



## STATE OF NEVADA

## DEPARTMENT OF WILDLIFE

## Game Division

6980 Sierra Center Parkway, Ste 120 • Reno, Nevada 89511  
(775) 688-1500 Fax (775) 688-1987

## MEMORANDUM

January 3, 2018

**To:** Nevada Board of Wildlife Commissioners, County Advisory Boards to Manage Wildlife, and Interested Publics

**From:** Brian Wakeling, Administrator, Game Division *BFW*

**Title:** **Landowner Deer and Antelope Compensation Tag Program –For Possible Action**

**Description:** The Department will provide a briefing to the Commission on ideas generated by stakeholders regarding processes by which compensation tags might be equitably distributed should the allocation of tags reach the statutory limit as amended during the 2017 legislative session. The Commission will discuss and may direct the Department to develop a draft Commission General Regulation regarding the general concepts presented.

**Presenter:** Game Division Administrator Brian F. Wakeling

Summary:

Following direction provided by the Commission at the August 12, 2017 meeting in Minden, NV, the Department scheduled stakeholder meetings and solicited input from stakeholders regarding methods to allocate landowner compensation tags among cooperators should awards reach the statutory limit as amended in the 2017 legislature.

The proposed process for taking input was discussed with the Nevada Farm Bureau during the week of November 13, 2017. Three stakeholder meetings were planned in Elko, Ely, and Winnemucca, and potential dates were identified to avoid other known meetings, such as the Cattleman's Association annual convention. A letter (attached) was sent to the 105 participants in the compensation program to let them know of scheduled meetings in Elko (December 12), Ely (December 13), and Winnemucca (December 14). The letter did not share any of the ideas

previously identified by the Department or Commission, as the intent was to draft a fresh set of concepts.

The letter of invitation was distributed widely. On November 27, the Nevada Farm Bureau and the Cattleman's Association were sent an electronic copy of the letter. The Commission and the County Advisory Boards were sent electronic copies of the letter on November 28. On December 5, the letter was also shared with the Back Country Hunters and Anglers, Carson Valley Chukar Club, Fraternity of the Desert Bighorn, Nevada Bighorns Unlimited – Fallon, Nevada Bighorns Unlimited – Reno, Nevada Bighorns Unlimited – Midas, Nevada Bowhunters Association, Nevada Chukar Foundation, Nevada Muleys, and the Nevada Outfitters and Guides Association.

On November 27, two comments were emailed to the Department regarding potential solutions (attached).

The meetings were held during December 12–14, 2017 as planned. Six people attended the meeting in Elko, 9 attended the meeting in Ely, and 6 attended the meeting in Winnemucca. A variety of ideas were generated, and the Department largely classified these into three categories: 1) regulations that could be developed to reduce or reallocate compensation tags if the statutory limit were reached; 2) other mitigating actions the Department might take, but would not reduce or reallocate compensation tags if the statutory limit were reached; and 3) other ideas that would require statutory changes (attached).

The Department tried to identify benefits and challenges that might be associated with each of the seven ideas deemed a regulatory remedy, although these are not exhaustive lists. The other ideas were captured for the Commission's consideration, but the Department did not consider these as potential remedies that could be addressed through administrative rulemaking.

On December 21, the Department circulated this list to the 15 participants that provided input at the stakeholder meetings and the two individuals that provided input electronically. Two individuals responded with their preferences (attached), which were options 1 and 5.

Thus far in 2017, the Department has received about 200 compensation tag qualifications and the statutory limitation allows for over 300 more compensation tags that could qualify. Clearly, the landowner compensation tag program is in no risk of over allocating compensation tags for 2018, yet there is no guarantee that the Department may find itself challenged if the limit is reached in the future. Developing a regulatory solution before the limit is reached is probably a prudent exercise for the benefit of the program.

Recommendation:

The Department recommends that the Commission **VOTE TO SELECT A REGULATORY OPTION FOR EQUITABLY DISTRIBUTING LANDOWNER COMPENSATION TAGS IF THE STATUTORY LIMIT IS REACHED AND DIRECT THE DEPARTMENT TO INITIATE RULEMAKING TO IMPLEMENT THE SELECTED OPTION.**



BRIAN SANDOVAL  
Governor

STATE OF NEVADA

## DEPARTMENT OF WILDLIFE

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TONY WASLEY  
Director

LIZ O'BRIEN  
Deputy Director

JACK ROBB  
Deputy Director

November 22, 2017

### RE: Compensation Tag Process

Dear Compensation Tag Cooperator,

During the past year, we successfully increased the statutory limit on the number of deer and antelope compensation tags that may be legally authorized annually. Based on this increase, the Department of Wildlife foresees no immediate challenges to our ability to authorize compensation tags. The statutory change allows the Department to authorize more tags than before as long as the other aspects of the existing agreements are met.

If interest in the program continues to increase, the Department may be faced with a dilemma in sometime in the future to equitably reduce compensation tags under should we reach the new statutory limit. I would like your assistance in helping to define a process we could use should it become necessary at some time in the future.

The Department of Wildlife will host three stakeholder meetings in mid-December to seek input. You can attend one of these meetings to share your thoughts.

- December 12, 2017, 6–8p – Nevada Department of Wildlife Regional Office, 60 Youth Center Rd., Elko, NV 89801
- December 13, 2017, 6–8p – White Pine County Library, 950 Campton St., Ely, NV 89301
- December 14, 2017, 6–8p – Winnemucca Inn, 741 West Winnemucca Blvd., Winnemucca, NV 89445

Alternatively, if you have ideas and cannot attend, please feel free to forward your ideas to me at [bwakeling@ndow.org](mailto:bwakeling@ndow.org) or drop me a note at 6980 Sierra Center Parkway, Suite 120, Reno, NV 89511.

The ideas obtained from the stakeholders at this meeting will be shared with the County Advisory Boards and the Nevada Board of Wildlife Commissioners at meetings later this winter. I welcome your input!

Sincerely,

A handwritten signature in blue ink, appearing to read "BWakeling".

Brian Wakeling  
Administrator, Game Division

## Brian Wakeling

---

**From:** Don Herrin <[REDACTED]>  
**Sent:** Monday, November 27, 2017 3:15 PM  
**To:** Brian Wakeling  
**Subject:** Compensation tag process

Got your comp tag process letter. The simplest methodology would obviously be to increase the minimum number on the counts to whatever is necessary to meet the overall desired result that being 60 or whatever. Another alternative which would help protect those currently receiving only one tag would be to proportionally reduce each participant accordingly rounded to the nearest whole number. Since our place only gets one tag that would be our choice but quite frankly it makes it more complicated and doesn't factor in any "new" participants. To me the obvious choice is to increase the minimum count with possibly fixing a max on the number of tags one landowner can get. Given the amount these tags are going for I would bet everyone is being compensated well in excess of what their damages are especially given the deer counts are generally done about this time.

Good luck!

Don Herrin, Member  
Deer Creek Ranch

## Brian Wakeling

---

**From:** Clay Smith <[REDACTED]>  
**Sent:** Monday, November 27, 2017 8:43 AM  
**To:** Brian Wakeling  
**Subject:** Compensation Tag Process

Clay Smith  
BS Farms LLC  
1505 North Valley Road  
PO Box 188  
Orovada NV 89425  
[REDACTED]

Brian:

My name is Clay Smith and I farm in Orovada hunt unit 031. I have participated in the compensation program the last three years. I have a few opinions and suggestions on the program, as well as the issue of deer damage on my and surrounding farms.

My father has made the suggestion that rather than giving tags, why not give bonus points that can be put toward a deer application? This would make it so smaller operations, say of 160 acres, could have an opportunity to be compensated for damage done on there place by even though they can't get the fifty head counted necessary .

One problem with the current program is that the value of the crop, the cost of the damage caused by the wildlife is not considered. A land owner raising a high dollar crop on 160 acres, lets say alfalfa seed, that can be worth \$2500 an acre is not compensated. Meanwhile a 10000 acre ranch with only pasture might get 20 tags. The dollar value of the damage could be quite similar, or greater for the small operation, but the small acreage owner isn't compensated at all, because it's unlikely he'll have the fifty head needed.

What if every, for example, 20 deer warranted a bonus point? The price would naturally be set, just as they were for the tags. If some one wanted to spend five thousand dollars on points wouldn't they be able to draw the tag? Perhaps the points could only be used in the unit that they were purchased. So I could sell 031 bonus points. No tags would have to be set aside, instead the points could be applied toward normal application tags. The same group of people would be willing to spend money on the points and it shouldn't affect the chances of other hunters who wish to apply.

The last issue I would like to address is the over whelming deer numbers we see in our crops these days. The numbers just continue to increase over the years which is reflected in the larger amount of compensation tags being released. There needs to be a new plan. I would like to see the doe numbers greatly reduced. The three tags I am set to receive in 2018 will not cover the tens of thousands of dollars in damage I occur.

I would really like to see these deer relocated. I've been told logistically it can't happen, but I personally am considering requesting an eradication. Wouldn't an attempted relocation be better? If they can't be relocated there needs to be a doe hunt to lower numbers and attempt to push the animals back up on the mountain where they belong.

I find it unfair that department of wildlife sells the majority of the tags based on animals living on and do damage on private ground. I am an avid hunter and I am pretty certain I can count more deer and antelope staring out of my back door than I could count in a week on the surrounding mountains.

Thank you for your time, I hope you can take my opinion into consideration.

Clay Smith

**IDEAS FROM STAKEHOLDER MEETINGS ON  
METHODS TO REDUCE TAG ALLOCATION SHOULD COUNTS EXCEED STATUTORY LIMIT**

**Regulations that address avoiding statutory cap.**

- 1) All cooperators should receive a single compensation tag, and then the cooperators that have more than one compensation tag will be entered into a random drawing to see who will give up a single tag. No cooperator will be required to give up more than one tag (or two tags, if the number is great enough).
  - a) Benefits: All cooperators get at least one tag, no cooperator is affected too much.
  - b) Challenges: The cooperators that receive the greatest number of tags are the ones that receive the greatest economic impact and may deserve greater compensation.
    - i) If there is a proportional reduction, have a single-tag-qualifying operator awarded one tag proportionally across years, such as award tag 9 out of 10 years.
- 2) When reducing tags, reduce tags proportionally more in those areas with greater average tag values to protect the compensation received by those who receive less revenue.
  - a) Benefits: Attempts to equalize compensation according to actual value (compensation tags have differing value depending on areas of state).
  - b) Challenges: Currently, the Department does not monitor compensation tag sale prices and this would increase reporting requirements for cooperators. Compensation tag sales vary even within units, and some cooperators do not sell them and simply use them among friends and family. May be difficult to establish fair market value quantitatively, although most individuals involved in the system understand generally relative value.
- 3) Issue tags on a first-come, first-served basis, but ensure any cooperators that were denied a tag during one year are not denied in the following year.
  - a) Benefits: Because the Commission determines the statutory limit before the counts occur, it will be reasonably simple to determine when the limit is reached.
  - b) Challenges: Not all counts occur at the same time of the year because use occurs in differing seasons.
- 4) Use the first-come, first-served approach, but when you reach 75% allocation of the statutory limit, then change the number of animals you need to count to qualify for a tag to a higher number, perhaps 75.
  - a) Benefits: Because the Commission determines the statutory limit before the counts occur, it will be reasonably simple to determine when the limit is reached and when the 75% level is being approached.
  - b) Challenges: Compensation is not equitable throughout year (later use is weighted less heavily than early use), the limit may still be reached, and there is no current method by which use counts may be carried across years. An individual excluded one year may be excluded during the next year if the count does not occur early enough.
- 5) Cooperators with the most damage should receive their tags first; if a reduction must occur, eliminate the tags for those with the fewest first.
  - a) Benefits: Because the Commission determines the statutory limit before the counts occur, it will be reasonably simple to determine the number of tags available. If insufficient tags are available, a random draw may be used to see who would not receive tags during a given year.

- b) Challenges: Individuals that qualify for a damage compensation tag may not be compensated
- 6) Increase the minimum count needed to receive a voucher for a tag when the limit is reached.
  - a) Benefits: This would be simple to implement and is essentially the same as proportionally reducing the tags available to all cooperators.
  - b) Challenges: The cooperators that receive the greatest number of tags are the ones that receive the greatest economic impact and may deserve greater compensation.
- 7) Increase the overall tag quota on mule deer and antelope.
  - a) Benefits: This approach would not require amending or adopting new regulation and could be implemented simply by adjusting quotas during the tag setting meeting.
  - b) Challenges: It is unknown how many compensation tags are needed during the quota setting meeting, and the number of additional standard tags are rather dramatic to increase compensation tags (1000 increase in quota to obtain 25 more compensation tags). Quotas are established based on independent biological data and these increases could have negative biological implications.

**Other ideas that may mitigate reaching the statutory limit, but don't address the problem if we do reach the limit.**

- Limit compensation tags valid dates to avoid specific seasons. For instance, late season hunts may not be appropriate since they are not available in all areas.
- Survey only resident deer and antelope when compensation tags are being developed.
- Allocate deer and antelope compensation tags entirely independently; quotas, limits, and counts for each species.
- Establish a minimum size for operations that are eligible to participate in the cooperative agreements. Only allow legitimate, viable operators to participate in cooperator agreements and compensation program.
- Allocate tags according to the quota on a unit by unit basis (e.g., look at Unit 231). The statutory limit should apply according to the quota for the unit in which compensation tags are allocated.
- Compensation tag awards should be calculated on the number and DURATION of time that deer and antelope spend on your land. This may require multiple counts by Department. Count three times a year. Count twice a year, once in spring and fall.
- Don't conduct counts annually, but use another approach like long-term average for multi-year cooperators or habitat models for mule deer and antelope use.
- Make a concerted effort to reduce deer and antelope populations in those areas where cooperators are qualifying for large numbers of compensation tags.
- Develop archery hunts for areas with large numbers of deer and antelope within residential areas.
- Need to consider removal options in unit by unit basis if compensation tag numbers increase.
- Ensure counts occur consistently across the state.
- Keep it simple
- Legislature should be provided information so that they understand the importance of providing the Commission with flexibility in addressing the statutory limit.

## **Requires change to NRS**

- Rather than tags, allow cooperators to obtain bonus points that could be sold to any hunter that could then use them in any application that interests them, which would equalize value to every cooperator and does not limit participation.
- Change percent described in the statutory limit (currently 2.5%) to be equivalent to the percent of private land in Nevada, excluding municipalities.
- Increase the statutory limit to 3%.
- Remove the statutory limit on the number of compensation tags that may be awarded.
- Tie the award of tags to the actual damage done to the crops and property.
- Develop a damage compensation program for deer and antelope similar to what is in place for elk; fence fields or haystacks.

## Brian Wakeling

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**From:** Clay Smith <[clay30@gmail.com](mailto:clay30@gmail.com)>  
**Sent:** Tuesday, December 26, 2017 8:15 AM  
**To:** Brian Wakeling  
**Subject:** Re: Ranking of Suggested Solutions

Clay Smith  
BS Farms LLC  
~~PO Box 135~~  
~~1505 North Valley Road~~  
Orovada NV 89425  
~~775-623-8448~~

My preference of everything listed would be to control the numbers and if necessary pursue removal options. The compensation tag value doesn't cover the damage I withstand and so the best option would be to remove the problem.

My next preference would be to issue the bonus points.

My last preference would be option #5, issue to cooperators with the most damage first.

Thank you,

Clay Smith

On Thu, Dec 21, 2017 at 12:00 PM, Brian Wakeling <[bwakeling@ndow.org](mailto:bwakeling@ndow.org)> wrote:

All:

I want to thank each of you for participating in the stakeholder meetings or providing email comments for use in developing an equitable way to distribute compensation tags in the unlikely event we would ever again reach the new statutory cap. I intend to provide the attached list to the Commission for their consideration, but I also wanted to provide them with a ranking from those that engaged in the development of the ideas.

I have identified 7 of the ideas provided as approaches that would actually reduce the tags if needed. Other ideas (for example, allocating tags separately for deer and antelope) that were brought up, I have included in the list, but won't actually help the Commission reduce tags if the limit is reached. These ideas will be included in what I provide to the Commission, but I don't intend to provide as a potential solution because they are not a way to reduce tag allocations (and in some cases, may limit allocation of compensation tags when we would currently be able to issue them).

Finally, I have identified several that would require the adoption or revision of existing NRS. This is beyond the scope of what the Commission requested, resolution won't be simple, and we cannot guarantee the final

outcome. I will share this with the Commission as well so that they might consider the ideas, but I am not asking you to rank them.

**So here's the request:** Could you please provide me with your first choice (1 through 7), and if you would like to provide any second or third choice, feel free to do so. I will provide a summary of these rankings to the Commission for their consideration.

Please respond by January 3 so that I may summarize this for the Commission and County Advisory Boards.

Thank you again for engaging in this important effort!



**Brian Wakeling, Game Division Administrator**

Nevada Department of Wildlife

6980 Sierra Center Parkway, Ste. 120

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## Brian Wakeling

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**From:** sethpicanso <~~sethpicanso@yahoo.com~~>  
**Sent:** Wednesday, December 27, 2017 9:01 AM  
**To:** Brian Wakeling  
**Subject:** RE: Ranking of Suggested Solutions

Hey Brian. I like number 1 on the list the best. Seems like a easy solution.

Sent via the Samsung Galaxy S@6 active, an AT&T 4G LTE smartphone

----- Original message -----

**From:** Brian Wakeling <[bwakeling@ndow.org](mailto:bwakeling@ndow.org)>  
**Date:** 12/21/17 12:00 PM (GMT-08:00)  
**To:** Brian Wakeling <[bwakeling@ndow.org](mailto:bwakeling@ndow.org)>  
**Subject:** Ranking of Suggested Solutions

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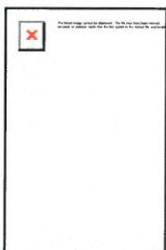
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**Brian Wakeling, Game Division Administrator**

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