COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE

FY 2009-10 STAFF BUDGET BRIEFING

DEPARTMENT OF NATURAL RESOURCES

(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision

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FY 2009-10 BUDGET BRIEFING
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE

DEPARTMENT OF NATURAL RESOURCES

(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

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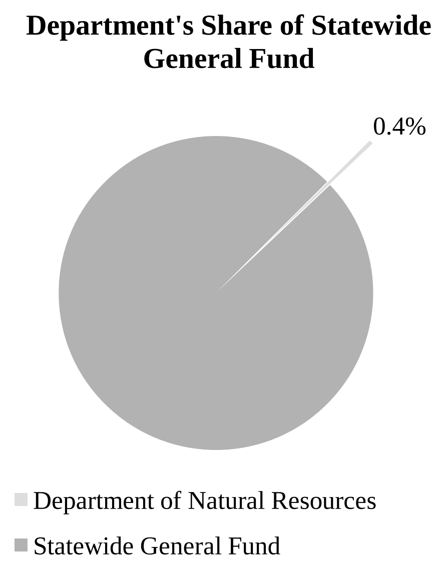
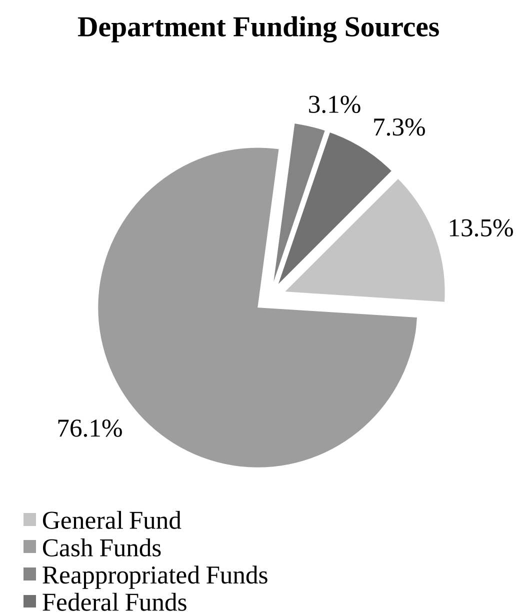
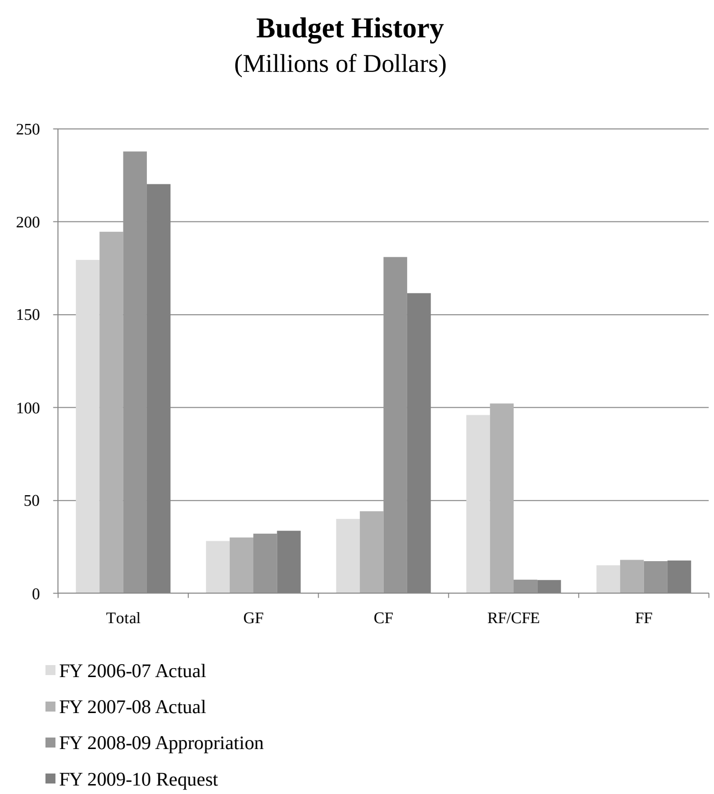
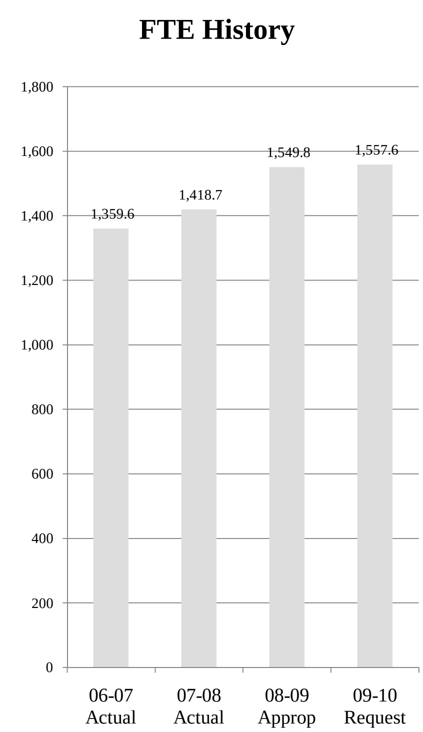


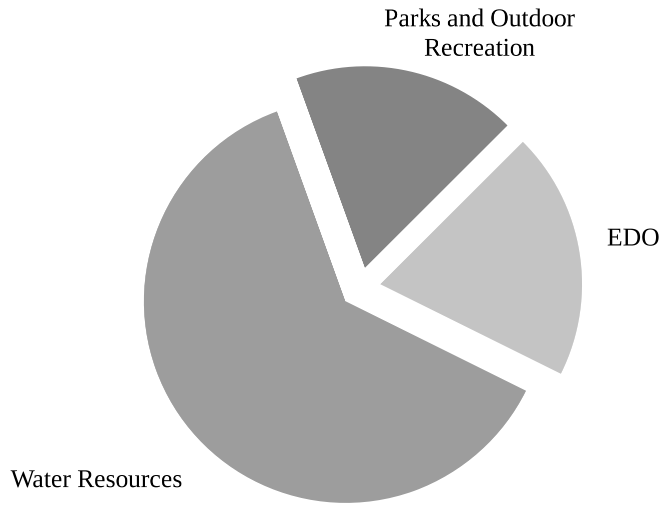




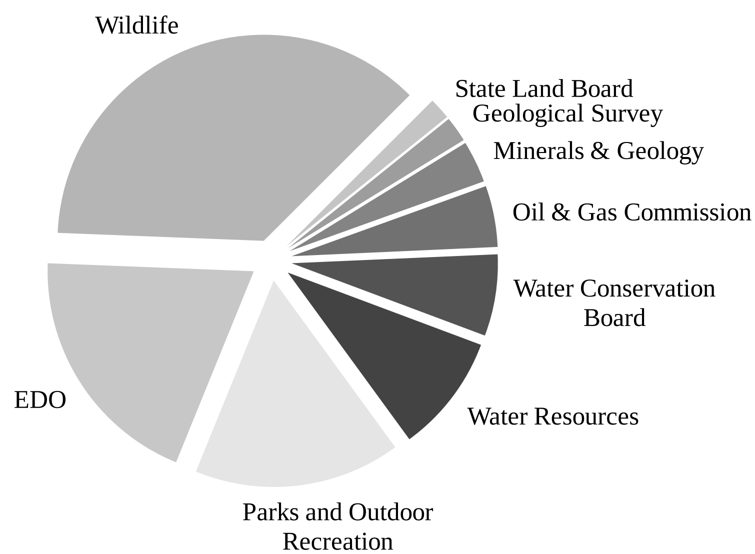


Unless otherwise noted, all charts are based on the FY 2008-09 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



FY 2009-10 Joint Budget Committee Staff Budget Briefing
Department of Natural Resources
(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

DEPARTMENT OVERVIEW

Key Responsibilities

- The **Division of Reclamation, Mining, and Safety** regulates the development and reclamation of mining sites.
- The **Colorado Geological Survey** seeks to enhance the economic vitality of the state, protect citizens from adverse conditions and to provide information using geological tools.
- The **Oil and Gas Conservation Commission** promotes responsible development of oil and gas.
- The **State Board of Land Commissioners** manages state-owned lands for agriculture, minerals development, and commercial purposes, to benefit public schools and other trust beneficiaries.
- The division of **Parks and Outdoor Recreation** manages 40 established state parks, three park projects, and various recreation areas.
- The **Colorado Water Conservation Board** promotes conservation of the state's water resources to ensure maximum use and flood prevention.
- The **Water Resources Division** ("State Engineer's Office") administers and enforces water rights throughout the state.
- The **Division of Wildlife** manages the state's 960 game and non-game wildlife species through the issuance of hunting and fishing licenses, the enforcement of wildlife regulations, and the administration of more than 250 state wildlife areas.

Factors Driving the Budget

Funding for the entire department consists of 13.5 percent General Fund, 76.1 percent cash funds, 3.1 percent reappropriated funds, and 7.3 percent federal funds.

Severance Tax (Operational Account) Expenditures

Section 39-29-108 (2), C.R.S., provides that 50 percent of severance tax revenues are credited to the Severance Tax Trust Fund and 50 percent of the revenues are used by the Department of Local Affairs for grants and distributions to local governments impacted by mining activities. Of the revenue credited to the Severance Tax Trust Fund, 50 percent is allocated to the Perpetual Base Account of the Severance Tax Trust Fund (or 25 percent of total severance tax revenues), which is used by the Colorado Water Conservation Board for water construction projects. The other 50 percent of Severance Tax Trust Fund revenues (or 25 percent of total severance tax revenues) is allocated to the Operational Account to fund programs that "promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water."

Historically, severance tax revenues have been highly variable. The available severance tax revenues to the Operational Account influences the funding levels for many programs in the Department. House Bill 08-1398 divided programs funded from the Operational Account into two tiers. The tier 1 programs support the day-to-day operations of the Department of Natural Resources, including paying salaries for employees. The tier 2 programs support grants, loans, research, and construction. The required reserve for tier 1 programs was reduced from twice the annual appropriations to one times the appropriations. A new reserve requirement was established for tier 2 programs equal to 15 percent of the authorized expenditures. The distribution of funding for tier 2 programs is staggered with 40 percent released July 1, 30 percent released January 4, and the final 30 percent released April 1. Tier 2 programs are subject to proportional reduction if mid-year revenue projections indicate there are insufficient funds.

	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Estimate	FY 09-10 Estimate
Beginning balance	$18,149,884	$25,399,591	$50,851,610	$40,012,876	$46,588,101	$54,476,805
Revenues	36,555,003	64,468,852	33,312,271	39,367,947	73,472,500	49,327,500
Total available	$54,704,887	$89,868,443	$84,163,881	$79,380,823	$120,060,601	$103,804,305
Tier 1 Programs	6,205,296	7,167,084	8,669,679	9,715,887	14,970,997	14,494,842
Tier 2 Programs	23,100,000	31,849,749	35,481,326	23,076,835	50,612,799	39,601,072
Ending balance	25,399,591	50,851,610	40,012,876	46,588,101	54,476,805	49,708,391
Reserve	12,410,592	26,896,272	28,864,470	32,431,774	22,450,835	20,435,003
Unobligated	12,988,999	23,955,338	11,148,406	14,156,327	32,025,970	29,273,388

State Board of Land Commissioners

The State Board of Land Commissioners (State Land Board) manages properties for eight trusts set up in either the Colorado Constitution or in statute. By far the largest trust managed by the State Land Board is the Public School Trust (School Trust). Approximately 98 percent of the revenue generated by the State Land Board is attributable to the School Trust.

Pursuant to H.B. 08-1335 (known as the BEST bill) 35 percent of the gross amount of income received during the fiscal year from income, mineral royalties, and interest derived from state public school lands is deposited in the Public School Capital Construction Assistance (PSCCA) Fund. Up to $11 million may be appropriated in the School Finance Act. Any remaining revenue is deposited in the Public School Fund (the Permanent Fund) or reinvested by the State Land Board to purchase other lands.

SCHOOL TRUST REVENUE	FY03-04 Actual	FY04-05 Actual	FY05-06 Actual	FY06-07 Actual	FY07-08 Actual
School Trust-Total Revenues	$36,445,680	$53,771,940	$63,868,553	$61,151,881	$69,495,847
Mineral Rental	986,720	1,253,324	1,751,130	1,614,907	2,023,401

	FY03-04	FY04-05	FY05-06	FY06-07	FY07-08
Mineral Royalties/Bonuses	24,517,032	40,121,204	50,399,909	46,715,425	53,105,648
Surface Rental	6,793,722	7,988,701	8,009,916	8,371,449	8,819,293
Commercial/Other	3,937,968	4,033,546	3,478,051	3,259,564	5,172,228
Land Sales	25,054	75,707	11,286	60,021	4,085
Interest and Penalties	106,389	149,153	126,634	16,694	315,960
Timber Sales	78,795	150,305	91,627	1,113,821	55,232

Increase in Oil and Gas Activity

The Colorado Oil and Gas Conservation Commission (OGCC) is responsible for promoting the exploration, development, and conservation of Colorado's oil and natural gas resources. Colorado has experienced a significant increase in oil and gas drilling activity, which has dramatically affected the Colorado Oil and Gas Conservation Commission's workload and necessary expenditures with which to respond to the rising needs.

Oil and Gas Conservation Commission	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Actual	FY 07-08 Estimate	FY 08-09 Estimate
Workload Activity						
Drilling Permits Received	3,847	5,829	6,664	7,661	8,000	8,000
Number of Active Wells	28,032	30,324	32,021	35,686	39,400	43,400
Active Drilling Rigs	63	83	97	113	114	114
OGCC Expenditures[1/]	$3,623,183	$3,977,718	$6,067,702	$6,533,355	$11,312,474	$9,766,711
Total FTE	35.3	38.0	43.4	53.0	76.0	80.0

[1/] Division-only expenditures include all fund sources; does not include centrally appropriated items funded in the Executive Director's Office.

State Parks

Funding for state parks is primarily a mixture of General Fund and cash funds from fees. The following table shows the level of General Fund relative to total funds for the Division of Parks and Outdoor Recreation.

State Parks Funding Mix[/1]	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Estimated	FY 2009-10 Request
General Fund - State Parks	$5,244,382	$6,398,814	$6,656,991	$7,216,116	$6,845,379
Percent Change	*n/a*	*22.0%*	*4.0%*	*8.4%*	*(5.1)%*
Total Funds - State Parks	$33,775,172	$29,565,977	$30,661,504	$39,189,929	$39,691,629
Percent Change	*n/a*	*(12.5)%*	*3.7%*	*27.8%*	*1.3%*

State Parks Funding Mix[1]	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Estimated	FY 2009-10 Request
State Parks Visitation	11,393,494	11,305,183	11,833,500	12,070,170	12,311,573
Percent Change	*n/a*	*(0.8)%*	*4.7%*	*2.0%*	*2.0%*

/1 Includes centrally appropriated items funded in the Executive Director's Office.

Great Outdoors Colorado (GOCO) Board Grants

Both the Division of Parks and Outdoor Recreation and the Division of Wildlife receive funding from the GOCO Board, as established in Article XXVII of the Colorado Constitution. The GOCO grants are not subject to legislative authority and thus are reflected for information only. The GOCO grants to the Division of Parks and Outdoor Recreation are used for developing new parks (capital) as well as enhancing and maintaining existing parks (operating). The GOCO grants to the Division of Wildlife are used for species protection, habitat development, watchable wildlife, and wildlife education.

Great Outdoors Colorado Board Grants	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Request
Parks Capital Budget	$11,198,000	$4,362,000	$4,475,000	$4,225,000	$14,300,000
Parks Operating Budget	4,462,000	4,143,000	4,025,000	4,404,000	4,335,000
Total GOCO Grants to Parks	$15,660,000	$8,505,000	$8,500,000	$8,629,000	$18,635,000
Percent of Parks' Expenditures	*25.9%*	*23.3%*	*23.5%*	*10.8%*	*n/a*
Wildlife Capital Budget	$1,982,633	$2,091,323	$13,940,282	$6,200,000	$6,200,000
Wildlife Operating Budget	7,356,096	6,168,566	6,421,006	2,416,065	2,366,065
Total Grants to Wildlife	$9,338,729	$8,259,889	$20,361,288	$8,616,065	$8,566,065
Percent of DOW Expenditures	*16.1%*	*10.0%*	*12.0%*	*11.5%*	*n/a*

Division of Water Resources General Fund

This division, also referred to as the Office of the State Engineer, receives over 70 percent of the Department's total General Fund appropriation. The majority of the Division's General Fund appropriation is associated with personal services costs. In FY 2006-07, the fees authorized by S.B. 03-181 sunsetted and the $3.2 million in cash funding was replaced with General Fund.

Division of Water Resources [1/] Long Bill General Fund	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Approp.	FY 09-10 Request
General Fund - Division	$17,337,475	$19,881,174	$21,330,695	$22,561,998	$23,472,558
Percent Change	*0.0%*	*14.7%*	*7.3%*	*5.8%*	*4.0%*

Division of Water Resources [1/] Long Bill General Fund	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Approp.	FY 09-10 Request
Total Department General Fund	$22,990,632	$28,139,256	$30,059,280	$32,095,946	$33,764,732
Div. GF as % of Department GF	*75.4%*	*70.7%*	*71.0%*	*70.3%*	*62.5%*

[1/] Only reflects centrally appropriated personal services ("POTS") appropriated in the EDO.

Division of Wildlife

For FY 2008-09, the Division of Wildlife's $82.3 million appropriation represents 36.9 percent of the Department's total operating budget. The following table describes the Division's various revenue sources.

Division of Wildlife Revenue Sources	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Estimate	FY 09-10 Request
Wildlife Cash Fund	$64,284,437	$64,290,892	$73,268,829	$67,191,667
Federal Funds	10,387,691	13,235,312	11,026,427	10,401,074
GOCO Board Grants	6,117,667	6,423,686	6,200,000	6,200,000
Habitat Partnership Cash Fund	2,169,274	2,686,662	2,500,000	2,500,000
Species Conservation Trust Fund	400,000	0	0	0
Colorado Outdoor Magazine Subscriptions	550,000	739,978	550,000	550,000
Non-game Wildlife Voluntary Tax Contributions	500,000	500,000	0	0
Other	1,011,217	2,162,525	1,265,000	1,265,000
Total DOW Budget	**$85,420,286**	**$90,039,055**	**$94,810,256**	**$88,107,741**

FY 2009-10 Joint Budget Committee Staff Budget Briefing
Department of Natural Resources
(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

DECISION ITEM PRIORITY LIST

Decision Item	GF	CF	RF	FF	Total	FTE
1	0	246,154	0	0	246,154	4.0
Administrative Support Staff and Contract Funding **Oil and Gas Conservation Commission.** Four state administrative staff ($177,514) and the equivalent of two contract positions ($68,640) would process documents associated with the increase in oil and gas permitting. Duties will include routine analysis of monitoring reports submitted by the industry for regulatory issues that may need further investigation, data entry, scanning, indexing, filing, and updating information for the web site. The source of funds is the Oil and Gas Conservation and Environmental Response Fund (OGCERF), which receives revenue from a 0.7 mill levy on the value of oil and gas production. The Department projects that, due to increased oil and gas activity in the state, revenue to the OGCREF will be sufficient to fund this decision item without an increase in the mill rate. *Statutory authority: Sections 34-60-102 (1) and 106 (2) (d), C.R.S.*						
2	0	0	40,456	(6,000)	34,456	0.0
Highway Avalanche Forecasting **Colorado Geological Survey.** The Department requests authority to accept and spend funds from an increased contract with the Colorado Department of Transportation. The contract is increasing due to position reclassifications in the avalanche program as a result of a human resources audit, for enhanced avalanche monitoring at Lizard Head Pass on CO 145 (in southwest Colorado between Telluride and Rico), and to correct technical issues with charges for indirect management and administrative costs (including a reduction in indirect charges to the federal government). *Statutory authority: Section 34-1-101, C.R.S.*						
3	11,929	(40,261)	0	0	(28,332)	0.0
Capitol Complex Leased Space Funding Mix						
4	0	74,011	0	0	74,011	1.0
Contract Coordinator						
5	0	148,044	0	0	148,044	0.0
Ground Water Resource Characterization for Climate Change Planning **Colorado Geological Survey.** The Department requests spending authority from the operational account of the severance tax trust fund to fill two positions that are currently being held vacant. The employees would map aquifers, assess the water resources, set up well monitoring to tack usage and recharge, and study the feasibility of pumping water into aquifers for storage. *Statutory authority: Sections 39-29-109, 34-1-103 and 104, C.R.S.*						
6	0	101,825	0	0	101,825	1.0
Colorado River Specialist						

Decision Item	GF	CF	RF	FF	Total	FTE
7	34,668	1,685	0	167	36,520	0.0
Increased Funding for Leased Space						
8	0	175,690	0	0	175,690	2.0
Decision Support System Staff and Operating						
9	0	0	0	0	0	1.5
Legal Protection / Acquisition Specialist and Assistant						
10	0	20,000	0	0	20,000	0.0
Abandoned Mine Reclamation Fund Balance						
Division of Reclamation, Mining and Safety. The Department requests cash funds spending authority for interest earnings of the Abandoned Mine Reclamation Fund. The source of revenue to the fund is an annual appropriation from the Operational Account of the Severance Tax Trust Fund. The Abandoned Mine Reclamation Fund retains all interest earnings. The money in the fund is used to safeguard hazards at historic mine sites. *Statutory authority: Section 34-34-102, C.R.S.*						
11	0	0	0	0	0	0.0
Vehicle Leased Space						
12	0	30,000	0	0	30,000	0.0
Satellite Monitoring System						
13	0	1,084	0	0	1,084	0.0
Additional Field Vehicle						
Colorado Geological Survey. The Department requests spending authority to lease an additional 4-wheel-drive vehicle for the pool used by the Colorado Geological Survey. Half of the funding will come from the Operational Account of the Severance Tax Trust Fund and half will come from grants and fees earned by the Colorado Geological Survey. *Statutory authority: Section 34-1-103 and 39-29-109, C.R.S.*						
NP-1	12,127	82,833	670	766	96,396	0.0
Statewide Postage Increase and Mail Equipment Upgrade						
NP-2	318,831	1,202,233	4,030	20,302	1,545,396	0.0
Statewide Fleet Operating						
NP-3	35,868	(19,563)	0	(23,328)	(7,023)	0.0
Statewide Vehicle Lease Payments						
NP-4	47,939	(66,351)	17,797	2,426	1,811	0.0
Statewide Workers Compensation Adjustment						
Total	**461,362**	**1,957,384**	**62,953**	**(5,667)**	**2,476,032**	**9.5**

FY 2009-10 Joint Budget Committee Staff Budget Briefing
Department of Natural Resources
(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

BASE REDUCTION ITEM PRIORITY LIST

Base Reduction	GF	CF	RF	FF	Total	FTE
BR-1	0	(84,000)	0	0	(84,000)	(2.0)
Online Water Information						
Total	**0**	**(84,000)**	**0**	**0**	**(84,000)**	**(2.0)**

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OVERVIEW OF NUMBERS PAGES

The following table summarizes the total change, in dollars and as a percentage, between the Department's FY 2008-09 appropriation and its FY 2009-10 request.

Total Requested Change, FY 2008-09 to FY 2009-10 (millions of dollars)

Category	GF	CF	RF	FF	Total	Special	FTE
FY 2008-09 Appropriation	$100.0	$200.0	$400.0	$300.0	$1,000.0	$35.0	32.0
FY 2009-10 Request	103.0	203.0	402.0	310.0	1,018.0	56.0	31.0
Increase / (Decrease)	$3.0	$3.0	$2.0	$10.0	$18.0	$21.0	(1.0)
Percentage Change	3.0%	1.5%	0.5%	3.3%	1.8%	60.0%	-3.1%

The following table highlights the individual changes contained in the Department's FY 2009-10 budget request, as compared with the FY 2008-09 appropriation, for the portion of the Department covered in this briefing packet. For additional detail, see the numbers pages in Appendix A.

Requested Changes, FY 2008-09 to FY 2009-10

Category	GF	CF	RF	FF	Total	FTE
Division of Reclamation, Mining, and Safety						
Postal and fleet increases	$0	$361,398	$0	$21,068	$382,466	0.0
Salary and benefit increases	0	92,349	0	97,557	189,906	0.0
Indirect and fund source adjustments	0	(46,019)	0	84,061	38,042	0.0
DI# 10 Abandoned Mine Reclamation Fund Balance	0	20,000	0	0	20,000	0.0
Annualization of prior year budget actions	0	(355,942)	0	(9,021)	(364,963)	(0.2)
Subtotal	**$0**	**$71,786**	**$0**	**$193,665**	**$265,451**	**(0.2)**
Colorado Geological Survey						
DI #5 Ground Water Resource Characterization	$0	$148,044	$0	$0	$148,044	0.0
Salary and benefit increases	0	88,675	0	8,926	97,601	0.0

Category	GF	CF	RF	FF	Total	FTE
DI #2 Highway Avalanche Forecasting	0	0	40,456	(6,000)	34,456	0.0
Postal and fleet increases	0	10,323	4,030	0	14,353	0.0
Indirect and fund source adjustments	0	32,943	0	(26,032)	6,911	0.0
Annualization of prior year budget actions	0	(3,455)	0	0	(3,455)	0.0
Subtotal	**$0**	**$276,530**	**$44,486**	**($23,106)**	**$297,910**	**0.0**
Oil and Gas Conservation Commission						
DI #1 OGCC Admin Support	$0	$246,154	$0	$0	$246,154	4.0
Salary and benefit increases	0	168,974	0	0	168,974	0.0
Postal and fleet increases	0	35,948	0	0	35,948	0.0
Indirect and fund source adjustments	0	(9,175)	0	(2,128)	(11,303)	0.0
Annualization of prior year budget actions	0	(1,985,536)	0	0	(1,985,536)	0.0
Subtotal	**$0**	**($1,543,635)**	**$0**	**($2,128)**	**($1,545,763)**	**4.0**
State Land Board						
Salary and benefit increases	$0	$115,763	$0	$0	$115,763	0.0
Postal and fleet increases	0	12,759	0	0	12,759	0.0
Indirect and fund source adjustments	0	(55,625)	0	0	(55,625)	0.0
Subtotal	**$0**	**$72,897**	**$0**	**$0**	**$72,897**	**0.0**
Total Change	**$0**	**($1,122,422)**	**$44,486**	**$168,431**	**($909,505)**	**3.8**

FY 2009-10 Joint Budget Committee Staff Budget Briefing
Department of Natural Resources
(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

BRIEFING ISSUE

ISSUE: Transferring money from the Operational Account to the General Fund

Discusses the potential for transferring money from the Operational Account of the Severance Tax Trust Fund to the General Fund to help address the projected FY 2008-09 General Fund shortfall.

SUMMARY:

❏ Based on the September 2008 Legislative Council Staff Revenue Forecast, there will be an uncommitted balance in the Operational Account of $32 million at the end of FY 2008-09, most of which could be transferred to the General Fund without impacting existing programs funded through the Operational Account.

❏ Programs funded from the Operational Account are divided into two tiers. The tier 2 programs are subject to proportional reduction if severance tax revenues are lower than expected. Because severance taxes are historically highly variable, tier 2 programs are selected in part because they are designed in such a way that they can weather short-term reductions in funding. By reducing funding for the tier 2 programs, the General Assembly could increase the uncommitted balance in the Operational Account that could be transferred to the General Fund,

❏ Severance tax revenues have historically been highly variable. If in the December or March revenue forecast the projected uncommitted balance in the Operational Account disappears, the General Assembly may still want to consider reducing tier 2 programs to create an uncommitted balance that could be transferred to the General Fund.

RECOMMENDATION:

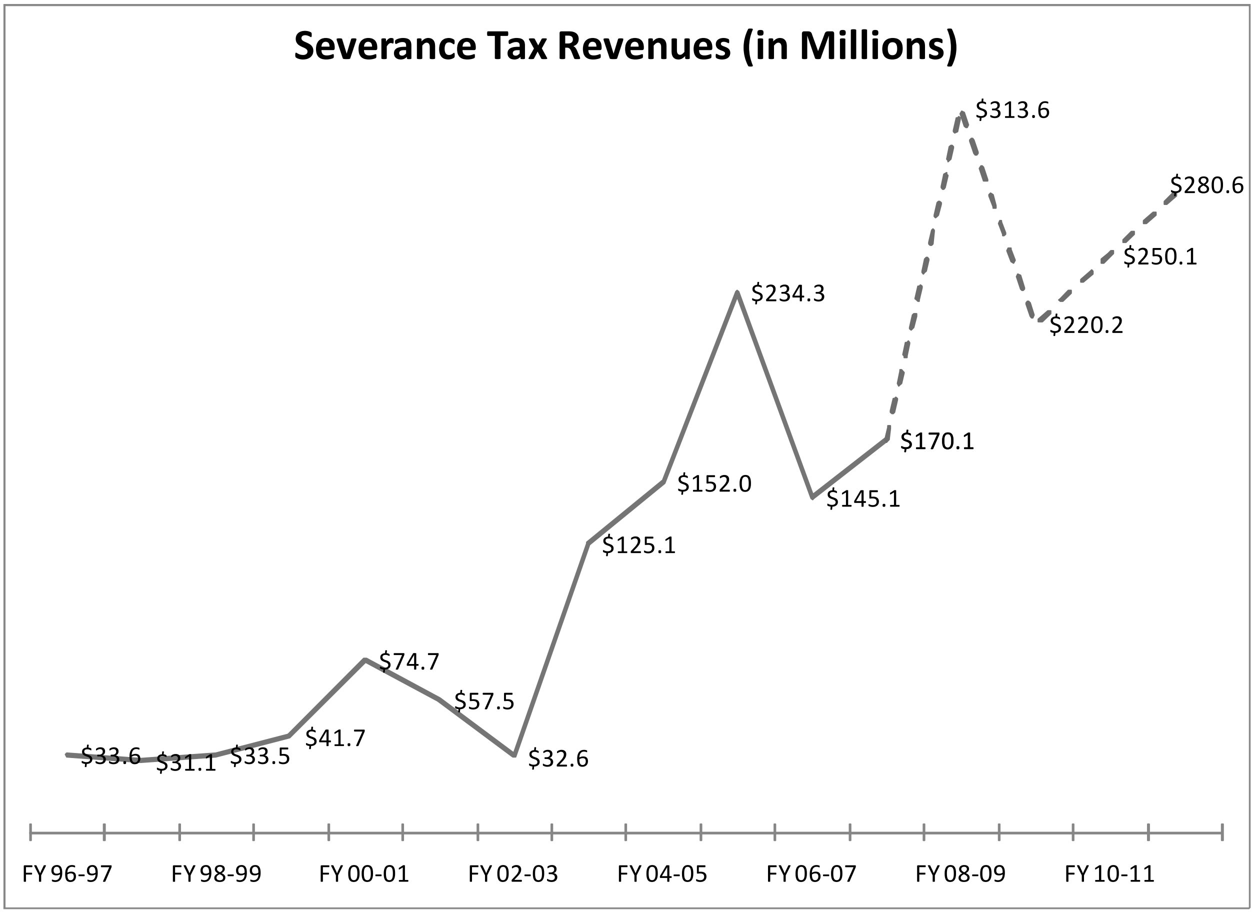
Staff recommends that the JBC consider transferring money from the Operational Account of the Severance Tax Trust Fund to the General Fund, and/or refinancing General Fund programs with moneys in the Operational Account of the Severance Tax Trust Fund, as part of efforts to address the projected General Fund shortfall in FY 2008-09.

DISCUSSION:

Pursuant to statute, 50 percent of severance tax revenues are credited to the Severance Tax Trust Fund and 50 percent to the Department of Local Affairs for grants and distributions to local governments impacted by mining activities. Of the revenue credited to the Severance Tax Trust Fund, 50 percent is allocated to the Perpetual Base Account of the Severance Tax Trust Fund (or 25 percent of total severance tax revenues), which is used by the Colorado Water Conservation Board for water construction projects. The other 50 percent of Severance Tax Trust Fund revenues (or 25 percent of total severance tax revenues) is allocated to the Operational Account to fund programs that "promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water and for the use in funding programs to reduce the burden of increasing home energy costs on low-income households."

Last year the JBC sponsored legislation (HB 08-1398) that changed and standardized reserve requirements for the Operational Account. Expenditures from the Operational Account were divided into two categories. Tier 1 expenditures support salaries and on-going core programs of the Department of Natural Resources. Tier 2 programs support grants, loans, research, and construction. The reserve requirement for tier 1 programs is equal to one full year of operating appropriations. The reserve requirement for tier 2 programs is equal to fifteen percent of authorized expenditures. The distribution of funding for tier 2 programs is staggered with 40 percent released July 1, 30 percent released January 4, and the final 30 percent released April 1. If a mid-year projection indicates there will be insufficient revenues to the Operational Account to support all statutorily authorized expenditures, the tier 2 programs are automatically proportionally reduced to fit the projections.

The Operational Account has statutory reserve and prorating requirements in part because severance tax revenues have historically been highly variable. The table below charts total severance tax revenues to the state over the past 10 years. During this time period there are years when the severance tax revenues to the state changed dramatically, such as between FY 2002-03 and FY 2003-04 when revenues increased 284 percent from one year to the next. The variability of severance tax revenues is partly attributable to the volatility in price and production of oil and natural gas. Another factor that contributes to the variability is the deduction against severance tax liability that producers can claim for local property taxes paid. Because of a lag in the way property taxes are calculated, the amount of the deduction against the severance tax is based on production values from two years prior. Also, changes in local tax policy can significantly change the deduction against the state severance tax liability. These factors can result in changes to severance tax revenues that are counter-intuitive to the trends in price and production for oil and natural gas.



Severance tax revenues are difficult to forecast accurately, and so the reserve and prorating requirements help to ensure that the Operational Account does not overexpend the revenues. All of the tier 2 programs have to be able to absorb and adapt to a temporary reduction in expenditures if revenues are less than expected.

The General Assembly has a history of turning to the Operational Account to help address General Fund shortfalls. Just a few of many examples over the years include:

- In FY 2001-02 H.B. 02-1391 transferred $20.2 million from the Operational Account of the Severance Tax Trust Fund to the General Fund. The bill included a provision to repay the Operational Account and other cash funds under certain conditions.

- The FY 2001-02 Long Bill (S.B. 01-212) refinanced $1.5 million worth of General Fund appropriations for the Department with moneys in the Operational Account, including $562,440 in the Colorado Geologic Survey, $910,166 in the Division of Reclamation, Mining, and Safety, and $44,000 in the Colorado Water Conservation Board.

- The combination of S.B. 03-191 and S.B. 03-271 authorized transfers of $12.6 million in FY 2002-03 and $16.2 million in FY 2003-04 from the Operational Account of the Severance Tax Trust Fund to the General Fund.

Based on the September 2008 Legislative Council Staff Revenue Forecast, there will be an uncommitted balance in the Operational Account of of $32 million at the end of FY 2008-09 and $29 million at the end of FY 2009-10. If the revenue forecast is accurate, $29 million could be transferred from the Operational Account to the General Fund in either FY 2008-09 or FY 2009-10 (but not both) without impacting existing programs. However, as stated previously, severance tax revenues are highly variable, and when the September 2008 Legislative Council Staff Revenue Forecast was created gasoline was being sold for more than $4.00 a gallon at the pump. Conditions today are significantly different and by March 2009 the forecast for severance tax revenues may change dramatically.

Beyond the uncommitted balance in the Operational Account, staff believes there may be opportunities for temporarily reducing programs to allow a transfer from the Operational Account to the General Fund. Similar to deferring capital construction and controlled maintenance, deferring some of the tier 2 program expenditures, in order to allow a transfer to the General Fund, may be more attractive to the General Assembly than reducing General Fund appropriations for on-going operating expenses. This is because the tier 2 programs for the most part were designed with the understanding that they might need to weather short-term reductions in funding due to the variability of severance tax revenues. Furthermore, sixty percent of the funding for tier 2 programs has not been released yet, due to the statutory staggered distribution schedule. Finally, transferring money into the General Fund has a different impact on the six percent base than reducing General Fund appropriations.

Staff asked the Department for feedback on how to prioritize Operational Account expenditures if they need to be reduced to supplement the General Fund. While staff was focusing primarily on the tier 2 programs, the Department had interesting comments on some tier 1 programs for mine site reclamation, water supply planning, wildlife studies, and oil and gas regulation. The Department also speculated that some of the goals of the low income energy assistance program might be achievable through changes in utility rate structures instead of funding from the severance tax in the Operational Account.

Rather than paraphrasing the Department's well-reasoned and carefully-worded response about prioritizing Operational Account expenditures, staff has reproduced the Department's response as an appendix to this document.

	Severance Tax Trust Fund **Operational Account**														
		Statutory Site	Actual FY 06-07		Actual FY 07-08		Appropriation FY 08-09		Estimated FY 09-10		Estimated FY 10-11		Estimated FY 11-12		Key Bills
1	Beginning balance		$50,851,612		$40,012,876		$46,588,101		$54,476,805		$49,708,391		$54,438,736		
2	Revenue		33,312,271		39,457,043		73,472,500 (est.)		49,327,500 (est.)		56,356,000 (est.)		63,123,750 (est.)		
3	Public School Energy Fund	39-29-109.5	0		(89,096)		TBD		TBD		TBD		TBD		
4	**TOTAL Available for Expenditure**		**84,163,883**	100.0%	**79,380,823**	100.0%	**120,060,601**	100.0%	**103,804,305**	100.0%	**106,064,391**	100.0%	**117,562,486**	100.0%	
5	Roll-forwards		0		0		747,210	0.6%	0		0		0		
	Tier 1	39-29-109.3 (1)													
6	Colorado Geological Survey	(a)	2,291,469	2.7%	2,197,478	2.8%	2,482,814	2.1%	2,704,968	2.6%	2,947,000	2.8%	3,210,687	2.7%	
7	Oil and Gas Conservation Commission	(b)	2,117,279	2.5%	2,300,213	2.9%	3,255,372	2.7%	3,072,038	3.0%	3,166,111	3.0%	3,263,064	2.8%	
8	Division of Reclamation, Mining, and Safety	(c)	3,392,252	4.0%	3,925,306	4.9%	4,409,576	3.7%	4,595,384	4.4%	4,789,021	4.5%	4,990,818	4.2%	
9	Colorado Water Conservation Board	(d)	868,679	1.0%	1,292,890	1.6%	1,319,250	1.1%	1,319,250	1.3%	1,319,250	1.2%	1,319,250	1.1%	
10	Division of Parks and Outdoor Recreation	(e)	0	0.0%	0	0.0%	1,984,058	1.7%	1,234,058	1.2%	1,234,058	1.2%	1,234,058	1.0%	SB 08-13
11	Division of Wildlife	(f)	0	0.0%	0	0.0%	1,519,927	1.3%	1,569,144	1.5%	1,569,144	1.5%	1,569,144	1.3%	SB 08-13
12	**SUBTOTAL Tier 1**		8,669,679	10.3%	9,715,887	12.2%	14,970,997	12.5%	14,494,842	14.0%	15,024,584	14.2%	15,587,022	13.3%	
	Tier 2	39-29-109.3 (2)													
13	Water Conservation Board Litigation Fund		1,403,272		0		0		0		0		0		HB 06-1313 (Sect. 17)
14	Underground water storage		146,000		0		0		0		0		0		SB 06-193
15	Water infrastructure development	(a)	10,000,000		6,000,000		10,000,000		10,000,000		6,000,000		0		SB 06-179
16	Soil Conservation Districts matching grants	(b)	450,000		0		450,000		450,000		450,000		0		HB 06-1393
17	Water efficiency grants	(c)	0		800,000		1,800,000		1,000,000		0		0		SB 07-008/HB 08-1398
18	Species Conservation Trust Fund	(d) & (e)	8,800,000		0		12,513,886		9,000,000		11,000,000		4,000,000		SB 08-168/SB 08-226
19	Low income energy assistance	(f)	11,000,000		12,000,000		13,000,000		13,000,000		13,000,000		13,000,000		HB 08-1387
20	Renewable energy - Higher ed consortium	(g)	2,135,000		2,000,000		2,000,000		0		0		0		HB 06-1322
21	Renewable energy - Agriculture	(h)	500,000		500,000		500,000		0		0		0		HB 06-1322
22	Interbasin water compacts	(i)	547,056		1,626,835		1,145,067		1,145,067		1,145,067		1,145,067		HB 05-1177/HB 06-1400
23	CO Water Research Institute - CSU	(j)	500,000		150,000		500,000		0		0		0		HB 08-1405
24	Forest restoration grants	(k)	0		0		1,000,000		1,000,000		1,000,000		1,000,000		SB 08-71
25	Tamarisk control	(l)	0		0		1,000,000		0		0		0		HB 08-1346 (Sect. 29)
26	Acquatic Nuisance Species Fund	(m)	0		0		5,956,636		4,006,005		4,006,005		4,006,005		SB 08-226
27	**SUBTOTAL Tier 2**		35,481,328	42.2%	23,076,835	29.1%	49,865,589	41.5%	39,601,072	38.1%	36,601,072	34.5%	23,151,072	19.7%	
28	**TOTAL Expenditures**		**44,151,007**		**32,792,722**		**65,583,796**		**54,095,914**		**51,625,656**		**38,738,094**		
29	**Ending Balance**		40,012,876		46,588,101		54,476,805		49,708,391		54,438,736		78,824,391		
30	Tier 1 Reserve	39-29-109.3 (3)	16,864,470		19,431,774		14,970,997		14,494,842		15,024,584		15,587,022		HB 02-1041/HB 08-1398
31	Tier 2 Reserve	39-29-109.3 (3)	0		0		7,479,838		5,940,161		5,490,161		3,472,661		HB 08-1398
32	Low income energy assistance reserve		12,000,000		13,000,000		0		0		0		0		HB 06-1200/HB 08-1387
33	**TOTAL Reserve Requirement**		28,864,470	34.3%	32,431,774	40.9%	22,450,835	18.7%	20,435,003	19.7%	20,514,745	19.3%	19,059,683	16.2%	
34	**UNOBLIGATED BALANCE**		**11,148,406**	13.2%	**14,156,327**	17.8%	**32,025,970**	26.7%	**29,273,389**	28.2%	**33,923,991**	32.0%	**59,764,709**	50.8%	

(est.) = estimate. Revenue Estimates based on Legislative Council's September 2008 Economic Forecast, not including interest.
TBD = To be determined

FY 2009-10 Joint Budget Committee Staff Budget Briefing
Department of Natural Resources
(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

BRIEFING ISSUE

ISSUE: Activities of the Oil and Gas Conservation Commission

Provides an update on the status of hiring new FTE approved by the General Assembly for FY 2008-09, and on rulemaking by the OGCC.

SUMMARY:

- ❑ The Department has filled only two of 21 new positions approved for FY 2008-09. For FY 2009-10 the Department is requesting another $246,154 for 4.0 FTE and the equivalent of two contract positions.

- ❑ The delay in filling positions is largely attributable to the demands that the rule-making process has put on staff.

- ❑ The Commission has provisionally adopted the rules, and this document includes highlights.

- ❑ The unfilled positions and growth in oil and gas activity have resulted in longer waits for permit approval and fewer inspection and monitoring visits.

DISCUSSION:

For FY 2008-09, the General Assembly approved an increase of 21.0 FTE and $1.7 million for the Oil and Gas Conservation Commission (OGCC) to address changes in the workload, including increases in the number of active wells and permit requests, and changes in the regulatory process anticipated with new rules. The FTE approved for FY 2008-09 were funded with a mix of cash funds that included 46 percent from the Operational Account of the Severance Tax Trust Fund and 54 percent from the Oil and Gas Conservation and Environmental Response Fund. The source of revenue to the Oil and Gas Conservation and Environmental Response Fund is a mill levy on production value set by the Department within a statutory cap of 1.7 mills. The current mill rate is 0.7 mills.

To date, the Department has filled only two of the twenty-one new positions. Specifically, the Department has hired an information technology professional and a permit/compliance technician. For FY 2009-10 the Department is requesting another $246,154 for 4.0 FTE and the equivalent of two contract positions to help the OGCC. The Department requests that the new FTE for FY 2009-10 be funded entirely from the Oil and Gas Conservation and Environmental Response Fund.

The Office of State Planning and Budgeting approved an exemption from the hiring freeze implemented by the Governor for these FY 2008-09 cash funded positions. The Department explains that it has been delayed in filling the positions due to the high level of industry activity and the ongoing rulemaking. Managers and supervisors involved in the hiring have not been able to devote time to developing position descriptions, creating (and grading) written exams, and conducting interviews. The position descriptions are tied up in decisions about the procedures for implementing the new rules, which are still in development.

The new rules were prompted by the unprecedented increase in permitting and production of oil and gas in the past few years, as well as H.B. 07-1298 and H.B. 07-1341 that increased the emphasis on protecting the environment and wildlife resources in the OGCC's mandate. The rules were provisionally adopted by the Commission with a final review and adoption scheduled for December 9 to 11, 2008. The new rules will go into effect April 1, 2009, or May 1, 2009 for wells on federal land.

Key provisions of the new rules include:

1. Increased opportunities for public input
    a. Operators will be required to notify surface owners within 500 feet of proposed wells
    b. The Department will post permit documents on the OGCC web site for public review and comment
    c. The public comment period will be limited to 20 days
2. Allowing "parties with standing" to request a hearing by the Commission prior to agency action, similar to the current authority of local governments
3. Incentives for operators to submit comprehensive drilling plans that "bundle" permit requests in a defined drilling area, intended to
    a. streamline the permit approval process, and
    b. encourage landscape level planning and regulatory review that focuses on cumulative impacts;
    c. Each well will still require an engineering review and permit for downhole issues, but the comprehensive drilling plan could cover all surface issues
4. A 300 foot setback from water supply areas (unless an exemption is approved), and enhanced protective measures for operations up to a 1/2 mile from a water supply
    a. These rules apply to roads and pipelines in addition to wells
5. Consultation with the Division of Wildlife on wells in pre-identified, sensitive wildlife areas, such as big game, sage grouse, and raptor habitat
    a. Most of the sensitiva wildlife habitat identified on the maps is in the northwest
    b. The Department indicated that consultation could result in permit restrictions like setbacks from nesting and mating areas or compensatory off-site habitat enhancement
6. New pit lining requirements
    a. Higher standards for the lining material used and the engineering and construction
    b. Also, its possible that some pits that are not lined under current practice will require lining under the new rules

7. Odor rules will require special equipment for wells near dwellings and some permit approvals may include requirements for recapturing gases released during drilling
8. New testing requirements to protect the environment (primarily water monitoring) for hydraulic fracturing, waste management projects, and coal bed methane development
9. A new requirement that operators maintain an inventory of chemicals used and stored
10. Higher reclamation standards, including
    a. a new 80 percent revegetation standard, and
    b. a decrease in the time allowed for required interim reclamation steps;
    c. These reclamation standards remain controversial and the Department is convening a stakeholder group to continue discussions after the rules are adopted.

While the Division has been busy setting rules, the number of permit requests and active wells have continued to increase dramatically. The Department indicates that it has not lowered permit review standards to increase the speed of processing permits. If anything, the Department has increased the number of conditions on well permits, due to recent experiences with wells in the Piceance basin, primarily related to pit lining practices. The result is an increase in the backlog of permits awaiting action, and a corresponding longer period of time that operators must wait to receive permission to drill. The Department's most recent statistics indicate an average of 62 days to process a permit application, where at this time two years ago the OGCC averaged 44 days to process a permit application.

The increase in active wells per employee means that monitoring and enforcement staff are not visiting wells as often as they have in the past. This makes it less likely that environmental problems will be identified and remediated in a timely manner. The Department is making roughly the same number of inspection visits as in prior years, but the OGCC is projecting that the number of active wells will increase 10 percent in FY 2008-09.

FY 2009-10 Joint Budget Committee Staff Budget Briefing
Department of Natural Resources
(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

BRIEFING ISSUE

ISSUE: Status of the Lowry Range project

Provides a summary of the project and water issues that have developed that have the potential to derail it.

SUMMARY:

- ❑ The Lowry Range is a potentially valuable parcel to the southeast of the Denver metro area that is owned by the State Land Board.

- ❑ Development options for the parcel are limited by, among other things, unexploded ordinance, water, and local land use restrictions.

- ❑ The State Land Board has put together a plan for development that includes conservation easements for 85 percent of the land.

- ❑ The project is expected to earn $400 million for schools.

- ❑ Disagreement over the value of water resources on the property, and how to develop them, could stop the project if not resolved by December.

DISCUSSION:

Background

The Lowry Range is a 26,000 acre parcel (approximately 37 square miles) in Arapahoe County. The Sate Land Board describes it as 20 minutes southeast of Denver, just off E-470. Nearby landmarks include the Lowry landfill and Denver Arapahoe Disposal Site, the Ridgeview Youth Corrections facility, the Plains Conservation Center, Aurora reservoir, Southlands Mall, and the Arapahoe County fairgrounds and Arapahoe Downs horse racing track.

The State Land Board acquired the Lowry Range for the Public School Trust from federal military agencies in the 1960s and 1990s in exchange for land in southern Colorado that provided a buffer around federal military bases. From 1942 through 1963 the Lowry Range was used by the military for various training purposes, but primarily for target practice with bombs launched from aircraft.

There is also an underground Titan Missile complex on the site and areas that were used for infantry training.

Currently the State Land Board is earning approximately $250,000 a year from leasing the land for a variety of uses, including sand and gravel mining, concrete and asphalt pavement recycling, a concrete batch plant, oil and gas production, military helicopter training, water wells, and model airplane, equestrian, and hunting clubs. The State Land Board recently evicted a cattle operation from the property and the land is resting after over-grazing. An appropriate grazing lease would increase revenues to approximately $360,000 annually, according to the State Land Board.

Development Plan

When the State Land Board acquired the Lowry Range, it did so with the understanding that the property was ready for residential and commercial building development. The expectations for profits from this property by the beneficiaries of the Public School Trust were understandably high, with such a large parcel in the path of development of a major metropolitan area. But, the Colorado Department of Public Health and Environment found hazardous waste issues on the site and brought suit against the federal government.

The main concern on the property is unexploded ordnance (UXO). Practice rounds used by the military contained volatile chemicals intended to create a bright flash that helped training teams spot the point of impact. The US Army Corps of Engineers estimates that about 10 percent of munitions used did not explode and are potentially still dangerous. They have been working for 10 years on the site and estimate cleanup is about 65 percent complete, with a projected finish date in five to eight years. The Colorado Department of Public Health and Environment is also overseeing containment of groundwater contamination associated with the missile complex and the nearby landfill.

The ongoing UXO cleanup is one of several barriers to residential and commercial building development on the property. Another issue is water. The State Land Board has rights to underground water, but it is a non-renewable source that would not support residential or commercial building development uses. Also, the State Land Board is constitutionally required to follow local land use policies. The property is on the border of the City of Aurora, but it is under the jurisdiction of Arapahoe County. It is also subject to the Denver Regional Council of Governments (DRCOG). Full residential/commercial building development of the Lowry Range, with the corresponding required extension of utilities and infrastructure, such as roads, sewers, and public transportation, is not currently consistent with the density and cluster goals of Arapahoe County or the Denver Regional Council of Governments (DRCOG).

These considerations contributed to the State Land Board developing a plan for the property that sets aside more than 85 percent of the land for conservation. The State Land Board designated approximately 22,000 acres of the Lowry Range as part of the Stewardship Trust. The 1996 amendment to the Colorado Constitution that established the Stewardship Trust requires the State

Land Board to manage land designated as part of the Stewardship Trust, ". . . to maximize options for continued stewardship, public use, or future disposition, by permitting only those uses, not necessarily precluding existing uses or management practices, that will protect and enhance the beauty, natural values, open space, and wildlife habitat, thereof . . ." The State Land Board indicates that the Piedmont grasslands and riparian (streamside) corridors on the property are particularly ecologically valuable.

In developing its plan for the Lowry Range, the State Land Board also took into consideration the time value of money from selling conservation easements today versus residential/commercial development that might or might not be possible when the UXO cleanup is complete.

While the land with conservation easements will not be developed with residential or commercial buildings, it will continue to be used for low-impact ranching, energy development, water resources, recreation, and military training.

The remaining 15 percent of the Lowry Range that is not protected through conservation easements, or 3,870 acres on the northwest corner of the property, north of Quincy, will be used for residential/commercial development. This area had an infantry training facility and was not bombed. The DRCOG has agreed to this residential/commercial development contingent on the State Land Board "consummating conservation" of the other roughly 22,000 acres.

Many of the key details of this development plan have come together in the last year, when the State Land Board developed a land use map, a plan for how the land would be protected, and how the State Land Board would measure that it was protected. The State Land Board also developed a business plan for paying for that protection. Part of the business plan includes a fee that will be charged every time a property in the residential/commercial development zone changes hands. The revenue from the fee will be used to pay for operating and maintenance costs associated with the conservation zone.

Projected Value and Beneficiaries

With this land use plan, the State Land Board projects it will generate upwards of $400 million in revenue from the Lowry Range. Approximately $340 million will come from the residential and commercial building development. The State Land Board is working with a development company called Lend Lease to sell finished lots to homebuilders for "green" housing, and to develop commercial buildings that will be sold or leased.

The State Land Board estimates another roughly $19 million will come from the sale of conservation easements to Greater Outdoors Colorado, Arapahoe County, and the Colorado National Guard. The Colorado National Guard is applying for federal funding that would allow them to pay for an easement that would keep the land free of development so that it can be used for helicopter training.

The remaining $41 million is anticipated to come from the development of water reservoirs and related resources on the southwestern edge of the property, and possibly from solar energy generation.

Pursuant to H.B. 08-1335 (the BEST bill), 35 percent of gross revenues from school lands are deposited in the Public School Capital Construction Assistance Fund (PSCCAF) to help local school districts with construction projects. The State Land Board hopes to reinvest roughly $275 million of the earnings in other property around the state for the benefit of schools. The remaining revenue would be deposited in the Public School Fund (Permanent Fund). Since current statute limits the amount of revenue from school lands that can be used annually in the School Finance Act, its reasonable to say the remaining revenue from the Lowry Range project would be deposited in the Permanent Fund. This would increase interest earnings of the Permanent Fund and might eventually lead to the legislature increasing the cap on the revenue from school lands that can be used in the School Finance Act.

Potential Snag Over Water Issues

Recently the developer for the project, Lend Lease, issued a statement indicated that the company would back out of the project unless a resolution can be found by December 31 for how water resources will be set up on the property. The State Land Board has been aware of Lend Lease's intent to terminate the contract since the early summer and this recent statement was simply an official notification. The issue with the water resources revolves around the value different parties assign to potential reservoir sites on the property. In 1982 the State Land Board entered a 99 year lease with the Rangeview Metropolitan District to develop water resources. Rangeview in turn contracted with the publicly traded Pure Cycle company to do the work. Rangeview/Pure Cycle worked through water court and has four decreed reservoir sites it can develop. However, Rangeview/Pure Cycle doesn't have rights to any renewable water resource to fill those reservoirs, and would need to raise more capital to build the reservoirs. The City of Aurora wants/needs another reservoir, and the Rangeview/Pure Cycle sites would provide significant economies of scale for treatment facilities due to their proximity to the existing Aurora Reservoir. Lend Lease can't develop the planned residential/commercial buildings on the northwest corner of the Lowry Range parcel without water, which would presumably come from one of the Rangeview/Pure Cycle reservoir sites. The State Land Board is obligated to the trust beneficiaries to get a fair price for the water resources.

If an agreement on how to develop and value water reservoirs can't be reached, the whole Lowry Range project would need to be reevaluated. However, that outcome would not benefit any of the parties involved, including Rangeview/Pure Cycle, since they have limited, if any, other options for getting value out of the reservoir sites. Staff for the State Land Board remain optimistic that a resolution will be reached, but there is a real possibility that the project will come to a halt in December. If Lend Lease terminates the contract, it could be difficult for the State Land Board to find a new developer in the current market, and the State Land Board's negotiating position with any new developer would likely be compromised.

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	FY 2009-10 Change Requests

For FY 2008-09 the General Assembly eliminated the cash funds exempt category of appropriations and replacing it with reappropriated funds. Reappropriated funds are those moneys that are appropriated for a second or more time in the same fiscal year. Moneys that were previously categorized as cash funds exempt that are not reappropriated funds are characterized in the new budget format as cash funds, regardless of the TABOR status of the funds.

DEPARTMENT OF NATURAL RESOURCES
Executive Director: Harris Sherman

(2) DIVISION OF RECLAMATION, MINING, AND SAFETY (Ron Cattany, Director)

Primary Functions: Provides regulation and enforcement related to the development and reclamation of mining sites. Primary sources of cash funds are fees on metal and aggregate mining operations and the severance tax.

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	Change Requests
(A) Coal Land Reclamation					
Program Costs	2,003,963	2,064,990	2,116,618	2,189,474	
FTE	20.9	19.3	23.0	23.0	
CF - Severance Tax	561,584	573,832	444,490	459,196	
Federal Funds	1,442,379	1,491,158	1,672,128	1,730,278	
Indirect Cost Assessment	128,983	104,878	121,427	142,656	
CF - Severance Tax	29,028	33,437	53,777	30,393	
Federal Funds	99,955	71,441	67,650	112,263	
					Request vs. Approp
(A) Coal Land Reclamation	2,132,946	2,169,868	2,238,045	2,332,130	4.2%
FTE	20.9	19.3	23.0	23.0	0.0
Cash Funds	590,612	607,269	498,267	489,589	-1.7%
Federal Funds	1,542,334	1,562,599	1,739,778	1,842,541	5.9%
(B) Inactive Mines					
Program Costs	653,448	681,803	1,792,842	1,862,558	
FTE	12.4	5.6	18.4	18.4	
CF - Abandoned Mine Safety Reclamation Fund	0	0	500,766	520,766	#10
RF/CFE - Abandoned Mine Safety Reclamation Fund	81,190	75,667	0	0	

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	FY 2009-10 Change Requests
Federal Funds	572,258	606,136	1,292,076	1,341,792	
Mine Site Reclamation	156,914	152,324	407,658	410,790	
FTE	1.2	0.4	1.2	1.2	
CF - Severance Tax	156,914	152,324	377,658	380,790	
RF/CFE - Public Health and Environment	0	0	30,000	30,000	
Reclamation of Forfeited Mine Sites					
CF - Severance Tax	N/A	0	342,000	342,000	
Abandoned Mine Safety					
CF - Severance Tax	111,665	111,611	112,113	112,623	
FTE	0.2	0.2	0.2	0.2	
Indirect Cost Assessment	85,834	61,373	78,083	93,330	
CF - Severance Tax	687	10,433	28,473	8,250	
Federal Funds	85,147	50,940	49,610	85,080	
					Request vs. Approp
(B) Inactive Mines	1,007,861	1,007,111	2,732,696	2,821,301	3.2%
FTE	13.8	6.2	19.8	19.8	0.0
Cash Funds	269,266	274,368	1,361,010	1,364,429	0.3%
Reappropriated Funds/Cash Funds Exempt	81,190	75,667	30,000	30,000	0.0%
Federal Funds	657,405	657,076	1,341,686	1,426,872	6.3%
(C) Minerals					
Program Costs	1,968,845	2,066,937	2,168,393	2,224,966	
FTE	22.1	18.8	24.3	24.1	
CF - Severance Tax	997,825	1,033,590	1,085,906	1,156,421	
CF - Mined Land Reclamation Fund	872,644	930,000	1,082,487	1,068,545	
CFE - Mined Land Reclamation Fund reserves	98,376	103,347	0	0	
Indirect Cost Assessment					

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	FY 2009-10 Change Requests
CF - Severance Tax	121,212	126,522	114,718	109,392	
					Request vs. Approp
(C) Minerals	2,090,057	2,193,459	2,283,111	2,334,358	2.2%
FTE	22.1	18.8	24.3	24.1	(0.2)
Cash Funds	1,991,681	2,090,112	2,283,111	2,334,358	2.2%
Reappropriated Funds/Cash Funds Exempt	98,376	103,347	0	0	0.0%
(D) Mines Program					
Colorado and Federal Mine Safety Program	455,348	572,790	506,082	527,932	
FTE	4.8	5.0	5.0	5.0	
CF - Severance Tax	287,681	286,222	304,123	326,695	
CF - Fees	6,000	5,975	6,000	10,000	
Federal Funds	161,667	280,593	195,959	191,237	
Blaster Certification Program	103,866	103,494	106,714	109,486	
FTE	1.0	1.0	1.0	1.0	
CF - Severance Tax	21,743	21,734	22,410	22,842	
Federal Funds	82,123	81,760	84,304	86,644	
Indirect Cost Assessment	27,864	28,346	23,066	29,958	
CF - Severance Tax	16,372	16,881	15,850	14,644	
Federal Funds	11,492	11,465	7,216	15,314	
					Request vs. Approp
(D) Mines Program	587,078	704,630	635,862	667,376	5.0%
FTE	5.8	6.0	6.0	6.0	0.0
Cash Funds	331,796	330,812	348,383	374,181	7.4%
Federal Funds	255,282	373,818	287,479	293,195	2.0%
(E) Emergency Response Costs					
CF - Severance Tax	0	12,200	25,000	25,000	
(2) DIVISION OF RECLAMATION, MINING,					Request vs. Approp

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	FY 2009-10 Change Requests
AND SAFETY - SUBTOTAL a/	5,817,942	6,087,268	7,914,714	8,180,165	3.4%
FTE	62.6	50.3	73.1	72.9	(0.2)
Cash Funds	3,183,355	3,314,761	4,515,771	4,587,557	1.6%
Reappropriated Funds/Cash Funds Exempt	179,566	179,014	30,000	30,000	0.0%
Federal Funds	2,455,021	2,593,493	3,368,943	3,562,608	5.7%

a/ Prior to FY 2006-07, this division was known as the Division of Minerals and Geology. The name was changed pursuant to S.B. 06-140.

(3) COLORADO GEOLOGICAL SURVEY (Vince Matthews, Director and State Geologist)
Primary functions: providing geologic information to the public and government agencies. Cash funds are from severance tax revenues, fees for geological services provided, and grants. Reappropriated funds are from transfers from other state agencies for geological services.)

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	FY 2009-10 Change Requests
Environmental Geology and Geological Hazards Program	1,646,001	1,515,437	2,503,406	2,713,799	
FTE	14.4	13.8	17.2	17.2	
CF - Severance Tax	902,794	833,907	916,022	1,089,609	#5
CF - Fees for geological services	361,951	281,574	531,145	560,951	
RF/CFE - Other state agencies	303,983	288,256	456,429	460,459	
Federal Funds	77,273	111,700	599,810	602,780	
Coalbed Methane Stream Depletion Study					
CF - Severance Tax	138,000	0	0	0	
Mineral Resources and Mapping	1,163,740	1,185,793	1,433,326	1,463,389	
FTE	9.1	8.5	10.5	10.5	
CF - Severance Tax	916,016	920,925	1,031,496	1,044,119	
CF - Local government payments for geo. services	27,115	58,099	81,159	92,449	
Federal Funds	220,609	206,769	320,671	326,821	
Colorado Avalanche Information Center	581,760	526,210	639,603	690,146	#2
FTE	7.0	7.3	7.7	7.7	
CF - Severance Tax	145,361	149,200	151,424	159,509	
CF - Fees/Grants	0	2,251	116,997	125,193	

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	FY 2009-10 Change Requests
RF/CFE - Fees	415,672	368,843	346,597	387,053	
Federal Funds	20,727	5,916	24,585	18,391	
Indirect Cost Assessment	45,503	59,169	179,226	186,137	
CF - Severance Tax	0	0	134,901	167,844	
Federal Funds	45,503	59,169	44,325	18,293	
(3) COLORADO GEOLOGICAL SURVEY - SUBTOTAL	3,575,004	3,286,609	4,755,561	5,053,471	**Request vs. Approp** 6.3%
FTE	30.5	29.6	35.4	35.4	0.0
Cash Funds	2,491,237	2,245,956	2,963,144	3,239,674	9.3%
Reappropriated Funds/Cash Funds Exempt	719,655	657,099	803,026	847,512	5.5%
Federal Funds	364,112	383,554	989,391	966,285	-2.3%

(4) OIL AND GAS CONSERVATION COMMISSION (David Neslin, Interim Director)
(Primary functions: promoting and regulating responsible development of oil and gas natural resources. Cash funds are from the Oil and Gas Conservation and Environmental Response Fund and the severance tax.)

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	FY 2009-10 Change Requests
Program Costs	4,254,302	4,836,176	6,355,411	6,379,151	
FTE	41.4	51.0	74.0	78.0	#1
CF - Severance Tax	2,117,279	2,199,310	3,148,178	3,072,039	
CF - OGC Environmental Response Fund	0	1,946,095	3,207,233	3,307,112	#1
RF/CFE - OGC Environmental Response Fund	2,137,023	690,771	0	0	
Underground Injection Program					
Federal Funds	92,374	89,115	96,559	96,559	
FTE	2.0	2.0	2.0	2.0	
Plugging and Reclaiming Abandoned Wells	598,302	219,959	220,000	220,000	
CF - OGC Environmental Response Fund	0	0	220,000	220,000	
RF/CFE - OGC Environmental Response Fund	598,302	219,959	0	0	

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	FY 2009-10 Change Requests
Environmental Assistance and Complaint Resolution	283,498	296,932	312,033	312,033	
CF - OGC Environmental Response Fund	283,498	296,932	312,033	312,033	
RF/CFE - OGC Environmental Response Fund	0	0	0	0	
Emergency Response	71,904	344,678	1,500,000	1,500,000	
CF - OGC Environmental Response Fund	0	0	1,500,000	1,500,000	
RF/CFE - OGC Environmental Response Fund	71,904	344,678	0	0	
Special Environmental Protection and Mitigation Studies					
CF - OGC Environmental Response Fund	265,271	326,396	500,000	500,000	
Piceance and D-J Basin Water Studies and Environmental Data Tool Development					
RF/CFE - OGC Environmental Response Fund	222,907	0	0	0	
Phase II Raton Basin Gas Seep Investigation					
RF/CFE - OGC Environmental Response Fund	92,442	0	0	0	
Data Cleanup Project - CF					
CF - Severance Tax	0	96,029	0	0	
S.B. 07-198 Coalbed Methane Seepage Projects					
CF - OGC Environmental Response Fund	0	96,259	2,003,400	445,200	
Indirect Cost Assessment - Total Funds	186,702	227,811	325,071	313,768	
CF - OGC Environmental Response Fund	186,702	222,254	319,294	310,119	
Federal Funds	0	5,557	5,777	3,649	
(4) OIL & GAS CONSERVATION COMMISSION					**Request vs. Approp**
- SUBTOTAL	6,067,702	6,533,355	11,312,474	9,766,711	-13.7%
FTE	43.4	53.0	76.0	80.0	4.0
Cash Funds	2,852,750	5,183,275	11,210,138	9,666,503	-13.8%

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	FY 2009-10 Change Requests
Reappropriated Funds/Cash Funds Exempt	3,122,578	1,255,408	0	0	0.0%
Federal Funds	92,374	94,672	102,336	100,208	-2.1%

(5) STATE BOARD OF LAND COMMISSIONERS (John Brejcha, Acting Director)

(Primary Functions: Manages around 2.6 million surface acres and 4.5 million mineral acres of state trust lands for the benefit of 8 public trusts, the largest of which is the School Trust (96% of holdings). Cash funds are from the Trust Administration Fund.)

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	FY 2009-10 Change Requests
Program Costs	2,639,444	3,673,354	3,715,851	3,844,373	
FTE	33.1	29.0	38.0	38.0	
CF - Land Board Trust Administration Fund	717,723	810,441	3,640,851	3,769,373	
CF - SBLC Land and Water Management Fund	0	75,000	75,000	75,000	
RF/CFE - Land Board Trust Administration Fund	2,111,950	2,787,913	0	0	
State Trust Land Asset Management and Analysis					
CF - Land Board Trust Administration Fund	659,509	0	0	0	
Indirect Cost Assessment					
CF - Land Board Trust Administration Fund	167,095	156,845	221,075	165,450	
					Request vs. Approp
(5) STATE LAND BOARD - SUBTOTAL a/	3,466,048	3,830,199	3,936,926	4,009,823	1.9%
FTE	33.1	29.0	38.0	38.0	0.0
Cash Funds	894,846	1,042,286	3,936,926	4,009,823	1.9%
Reappropriated Funds/Cash Funds Exempt	2,571,202	2,787,913	0	0	0.0%

a/ Senate Bill 05-196 continuously appropriated $1,000,000 cash funds exempt for the SLB Investment and Development Fund. As these moneys are continuously appropriated, they are not appropriated by the General Assembly and are not shown in the Long Bill, nor are the reflected in the JBC staff numbers pages.

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	Request vs. Approp
DEPARTMENT OF NATURAL RESOURCES					
TOTAL FUNDS	18,926,696	19,737,431	27,919,675	27,010,170	-3.3%
FTE	169.6	161.9	222.5	226.3	3.8
Cash Funds	9,422,188	11,786,278	22,625,979	21,503,557	-5.0%

	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Appropriation	FY 2009-10 Request	FY 2009-10 Change Requests
Reappropriated Funds/Cash Funds Exempt	6,593,001	4,879,434	833,026	877,512	5.3%
Federal Funds	2,911,507	3,071,719	4,460,670	4,629,101	3.8%
CF - Severance Tax	*6,524,161*	*6,578,157*	*8,308,539*	*8,521,366*	*2.6%*

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Department of Natural Resources
(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

APPENDIX B: SUMMARY OF MAJOR LEGISLATION

- ❏ **S.B. 08-13 (Schwartz/Fischer): Severance Tax Trust Fund Operational Account Appropriations.** Reduces the maximum percentage of the Operational Account of the Severance Tax fund that may be appropriated to the Colorado Oil and Gas Conservation Commission and the Division of Reclamation, Mining, and Safety by five percent each. Allows appropriations from the Operational Account of the Severance Tax Fund of up to five percent of the balance to the Division of Wildlife to monitor, manage, mitigate, and research the impacts of mineral or mineral fuel production activities on wildlife, and up to five percent of the balance to the Division of Parks and Outdoor Recreation to operate, maintain, and improve state parks located in areas impacted by energy development. Appropriates from the Operational Account of the Severance Tax Fund to the Department of Natural Resources: $1,234,058 for the Division of Parks and Outdoor Recreation; $1,519,927 for the Division of Wildlife; and $750,000 to construct a boat ramp at Nighthorse Reservoir.

- ❏ **S.B. 08-168 (Isgar/Curry): Species Conservation Trust Fund.** Appropriates $11,163,886 from the Species Conservation Trust Fund (SCTF) to the Department of Natural Resources for programs to conserve native species that have been listed as threatened or endangered under state or federal law, or are candidate species or are likely to become candidate species as determined by the United States Fish and Wildlife Service. The bill also changes the funding of the SCTF by delaying a transfer from the Operational Account of the Severance Tax Trust Fund to the SCTF from FY 2007-08 to FY 2008-09 and changing the timing of transfers to the SCTF specified in S.B. 06-229.

- ❏ **S.B. 08-226 (Isgar/Butcher and McFadyen): Aquatic Nuisance Species Prohibition.** Authorizes regulations and penalties related to aquatic nuisance species. For FY 2008-09, transfers $1,250,000 from the Wildlife Cash Fund plus $2,667,244 from the Operational Account of the Severance Tax Trust Fund (total of $3,917,244) to the newly created Division of Wildlife Aquatic Nuisance Species Fund, and appropriates the balance in the fund to the Division of Wildlife. In addition, for FY 2008-09, transfers $3,289,392 from the Operational Account of the Severance Tax Trust Fund to the newly created Division of Parks and Outdoor Recreation Aquatic Nuisance Species Fund and appropriates the balance in the fund to the Division of Parks and Outdoor Recreation. Reduces FY 2008-09 transfers from the Operational Account of the Severance Tax Trust Fund to the Species Conservation Trust Fund by $750,000. For FY 2009-10 and every year thereafter, transfers from the Operational Account of the Severance Tax Trust Fund $4,006,005 with $2,701,461 for the Division of

Parks and Outdoor Recreation Aquatic Nuisance Species Fund and $41,304,544 for the Division of Wildlife Aquatic Nuisance Species Fund.

- ❑ **H.B. 08-1346 (Curry/Isgar): Funding for Colorado Water Conservation Board Projects.** Loans $60,600,000 for the Republican River Water Conservation District Water Activity Enterprise - Republican River Compact Compliance Pipeline from the Severance Tax Trust Fund Perpetual Base Account. Loans $11,217,060 for the Pagosa Area Water & Sanitation District Water Activity Enterprise - Dry Gulch Reservoir Project Land Purchase from the Colorado Water Conservation Board Construction Fund. Appropriates $7,071,000 cash funds from the Colorado Water Conservation Board Construction Fund to the Department of Natural Resources in FY 2008-09 for various projects. Transfers $1,000,000 from the Operational Account of the Species Conservation Trust Fund to the Colorado Water Conservation Board Construction Fund and appropriates this amount to the Colorado Water Conservation Board in the Department of Natural Resources to finance a tamarisk control cost-sharing grant program.

- ❑ **H.B. 08-1387 (Buescher/Veiga): Low-Income Energy Assistance Funding.** Re-authorizes low-income energy assistance programs. Replaces cash fund appropriations from the Operational Account of the Severance Tax Trust Fund made in the 2008 Long Bill (H.B. 08-1375) of $7,050,000 to the Governor's Office and $5,950,000 to the Department of Human Services with transfers from the Operational Account into newly created funds that are continuously appropriated to the Department of Human Services and the Governor's Office. Authorizes new transfers of $13 million per year in state fiscal years 2009-10, 2010-11, and 2011-12 from the Operational Account of the Severance Tax Trust Fund to the following funds:

- 25 percent to the Department of Human Services Low-income Energy Assistance Fund;
- 25 percent to the Energy Outreach Colorado Low-income Energy Assistance Fund; and
- 50 percent to the Governor's Energy Office Low-income Energy Assistance Fund.

By placing the extension of funding within the structure of H.B. 08-1398, makes the funding for low-income energy assistance programs subject to the reserve requirements and proportional reductions if there are insufficient revenues that are specified for all tier 2 programs. Specifies a slightly different installment structure than other tier 2 programs under HB 08-1398, by requiring all of the funding to the Governor's Energy Office Low-income Energy Assistance Fund to be made on July 1, all of the funding to the Department of Human Services Low-income Energy Assistance Fund to be made on January 4, and all of the funding to the Energy Outreach Colorado Low-income Energy Assistance Fund to be made on April 1. Changes the qualification levels for the Governor's Energy Office Home Energy Efficiency Program.

- ❑ **H.B. 08-1398 (Buescher/Johnson): Operational Account of the Severance Tax Trust Fund.** Repeals and reenacts statutes governing the distribution of funds from the Operational Account of the Severance Tax Trust Fund with relocations, technical corrections, and repeals of out-dated language. Changes the reserve requirements for the Operational Account of the Severance Tax Trust Fund as follows:

- Reduces the reserve from twice the appropriations for the core operations of the Department of Natural Resources ("tier 1 programs") to one times the appropriations, plus 15 percent of all other transfers from the operational account grant, research, and construction programs ("tier 2 programs");
- Changes the dates for transfers out of the Operational Account for tier 2 programs:
  - 40 percent transfers July 1,
  - 30 percent transfers January 4, and
  - 30 percent transfers April 1.
- Reduces transfers from the Operational Account for tier 2 programs proportionately if the Legislative Council Staff revenue forecast indicates there will be insufficient funds to maintain the reserve.

❏ **S.B. 07-8 (Taylor/Curry): Expansion of the Water Efficiency Grant Program.** Authorizes any state or local governmental entity that provides water at retail to customers to participate in the water efficiency grant program administered by the Colorado water conservation board. Extends the repeal of the program to July 1, 2012. Transfers revenues from the Operational Account of the Severance Tax Trust Fund to the Water Efficiency Grant Program Cash Fund. Appropriates $82,749 and 1.0 FTE in FY 2007-08 to the Department of Natural Resources for allocation to the Colorado Water Conservation Board.

❏ **S.B. 07-122 (Isgar/Curry): Funding of Colorado Water Conservation Board Projects.** Funds a variety of water-related projects from the Colorado Water Conservation Board Construction Fund (CWCB Construction Fund) and the Perpetual Base Account of the Severance Tax Trust Fund. Funding mechanisms include loans, direct appropriations, and fund transfers.

❏ **S.B. 07-198 (Isgar/Roberts): Funding of Projects to Monitor the Seepage of Coalbed Methane Gas.** Creates the Coalbed Methane Seepage Cash Fund which consists of funds appropriated from the Oil and Gas Conservation and Environmental Response Fund. Requires the General Assembly to make the following appropriations to the Coalbed Methane Seepage Cash Fund: (1) up to $2,003,400 for FY 2007-08; (2) up to $2,003,400 for FY 2008-09; and (3) up to $445,200 for FY 2009-10. Authorizes the Oil and Gas Conservation Commission to use the moneys in the fund for a project to determine the most cost-effective methods of mitigating the seepage of methane gas along the outcrop of the Fruitland formation in La Plata county; and for the installation of wells to monitor the seepage of methane gas in the Fruitland formation in Archuleta county. Appropriates $2,003,400 from the Oil and Gas Conservation and Environmental Response Fund to the Coalbed Methane Seepage Cash fund for FY 2007-08.

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APPENDIX C: DEPARTMENT RESPONSE ON TRANSFERRING MONEY FROM THE OPERATIONAL ACCOUNT

JBC Staff Question:

3. If the G.A. needs to relieve pressure on the General Fund through refinancing with cash funds or transferring cash balances to the General Fund, how would the Department recommend evaluating and prioritizing the programs currently funded from the Operational Account? (I'm trying to imagine the consequences if the G.A. transferred $50+ million out of the Operational Account; the projected $30 million balance after the reserve +$20 or more million more from existing programs.) Should tier 2 programs be reduced proportionally across the board, as provided in statute, or are there some tier 1 or tier 2 programs that could manage reductions more easily and with less disruption than others? Please let me know if the scenario changes depending on whether it is a one-time or long-term reduction.

Department Response:

Preface to Response: *This response will attempt to lay out some principles for achieving budgetary reductions in spending from the Operational Account on the Severance Tax Trust Fund in the event such reductions are necessary to deal with a revenue shortfall. According to the November 1, 2008 OSPB interim General Fund Forecast, revenues will be adequate in FY 2008-09 and FY 2009-10. Given this information, the Department opposes refinancing General Fund with Operational Account dollars at this time. However, the Department realizes that the State's economic problems may deteriorate over the coming months. As such, the Department will attempt to answer this question with the understanding that a significant reduction in Operational Account spending may be needed if a significant revenue shortfall does indeed occur.*

It is important to note that Operational Account of the Severance Tax Trust Fund is used to fund a number of critical natural resource programs, including: (1) the regulation of mining as well as oil and gas activities; (2) water studies, projects, and loans to address the State's water supply needs; (3) protection of endangered species in a way which balances the need to develop and utilize land and water resources; and (4) programs to address the State's bark beetle problem in a way which protects watersheds and minimizes the risks associated with forest fires. All of these programs are consistent with the statutory intent of the General Assembly that a portion of the state severance tax be used for natural resource programs.

As you know, a large number of state departments now receive funding from the Operational Account of the Severance Tax Trust Fund, including the Governor's Office, the Department of

Human Services, the Department of Higher Education, and the Department of Agriculture. Given that most of these programs fall outside of the Department's sphere of knowledge and expertise, it is probably not appropriate for the Department to attempt to prioritize programs outside of DNR. With that said, the Department also does not believe that all programs are of the exact same priority.

<u>General Principles Regarding Operational Account Spending:</u> The Department has always believed that the "core" Tier 1 programs (for CGS, OGCC, DRMS, and CWCB) should receive the first priority for funding. This is especially true for funding needed to fund staff salary and operating costs. Without some of this critical funding, there may be some risk to the revenue stream itself. There may also be risks to federal grants for cost-shared positions and programs. We may not have the staff necessary to process permits in a timely fashion, process incoming grants, examine sites for the release of reclamation bonds, perform studies that promote development of natural resources, and complete other work that promotes the responsible development of Colorado's natural resources. Funding should also continue to support staff to study and mitigate geological and natural resource hazards, as well as to provide for the beneficial use of the State's water resources through CWCB and the IBCC. Similarly, it is critical that funding is provided for environmental staff to ensure the protection of public health, safety, and welfare (including the protection of wildlife and wildlife habitat, and water resources). The consequences of failing to fund environmental protection related to mineral and energy development could be significant, and may include increased public resistance to such development.

The Department is currently opposed to any long-term/permanent reduction in Operational Account spending on natural resource programs to solve the current economic crisis. Most of the problems being addressed by Operational Account-funded programs are long-term in nature and will still need to be addressed long after the current economic problems have subsided. Further, the full extent of the economic problems are not currently known and it would be premature to start eliminating important natural resource programs to address current economic uncertainties. In contrast, the Department recognizes that both General funded and cash funded programs may need to make temporary cutbacks if a revenue shortfall occurs.

The Office of State Planning and Budgeting will provide recommendations to the Joint Budget Committee should future forecasts indicate that revenues will not be adequate in the current year or FY 09/10 to increase appropriations by 6%.

That being said, the Department would like to highlight the following programs. ***Please note, the Department would oppose reductions to any of these programs*** *at this time in light of the November 1 interim OSPB forecast.*

<u>Potential Areas for Short Term Budget Reductions:</u> While the Department does not have any specific cuts recommended, the following are areas where one-time severance tax savings may be able to be achieved:

Mine Site Reclamation - *For FY2008-09,* ***$342,000*** *is appropriated to reclaim forfeited mine sites. These are previously bonded sites; for various reasons, the permits were revoked. Unfortunately, the bond was not always adequate to cover the cost of reclamation, sometimes due to the solvency of the operator, and sometimes due to the bond caps that existed until the late 1980s. In all cases, there is not a solvent company to clean up such sites.*

This funding has not yet been committed to construction contractors due to the freeze. Ten sites would remain unreclaimed if the entire amount for this fiscal year was reduced -- posing possible health or environmental conditions including hazardous mine openings, acid mine drainage, erosion of mine and mill waste piles into streams and rivers, and other hazardous conditions left unattended by mining operations. If this source of funding were continued to be reduced in the long term, it will continue to delay prevention of health and safety conditions at forfeited mine sites. There are currently 40 underfunded forfeited sites remaining to be reclaimed for a total of $1.7 million in 2006 dollars. The cost escalates over time due to extraordinary inflation in construction costs amounting to 15 percent per year on combined materials, labor and fuel costs; therefore, long term funding reductions will further delay stabilization of these sites and further compound these inflationary increases.

The Division also has ***$275,000*** *unobligated in Mine Site Reclamation severance tax funding in FY 08-09 due to the freeze (Out of an appropriation of $500,000). These funds were designated for partnering with local watershed groups, local Soil Conservation Districts, and the Colorado Department of Public Health and Environment to match 319 Clean Water Act and other conservation grants. This funding enhances local watershed initiatives in dealing with environmental, water quality and non-point source issues associated with abandoned mines, including acid mine drainage, and erosion of mine and mill waste piles into streams and rivers. This funding is critical to local watersheds as they develop long-term plans and best management practices for dealing with the effects of past mining operations within their watersheds. Potentially four watershed groups in 08-09 would be unable to match their federal grant proposals if these funds are suspended.*

This state funding matches other federal and local funding. On the average, $60,000 of state funds per watershed leverages $180,000 of federal funding. Long term reductions will greatly affect the ability of these local groups to be successful in receiving federal funding. There are over 150 sites in Colorado where partnerships for environmental clean-up are essential to completing the work at these sites given the costs involved.

These funds, amounting to ***$617,000****, provide local economic benefits in the creation of hundreds of jobs in Colorado's construction industry. Every dollar expended translates into jobs in the construction, labor, equipment and services industries.*

Severance Tax Grants - *The CWCB gets $1,275,000 annually to address a variety of water projects and water studies. This line item funds important water supply studies and planning efforts, instream flow projects, water conservation planning, and flood protection efforts. Rather than eliminating* *this program, reducing the size of the program would allow the CWCB to prioritize the highest priority projects and the most immediate needs, while postponing lower priority projects.*

Division of Wildlife - *Under S.B. 08-013, the Division of Wildlife will get $1.5 million per year to study the impacts of energy development on wildlife and wildlife habitat, as well as to study best management practices to reduce such impacts. This money will be used to hire contracts to complete a variety of studies. Due to the hiring freeze, the Division may not be able to spend all of this money before year end. Again, however, the Department does not believe it is in the best interest of the State to rescind this funding permanently and forego these studies. A temporary reduction in this funding could provide some General Fund assistance, if necessary, while only deferring completion of the studies. However, once the studies have been started (and some have), a reduction in funding and associated stoppage of a study will result in the initial spending on the study having been wasted. There may be projects that have not yet started (Spring start) that could be delayed without this additional consequence. Due to the tight time frame to respond to this question, the Division of Wildlife was not able to quantify how many projects might be delayed.*

Oil and Gas Conservation Commission - *As noted in a question from JBC Staff, severance tax revenues could be saved by refinancing a greater percentage of the OGCC budget with mill levy revenues. This would require the OGCC to raise the mill levy from its current level. Given the tremendous growth in workload for the OGCC as well as the work required to finalize and implement the new rules, the Department would be strongly opposed to any effort to reduce overall funding for OGCC. Additionally, it is worth noting that this idea will likely be strongly opposed by the oil and gas industry.*

Low-income Energy Assistance Program - *This program receives $13.0 million annually to provide direct bill assistance to citizens for their home heating costs, as well as funding weatherization and other energy efficiency projects designed to reduce the use/cost of energy consumption for home heating purposes. Under S.B. 07-122, the Public Utilities Commission (PUC) can consider the needs of low-income households when setting utility rates. For this to occur, action by the PUC to implement such a change would be needed. It is possible that some part of the $13.0 million program could be eliminated and, in essence, funded instead through a utility rate structure change designed to help provide relief to low-income households. The Department does not have a position on this possible approach.*

Water Supply Reserve Account - *Given the State's long-term shortage of water, the impacts of drought and global climate change, and the hurdles to the interbasin sharing of water, the Department believes that this program must be continued into the future with at least $10 million per year provided for water projects. The Department believes that this money is essential to the roundtable process because it provides incentive for people to participate in interbasin water discussions and it increases the likelihood of win-win interbasin water transfers. Any reduction taken to this program must be short-term in nature and should be accompanied by additional/off-setting funding after the economic crisis has passed. Ideally, any transfer of funding away from this program would be replenished in the next fiscal year. Further, the Department* *believes that this program should be extended for five additional years (which is part of the Department's current legislative agenda). A reduction in current spending from the Water Supply Reserve Account will further strengthen the need to continue this program because less will be accomplished under the program's current authorization.*

***Species Conservation Trust Fund** - S.B. 08-168 appropriated $7.585 million for payment towards Colorado's obligations in the Platte River Recovery Program. If this amount is not otherwise adjusted, the State's cash obligation will be reduced to $9.6 million plus interest after FY 2008-09. The General Assembly could choose to reduce the payment made to the Platte River Recovery Program over the next year or two. However, the Department believes that any such effort should involve a clear plan on how this obligation will be paid off if the current payment plan is adjusted (including any statutory adjustments needed to provide for the future transfers which would be needed to achieve a payoff of the State's obligation towards this species recovery program). It is worth reiterating that a negative of reducing current appropriations for the Platte River Recovery Program will be that the State will accrue additional interest payments as a result of paying down its obligation more slowly.*

A reduction to this program may also involve prioritizing other species protection programs, including protection of federally listed species as well as "species of concern" protected by the Division of Wildlife. However, the Department is concerned about the potential for the new Obama Administration to manage a more vigilant threatened and endangered species program. A special of particular concern in this regard is the sage grouse.

JBC Staff Question:

4. What General Fund programs would be logical candidates for refinancing with the Operational Account? If the scenario in question #3 materialized, would the Department have a preference for refinancing programs versus a direct transfer from the Operational Account to the General Fund?

Department Response:

In the event that it is necessary, the Department would prefer direct transfers of severance tax to the General Fund. Such transfers are inherently one-time in nature. A refinancing, on the other hand, may create the expectation that such refinanced programs be permanently financed from severance tax. Depending on the exact proposal, it is not clear that such refinancings are sustainable from this revenue stream over the long run. The Department realizes that there are several economic variables which affect these strategies as well, such as how long any General Fund revenue shortfall will last. The Department does not have a position on these statewide economic issues but will work with the Governor's Office and General Assembly to help with the State's economic problems.

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