

February 4, 2021

BOARD MATTER H-3

ACTION: CONSIDER AMENDMENT TO EXISTING RESTRICTION TO THE COLLECTION OF SHED ANTLERS AND HORNS

AUTHORITY: Board of Land Commissioners Rules and Regulations, Chapter 13, Section 4; W.S. § 36-2-107

CRITERIA:

The Board of Land Commissioners (Board) extends to the public the privilege of using legally accessible state trust lands for casual recreational day uses, unless otherwise closed by direction of the Board, on its own motion or upon request of the surface lessee. Public use is only allowed when it will not result in damage to the state trust land or the roads and improvements thereon. Organized, developed, or commercial recreational use of state trust lands is prohibited unless it occurs under the provisions of a special use lease issued under Chapter 5 of The Board of Land Commissioners' Rules and Regulations.

BACKGROUND:

On October 4, 2012, the Board approved a restriction to the collection of shed antlers and horns on lands under the jurisdiction of the Board. Subsequently, the Board reaffirmed the restriction as a lawful order of the Board on April 10, 2014 (attached). The Board's restriction, which was adopted to be consistent with the Wyoming Game and Fish Commission's (Commission) Rules and Regulations, Chapter 61: Collection of Shed Antlers and Horns, prohibits the collection of shed antlers and horns *"on all parcels of land under the jurisdiction of the Board of Land Commissioners west of the Continental Divide, excluding the Great Divide Basin, from January 1 through April 30 of each calendar year."*

DISCUSSION:

During the past year, the Game and Fish Commission has twice adopted revised Chapter 61 Rules, effective March 24, 2020, and January 7, 2021, respectively. As a result of those revisions, the Commission's rules now prohibit the collection of shed antlers and horns *"from big game animals on public lands west of a line beginning at the Wyoming-Colorado state line at the intersection of U.S. Highway 287, northerly along said highway to U.S. Highway 30-287; northwesterly along said highway to Interstate Highway 80; westerly along said highway to the Pacific Branch of the Continental Divide; northwesterly along said divide to the southern boundary of Yellowstone National Park; westerly along said boundary to the Wyoming-Idaho state line, from 12:00 a.m. January 1 through 6:00 a.m. May 1 of each calendar year."*

The Wyoming Game and Fish Department has requested that the Board amend its existing restriction to the collection of shed antlers and horns, to be consistent with the Commission's revised Chapter 61 Rules.

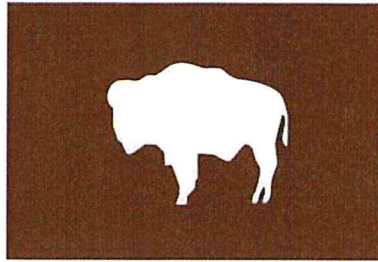
DIRECTOR'S RECOMMENDATION:

The Director recommends that the Board approve the amended restriction to the collection of shed antlers and horns, as described above, by adopting Board Order 2021-1, consistent with W.S. § 36-2-107(b).

BOARD ACTION: Board Approved

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MARK GORDON
Governor

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Director

WYOMING BOARD OF LAND COMMISSIONERS

Board Order 2021-1

February 4, 2021

Re: Amendment to existing restriction to the collection of shed antlers and horns, as approved October 4, 2012, and reaffirmed April 10, 2014

Pursuant to W.S. § 36-2-107, the Wyoming Board of Land Commissioners hereby institutes a closure/restriction to the collection of shed antlers and horns from big game animals on all parcels of land under the jurisdiction of the Board of Land Commissioners west of a line beginning at the Wyoming-Colorado state line at the intersection of U.S. Highway 287, northerly along said highway to U.S. Highway 30-287; northwesterly along said highway to Interstate Highway 80; westerly along said highway to the Pacific Branch of the Continental Divide; northwesterly along said divide to the southern boundary of Yellowstone National Park; westerly along said boundary to the Wyoming-Idaho state line, from 12:00 a.m. January 1 through 6:00 a.m. May 1 of each calendar year. Violation of this order is punishable under W.S. § 36-2-107(b). This Order shall be effective immediately and shall remain in effect until rescinded or amended.

Executed this 9th day of February, 2021.



Mark Gordon, President
Board of Land Commissioners

ACTION: REQUEST CONSIDERATION TO RESTRICT PUBLIC USE OF STATE TRUST LAND FOR SEASONAL ANTLER HUNTING

AUTHORITY: Board of Land Commissioners Rules, Chapter 13, Section 4

CRITERIA:

The Board of Land Commissioners (Board) extends to the public the privilege of using legally accessible state lands for casual recreational day uses, unless otherwise closed by direction of the Board, on its own motion or upon request of the surface lessee. This privilege is only allowed when it will not result in damage to the state land or the roads and improvements thereon. Organized, developed, or commercial recreational use of state lands is prohibited unless it occurs under the provisions of a special use lease issued under Chapter 5 of the Board of Land Commissioner's Rules & Regulations (Board Rules). The Wyoming Game and Fish Department has approached the Board with a proposal to close all lands under the Board's jurisdiction, West of the Continental Divide to antler hunting. The closure is requested to be effective any time from January 1st through April 30th of each year.

GAME AND FISH DEPARTMENT COMMENTS:

The following information has been provided by the Wyoming Game and Fish Department to support their request.

Many western Wyoming big game herds migrate from vast high elevation summer ranges to constricted winter ranges to survive harsh winter conditions. Big game animals that concentrate on winter ranges are frequently subjected to near starvation conditions, and disturbances contribute to additional losses of fat reserves. Disturbances can include wildlife viewing, development activity such as construction or gas exploration or production, off road travel on snowmobiles and ATVs, or even antler hunting.

Winter range activity restrictions have been in place for many years on some National Forest and BLM lands in key winter ranges in western Wyoming, and for decades on various WGFC lands and elk feedground areas.

Over the last decade interest in antler hunting has increased dramatically. With this increased interest came increased human presence on winter ranges, and additional harassment and disturbance of big game animals.

In 2009 the Wyoming Legislature granted the Wyoming Game and Fish Commission the authority to regulate antler hunting in western Wyoming. Subsequently, Chapter 61 of Wyoming Game and Commission Regulations was created and signed by the Commission in November, 2009. The intent for this legislation and regulation was to minimize the harassment and disturbance of wintering big game animals on these critical winter ranges, and is spelled out in the legislation and regulation:

- *W.S.23-1-302 (a) xxxi: The Commission is directed and empowered to regulate and control the collection of shed antlers and horns of big game animals for the purpose of minimizing the harassment or disturbance of big game populations on public lands west of the Continental Divide any time between January 1 and May 1 of each year.*
- *WGFC Chapter 61: Collection of shed antlers and horns:*

Section 3. Purpose. The purpose of this regulation is to minimize the harassment or disturbance of big game animals on their winter and spring

ranges when animals are most vulnerable to physiological stress and displacement to less productive habitats.

(d) "Public Land" means federal lands and lands owned or administered by the Wyoming Game and Fish Commission, excluding Grand Teton National Park, John D. Rockefeller, Jr Memorial Parkway and the National Elk Refuge

Section 5. Collection of Shed Antlers or Horns. No person shall collect shed antlers or horns from big game animals on public land west of the Continental Divide, excluding the Great Divide Basin, from January 1 through April 30 of each calendar year.

Once the new antler hunting regulation took effect it became illegal to collect antlers between January 1 and April 30 throughout western Wyoming on public lands. Lands owned by the State Land Board were not included in the definition of "public land" and therefore antler hunting is currently legal on state land. As the public became aware of this, antler hunting activity has increased significantly on state lands, resulting in enforcement concerns, and harassment and displacement of big game animals in some areas.

In many cases, confusion over the regulation and primarily the definition of "public land" has resulted in public reports of illegal antler hunting because many people are not aware of differing land status and assume antler hunting is illegal in all areas. The general public considers state lands to be public land, and assumes it is closed to antler hunting. Game wardens often respond to calls about illegal antler hunting only to discover someone antler hunting on state land.

Competition among antler hunters results in heavy use of state lands since they are the only lands without any access restrictions during the antler hunting closure. Due to this competition for limited antlers, antler hunters typically use state land as soon as deer begin shedding their antlers. This is at a time when winter conditions have significant effects on wildlife, and any harassment or displacement from these winter ranges can impact overwinter survival. In many cases, land status boundaries are not marked and antler hunters wander onto BLM or USFS lands putting them in violation of the regulation. Sometimes this is accidental, and other times it is intentional.

Enforcement of the antler hunting regulation has proven to be difficult in areas around state land. Some antler hunters often park on state land and walk onto BLM or USFS lands to collect antlers. Unless they are actually caught in the act of antler hunting on closed lands, they have learned that if contacted by a warden to simply state that any antlers in their possession were taken from state lands.

One example of the above issues is on the Rock Creek Winter Range which is located south of Cokeville. U.S. Highway 30 runs south along the western edge of this winter range for 20 miles, then turns east and transects the winter range as it travels through Nugget Canyon toward Kemmerer. There are several large tracts of state land south of Cokeville which are accessible from Highway 30 and reach a considerable distance into the BLM winter range land. The BLM land is covered under the antler regulation, and also is closed to motorized vehicles from January 1 through April 30 to prevent disturbance to wintering wildlife. Antler hunters have increasingly recognized that these state lands present a "loophole" into the closed area. The irregular shape of the state land block makes it difficult for people to know when they are on state land, and also difficult to enforce for both BLM rangers and G&F officers. Wardens have noticed an increase in vehicle traffic on the state land as a result of this activity. Much of this traffic is ORV traffic, and a percentage of this use results in off road travel, which is difficult to enforce. This use has resulted in increased disturbance to big game animals wintering in these areas, especially as compared to the rest of the winter range under antler hunting and vehicle use restrictions.

Similar situations exist throughout western Wyoming, and are expected to increase as the public becomes more aware of this "loophole" in the regulation, and as antler hunting continues to gain popularity. Adding state lands to the definition of public land

would allow wardens to more effectively enforce the antler hunting regulation and would reduce confusion among the public. Most important, it would allow the intent of the antler hunting statute and regulation to be realized, ultimately protecting wintering big game animals from unnecessary harassment and displacement to less suitable ranges.

AGENCY DISCUSSION:

The provisions of W.S. 23-1-302 (a) (xxxi) indicate that the Wyoming Game and Fish Commission has authority to regulate antler collection on “Public Lands” west of the Continental Divide any time between January 1st through April 30th of each year. The Commission appropriately did not include State Trust Lands in the definition of “Public Lands”, as only the Board can authorize such a closure.

It is important to note that antler collection produces no revenue for the Trust. However, the Game and Fish Department has encountered enforcement issues since 2009, in terms of antler hunting on State Trust Lands. Regulating the closure on all other lands while State Trust Lands remain open for collection costs the Department time and money and makes enforcement efforts on public lands more difficult.

By seeking this action the Game and Fish Commission has recognized the Board’s authority and control over its lands. Additionally, this action reinforces the fact that State Trust Lands are not public lands and should not be treated as such.

By providing the requested closure, the Board would be extending protection to wildlife during a very sensitive time. The closure would have a positive overall effect on State resources while having absolutely no negative impact on revenue generation for the Trust.

DIRECTOR’S RECOMMENDATION:

The Director recommends that the Board of Land Commissioners approve restrict antler hunting on all parcels of land under the jurisdiction of the Board of Land Commissioners West of the Continental Divide, excluding the Great Divide Basin, from January 1 through April 30 of each calendar year to coincide with legislation and Game and Fish Commission rules as described.

BOARD ACTION: **Board Approved**

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MATTHEW H. MEAD
Governor

BRIDGET HILL
Director

WYOMING BOARD OF LAND COMMISSIONERS

Board Order 2014-1

April 10, 2014

Re: Reaffirming existing seasonal antler hunting restriction, pursuant to Board Matter C-1, April 10, 2014

By the authority legislatively vested in the Board to care for and protect state lands, and also in consideration of public health and safety on those lands, the Board has at its regular meeting on October 4, 2012 implemented the restriction of antler hunting on all parcels of land under the jurisdiction of the Board of Land Commissioners West of the Continental Divide, excluding the Great Divide Basin, from January 1 through April 30 of each calendar year. By this Order, the Board reaffirms this land-use restriction.

This Order shall be effective immediately and shall remain in effect until amended.

Executed this 16 day of April, 2014.

A handwritten signature in blue ink, appearing to read 'Matthew H. Mead', is written over a horizontal line.

Matthew H. Mead, President
Board of Land Commissioners