



CENTER FOR LARGE LANDSCAPE CONSERVATION

A New Era in Public Lands Wildlife Corridor Protection?

Compiled by:

Robert Ament
Senior Conservationist

January 2009

TABLE OF CONTENTS

Introduction.....	2
The Forest Planning Process.....	3
Lessons Learned.....	5
Future Endeavors.....	6
Long-term Strategy.....	7
Citations.....	8
More Information.....	8

Introduction

The Bridger-Teton National Forest (BTNF) in Wyoming, on the southern end of the Greater Yellowstone Ecosystem, has completed the first administrative designation of a wildlife corridor in the nation on USDA-Forest Service lands. This unprecedented action was sought to maintain secure habitat for the annual migration of a special herd of pronghorn that moves an estimated 47 miles across national forest lands, comprising approximately 29,400 acres, in its semi-annual 150 mile long trip between winter range in Upper Green River Basin near Pinedale, WY and summer range in Grand Teton National Park. This is one of the longest remaining land-based wildlife migrations in North America and archaeological evidence suggests that this pathway has been used for over 6,000 years. The relatively narrow corridor traverses three bottlenecks and passes through a variety of land ownership classes: national park, national refuge, national forest, Bureau of Land Management, state and private lands in two Wyoming counties.

The Forest Planning Process

The wildlife corridor was administratively designated via a Forest Plan Amendment conducted under the 1982 forest planning regulations (36 CFR 217). This was a result of the Forest Plan revision process having been suspended due to the federal lawsuit that was concluded in California that effectively nullified a newer version of the regulations promulgated by the Bush Administration. Rather than waiting for new planning regulations to be developed by the Department of Agriculture, ones that would have to comport with the Court's decision, wildlife corridor protection proceeded under the 1982 Reagan era planning regulations. Since the signing of the Forest Plan Amendment's Decision Notice, yet another set of forest planning rules have been put forward in the Federal Register by the Bush Administration. Once again, these newer regulations are also being challenged in the courts by conservationists. If this is confusing, it should be, since there have been 3 different versions of forest planning regulations in play in the past 12 months.

National Forest Management Act of 1976 (NFMA) Forest Planning Regulations Timeline

1979	First regulations to implement NFMA promulgated by Carter Administration.
1982	Second set of regulations for forest planning developed by the Reagan Administration which required Forest Plans to be developed under National Environmental Policy Act (NEPA) procedures. Most of the 155 national forests and 20 national grasslands developed their original Land and Resource Management Plans (Forest Plans) under 1982 regulations.
2000	Clinton Administration rewrites forest planning regulations to incorporate ecosystem management.
2005	Bush Administration issues a new rule that creates forest plans that do not set any standards or prescribe any activities and thus also removes NEPA procedural requirements from the planning process.
March 2007	The US District Court for the Northern District of California issues an injunction against the Forest Service to stop using the 2005 rule because of several procedural violations in the development of the rule.
August 2007	Bush Administration issues a new rule basically the same as the 2005 regulations but developed to address the procedural deficiencies defined by the District Court of Northern California. The rule is once again being challenged in court.

The BTNF sought to amend its Forest Plan to assure no new projects or activities impede the migration corridor, often known as the Path of the Pronghorn. The entire extent of the corridor, from the forest's boundary on the north to its southern boundary was mapped and included in the amendment documents. The designated area is a relatively narrow strip of land that is approximately 47 miles long and comprises approximately 29,400 acres.

Due to broad public support, over 19,000 comments were received in support of the designation, there were 2 comments seeking clarification and no comments were received in opposition to the designation. The entire environmental review and decision-making process under the National Environmental Policy Act (NEPA) was relatively short and non-controversial. Comments were requested from the BTNF in its the scoping statement for the Environmental Assessment by March 31, 2008 and the Decision Notice and Finding of No Significant Impact were signed by Forest Supervisor Kniffy Hamilton on May 31, 2008. Those familiar with the NEPA process know that this is an incredibly short time from public scoping to a decision, but given the lack of controversy and broad public support, it attests to the pre-decisional work that had been done to assuage concerns by local governments, private land owners, the oil and gas industry and public land stock growers.

In the BTNF's scoping statement for the Amendment the background/purpose asserts:

"The pronghorn that summer in Jackson Hole [including Grand Teton National Park, ed.] migrate annually from wintering areas in the Green River basin. Documented round trip migration distances from 175 to 330 miles make this the longest known terrestrial animal migration in the 48 contiguous states. Typically, the pronghorn migrate through the proposed corridor in April or May and again in October or November. These pronghorn are a part of the impressive landscape of free-ranging native Rocky Mountain mammals in northwest Wyoming. This landscape draws tourists from around the world and supports a robust regional economy. A significant portion of the full migration route is within the Bridger-Teton National Forest. Designating this corridor and managing it to facilitate continued successful movement will help ensure protection of this herd and its migration."

In the purpose section of the BTNF's scoping statement for the Amendment; the Forest Service describes its rationale for protecting the wildlife corridor:

"The Forest Service proposes to designate a Pronghorn Migration Corridor ... and to manage that corridor to facilitate continued successful migration. To that management end, projects and activities in the corridor would be designed and/or timed to allow continued movement through the corridor. Infrastructure such as fences would be designed or located to allow continued movement though the corridor. Presently, activities within the Forest corridor are not compromising the annual migrations, so changes to current activities are not anticipated."

It is important to note that while the full length of the migration route includes lands under various jurisdictions including Bureau of Land Management lands and private lands in Teton and Sublette Counties, this Forest Service proposal applies only to Forest Service System lands within that larger corridor. The proposal does not constrain activities on private property within the Forest boundary.

The designation of the corridor, including the general management direction described above, would be implemented through an amendment to the 1990 Bridger-Teton National Forest Land and Resource Management Plan (Forest Plan). This proposal is consistent with the goals, objectives, and other direction in the Forest Plan.”

Lessons Learned

Amending Forest Plans to protect wildlife corridors on federal lands is a process that can be replicated in other landscapes across the country. The BTNF did not redraw the boundaries of any existing management areas in their Forest Plan, instead they put the corridor boundaries over all of the management areas, after first checking to assure there were no internal conflicts in direction, guidelines and standards.

The new Forest Plan standard that was put in place for the designated corridor was fairly straight forward and easy to understand. *“All projects, activities, and infrastructure authorized in the designated Pronghorn Migration Corridor will be designed, timed and/or located to allow continued successful migration of the pronghorn that summer in Jackson Hole and winter in the Green River basin.”* As a consequence of this being a Forest Plan standard under the 1982 regulations, it is enforceable by law.

Given the first set of regulations developed by the Bush Administration were suspended due to a lawsuit in California that was national in scope, the BTNF was still able to move forward under the older version of the regulations (developed in 1982) to amend its Forest Plan. Since the Amendment was successfully completed and not challenged, the Forest feels that it can now be carried forward into any Forest Plan revision process regardless of what version of new regulations are eventually established. However, it will be important to ascertain whether new planning regulations include standards that are enforceable.

The Path of the Pronghorn is fortunate; it has well defined annual use by wildlife and has been confirmed by scientific study (Harper 1985, Segerstrom 1997, Berger 2003, Berger 2004, Sawyer and others 2005, Berger and others 2006). Equally important was that the scientists made many presentations over the years to the public, politicians, and stakeholder groups to educate them on the importance of the corridor. However, the 36 CFR 217 regulations of 1982 do not require any scientific threshold be attained before a Forest Plan Amendment can be promulgated to protect a wildlife corridor. The two newer versions of forest

planning regulations under the Bush Administration did not either. Therefore, administrative designations of a wildlife corridor can be based on as little or as much scientific research is needed to justify such actions. However having good science and engaged scientists certainly helps build public awareness and political support for conservation measures while helping stifle uninformed opposition.

The protection of this particular pronghorn migration through BTNF lands had received broad public support, prior to the announcement of the Forest Plan Amendment. Teton County, Wyoming commissioners had passed a resolution favoring its protection. Similarly, the local leadership of the National Forest, National Park and National Refuge signed a joint letter pledging their intent to protect the migration; this was widely circulated and publicized. Later on, the Bureau of Land Management also signed the pledge letter. In addition, local conservationists in Jackson Hole hold an annual “Party for the Pronghorn” to celebrate the annual return of the herd to its fawning and summer grounds. All of these activities created a supportive context for the BTNF to take the proactive measure of administratively designating the wildlife corridor and developing a useful Forest Plan standard to protect it.

The Forest also made an interesting decision in how it delineated the lands within the corridor that were affected by the Amendment and its sole management standard. The 47-mile swath across the Forest could have meant the redrawing of the boundaries of each of the Management Areas already demarcated by the Forest Plan. Forest Plans are essentially a practice in zoning the Forest and prioritizing what is the preferential use for each of these zones, called Management Areas (i.e., timber production, motorized recreation, wilderness study, etc.). The Forest Plan also includes goals, objectives, standards and guidelines for each of the Management Areas (MAs). The BTNF in designing its Amendment for the pronghorn migration corridor simply superimposed the corridor over all of the existing MAs so as to simplify the process and remove the need to redraw all the existing MA boundaries. It should be noted that first the BTNF studied each of the MAs standards and guidelines to make sure there were no conflicts with the new standard in the Amendment. For example, since the corridor is relatively narrow, the lands that were open to oil and gas exploration are still available because industry is capable of directionally drilling to access energy resources under the corridor. So the Amendment would preclude any surface occupancy of drilling facilities that would be detrimental to the migration, but did not remove the subsurface areas from future exploration and development.

Future Endeavors

Individuals, organizations and Forest Service employees interested in protecting crucial connectivity habitat for wildlife now have a relatively straight forward example on a process to administratively designate and protect the habitat of a migration corridor. This process can be applied on other important National Forest lands that serve to maintain connectivity for either wildlife migration or

dispersal. It could also be used for multiple species' habitat protection in key linkage zones. So using the BTNF as a shining example, others are now free to take similar action on National Forests lands, where appropriate.

Forests need not wait for the forest planning regulations of 2008 to be resolved in the courts to administratively designate wildlife corridors through Forest Plan amendments. Under these regulations ("the 2008 rule"), forests that wrote their plans under the 1982 rule (meaning almost all of them) have the discretion during a three-year transition period (that began April 21, 2008) to amend their existing plans pursuant to the 1982 rule, or pursuant to the 2008 rule [36 C.F.R. 219.14(b)(2)]. If they select to amend under the 2008 rule, forest supervisors still retain significant discretion on which procedures to follow and whether standards are part of the amendment. Therefore, either under the 1982 or the 2008 rule, forest supervisors are free to amend Forest Plans with the standard(s) needed to assure the protection of the corridor, standards that are enforceable by law.

In selecting future administrative designations of wildlife corridors on National Forest lands, it is worth remembering the following key lessons from the Bridger-Teton National Forest's Amendment process:

- Select non-controversial lands that are not being fought over by different user groups or special interests, at least for the first effort
- Build strong local community and political support
- Increase public awareness and celebrate the wildlife using the corridor
- Have credible scientific information that supports the corridor's use by wildlife
- Make sure interagency actions are aligned so that protection is leveraged across jurisdictional boundaries, that is, the Forest Service must do its part for the lands it manages to protect connectivity
- Create an administrative designation that is specific and has clearly defined boundaries
- Keep the Forest Plan Amendment's language simple and make it a *standard* that is legally enforceable, using either the 1982 or 2008 rule.

Long-term Strategy

The goal would be to get a series of administratively designated wildlife corridors on Forest Service lands in each of the agency's nine regions. Once they were in place, and the public was comfortable with corridors conservation on their local public lands, it would set the stage for national legislation for a National Wildlife Corridor Conservation System similar to wilderness areas, wildlife refuges and national parks. Hopefully, many of the corridors would be linking these other protected areas.

The history of the national Wilderness Area system may serve as a hopeful precedent. The Forest Service had administratively designated primitive areas throughout its lands before the Wilderness Act had been passed. These primitive areas were then added to the Wilderness Area system after passage of the Wilderness Act. Some were swept in with the passage of the Act; others were added later as additional wilderness bills were passed. Therefore, it would be beneficial to get as many administratively designated wildlife corridors in Forest Plans as possible. These then would eventually form the backbone of a national Wildlife Corridors Conservation system that is legislated at a later date.

Citations

Berger, J., Cain, S and Berger, K.M. 2006. "Connecting the Dots: An Invariant Migration Corridor Links the Holocene to the Present." *Biology Letters*, online, 2006.05.08, pages 1-4.

Berger, J. 2004. "The Last Mile: How to Sustain Long-Distance Migration in Mammals." *Conservation Biology*, 18(2): 320-331.

Berger, J. 2003. "Is it Acceptable to Let a Species Go Extinct in a National Park?" *Conservation Biology*, 17(5): 1451-1454.

Harper, H.A. 1985. "A Review and Synthesis of Existing Information on the History, Migration Routes, and Wintering Areas of Pronghorn that Summer in Grand Teton National Park." Grand Teton National Park, Moose, Wyoming, USA.

Sawyer, H., F. Lindzey, and D. McWhirter. 2005. "Mule Deer and Pronghorn Migration in Western Wyoming". *Wildlife Society Bulletin* 33:1266-1273.

Seegerstrom, T. B. 1997. "The History and Status of Pronghorn that Summer in Jackson Hole and the Upper Gros Ventre River Drainage". Great Plains Wildlife Institute, Jackson, Wyoming, USA.

More Information

BTNF Forest Plan Pronghorn Amendment Documents:
<http://www.fs.fed.us/r4/btnf/projects/>

Path of the Pronghorn:
<http://www.wcs.org/international/northamerica/401875/pathofthepronghorn>