

A Landowner's Guide To
**Preventing Big Game
Damage and Filing
Damage Claims**

Revised 2020



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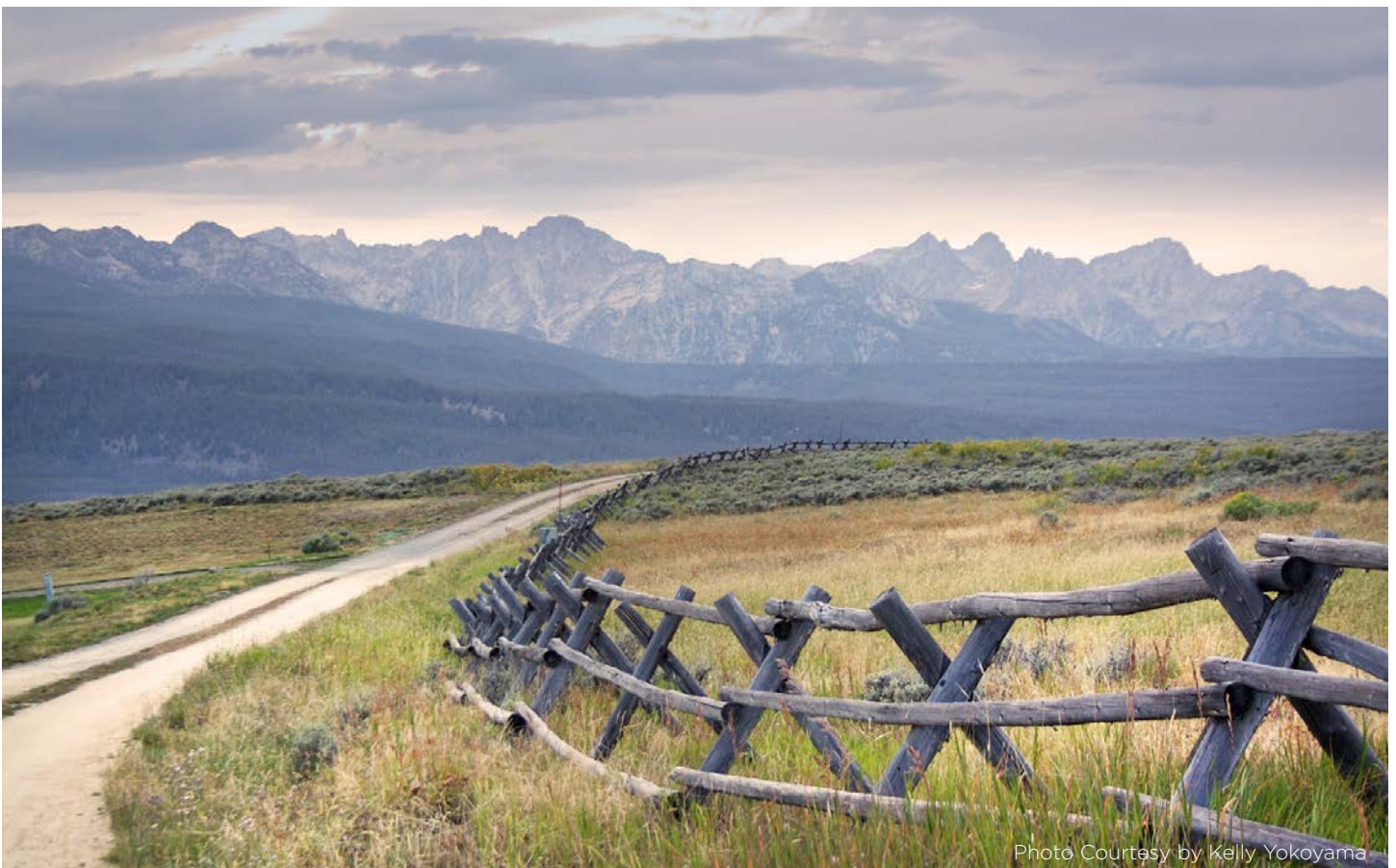


Photo Courtesy by Kelly Yokoyama

INTRODUCTION

Wildlife damage to agricultural crops, rangeland forage and livestock is a concern for both landowners and the Idaho Department of Fish and Game (IDFG). Therefore it is important for landowners and IDFG to work cooperatively to resolve big game depredations.

This manual outlines some common practices for preventing and minimizing damage. It also explains the process for filing a damage compensation claim with IDFG. Further, this manual describes some of the available methods to evaluate wildlife damages and estimate the value of those damages. **Pages at the end of the booklet include web links to State of Idaho depredation law , step-by-step instructions for filing a claim and sample claim form, explanation of the arbitration process, related forms, fencing designs, and additional information.**

IDFG recognizes and appreciates the contributions landowners make by providing quality habitat that many wildlife species utilize, as well as providing access opportunity for hunters and anglers. IDFG also recognizes that damage and economic loss can result from wildlife on private property.

The Wildlife Damage Law

(For exact legislative language see page 11 for links)

In 1990 Idaho lawmakers enacted legislation establishing a cooperative program among landowners, IDFG, and sportsmen to limit damage caused by wildlife. The wildlife damage law specifies that landowners and IDFG are to work cooperatively to prevent as much wildlife damage as possible. When damages cannot be sufficiently reduced or prevented, landowners can file a claim for compensation for the damage. IDFG pays compensation for five types of damage:

1. Crops (plants grown or stored for profit) damaged by pronghorn, deer, elk, or moose;
2. Use of privately owned rangeland forage (plants grown for livestock feed) by pronghorn, deer, elk or moose;
3. Livestock (domestic cattle, sheep, and goats) destroyed by black bears or mountain lions or delisted grizzly bears; and
4. Berries, bees, beehives, and honey damaged or destroyed by black bears or delisted grizzly bears on private land.
5. Damaged prepared seedbed ground and irrigation equipment

Landowners are compensated for the amount of damages minus a deductible, (\$750 for crops and \$750 for livestock). However, this deductible is waived for landowners who file claims for damages of a similar nature in subsequent years in the same location. Livestock, honey and berry owners who suffer damage are responsible for only one deductible per year. After agreeing to a claim amount, up to half (1/2) will be



Photo Courtesy by Brian Holdsworth

paid within 45 days of approval with the remainder paid after the fiscal year ends (June 30) if funds are available. If funding is insufficient, the remaining balance in the depredation account will be distributed proportionally. If the landowner and IDFG cannot agree on the amount of damage, a 3-member arbitration panel will be convened to make the final decision.

In order to be compensated for a claim, landowners must notify IDFG verbally or electronically that damages are occurring within 72 hours of discovering the damages and must follow up this verbal notification with a written notice, which may be electronic, within twenty (20) days of discovering the damage. IDFG is not responsible for any damage occurring more than 20 days before the initial notification of damage. This period may be extended up to 30 days in exceptional circumstances.

Because hunting is an effective tool in reducing depredations, landowners must have allowed reasonable public access for hunting during the preceding hunting season or as a response to a current depredation, provided such access does not impact

TABLE 1 – COMMON DAMAGE AND PREVENTION TECHNIQUES

PROPERTY DAMAGED	PREVENTION TECHNIQUES
Growing Crops	Scare tactics/Depredation hunts/Kill permits/Directed hunters/Fencing
Stored Crops/Feeding Operations	Site selection/Temporary fencing/Permanent fencing
Orchards/Nurseries/Berries	Site selection/Repellents/Scare tactics/Fencing/Depredation hunts/Kill permits/Directed hunters/Dogs
Honey/Beehives	Site selection/Temporary fencing/Permanent fencing
Livestock	Guard dogs/Llamas/Herders/Scare tactics/Depredation hunts/Kill permits/ Directed hunters
Livestock Fences	Modify materials/Provide for crossings/Modify design
Livestock Feed Lots	Scare tactics/Fences/Dogs/Depredation hunts/Kill permits/Directed hunters
Rangeland Forage	Scare tactics/Depredation hunts/Kill permits/Directed hunters

on their operations, or the claim for damage may be disallowed. Hunters must ask landowner permission before entering private property, and all aspects of the trespass law apply. Claimants who receive compensation for the same losses from another source (i.e., crop insurance) are not eligible for compensation.

Preventing Damage

(For exact legislative language see page 11 for links)

Damage prevention is the highest priority of IDFG’s depredation program and a shared responsibility of both IDFG and the landowner. By law, landowners who wish to be compensated for damage also have an obligation to take all reasonable steps necessary to prevent or reduce damage to their property. It is essential that landowners and IDFG work together to resolve big game depredations. Cooperation and understanding are critical for solving depredation problems. Early notification of depredation activity or damage is essential to IDFG and landowner cooperative solutions.

A landowner that is starting, expanding or changing an



Photo Courtesy by James Hammond

agricultural operation should consider wildlife damage problems and is advised to design their operation to reduce damage. IDFG can offer technical advice for preventative practices and fence designs. Table 1 outlines some steps landowners might take when wildlife damage is occurring or about to occur.

This information is presented only as an overview and does not include all available methods. As new methods to control damages are developed, they will be incorporated into the program.

IDFG can provide a variety of materials to protect crops. These materials range from plastic or metal panels for temporary crop protection to permanent fencing for crops, stack yards, orchards, and nurseries.

IDFG-provided materials must be used for the purposes intended. In most cases, landowners are responsible for the labor involved in setting up, constructing, and maintaining these materials. Landowners must also sign an agreement acknowledging that they have received these materials and will be responsible for their care and maintenance.

In some situations IDFG may provide scare devices. Landowners will be responsible for operating and maintaining these items, and are required to sign a pyrotechnics release form.

To solve some depredation problems, IDFG can provide landowners with kill permits or establish a depredation hunt using sportsmen to harvest some animals and, in the process, harass other animals away from the area. These efforts can be approved on short notice for specific areas experiencing damage.

Landowners involved in a depredation hunt may designate up to half (1/2) of the tags by providing a written list of names to IDFG. IDFG issues the remaining tags according to established depredation hunt rules.

Where a depredation hunt is not feasible, IDFG may issue kill permits for a limited number of animals. These permits are often issued to the landowner, who is responsible for killing the depredating animals, field-dressing them and contacting a Fish and Game officer. ***The affected landowner or his designee on the kill permit is eligible to keep one animal for their personal use.***

When big game animals are responsible for damages to fences, IDFG can help solve the problem by providing some materials and technical advice. Constructing fences and fence crossings designed to allow big game passage could minimize fence damage. The wildlife damage law does not provide for IDFG to pay compensation for damages to fences or other property.

Evaluating Damage

(For exact legislative language see page 11 for links)

Despite the best efforts of the landowner and IDFG to eliminate damage, big game may still cause substantial crop or livestock losses. ***A landowner planning to file a wildlife damage claim should work with an IDFG representative to identify a method to estimate the amount and value of the damage.***

IDFG's methods to evaluate damage are based on the best available information from research conducted specifically to address wildlife damage. As research continues and methods to estimate damage improve, they will be incorporated.

Neither IDFG nor landowners are required to use these methods. However, if the same methods are used to assess damage, it will be easier to agree on the extent of damages. Ideally, the landowner and IDFG representative will agree on which method to use before the evaluation occurs.

Estimating damage caused by any one factor is a complex science. Determining that portion of yield loss due to big game damage is not always easy. Total yield loss can be affected by other factors including, but not limited to: fertilization, irrigation, weather, timing of planting or harvest, weed management and a host of other elements not related to big game. With this in mind and using all the available information, IDFG works with landowners to evaluate the total extent of the damage, including trampling and trailing if applicable, using a simple, accurate and fair approach.

(**Indicates the most common method.)

1. Alfalfa

Losses to growing alfalfa is usually calculated in one of

three ways. The value of these losses is determined by the average value of hay sold or the current market value of hay.

- **A. Animal Use. Table 2 provides a starting point to determine forage consumption of big game animals in an average depredation situation. Average forage consumption rates of big game species have been provided by the Montana State University Extension Service (Lacey et al. 1994). However, because big game animals generally do not feed exclusively on commercial crops, the values in Table 2 represent only 50% of a big game animal's daily consumption. Also, no allowance for waste is included. In some situations, waste may account for up to 25% more than the daily intake.

The total amount of crop loss can be estimated by counting the number of animals causing damage and the number of days they were present, and then estimating the percentage of daily intake provided by the crop and the approximate amount of waste.

IDFG recognizes that every situation is different and presents this information as a starting point for discussion between the landowner and IDFG.

- B. Damaged vs. undamaged areas. If two comparable areas exist, one damaged and another undamaged, comparing their yields by weight or bale count can provide an estimate of loss. (Caution: These areas must be truly comparable: the same soil type, irrigation and fertilization practices, stand age, etc.)
- C. Amount consumed. Alfalfa loss can be determined by setting up several wildlife-proof enclosures in the field. Just prior to hay cutting, the vegetation in the enclosures and in an adjacent area is clipped, dried and weighed. The difference in yield from inside and outside the enclosures is used to estimate the lost production. This method if done correctly is reliable, but time consuming. If not done correctly, results are likely to be inaccurate.

TABLE 2 - 50% OF DAILY FORAGE CONSUMPTION RATES FOR BIG GAME

SPECIES	LBS PER DAY
Mule Deer	2.8
White-tailed Deer	2.1
Elk	8.3
Pronghorn	2.8
Moose	14

2. Stored Crops/Feeding Operations

- **A. Amount damaged. Stored crop losses can be determined by the number of bales or pounds of stored crops consumed or damaged by big game animals. Landowners can then use the replacement value of the crops to determine the value of the losses.
- B. Animal use. By determining the number of animals consuming the stored crops, the number of days these animals were present, the percentage of daily intake provided by the crop, and using the consumption rates in Table 2, landowners can determine the total crop loss. Landowners can use the replacement value of the crops to place a value on the losses.

3. Grains and Canola

Big game animals can damage these crops by grazing, and trampling them. Big game trailing and bedding can decrease harvest yields.

- **A. Damaged vs. undamaged areas. Comparing the yields between damaged and undamaged fields, or parts of the same field can provide a good indication of losses due to big game depredation. These areas must be truly comparable.
- B. Decrease from average yield. Historic yields can also be used for comparison. Using personal records or records from the Farm Services Agency (FSA) office, obtain the average yield for the field before damage occurred. The difference between this average yield and the yield for the year when damage occurred may be partially attributable to



Photo Courtesy by Travis Essinger

big game depredation. Of course, factors such as moisture conditions, wind damage, or different cropping practices must also be taken into account.

- C. Amount damaged. Exclosures, as described above, can also be used to estimate lost production.
- D. Trailing and trampling/bedding damage. Using an ATV and GPS, we can measure the total length of trails and acreage of trample/bedding damage post-harvest to determine yield loss. After determining the total length, we will determine an appropriate width of the trail to obtain an area estimate.

4. Row Crops

The methods described for evaluating small grain losses can also be used for row crops. In addition, landowners can measure the percentage of plants damaged by big game and the average percent loss per plant, and then use the current market value of the crops to determine total losses.

5. Orchards

Big game animals can cause both browsing and bark damage to orchards. This damage can result in either short-term (same season) or long-term losses in production. The process for evaluating damages, lost production, and the value of losses is quite complicated and varies with the type of crop being grown. IDFG personnel can work with landowners to determine a fair value.

6. Nurseries

- A. Partial loss of tree. When browsing or bark damage has occurred, but a tree is still worth saving, the value of the loss is the decrease in value of the damaged tree.
- B. Total loss of tree. If browsing or bark damage is so extensive that a tree cannot be saved or sold, the value of the loss is the regional average replacement price of that tree minus any harvest costs.

7. Forage

The wildlife damage law defines forage as growing or mature plants grown for livestock feed. For effective response and resolution landowners should notify IDFG as soon as big game begin to damage their rangeland or improved pasture.

Landowners/or lessees who file a claim for forage loss shall include a damage evaluation conducted by a

qualified range expert. IDFG and landowners should jointly design and implement a method to evaluate damage or loss. These evaluations need to begin before or at the time damage is occurring.

The damage evaluation report should objectively document the amount of forage on private rangeland consumed by wildlife, and should include an evaluation of the range before wildlife damage occurred and the impacts of wildlife on range condition. This type of evaluation may require several visits to the damaged site by the hired consultant.

There are not specific criteria for selecting a qualified range expert. A range conservationist or range manager for the Bureau of Land Management or U.S. Forest Service would be appropriate. County extension agents with expertise in range conservation may also be used. Expenses associated with the consultant are the responsibility of the landowner.

****A. Animal Use.** Forage loss can be determined by estimating the average number of big game animals on private rangeland and the length of time they were there, and then converting these values to AUM equivalents (Table 3).

TABLE 3 – ANIMAL UNIT MONTHS (AUM) FOR BIG GAME (ASSUMING 50% USE OF THE AREA)	
SPECIES	AUM
Mule Deer	0.1
White-tailed Deer	0.075
Elk	0.3
Pronghorn	0.1
Moose	0.5

Big game animals may or may not acquire their entire daily intake from individual landowner's rangelands. The values in Table 3 are calculated from a Montana State University Extension Service publication (Lacey et al. 1994), and represent 50% of an animal's intake derived from a single landowner's rangeland. Additionally, no waste is included but should be provided for if applicable. Each individual situation is unique and forage loss should be calculated accordingly.

The AUMs will be valued at the average lease rates for comparable privately-owned grazing in that area.

B. Forage consumed. The amount of forage consumed can sometimes be determined by placing exclosures in pastures.

8. Livestock

The wildlife damage law defines livestock as domestic cattle, goats and sheep. For the purposes of filing a



Photo Courtesy by Josh Wilburne

claim, a Wildlife Services (WS) agent must investigate within 72 hours of notification; WS will determine cause of the loss and determine the extent of loss without assigning a monetary value.

Landowners must contact a WS agent to verify that the livestock loss was due to black bear, grizzly bear or mountain lion predation and to confirm the number killed. An IDFG representative may accompany the WS agent on his/her inspection. Either the landowner or the WS official should contact an IDFG representative to see if a joint inspection is desired. The current market value of the livestock killed, based on a market per-pound price, will determine the value of losses.

9. Berries, Bees, Bee Hives, and Honey

Landowners must contact a WS official to investigate berry losses and losses to bee, bee hives, and honey caused by black bears or grizzly bears on private land, and should make the contact immediately to minimize losses. Within 72 hours, WS will determine if the loss is from black bear and determine the extent of loss without assigning a monetary value. For losses to bees, hives, and honey, WS will complete their portion of the Bear Damage Valuation Worksheet as well as their investigation report and provide a copy to the claimant. The claimant must then complete their portion of the Valuation Worksheet. Finally, the claimant must submit a copy of it, the WS investigation report, and a completed claim form.

Filing a Claim

(For exact legislative language see page 11 for links)

Landowners that have worked with IDFG to prevent big game damage, yet still experience losses, may be eligible to file a damage claim and receive compensation for their losses.

If landowners are interested in being compensated for their losses, IDFG will provide the landowner with a damage claim form and provide the landowner with instructions on how to complete the form. Landowners are encouraged to follow the instructions on filing a claim and provide as much detailed information as possible on the damages they received. This will allow IDFG to review their claim in a timely fashion. It is important that landowners provide detailed information on the following items:

- **Estimated number of animals:** If possible, it is preferred that the landowner provide photographs of animals and records of when, where and how many animals were observed.
- **When the damage occurred:** It is important to provide information such as when the landowner first contacted IDFG regarding the damage, when the damage ceased and when the crops being damaged were harvested.
- **Estimated total value of damage and methods used to evaluate damage:** It is strongly encouraged that the landowners work with IDFG and/or a third party crop consultant to evaluate damages. It is beneficial for the landowner to provide crop yields (of the same crop that was damaged, if possible) from previous years to assist in evaluating the extent of the damage. It is also important that the landowner provide current market commodity prices of the crop damaged, which will allow the landowner and IDFG to put an accurate value on the amount of damage.

Settlement Procedure

(For exact legislative language see page 11 for links)

If claimant and IDFG come to a mutual agreement on

the amount of the claim, IDFG will complete a General Depredation Release Form for the amount of the claim and submit it to the claimant for review. The claimant will then be required to submit a signed copy to the regional Landowner Sportsman Coordinator. A federal W-9 form must be completed.

Upon approval of the claim, the first half of the claim amount will be paid within 45 days, and the remaining balance will be paid after the end of the fiscal year (June 30) provided sufficient funds remain in the depredation account to pay the balance of all claims in full. In the event that the depredation account may be exceeded within the fiscal year, all remaining balances on statewide claims will be pro-rated based on the balance of the depredation account.

If the claim amounts differ between the claimant and IDFG, IDFG will try to reach a settlement before an offer is made. If an agreement on the claim amount cannot be reached within 15 business days, a third-party crop adjuster may be used. The adjuster can be selected by the claimant or IDFG but must have mutual agreement from both parties. If an agreement is still not reached after the adjuster's calculations, the claim then goes to a three-person arbitration panel. The panel consists of representatives chosen by IDFG, the claimant, and a mutually agreed upon third member. The arbitration panel's decision is binding for both parties.

References

Lacey, J., E Williams, J. Rolleri, and C. Marlow. 1994. *A Guide for Planning, Analyzing, and Balancing Forage Supplies with Livestock Demand*. Montana State University Extension Service, Bozeman, Mt. 16pp.



Photo Courtesy by Jake Gard

CLAIMS ELIGIBILITY CHECKLIST

- Claimant notifies IDFG within 72 hours of discovering crop damage caused by deer, elk, pronghorn or moose.
- Claimant notifies Wildlife Services upon discovering livestock losses by bear or lion (on private or public land) and berry losses and losses to bees, beehives, or honey (on private land only) caused by a bear.
- Claimant provides written notice, which may be electronic, to IDFG within 10 days.
- Owner or lessee must have allowed hunters reasonable access to the property or through the property to public lands for hunting purposes during the preceding hunting season or as a measure of response to depredation, provided such access did not negatively impact their operations.
- Damage to fences and other property is not eligible for compensation.
- Claim must be in writing on a form provided by IDFG.
- Claimant must allow on-site access for inspection/investigation of damages prior to harvest.
- Claimant has taken all reasonable steps to prevent/minimize property loss/damage by wildlife.

FILING A CLAIM CHECKLIST

- Regional Landowner/Sportsmen Coordinator provides the claim form.
- Damage is evaluated by the claimant or a third-party crop adjuster.
- Claim must be for the fiscal year in which it occurs (July 1–June 30), with allowance for submission within the first sixty (60) days of the following fiscal year if the damage occurred within the last sixty (60) days of the previous fiscal year.
- Supporting documentation and evidence should be included.
- IDFG evaluates claim and damages.
- If the claim is approved or an agreement is reached, a General Release form and W-9 is mailed to the claimant.
- Claimant signs and returns the general release form and the W-9. One half is paid within 45 days. The remaining half is paid after June 30 provided the amount of claims does not exceed the claim payment budget.
- If an agreement is not reached, a third-party crop adjuster may be used.
- If neither party wants to use a third-party crop adjuster, the claim proceeds to arbitration.
- If a third-party crop adjuster is used and if either the claimant or IDFG rejects the findings, they must notify the other of the rejection in writing within five (5) business days and the claim goes to arbitration.
- If a third-party crop adjuster is used, the cost is shared equally by the claimant and IDFG unless the arbitration panel reapportions it.

THE ARBITRATION PROCESS

- ✓ An arbitration panel is convened consisting of one person appointed by IDFG, one person appointed by the landowner, and one person acceptable to both parties.
- ✓ IDFG has five (5) working days to appoint its representative and to notify the landowner of such.
- ✓ The landowner has another five (5) working days to appoint his/her representative.
- ✓ Both representatives have another five (5) working days to appoint a mutually acceptable third representative.
- ✓ Each party is responsible for the expenses of their representative. Expenses of the third representative are shared equally between the landowner and IDFG.
- ✓ After the third representative is selected, the arbitration panel has 30 days to hold a hearing and 14 days after that to make the decision of which amount was closest to the actual damages. They may accept either the landowner's estimate or IDFG's estimate. They may not negotiate or compromise at this point.
- ✓ After they make the decision, the arbitration panel must report it to both the landowner and IDFG within 10 days.
- ✓ Findings of the arbitration panel carry final authority.



Photo Courtesy by Meric Tuna

THE WEB PAGE: LANDOWNER RESOURCES

Use the link listed below to access Idaho Fish and Game's Private Land Wildlife Damage Prevention and Compensation Program Web Page. On this webpage landowners may access related forms, fencing designs, and additional program information.

<https://idfg.idaho.gov/conservation/big-game-depredation>

Webpage includes links to:

- Electronic version of this handbook
- Wildlife Fencing Designs
- Bee Hive Diagram
- Big Game Observation Form
- Frequently Asked Questions
- Idaho Wildlife Damage Codes; including program funding information
- Filing a Claim Checklist

Forms available from the Regional Landowner Sportsmen Coordinator: *These forms are not included in this revised Landowners Guide to Preventing Big Game Damage and Filing Damage Claims or on the web page. Please contact your Regional Landowner Sportsmen Coordinator to obtain these forms.*

- Wildlife Damage Claim Forms, Instructions and Example
- Depredation Fencing Agreement
- Bear Damage on Hives Evaluation Form

DEPREDATION LAW CODE SECTION

Idaho Fish and Game Rules and Laws: Idaho Statue, Title 36

Fish and Game's depredation compensation law has been in effect for nearly 30 years. To access the entire Idaho Damage Compensation Codes, use the links listed below. Printed copies of Idaho Depredation Codes can be obtained by contacting the Regional Landowner Sportsman Coordinator.

36-115: Nonexpendable Big Game Depredation Fund - Expendable Big Game Depredation Fund
<https://legislature.idaho.gov/statutesrules/idstat/Title36/T36CH1/SECT36-115/>

36-1108: Control of Damage by Pronghorn Antelope, Elk, Deer or Moose - Compensation for Damages
<https://legislature.idaho.gov/statutesrules/idstat/Title36/T36CH11/SECT36-1108/>

36-1109: Control of Damage by Black Bears, Grizzly Bears or Mountain Lions - Compensation for Damages
<https://legislature.idaho.gov/statutesrules/idstat/Title36/T36CH11/SECT36-1109/>

36-1110: Control of Damage by Grazing Wildlife - Compensation for Damage
<https://legislature.idaho.gov/statutesrules/idstat/Title36/T36CH11/SECT36-1110/>



Photo Courtesy by Spencer Pugh



IDAHO FISH & GAME OFFICES

- PANHANDLE REGION:** (208) 769-1414 2885 Kathleen Ave., Coeur d'Alene, ID 83815
- CLEARWATER REGION:** (208) 799-5010 3316 16th St., Lewiston, ID 83501
- SOUTHWEST REGION:** (208) 465-8465 15950 N. Gate Blvd., Nampa, ID 836876
- McCALL SUBREGION:** (208) 634-8137 555 Deinhard Ln., McCall, ID 83638
- MAGIC VALLEY REGION:** (208) 324-4350..... 324 S. 417 E., Suite #1, Jerome, ID 83338
- SOUTHEAST REGION:** (208) 232-4703 1345 Barton Rd., Pocatello, ID 83204
- UPPER SNAKE REGION:** (208) 525-7290 4279 Commerce Circle, Idaho Falls, ID 83401
- SALMON REGION:** (208) 756-2271..... 99 Hwy. 93 N., Salmon, ID 83467

USDA WILDLIFE SERVICES

IDAHO STATE OFFICE (Boise): (208) 373-1630
Or toll free anywhere at 1-866-487-3297