

LEGISLATIVE AUDIT DIVISION

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MEMORANDUM

TO: Legislative Audit Committee Members
FROM: Jeremy Verhasselt, Performance Auditor
CC: Jeff Hagener, Director, Fish Wildlife and Parks
Ken McDonald, Administrator, Wildlife Division
DATE: November 2016
RE: Performance Audit Follow-Up (17SP-02): Game Damage Program
(orig. 14P-06)
ATTACHMENTS: Original Performance Audit Summary

Introduction

The Game Damage Program (14P-06) report was issued to the Committee in May 2015. The audit included 11 recommendations to Fish, Wildlife, and Parks (FWP). In October 2016, we conducted follow-up work to assess implementation of the report recommendations. This memorandum summarizes the results of our follow-up work.

Overview

The performance audit identified several weaknesses in oversight and documentation of Game Damage Program activities. These ranged from the oversight of game damage material inventories, to the documentation of game damage complaints and review of landowner eligibility for assistance. Audit staff found that FWP has implemented two recommendations, partially implemented five recommendations, and not implemented four recommendations. While FWP has improved some aspects of the Game Damage Program, there are still several steps the department needs to take to fully implement all the recommendations and improve oversight and accountability of the program.

Background

The Game Damage Program is in place to assist eligible landowners to prevent damage from big game animals to real property and cultivated agricultural crops on private land. This assistance can come in the form of stackyards, hazing, hunts, or other forms of assistance to prevent further damage from big game. FWP is charged with taking landowner complaints, determining landowner eligibility, and determining the proper response. Audit staff found during the audit that over \$1.5 million had been spent on the program in the previous four years to address game damage complaints.

Audit Follow-up Results

The following sections summarize the progress toward implementation of the report recommendations. As part of the follow-up, we reviewed the newly created game damage database, reviewed changes to Game Damage Program policy and procedures, interviewed FWP staff, and reviewed efforts to clarify

landowner eligibility requirements. The database is used by FWP to track and store Game Damage Program documentation. The database allows department staff to access program documentation remotely. The database has expedited the Game Damage Program's process by creating electronic documentation. However, FWP has not updated policy to coincide with using the new process for the game damage database and has not updated policy in several other areas addressed in the original report. While documentation has improved with the use of the database, there are still a number of documentation issues that impact accountability for Game Damage Program decisions.

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.**

Implementation Status – Partially Implemented

The database created by FWP will help with more consistent documentation of game damage activities. FWP has not created specific policy related to this recommendation, but they do have email documentation that they have instructed all staff to use the database for all Game Damage Program activities going forward. The database requires documentation of complaints and eligibility, with regional supervisor approval required. The database stores each complaint in a format which can be queried to review complaints based on various criteria such as region, animal causing the issue, or hunting district. However, FWP still needs to create policy to instruct staff on proper procedure for using the database for documentation of game damage complaints and landowner eligibility.

The database sends out a notification to supervisors to review and approve eligibility, and certain types of game damage assistance automatically through the database. FWP staff indicated that the database has increased efficiency by allowing electronic approval of Game Damage Program activities. However, there are still no timeline requirements that set expectations for staff reviewing and approving documentation related to game damage activities.

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.**

Implementation Status – Partially Implemented

Database users have different roles in the game damage process based on their position at FWP. For example, a regional supervisor cannot initiate a complaint, they can only approve eligibility and assistance type. FWP staff indicated that the game damage coordinator is no longer a position in the regions, and that the role has been assumed by the regional supervisors. In addition, oversight of regional game damage budgets moved from Helena to the regions and regional supervisors now have control of the budget for game damage activities. These changes are not reflected in current FWP policy.

Additionally, warden captains and wildlife managers do not have a specifically defined role within the database. FWP has not created policy that speaks to the roles of warden captains and wildlife managers in the Game Damage Program.

FWP has not created nor implemented policy for maintaining documentation for the approval of game damage hunts and management seasons, but the database has the ability to maintain that documentation. The database has an area for regional supervisor and commissioner approval for game damage hunts and management seasons to be documented. FWP director approval is no longer required for management seasons due to an administrative rule (ARM) change by FWP. Audit staff found that regional supervisor and commissioner approval were documented in the database. There is currently no regional supervisor approval for the issuance of game damage materials and there is no policy requiring regional supervisor approval for this type of assistance. This means that one or more stackyards can be given to a landowner at a substantial cost to the department without approval from the regional supervisor. As stated in the report, audit staff believe regional supervisors should be involved throughout the game damage process. This highlights the need for policy outside of the database to clarify what game damage decisions require approval, and from whom.

FWP has not updated current Game Damage Program policy since completion of performance audit. This means that current policy is in many cases contrary to what FWP staff are expected to do when providing game damage assistance through the database. They did provide interim policy that, according to the documentation, expired February 15, 2016. Staff indicated once the recently vacated landowner sportsman coordinator position is filled, that individual will be in charge of changing policy.

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.**

Implementation Status – Partially Implemented

Audit staff were able to view the capabilities of the game damage database with regards to this recommendation. The database automatically produces a denial letter when a decision of ineligibility is made. In review of the database, it is clear that eligibility decisions are being reviewed by regional supervisors, and denial letters are being produced in those cases. This includes landowner appeal rights, and the eligibility sheet describing why the landowner was denied. In review of the database, audit staff found there have been no landowner appeals since the creation of the database. Due to this, audit staff was unable to determine if these appeals are being sent to the director's office. According to FWP staff, when a landowner is deemed ineligible and an appeal is made by the landowner, a notice is sent to the director's office by the regional supervisor. However, this is not reflected in FWP's current game damage policy. Without formal policy, there is no assurance the department will appropriately follow through with any appeals filed by landowners.

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.

Implementation Status – Not Implemented

FWP staff indicated they are comfortable going forward with the current administrative rule definition of public hunting requirements landowners need to meet to qualify for assistance. Audit staff found this definition to be unclear and interpreted in many different ways by FWP employees in the field. This caused significant amounts of inconsistencies in determining if landowners qualified for game damage assistance. According to FWP staff, internal scoping efforts so far have indicated there is considerable differences of opinion among staff regarding landowner eligibility. FWP staff indicated they plan to conduct further internal scoping efforts in an attempt to gain eligibility decision consensus based on different landowner public access scenarios. While this may help to improve consistency, it has not yet been done. More importantly, it does not provide a clear definition of public hunting requirements to ensure all staff, as well as landowners, know exactly what is expected in terms of public hunting requirements to qualify for game damage assistance. FWP has made minor changes to the landowner eligibility worksheet that determines if a landowner is eligible to receive game damage assistance, such as changing the definition of public hunting on their landowner eligibility worksheet. However, they have not changed the public hunting requirements for game damage assistance in ARM.

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.

Implementation Status – Implemented

The database created by FWP makes the warden or biologist choose one type of assistance for a game damage complaint. This means they must choose the issuance of supplemental licenses, a game damage hunt, or a management season. The hunter selection method is automatically populated based on the type of assistance that was selected. This assures that the hunter selection method will be appropriate for the type of assistance selected. FWP has also amended administrative rule to comply with the above changes to hunter selection methods in the database. Landowners are now allowed to choose up to 25 percent of hunters in game damage hunts and management hunts if they do not include antlered animals.

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.

Implementation Status – Not Implemented

FWP has taken steps to amend administrative rule related to the issuance of supplemental game damage licenses. They amended the rule so it no longer states an individual may only possess one elk license, and must surrender their current elk license in order to obtain a supplemental license. However, the rule was not amended to include language stating that an individual who has an elk, and elk B license, must surrender the second license in order to receive a supplemental license. This means FWP could potentially give an individual a third license with the issuance of a supplemental license. This would potentially allow them to harvest three elk, which is contrary to state law which limits harvest to two elk. FWP staff indicated that it may limit hunter participation in supplemental license hunts if an individual has to surrender one of their elk licenses in order to participate. If this is the case, FWP could take steps to reissue the surrendered licenses if the supplemental license is not filled during the time period for which it is valid.

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.

Implementation Status – Implemented

The game damage database created by FWP has the tools to meet the recommendation. The system allows wardens and biologists in the field to electronically enter complaints and landowner eligibility decisions. Regional supervisors are notified that their approval is needed for eligibility, and to approve the action taken to address the complaint in some cases. Wardens and biologists are not able to enter an action they want to take to address the issue until the eligibility form is approved by themselves, their counterpart in the field (ex. a biologist if a warden initiated the complaint), and the supervisor. The database also auto populates denial documents if a landowner is determined to be ineligible for assistance. The action taken to address the game damage is also recorded. FWP staff can attach receipts in the case that material was provided to a landowner. If a hunt is selected, the hunt roster is automatically populated for the selection of hunters. The functionality of the database should suit the Game Damage Program very well. However, when audit staff reviewed documentation within the database, documentation issues continued to persist. In order to create accountability within the program, there needs to be a review process to make sure the features of the database are being appropriately used.

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.**

Implementation Status – Not Implemented

FWP did not provide updated administrative rule or current game damage policy regarding the issuance and use of cracker shells and ammunition. FWP provided interim policy that spoke to the use of cracker shells, but it had since expired. In review of Game Damage database documentation, audit staff found instances of cracker shells and ammunition (rubber bullets) were still being provided to landowners. Issuing explosive materials, such as cracker shells, to landowners is counter to federal rules established by the Bureau of Alcohol, Tobacco, and Firearms because they can only be used by authorized department employees. Continuing to provide cracker shells and ammunition to landowners puts the department and the state of Montana at risk of potential lawsuits if a serious injury were to occur.

FWP also did not provide updated policy related to the oversight and administration of herding contracts. The game damage database allows FWP staff to upload the herder agreement and the herder log. However, audit staff found many cases in which the herder log was not uploaded into the database. Even with this functionality in the database, there is still no policy indicating how field staff should be ensuring compliance with herding contracts.

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.

Implementation Status – Partially Implemented

Audit staff reviewed contract information provided by FWP purchasing staff. FWP has established contracts in some regions that previously did not have them. However, there is still a region that does not currently have a contract for purchasing of stackyard materials. Audit staff found that this region did reach the \$5,000 in annual purchases requiring them to purchase stackyard materials from a contracted vendors as required by state policy.

Audit staff reviewed the database to attempt to determine if stackyard materials were being purchased from contracted vendors. In one region there is only one contracted vendor that is located over 150 miles away from the western side of the region. This makes it unlikely that stackyard materials on that side of the region are being purchased from a contracted vendor. Audit staff attempted to determine where stackyard materials were being purchased in various regions. In several cases, limited documentation made it difficult to determine where materials were purchased, and what materials landowners received. This incomplete documentation reduces the likelihood that FWP can verify if materials are being purchased according to state policy.

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.

Implementation Status – Not Implemented

FWP staff did not establish updated policy outlining who has the responsibility of monitoring contracts for game damage materials. They only indicated regional supervisors now have control of the regional Game Damage Program budgets. FWP officials said purchasing staff make sure that purchases are through the contractors, but could not provide policy or procedure for monitoring game damage contracts.

RECOMMENDATION #11

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

Implementation Status – Partially Implemented

FWP has implemented an inventory process for materials that are purchased and stored at the Helena warehouse. This has not been implemented at the regional level. FWP does not have a system in place to reconcile the amount of materials purchased through the Game Damage Program to the assistance provided to landowners. With the tracking abilities of the new database, FWP has the data to be able to implement this sort of system to assure proper use of game damage materials. Currently there is no tracking of game damage materials after they leave the Helena warehouse. This continues to put the department at high risk for misuse of game damage materials, particularly at the regional level. Game damage materials (such as fencing) could easily be taken by department employees and used for their own personal gain, since regional inventory controls have not been implemented.