

**BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO**

IN THE MATTER OF CHANGES TO THE ) CAUSE NO. 1R  
RULES AND REGULATIONS OF THE OIL )  
& GAS CONSERVATION COMMISSION ) DOCKET NO. 200600155  
OF THE STATE OF COLORADO )  
) TYPE: RULEMAKING

**AFFILIATED LOCAL GOVERNMENT COALITION’S and GUNNISON COUNTY’S  
RESPONSE TO OCTOBER 9 DRAFT 1200 SERIES RULES**

Boulder County, the City of Lafayette, the City and County of Broomfield, the Town of Erie, the City of Fort Collins, the City of Longmont and the Northwest Colorado Council of Governments by and through its Water Quality/Quantity Committee (NWCCOG/QQ), participating as the Affiliated Local Government Coalition (the “ALGC”), together with Gunnison County, a separate party, by the undersigned, submit their Response to October 9 Draft 1200 Series Rules for the above-captioned proceeding (“Mission Change Rulemaking.”).

The ALGC and Gunnison County reiterate and incorporate by reference their comments on the 1200 Series in their Pre-Hearing Statement and its attached redline and their Response to Pre-Hearing Statements. Virtually none of the ALGC’s and Gunnison County’s comments are incorporated in the October 9 draft.

In particular, Relevant and Proximate Local Governments still are not included in the Rule 309 consultation. We request involvement despite the fact that many local governments will address wildlife impacts in their local processes. Many local governments have significant expertise and more granular, up-to-date information on wildlife resources in their jurisdictions that would be of significant benefit to COGCC and to CPW in making their recommendations on

applications. In other words, local governments' involvement in consultations would assist COGCC, as well as the operator, consistent with the state-local collaboration COGCC has infused throughout the new rules.

In addition, the ALGC and Gunnison County question the addition of Restricted Surface Occupancy and Sensitive Wildlife Habitat to the definitions. Those terms are not used in the 1200 Series rules anywhere. The October 9 draft SBP still says these definitions have been removed. Given the two different lists of habitat types already existing in Rule 1202, the addition of two new lists that are not actually applied in the rules only adds to the potential for confusion.

The new Rule 1202.a(8) discusses procedures for migratory birds' nesting areas. Vegetation removal is prohibited in the nesting season in those areas, which we appreciate. However, we do not support the alternative method of hazing in nesting areas rather than observing timing restrictions. Hazing can catastrophically disturb birds' breeding behavior; for example, if birds are already brooding when hazing occurs, they are likely to lose that clutch of eggs and a full years' reproduction. We urge the elimination of hazing as an alternative.

In addition to our earlier specific recommendations on the Rule 1202.c listing of HPH, we recommend adding the Preble's Meadow Jumping Mouse, a federally-listed threatened species present in Colorado. We also support the Rule 510 Statement submitted by Gunnison County urging expansion of the buffer zone for the Gunnison-Sage grouse.

We also recommend adding requirements in Rule 1202.a to protect the tops of open pipes or similar devices to prevent wildlife from nesting or perching on or falling into them.


We earlier suggested addition of language to the Rule 1203.b Compensatory Mitigation Plan section giving the Director the express authority to request amendment of an inadequate plan. That suggestion was not incorporated. As stated, the rules do not indicate the purpose of the Compensatory Mitigation Plan. We recommend clarifying how the Director or Commission will use the plan, and what steps apply if a submitted plan does not meet the letter or intent of the rule.

#### IV. WITNESS LIST


1. Therese Glowacki, Manager, Resource Management Division, Boulder County Parks and Open Space. Ms. Glowacki will testify to specific protections necessary for wildlife resources.
2. Kristan Pritz, Director of Open Space and Trails, City and County of Broomfield. Ms. Pritz will testify to land use and practical considerations necessary to the protection of wildlife resources.

**RESPECTFULLY SUBMITTED** this 4th day of November, 2020.

#### **BOULDER COUNTY, COLORADO**

By:   
Katherine A. Burke, Atty. Reg. #35716  
Assistant County Attorney

*Attorney for Boulder County, Colorado*

By:   
Kimberly Sanchez  
Deputy Director – Planning and LGD  
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#### **CITY OF LAFAYETTE, COLORADO**

By: /s/ Elizabeth Paranhos

Elizabeth Paranhos, Atty. Reg. #39634  
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*Attorney for City and County of Broomfield,  
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**CITY AND COUNTY OF BROOMFIELD,  
COLORADO**

By:     /s/ Elizabeth Paranhos      
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**CITY OF FORT COLLINS**

By:     /s/ Kelly Smith      
Kelly Smith, PLA  
Senior Environmental Planner  
[City of Fort Collins](#)

**TOWN OF ERIE**

By:     /s/ Barbara Green      
Barbara Green  
Sullivan Green Seavy

*Attorney for Town of Eri*

**CITY OF LONGMONT**

By:     /s/ Eugene Mei      
Eugene Mei, City Attorney

**NORTHWEST COLORADO COUNCIL  
OF GOVERNMENTS**

By:     /s/ Barbara Green      
Barbara Green

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*Attorney for Northwest Colorado Council  
of Governments*

**GUNNISON COUNTY**

By: /s/ David Baumgarten  
David Baumgarten  
Gunnison County Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **AFFILIATED LOCAL GOVERNMENT COALITION'S and GUNNISON COUNTY'S RESPONSE TO OCTOBER 9 DRAFT 1200 SERIES RULES** was served electronically, this 4th day of November, 2020, to the following:

[DNR\\_COGCC.Rulemaking@state.co.us](mailto:DNR_COGCC.Rulemaking@state.co.us)

                  /s/ Kate Burke