WILDLIFE PROTECTIONS AND OIL & GAS RULES:
A New Approach to Ensuring Wildlife Protections in Colorado

WESTERN RESOURCE ADVOCATES
PROTECTING THE WEST’S LAND, AIR, AND WATER
Reminders

Time

Questions

Recording
OUR MODERATOR

Joro Walker
General Counsel
Western Resource Advocates
ABOUT OUR PANELISTS

Jessica Sushinsky
President
Wild Space Conservation

Priya Nanjappa
Commissioner
Colorado Oil & Gas Conservation Commission

Taylor Elm
NW Regional Energy Liaison
Colorado Parks and Wildlife
Mapping oil and gas development disturbance across Colorado to inform wildlife protection

Jessica R. Sushinsky
Species and habitats have declined and degraded across Colorado.
Over the last 10 years, an average of 1,980 new oil and gas wells have been drilled per year in Colorado.
To protect species and habitats from the impacts of oil and gas development areas which are intensely disturbed must be identified.
The amount of land disturbed by oil and gas development can be used as an indicator of the impact of development on species and habitats.
I quantified disturbance due to oil and gas development across Colorado as the area of land disturbed per game management unit in 2019.
We have the tools to protect and restore Colorado’s diverse and valuable species and habitats.
COGCC Wildlife Series Rules and Public Engagement

WRA Webinar

21 July 2021
Who are we and what do we do?

- **Commission:**
  - 5 full-time Commissioners with particular expertise to bear on COGCC decisions:
    - Priya Nanjappa - Environment/Wildlife
    - John Messner - Local Government/Land Use Planning
    - Karin McGowan - Public Health
    - Bill Gonzales - Oil & Gas
    - Jeff Robbins, Chair - Policy & Decision-making Expertise
  
- 2 ex officio, non-voting members:
  - Dan Gibbs, DNR
  - Shaun McGrath, CDPHE
Who are we and what do we do?

- **Organization:**
  - 140 Staff Members
  - Leadership Team organized by discipline:
    - Deputy: Scott Cuthbertson
    - Environmental: Greg Deranleau
    - Permitting: Jane Stanczyk
    - Engineering: Dave Andrews
    - Field: Mike Leonard
    - Regulatory: Mimi Larsen
    - Communications: Megan Castle
    - Budget: Jarrett Ellis

- **Directive:**
  - to regulate oil and gas development “in a reasonable manner to protect and minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources and shall protect against adverse environmental impacts on any air, water soil, or biological resources resulting from oil and gas operations.”
Overview of SB 19-181

- Governor Polis signed SB 19-181 on April 16, 2019
  - Reconstituted the Commissioners (twice)
  - Set a new mission for the COGCC = “Mission Change”
    - From “foster” to “regulate” oil and gas development
    - Prioritizes public health, safety, welfare, the environment, and wildlife resources
  - Created new local government authority over surface impacts & siting
  - Directed COGCC to undertake numerous rulemakings
  - Next up: Financial Assurance (Sept 2021 - Feb 2022)
Day-to-Day Operations

- New rules implemented as of January 15, 2021

- Siting: Form 2As (Oil & Gas Development Plan, OGDP)
  - Surface location, number of wells
  - Co-equal authority with local government
  - Coordination with federal government
  - Must consider:
    - Cumulative impacts (Rules 303 and 304)
    - Impacts to wildlife resources (Wildlife Protection/Wildlife Mitigation Plans)

- Mineral Development: Form 2s (Application for Permit to Drill)

- Inspections, Enforcement, Remediation, Reclamation
1200 Series Wildlife Rules

- Relationship to other Rule Series
  - 300 Series (Permitting Process, cont’d)
    - Alternative Location Analysis (Rule 304.b.2.B)
      - Any location proposed within:
        - 2000 ft of a school, residence, DI Community
        - a floodplain,
        - a surface water supply area,
        - High Priority Habitat,
        - a wetland or riparian corridor (or immediately up-gradient)
1200 Series Wildlife Rules

- Key Concepts
  - Mitigation Hierarchy:
    - Avoid → Minimize → Mitigate
  - Landscape level planning:
    - Wildlife Protection Plans
    - Wildlife Mitigation Plans
    - Comprehensive Area Plans (CAPs)
1200 Series Wildlife Rules

- Key Concepts
  - Early consultation with CPW encouraged
  - CPW may request consultation outside of HPH
    - Defer to CPW on wildlife
  - High Priority Habitat (Rule 1202. c,d)
    - Substitution for Restricted Surface Occupancy and Sensitive Wildlife Habitat
1200 Series Wildlife Rules

● Opportunities to provide comment

  – Weekly Public Hearings

  – Comment on Pending Form 2As/OGDPs
    • See Guide provided with webinar

  – Complaints process for active sites
Additional upcoming tasks:

- Biological Resources Working Group
  - Broad group of stakeholders
  - Considering terms, identifying data sources
  - Recommendations due **15 January 2022**

- Riparian Areas Technical Working Group
  - CPW and COGCC staff
  - Identifying data sources, mapping

Photo by Ryan Fitzpatrick
ACKNOWLEDGEMENTS - **THANK YOU!**

- Brett Ackerman

- **Energy Liaisons:**
  - Jon Holst (formerly SW)
  - Dr. Karen Voltura (SE)
  - Brandon Marrette (NE)
  - Taylor Elm (NW)

- **Land Use Specialists:**
  - Brian Magee (new SW liaison)
  - Dani Neumann
  - Elissa Slezak

- **Terrestrial Specialists:**
  - Brad Banulis
  - Dr. Chuck Anderson

- **Aquatic Specialists:**
  - Josh Nehring
  - Dr. George Schisler

- **COGCC Staff:**
  - Director Julie Murphy
  - Greg Deranleau, Mimi Larsen,
    AAG Caitlin Stafford, John Noto,
    Dave Kubeczko, Melissa Housey,
    Sabrina Trask, Dr. Denise Arthur,
    & many more!

AND all who provided comment during rulemaking!
1200 Series Rules & CPW Consultations

Wildlife Protections in the 1200 Series and How CPW Works with COGCC and Industry
CPW’S ROLE IN LAND USE IS TO PROVIDE INPUT TO REGULATORY AGENCIES

- **ASSESS** impacts to wildlife, habitat, and recreational opportunities from individual development proposals and land use planning efforts

- **RECOMMEND** measures to *avoid, minimize, and mitigate* impacts to wildlife

- **COORDINATE** implementation of mitigation efforts to offset impacts from development activities
NW Region
ENERGY LIAISON
- Taylor Elm
LAND USE SPEC.
- Elissa Slezak
- Dani Neumann

SW Region
ENERGY LIAISON
- Brian Magee
LAND USE COORD.
- VACANT

NE Region
ENERGY LIAISON/
LAND USE COORD.
- Brandon Marette

SE Region
ENERGY LIAISON/
LAND USE COORD.
- Karen Voltura
NEW 1200 SERIES: PROTECTIONS FOR WILDLIFE

- Expanded No Surface Occupancy (NSO) Protections
  - Lek buffer distances (Sage-Grouse & Lesser Prairie Chickens)
  - Aquatic (stream & river) Setbacks

- Additional High Priority Habitats (HPH) in Regulations
  - 50 HPH layers  (29 Previously)
  - Many more than 50 species incorporated

- More robust statewide operating requirements for wildlife
  - Rule 1202. a & b

- Mandatory compensatory mitigation for Direct & Indirect Impacts
  - Within a subset of HPH (Rule 1203.d. habitats)
What are High Priority Habitats?

Typically these are areas necessary for wildlife species to survive and reproduce in order to maintain the persistence of those species.

To be designated as HPH, CPW needs two things:

1. Good spatial data to delineate the habitat
2. Science-based recommendations to avoid, minimize, and mitigate impacts to the species and/or habitat.

Link to CPW’s HPH Document
# Colorado Parks and Wildlife’s (CPW) Recommendations to Avoid and Minimize Impacts to Wildlife from Land Use Development in Colorado

<table>
<thead>
<tr>
<th>Species and Associated High Priority Habitat</th>
<th>Recommendations (by animal type - Big Game, Grouse, Raptors, Other Birds, Small Mammals, Aquatics)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Big Game</strong></td>
<td>* COGCC's online GIS web map tool.</td>
</tr>
<tr>
<td>Bighorn Sheep Migration Corridor</td>
<td>CSU/SSR - Surface density limitation of one pad per square mile and less than one linear mile of routes per square mile (640 acres). If pad or route density cannot be achieved or maintained, implement offsite mitigation to offset functional habitat loss.</td>
</tr>
<tr>
<td>Bighorn Sheep Production Area</td>
<td>NSO/NGD (year-round) in CPW-identified bighorn sheep production areas; TL - No permitted or authorized human activities (including overflights) from April 15 to June 30 (Rocky Mountain Bighorn Sheep) or from February 1 to May 1 (Desert Bighorn Sheep).</td>
</tr>
<tr>
<td>Bighorn Sheep Winter Range</td>
<td>TL - No permitted or authorized human activities (including overflights) from November 1 to April 30; CSU/SSR - Surface density limitation of one pad per square mile and less than one linear mile of routes per square mile (640 acres). If pad or route density cannot be achieved or maintained, implement offsite mitigation to offset functional habitat loss.</td>
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<td>Elk Migration Corridor</td>
<td>CSU/SSR - Surface density limitation of one pad per square mile and less than one linear mile of routes per square mile (640 acres). If pad or route density cannot be achieved or maintained, implement offsite mitigation to offset functional habitat loss.</td>
</tr>
<tr>
<td>Elk Production Area</td>
<td>TL - No permitted or authorized human activities from May 15 to June 30; CSU/SSR - Surface density limitation of one pad per square mile and less than one linear mile of routes per square mile (640 acres). If pad or route density cannot be achieved or maintained, implement offsite mitigation to offset functional habitat loss.</td>
</tr>
<tr>
<td>Elk Severe Winter Range</td>
<td>TL - No permitted or authorized human activities from December 1 to April 30; CSU/SSR - Surface density limitation of one pad per square mile and less than one linear mile of routes per square mile (640 acres). If pad or route density cannot be achieved or maintained, implement offsite mitigation to offset functional habitat loss.</td>
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<td>Elk Winter Concentration Area</td>
<td>TL - No permitted or authorized human activities from December 1 to April 30; CSU/SSR - Surface density limitation of one pad per square mile and less than one linear mile of routes per square mile (640 acres). If pad or route density cannot be achieved or maintained, implement offsite mitigation to offset functional habitat loss.</td>
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<td>Mule Deer Migration Corridor</td>
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HPH in the 1200 Series:

**NSO Habitats:**
- Grouse Lek Sites
- Raptor Nest Sites
- Least Tern Production
- Piping Plover Production
- Bat Hibernacula
- Bighorn Sheep Production

**Density & Mitigation Habitats:**
- Migration Corridors
- Severe Winter Ranges
- Winter Concentration Areas
- Elk & BHS Production Areas
- Grouse and Prairie Chicken Production
  *(including GrSG Priority Habitat Areas)*

**CPW Consult Only:**
- All Remaining HPH Layers & Federally Listed T&E Species

**Gold Medal Waters**
- Cutthroat Trout Crucial Habitat
- Native Fish & Native Aquatic Species
- Sportfish Management Waters

**CPW-owned State Wildlife Areas**
CPW CONSULTATIONS

CPW receives opportunity to consult on new oil and gas locations within High Priority Habitats (HPH)

* We receive notice of ALL new proposed oil and gas developments
CPW CONSULTATIONS (Cont.)

- 60 Days to Complete the Formal Consultation
- We work with: Operator, COGCC Staff, Landowner, & Local Gov’s
- Steps of Consultation:
  1. **Pre-consultation** – oftentimes work with operator early to plan development
  2. Alternative Location Analysis – explore less impactful locations
  3. Best Management Practices (BMPs) to reduce impacts
  4. Compensatory Mitigation to Offset Unavoidable Adverse Impacts
- CPW communicates with COGCC in many ways along the process...

→ Lastly, CPW makes **RECOMMENDATIONS** to COGCC Commission & Director
Ongoing Tasks...

- Compensatory Mitigation Program
  - Database for tracking and reporting of mitigation projects completed
  - Habitat planning and prioritization process within oil and gas basins
- Migration corridors and pinch point mapping
  - Continued identification and mapping of big game migration corridors and pinch point areas
A Huge Thanks from CPW to...

- COGCC Commissioners
- Director Murphy
- Greg Deranleau
- OGLA Specialists
- GIS staff
- And all of the stakeholders during 1200 series rulemaking!
Questions?
Watch your inbox for:

- Webinar recording
- Link to presentation slides
- Link to resources