

March 14, 2022

[Via Federal eRulemaking Portal](#)

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
West Building, Room W12-140
1200 New Jersey Ave. SE
Washington, DC 20590

Re: Comments on Wildlife Crossing Pilot Program, *Infrastructure and Investment Jobs Act Request for Information*, Docket No. FHWA-2021-0021

Dear Secretary Buttigieg:

The undersigned hunting, fishing and conservation organizations submit the following comments on the pending Request for Information (RFI) on the *Infrastructure Investment and Jobs Act*, also known as the *Bipartisan Infrastructure Law* (BIL), specific to implementation of the Wildlife Crossing Safety Pilot program (“pilot program”). The BIL provides a critical infusion of resources to advance infrastructure solutions that recognize the value of natural systems and enhanced climate resilience. Our organizations fought hard in Congress for programs like the pilot program that represent a paradigm shift in infrastructure innovations and recognize that the nation’s infrastructure systems must be better integrated with our natural systems.

Our organizations and membership are well aware of the need for infrastructure that saves human lives and individual wildlife by reducing wildlife-vehicle collisions (WVCs.) The *Wildlife-Vehicle Collision Reduction Study* estimates that collisions between motorists and wildlife have increased by 50% over the most recently reported 15-year period, at a cost to Americans of more than 200 lost human lives, 26,000 human injuries and more than \$8 billion per year (\$2007)¹. That same report estimates that 1-2 million large animals are killed every year in these collisions.

Wildlife crossing infrastructure can also benefit wildlife populations more broadly by allowing for the unimpeded movement of wildlife to access habitats critical to survival. Research and data clearly document how wildlife move across the landscape to access habitats that are essential to meet different lifecycle needs. For example, all across the Western U.S., herds of elk, mule deer, pronghorn, big horn sheep, moose, bison – even caribou and musk ox – make seasonal migrations year after year, passing down generation to generation the same routes and movement patterns that provide critical pathways to travel between important summer and winter habitats. As human populations grow and corresponding traffic volumes increase, investing in wildlife crossing structures for roadways maintains wildlife movements that are necessary for preserving robust wildlife populations. The conservation of wildlife corridors directly supports a broad range of species and builds more climate resilient ecosystems as intact migration corridors allow wildlife populations to not only move seasonally, but to also move and adapt to changing habitat conditions over time. Given these benefits, the Biden Administration’s May 2021 report

¹ Huijser, M. P., J. W. Duffield, A. P. Clevenger, R. J. Ament, and P. T. McGowen. 2009. Cost–benefit analyses of mitigation measures aimed at reducing collisions with large ungulates in the United States and Canada; a decision support tool. *Ecology and Society* 14(2): 15. [online] URL: <http://www.ecologyandsociety.org/vol14/iss2/art15/>

Conserving and Restoring America the Beautiful prioritizes efforts to “expand collaborative conservation of fish and wildlife habitats and corridors.”

We applaud the creation of the pilot program and support the appropriation of \$350 million in federal funding for projects aimed at reducing WVCs, while also conserving migration corridors and improving habitat connectivity. This dedicated funding is necessary to support construction of projects that have been in assessment, planning and design phases for years. The funding should also be used to catalyze new projects in states and jurisdictions that have not yet had the resources to begin the lengthy planning process that these projects require. Wildlife infrastructure, including crossings that move animals safely over or under our busy highways, has been shown to reconnect habitats, restore wildlife movement and improve motorist safety by reducing crashes involving wildlife by up to 97%²³. Location-specific monitoring studies demonstrate how road infrastructure can be an impenetrable barrier to wildlife movement. Connecting habitats and facilitating wildlife movement by building highway crossing infrastructure enables species to migrate, access resources for survival, and better adapt to changing landscapes and climate⁴.

Several Western states, for example, have made progress over the years through partnerships between state departments of transportation and wildlife agencies, along with NGOs and others, to collect WVC data and prioritize and plan for wildlife crossing infrastructure needs. The states of [Colorado⁵](#), [Utah⁶](#) and [Wyoming⁷](#), for example, have made their priorities public and are making progress on projects as funding allows. With investment from the pilot program, other states could collect the same data, apply similar methodologies, and develop strategic planning priorities for wise investment of transportation funds into the future.

As the Department of Transportation (“Department”) implements the intent of the BIL and creates this first-ever pilot program, we urge you to broadly interpret the “Wildlife Crossings Pilot Program” in § 11123 (23 USC § 171), to maximize the ability of Federal land management agencies, Tribes, States, local governments and other eligible entities to compete for these innovative funds. We offer the recommendations below to ensure that this pilot program is successful and directs funding to the best projects – those capable of achieving the greatest reduction in WVCs while optimizing the re-connection of habitats severed by roads.

The definition of a “project” should include all phases of development necessary to result in a constructed wildlife crossing structure.

Section 171(b) of the new pilot program states that the “Secretary shall establish a competitive wildlife crossings pilot program . . . to provide grants for projects that seek to achieve (1) a reduction in the number of wildlife-vehicle collisions; and (2) in carrying out the purpose described in paragraph (1), improved habitat connectivity for terrestrial and aquatic species”⁸. Section 171(f)(1), entitled “Use of

² Id.

³ Robert Ament, Sandra Jacobson, Renee Callahan, and Marta Brocki, Ed. 2021. Highway Crossing Structures for Wildlife: Opportunities for Improving Driver and Animal Safety. U.S> Department of Agriculture, Forest Service. General Technical Report PSW-GTR-271. <https://arc-solutions.org/wp-content/uploads/2021/07/ARC-Solutions-Highway-Crossing-Structures-for-Wildlife.pdf>.

⁴ Id.

⁵ <https://www.coloradowta.com/prioritization-studies/>.

⁶ <https://wildlifemigration.utah.gov/land-animals/crossing-structures/>.

⁷ <https://wgfd.maps.arcgis.com/apps/MapSeries/index.html?appid=ef666ba292b74c56a339efc10fca5332>.

⁸ 23 USC § 171(b).

Funds,” similarly states that “[i]n general—[t]he Secretary shall ensure that a grant received under the pilot program is used for a project to reduce wildlife-vehicle collisions”⁹.

We recommend that the Department proactively confirm that a “project” eligible for funding under the pilot program includes any other work or activity that would ordinarily precede development of a successful “shovel-ready” wildlife crossing project, including wildlife-vehicle crash and carcass data collection/initiatives and “hot spot” analyses, as well as project-related pre-planning, pre-engineering and pre-design. A more inclusive definition than “shovel ready” will help ensure that both rural and urban projects from across the nation will be eligible to compete for these scarce wildlife safety dollars, regardless of whether the applicant is seeking funds to build a community’s first wildlife crossing structure, or funds to stand up a data collection initiative aimed at identifying the community’s highest mitigation priorities. A broader definition of eligible projects would ensure underserved and rural communities in particular have the resources needed in Years 1-3 of the program to develop the plans and project needs required to fully utilize Years 4-5 of funding.

The Department should use its discretion to ensure that any non-Federal match requirement be applied equitably.

Congress expressly tethered the likelihood of a proposed crossing project being selected to its ability to “leverage Federal investment by encouraging non-federal contributions to the project.” The ability to leverage Federal funds is not equivalent to an express requirement to apply the default non-Federal share/match rules. Thus, a review of this plain language confirms that Congress did not intend for default match requirements in 23 USC § 120(b) to apply to the pilot program. It would be appropriate to replace the default non-Federal match requirement with a more nuanced approach that considers not only the proposed project’s ability to deliver non-Federal contributions, but also other novel project elements, such as the ability of the project to support local economies, strategically advance broader planning priorities, deploy innovative technologies and design, and to provide education, outreach, monitoring and research opportunities.

Whether as a matter of law, or through the discretion of the Secretary, the Department should consider applying any non-Federal match *requirement* very carefully to ensure equitable access for a variety of eligible applicants. Non-Federal match requirements can be especially difficult for rural and underserved communities and Tribes to satisfy. In addition, rural and underserved communities and Tribes are often located in areas with robust wildlife populations that correspond with the highest incidence of WVCs. We strongly support a broad-brush approach to waiving match requirements in order to expedite project delivery and ensure funding benefits rural and underserved communities in equal measure to those communities able to contribute non-federal match.

As an additional matter of equity, we recommend expressly that no non-Federal match be required for projects proposed by Tribes. Given that tribal governments are chronically and severely underfunded, it is both unreasonable and unjust to expect a tribal applicant to produce the same level of matching funds for a pilot program project proposal as other applicants with access to far greater financial resources. Exempting Tribes from any matching fund requirement would ensure alignment with the diversity, equity, and inclusion principles undergirding the Biden administration’s – and specifically the Department’s – approach to revitalizing our nation’s infrastructure.

⁹ 23 USC § 171(f)(1).

Conclusion

Given the magnitude of the risk to both human safety and wildlife caused by WVCs – coupled with the ability to immediately invest in highly-effective mitigation solutions – we urge the Department to implement the pilot program as expeditiously as is possible. We welcome the opportunity to partner with you to ensure this pilot program is effective at making roadways safer for people and wildlife, while improving habitat connectivity across our nation’s vast highway network.

Sincerely,

American Fly Fishing Trade Association

Angler Action

Archery Trade Association

Backcountry Hunters & Anglers

Delta Waterfowl

Ducks Unlimited

Fly Fishers International

International Game Fish Association

Izaak Walton League of America

Mule Deer Foundation

National Deer Association

National Wild Turkey Federation

National Wildlife Federation

The Nature Conservancy

North American Grouse Partnership

Orion: The Hunter’s Institute

Theodore Roosevelt Conservation Partnership

Union Sportsmen’s Alliance

The Wildlife Society