hunters are allowed to hunt
- ◆ Portion of land open to hunting
- ◆ Time period land is open to hunting
- ◆ Fees charged
- ◆ Other restrictions that render harvestable animals inaccessible

Department policy states landowners cannot receive assistance unless game damage complaints can be substantiated by a department field investigation. Homeowners in subdivisions or locations where primary land use does not involve agricultural crop or livestock production are not eligible for assistance. However, the department can advise them on how they can reduce or eliminate game damage issues they are experiencing.

### **Game Damage Complaints**

When landowners experience game damage they must contact either the regional office or the local biologist or warden to file a formal complaint. Regional staff document the information on a game damage complaint form so there is a record of the complaint. This form documents the landowners name, location, regional staff that responded to the complaint, species and number of animals involved, and actions taken to address the problem. The complaint form also notes if landowners qualify for game damage assistance based on eligibility reviews completed by regional staff and also documents materials provided to landowners to help resolve their game damage problem.

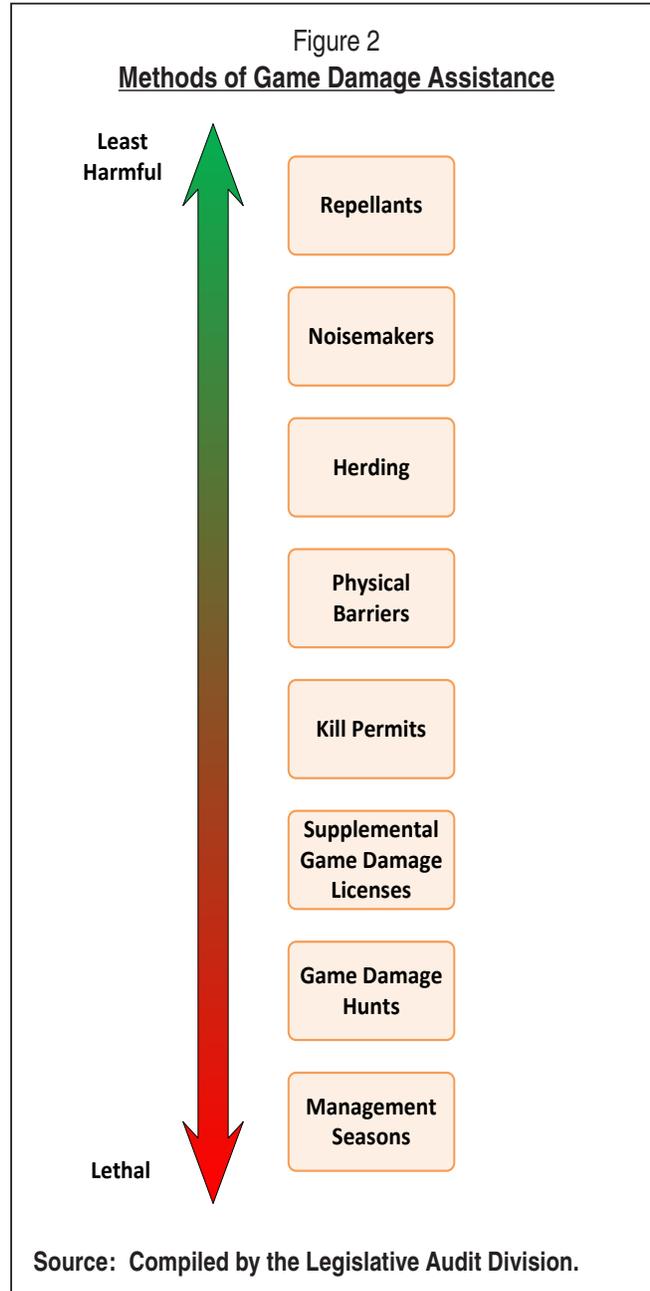
## **Landowner Eligibility Reviews**

Regional staff must conduct a landowner eligibility review to determine if landowners experiencing game damage qualify to receive game damage assistance. Landowner eligibility reviews are documented on a landowner eligibility worksheet. Landowner eligibility worksheets document the level of public access landowners allow and any access restrictions that limit public hunting access. This includes species or sex restrictions of animals that can be hunted, access restrictions to all or parts of the property, and if fees are charged to hunt on the property, such as hunting leases or outfitting activities. The eligibility review also includes estimating the level of public hunting necessary to help manage local game populations. For example, the landowner eligibility worksheet requires regional staff to estimate the number of public hunters needed during the general hunting season and the number of animals that may need to be harvested on the property to effectively aid in management of the game species. These estimates should be based on regional staff knowledge of area game herds and population management objectives for the game species in the area. When the landowner eligibility worksheet is completed, the local game warden and biologist must sign it acknowledging they agree with the decision. It is then submitted to the regional supervisor for final review and approval of their decision on whether or not a landowner qualifies to receive game damage assistance. The final decision should then be documented on the game damage complaint form.

If regional staff determines a landowner does not meet the eligibility requirements, the request for assistance is denied. Administrative rule require reasons for denying assistance be documented and a copy of the written decision be provided to the landowner. The written decision should also explain landowner appeal rights. If a landowner disagrees with the decision to deny assistance, they have ten days to appeal the decision to the department director. The appeal must be in writing. The director will review the decision or has the discretion to ask the Fish and Wildlife Commission to review the appeal. Following a review by either the director or the commission, a final decision is rendered.

## **Methods of Game Damage Assistance**

There are a variety of ways the department can provide assistance to landowners experiencing game damage problems. Department policy indicates game damage abatement activities should generally be done on a progressive scale of intensity from the least harmful to game animals to lethal methods. Figure 2 (see page 9) illustrates the progressive scale for game damage assistance.



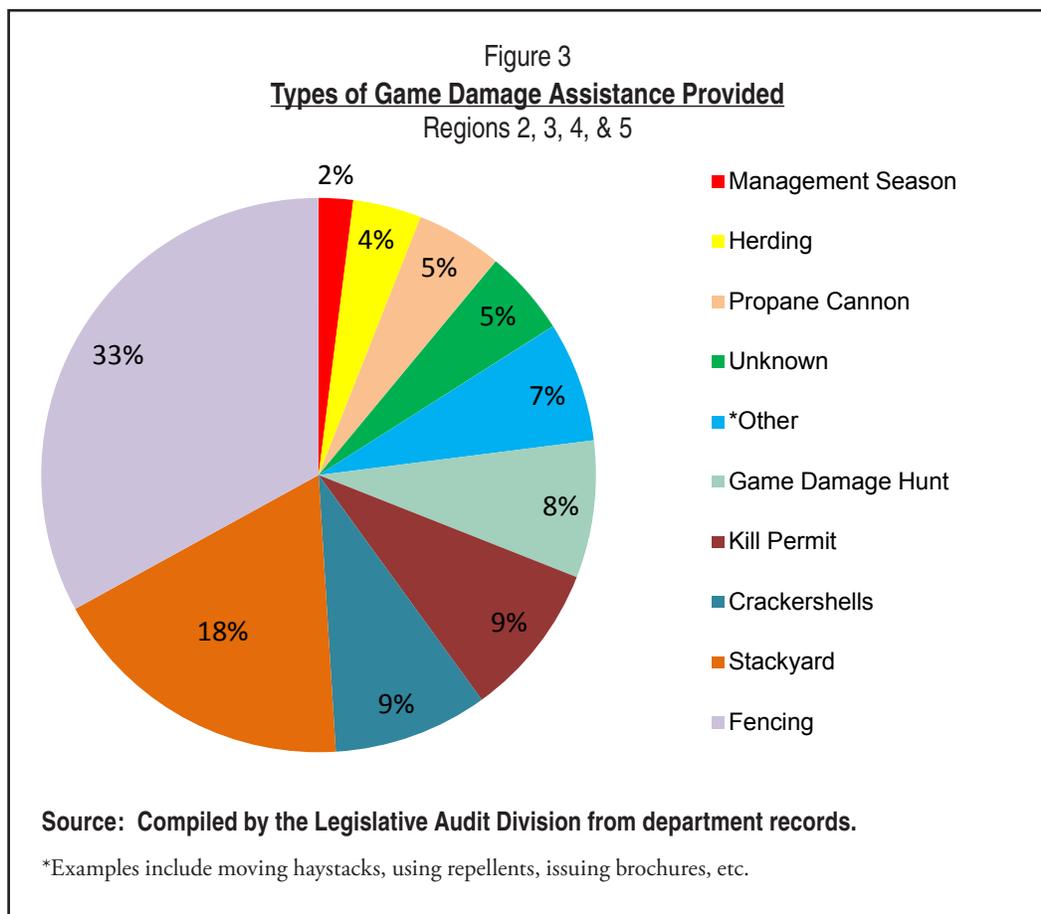
There may be times when it is necessary to escalate game damage assistance immediately due to the severity of the damage that is occurring or history of game damage in the area. The following describes the types of game damage assistance (on a progressive scale) that can be provided to qualifying landowners:

- ♦ **Repellents:** Repellents are used to deter animals away from food sources such as haystacks. They are spread on or around food sources and rely on an animal's sense of smell or taste to keep them away. Repellents are not often used by the department to deal with game damage issues.

- ◆ **Noisemakers:** These are animal dispersal methods that use loud noises to haze animals away from an area. Commonly used noisemakers include propane cannons and cracker shells. Propane cannons emit loud bangs on set intervals. Cracker shells are projectiles that travel a certain distance and explode after being fired from a shotgun.
- ◆ **Herding:** The department can contract with individuals to haze animals off private land experiencing game damage. Contracts are often established with local individuals familiar with the area and landowners where the herding will take place.
- ◆ **Physical barriers:** These include items such as temporary fencing or permanent stackyards to keep animals from accessing harvested, stored crops. A permanent stackyard is a fenced enclosure where cut crops, such as haystacks, are kept to prevent wildlife or livestock from accessing them. The department has contracts to acquire temporary fencing and permanent stackyards they provide to landowners.
- ◆ **Kill permits:** Kill permits may be issued to landowners authorizing them to harvest a set number and gender of animals. Per policy, kill permits should only be used if fencing or other barriers are not an option. Any animals taken must be provided to an appropriate social service organization.
- ◆ **Supplemental game damage licenses:** These licenses are issued for antlerless animals to hunters and are generally used as an alternative to kill permits. Landowners can select some or all of the hunters issued supplemental game damage licenses, depending on an area's license quota. Issuance of these licenses have various criteria, one of which is the number of animals harvested on the property cannot exceed twelve.
- ◆ **Game damage hunts:** Game damage hunts can occur anytime between August 15 and February 15. Game damage hunts are generally used to address damage issues on a single property when there are sufficient animals to use public hunting. If a game damage hunt is deemed necessary, the regional supervisor must obtain approval for the hunt from the Fish and Wildlife Commissioner for the hunting district where the hunt is proposed. Hunters selected to participate in game damage hunts are selected from the department's game damage hunt roster. The hunt roster allows individuals to apply for the opportunity to be randomly selected to participate in game damage hunts in the hunting district they applied for.
- ◆ **Management seasons:** Management seasons are similar to game damage hunts but larger in scale and often involving multiple landowners. They can occur anytime from August 15 to February 15. Management seasons are used to address recurring game damage problems as well as being a proactive tool to help prevent game damage from large concentrations of animals expected due to seasonal migrations, extreme weather conditions, restricted hunting access on adjacent properties, etc. Implementation of management seasons proposals must be formally documented through written justification explaining the problem to be addressed, the rationale on why a management season is needed, and details of the season including property to be included and measurable objectives for the hunt. If regional supervisors believe a management season is necessary, they must receive approval from both the

department director and the local Fish and Wildlife Commissioner. Once the management season is implemented, the department randomly selects hunters from the game damage hunt roster.

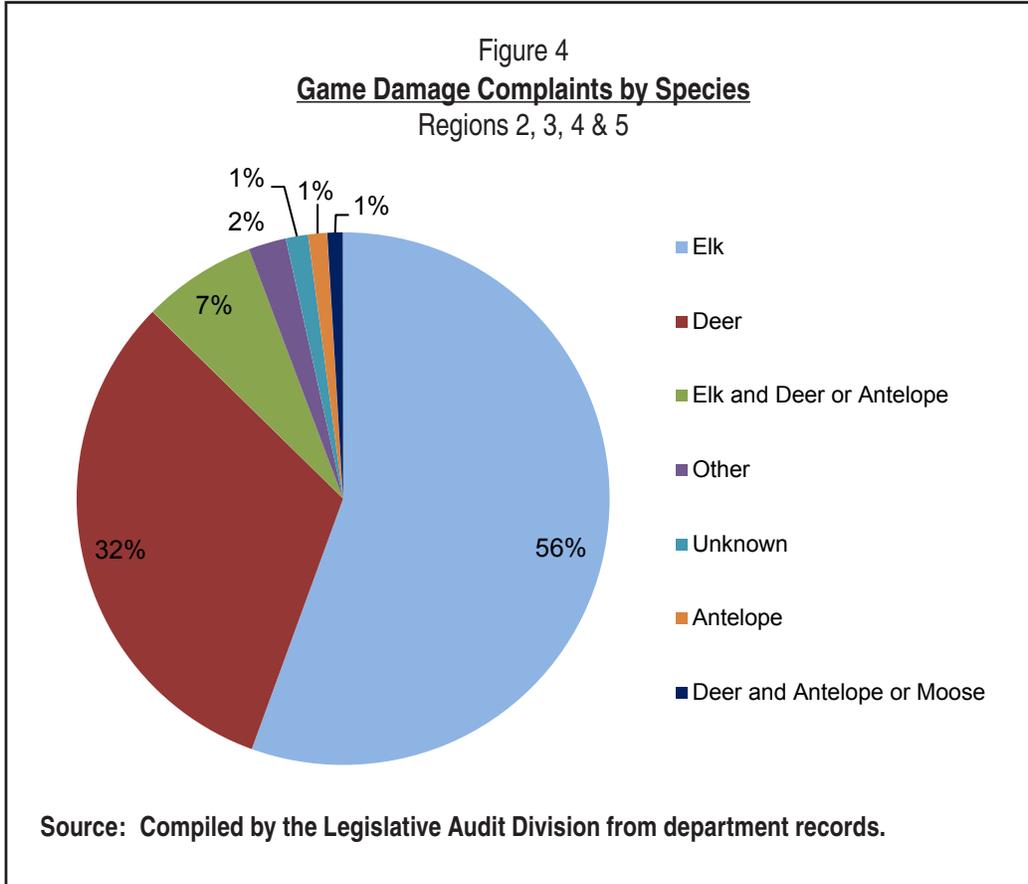
Audit work conducted in regions 2, 3, 4 and 5 found the most common type of assistance provided to landowners are physical barriers such as fencing and stackyards. We found this comprised half of all assistance provided in these regions. Game damage hunts and management seasons were used approximately 10 percent of the time. The remainder of assistance consisted of propane cannons, cracker shells, and kill permits. The following figure illustrates the frequency our review found the various type of assistance being used in these regions.



### Game Damage by Big Game Species

Game damage is caused by all big game species including elk, deer, antelope, and moose. However, based on our regional file review and staff interviews we found the biggest source of game damage was elk. Our review of documented game damage complaints between 2010 through summer 2014 found almost 60 percent of damage

complaints were related specifically to elk. Deer were responsible for approximately 30 percent. Seven percent of complaints involved a combination of elk, deer, and antelope. The following chart illustrates game damage complaints by species for the time period we reviewed in regions 2, 3, 4 and 5.



While game damage from any big game species is a concern for landowners, elk are generally the biggest concern because of their large size, mobility, and the large quantities of food they consume. The department establishes elk population objectives for each hunting district in the state. The department conducts annual population surveys for these hunting districts to determine where the populations are compared to the objective. Populations are categorized as either “at objective,” “over objective,” or “under objective.” Interviews indicated game damage increases in areas where populations are over objective. However, regional file reviews also found several instances of game damage in areas where populations were at objective and under objective. Interviews with department staff found this occurs for a number of reasons including weather conditions, animals staying longer on private land, declining habitat conditions on public land, or limited public hunting access on private land to help disburse animals across the landscape.

## **Wildlife Management Plans**

Our first audit object reviewed how game damage assistance is incorporated into the department's wildlife management plans and programs. Wildlife management plans provide the road map for how the department's wildlife programs manage the state's big game population. In January 2005, the department issued its statewide elk management plan which is still in effect. The management plan addresses several issues such as elk population numbers and access to lands for elk hunting. The department also incorporated statewide game damage objectives to manage elk populations at levels commensurate with other land uses and to prevent game damage from occurring on private land as much as possible. When damage to standing or stored agricultural crops does occur, the plan requires the department to implement timely and effective actions to provide relief to landowners meeting eligibility qualifications for assistance.

The elk plan acknowledges the department's statutory responsibility to respond once wildlife use of private land become unreasonable and cause problems for landowners. Implementation of this plan included the department's focus on population management within the general five-week hunting season. This fundamentally ended the department's use of early and late hunting seasons to address big game population and game damage issues. Instead, the department now uses game damage hunts and management seasons for landowners meeting public hunting access qualifications.

Although deer plans are not as comprehensive as the elk plan, we found game damage assistance is also factored into these as well. For example, an adaptive harvest management plan is used to help manage deer populations in Montana. Adaptive harvest management includes four components including establishing population objectives, population monitoring, hunting regulation alternatives, and computer modeling to predict future population trends. A main element of this deer plan is to minimize the number of game damage complaints and provide assistance to qualifying landowners when they experience game damage on their property. Again, department interviews found the department manages deer populations through general season hunting activity.

It is clear game damage assistance has been incorporated into the department's wildlife management plans. However, there are several factors which have increased the complexity of addressing game damage problems. This includes the department's shift to managing wildlife populations within the five-week hunting season, changing ownership of private land which is impacting the level of public hunting access, and changing animal migration patterns. For example, in some areas of the state elk are staying on private lands year round instead of migrating back to public lands in the spring. This impacts the department's ability to manage elk populations that have historically been available on public lands.

## Addressing Game Damage Problems is a Priority for the Department

Interviews in all the regions we visited found dealing with game damage issues is a priority for the department. Staff is concerned about impacts big game animals can have on private landowners. In addition to addressing game damage complaints using methods such as fencing, stackyards, etc., we also found some regions have implemented other tactics to address game damage problems. For example, one region has implemented processes where landowners can use a combination of outfitting and public hunting during the hunting season to address game population issues. Other regions have issued licenses for antlerless animals (the main source of game damage) that are valid only on private lands in efforts to get more hunters on properties experiencing game damage problems. Some regions have also established new hunting districts aimed at specific animal populations that are causing damage. All regions we visited are using game damage hunts or management seasons to help manage animal populations and address game damage problems.

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### **CONCLUSION**

*Wildlife management plans and staff interviews found resolving game damage issues is a priority for the department. However, addressing game damage has become more complex with the department's shift to managing game populations within the five-week general hunting season and changing ownership of private land around the state.*

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## **Game Damage Program Administration Lacks Consistency and Accountability**

Game damage has been incorporated into department wildlife plans and programs and the department believes addressing the issue is a priority. However, as will be discussed in the remainder of this report, audit work found the Game Damage program lacks consistency and accountability of its activities. Game Damage program activities occur at the regional level, and we found the program lacks consistency in how game damage issues are addressed, not only between regions but also within regions. Overall, program activities were poorly documented and the program often relies on subjective decisions to determine if landowners meet eligibility criteria to receive assistance. We identified significant weaknesses in how the department evaluates landowner eligibility for game damage assistance, problems with how game damage hunts and management seasons are implemented, and a general lack of management controls related to program administration. This includes a lack of accurate information related to program activities.

## Chapter III – Game Damage Assistance Eligibility Reviews

### Introduction

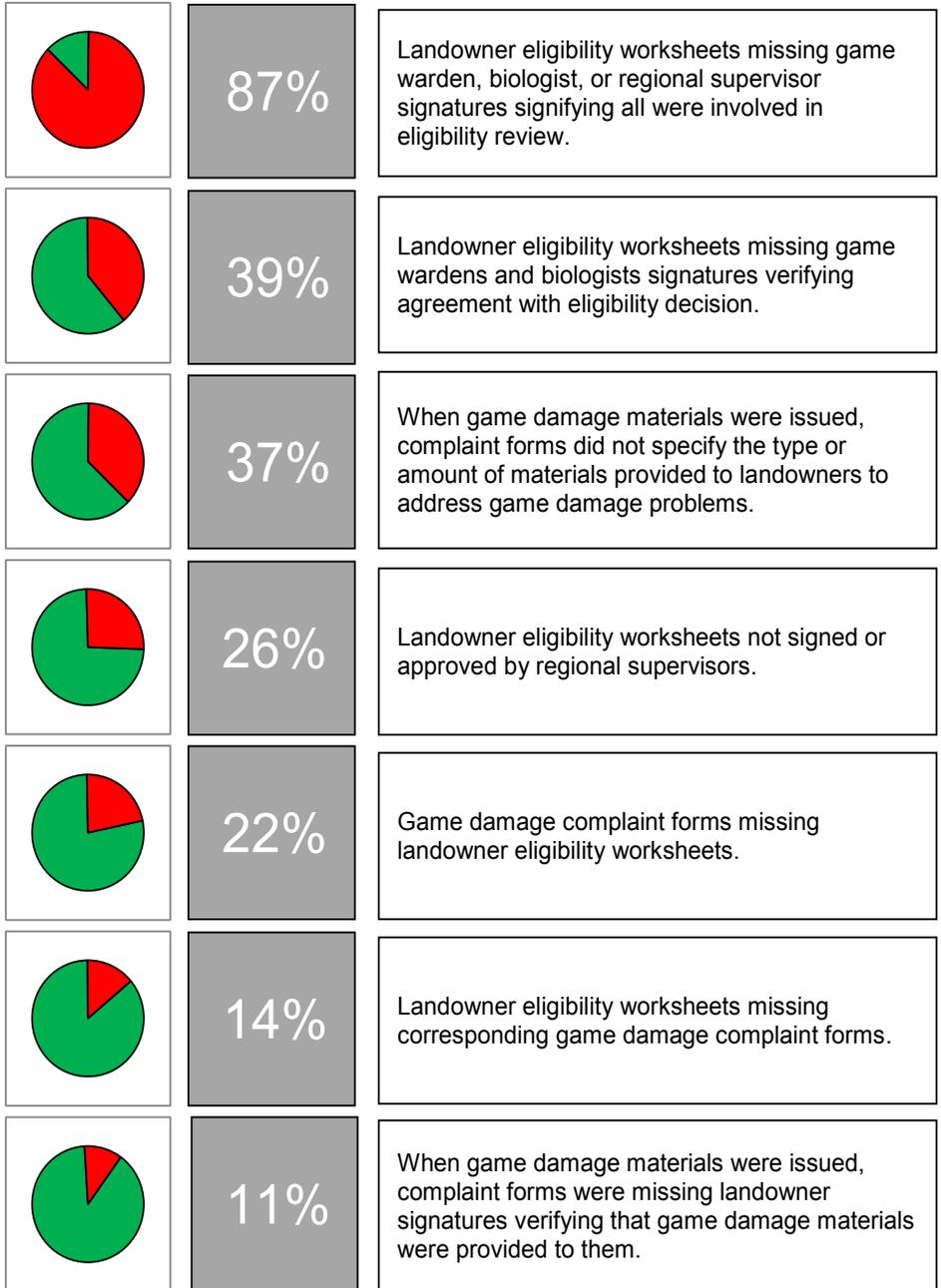
Section 87-1-225, MCA, states landowners are eligible for game damage assistance if they allow public hunting during established hunting seasons or do not significantly reduce public hunting through imposed restrictions. Administrative rule defines restrictions that could limit public hunting. This includes the species or sex of animals that can be hunted, the portion of land open to hunting, the time period land is open to hunting, charging fees or other imposing restrictions that render harvestable animals inaccessible. This chapter addresses our second objective for determining if the Department of Fish, Wildlife and Parks (department) makes game damage assistance decisions based on this criteria. Audit work found the department cannot always demonstrate that game damage assistance decisions are based on eligibility requirements in state law, administrative rule, or department policy. We identified weaknesses related to documentation for eligibility decisions, limited supervisory oversight of landowner eligibility reviews, and a lack of consistency in how the department defines the level of public hunting access needed for landowners to qualify for game damage assistance. We found these weaknesses have impacted the consistency and accountability of Game Damage program activities.

### Game Damage Review Process Has Limited Documentation

It is the department's responsibility to evaluate whether landowners meet eligibility requirements to qualify for game damage assistance from the department. Game damage complaint forms and landowner eligibility worksheets are the two main pieces of documentation that should exist for most game damage complaints filed with the department. This information is usually completed by wildlife biologists and game wardens located in the regions. Game damage complaint forms document calls from landowners regarding game damage that is occurring on their property and assistance provided to them. Landowner eligibility worksheets document if landowners meet the statutory and administrative rule eligibility criteria to receive game damage assistance.

We reviewed files for all 586 documented game damage complaints registered with the department in calendar years 2010 through summer 2014 in regions 2, 3, 4, and 5. Our review of game damage files found significant documentation weaknesses. Overall, we found 82 percent of game damage complaint files had missing or incomplete complaint forms or landowner eligibility worksheets. Audit work found documentation was problematic in every region we visited. Figure 5 (see page 15) provides examples of documentation weaknesses we identified related to game damage complaint forms and landowner eligibility worksheets and the frequency with which they occurred.

**Figure 5**  
**Landowner Eligibility Worksheets & Game Damage Complaint Forms**  
**Frequency of Documentation Issues**  
 Regions 2, 3, 4 and 5



Source: Compiled by the Legislative Audit Division.

## Inconsistent and Undocumented Game Damage Decisions

The previous section described documentation weaknesses related to landowner eligibility worksheets and game damage complaint forms. These documentation weaknesses impact the department's ability to show how game damage assistance decisions are made. Consequently, we identified several inconsistencies with department decisions in determining if landowners qualify for game damage assistance. We also found several instances when assistance provided did not appear to meet statutory requirements or documentation was insufficient to determine if assistance met these requirements. The following bullets provide examples of issues we identified:

- ◆ Several landowners received game damage assistance even though documentation indicated they were not eligible for assistance. For example, we found 20 game damage complaint forms which stated landowners were not eligible for assistance. However, seven of these landowners still received game damage assistance including cracker shells, herding contracts, propane cannons, and plastic fencing. Eligibility reviews were not documented for three landowners so it was not possible to determine why the department decided these landowners did not qualify. Eligibility reviews for the other four landowners indicated they had hunting restrictions which disqualified them for assistance. However, a lack of documentation prevented the department from explaining why assistance was still provided to them.
- ◆ Most game damage hunts reviewed lacked sufficient documentation supporting landowner participation in these hunts. We reviewed 178 game damage hunts and found 120 were missing eligibility worksheets documenting if landowners met eligibility requirements. It was unknown how many of these landowners actually qualified to participate in the approved game damage hunts.
- ◆ For the 50 game damage hunts that were fully documented, the department approved seven landowners to participate in these hunts even though these landowners had one or more public hunting restrictions. However, documentation lacked explanation on the extent of the restrictions, the amount of public hunting access allowed, and why the restrictions did not disqualify landowners from receiving assistance.
- ◆ We reviewed 35 management seasons and found 23 did not have evidence the department reviewed landowner eligibility. Consequently, it was not possible to determine if landowners met eligibility requirements to participate in the management season. Where documentation did exist, we found examples of landowners being included in management seasons despite landowners having limited or no public hunting access.
- ◆ Statute requires the department to investigate all game damage complaints within 48 hours of receiving the complaint. We found the department responds to game damage complaints within required timelines the majority of the time. However, for 15 percent of game damage complaints we reviewed the department either did not respond or could not demonstrate it responded within 48 hours. In about half the instances, staff did not document when the complaint was received or when they responded to the complaint. For the

other half, documentation showed staff did not respond within the 48-hour timeline.

- ♦ Game damage assistance should only be provided to qualified landowners experiencing game damage problems. One of the more common forms of assistance provided to landowners is permanent stackyards to keep wildlife from accessing haystacks. A typical stackyard provided to landowners costs the department between \$2,000 and \$2,600. We found examples where stackyards were provided to landowners despite no documented instances that game damage occurred. For example, one landowner received a total of six stackyards in four years. Department staff agreed to replace five stackyards that were destroyed in a wildfire and another stackyard was replaced because it was over 20 years old and was beginning to deteriorate. Staff stated these were replaced to prevent potential game damage from occurring in the future.

We identified several reasons why the program has documentation weaknesses and inconsistencies in game damage assistance provided to landowners. These include needed improvements in program policies, more supervisory oversight over game damage decisions, better communication with landowners when game damage assistance is denied, and needed clarification on the level of public hunting required for landowners to qualify for game damage assistance. The following sections discuss each of these issues.

### **Lack of Policy Related to Documentation Expectations**

Department decisions to approve or deny assistance were not supported for most game damage complaints we reviewed. Consequently, there is a general lack of accountability of Game Damage program activities and inconsistencies in the assistance provided to landowners. When landowners register game damage complaints with the department, program policies require game damage reports be filed for all complaints. Policies also place responsibility for responding to game damage complaints on game wardens and wildlife biologists. This includes completing and filing game damage report forms in a timely manner and forwarding approval or denial recommendations to regional program managers.

We found limited emphasis is placed on appropriately documenting game damage complaints and landowner eligibility. Interviews with some regional management and staff found they did not believe all game damage complaints needed to document landowner eligibility to receive assistance. This may be true for ongoing game damage complaints where eligibility has already been documented, but none of the files we reviewed appeared to meet this criteria. Although game damage policy indicates game damage report forms should be completed, policy does not stipulate what documentation is required when game damage complaints are reported. Policy makes

no mention of game damage complaint forms or landowner eligibility worksheets or what constitutes fully completed forms. Policy also sets no clear timelines for when documentation should be completed after game damage complaints are received, only that they should be completed in a timely manner.

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**RECOMMENDATION #1**

*We recommend the Department of Fish, Wildlife and Parks expand and clarify:*

- A. *Policy for documenting game damage complaints and landowner eligibility reviews related to game damage assistance.*
  - B. *Timeline requirements for reviewing and approving documentation related to game damage complaints and landowner eligibility.*
- 

### **Limited Supervisory Oversight of Eligibility Review Process**

We found a general lack of supervisory involvement and oversight of regional Game Damage program activities. This contributed to many of the documentation weaknesses we identified. Game damage decisions have generally been placed solely with regional wildlife biologists and game wardens. Policy indicates wardens and biologists should forward game damage response recommendations to regional program managers. However, it is not clear to which regional program manager policy is referring or their role in the process. There are questions as to who is responsible for administering regional game damage activities and we found limited documented involvement from regional managers. This included regional supervisors, wildlife managers and warden captains. Game damage policy requires each region to designate one person who has primary responsibility for monitoring the regional Game Damage program. This person is known as the game damage program coordinator. Our regional visits found no regions had formally designated anyone as the game damage program coordinator. In most instances, responsibility for overseeing game damage activities was shared between the warden captain and the wildlife manager in the region. However, interviews found neither was responsible for reviewing and approving documentation for game damage complaints. Policy does not stipulate what the role of the warden captain or wildlife managers is in regional game damage activities. The department also needs to define the role or reassess the need of the regional game damage coordinator.

The role of the regional supervisors in the game damage review process is also not clear. Policy only stipulates regional supervisors are responsible for deciding how to respond to game damage complaints when wardens and biologists cannot agree on

a solution. File review and interviews suggest regional supervisors were generally not involved in the process until after actions had already been taken to remedy game damage issues. This includes reviewing documentation regarding landowner eligibility for game damage assistance and determining how the game damage issue should be addressed. Regional supervisors should be involved in these decisions from the outset of the complaint. However, file reviews either found no evidence of supervisory review or documentation showed review and approval occurred long after the eligibility review process was completed. Verbal discussions and approval may have taken place with staff but there was no indication this occurred. Regional supervisors are responsible for administering all department activities within the regions they manage. However, we found the amount of direct involvement they have with game damage decisions was questionable in many of the complaints we reviewed. Based on our review, there needs to be more supervisory oversight and responsibility over regional game damage program activities. Since regional supervisors are responsible for department activities within the region, final review and approval of landowner eligibility and how game damage problems will be addressed should be their responsibility. If they are unavailable, game damage policy should clearly define who these responsibilities will be assigned to.

Administrative rules related to game damage hunts and management seasons specify a required approval process prior to the department using these types of assistance. Game damage hunts require approval from the local Fish and Wildlife commissioner whose district the game damage hunt is proposed. For management seasons, approval must be obtained from both the director and the local commissioner. We found the department could not always provide documentation showing that the department director or the local Fish and Wildlife commissioner approved game damage hunts and management seasons prior to implementation. Department staff indicated this was because approval was often obtained verbally or via email and it did not always get documented with the approved management season. There is currently no policy specifying where documentation related to game damage hunt and management seasons should be maintained.

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### **RECOMMENDATION #2**

*We recommend the Department of Fish, Wildlife and Parks:*

- A. *Define the role of regional supervisors, wildlife managers, warden captains and game damage coordinators in reviewing and approving decisions regarding game damage assistance provided to landowners.*
  - B. *Develop and implement policy for maintaining documentation for the approval of game damage hunts and management seasons.*
-

## **Denials of Game Damage Assistance Requests**

If landowners do not meet the eligibility criteria to receive game damage assistance, the request should be denied. Administrative rule requires denials of game damage assistance be documented and a copy of the written decision be provided to the landowner. This includes providing a written explanation of a landowner's rights to appeal the decision to the department director. Landowners have 10 days to file an appeal after a decision to deny them game damage assistance. Policy requires any denials be communicated to the director's office as soon as possible. Department policy also requires denials of game damage assistance be documented in writing using a "Game Damage Assistance Denial Form." This form is used to document the reason for denial and requires the signature of the regional supervisor indicating concurrence with the decision. During audit work, we found 26 instances where the department deemed landowners ineligible for game damage assistance. However, 23 (88 percent) of the denials did not have evidence landowners were issued written notification stating why they were denied or instructing landowners how to appeal the decision if they disagreed with it. We found no landowner appeals for any of the denied game damage assistance reviewed.

Formal communication between the department and private landowners regarding game damage assistance decisions is essential. Providing landowners with written decisions regarding denials ensures they understand why the decision was made. It also makes sure they understand their right to appeal the decision and how to file an appeal if they disagree with the decision. This is not occurring under the department's current process. Without a written decision document, the department also has no formal record or communication of the decision. This information is necessary to keep department management informed on who has been denied game damage assistance and why. It allows department management to review these decisions and increases accountability for decisions to deny landowners game damage assistance.

Department staff indicated they generally discuss the reasons for denying game damage assistance with landowners either over the phone or in person. Many staff believed this was the kind of information that needed to be handled on a more personal level as opposed to sending them a letter. It is appropriate to discuss these decisions with landowners. However, providing the reasons in writing is required by administrative rule and department policy. It also provides both the landowner and the department with a written record of the decision.

**RECOMMENDATION #3**

We recommend the Department of Fish, Wildlife and Parks comply with administrative rule by:

- A. *Providing landowners with written decisions, including landowner appeal rights, when game damage is denied.*
  - B. *Submitting copies of written decision documents to the director's office when game damage assistance to landowners is denied and landowners appeal the decision.*
- 

**Public Hunting Definition Needs Clarification**

To qualify for game damage assistance, state law requires landowners to allow public hunting during established hunting seasons or not significantly reduce public hunting through imposed restrictions. File review and interviews found wide variances both within regions and between regions in how department staff defines public hunting access and restrictions that “significantly” reduce public hunting on a landowner’s property. This has contributed to inconsistent decisions on whether landowners qualify for game damage assistance as well as many of the documentation weaknesses we identified during audit work. This is because staff is trying to make decisions based on eligibility criteria that are not very well defined. The following bullets provide some paraphrased examples of the differences in how regional staff defines the level of public access necessary to qualify for game damage assistance:

- ◆ Landowners should provide sufficient public hunting access to help them deal with game populations but regional staff could not elaborate what this means.
- ◆ Require a minimum 50/50 split of public hunting access and private access (such as outfitting) to qualify.
- ◆ Landowners are disqualified if no public access is allowed or any part of the property is leased out to private interests.
- ◆ Outfitting does not disqualify assistance as long as there is a good harvest of animals. But there should be “a decent level” of public access.
- ◆ The level of public hunting depends on the size of the property, and property must be open to hunting either sex animals where this is allowed.
- ◆ Hunting access should be allowed to anyone that asks permission.
- ◆ Landowners that only allow hunting for antlerless animals do not qualify for assistance.
- ◆ If landowners do not allow public access but promise to allow access in the future they will qualify for assistance.

Not having a clear definition of public hunting is causing inconsistencies in determining landowner eligibility for game damage assistance. For example, we noted examples where landowners were deemed ineligible for assistance due to some type of public hunting restrictions while other landowners with similar restrictions were considered eligible. We also found one example where a landowner had property that was divided between two regions. This landowner was denied assistance in one region but approved assistance in the other region. Staff interviews noted concerns regarding the lack of a clear definition for public access which is not only impacting the consistency of the program, but the credibility of the department. Staff indicated landowners often get different answers regarding their eligibility for game damage assistance depending on which staff responds to the complaint. Interviews found staff believes the current criteria used to determine landowner eligibility for game damage assistance is based on the subjective opinion of individual employees rather than a clear definition or expectation of public access landowners should allow. This includes how the various types of hunting restrictions landowners have could impact their eligibility for assistance.

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#### **CONCLUSION**

*Department staff have varying definitions of the level of public hunting landowners must allow to qualify for game damage assistance.*

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## **The Definition of Public Hunting Has Been an Ongoing Issue**

Questions on how to define what public hunting is or those restrictions that do significantly reduce public hunting is an issue that has existed for years. In 1997, the department hired a consultant to review department operations and develop strategies to improve program services. This review included the Game Damage program. One of the areas discussed in the review was exploring opportunities to better interpret what public hunting and restrictions to public hunting means. The department implemented ARM 12.9.803 to help define the public hunting eligibility requirements by providing restrictions that “may” limit public hunting opportunities. However, audit work found the lack of precision of this rule has contributed to various interpretations of the level of public access required to qualify for game damage assistance.

We contacted sportsman and landowner groups to discuss administration of the department’s Game Damage program. Both groups had concerns with the consistency of eligibility decisions and the ambiguity in the criteria used to determine appropriate levels of public hunting to qualify for assistance. Sportsman groups do not necessarily

believe activities such as outfitting should automatically disqualify landowners from game damage assistance as long as there is sufficient time during the five-week season the “average public hunter” is allowed to access the property. They recognized the need for landowners to be able to operate under a controlled environment to ensure their property is being used appropriately and respectfully by the public. Landowners want public hunting requirements to be based on the most effective way to manage area game populations. For example, they said this might be accomplished by allowing them to give permission to a limited number of public hunters during the hunting season or not denying assistance to landowners who only allow antlerless hunters.

Since a clear definition of public hunting access does not currently exist, the department is relying upon a subjective decision-making process to evaluate landowner eligibility for game damage assistance. Department staff indicated a consistent definition of public access has been an ongoing issue for several years. As a result, it has generally been left up to individual employees in the regions to define. As noted earlier, staff has wide-ranging opinions on what constitutes sufficient public access to qualify for game damage assistance. This includes varying opinions on restrictions that may significantly reduce public hunting opportunities. This has created inconsistent decisions on whether landowners qualify and receive game damage assistance around the state.

## **Block Management Cooperators**

We also identified issues regarding how the department determines game damage assistance eligibility for landowners participating in the Block Management program. The Block Management program establishes cooperative agreements between private landowners (called cooperators) and the department to provide public hunting access to private lands. The Block Management program allows landowners to control public access to their property.

Statutes and administrative rules related to public hunting requirements to qualify for game damage assistance do not specifically address Block Management cooperators. Interviews found department staff has different opinions regarding Block Management cooperators qualifying for game damage assistance. Some staff said they automatically approve Block Management cooperators for assistance. Other staff indicated they evaluate Block Management cooperators against the same eligibility criteria as other landowners and approve or deny game damage assistance based on restrictions the cooperators may have. These differences are creating another potential inconsistency in game damage assistance being provided to landowners.

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**CONCLUSION**

*Not having a clear definition of the level of public hunting landowners must allow has led to inconsistent decisions on whether landowners qualify for game damage assistance.*

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## **Comprehensive Effort Needed to Improve Public Access Definition**

In 2006, the department's wildlife management policy began to focus on managing wildlife populations within the general five-week hunting season. Since this policy change there has not been a comprehensive, ongoing effort to develop a clear definition of what constitutes appropriate levels of public hunting access that landowners should allow to qualify for game damage assistance. Interviews with regional staff indicated the regions have not been brought together to discuss what public access means and restrictions that limit public hunting access that would disqualify a landowner from qualifying for game damage assistance. This has been a contributing factor to the wide ranging opinions on what level of public hunting access is required to qualify for assistance.

As discussed earlier, we identified several examples where the department included landowners with public hunting restrictions into game damage hunts and management seasons. This included some landowners with no public hunting access. Department staff said these landowners were needed to ensure management seasons were successful by including these landowners to keep game animals from seeking sanctuary on the property once hunting activities began. Staff also said they included landowners that did not meet all eligibility criteria to help foster better relationships with local landowners. Specifically, if landowners had public hunting restrictions or did not allow any public hunting, they believed providing assistance would help improve public access in the future. The current eligibility criteria do not allow the department to use this as a consideration for making decisions on whether a landowner qualifies for game damage assistance. If the department believes this should be a part of the eligibility criteria for landowners to receive game damage assistance, then it should seek statutory authority to make this part of the criteria to be reviewed. The department would also need to establish a formal review process to ensure public access was then provided as promised.

The department needs to better define public hunting requirements that qualify landowners for game damage assistance. This needs to be a collaborative effort among the department, landowners, outfitters, and sportsman. This will help to improve the

consistency and accountability of the department's Game Damage program. Any clarification of this definition should be amended into administrative rule related to public hunting eligibility requirements to qualify for game damage assistance. Until this occurs, it is unlikely the Game Damage program will achieve any level of consistency in determining landowner eligibility for game damage assistance.

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***RECOMMENDATION #4***

*We recommend the Department of Fish, Wildlife and Parks establish a clear definition of the public hunting requirements landowners need to meet to qualify for game damage assistance.*

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# Chapter IV – Supplemental Game Damage Hunts and Supplemental Management Seasons

## Introduction

The Department of Fish, Wildlife and Parks (department) uses game damage hunts and management seasons to address game damage issues and to help manage game animal populations in areas where these hunting activities are approved. The department is also authorized to issue supplemental game damage licenses to hunters as an alternative to issuing kill permits to landowners. Game damage hunts, management seasons, and supplemental game damage licenses each have their own administrative rules defining procedural requirements and appropriate situations to use each. The following table illustrates each of these administrative rule requirements.

Table 1  
**Supplemental Game Damage Licenses, Game Damage Hunts & Management Seasons Administrative Rule Requirements**

Supplemental Game Damage Licenses (ARM 12.9.805)	Game Damage Hunts (ARM 12.9.804)	Management Seasons (ARM 12.9.1101)
<ul style="list-style-type: none"> <li>♦ Landowner must qualify for game damage assistance.</li> <li>♦ Antlerless game animals.</li> <li>♦ Between August 15 and February 15.</li> <li>♦ Regional Supervisor must approve.</li> <li>♦ Hunters must surrender any unused elk license to FWP.</li> <li>♦ Animals to be killed cannot exceed 12.</li> <li>♦ Used in circumstances that make a game damage hunt impractical.</li> </ul>	<ul style="list-style-type: none"> <li>♦ Landowner must qualify for game damage assistance.</li> <li>♦ May include harvest of male and female game animals.</li> <li>♦ Between August 15 and February 15.</li> <li>♦ Sufficient animals on property to justify public hunting.</li> <li>♦ Regional supervisor and a FWP commissioner must approve.</li> <li>♦ Hunters chosen from the game damage hunt roster.</li> </ul>	<ul style="list-style-type: none"> <li>♦ Landowner must qualify for game damage assistance.</li> <li>♦ May include either sex or antlerless-only game animals.</li> <li>♦ Between August 15 and February 15.</li> <li>♦ Regional supervisor, FWP director, and a FWP commissioner must approve.</li> <li>♦ Proactive measure to prevent or reduce damage from large numbers of animals.</li> <li>♦ Hunters chosen from the game damage hunt roster.</li> </ul>

**Source: Compiled by the Legislative Audit Division from administrative rules.**

During our audit work, we found the department was using game damage assistance methods called supplemental game damage hunts and supplemental management seasons. This involved using game damage hunts or management seasons in conjunction with supplemental game damage licenses or supplemental game damage

license hunter selection procedures. However, we determined the department should not be using supplemental game damage hunts or supplemental management seasons to address game damage issues because it has no authority pursuant to administrative rules to use them.

### **Inappropriate Hunter Selection Procedures Are Used**

Administrative rules indicate the department should randomly select hunters for game damage hunts and management seasons from the game damage hunt roster. If sufficient eligible hunters cannot be selected from the hunt roster for the hunting district where the game damage hunt and management season is taking place, hunters on the roster from an adjacent hunting district may be selected. If the department is still unable to identify sufficient numbers of eligible hunters, the department may identify hunters through other established means including first-come, first-served advertised opportunities and unsuccessful hunting permit applicant lists.

The department's use of supplemental game damage hunts and supplemental management seasons has resulted in inappropriate hunter selection procedures. Department documentation suggests these game damage responses were intended as either game damage hunts or management seasons. Both require hunters be randomly selected from the department's game damage hunt roster. However, the department has combined hunter selection procedures for game damage hunts and management seasons with hunter selection procedures for supplemental game damage licenses. For most hunts and seasons we reviewed, the department allowed landowners to select between 25 to 50 percent the hunters with the remainder selected from the game damage hunt roster. We found one example where the department allowed a landowner to select all of the hunters. In any of these situations, individuals on the game damage hunt roster are not being provided an opportunity to participate in game damage hunts or management seasons in areas where they applied.

According to audit documentation and regional staff interviews, these hunts were created as a courtesy to landowners and to get more landowners involved in addressing game damage issues. The department also believed this would help better manage area game populations where game damage was prevalent. Department staff indicated allowing landowners to select some of the hunters would make landowners more agreeable to the hunt. Since many of the hunters that landowners select are local people, department staff said these hunters can generally respond in a timelier manner when game damage issues arise.

## Department Lacks Authority to Use Supplemental Game Damage Hunts and Supplemental Management Seasons

The department has inappropriately combined administrative rule requirements for game damage hunts and management seasons with rules related to supplemental game damage licenses. There are currently no rules authorizing supplemental game damage hunts and supplemental management seasons. This includes rules describing the hunter selection process. The department tried to address this through issuance of an interim department policy which was effective until February 15, 2015, which allowed the landowner to select hunters for game damage and management seasons. However, the department needs administrative rules that authorize it to conduct game damage hunts and management seasons that allow landowners to select hunters. The department either should end its use of supplemental game damage hunts and supplemental management seasons or amend administrative rules to specify the percentage of hunters that will be selected from the game damage hunt roster and selected by landowners for game damage hunts and management seasons. Department management indicated they will likely seek administrative rule amendments to allow landowners to select a percentage of hunters for game damage hunts and management seasons.

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### **RECOMMENDATION #5**

*We recommend the Department of Fish, Wildlife and Parks no longer use supplemental game damage licenses in conjunction with game damage hunts and management seasons to address game damage issues.*

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## Supplemental Game Damage License Issuance

While reviewing documentation related to supplemental game damage hunts and supplemental management seasons, we identified issues related to the issuance of supplemental game damage licenses. We noted several instances where the department was not requiring hunters to turn in all unused valid elk licenses when they were issued supplemental game damage licenses. The department was allowing hunters issued supplemental game damage licenses to possess more than one elk license when selected for these hunts. Administrative rule 12.9.805 requires hunters to surrender to the department any unused elk licenses and special elk permits prior to supplemental elk game damage licenses being issued.

Section 87-2-501, MCA, authorizes individuals to possess up to two elk licenses. The second license generally being obtained through a license drawing process. This second elk license is generally referred to as an elk B license. We found the department is allowing individuals to use a general elk license, an elk B license they may already possess, or to purchase an elk B license to participate in the supplemental game damage hunt. Administrative rules for supplemental game damage licenses require individuals to turn in all licenses in order to receive supplemental licenses. In no instance did we find hunters being required to return unused elk licenses or special permits prior to participating in supplemental game damage hunts or supplemental management seasons.

Information obtained during the audit found the department intended to allow people to have up to two elk licenses. This would include one of those licenses being a supplemental game damage license. This was evident through an interim policy the department established to address this issue. The policy states that “elk hunters who receive an elk supplemental game damage license may not possess more than two elk licenses per license year. If the hunter already has purchased an elk B license or an antlerless elk permit in addition to a general elk license, the hunter must exchange the elk B or antlerless elk permit for the elk supplemental game damage license, at no cost.” The department needs to amend administrative rules related to the issuance of supplemental game damage licenses.

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***RECOMMENDATION #6***

*We recommend the Department of Fish, Wildlife and Parks amend administrative rules related to supplemental game damage licenses to allow individuals to possess up to two elk licenses as authorized by state law.*

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## Chapter V – Game Damage Program Administration

### Introduction

Audit work included a review of controls over how the Department of Fish, Wildlife and Parks (department) administers the Game Damage program. This included assessing if the department has control systems to ensure accountability over the acquisition and inventory of game damage materials. We also evaluated information used by department management to administer program operations. We found a number of improvements can be made in each of these areas. This chapter discusses audit recommendations related to improving the accuracy of program information, strengthening controls for using explosive devices and ammunition when responding to game damage complaints, and improving acquisition and inventory controls over game damage materials in both the regions and in Helena.

### Management Information System

The department maintains information in two places; hard copy files in the regions and electronic spreadsheets in Helena. When a landowner files a game damage complaint with a regional office, department staff document information on a game damage complaint form. A landowner eligibility worksheet is also completed to determine if landowners are eligible to receive assistance. Game damage assistance provided to the landowner should be documented on the complaint form. During the year, the regions submit copies of game damage complaint forms to the Wildlife Division in Helena. Division staff is responsible for entering this information into a spreadsheet to document game damage activity for each region. Department staff indicated the intent is to provide a statewide synopsis of game damage complaints and responses. Information compiled includes the species of animal involved, number of complaints for each species, total complaints received, and department actions to respond to game damage complaints.

For the last two years the department has used the Wildlife Information System (WIS) to store documents related to game damage hunts and management seasons. Documents stored in WIS include landowner eligibility worksheets, rules, and maps for each hunt, etc. WIS is also connected to the department's game damage hunt roster. WIS is generally considered a documentation depository for game damage hunts and management seasons. It is also used in selecting hunters to participate in game damage hunts and management seasons. WIS has limited usefulness for compiling data or analyzing data related to game damage activities. We found information related to game damage hunts and management seasons established by the department was not always documented on WIS.

## **Game Damage Program Has Missing and Inaccurate Data**

We reviewed 586 game damage complaints that were received between 2010 through summer 2014. Our review also included reviewing documentation for game damage hunts and management seasons during the same time frame. During the course of our audit work, we identified several deficiencies with department information for game damage activities. This included inaccurate and missing data for the regions we reviewed.

We compared regional game damage files reviewed during audit work to game damage information maintained on the department's spreadsheets. There were several cases where game damage complaints in regional files were not included in the department's game damage spreadsheets. In addition, there were also several instances where game damage information on the spreadsheets had no corresponding documentation in the regions. We also found numerous instances where the game damage spreadsheets and regional documentation had different information regarding assistance provided to landowners. For example, we found instances where the department's spreadsheet indicated fencing materials were provided but a game damage hunt was documented on the complaint form. There were also cases where hard copy documentation noted some type of game damage assistance was provided but the department's spreadsheet was blank. We also found examples where game damage data was recorded in the wrong year. The current process to compile management information is not ensuring timely game damage information is compiled. It often times takes more than a year to input game damage information submitted from the regions into the department's spreadsheets. The department does not have accurate, reliable, or complete information related to the Game Damage program. Consequently, it does not have an accurate, comprehensive picture of game damage issues around the state.

## **Improved Information Would Increase Program Accountability**

The current process to document and monitor game damage activities is a paper driven process. It requires hard copy game damage documentation to be mailed from the regions to Helena. Helena staff must then input this information into department spreadsheets as they have time. This has contributed to the inaccuracies and timeliness issues we identified. The department does not currently have effective management information for the Game Damage program. Developing a system where staff can input game damage reports, eligibility, and responses would improve the department's ability to manage the Game Damage program. It would also make program activities more accountable and help improve the documentation issues discussed throughout this report.

## **Development of an Information System**

Game damage program activities need to be better documented, tracked, and monitored. This includes documenting game damage complaints, how the department responded, and improved tools for department management to monitor program activities. Department management agrees there are significant weaknesses with game damage information. Given the significant weaknesses and inefficiencies with the current management information for game damage, the department needs to prioritize development of a comprehensive management information system for its Game Damage program. Department management said a comprehensive management information system has not been developed due to other system development priorities for the department. However, after discussing the weaknesses with the department's game damage information, the department has prioritized development of a game damage information system. The department is currently in the scoping phase of project development. Department information indicates this system will provide a central, standardized method of administering and tracking activities for the Game Damage program with information being available to all management and staff. Once the scoping phase is completed, the department will have an estimated cost for system development.

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### ***RECOMMENDATION #7***

*We recommend the Department of Fish, Wildlife and Parks prioritize and implement a management information system to better track, monitor and improve accountability of the department's Game Damage program.*

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## **Improve Controls Over Use of Certain Game Damage Assistance Materials**

Whenever possible, the department tries to use nonlethal methods to deal with game damage issues. These include various methods to disperse animals from the property where the damage is occurring. These include using explosive pest control devices (also known as cracker shells) and hiring herders to haze animals away from property experiencing game damage. The department uses herder agreements when hiring someone to chase (herd) animals from property being damaged. Administrative rules allow the use of cracker shells as a means for disbursing wildlife that is damaging private property. Cracker shells are an explosive device that is fired from a shotgun which emits a loud bang to scare animals away. Audit work identified control weaknesses in using these items to respond to game damage complaints. These weaknesses included

issuing cracker shells and ammunition to landowners and limited oversight of herding contracts.

## **Issuance of Cracker Shells and Ammunition to Landowners**

The federal Bureau of Alcohol, Tobacco and Firearms (ATF), has established rules to prevent unsafe storage or misuse of explosive materials. According to ATF information, explosive devices such as cracker shells fall under this agency's jurisdiction and their rules for explosive materials. ATF information also indicated it is unlawful to provide any explosive devices to anyone unless they have a federal explosives permit. Interviews with department staff noted these federal regulations prohibit cracker shells from being issued directly to landowners and should only be used by authorized department employees, such as game wardens. Audit work also identified instances where various kinds of ammunition, including buckshot and shotgun shells were provided to landowners to address game damage issues. In most cases we identified, department staff gave these items directly to landowners to deal with game damage issues.

While the rules and department policy indicate cracker shells can be used, they do not specify who should be using them. Neither administrative rule nor department policy speaks to the use or issuance of ammunition. In general, we found decisions regarding proper use of cracker shells and ammunition have been left to department staff to interpret when responding to game damage complaints. Providing landowners with any of these items puts both the department and the state at risk for potential lawsuits if a serious injury were to occur.

## **Oversight of Herding Contracts**

It is not uncommon for the department to contract with individuals to haze animals from property to prevent them from causing damage. Department policy places the responsibility for administering these contracts with local biologists or game wardens. This includes preparing hiring forms, overseeing herding activities, and maintaining contact with the herder to ensure compliance with the agreement. Herders are hired as seasonal staff members of the department. All required personnel hiring forms are completed and submitted to the department's human resource unit. Audit work determined this is occurring. However, we found limited evidence that department staff were overseeing herding activities to ensure compliance with the terms of contract. This included tracking herder time and overseeing compliance with tasks outlined in the agreement. Game damage policy needs to be clarified regarding how staff should be overseeing herder contracts. Although policy indicates local staff is responsible for duties such as tracking time and ensuring compliance with the herding agreement, policy provides little guidance on how this should be done or what documentation should be maintained when administering these contracts.

**RECOMMENDATION #8**

We recommend the Department of Fish, Wildlife and Parks:

- A. Update administrative rules and game damage policies regarding the use and issuance of cracker shells and ammunition when responding to game damage complaints.
- B. Develop more comprehensive game damage policies regarding oversight and administration of herding contracts.

**Purchase of Game Damage Materials**

The department purchases a significant amount of materials that are used to address game damage issues on private land. A variety of methods are used to acquire these materials including procurement cards, invoices, and contracts. Examples of materials purchased include temporary fencing, cattle panels, and stackyards. From 2010 to 2014, the Game Damage program has had operating expenditures totaling over \$1.5 million, most of which was used to acquire game damage materials. According to department staff, the largest expenditure is to purchase stackyard materials. Depending on the region, stackyard materials are purchased through department contracts or with invoices. The following table provides information regarding total expenditure for game damage materials for each region for fiscal years 2010 through 2014.

Table 2  
**Game Damage Material Expenditures**  
Fiscal Years 2010 through 2014

Fiscal Year	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Region 7	Total
2010	\$ 5,216	\$ 61,834	\$ 75,176	\$ 52,962	\$ 41,271	\$ 54,982	\$ 50,322	\$ 341,763
2011	2,555	84,682	67,320	68,176	13,876	87,801	71,847	396,256
2012	2,187	72,413	30,157	58,928	33,997	55,025	36,923	289,630
2013	3,273	78,091	49,956	44,990	8,804	4,048	10,126	199,288
2014	3,002	68,201	47,740	90,922	7,904	40,895	66,950	325,614
<b>Total</b>	<b>\$16,232</b>	<b>\$365,222</b>	<b>\$270,349</b>	<b>\$315,978</b>	<b>\$105,852</b>	<b>\$242,751</b>	<b>\$236,167</b>	<b>\$1,552,551</b>

Source: Compiled by the Legislative Audit Division from department records.

According to department purchasing staff and policy, the department must solicit bids for any purchases over \$5,000. Department purchasing staff said stackyard materials are grouped into a single expenditure category. This means stackyards should be purchased from a contract if a region spends over \$5,000 annually on stackyards. The typical stackyard costs between \$2,000 and \$2,600. Therefore, a region would only need to purchase two or three stackyards to exceed \$5,000. We found some regions we visited were exceeding \$5,000 in stackyard purchases but were not acquiring them from contracted vendors. For example, one region we visited has no contracted vendor in the region and the fewest number of stackyards it acquired in any year we reviewed was nine. In regions that do have contracted vendors, we found stackyard materials being purchased from noncontracted vendors. According to department purchasing staff, stackyard materials should be acquired from contracted vendors if one exists in the region. In some regions, we received contradictory comments from staff if there was a contract for stackyard materials in the region. Some staff knew a contract existed while others did not. Staff that was aware of the contract generally did not know stackyard materials must be purchased from the contracted vendor in the region.

There is nothing currently in Game Damage program policy that speaks to the acquisition of stackyard materials. The department should establish contracts in those regions where over \$5,000 in stackyard materials are spent but they do not currently have a contract. The department should use these contracted vendors when they are available. Until that happens the department cannot ensure it is getting the best possible price for stackyard materials.

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**RECOMMENDATION #9**

*We recommend the Department of Fish, Wildlife and Parks:*

- A. *Establish contracts in all regions that exceed \$5,000 in annual purchases for stackyard materials.*
  - B. *Purchase stackyard materials from contracted vendors in regions that have a contract.*
- 

## **Monitoring Contracts Used to Acquire Game Damage Materials**

Department staff indicated that contracts for stackyards and the various types of fencing used should generally be monitored by Wildlife Division staff in Helena. Audit work found contracts were being monitored on a limited basis. As a result, department staff was unsure how many game damage materials, such as stackyards, were being purchased each year or if these were meeting the specifications set forth in the contracts.

State policy indicates agencies should have a system to monitor its contracts to help know what is being purchased and provide for early detection of any problems. State policy recommends monitoring include inspection of materials when they are received by the department. A good monitoring system will also help ensure contracts do not exceed the maximum value that was established in the contract. Policies for the Game Damage program do not require contracts for game damage materials be monitored or clearly outline expectations for properly monitoring these contracts. Consequently, department staff does not have a clear understanding of their contract monitoring responsibilities.

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***RECOMMENDATION #10***

*We recommend the Department of Fish, Wildlife and Parks develop and implement policy on the staff responsibilities and expectations for monitoring contracts for game damage materials.*

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## **Inventory Controls Over Game Damage Materials**

Audit staff viewed game damage materials stored in the regions we visited. Game damage materials were predominantly stored along fence lines inside of a material yard in each of the region's headquarters. Department employees indicated there were also materials located at other regional offices, game warden and wildlife biologists' homes, fishing access sites, and in a warehouse located in Helena.

Audit work found the department lacks formal inventory controls related to game damage materials both regionally and in Helena. Audit observations generally found unrestricted employee access to the game damage materials. There was no process to document what inventory was acquired, what was on hand, or where it was located. There was also no formal process to document how game damage materials were used, where materials went, or which staff took materials from the warehouse where it was stored. The department currently relies on game damage complaint forms to document what materials were used and which landowner received them. However, audit work identified weaknesses in this process. For example, review of game damage files found 37 percent of compliant forms did not document the amount of game damage materials issued to landowners. Currently, the department is not tracking game damage materials from acquisition to issuance. Game Damage program policy requires a system to ensure accountability for game damage materials.

Without an established inventory process the regions cannot ensure accountability for materials. Under current practices the department is at high risk for the misuse of game damage materials. Materials such as fencing could easily be used by department employees for their own personal gain. The department currently does not have mechanisms in place that would help prevent this from occurring or assist the department in detecting potential misuse of these materials.

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***RECOMMENDATION #11***

*We recommend that the Department of Fish, Wildlife and Parks implement inventory controls to track inventory of game damage materials from acquisition to issuance to landowners.*

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DEPARTMENT OF FISH,  
WILDLIFE & PARKS

DEPARTMENT RESPONSE





# Montana Fish, Wildlife & Parks

**RECEIVED**

MAY 14 2015

**LEGISLATIVE AUDIT DIV.**

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Ref: DO128-15

May 11, 2015

Tori Hunthausen, Legislative Auditor  
Legislative Audit Division  
PO Box 201705  
Helena, MT 59620-1705

Dear Ms. Hunthausen:

Montana Fish, Wildlife and Parks (FWP) has received the performance audit report for the Game Damage Program (14P-06). The review and recommendations for improvements to this program reflect a great deal of work expended by your staff in trying to understand and evaluate some of the many elements involved with this important program. Thank you for your efforts.

Many of the issues identified in the audit report are issues the Department has already recognized and begun to address, through an internal scoping and review process of existing policies and rules, development of a Game Damage Program Database, and revision of program forms and processes.

The Department considers the Game Damage Program a very important program in helping Montana landowners minimize the impacts of Montana's free-ranging herds of public wildlife, primarily ungulates like deer, antelope, and elk, as they traverse throughout the state's varied habitats amidst intermingled property ownerships of state, federal, and private land.

This program also revolves around inherent complexities associated with private land and public wildlife; including the rights of private property owners to determine how they want to manage their land and access to that land; wild animals of the state not knowing nor caring about the boundaries of landownership or the differences between native vegetation versus cultivated crops; and finally the need for all parties (FWP, landowners, outfitters, and hunters) to effectively participate in helping manage local populations of big game animals if game damage issues are to be adequately addressed.

The legislative audit process allows agencies to respond in writing and to have agency comments become part of the final audit document for the Legislative Audit Committee and the public. FWP appreciates this courtesy, and has provided comments on the eleven recommendations in the audit findings.

The Department's response to the recommendations follows:

Recommendation #1

*We recommend the Department of Fish, Wildlife, & Parks expand and clarify:*

- A. Policy for documenting game damage complaints and landowner eligibility reviews related to game damage assistance.*
- B. Timeline requirements for reviewing and approving documentation related to game damage complaints and landowner eligibility.*

**Response:** FWP concurs. The Department intends to adopt amended Game Damage Program policies, including those referenced in Recommendations 1A. and 1B. above, as soon as practicable, but no later than November 30, 2015, to provide clear and consistent guidance to Department staff about how to properly document and implement Game Damage Program actions.

Recommendation #2

*We recommend the Department of Fish, Wildlife, & Parks:*

- A. Define the role of regional supervisors, wildlife managers, warden captains and game damage coordinators in reviewing and approving decisions regarding game damage assistance provided to landowners.*
- B. Develop and implement policy for maintaining documentation for the approval of game damage hunts and management seasons.*

**Response:** FWP concurs. The Department intends to adopt amended Game Damage Program policies, including those referenced in Recommendations 2A. and 2B. above, as soon as practicable, but no later than November 30, 2015, to provide clear and consistent guidance to Department staff about how to properly document and implement Game Damage Program actions. FWP anticipate the completion of the information management system addressed in Recommendation #7 will help to ensure consistent implementation of game damage policies, including documenting appropriate reviews and approvals in a timely manner.

Recommendation #3

*We recommend Department of Fish, Wildlife, & Parks comply with administrative rule by:*

- A. Providing landowners with written decisions, including landowner appeal right, when game damage is denied.*

*B. Submitting copies of written decision documents to the director's office when game damage assistance to landowners is denied and landowners appeal the decision.*

**Response:** FWP concurs. The Department intends to amend current forms and administrative procedures to ensure all landowners making formal game damage complaints are provided with documentation that explains the Department's decision regarding a game damage complaint and also explains the process for appealing that decision. In the event that a denial decision is appealed, the Department will also ensure appropriate documentation is provided to the director's office.

#### Recommendation #4

*We recommend the Department of Fish, Wildlife, & Parks establish a clear definition of the public hunting requirements landowners need to meet to qualify for game damage assistance:*

**Response:** FWP concurs. However, each game damage complaint is unique depending on the circumstances of the situation, the species involved, the habitat, etc. The many factors and variables involved in each individual game damage complaint situation present a very real challenge to development and adoption of some simplistic equation or formula that can be applied across the broad spectrum of landownership, game species, game animal populations and distributions, management situations, and actual game damage incidents. The current definition and associated documents have, when properly applied in a thoughtful manner with Department staff communicating clearly with affected landowners, resulted in decisions mutually and amenablely agreed-upon between the Department and landowner regarding whether or not the landowner qualified for assistance through this program.

In 2006, the Department adopted a new ARM that attempted to provide a better definition of the public hunting requirements landowners need to meet to qualify for game damage assistance. ARM 12.9.803 states "...For eligibility, public hunting must be allowed at levels and in ways sufficient to effectively aid in management of area game population. Restrictions that may significantly restrict public hunting include:

- a) Species or sex of animals hunters are allowed to hunt;
- b) Portion of land open to hunting;
- c) Time period land is open to hunting;
- d) Fees charged; or
- e) Other restrictions that render harvestable animals inaccessible..."

In conjunction with the new ARM adopted in 2006, FWP developed a form called the Landowner Eligibility Worksheet. This form requires the responding biologist or warden to explain, "Based upon general knowledge of area game herd numbers and population, district population management objectives, area land types and ownerships, and other relevant factors, approximately how many public hunters hunting during the general season and/or how many harvested animals might be required to achieve a level of harvest on this property and subsequent dispersal during the general hunting season to effectively aid in management of (*type noted on this form*) throughout the overall management area."

This form requires both the area game warden and area biologist to sign this portion of the form, indicating both have agreed to the specified levels of public hunting required to meet the public access eligibility requirement. The Regional Supervisor is then required to sign the form indicating whether or not the landowner is eligible for assistance, based upon the cumulative information provided on the form.

Given the wide diversity of habitats, landownership patterns, and wildlife numbers, consistency in agency response may not be quickly visible in some situations without careful consideration of the detailed context in each complaint. For example, one level of access in an area where the elk population is under objective may “effectively aid management” while the same access level in another area where the elk population is over objective may in fact be a primary reason the population is over objective. In all cases, circumstances and rationale for both assistance approval and denial must be consistently documented.

HOWEVER, the Department is fully committed to trying to address this recommendation through further refinement and development of clear and consistent criteria and guidelines to help Department staff, affected landowners, and public hunters determine what constitutes adequate public hunting access for program eligibility. The Department intends to solicit and utilize input from hunters, landowners, and outfitters in this effort, though at this time it is unclear whether that process may include work by a group like the Private Land/Public Wildlife Council, or be conducted through some other Department public process.

#### Recommendation #5

*We recommend the Department of Fish, Wildlife, & Parks no longer use supplemental game damage licenses in conjunction with game damage hunts and management seasons to address game damage issues.*

**Response:** FWP partially concurs. There is no statutory or ARM provision that prohibits use of supplemental game damage licenses in conjunction with game damage hunts or management seasons. There may be specific situations in which it is entirely appropriate to combine these tools. However, the Department agrees with audit report recommendations that the statutory and ARM authority that applies specifically to supplemental game damage licenses should not also be extended to selection of hunters for game damage hunts and management seasons. Subsequently, the Department will adopt appropriate ARM and policy revisions to address that issue.

#### Recommendation # 6

*We recommend the Department of Fish, Wildlife, & Parks amend administrative rules related to supplemental game damage licenses to allow individuals to possess up to two elk licenses as authorized by state law.*

**Response:** FWP concurs. While MCA 87-2-520, the law authorizing issuance of supplemental game damage licenses, was adopted at a time when other Montana law limited hunters to

harvesting no more than one elk in any license year, subsequent changes in law regarding how many elk a hunter may harvest per year, and how many elk licenses and/or permits a hunter may possess at any one time, have changed, necessitating amendments to corresponding administrative rules like this. The Department intends to amend ARM 12.9.805 as soon as practicable.

#### Recommendation #7

*We recommend the Department of Fish, Wildlife, & Parks prioritize and implement a management information system to better track, monitor and improve accountability of the department's Game Damage program.*

**Response:** FWP concurs. The Department has made this an agency priority and has committed necessary staff and resources towards development of a Game Damage Program Application in hopes of having key elements of this system functioning by November 30, 2015. Ultimately, FWP expects this system will help address many of the recommendations in this audit, including helping ensure consistent implementation of game damage policies, documenting the response to formal complaints, documenting appropriate reviews and approvals in a timely manner, and tracking game damage materials,

#### Recommendation #8

*We recommend the Department of Fish, Wildlife, & Parks:*

- A. Update administrative rules and game damage policies regarding the use and issuance of cracker shells and ammunition when responding to game damage complaints.*
- B. Develop more comprehensive game damage policies regarding oversight and administration of herding contracts.*

**Response:** FWP concurs. The Department intends to adopt amended Game Damage Program policies and administrative procedures as soon as practicable, but no later than November 30, 2015, to provide clear and consistent guidance to Department staff about use and issuance of cracker shells and ammunition, oversight of herding contracts, implementation of other game damage response actions.

#### Recommendation #9

*We recommend the Department of Fish, Wildlife, & Parks:*

- A. Establish contracts in all regions that exceed \$5,000 in annual purchases for stackyard materials.*
- B. Purchase stackyard materials from contracted vendors in regions that have a contract.*

**Response:** FWP concurs. The Department will comply with all state procurement rules. The Department intends to have appropriate contracts in place for all regions for FY16, while also exploring other options to determine how to most effectively meet the needs of field staff in responding to game damage complaints in remote areas in the most appropriate, efficient, and cost-effective manner.

Recommendation #10

*We recommend the Department of Fish, Wildlife, & Parks develop and implement policy on the staff responsibilities and expectations for monitoring contracts for game damage materials.*

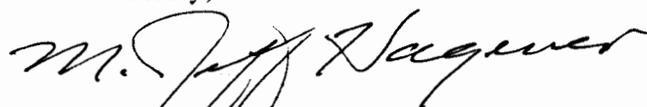
**Response:** FWP concurs. The Department will develop and implement policy and administrative procedures to provide for adequate clarification and coordination of responsibilities for headquarters and regional staff members regarding purchase of game damage materials covered under contract procurement procedures.

Recommendation #11

*We recommend that the Department of Fish, Wildlife, & Parks implement inventory controls to track inventory of game damage materials from acquisition to issuance to landowners.*

**Response:** FWP concurs. The Department intends to develop new policy and administrative procedures to help address this recommendation, and anticipates that some components of a newly-developed Game Damage Program Database will also be effective in addressing this issue.

Sincerely,



M. Jeff Hagner  
Director

C: Tim Baker  
Ken McDonald  
Alan Charles