

[Seal of the State Of Wyoming]

**STATE OF WYOMING
EXECUTIVE DEPARTMENT
EXECUTIVE ORDER**

Order 2020-?

WYOMING MIGRATION CORRIDOR PROTECTION

WHEREAS, Wyoming is home to the longest intact mule deer and pronghorn antelope migration corridors in the world, and

WHEREAS, migration corridors are essential to the maintenance of viable mule deer and antelope populations, and

WHEREAS, wildlife that utilize these corridors are highly valued by all people and contribute significantly to the economy and reputation of Wyoming, and

WHEREAS, land associated with migration corridors provide the state and nation with multiple-use and industrial opportunities that are integral to Wyoming's revenues, jobs, and way of life, and

WHEREAS, private landowners play a key role in maintaining migration corridors, and

WHEREAS, county governments play a significant role in land use planning and in conserving wildlife habitat and open spaces, and

NOW THEREFORE, to preclude any need for more regulatory action, or action by agencies beyond the purview of the State and without coordination with the State; pursuant to the authority vested in me by the Constitution and Laws of the State, and to the extent such actions are consistent with the statutory obligations and authority of each individual agency, including those found in the Wyoming Regulatory Takings Act, W.S. § 9-s-301 through 9-s-305, I, Mark Gordon, Governor of the State of Wyoming, do hereby issue this Executive Order providing as follows:

1. The Sublette Mule Deer, Baggs Mule Deer, and Platte Valley Mule Deer Migration Corridors are hereby designated (Appendix D).
2. The establishment of a process whereby other corridors could be designated in the future (Appendix B).
3. Each executive branch agency in Wyoming shall exercise its legal and regulatory authorities to protect and further the annual movement of mule deer and antelope between seasonal ranges in their respective migration corridors. State agencies shall

follow the procedures outlined in this Executive Order, while recognizing that adjustments to management may be necessary based upon local conditions, opportunities, and limitations (Appendix C).

4. Where surface disturbance inside of designated corridors is proposed within, near or adjacent to areas that have already been disturbed or are naturally unsuitable, state agencies should work to maintain habitat and minimize future disturbance by locating proposed disturbances within such disturbed or unsuitable areas (Appendix C).
5. Some of the most important habitat inside of designated migration corridors may fall on private land. To be clear, this Executive Order does not apply to actions occurring on private land. However, owners of affected private lands are encouraged to consult with WGFD to minimize impacts inside of a designated corridor (Appendix F).
6. Any surface-disturbing activities requiring a state-issued permit within designated corridors should be permitted in a manner that maintains the continued functionality of a designated migration corridor (Appendix C).
7. Any state-permitted activity within designated corridors during the migration period should be conditioned so as not to impede the functionality of the corridor by big game (Appendix C).
8. Valid existing rights shall be recognized and respected. Activities existing or permitted in designated migration corridors prior to February 1, 2020 will be conducted and conditioned as specified in the authorizing permits or instrument(s) for such activities (Appendix E).
9. State agencies shall issue permits or where appropriate issue comments to other agencies on recreational activities inside of designated migration corridors with the goal of maintaining migration corridor functionality, and reducing the displacement of animals using the designated corridor during migration periods. (Appendix C).
10. Where the impacts of a proposed activity are unknown or uncertain or where management decisions can be locally tailored, an adaptive management approach will be employed and consider the best-available science as well as the perspective of area working groups, as appointed by the Governor in consultation with commissioners of relevant counties. Any deviation from the management direction contained in this Executive Order shall be approved by the Office of the Governor (Appendix B).
11. County governments should develop a template for updating land use plans consistent with this Executive Order and make necessary updates to those plans.
12. The Wyoming Department of Transportation (WyDOT), in conjunction with the Wyoming Game and Fish Department as well as other state agencies such as the Wyoming Wildlife and Natural Resource Trust (WWNRT), shall plan and engineer state and federal highway and associated projects that intersect designated migration corridors to avoid, minimize and mitigate vehicle/wildlife collisions, facilitate big game movement, and support migration connectivity. WyDOT shall include opportunities to address wildlife/roadway infrastructure projects in its annual planning efforts.

13. This Executive Order is to be construed narrowly and limited to the habitat and activities specifically described herein.
14. This Executive Order, together with its attachments, constitutes Wyoming's strategy for managing migration corridors and their habitats. Appendices A through G are expressly adopted and incorporated by reference herein, and each shall have the full force and effect of this Executive Order. Amendment to any Appendix may be made without requirement that the full Executive Order be amended.

Given my hand and the Executive Seal of the State Of Wyoming this ____day of _____, 2020.

Mark Gordon
Governor

Appendix A Definitions

Big Game Migration Corridor: Pathways big game use to travel between summer and winter seasonal ranges which are essential for the productivity of a population or subpopulation.

Identified Migration Corridor: The geographic area used by big game for seasonal movements between summer and winter ranges that has undergone research by or approved by the Wyoming Game and Fish Commission (WGFC) to delineate the habitat and the components of habitat. Identified migration corridors are not subject to the management and processes outlined in this Executive Order.

Designated Migration Corridor: An identified migration corridor that was nominated for designation by the Wyoming Game and Fish Commission (WGFC) and was subject to the process for designation outlined in this Executive Order. The Sublette Mule Deer, Baggs Mule Deer, and Platte Valley Mule Deer Corridors are designated by this Executive Order.

High Use Area: Segment or portion of a big game migration corridor used by 20% or greater of the sampled population.

Medium Use Area: Segment or portion of a big game migration corridor used by 10-20% of the sampled population.

Low Use Area: Segment or portion of a big game migration corridor used by less than 10% of the sampled population.

Stopover Areas: The area used the majority of time by the sampled subpopulation to forage and rest during spring and fall migration.

Bottleneck: Any portion of a big game migration corridor where animals are significantly physically or behaviorally restricted.

Biological Risk Assessment: Analyses of the potential biological risks, foreseeable biological threats, and conservation opportunities that exist in the migration corridor. An assessment is developed with public stakeholder input and updated as conditions change on the landscape.

Science Behind Identifying a Big Game Migration Corridor: Big game migration corridors are defined using 3 or more years of animal location and fine-scale movement data from a sampled population of animals that are equipped with GPS or satellite collar technology. These data are combined with scientifically sound analysis techniques. Long-term knowledge of local WGFD personnel, landowners and other stakeholders is used in addition to these data to validate the identification of big game migration corridors, stopover areas, and big game migration bottlenecks.

Migration period: The specific dates during which migrating big game are physically present within a portion of a designated migration corridor, which can vary year to year.

Avoidance: A determination based on the best available science to ensure that no negative impacts occur to a migration corridor.

Migration Corridor Functionality: Maintaining connectivity between summer and winter ranges to allow big game movements conducive to optimal foraging and rest during migration.

Appendix B Corridor Designation Process

Wyoming is home to numerous migration corridors. The identification of corridors may benefit herd management and overall herd fitness. It is the formal act of designating, rather than identifying, a corridor that warrants compliance with the terms of this Executive Order and limitations of human use to conserve those corridors. Not every migration corridor requires designation to ensure the health of the animals and/or the herd that uses it.

The Wyoming Game and Fish Department (WGFD), as the agency with authority over the management of wildlife, shall lead research efforts on migration of big game. A summary of results of agency research will be available to the public so long as the information is not specific enough to negatively impact functionality of the corridor or the health of the herd. A minimum of 3 years of research on a herd's migration patterns, which includes the collaring of a representative sample of animals from the herd, is necessary for a corridor considered for designation.

The following process shall occur prior to any formal migration corridor designation:

1. The Wyoming Game and Fish Department (WGFD) identifies a migration corridor. During the initial identification, the following information shall be provided:
 - a. Big game species using the identified pathways between summer and winter range;
 - b. Big game pathways used to delineate the potential corridor and the underlying scientific information available that has informed the WGFD identification;
 - c. The location of identified stopover areas, the acreage and land ownership;
 - d. The location of identified bottlenecks, the acreage, and land ownership;
 - e. The location of identified high-use, medium-use, and low-use areas within the corridor, the acreage, and land ownership; and
 - f. Existing infrastructure within the potential corridor.
2. WGFD conducts an initial evaluation to determine if the identified corridor may warrant designation. If proceeding toward a possible designation, the WGFD develops a Biological Risk Assessment. Any assessment will be developed with public stakeholder input and updated as conditions change on the landscape.
3. WGFD presents the identified corridor and Biological Risk Assessment to WGFC for consideration.
4. WGFC provides an opportunity for public comment regarding the Biological Risk Assessment and develops a recommendation to the Governor for consideration of a designation.
5. The Governor determines if designations should be considered. If the determination is made to proceed the Governor may appoint an Area Working Group in consultation with the appropriate county commissioners and tribes, based on the location of the corridor. Membership of the area working groups will include county commissioners, and if affected, tribes, and representatives of affected interests and industries.

- a. Area Working Groups are given a set period of time to:
 - i. Review WGFD's Biological Risk Assessment for the identified corridor
 - ii. Analyze/review corridor components (use, stopover, bottleneck, etc) identified by WGFD to determine what leases, infrastructure, surface and subsurface asset ownership exists within the corridor. Then determine the potential impacts of a designation on socio-economic factors for the region
 - iii. Identify opportunities for conservation that could enhance the corridor
 - iv. Provide an analysis of the State's priority highway/wildlife projects and recommendations related to advancing those in the identified corridor
 - v. If designation is recommended, develop recommendations related to the management of the corridor in the future as it relates to development and conservation efforts in corridors. These recommendations should take into consideration any county commission plans established to manage development inside the corridor
 - vi. Conduct public meetings to refine a recommendation to the Governor

6. Final recommendations are delivered to the Governor who either formally designates the identified corridor, returns the recommendation for further refinement, or formally rejects the proposal for designation.

Appendix C

New Infrastructure, Recreational Use and Development Conditions

Wherever possible, development, infrastructure and use should occur outside of designated corridors. Inside corridors, state regulatory agencies should support the continued function of designated migration corridors by avoiding and minimizing impacts from development or use allowed within the corridor.

All applicants for state permits inside designated corridors will be required to engage with appropriate permitting state agencies. These applicants for state-permitted projects and state-permitted uses within a designated migration corridor are required to consult with the Wyoming Game and Fish Department (WGFD) as part of the permitting process. If the WGFD determines the proposed project or use will have adverse effects on the functionality of the migration corridor the agency shall provide the permit applicant with potential development alternatives other than those contained in the project proposal. Permit applicants shall have access to all information considered in developing recommendations. Upon completion of that consultation, if the applicant does not agree with the recommendations of the WGFD it must prepare a letter outlining concerns with the WGFD recommendations. The WGFD will then deliver the recommendation and, if applicable, the accompanying letter to the Governor's Office. The Governor shall review these materials and recommend a resolution of the applicant's concerns to the WGFD and the applicant. After conferring with the applicant and making any appropriate revisions, the WGFD shall submit the final recommendation to the appropriate permitting agency.

The following components of a corridor have unique management considerations for all development and uses:

Bottlenecks: No new surface development shall be permitted within bottlenecks and state agencies shall restrict uses to those that do not impair the functionality of a corridor.

High Use: Surface disturbance and human presence should be limited to levels that do not cause avoidance of migrating animals throughout the high use portion of the corridor during migration timeframes.

Stopovers within High Use: In areas of significant ecological importance (feeding, resting, cover, water, topographically limited, etc.) within stopovers in high-use portions of the corridor, surface disturbance should be avoided, and additionally human presence during migration periods should be avoided. Significant ecological areas should be identified prior to any lease nomination or permit application.

Low and Medium Use and Stopovers Within: Where possible avoid disturbance and seasonal use. However, there is an acknowledgment that development and use can occur, so, minimization of surface disturbance and human presence should be considered an alternative. Minimization may include project alterations, recreational permit restrictions, and other efforts that can be shown to limit impacts to these areas. Surface disturbance, development and

human presence during migration periods should be limited. Within low and medium use areas special consideration should be given to stopover areas.

Any potential lease or activity should be properly noticed to state that the lease is subject to this Executive Order.

Appendix D Maps

Maps and specific shape files of the three designated migration corridors as well as the two identified corridors are available at <https://wgfd.wyo.gov/wildlife-in-wyoming/migration>

Appendix E Valid Existing Rights

Within the designated corridors existing rights shall be recognized and respected. Activities existing or permitted in designated migration corridors prior to February 1, 2020, and activities existing or permitted prior to the date of Executive Order 2020-1 will not be required to be managed under this Executive Order. Examples of existing activities include oil and gas, mining, wind energy development, transmission lines, agriculture, processing facilities, housing, state and federal highways, and other uses that were in place prior to the designation of the migration corridors and specific components of the corridors. Federal and state permitted activities, including Industrial Siting Council permitted projects, within a defined project boundary (such as a recognized federal oil and gas unit, drilling and spacing unit, mine permit, subdivision plat, state or federal highway right-of-way, utility or other right-of-way, grazing allotment etc.) shall be allowed to continue within the existing boundary even if the use exceeds the recommendations developed through this Executive Order.

For the purposes of this section "Pre-existing Oil and Gas Units" means oil and gas units established prior to February 1, 2020. In administering oil and gas plans of development in designated migration corridors, logical and systematic planning will occur in accordance with the terms of oil and gas unit agreements for Pre-existing Oil and Gas Units and the goals of this Executive Order. Each situation should be addressed with flexibility and an understanding of the local landscape, habitats and other factors. Pre-existing Oil and Gas Units within designated migration corridors are not subject to this Executive Order, except inside bottlenecks.

It is understood that the level of existing and future development in Pre-existing Oil and Gas Units may exceed the guidelines of this Executive Order. Proponents and agencies are still expected to minimize surface disturbance whenever possible and follow all other existing, applicable lease stipulations. As projects are completed, total disturbance areas will be recorded by proponents and agencies and the disturbance level considered in evaluating other development proposals for all users of migration corridors.

Mining: Leasable Coal Mining Operations; Coal mining activities authorized prior to February 1, 2020 and included within the approved permit boundary will be allowed to continue under the regulatory and permit-specific terms and conditions authorized under the Wyoming Environmental Quality Act (WEQA) and the Surface Mining Control and Reclamation Act of 1977 (SMCRA) as administered by the Wyoming Department of Environmental Quality (WDEQ). Leasable, Locatable, and Saleable Non-Coal Mining Operations Non-coal solid mineral mining activities within a permit boundary approved prior to February 1, 2020 are not subject to this Executive Order.

Existing, permitted/authorized corridors and rights-of-way (ROWS) for roads, power lines, pipelines, and other utilities (e.g.- water, sewer) are considered valid existing rights.

Activities within ROWs or corridors for transmission, distribution power lines, substations, pipelines, and other utilities established and authorized prior to February 1, 2020 are not subject to this Executive Order. Activities within ROWs for state and federal highways established and authorized by the Wyoming Department of Transportation and the Federal Highway Administration prior to February 1, 2020 are not subject to this Executive Order.

Appendix F Private Landownership

Functioning ranches and agricultural lands provide crucial ecological and habitat services to all wildlife, including ungulates and antelope. Economically viable and well-managed private lands are a priority because, among other values, they provide open space, forage, water, and security for big game herds and migration habitats.

To aid in the continued existence of open spaces, the Wyoming Department of Agriculture and other State agencies shall use existing research and knowledge to facilitate the continued existence of functioning ranches and agricultural lands that provide crucial ecological and habitat services to wildlife and ways to recognize the value of ecosystem services.

State agencies should work with private landowners to build upon efforts to conserve migration corridor habitats.

Recognition

The State of Wyoming recognizes the contributions of private lands to the continuance of big game migration corridors. State agencies shall, consistent with their statutory authority, notify private landowners of identified big game migration corridors that intersect with that private landowner's property. Private landowners will have the opportunity to be actively engaged in management through their involvement in area working groups.

Coordination

To aid in the conservation and enhancement of migration corridors the State of Wyoming will support voluntary enrollment in landowner-focused programs. These may include federal, state and local conservation funds to benefit, including conservation easements, improvements and investments on projects and initiatives inside of designated corridors and as a secondary effort in identified corridors.

Range improvement projects

In identified and designated big game migration corridors, the Wyoming Game and Fish Department shall provide information to landowners who voluntarily seek assistance in siting new range improvement projects, such as water sources and fences, and in modifying existing range improvement projects.

Alternative funding programs for private landowners

The Wyoming Game and Fish Department and the Wyoming Wildlife and Natural Resource Trust, as well as other state agencies, shall explore opportunities to support private landowners that sustain and enhance big game migration corridor habitats. This includes evaluating alternative funding opportunities, such as the potential to develop a habitat leasing/conservation leasing program.

Management flexibility on federal grazing allotments

State agencies that review and assist in developing Allotment Management Plans and National Environmental Policy Act (NEPA) documents related to grazing management and associated decisions shall work with land managers and federal land management agencies to identify opportunities and

implement voluntary actions to improve both habitat associated with big game migrations and livestock operations through management flexibility and adaptive management.

Appendix G Research

Furthering research on big game migration corridors is imperative as is maintaining the research and upkeep on information related to designated corridors to ensure management is influenced by the best available science.

The Wyoming Game and Fish Department and University of Wyoming should continue to provide the public with research on migration and seasonal habitats.

Specific topics that are deserving of attention potentially include:

- Stopover areas and their use by big game. Including response of big game to the existing development inside of stopover areas, big game's cause for selection of stopover areas, why big game select specific stopover areas, impact of reclamation, and change of stopover size and habitat over time.
- Technologies for decreasing vehicle-caused mortality.
- The impact of human recreation inside of migration and other seasonal habitat.
- Competition between deer and pronghorn with the following other species: elk, predators, invasive and noxious weeds, and feral horses. (As data emerges from currently ongoing studies, the Game and Fish Department and Commission should develop recommendations to manage, mitigate and, where possible, abate interspecies competition and other issues that affect corridor function and herd health and viability.)
- The possibilities for mitigation as a tool to maintain the functionality of a corridor.