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Trophy Game Animal Damage in Wyoming'

Ron Iversons

Abstract: Wyoming is perhaps one of the most liberal and unique states of the fifty states on compensation for game and trophy game animal damage. Trophy game animals as defined by statute in Wyoming includes the Cougar (Mt. Lion), Black Bear, and the Grizzly Bear. According to statute Wyoming is responsible for damages incurred by these species to livestock, land, crops, improvements, and extraordinary grasses. Since the statutes were enacted Wyoming has been faced with a variety of complaints and damage claims caused by these species. Damage complaints received by the **Department have covered** a broad spectrum, ranging from the stockman losing livestock to the everyday housewife with a black bear coming onto her back porch to eat the dog's food.

This paper illustrates methods, budgetary requirements, and manpower that the Wyoming Game and Fish Department uses to alleviate or reduce damage, investigate complaints, and to compensate for damages incurred by trophy game animals in Wyoming.

Let me start with a brief summary of the makeup Wyoming Game and Fish Department and what some of the requirements are to hold a Damage or Game Wardens position. The Wyoming Game and Fish Department is presently controlled by a seven member board appointed by the state's governor. This board is known as the Wyoming Game and Fish Commission. We have five divisions within the Department; Game Division, Fish Division, Information and Education Division, Fiscal Division, and the Habitat and Technical Services Division. The Game Division, which has the responsibility of handling all aspects of terrestrial wildlife, is comprised of seven districts that are located throughout the state. The districts vary in size from about 8,000 square miles to about 24,000 square miles. Each district has one damage control warden, an average of seven game wardens, one enforcement specialist, three biologists, one biologist coordinator, and a supervisor.

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The damage control warden, the game wardens, or the supervisor handle the damage calls for the District and can be notified about any wildlife depredation, which includes Trophy Game Animal damage. The responsibility of prevention and investigations falls mainly on the damage control warden or the game warden assigned to that area. Those responsibilities include wildlife damage prevention and investigations of (big game, trophy game, and game birds), wildlife law enforcement, game management, and public relations. The requirements to become a damage warden or a game warden include a four year degree in wildlife management, biology, range management, or other fields that are related; and must successfully take and pass the game wardens exam. Once hired he must complete the basic training course at the Wyoming Law Enforcement Academy.

The district which I am responsible for is one of the smaller districts in the state with a little over 8,000 square miles. There are five wardens and one damage control warden to handle damage complaints and investigations. The district has a wide variety of terrain, ranging from high desert ecosystems to alpine systems in excess of 13,000 feet elevation.

111 big game species are present with the exception of mountain goats which are only found in the northwest corner of the state. All three trophy game species, mountain lion, black bear, and the grizzly bear are located in the district. In 1973 Wyoming State Statute 23-1-101 was recodified to add the mountain lion with the black bear, and the grizzly bear as trophy game animals, up to this time the lion was designated a predator. This meant that the Wyoming Game and Fish Department was assigned the responsibility to manage the lions as well as both species of bears. It also meant that the department was responsible for damage incurred by these species to land, crops (cultivated, standing, or stored) improvements, and extraordinary damage to grasses. In 1980 the statute was changed again to include damage incurred by trophy game animals to livestock. The department became liable for payment when a trophy game animal damaged or killed livestock.

Indications are that bear and lion populations throughout the state have been increasing since use of 1080 was banned and grizzly bears achieved threatened status in 1975. Although the grizzly bear is protected under the Endangered Species Act the department is still responsible for the damages caused by grizzlies. With increasing populations our department has realized a corresponding increase in the number of complaints and the number of claims received regarding trophy game animal damage. With these increases, the cost of maintaining these species dramatically increased.

TABLE A-1

MOUNTAIN LION

YEAR	*MAN DAYS SPENT	**LIONS HARVESTED	***MANAGEMENT COST	COST/LION HARVESTED
1981	101.5	18	\$180,328	\$10,018.22
1982	103.5	21	\$363,948	\$17,331.86
1983	142.0	37	\$232,238	\$ 6,276.70
1984	67.0	39	\$ 77,695	\$ 1,992.00
1985	136.5	56	\$189,861	\$ 3,390.00
1986	117.0	63	\$166,518	\$ 2,643.00
1987	138.0	50	\$276,806	\$ 5,777.00
1988	164.0	102	\$264,450	\$ 2,593.00

*Man-days spent are days attributed to lions damage prevention, investigation and nuisance wildlife control.

**Lion harvest reflects all kills including removal of problem lions by the Department.

***Management costs are all costs attributed to lions except damage claim payments.

The Department annual reports from 1981 to 1988 illustrates maintenance cost to the department by species, (Tables A1-A3).

TABLE A-3

GRIZZLY BEAR

YEAR	*MAN DAYS SPENT	"GRIZZLY HARVESTED	***MGMT. COST	COST/GRIZZLY HARVESTED
1981	0	PROTECTED	\$ 215,137	NONE
1982	0	PROTECTED	\$ 229,477	NONE
1983	0	PROTECTED	\$ 541,919	NONE
1984	11	PROTECTED	\$ 498,440	NONE
1985	59	PROTECTED	\$1,386,570	NONE
1986	6.5	PROTECTED	\$ 542,640	NONE
1987	12.5	PROTECTED	\$ 490,259	NONE
1988	4.0	PROTECTED	\$ 677,608	NONE

*Man-days are days attributed to days spent on nuisance control, damage prevention and investigations. From 1981-1983 man days were combined with black bear man days.

**Grizzly harvest indicates bears harvested legally, it doesn't reflect illegal harvest or problem bear harvest.

***Management costs from 1981-83 were combined with black bear management cost. Management costs only reflect cost by the department to manage the grizzly, they don't reflect the cost of damage claim payments.

TABLE A-2

BLACK BEAR

YEAR	*MAN DAYS SPENT	***BEARS HARVESTED	**MANAGEMENT COST	****COST/BEAR HARVESTED
1981	44	408	\$215,137	UNKNOWN
1982	91.5	236	\$229,477	UNKNOWN
1983	95	348	\$541,919	UNKNOWN
1984	11	300	\$556,131	\$1,854.00
1985	31	267	\$ 53,280	\$ 199.55
1986	45	232	\$ 68,176	\$ 293.86
1987	68	331	\$ 78,462	\$ 237.00
1988	101.5	289	\$ 80,998	\$ 280.00

*Man-days spent are man days attributed to nuisance control, damage investigations, and damage prevention.

**Management costs are those costs attributed to black bear management. These costs don't include damage claim payments, (Table A-4).

***Bears harvested are only those bears taken legally by hunters and doesn't include illegal harvest or nuisance bears.

****Unknown costs/bear harvested from 1981-83 can't be figured because management costs for grizzly was combined with the black bear.

TABLE A-4

DAMAGE 1981-1989

SPECIES	DAMAGE	DAMAGE	'NUMBER OF CLAIMS
	CLAIMED	PAID	
Mountain Lion	\$455,770.01	\$312,786.43	235
Black Bear	\$ 34,428.59	\$ 26,042.46	53
Grizzly Bear	\$ 2,121.33	\$ 2,121.33	2

*Reflects only damage claims submitted for payment. Damage complaints aren't included.

As you can tell from these charts maintenance costs rose to the highest levels in the mid 1980's and then dropped but now again have started to raise. Not included in these costs are costs of damage claim payments, (Table A-4). Funding to pay Trophy Game Animal damage as well as Big Game and Game Bird damage comes from a five dollar application fee collected on all nonresident. big game license applications. This fund has a \$500,000 ceiling on it at which time the moneys are deposited into the general Game and Fish Fund and used for other projects. The dollar amounts paid for damage compensation have risen over the last few Years to where in the foreseeable future payments will exceed the limit, at which time other funding will have to be provided.

There are several methods, (from repel collars on livestock to ole shep staked out on the back porch), to reduce or to prevent damage by trophy game animals. The ones I've found to be most manpower and cost effective include: 1.) manipulation of hunting seasons, 2.) manipulation of grazing practices, 3.) trapping and transplanting, 4.) and as a last resort, removal from the population. An example using hunting seasons to reduce trophy game animal damage can be demonstrated using two lion areas in the state. These two areas are in the central part of the state, they have real good populations of wildlife (mainly deer), and have terrain and habitat ideal for lions. Domestic sheep are the primary animals raised by the livestock producers in the area. The lion damage was out of control, mainly to sheep on summer range. Several types of seasons and kill quotas were tried, but what seemed to work best was a year around season with all the kill quotas lifted. This seemed to reduce the damage to where it satisfied the livestock producers. The population of lions in those two area are believed to have decreased.

The Wyoming Game and Fish Department has effectively worked with landowners, National Forest Service, Bureau of Land Management, the

University of Wyoming, the Fish and Wildlife Service and the Park Service to change or trade' allotments or alter grazing practices to reduce conflicts with wildlife. Some examples are changing the allotments from sheep to cattle or trading vacated allotments to reduce conflicts. These allotments aren't always changed or traded solely for a damage reason, but often times damage conflicts are taken into consideration. In the case of the grizzly some areas have been set aside where the priority is for the bear. These areas are classed as Situation I Grizzly Bear Management Areas and are part of the Yellowstone Ecosystem that is adjacent to Yellowstone National Park. In these areas if conflicts occur the lessee may be asked to move his livestock either to another allotment where conflicts won't arise and a vacated one is available or completely out of the area ... I think that trapping and transplanting is probably the method most used in my District. Most cases involve bears, although some lions have been relocated, from unwanted places like campgrounds, urban areas, livestock allotments and hunting and fishing camps in the back country. It's just a matter of live trapping or tranquilizing the animal and moving it to a location where conflicts won't be as likely. Some of the draw backs of this method are: 1.) it isn't a fail safe method as you might be creating problems somewhere else and the Department has relatively no information of the displacement of the resident animals of the area. 2.) also the problem might occur in an area that is inaccessible with a trap and helicopter, transportation might not be cost effective, I'm sure all departments are watching their budgets. 3.) reaction time might be hampered by involvement of too many agencies as in the case of the grizzly. This brings us to the last resort method *which* is to destroy the animal. Once the animal has been destroyed it can be used for research, education, exhibits and displays, or hides and skulls can be sold at auction to generate revenue. As in the case of relocation there are exceptions with the grizzly bear. Before any grizzly is destroyed certain things are taken into consideration by the U.S.F.W.S.. If the nuisance grizzly meets the criteria to be destroyed it becomes the property of the Federal Government.

Wyoming's State Statute 23-1-901, says that a person that has damage has 15 days from the time the damage is discovered to report it to a damage control warden, game warden, or a supervisor. By commission policy the Department has three days to initiate an investigation. Investigations of damage caused by trophy game animals can vary from looking at dead sheep - to looking at a bunch of bee hives that are scattered about with mad bees everywhere - to confronting a lady that a bear had just wondered into her house to get ole shep's dog food - to confronting that back country woodsmen with his shredded tent.

Whatever the case may be the most important thing to determine is what actually caused the damage.

Often times bears and lions are blamed for damage that is really caused by other animals such as raccoons, coyotes, feral dogs, bobcats, foxes. Poisons, lighting, and natural causes may also be responsible. A bear or lion on a kill or in the immediate area is not sufficient proof the animal was the cause of the damage. Tracks, geographical locations and scat (unanalyzed) are good indicators of the cause but are not absolute. Bite marks, scat (analyzed), and necropsies are better indicators.

After determining what has caused the problem the next step is to determine how much damage has occurred. In the case of livestock losses actual counts are used. However Wyoming does have certain areas of the state designated as special compensation areas for lion damage to livestock. In these areas the Department will offer for settlement of lion damage claims, a formula based on a study conducted by the department. It states that lion damage settlement will equal confirmed kills plus .27 x total numbers of missing ewes plus .28 x the total numbers of lambs. Total numbers will be determined by shearing counts, docking counts, shipping counts, lamb counts, landowner or lessee counts, lending institution counts, brand inspectors counts, trailing permit numbers, counts based on wool incentive programs, tax records, or combinations of any of the above. This technique recognizes the Department's inability to find all sheep killed by lions and recognizes that all sheep not found were killed by a lion. This plan is in effect on a one year trial basis. In both cases payment is based on current market value. Another type of damage encountered usually with bears is property damage i.e. improvements. According to 23-1-901, the Game and Fish Department is also responsible for damage to improvements. Improvements according to the dictionary are "a change that improves or adds value to something". What it doesn't explain is in whose eyes. So we've looked at everything from camping equipment to furniture to bee hives to show dogs. I guess the hardest part is trying to figure out what things are worth and then reaching agreement with the claimant. As strange as it may seem we have also investigated crop damage by trophy game animals as our law prescribes cultivated, standing and stored crops. Some examples that I'm familiar with are bears in apple orchards, bears in camps eating grain and horse cake, bears in gardens eating vegetables, bears in bee hives eating honey, and bears in barns and granaries eating cake and grain.

After the investigation has concluded and all attempts have been made to prevent ongoing damage and the damage quits or has reached a

level that the claimant can live with, a Damage Claim Affidavit (Figure A-1) can be filed within 60 days to the office of the Chief Game Warden.

Figure A-1

6-954 1988
BIG GAME DAMAGE AND/OR GAME BIRD DAMAGE CLAIM AFFIDAVIT

STATE OF WYOMING)
COUNTY OF _____)

I, _____ of _____ (Insert mailing address) _____, being of lawful age and being

FIRST duly sworn upon oath before and say:

That I am the landowner, lessee or agent (circle one) of the following described property in the county of _____ State of Wyoming, which was damaged by big game animals and/or game birds (circle one or more applicable) of the State of Wyoming, to-wit: (insert here legal description of said property and specify whether owned in fee or leased. If leased, specify whether Federal, State or private): _____

That the damage was caused by big game animals and/or game birds (circle one or more applicable) commonly known and referred to as (here indicate type and approximate number): _____

That the damage for which this Affidavit of Claim is made was discovered on the following date and under the stated date: (HERE INSERT THE DATE OF DAMAGE FOR EACH SPECIFIC ITEM OF DAMAGE CLAIMED. IF PART OF DAMAGE INVOLVES A SERIES OF DEGRADATIONS, SPECIFY DATE BEGAN AND DATE ENDED. A VERIFIED CLAIM FOR DAMAGES MUST BE PROVIDED AT THE OFFICE OF THE COMMISSIONER NOT LATER THAN SIXTY (60) DAYS AFTER THE DAMAGE OR LAST ITEM OF DAMAGE): _____

That said damage amounts to the total sum of \$ _____ which includes the following items of damage and is computed as follows: (here specify each item of damage claimed: description of the damaged land, growing cultivated crops, stored crops, seed crops, improvements and/or extraordinary damage to grass): _____

The property is _____, is not _____, partially _____ protected. If so how _____

The landowner allows hunting _____, prohibits hunting _____, charges access fees _____, guides hunters _____, denies access _____, other _____

It is recommended this claim be paid in the full amount of _____, be partially paid in the amount of _____, be totally disallowed _____.

Reasons for the above recommendation and method of calculation of recommended payment are _____

ADDITIONAL comments or information: _____

Show the amount by species of 1 Species _____ Amount _____

the total recommended claim 1 Species _____ Amount _____

payment: 1 Species _____ Amount _____

Signed: _____ Date: _____
District Supervisor

Signed: _____ Date: _____
Game Control Warden

Signed: _____ Date: _____
Game Warden

He then notifies the investigating officer who submits all details of what has taken place along with a recommendation for payment in full, partial payment, or no payment along with reasons for that decision. (Figure A-2).

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The Chief Game Warden then makes a decision on how to proceed and notifies the claimant as to that decision. If the Claimant doesn't like that decision he can appeal it before the Game and Fish Commission. If he still isn't satisfied he can take the matter before a arbitration board then on to District Court and all the way up to the Supreme Court.

As you can tell from this brief report, Wyoming has some unanswered questions regarding our Trophy Game Animal species. We need to know what the makeups are for the populations and their sizes. Some work has been done by the Inter-agency Grizzly Bear Management Team, University of Wyoming Co-op Unit and the Department to determine territories and ranges, migration routes, food sources, behavioral activities, habitat uses, and etch, but there are still a lot of unanswered questions. Also the language in the damage statute (Wyo. State Statute 23-1-901) needs to be improved to better define types of damage and allow for interpretation of statutory criteria. Without doing these things the Game and Fish Department can't really effectively regulate or manage Trophy Game Animals and can't really be effective in designing methods to control the damage keeping the resource in mind.

FIGURE A-3

WYOMING GAME AND FISH COMMISSION
CHAPTER XXVIII
REGULATION GOVERNING BIG OR TROPHY
GAME
ANIMALS OR GAME BIRD DAMAGE CLAIMS

Section 1. Authority. This regulation is promulgate by authority of W.S. 23-1-302.

Section 2. Regulations and Effective Date. The Wyoming Game and Fish Commission hereby adopts the following regulation governing damage claims, filed in accordance with W.S. 23-1-901.

Section 3. Definitions. For the purpose of this regulation, definitions will be as set forth in Title 23, Wyoming Statutes, and the Commission also adopts the following definitions:

- (a) "Office of the Department" means Wyoming Game and Fish Department, 5400 Bishop Blvd., Cheyenne, Wyoming 82002.
- (b) "Office of the Commission" means Wyoming Game and Fish Commission, 5400 Bishop Blvd., Cheyenne, Wyoming 82002.
- (c) "Damage" as used in W.S. 23-1-901 means actual damage as proved to have occurred by the claimant, to livestock, land, crops, improvements and extraordinary grass damage, and shall not include any amount for punitive damages under any circumstances.

(d) "Extraordinary Damage to Grass" as used in W.S. 23-1-901(c) means the consumption or use of noncultivated grass plants in excess of the consumption or use which normally occurred during the two years immediately preceding the time period covered by the damage claim.

(e) "Permitted Hunting" as used in W.S. 23-1-901(c) means the claimant operated in such a manner as to allow or provide for hunting on his land and access to adjoining land to allow for a harvest sufficient to meet the objectives for the area and herd.

(f) "Disinterested Arbitrator" shall mean any person, otherwise qualified, who is capable of making a reasoned and unbiased decision on evidence presented by both parties to the Arbitration Board.

(g) "Hearing" as used in W.S. 23-1-901(e) shall mean a procedurally correct arbitration hearing which shall be conducted in such a manner as to afford both parties to present, examine and cross examine all witnesses and other forms of evidence received by the arbitrators. The decision of the arbitrators shall become a part of the agency file and shall be considered coevidence in the event of an appeal of the arbitrators' decision and Department file shall constitute the agency record of decision and any appeal therefrom to district court shall be conducted in conformity with the Wyoming Administrative Procedure Act.

(h) "Investigated by the Department" as used in W.S. 23-1-901(c) means a reasonable inspection of the damaged premises, crops or livestock as deemed adequate by the Department to evaluate and to report to the Commission the extent of damage incurred. Failure of the claimant to allow such reasonable inspection, upon request, shall constitute a bar to making claim as specified under W.S. 23-1-901(c).

(i) "Reasonable Service Charges" as used in W.S. 23-1-901(f) means fifty dollars (\$50.00 per day while performing duties as an arbitrator.

(j) "Reasonable Expense Charges" as used in W.S. 23-1-901(f) means actual expenses incurred by the arbitrators for telephone calls, paper supplies, mail service, meeting rooms, plus per diem allowance and transportation expenses as allowed state employees by Wyoming, Statutes.

Section 4. Verified Claim Requirements. The verified claim required by W.S. 23-1-901(b) shall be submitted on the form prescribed by the Department designated as "Damage Claim Affidavit". The claim shall set forth a legal description of damaged land, a description of the property damaged, the dates during which damage occurred, the type and number of big or trophy game animals or game birds which caused the damage, when the damage was delivered, to whom the damage was reported and the manner and date reported, whether or not the claimant permitted hunting during the most recent authorized hunting season for the species

causing damages. Additional supporting information may be submitted and will be considered as part of the verified claim. Amended damage claims may be filed with the office of the Department in the event that all information is not immediately known by the claimant. In any event, the entire claim must be submitted in writing to the office of the Department within 60 days of the last item of damage.

Section 5. Arbitration Notification Procedure. During the process of establishing an arbitration board to act upon a damage claim, written notification will be made from the claimant to the office of the Department and from the Department to the claimant regarding the names and mailing addresses of arbitrators selected by them. The two arbitrators selected shall notify in writing both the claimant and the office of the Department of the name and address of the third arbitrator selected.

Section 6. Savings Clause. If any provision of this rule or its application to any person or circumstance is held invalid or in conflict with any other provisions of this rule, the invalidity shall not affect other provisions or application of this rule which can be given effect without the invalid provision or applications and to this end the provisions of this rule are severable.

Wyoming Game and Fish
Commission

by
Dennis Daly, President

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