COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE

FY 2008-09 STAFF BUDGET BRIEFING: DEPARTMENT OF NATURAL RESOURCES

(FOR THE FOLLOWING DIVISIONS: 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 2008-09 BUDGET BRIEFING

STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE:

DEPARTMENT OF NATURAL RESOURCES
FOR THE FOLLOWING DIVISIONS (ONLY):
DIVISION OF RECLAMATION, MINING, AND SAFETY
COLORADO GEOLOGICAL SURVEY
OIL AND GAS CONSERVATION COMMISSION
STATE BOARD OF LAND COMMISSIONERS

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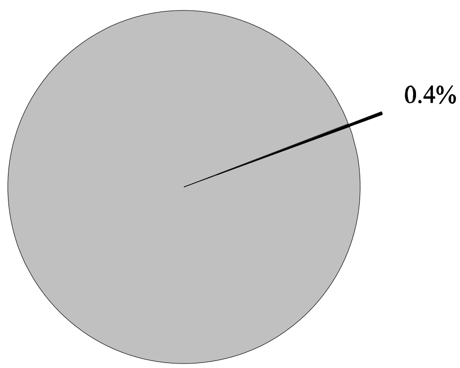

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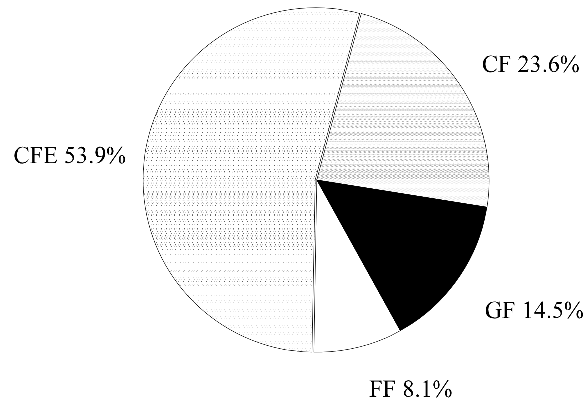

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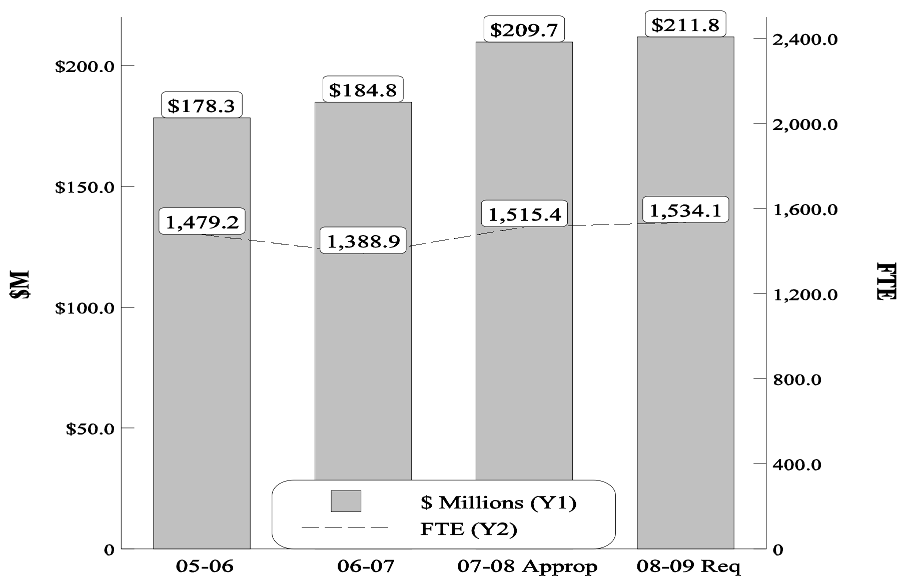

The figures for FY2008-09 include an estimated $4.4 million for water bill projects.

DEPARTMENT OF NATURAL RESOURCES 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.

General Factors Driving the Budget

Funding for the entire department consists of 14.5 percent General Fund, 23.6 percent cash funds, 53.9 percent cash funds exempt, and 8.1 percent federal funds.

Severance Tax (Operational Account) Expenditures

The Operational Account of the Severance Tax Trust Fund was created to fund programs within the Oil and Gas Conservation Commission, the Colorado Geological Society, The Division of Reclamation, Mining, and Safety, and the Colorado Water Conservation Board that promote sound natural resource planing, management, and development. In addition to supporting these programs, several bills have authorized transfers and expenditures out of the Operational Account for specific initiatives.

Pursuant to S.B. 96-170, Section 39-29-108 (2), C.R.S. provides that 50 percent of severance tax revenues are deposited into 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. Section 39-29-109, C.R.S. provides that 50 percent of revenues deposited into the Severance Tax Trust Fund shall be allocated to the Perpetual Base Account of the Severance Tax Trust Fund (or 25 percent of total severance tax revenues) for use 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) are allocated to the Operational Account.

Historically, severance tax revenues have been highly variable. The available severance tax revenues to the Operational Account influences the funding levels for the Oil and Gas Conservation Commission, the Colorado Geological Society, The Division of Reclamation, Mining, and Safety, and the Colorado Water Conservation Board. Section 39-29-109, C.R.S. requires a reserve in the Operational Account equal to twice the current state fiscal year's operating appropriations for these programs. The available severance tax revenues to the Operational Account also influences the funding for the special initiatives that have been statutorily authorized in recent years.

	FY 03-04 Actual	**FY 04-05 Actual**	**FY 05-06 Actual**	**FY 06-07 Actual**	**FY 07-08 Estimate**	**FY 08-09 Estimate**
Beginning balance	$643,003	$18,149,884	$25,399,591	$50,851,610	$40,012,876	$37,593,951
Revenues	29,923,659	36,555,003	64,468,852	33,312,271	38,372,500	45,476,500
Total available	$30,566,662	$54,704,887	$89,868,443	$84,163,881	$78,385,376	$83,070,451
Natural Resources programs subject to 2-year reserve	6,298,232	6,205,296	7,167,084	8,669,679	10,204,734	10,452,028
Statutory initiatives	6,118,546	23,100,000	31,849,749	35,481,326	30,586,691	35,891,857
Ending balance	18,149,884	25,399,591	50,851,610	40,012,876	37,593,951	36,726,566
Reserve requirement	12,596,464	12,410,592	26,896,272	28,864,470	34,409,468	21,904,057
Unobligated reserve	5,553,420	12,988,999	23,955,338	11,148,406	3,184,483	14,822,509

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.

The Colorado Constitution does not allow the corpus of the School Trust to be diminished. Therefore, after accounting for the State Land Board's administrative expenses, the proceeds generated by the sale of the School Trust corpus (e.g. royalties or land sales) must be reinvested in another property or the proceeds get deposited into the constitutionally inviolate Public School Fund (generally referred to as the Permanent Fund). The State Treasurer is responsible for investing the Permanent Fund. The majority of revenue from the disposition of property that gets deposited in the

Permanent Fund is attributable to the sale of mineral and energy resources.

Rental income from the use of School Trust lands, and interest earnings from the investment of the Permanent Fund, may be used to support K-12 education. Under current law, up to $12.0 million of the rental income from School Trust lands and up to $19.0 million of the interest income from the Permanent Fund (a total of $31.0 million combined) may be appropriated annually for K-12 education. Any operating revenue generated by the School Trust in excess of the $12.0 million, after accounting for the State Land Board's administrative expenses, is deposited in the Permanent Fund. The General Assembly appropriates administrative expenses for the State Land Board.

A 1996 amendment to the Colorado Constitution allowed the Land Board to make "non-simultaneous exchanges," meaning that the Land Board has two years after disposing of property to exchange it for another property. If an exchange is not made within two years, the associated revenue defaults to a land sale and is deposited in the Permanent Fund.

SCHOOL TRUST REVENUE	FY04-05 Actual	FY05-06 Actual	FY06-07 Actual	FY07-08 Estimate	FY08-09 Projection
School Trust-Total Revenues	$53,771,940	$63,868,553	$61,151,881	$61,131,833	$56,905,465
Mineral Rental	1,253,324	1,751,130	1,614,907	1,811,339	1,811,339
Mineral Royalties/Bonuses	40,121,204	50,399,909	46,715,425	46,708,385	41,445,047
Surface Rental	7,988,701	8,009,916	8,371,449	7,790,872	7,827,842
Commercial/Other	4,033,546	3,478,051	3,259,564	4,672,190	5,672,190
Land Sales	75,707	11,286	60,021	0	0
Interest and Penalties	149,153	126,634	16,694	99,047	99,047
Timber Sales	150,305	91,627	1,113,821	50,000	50,000

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. In FY 2006-07 there were more than three times as many drilling permits requested as in FY 2002-03.

Oil and Gas Conservation Commission	FY 02-03 Actual	FY 03-04 Actual	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate
Workload Activity						
Drilling Permits Received	2,081	2,650	3,847	5,829	6,664	7,050
Number of Active Wells	24,489	25,870	28,032	30,324	32,021	34,000
Average Drilling Rigs	30	47	63	83	97	120
Total OGCC Expenditures[1/]	$3,275,376	$3,331,168	$3,623,183	$3,977,718	$6,067,702	$9,841,627
Total FTE	34.0	34.0	35.3	38.0	45.4	55.0

[1/] Division-only expenditures include all fund sources; does not include 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 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09 Estimate
Parks Capital Budget	$9,183,000	$13,048,000	$7,143,000	$4,475,000	$5,165,000
Parks Operating Budget	3,793,000	4,980,000	4,980,000	4,025,000	4,335,000
Total GOCO Grants to Parks	$12,976,000	$18,028,000	$12,123,000	$8,500,000	$9,500,000
Percent of Parks' Expenditures	*23.3%*	*23.5%*	*10.8%*	*16.1%*	*16.2%*
Wildlife Capital Budget	$6,940,000	$7,940,000	$4,905,000	$5,300,968	$5,300,968
Wildlife Operating Budget	8,060,000	8,060,000	5,345,000	6,200,000	6,200,000
Total Grants to Wildlife	$15,000,000	$16,000,000	$10,250,000	$11,500,968	$11,500,968
Percent of DOW Expenditures	*15.1%*	*16.1%*	*10.0%*	*12.0%*	*11.5%*

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 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Estimate	FY 2008-09 Request
General Fund - State Parks	$5,562,217	$4,669,480	$5,599,915	$5,466,161	$5,859,574
Percent Change	*n/a*	*(16.1)%*	*19.9%*	*(2.4)%*	*7.2%*
Total Funds - State Parks	$29,599,026	$31,370,828	$32,827,842	$33,909,691	$33,881,064
Percent Change	*n/a*	*6.0%*	*4.6%*	*3.3%*	*(0.1)%*
State Parks Visitation	11,203,691	11,266,732	11,177,708	11,367,729	11,515,510
Percent Change	*n/a*	*0.6%*	*(0.8)%*	*1.7%*	*1.3%*

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

Division of Water Resources General Fund

This division, also referred to as the Office of the State Engineer, receives over 63 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 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Approp.	FY 08-09 Request
General Fund - Division	$13,549,757	$14,422,604	$18,412,901	$19,206,772	$20,116,082
Percent Change	*0.0%*	*6.4%*	*27.7%*	*4.3%*	*4.7%*
Total Department General Fund	$22,060,071	$22,990,632	$28,299,762	$30,336,286	$32,180,633
Division GF as % of Department GF	*61.4%*	*62.7%*	*65.1%*	*63.3%*	*62.5%*

[1/] Direct expenditures only; does not reflect centrally appropriated items ("POTS") in the EDO.

Division of Wildlife

For FY 2007-08, the Division of Wildlife's $80.8 million appropriation represents 38.7 percent of the Department's total operating budget. The following table describes the Division's various revenue sources.

Division of Wildlife Revenue Sources	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Approp.	FY 08-09 Request
Wildlife Cash Fund	$62,122,827	$64,284,437	$59,914,980	$62,373,462
Federal Funds	9,527,120	10,387,691	10,480,575	10,465,487
Great Outdoors Colorado (GOCO) Board Grants	7,885,458	6,117,667	6,200,000	6,200,000
Habitat Partnership Cash Fund	1,777,273	2,169,274	2,500,000	2,500,000
Species Conservation Trust Fund	0	400,000	0	0

Division of Wildlife Revenue Sources	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Approp.	FY 08-09 Request
Colorado Outdoor Magazine Subscriptions	529,397	550,000	550,000	550,000
Non-game Wildlife Voluntary Tax Contributions	500,000	500,000	500,000	500,000
Other	57,243	1,011,217	1,078,000	1,265,000
Total DOW Budget	**$82,399,318**	**$85,420,286**	**$81,223,555**	**$83,853,949**

Summary of Major Legislation

- ✓ **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.

- ✓ **H.B. 07-1182 (Curry/Isgar): Funding for Programs Designed to Conserve Endangered/Threatened Native Species.** Appropriates $3,485,000 from the Species

Conservation Trust Fund (trust fund) to the Department of Natural Resources for programs that are designed 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. If the National Science Foundation has not awarded the national Deep Underground Science and Engineering Laboratory (DUSEL) to the Henderson mine near Empire by the end of any fiscal year through June 30, 2012, directs the state treasurer to transfer the moneys that were appropriated for such fiscal year by July 1 of the succeeding fiscal year to the Species Conservation Trust Fund. If actual FY 2006-07 severance tax collections exceed the March 2007 quarterly revenue forecast by Legislative Council Staff for FY 2006-07 severance tax collections, directs the State Treasurer to deduct from the Operational Account of the Severance Tax Trust fund the following amounts: one-half of the amount of such excess that would otherwise be credited to the operational account, up to $3.0 million, and transfer such sum to the Capital Account of the Species Conservation Trust Fund; and one-half of the amount of such excess, up to $3.0 million, and transfer such sum to the Operations and Maintenance Account of the Trust Fund. Subject to the maintenance of a two-year reserve in the Severance Tax Trust Fund, directs the state treasurer to deduct from the Operational Account of the Severance Tax Trust fund the following amounts: (1) $2.0 million after July 1, 2008; (2) $4.0 million after July 1, 2009; and (3) $6.0 million after July 1, 2010. Of these amounts, one half of the amount reduced in each year shall be transferred to the Capital Account of the Species Conservation Trust Fund, and one half shall be transferred to the Operations and Maintenance Account of the Species Conservation Trust Fund.

✓ **H.B. 07-1372 (Curry/Isgar): Modifies the Transfer of Money from the Operational Account to the Water Supply Reserve Account in the Severance Tax Trust Fund.** Makes adjustments to ensure that reserve requirements for the Operational Account of the Severance Tax Trust Fund are met. Reduces statutory transfers from the Operational Account of the Severance Tax Trust Fund to the Water Supply Reserve Account by $4.0 million for FY 2007-08 and FY 2010-11 (from $10.0 million each year to $6.0 million in these years). Strikes an appropriation of $75,837 cash funds (Operational Account of the Severance Tax Trust Fund) and 0.5 FTE that had been made to the Governor's Office in FY 2006-07 pursuant to H.B. 06-1400. Strikes an appropriation of $151,371 cash funds (Operational Account of the Severance Tax Trust Fund) and 1.0 FTE made to the Governor's Office in FY 2007-08 pursuant to the 2007 Long Bill (S.B. 07-239).

✔ **S.B. 06-179 (Isgar/Penry): Additional Financial Support for Water Projects.** Transfers $10.0 million a year from the Operational Account to the Water Supply Reserve Account starting in FY 2006-07.

✓ **S.B. 06-183 (Isgar/Buescher): Water Resource Research Institute.** Appropriates $500,000 cash funds from the Operational Account of the Severance Tax Trust Fund to the Department of Higher Education, Regents of the University of Colorado, for the Water Resources Research Institute, in FY 2006-07.

- ✓ **S.B. 06-193 (Wiens/Harvey): Study of Underground Water Storage Sites.** Requires the Colorado Water Conservation Board (CWCB) to conduct a study of underground water storage sites in the South Platte and Arkansas River basins. Authorizes the CWCB to consult with the Interbasin Compact Committee, the State Engineer, and the State Geologist. Requires the Board to submit a report of its findings to the General Assembly by March 1, 2007. Appropriates $125,000 cash funds from the Operational Account of the Severance Tax Trust Fund to the Department of Natural Resources, Colorado Water Conservation Board for FY 2006-07. Also appropriates $21,000 cash funds from this source and makes a reduction of $21,000 in fees to the Colorado Geological Survey for FY 2006-07.

- ✓ **S.B. 06-229 (Fitz-Gerald/Plant): Deep Underground Science and Engineering Laboratory (DUSEL).** Requires the General Assembly to appropriate a total of $20 million from the Operational Account of the Severance Tax Trust Fund over a five-year period beginning in FY 2007-08, to pay the State's share of the costs related to the construction and operation of a national deep underground science and engineering laboratory (DUSEL) facility that will house a visitor's center, educational resources, and DUSEL administrative offices. The appropriation is conditional upon the National Science Foundation awarding DUSEL to the Henderson Mine near Empire.

- ✔ **H.B. 06-1200 (Buescher/Kester): Operational Account moneys for Low-Income Energy Assistance**. Appropriates a portion of the Operational Account of the Severance Tax Trust Fund to the Department of Human Services for the Low-Income Energy Assistance Program (LEAP) and the Office of the Governor for direct bill payment assistance and home energy efficiency improvements for low-income households. For FY 2005-06, appropriates $24.0 million in total from the Operational Account, with the Department of Human Services receiving $17.0 million to increase benefits in the LEAP program, and the Office of the Governor receiving $7.0 million for direct bill payment assistance and home energy efficiency improvements for low-income households. For FY 2006-07, appropriates $11.0 million in total from the Operational Account, with the Department of Human Services receiving $5,950,000 to increase benefits in the LEAP program, and the Office of the Governor receiving $5,050,000 for direct bill payment assistance and home energy efficiency improvements for low-income households. Fiscal year 2007-08 and FY 2008-09 will provide for $12.0 million and $13.0 million of appropriations, respectively, for these programs combined. Finally, the bill ensures that there is an adequate reserve in the prior year with which to make each year's appropriations.

- ✓ **H.B. 06-1311 (Curry/Isgar): Funding for Programs Designed to Conserve Endangered/Threatened Native Species.** Transfers a total of $12,800,000 to the Species Conservation Trust Fund from the Operational Account of the Severance Tax Trust Fund, including $4,000,000 in FY 2005-06 and $8,800,000 in FY 2006-07. Appropriates money to the Operations and Maintenance Account and the Capital Account of the Species Conservation Trust Fund for programs submitted by the Executive Director of the

Department of Natural Resources. These programs are designed to conserve native species that are listed as threatened or endangered under state or federal law, are candidate species, or are likely to become candidate species as determined by the U.S. Fish and Wildlife Service. Appropriates $3,732,813 cash funds exempt and $3,550,000 cash funds exempt to the Department of Natural Resources for FY 2005-06 and FY 2006-07, respectively.

✓ **H.B. 06-1313 (Curry/Isgar): Colorado Water Conservation Board Projects.** Decreases the amount of specified prior loans from the Colorado Water Conservation Board (CWCB) Construction Fund by $2,180,000. Transfers $150,000 from the CWCB Construction Fund to the Flood Response Fund and transfers $2 million from the Operational Account of the Severance Tax Trust Fund to the Litigation Fund. Appropriates $3,981,555 cash funds exempt from the Colorado Water Conservation Board Construction Fund to the Department of Natural Resources in FY 2006-07. Of this sum, $3,631,555 cash funds exempt is appropriated to the Colorado Water Conservation Board and $350,000 cash funds exempt is appropriated to the Division of Water Resources.

✔ **H.B. 06-1322 (Buescher/Tapia): Support for Development of Clean Energy Resources Using Severance Tax Proceeds.** Moneys from the Operational Account of the Severance Tax Trust Fund are appropriated to the following three entities: the Colorado Renewable Energy Authority is created and appropriated $2,000,000 to support the development of renewable energy technologies; the Department of Agriculture's Colorado Agricultural Value-Added Development Board is appropriated $500,000 to support agricultural energy related projects and research; and the Department of Public Health and Environment is appropriated $135,000 to fund studies related to greenhouse gas emission reduction.

✔ **H.B. 06-1393 (Curry/Isgar): Conservation District Grant Fund.** The bill annually transfers $450,000 from the Operational Account of the Severance Tax Trust Fund to this newly created fund. The moneys are then continuously appropriated to the Department of Agriculture for the Natural Resources Conservation Matching Grants Program to provide moneys to local conservation districts to help them compete for matching federal dollars available for technical assistance in addressing various conservation concerns.

✔ **H.B. 06-1400 (Buescher/Isgar): Approval of Interbasin Compact Charter.** Approves the interbasin compact charter, pursuant to the provisions of H.B. 05-1177. Appropriates $75,837 cash funds from the Operational Account of the Severance Tax Trust Fund and 0.5 FTE to the Office of the Governor, Director of Compact Negotiations, and $855,481 cash funds from the Operational Account of the Severance Tax Trust Fund and 1.2 FTE to the Department of Natural Resources, Colorado Water Conservation Board, for FY 2006-07.

✓ **S.B. 05-190 (Tochtrop / McFadyen): Abandoned Mine Reclamation Fund.** Authorizes an annual $500,000 transfer from the Operational Account of the Severance Tax Trust Fund to clean up abandoned mining operations deemed to pose a high risk to the environment or the public welfare. Appropriates $500,000 cash funds exempt from the Abandoned Mine

Reclamation Fund to the Department of Natural Resources for the Inactive Mines program.

✔ **S.B. 05-196 (Owen/Buescher): State Land Board Investment and Development Fund.** Creates the State Board of Land Commissioners Investment and Development Fund. Continuously appropriates $1,000,000 annually through FY 2009-10 from the State Land Board earnings on mineral royalties and bonus revenue into the Fund for expenditure by the State Land Board on rezoning, platting, master planning, or other development activities that increase the value of or rate of return on the lands.

✔ **S.B. 05-226 (Owen/Plant): Kansas v. Colorado Litigation Payments.** Makes the following changes for FY 2004-05 to pay the damages in the settlement: (1) creates the *Kansas v. Colorado* Plaintiff's Damages Payment Fund ("Damages Payment Fund"); (2) authorizes the State Treasurer to transfer $34,796,129 into the Damages Payment Fund comprised of the following: $15,500,000 from the Operational Account; $15,500,000 from the Perpetual Base Account; and $3,796,129 from the Local Government Severance Tax Fund; (3) authorizes the Department of Law to expend from the Damages Payment Fund and appropriates $34,796,129 CFE from the Damages Payment Fund for FY 2004-05 (and authorizes the expenditure of moneys not spent in FY 2004-05 to be spent in FY 2005-06) to the Department of Law; and (4) provides that any moneys not utilized in the damages payment to Kansas shall be transferred to the Local Government Severance Tax Fund on July 1, 2006.

Makes the following changes for FY 2005-06 to pay for potential court (legal) courts: (1) creates the *Kansas v. Colorado* Plaintiff's Legal Costs Fund ("Legal Costs Fund") for the purpose of paying a portion of Kansas' legal costs; (2) on July 1, 2005, transfers $4,000,000 from the Operational Account of the Severance Tax Trust Fund to the Legal Costs Fund; (3) provides the Department of Law with continuous spending authority to pay Kansas for its legal costs "up to" the $4,000,000 from the Legal Costs Fund subject to the written approval of the JBC to the State Controller; (4) repeals the provisions effective July 1, 2007 and provides that the remaining funding not expended in this Legal Costs Fund shall be transferred (back) to the Operational Account. Finally, the bill exempts the transaction from the provisions of H.B. 05-1001 (restriction on the transfer of moneys from cash funds) in the event that H.B. 05-1001 is passed and the bill exempts this Operational Account transaction from the statutory two year required reserve for Operational Account expenditures.

✔ **H.B. 02-1041 (Rippy/Taylor): Operational Account of the Severance Tax Trust Fund Balance.** Establishes the intent of the General Assembly that a year end balance be maintained in the Operational Account of the Severance Tax Trust Fund equal to double that of funding for severance tax programs in the Department of Natural Resources.

✔ **S.B. 96-170 (Bishop/Dyer): Severance Tax Reform.** Severance taxes are taxes charged on the “severing” of minerals and mineral fuels from the earth. Under S.B. 96-170, 50.0 percent of severance tax revenues are deposited into the Severance Tax Trust Fund, and 50.0

percent of the revenues are used by the Department of Local Affairs for grants and distributions to local governments affected by mining. Fifty percent of revenues deposited into the Severance Tax Trust Fund are allocated to the Perpetual Account, which is used by the Water Conservation Board to make loans for water construction projects. The other 50.0 percent of Severance Tax Trust Fund revenues are allocated to the Operational Account, to fund programs that promote and encourage planning, management, and development of minerals, energy, and water resources. The bill specifies that the General Assembly may appropriate up to 45.0 percent of the Operational Account balance to the Oil and Gas Conservation Commission, up to 30.0 percent to the Division of Minerals and Geology, up to 20.0 percent to the Colorado Geological Survey, and up to 5.0 percent to the Water Conservation Board.

Major Funding Changes FY 2006-07 to FY 2007-08

Action	General Fund	Other Funds	Total Funds	Total FTE
S.B. 07-122 - CWCB Projects (CWCB & Forestry)	$0	$5,795,000	**$5,795,000**	**0.0**
FY 2007-08 Common Policy Adjustments (EDO)	$1,262,405	$2,500,426	**$3,762,831**	**0.0**
H.B. 07-1182 - Conserve Native Species (EDO)	$0	$3,485,000	**$3,485,000**	**0.0**
FY 2006-07 Salary and Benefits Adjustments (various)	$736,064	$1,598,525	**$2,334,589**	**0.0**
S.B 07-198 - Monitor Coalbed Methane Gas (OGCC)	$0	$2,003,400	**$2,003,400**	**0.0**
Adjust GOCO and Lottery Funds (Parks & DOW)	$0	$1,673,098	**$1,673,098**	**6.5**
Parks Staff	$265,188	$1,299,426	**$1,564,614**	**24.0**
Increase Staff (various)	$371,019	$1,002,307	**$1,373,326**	**18.1**
Central Impacts of Decision Items (EDO)	$37,534	$401,529	**$439,063**	**0.0**
Severance Tax Projects (CWCB)	$0	$435,500	**$435,500**	**0.0**
Fund Mix Adjustments (various divisions)	$0	$360,047	**$360,047**	**0.0**
Reclamation of Forfeited Mines (DRMS)	$0	$342,000	**$342,000**	**0.0**
Cheyenne Mountain and Lone Mesa State Parks (Parks)	($2,400)	$113,814	**$111,414**	**0.0**
Vehicle Mileage Adjustments (WRD)	($3,400)	$93,553	**$90,153**	**0.0**
Oil Shale Consultant (OGCC)	$0	$60,000	**$60,000**	**0.0**
Compact Dues (CWCB)	$0	$43,397	**$43,397**	**0.0**
Eliminate One-time Appropriations (various)	$0	($8,036,983)	**($8,036,983)**	**0.0**
Personal Services Reduction (various)	($101,317)	($437,711)	**($539,028)**	**0.0**
Reduction in Federal Funds (EDO, WRD)	$0	($339,564)	**($339,564)**	**0.0**
Various Other Adjustments (including Parks refinance)	($656,709)	$595,199	**($61,510)**	**0.0**
Total Funding Changes FY 07 to FY 08	**$1,908,384**	**$12,987,963**	**$14,896,347**	**48.6**

Decision Item Priority List

Priority	Division: Description *[Statutory Authority]*	GF	CF *[Source]*	CFE *[Source]*	FF *[Source]*	Total	FTE
1	**Oil and Gas Conservation Commission** Environmental staff (9.0 FTE) and five additional vehicles to conduct oil and gas permit reviews, environmental inspections and data management. *[Sections 34-60-102 (1); and 106 (2) (d), C.R.S.]*	$0	$778,768 *[Mill levy deposited in the Oil and Gas Conservation and Environmental Response Fund]*	$0	$0	$778,768	9.0
2	**Colorado Water Conservation Board** New Scientist (1.0 FTE) and one additional vehicle to coordinate drought planning, mitigation, and response activities for the Office of Water Conservation and Drought Planning (OWCDP). An additional 0.5 FTE to expand work related to Water Efficiency Grant Program (expand financial assistance and perform education and outreach). *[Sections 37-60-102; 112; 124; 126; and 126.5, C.R.S.]*	$0	$0	$96,848 *[Colorado Water Conservation Board Construction Fund]*	$0	$96,848	1.5

Decision Item Priority List

Priority	**Division: Description** *[Statutory Authority]*	**GF**	**CF** *[Source]*	**CFE** *[Source]*	**FF** *[Source]*	**Total**	**FTE**
3	**Water Resources Division** Acquisition of seven additional vehicles, six for water commissioners and one for the chief of the hydrography program; additional funding to compensate for rate increase in mileage reimbursement for use of personal vehicles; and additional funding to compensate for operating rate increases for State-owned vehicles. *[Sections 37-61 through 69-101; 37-80-104; 37-81 through 83-101; 37-84-116; 37-87 through 89-101; 37-90-110 (1)(a-g); 37-91-101; 37-92-301 (1); 37-92-501 (1), C.R.S.]*	$88,417	$0	$0	$0	$88,417	0.0

FY 2008-09 Joint Budget Committee Staff Budget Briefing
DEPARTMENT OF NATURAL RESOURCES
Decision Item Priority List

Priority	**Division: Description** *[Statutory Authority]*	**GF**	**CF** *[Source]*	**CFE** *[Source]*	**FF** *[Source]*	**Total**	**FTE**
4	**Water Resources Division** The Department requests re-allocating 2.8 existing FTE from the Division's Personal Services line into the Republican River Compact Compliance line and adding an additional 0.9 FTE and two vehicles in order to fund a well measurement program and assist in compliance with the Republican River Compact. *[Sections 37-67-101; 37-80-102 (k); 37-80-104; 37-92-501 (1), C.R.S.]*	$109,179	$0	$0	$0	$109,179	0.9
5	**Parks and Outdoor Recreation** The Department requests an increase to the State Parks Operations line item for an increase in utilities and state fleet operating expenses. *[Sections 33-10-101 to 33-15-112, C.R.S.]*	$178,664	$198,653 *[Parks and Outdoor Recreation Cash Fund]*	$0	$0	$377,317	0.0

Decision Item Priority List

Priority	Division: Description *[Statutory Authority]*	GF	CF *[Source]*	CFE *[Source]*	FF *[Source]*	Total	FTE
6	**Division of Reclamation, Mining, and Safety** The Department requests that one-time funding provided in FY 2007-08 be provided again in FY 2008-09 and for each of the next five years for reclamation work at 35 mine sites that have been forfeited due to bankruptcy, death, or insufficient bonding. The request includes a footnote that would allow the Department to spend the appropriation over the course of three fiscal years. *[Sections 34-32-118 (5); 39-29-109 (1) (a), C.R.S.]*	$0	$342,000 *[Severance tax transferred from the Operational Account to the Emergency Response Cash Fund]*	$0	$0	$342,000	0.0

FY 2008-09 Joint Budget Committee Staff Budget Briefing
DEPARTMENT OF NATURAL RESOURCES
Decision Item Priority List

Priority	**Division: Description** *[Statutory Authority]*	**GF**	**CF** *[Source]*	**CFE** *[Source]*	**FF** *[Source]*	**Total**	**FTE**
7	**Colorado Water Conservation Board** Increase in dues assessed by 1) the Arkansas River Compact Administration Association (ARCA), 2) the Upper Colorado River Commission, and 3) the Colorado River Salinity Control Forum. *[Sections 37-60-106, 37-62-101 and 105; 37-69-101 and 105, C.R.S.]*	$0	$0	$19,904 *[Reserves in the Colorado Water Conservation Board Construction Fund]*	$0	$19,904	0.0
8	**Colorado Geological Survey** Investigate and develop data regarding Colorado's geothermal energy resources. *[Sections 31-1-103, especially (1) (j); 37-90.5-102; and 39-29-109, C.R.S.]*	$0	$72,392 *[Severance tax in the Operational Account]*	$0	$0	$72,392	1.0

Decision Item Priority List

Priority	Division: Description *[Statutory Authority]*	GF	CF *[Source]*	CFE *[Source]*	FF *[Source]*	Total	FTE
9	**State Land Board** Physical science researcher and additional vehicle to monitor compliance with requirements of the Colorado Constitution for the Stewardship Trust, and to manage the Trust. *[Article IX, Section 10 of the Colorado Constitution]*	$0	$23,190 *[Land Board Trust Administration Fund]*	$67,395 *[Land Board Trust Administration Fund]*	$0	$90,585	1.0
10	**Colorado Water Conservation Board** Additional hydorgrapher and vehicle to perform duties related to stream hydrography requirements related to instream flow protection, compact compliance and protection, decision support system analyses and modeling, and floodplain management. *[Sections 37-60-106; 37-92-102 (3)(a) through (e), C.R.S.]*	$0	$0	$101,469 *[Reserves in the Colorado Water Conservation Board Construction Fund]*	$0	$101,469	1.0

Decision Item Priority List

Priority	Division: Description [Statutory Authority]	GF	CF [Source]	CFE [Source]	FF [Source]	Total	FTE
11	**Colorado Geological Survey** Increase summer staffing level for maintenance of weather stations, preparation of educational materials, and development of forecasting tools. *[Sections 34-1-101; and 105, C.R.S.]*	$0	$25,553 *[Fees from education courses deposited in the Geological Survey Cash Fund]*	$0	$0	$25,553	0.4
12	**Colorado Geological Survey** An FTE to research and promote opportunities for carbon sequestration (the storage of CO_2 in underground formations) in Colorado. *[Sections 34-1-103; 39-29-109, C.R.S.]*	$0	$72,392 *[Severance tax in the Operational Account]*	$0	$0	$72,392	1.0

Decision Item Priority List

Priority	Division: Description [Statutory Authority]	GF	CF [Source]	CFE [Source]	FF [Source]	Total	FTE
13	**Colorado Water Conservation Board** Two FTE to assist in the implementation of the Water for the 21st Century Act and the Water Supply Reserve Account. The program assistant will provide administrative support for the two programs, the scientist will provide technical support related to the implementation of the programs. *[Sections 37-75-101 through 106; 39-29-109, C.R.S.]*	$0	$0 *[The Department is proposing that funding for the two additional staff will come from existing Operational Account of the Severance Tax Trust Fund appropriations within the Interbasin Compacts line item]*	$0	$0	$0	2.0
14	**Executive Director's Office** Relocate the Division of Reclamation, Mining and Safety's Durango field office due to the end of the current lease, and increase the leased space by 297 square feet to accommodate more staff. *[Sections 24-30-1303 (1); and 39-29-109, C.R.S.]*	$0	$12,084 *[Severance tax in the Operational Account]*	$0	$4,028	$16,112	0.0

Decision Item Priority List

Priority	Division: Description *[Statutory Authority]*	GF	CF *[Source]*	CFE *[Source]*	FF *[Source]*	Total	FTE
15	**Division of Reclamation, Mining, and Safety** Increase the appropriation to reflect an increase in federal grants for 6.0 FTE and four additional vehicles for the reclamation of inactive mines. *[Section 34-33-133, C.R.S.]*	$0	$0	$0	$408,265	$408,265	6.0
16	**Division of Wildlfe** The Department is requesting an increase to the spending authority for the Wildlife Management Public Education Advisory Council (PEAC). The extra funds are to allow PEAC to more fully implement its comprehensive, media-based public education program about the values of wildlife and wildlife management. *[Sections 33-4-120 (1) and (2); 33-1-112 (3.5); 33-4-102 (8.5), C.R.S.]*	$0	$0	$200,000 *[Wildlife Management Public Education Fund / Wildlife Cash Fund]*	$0	$200,000	0.0

Decision Item Priority List

Priority	Division: Description *[Statutory Authority]*	GF	CF *[Source]*	CFE *[Source]*	FF *[Source]*	Total	FTE
17	**Division of Reclamation, Mining, and Safety** Technical correction to a letternote describing the source of funds for the Inactive Mines program. *[Section 34-33-133, C.R.S.]*	$0	$0	$0	$0	$0	0.0
18	**Parks and Outdoor Recreation** The Department is requesting that a new line item be added under (C) Special Purpose, Law Enforcement Equipment. This line item will reflect the purchase of long life span law enforcement equipment. *[Sections 33-10-101 through 33-15-112, C.R.S.]*	$0	$0	$126,780 *[Lottery Proceeds]*	$0	$126,780	0.0

Priority	**Division: Description** *[Statutory Authority]*	**GF**	**CF** *[Source]*	**CFE** *[Source]*	**FF** *[Source]*	**Total**	**FTE**
Statewide	**Vehicle Replacement** This is a statewide common policy decision item to replace 955 fleet vehicles (including 200 Department of Public Safety vehicles). The Department of Natural Resources vehicles replacement request is for 201 vehicles. *[Sections 24-30-1101 through 1118 (specifically 24-30-1104 (2) and 24-30-1112 through 1117), C.R.S.]*	($4,856)	$26,117	$185,111	$24,661	$231,033	0.0
Statewide	**Multiuse Network Payments** This is a statewide common policy decision item to calculate State agency MNT allocations based on an updated inventory of circuits, agencies' share of infrastructure components and recoverable costs. *[Section 24-30-903 (1), (3) and (7) , C.R.S.]*	$32,894	$80,193	$9,092	$435	$122,614	0.0

Decision Item Priority List

Priority	**Division: Description** *[Statutory Authority]*	**GF**	**CF** *[Source]*	**CFE** *[Source]*	**FF** *[Source]*	**Total**	**FTE**
Statewide	**Statewide C-SEAP Employee Staffing** This is a statewide decision item to fund 5.5 FTE in the Department of Personnel for the Colorado State Employee Assistance Program (C-SEAP) in order to enhance the program's services to state employees in the areas of counseling, coaching, mediation, and classes. *[Section 24-50-604, C.R.S.]*	$1,960	$4,154	$6,702	$15	$12,831	0.0
	Total Request	**$406,258**	**$1,635,496**	**$813,301**	**$437,404**	**$3,292,459**	**23.8**
	Total for Shaded Items	**$0**	**$1,326,379**	**$67,395**	**$412,293**	**$1,806,067**	**18.4**
	Total for UnShaded Items	**$406,258**	**$309,117**	**$745,906**	**$25,111**	**$1,486,392**	**5.4**

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request		FY 08-09 Change Requests

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 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request		Change Requests
(A) Coal Land Reclamation						
Program Costs	2,072,211	2,003,963	2,065,336	2,135,538		
FTE	21.6	19.2	23.0	23.0		
CF - Severance Tax	516,600	561,584	573,832	668,122		
Federal Funds	1,555,611	1,442,379	1,491,504	1,467,416		
Indirect Cost Assessment	132,768	128,983	101,929	102,181		
CF - Severance Tax	21,449	29,028	33,437	34,531		
Federal Funds	111,319	99,955	68,492	67,650		
(A) Coal Land Reclamation	2,204,979	2,132,946	2,167,265	2,237,719		3.3%
FTE	21.6	19.2	23.0	23.0		0.0
Cash Funds	538,049	590,612	607,269	702,653		15.7%
Federal Funds	1,666,930	1,542,334	1,559,996	1,535,066		-1.6%
(B) Inactive Mines						
Program Costs	892,107	653,448	1,355,304	1,796,979		
FTE	13.6	12.4	12.4	18.4	#15	
CFE - Abandoned Mine Safety Reclamation Fund	435,253	81,190	499,762	500,811		
Federal Funds	456,854	572,258	855,542	1,296,168	#15	
Mine Site Reclamation	201,175	156,914	404,600	407,795	#17	
FTE	0.0	1.2	1.2	1.2		
CF - Severance Tax	201,175	156,914	374,600	377,795		

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request	FY 08-09 Change Requests
CFE - Public Health and Environment	0	0	30,000	30,000	
Reclamation of Forfeited Mine Sites					
CF - Severance Tax	N/A	N/A	342,000	342,000	#6
Abandoned Mine Safety					
CF - Severance Tax	111,665	111,665	111,611	112,136	
FTE	0.2	0.2	0.2	0.2	
Indirect Cost Assessment	51,461	85,834	42,096	60,483	
CF - Severance Tax	0	687	10,433	10,873	
Federal Funds	51,461	85,147	31,663	49,610	
(B) Inactive Mines	1,256,408	1,007,861	2,255,611	2,719,393	20.6%
FTE	13.8	13.8	13.8	19.8	6.0
Cash Funds	312,840	269,266	838,644	842,804	0.5%
Cash Funds Exempt	435,253	81,190	529,762	530,811	0.2%
Federal Funds	508,315	657,405	887,205	1,345,778	51.7%
(C) Minerals					
Program Costs	1,920,985	1,968,845	2,066,937	2,129,151	
FTE	20.3	20.3	23.9	23.9	
CF - Severance Tax	921,060	997,825	1,033,590	1,047,693	
CF - Mined Land Reclamation Fund	903,841	872,644	930,000	975,000	
CFE - Mined Land Reclamation Fund	96,084	98,376	103,347	106,458	
Indirect Cost Assessment					
CF - Severance Tax	101,955	121,212	126,522	119,488	
(C) Minerals	2,022,940	2,090,057	2,193,459	2,248,639	2.5%
FTE	20.3	20.3	23.9	23.9	0.0

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request	FY 08-09 Change Requests
Cash Funds	1,926,856	1,991,681	2,090,112	2,142,181	2.5%
Cash Funds Exempt	96,084	98,376	103,347	106,458	3.0%
(D) Mines Program					
Colorado and Federal Mine Safety Program	410,727	455,348	487,824	506,937	
FTE	4.3	4.6	5.0	5.0	
CF - Severance Tax	273,968	287,681	286,222	304,978	
CF - Fees	6,000	6,000	6,000	6,000	
Federal Funds	130,759	161,667	195,602	195,959	
Blaster Certification Program	102,265	103,866	103,494	106,867	
FTE	0.9	1.0	1.0	1.0	
CF - Severance Tax	21,476	21,743	21,734	22,442	
Federal Funds	80,789	82,123	81,760	84,425	
Indirect Cost Assessment	22,553	27,864	24,510	23,398	
CF - Severance Tax	13,950	16,372	16,881	16,182	
Federal Funds	8,603	11,492	7,629	7,216	
(D) Mines Program	535,545	587,078	615,828	637,202	3.5%
FTE	5.2	5.6	6.0	6.0	0.0
Cash Funds	315,394	331,796	330,837	349,602	5.7%
Federal Funds	220,151	255,282	284,991	287,600	0.9%
(E) Emergency Response Costs					
CF - Severance Tax	0	0	25,000	25,000	
(2) DIVISION OF RECLAMATION, MINING, AND SAFETY - SUBTOTAL	6,019,872	5,817,942	7,257,163	7,867,953	8.4%
FTE	60.9	58.9	66.7	72.7	6.0
Cash Funds	3,093,139	3,183,355	3,891,862	4,062,240	4.4%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request		FY 08-09 Change Requests
Cash Funds Exempt	531,337	179,566	633,109	637,269		0.7%
Federal Funds	2,395,396	2,455,021	2,732,192	3,168,444		16.0%

* 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 and from fees for geological services provided. Cash funds exempt are from transfers from other state agencies for geological services and from grants and donations.)

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request		FY 08-09 Change Requests
Environmental Geology and Geological Hazards Program	1,988,873	1,646,001	2,365,652	2,504,137		
FTE	14.9	14.4	16.2	17.2	#8	
CF - Severance Tax	845,825	902,794	833,907	919,309	#8	
CF - Fees for geological services	386,213	361,951	487,979	527,685		
CFE - Other state agencies and indirect cost recoveries	482,713	303,983	446,295	456,519		
Federal Funds	274,122	77,273	597,471	600,624		
Coalbed Methane Stream Depletion Study						
CF - Severance Tax	0	138,000	0	0		
Mineral Resources and Mapping	1,145,068	1,163,740	1,397,631	1,506,040		
FTE	9.7	9.1	10.5	11.5	#12	
CF - Severance Tax	919,836	916,016	1,023,809	1,103,796	#12	
CF - Fees for geological services		27,115	58,099	81,159		
Federal Funds	225,232	220,609	315,723	321,085		
Colorado Avalanche Information Center	577,173	581,760	590,158	637,713		
FTE	6.8	7.0	7.3	7.7	#11	
CF - Severance Tax	146,160	145,361	149,200	151,689		
CF - Fees	2,910	0	2,251	27,582	#11	
CFE - Fees	406,359	415,672	414,615	433,815		
Federal Funds	21,744	20,727	24,092	24,627		

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request		FY 08-09 Change Requests
Indirect Cost Assessment	28,161	45,503	31,736	184,834		
CF - Severance Tax	0	0	0	140,509		
Federal Funds	28,161	45,503	31,736	44,325		
(3) COLORADO GEOLOGICAL SURVEY - SUBTOTAL	3,739,275	3,575,004	4,385,177	4,832,724		10.2%
FTE	31.4	30.5	34.0	36.4		2.4
Cash Funds	2,300,944	2,491,237	2,555,245	2,951,729		15.5%
Cash Funds Exempt	889,072	719,655	860,910	890,334		3.4%
Federal Funds	549,259	364,112	969,022	990,661		2.2%

(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. Cash funds exempt are from Oil and Gas Fund reserves.)

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request		FY 08-09 Change Requests
Program Costs	3,174,352	4,254,302	4,862,468	5,432,964		
FTE	36.0	43.4	53.0	62.0	#1	
CF - Severance Tax	911,191	2,117,279	2,218,182	2,303,999	#1	
CF - OGC Environmental Response Fund	2,253,364	0	1,946,095	2,775,563		
CFE - OGC Environmental Response Fund	9,797	2,137,023	698,191	353,402		
Underground Injection Program						
Federal Funds	97,878	92,374	96,559	96,559		
FTE	2.0	2.0	2.0	2.0		
Plugging and Reclaiming Abandoned Wells						
CFE - Oil and Gas Cons. and Environ. Response Fund	216,897	598,302	220,000	220,000		
Environmental Assistance and Complaint Resolution	264,676	283,498	312,033	312,033		
CF - OGC Environmental Response Fund	0	283,498	312,033	312,033		

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request	FY 08-09 Change Requests
CFE - OGC Environmental Response Fund	264,676	0	0	0	
Emergency Response					
CFE - OGC Environmental Response Fund	0	71,904	1,500,000	1,500,000	
Special Environmental Protection and Mitigation Studies					
CF - OGC Environmental Response Fund	0	265,271	500,000	500,000	
Piceance and D-J Basin Water Studies and Environmental Data Tool Development					
CFE - OGC Environmental Response Fund	46,525	222,907	0	0	
Phase II Raton Basin Gas Seep Investigation					
CFE - OGC Environmental Response Fund	0	92,442	0	0	
Hearing and Environmental Record Imaging and Indexing					
CF - OGC Environmental Response Fund	22,015	0	0	0	
Data Cleanup Project - CF					
CF - Severance Tax	0	0	119,356	0	
S.B. 07-198 Coalbed Methane Seepage Projects					
CF - OGC Environmental Response Fund	0	0	2,003,400	2,003,400	
Indirect Cost Assessment - Total Funds	155,375	186,702	227,811	338,152	
CF - OGC Environmental Response Fund	155,375	186,702	222,254	332,569	
Federal Funds	0	0	5,557	5,583	
(4) OIL & GAS CONSERVATION COMMISSION - SUBTOTAL	3,977,718	6,067,702	9,841,627	10,403,108	5.7%
FTE	38.0	45.4	55.0	64.0	9.0

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request		FY 08-09 Change Requests
Cash Funds	3,341,945	2,852,750	7,321,320	8,227,564		12.4%
Cash Funds Exempt	537,895	3,122,578	2,418,191	2,073,402		-14.3%
Federal Funds	97,878	92,374	102,116	102,142		0.0%

(5) STATE BOARD OF LAND COMMISSIONERS (Britt Weygandt, 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). Both cash and cash funds exempt sources are from the Trust Administration Fund; cash funds represent revenue from leases, timber sales and interest, and cash funds exempt sources represent revenue from property sales or use of non-renewable minerals.)

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request		FY 08-09 Change Requests
Program Costs	2,623,613	2,639,444	3,695,905	3,827,183	#9	
FTE	31.5	33.1	38.0	38.0		
State Trust Land Asset Management and Analysis	659,509	659,509	0	0		
Indirect Cost Assessment	147,377	167,095	156,845	230,267		
(5) STATE LAND BOARD - SUBTOTAL	3,430,499	3,466,048	3,852,750	4,057,450		5.3%
FTE	31.5	33.1	38.0	38.0		0.0
Cash Funds	115,000	894,846	894,846			-100.0%
Cash Funds Exempt	3,315,499	2,571,202	2,957,904	4,057,450		37.2%

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 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request		FY 08-09 Change Requests
DEPARTMENT OF NATURAL RESOURCES						
TOTAL FUNDS	17,167,364	18,926,696	25,336,717	27,161,235		7.2%
FTE	161.8	167.9	193.7	211.1		17.4
Cash Funds	8,851,028	9,422,188	14,663,273	15,241,533		3.9%
Cash Funds Exempt	5,273,803	6,593,001	6,870,114	7,658,455		11.5%

	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Appropriation	FY 08-09 Request	FY 08-09 Change Requests
Federal Funds	3,042,533	2,911,507	3,803,330	4,261,247	12.0%
CF - Severance Tax	*5,006,310*	*6,524,161*	*7,300,316*	*7,700,542*	*5.5%*

FY 2008-09 Joint Budget Committee Staff Budget Briefing
Department of Natural Resources

Update on footnotes in the FY 2007-08 Long Bill

- Othe six footnotes in the DNR 2007 Long Bill appropriation, two (2) were common to all departments statewide and four applied to the Department of Natural Resources specifically. This briefing contains summaries of the two footnotes for this portion of the DNR assignment.

102 **Department of Natural Resources, Division of Reclamation, Mining, and Safety, Inactive Mines, Mine Site Reclamation --** It is the intent of the General Assembly that these funds shall remain available until completion of the project or the close of FY 2009-10, whichever comes first. At project completion or the end of the three-year period, any unexpended balances shall revert to the Operation Account of the Severance Tax Trust Fund from which they were appropriated.

Comment: This footnote provides roll-forward authority at the end of the fiscal year.

103 **Department of Natural Resources, Division of Reclamation, Mining, and Safety, Inactive Mines, Reclamation of Forfeited Mine Sites --** It is the intent of the General Assembly that the appropriation to this line item remain available until the completion of the project or the close of FY 2009-10, whichever comes first. At project completion or the end of the three-year period, any unexpended amount shall revert to the Operational Account of the Severance Tax Trust Fund, from which this appropriation was made.

Comment: This footnote provides roll-forward authority at the end of the fiscal year.

103a **Department of Natural Resources, Oil and Gas Conservation Commission, Program Costs --** It is the intent of the General Assembly that, of the 4.0 new FTE approved for FY 2007-08, 1.0 FTE be located in Rifle for enforcement purposes.

Comment: The Governor vetoed this footnote on May 2, 2007 on the grounds that the footnote violates the separation of powers by attempting to administer the appropriation and constitutes substantive legislation. After the General Assembly overrode all Long Bill vetoes, the Department was directed not to comply pursuant to the August 16, 2007 letter from the director of the Office of State Planning and Budgeting to the leadership of the General Assembly. The Department did not allocate one of the new FTE to Rifle.

The FTE that the Department requested last year were for conducting permit reviews. The majority of their time is spent studying reports for compliance with rules, regulations, and conditions of the Department. The Department believes that the most practical location for these FTE is in the main Denver office.

The Department points out that it has increased its presence in the Rifle area over the last few years. The Department's FY 2007-08 appropriation for leased space, vehicles, and information technology included costs associated with relocating an existing supervising engineer to Rifle. Also, the Department recently decided that a staff engineer and environmental protection specialist assigned to the area will work out of the Rifle office, instead of their homes, to improve public access. The Department's FY 08-09 Decision Item #1 includes 2.0 additional FTE (an Environmental Protection Specialist II and an Environmental Inspector) that will work out of the Rifle area.

104 **Department of Natural Resources, Oil and Gas Conservation Commission, Emergency Response --** It is the intent of the General Assembly that funding for this line item be expended in the event that there is an oil and gas related emergency under the jurisdiction of the Oil and Gas Conservation Commission. The purpose of this funding is for investigation, prevention, monitoring, and mitigation of circumstances which are caused by or are alleged to be associated with oil and gas activities and which call for immediate action by the Oil and Gas Conservation Commission. An emergency creates a threat to public health, safety, or welfare or to the environment as proclaimed by the Oil and Gas Conservation Commission Director and approved by order of the Oil and Gas Conservation Commission. The Oil and Gas Conservation Commission is requested to include in its annual budget request a report detailing all expenditures made in the previous year from this line item.

Comment: The Department submitted the report as requested.

Emergency	Description	FY 2006-07 Expenditures
Trinidad - Methane Gas Leak and Explosion Response	The OGCC conducted an emergency response investigation to determine the causes of an April 17, 2007 methane gas explosion that destroyed a residential structure and injured three construction workers. Soil gas testing, water well testing and geologic mapping were conducted to identify the source of methane gas, which was ultimately traced to a plugged and abandoned oil and gas well located beneath the structure. After determining that the well was not properly plugged, the OGCC submitted a Notice of Alleged Violation to the operator.	$71,904

105 **Department of Natural Resources, Oil and Gas Conservation Commission, Special Environmental Protection and Mitigation Studies --** It is the intent of the General Assembly that funding for this line item be used for special environmental protection and mitigation studies including, but not limited to gas seepage mitigation studies, outcrop monitoring studies, soil gas surveys in the vicinity of plugged orphaned wells, and baseline water quality and subsequent follow-up studies. The Oil and Gas Conservation Commission is requested to include in its annual budget request a report detailing all expenditures made in the previous year from this line item.

Comment: The Department submitted the report as requested. **Staff is unsure whether the last item, the video promoting best practices for mitigating impacts on wildlife, is consistent with the intent of the General Assembly in providing funding for this line item.**

Special Study/ Project Name	Description	FY 2006-07 Expenditures
Soil Gas Surveys of Environmental Response Fund Projects	The OGCC conducted soil gas surveys at the sites of 194 orphaned wells that had been previously plugged and abandoned by the agency. Of those sites, four were found to be leaking methane gas. Follow-up investigations are currently underway. The OGCC will remediate these sites, as needed, to ensure the protection of public health, safety and welfare.	$144,327
Moffat County Baseline Water Quality Study	Recent permitting for coalbed methane wells in southeast Moffat County generated the need for baseline ground water quality data. Twenty-five water wells, in Townships 6 and 7 North, Range 92 West, 6th P.M., were sampled for general water quality parameters, dissolved methane concentration, benzene, toluene, ethylbenzene, and xylenes. The final report of this study was posted on the OGCC's website in August 2007. Total cost was $24,902 ($4,965 in FY 2006-07 and $19,937 in FY 2007-08).	$4,965
Ogallala Baseline Water Study - Washington and Yuma Counties	Increased natural gas drilling activity in northeast Colorado generated the need for collecting baseline ground water quality data. Water samples were collected from 75 water wells throughout Washington and Yuma counties. These samples were tested for general water quality parameters, dissolved methane concentration, benzene, toluene, ethylbenzene, and xylenes. The final report of this study is expected to be available on the OGCC's website in early November, 2007.	$90,979
Impacts of Oil and Gas Development on Wildlife	The OGCC and the Division of Wildlife (DOW) produced a video that demonstrates efforts by the oil and gas industry, the DOW, and the OGCC to mitigate impacts to the state's wildlife. It was designed to educate the public, operators, and local governments about techniques that can be used by oil and gas operators to protect wildlife habitat and mitigate energy development-related impacts. The video is currently undergoing final editing by the Department of Natural Resources' staff.	$25,000
	TOTAL Expenditures	$265,271

INFORMATIONAL ISSUE:

The oil and gas production process

SUMMARY:

This informational issue brief provides an overview of the oil and gas production process and is intended to provide background to members during discussions of the Department's budget and the recommendations of the Interim Committee on Severance Taxes and Federal Mineral Lease Revenues. There are no staff recommendations for action contained in the issue brief.

DISCUSSION:

The vast majority of severance tax revenues come from oil and gas production. In FY 2005-06, 95 percent of severance tax revenues were associated with oil and gas production. Colorado produces much more natural gas than oil. In 2006 natural gas accounted for 84 percent of the total production value of oil and gas. This issue brief describes the oil and gas production process in order to provide background for members during discussion of the Department's budget and the recommendations of the Interim Committee on Severance Taxes and Federal Mineral Lease Revenues.

Where Oil and Natural Gas are Found

Oil is often described as existing in pools, which suggests an underground lake or a hollow cavern. However, oil and natural gas are actually found in porous rock. The pores may be very small, requiring magnification to see, and they may be connected in a way that allows liquids and gas to flow through them easily (highly permeable), or they may resist the flow of liquids and gas, making it harder for well operators to extract the natural resources. A major consideration in recovery efforts is the amount of geologic pressure on these resources. When the formation is punctured, pressure causes the oil and natural gas to flow up through the perforation.

Natural gas used in the home and to make electricity is mostly methane. Natural gas and oil frequently coexist in the same formations, along with other hydrocarbons that may be valuable, like butane or propane. Wells may produce all of these at once, along with other products that are less commercially desirable, like saline water. Natural gas and oil share the same origins. They both are the product of organic mater that has been broken down by geologic heat and pressure.

Ownership

Colorado law allows the ownership of surface land and the ownership of the mineral and energy resources beneath that land to be severed. In some cases, an owner may have rights to the mineral and energy resources in one geologic formation, but not the resources above or below that formation. The owner of the mineral and energy resources has a right of reasonable access to those resources, which sometimes creates or contributes to conflict between surface and subsurface owners. Some states have laws where if mineral and energy resources are not extracted within a specified time frame, the ownership of those resources reverts to the surface owner of the land.

The Drilling Process

The Department estimates that the minimum surface area disturbed when a new well is drilled is a little more than an acre (half a football field) if conditions are perfect, but most drilling operations require a somewhat larger area. There must be room for the drilling rig, for pits where the debris from the drilling is stored, for racks that hold the drilling pipe, and for out buildings that store spare equipment, computers, toilets, generators, etc. Often, a road must be constructed to access the drilling location.

The drill bit is attached to a hollow tube, called drilling pipe, that turns the bit. Water is pumped down the drilling pipe and through the bit. The motion of the water helps accelerate the drill bit and keeps it cool. It also flushes out the crushed rock left behind by the drill. Finally, the water creates hydrostatic pressure in the hole behind the drill bit. This prevents fluids and gasses that are under pressure in the formations that are being drilled from flowing up the hole during the drilling process. Depending on the pressure and depth of the formations that are being drilled, the water may be augmented with other substances to increase its weight and surface tension. This helps the drilling mud resist pressure from gasses and fluids that are trying to enter the hole, reduces evaporation of the drilling mud, and reduces seepage of the mud into formations with lower pressures.

When a section of pipe has been pushed down the hole as far as it will go, another section of pipe is raised into position using a crane on the drilling rig. The end of the pipe is manually guided into position by workmen, and then screwed on either mechanically or by hand. The drilling pipe is flexible enough that, if given enough distance, the drilling operator can bore a hole in an S shape to reach energy resources that may be a long ways from the well head.

Directional drilling can increase costs for the operator, but it also can reduce the amount of surface area that is disturbed by fitting several wells on one plot of land. It may also be the only practical way to reach resources that are under developed land or land that has obstacles on it. For environmental reasons, and to reduce impacts to nearby surface owners, the Department actively encourages the use of directional drilling.

Once drilling begins, it typically proceeds around the clock until the hole is complete. Delays can result in drilling mud saturating the rock and soil in the hole, causing cave-ins. Also, drilling mud can evaporate or seep into lower pressure formations. Operators have an economic incentive to maximize utilization of the drilling rigs in which they invested so much capital.

With 24-hour operations, there are noises and lights at night that can disturb nearby surface owners. Also, there may be people coming and going and equipment being delivered at odd hours. A significant portion of the Department's time is spent creating and enforcing regulations intended to minimize disturbances to nearby surface owners, and responding to complaints.

Completing the Well

Once the hole is drilled, a smaller rig or series of rigs is typically brought in to finish and plumb the hole. Pipe is dropped into the drilling mud like a straw into a glass. Concrete is then pumped down the pipe until it reaches the bottom and comes back up on the outside of the pipe, encasing it in a protective coating that helps prevent corrosion, leaks, and pressure cave-ins. Once the pipe is evacuated, sonic measuring equipment is lowered into the pipe to verify the concrete seal. The Department considers the casing process one of the most critical steps in preventing leaks and has recently taken measures to increase the amount of time when an OGCC representative can be present to monitor the casing process.

To begin production the operator shoots (literally shoots, using World War II anti-tank ballistic technology) a hole through the side of the pipe and concrete. A sand and water mix is then pumped through the side hole to expand and extend the fracture formed by the initial perforation. The sand stays behind to keep the fracture open. Oil and natural gas flow easily through the sand. With high pressure in the formation and low pressure in the pipe, fluids and gas begin to flow up the pipe. At first they flow quickly, and then they flow more slowly as the well plays out.

Along with completing the well the operator takes steps to reclaim the land. Typically, debris from the drilling is buried near the well and covered with topsoil. Often wells produce saline wastewater during the drilling process and this must be transported to a disposal site. If the well is located on agricultural land, the surface owner will typically plant right up to the well. If the well is not located on agricultural land, the operator will install landscaping or take other measures to prevent the establishment of noxious weeds and return the area to a productive use.

Production and Maintenance

During the life of a well, the operator must routinely visit the site to check for leaks and to monitor the performance of mechanical equipment. Typically a separator is located near the well to take out water and sort the liquids from the gases. Some separators use heat or chemicals in addition to gravity to sort the production. Depending on the location of the well and available pipelines, the operator may need to periodically cart off oil, water, and other fluids produced by the well. There may be a burner near the well to dispose of unwanted byproducts that will require maintenance by the operator. Monitoring meters and gauges need to be checked and calibrated to ensure proper performance.

As production diminishes, the incremental cost of maintaining a well versus the production value of the well becomes a consideration. An argument can be made that the state has an interest in encouraging operators to continue operating low-performing wells to completely drain a formation. It would increase the environmental impact if operators plugged a well because of economic considerations and then came back and drilled a new well at a later point in time when commodity prices were higher. If operators were allowed to temporarily abandon wells without plugging them, because the operator might want to return under different economic circumstances, it would increase the possibility of undetected leaks from the well. Another reason for draining a formation is that once it is drained it may be useful for other purposes, such as carbon sequestration or disposal of saline wastewater from producing wells.

The severance tax is assessed on a sliding scale according to production value, and there is an exemption for low-producing wells, called stripper wells, that takes into consideration the lower margins for operators of these wells. A stripper well is defined as one that produces 15 barrels or less of oil or 90 thousand cubic feet or less of gas per day for the average of all producing days during the taxable year. The majority of wells in Colorado qualify for the stripper exemption. A Legislative Council Staff report to the Interim Committee on Severance Tax and Federal Mineral Lease Revenues estimated that in 2006 95 percent of wells producing oil, and 73 percent of wells producing gas, were stripper wells. These stripper wells accounted for 60 percent of oil production and 20 percent of natural gas production in the state. A new well might produce for thirty years, but only be subject to the severance tax for the first couple years, or not at all, due to the stripper well exemption. At current prices for oil and gas, some have argued that the stripper well exemption may not be necessary to encourage operators to continue to produce from low-volume wells. Stripper wells are not exempt from local ad valorem taxes.

When production begins to diminish, the operator may re-fracture the rock in a different direction, or with a different technology that extends the fracture further, in order to increase production. They may re-plumb the hole with a smaller diameter pipe to increase the well's capacity to bring liquids to the surface (it takes less pressure to push a narrow column of liquid to the surface than to push a fat column of liquid). The operator may also inject material into a nearby well that has played out to increase the pressure in the formation and push the oil and natural gas toward a producing well. Some wells that were drilled 50 plus years ago are being reconditioned with modern technology to stimulate new production. This raises concerns about how well the concrete and piping has held up, and how well the well was constructed in the first place.

<u>Processing, Transportation, and Storage</u>

Gathering pipes take natural gas from wells to processing plants. Prior to deregulation of the industry, this was the point of sale when severance taxes were assessed. With deregulation, it is possible for a well operator to maintain possession of natural gas molecules from the well all the way to the burner. Rather than selling the commodity to a processing plant, the operator can pay the processing plant a fee for services and sell to a pipeline, a broker, or directly to an industrial customer. Obviously, the commodity has more value once it has been processed and transported. The severance tax allows operators to deduct processing and transportation expenses. If these deductions are applied correctly, the severance tax is assessed on the value of the commodity at the well.

The Department regulates separating, storage, and processing facilities at the well. Away from the well site, it sets bond requirements for processing and compressing oil and gas, but it does not regulate the construction of these facilities. Generally, once the oil and gas leaves the well site, government regulatory responsibilities pass to a different agency. Primarily local governments regulate the construction of processing facilities, in the same manner as industrial facilities. The federal government regulates the construction of pipelines. Spills and releases from processing facilities and pipelines are generally the responsibility of the Department of Public Health and Environment. The Department of Public Safety, the Department of Transportation, and the federal government regulate highway and rail transportation.

The rate of natural gas production from wells is a product of the geology and pressure associated with the well. Wells follow a production pattern that is independent of the season. Consumption, on the other hand, closely follows the seasons, as much of the natural gas is used for heating. Thus, an important part of the natural gas delivery system is storage facilities. While natural gas isn't typically found in hollow caverns, it often is stored in them. A salt cavern or similar geologic formation allows companies to inject and withdrawn the natural gas as quickly or slowly as desired, without worrying about resistance from the rock. Storage facilities help maintain optimum pressure in the pipelines and allow the delivery of natural gas during peak periods.

The Market for Oil and Natural Gas

Available pipelines confine the market for natural gas, as current technology and prices make it impractical to transport large quantities of natural gas via truck, rail, or boat. Unlike oil, the market for natural gas is continental rather than international. The Department estimates that approximately 41 percent of the natural gas produced in Colorado is consumed in Colorado, and that consumers in Colorado pay a lower price for natural gas due to limited options for producers to transport natural gas out of the state. A major new interstate pipeline called the Rockies Express is currently under construction. This pipeline could increase the ability of producers to sell natural gas to markets in the Midwest and on the East Coast. The pipeline may increase prices for Colorado consumers that will need to bid against eastern consumers. A corollary impact would be higher profits for Colorado producers and higher severance tax and property tax revenues to state and local governments.

FY 2007-08 Joint Budget Committee Staff Budget Briefing
DEPARTMENT OF NATURAL RESOURCES

ISSUE:

Overview of revenues and expenditures of the operational account

SUMMARY:

- The operational account of the severance tax trust fund receives 25 percent of total severance tax revenues;
- A number of obligations from the operational account are subject to maintenance of reserve requirements, but it is unclear how or when the determination is made that the reserve requirements have been met;
- There is a contingent transfer from the operational account for water efficiency grants that is scheduled to occur in FY 2008-09, but the transfer is contingent on a condition that almost certainly will not be met; and
- There is a statutory appropriation required in FY 2008-09 for a Deep Underground Science and Engineering Laboratory that will not be located in Colorado.

RECOMMENDATION:

Staff recommends that the JBC consider sponsoring legislation to clarify and standardize confusing reserve requirements for the operational account.

DISCUSSION:

Statutes provide that one quarter of severance tax revenues are deposited in the Operational Account of the Severance Tax Trust Fund (operational account). The table on the following page summarizes available revenues to the operational account and projected obligations from the account based on the Department's request.

Row 1 shows the beginning balance of the operational account based on prior year actual expenditures. Row 2 lists actual and projected revenues to the operational account. The projection in Row 2 is based on one fourth of Legislative Council Staff's September 2007 forecast of total new severance tax revenues. However, because the published version of Legislative Council Staff's September 2007 forecast includes interest, JBC members will not be able to match the published figures to the numbers in this overview without more detail and supporting documentation.

	Severance Tax Trust Fund Operational Account								
	November 12, 2007	Actual FY 05-06		Actual FY 06-07		Appropriation FY 07-08		Estimated FY 08-09	
	FUND STATUS								
1	Beginning Balance	25,399,591		50,851,612		40,012,876		37,593,951	
2	Revenue	64,468,852		33,312,271		38,372,500	(est.)	45,476,500	(est.)
3	Total Available for Appropriation	89,868,443		84,163,883		78,385,376		83,070,451	
	APPROPRIATION/REQUEST								
4	Colorado Geological Survey	2,099,875	2.3%	2,291,469	2.7%	2,203,750	2.8%	2,401,782	2.9%
5	Oil and Gas Conservation Commission	1,463,687	1.6%	2,117,279	2.5%	2,337,538	3.0%	2,303,999	2.8%
6	Division of Reclamation, Mining, and Safety	3,247,033	3.6%	3,392,252	4.0%	4,344,196	5.5%	4,426,998	5.3%
7	Colorado Water Conservation Board	856,489	1.0%	868,679	1.0%	1,319,250	1.7%	1,319,250	1.6%
8	**SUBTOTAL**	7,667,084	8.5%	8,669,679	10.3%	10,204,734	13.0%	10,452,028	12.6%
9	Roll-forwards	0		0		959,207		0	
10	Arkansas River, KS vs CO settlement (SB 05-226)	1,109,947		0		0		0	
11	Interbasin water compacts (H.B. 05-1177 / H.B. 06-1400)	209,801		547,056		1,131,881		1,141,857	
12	CWCB's Litigation Fund (Sect. 17 of HB 06-1313)	0		1,403,272		0		0	
13	Water Infrastructure Development (S.B. 06-179)	0		10,000,000		6,000,000		10,000,000	
14	Underground Water Storage (S.B. 06-193)	0		146,000		0		0	
15	Water efficiency grants (HB 05-1254 / SB 07-008)	1,580,000		0		800,000		800,000	
16	Contingent water efficiency grants (SB 07-008)	0		0		0		1,000,000	
17	CO Water Research Institute (SB 06-183/HB 07-1096)	0		500,000		150,000		0	
18	Low income energy assistance - HB 06-1200	24,000,000		11,000,000		12,000,000		13,000,000	
19	Species Cons Trust Fund (HB 06-1311 / HB 07-1182)	4,000,000		8,800,000		5,595,603		2,000,000	
20	Clean Coal / Clean Energy (HB 06-1322)	0		2,635,000		2,500,000		2,500,000	
21	Soil Cons Districts Matching Grants (HB 06-1393)	450,000		450,000		450,000		450,000	
22	Deep Underground Science and Engineering Lab (SB 06-229)	0		0		1,000,000		5,000,000	
23	**SUBTOTAL**	31,349,748	34.9%	35,481,328	42.2%	29,627,484	37.8%	35,891,857	43.2%
24	**TOTAL Expenditures**	39,016,832		44,151,007		40,791,425		46,343,885	
25	**Ending Balance after Appr./Exp**	50,851,610		40,012,876		37,593,951		36,726,566	
26	Reserved for 2 years of expend. **	15,896,272		16,864,470		20,409,468		20,904,057	
27	Reserve Required by HB 06-1200	11,000,000		12,000,000		13,000,000		0	
28	Total Reserve Requirement	26,896,272		28,864,470		33,409,468		20,904,057	
29	**Unobligated Balance after Reserve**	**23,955,338**		**11,148,406**		**4,184,483**		**15,822,509**	

Lines 4-8 show the amounts actually expended or appropriated and the amount requested for FY 2008-09 (including decision items) for the operations of four divisions in the Department of Natural Resources. Section 39-29-109 (1) (c) (III), C.R.S. requires a reserve equal to twice the appropriations for these programs to mitigate the impact of fluctuations in the amount of revenue credited to the operational account and to maintain current levels of service for the programs. The amounts for each division in the overview table include centrally appropriated benefits and operating expenses in the executive director's office. Row 9 tracks various roll-forward obligations from the prior year that affect the available funds in FY 2007-08.

Rows 10 through 22 summarize other expenditures from the operational account authorized in statute. Most of these are statutory transfers or statutorily prescribed appropriations. However, the General Assembly appropriates the amount for interbasin water compacts (line 11) and the Deep Underground Science and Engineering Laboratory (line 22) in the Long Bill.

<u>Reserve Requirements</u>

There are two statutory reserve requirements for the operational account (lines 26 and 27). Section 39-29-109 (1) (c) (III), C.R.S. expresses the intent of the General Assembly to maintain a reserve in the operational account equal to twice the annual appropriations for four divisions in the Department of Natural Resources: (1) the Division of Reclamation, Mining, and Safety; (2) the Colorado Geological Society; (3) the Colorado Oil and Gas Conservation Commission; and (4) the Colorado Water Conservation Board. Moneys may only be appropriated or otherwise made available from the two-year reserve to offset temporary revenue shortfalls for the four divisions, for interbasin water compact agreements, and for transfers to the Water Efficiency Grant Program Cash Fund.

The second reserve in Section 39-29-109 (1.5) (f) set minimum requirements for the end balance of the operational account in FY 2005-06, FY 2006-07 and FY 2007-08 of $11.0 million, $12.0 million, and $13.0 million respectively. The statutes indicate that these reserve amounts are to ensure that funds are available in the following year for low income energy assistance.

<u>Triggers to Maintain the Reserves</u>

A number of the appropriations and transfers authorized in Section 39-29-109, C.R.S. are "subject to the maintenance of a two-year reserve." This suggests that if there are insufficient funds to maintain the two-year reserve then the appropriation or transfer doesn't occur. However, it may not be known until after the fiscal year is closed whether the funds were sufficient to maintain the two-year reserve. Does this mean that the appropriations and transfers can't happen until after the actual revenues are known, in which case the appropriations and transfers may actually occur in the next fiscal year?

Such an interpretation would be problematic for the operation of the programs and the executive branch has not delayed appropriations and transfers from the operational account based on this language. However, it is unclear how the executive branch would respond if revenues at the end of the year were insufficient to maintain the two-year reserve. Would the programs subject to the maintenance of a two-year reserve need to refund money, and would the money be available to refund? Statutes indicate that transfers to the Conservation District Grant Fund are both subject to the maintenance of a two-year reserve and must occur "prior to the end of each fiscal year."

Also difficult to interpret are the triggers in Sections 39-29-109 (8) and (8.5) for appropriations and transfers to the Colorado Renewable Energy Authority and the Agriculture Value-added Cash Fund respectively. These appropriations and transfers are subject to maintaining both the two-year reserve and the low income energy assistance reserve. The statutes go on to say that if there are insufficient moneys in the operational account to make all appropriations and transfers at the highest level authorized by law, then the authorizations for the Colorado Renewable Energy Authority and the Agriculture Value-added Cash Fund will be reduced proportionally. But, presumably the operational account would run out of money to maintain the reserves before it would run out of money for all appropriations and transfers at the highest level authorized by law. Since the authorizations for the Colorado Renewable Energy Authority and the Agriculture Value-added Cash Fund are subject to maintaining the reserve requirements, presumably the authorizations would be eliminated before they could ever be reduced proportionally to maintain other appropriations and transfers.

Staff recommends that the JBC consider sponsoring legislation to clarify and standardize the reserve requirements for the operational account and the procedures for meeting those reserve requirements. If the intent is that the General Assembly plan for both meeting the reserves and the expenditures for the various programs that are subject to maintenance of the reserves in setting a budget for the operational account, then perhaps the statutes should clarify that the General Assembly must balance the budget for the operational account based on a forecast at a point in time. If the General Assembly intends to go through a process to balance the budget for the operational account every year, then perhaps the expenditures from the operational account should be authorized through the Long Bill rather than statutory provisions. Also, the JBC may want to reconsider the index for the reserve. If the General Assembly intends for the transfers and appropriations from the operational account to occur at the beginning of the fiscal year for the various programs authorized in Section 39-29-109, C.R.S., then the reserve requirement is really protecting all of the programs in Section 39-29-109, C.R.S. Perhaps the size of the reserve should be indexed to all of the programs.

Water Efficiency Grant Fund

There are two transfers authorized from the operational account to the Water Efficiency Grant Fund in FY 2008-09. The first (line 15) is for \$800,000 and is specifically notwithstanding the two-year reserve requirement. The second (line 16) is for an amount up to \$1.0 million and occurs, "If, on July 1, 2008, there is more than one hundred thousand dollars of unobligated revenues in the operational account beyond any reserve required by law . . ." Based on the September 2007 Legislative Council Staff forecast, it appears that there will be unobligated revenues in the operational account that are sufficient for the transfer to the Water Efficiency Grant Fund *by the end of the fiscal year*. But, **ON July 1**, it is unlikely that there will be unobligated revenues in the operational account. If the intent is for this contingent transfer to occur, then the JBC should adjust the wording of this authorization.

Deep Underground Science and Engineering Laboratory

Section 39-29-109 (1) (l), C.R.S. requires the General Assembly to appropriate "an amount" up to $5.0 million in FY 2008-09 for the state's share of a national deep underground science and engineering laboratory (DUSEL). There are similar requirements for appropriations through FY 2011-12. Another provision of the same section indicates that if the DUSEL facility is not awarded to Colorado, then the appropriated money shall be transferred to the Species Conservation Trust Fund. Earlier this fiscal year Colorado lost the bid for the DUSEL facility. Absent legislation, the $1.0 million appropriated for DUSEL in FY 2007-08 will be transferred to the Species Conservation Trust Fund at the end of the fiscal year. The JBC may want to consider changing the statue to transfer the money directly to the Species Conservation Fund, rather than requiring an initial appropriation for DUSEL in FY 2008-09 and each subsequent fiscal year that will default to the Species Conservation Trust Fund at the end of the fiscal year.

Species Conservation Trust Fund

The FY 2007-08 transfer to the Species Conservation Trust Fund authorized in Section 39-29-109 (1) (k), C.R.S. is based on the difference in actual revenues in FY 2006-07 to the operational account from the amount projected in March 2007 by Legislative Council Staff. The wording of that provision is imprecise, since Legislative Council Staff doesn't forecast revenues to the operational account. Rather, Legislative Council Staff forecasts total severance tax revenues. One can derive an amount of new severance tax revenues for the operational account from the Legislative Council Staff forecast of total revenues and the statutory distribution of funds, but the treatment of interest earnings is problematic. The Department interprets Section 39-29-109 (1) (k), C.R.S. to apply to an increase in actual revenues from an estimate of interest earnings prepared by the Department in March 2007 as well as an increase in new severance tax revenues. If the JBC decides to make some of the other statutory changes suggested by staff in this briefing, then the JBC may want to clarify this provision, too.

FY 2007-08 Joint Budget Committee Staff Budget Briefing
DEPARTMENT OF NATURAL RESOURCES

ISSUE:

Summary of the Department's request for 9.0 FTE to review oil and gas permits for environmental issues, and to enforce environmental rules and conditions.

SUMMARY:

- 4.0 FTE will review permits and establish new conditions for the permits that are intended to reduce remediation and reclamation;
- 4.0 FTE will enforce existing OGCC environmental rules and the new permit conditions established by the Department;
- 1.0 FTE will provide administrative support to environmental section of OGCC;
- The Department is attempting to mitigate the risks of underground and surface contamination, and excessive disturbance of the surface area and wildlife habitat;
    - Of these goals, staff believes that the Department's proposal is most likely to have an impact on reducing the disturbance of the surface area;
- The Department proposes using revenues from the conservation mill levy to pay for the request, but a more appropriate source may be the severance tax, based on statutory language expressing legislative intent.

RECOMMENDATION:

Staff recommends discussing with the Department whether the conservation mill levy is the appropriate source of revenue for this request.

DISCUSSION:

The Department's #1 decision item is for 9.0 additional environmental staff at a cost of $767,993 to review permits and enforce rules and conditions. The source of revenue for the request is the Department's conservation mill levy charged on oil and gas production and deposited in the Oil and Gas Conservation and Environmental Response Fund.

Permit Reviews

The OGCC's staff is currently composed primarily of permit/completion technicians and engineers with expertise in drilling and plumbing procedures. Of the proposed new FTE, 4.0 would be devoted to reviewing permits for environmental issues that the current OGCC staff are not able to study due to time and training constraints. Among the duties of the new FTE would be using topographic maps and aerial photos to verify information provided by the operator about water resources, drainage, geologic structures (including views), surface deposits (the pre-existing condition of the soil), and wildlife. The Department anticipates that this environmental review may lead to new conditions on permits, such as:

> *a. Requiring onsite inspections between the surface owner representative, the OGCC, the operator, and/or other regulatory agencies to identify any potential public health, safety and welfare or significant adverse environmental impacts regarding the proposed surface location that may not be adequately addressed by OGCC rules or orders. Additional site specific drilling permit conditions may be applied to prevent or mitigate public health, safety and welfare or significant adverse environmental impacts.*
>
> *b. visual or aesthetic impacts - moving the proposed surface well site location or access road to take advantage of natural features for screening; installing low profile artificial lift methods; constructing artificial features for screening.*
>
> *c. surface impacts - moving or reducing the size, shape, or orientation of the surface well site location or access road to avoid disturbance of natural features or to enhance the success of future reclamation activities; using an existing surface well site location or access road to avoid the impacts of new construction; using a closed drilling fluid system instead of reserve pits to avoid impacts to sensitive areas. Encouraging the use of directional drilling.*
>
> *d. noise impacts - installing electric motors where practicable; locating or orienting motors or compressors to reduce noise; installing sound barriers to achieve compliance with OGCC rules; restricting completion operations [the plumbing after the well has been drilled] to the hours of 7 a.m. to 7 p.m. and notifying all area residents prior to completion activities.*
>
> *f. dust impacts - watering roads to control dust during drilling and completion operations.*
>
> *g. ground water and surface water impacts - collecting and analyzing water and gas samples from existing water wells, springs, surface water; installing monitoring wells, collecting samples, and reporting water, gas and pressure data.*
>
> *h. safety impacts - soil gas surveys, soil gas sampling and analysis; residential crawl space gas sampling and analysis; installing security fencing around wellheads and production equipment.*
>
> *i. outcrop impacts - performing outcrop gas seep surveys; performing produced water quality analysis; periodic pressure transient testing of high water/gas ratio wells; limiting water production in wells with anomalously high water rates and*

water/gas ratios.

j. wildlife impacts - limiting drilling and completion operations during certain seasonal time periods when specific site conditions warrant.

The Department anticipates that the new conditions may lead to increased up-front costs for well operators from a few hundred dollars for something like baseline and periodic water samples to thousands of dollars if the Department requires relocation of the proposed well site or the use of directional drilling techniques. The Department indicates that ultimately the new conditions are intended to reduce remediation and reclamation activities, and potential negative impacts on public health and wildlife. If the Department's enhanced environmental review successfully reduces remediation and reclamation costs, and improves relations with neighboring surface owners, operators may benefit in the long run from the additional consultation by the Department.

It would be difficult to reallocate the existing FTE authorization for permit review staff to conduct the proposed environmental reviews. The existing FTE authorization for permit review staff is dealing with an increased workload due to the level of oil and gas operations in Colorado.

Oil and Gas Conservation Commission	FY 02-03 Actual	FY 03-04 Actual	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate
Workload Activity						
Drilling Permits Received	2,081	2,650	3,847	5,829	6,664	7,050
Number of Active Wells	24,489	25,870	28,032	30,324	32,021	34,000
Average Drilling Rigs	30	47	63	83	97	120
Total OGCC Expenditures[1/]	$3,275,376	$3,331,168	$3,623,183	$3,977,718	$6,067,702	$9,841,627
Total FTE	34.0	34.0	35.3	38.0	45.4	55.0

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

Enforcement

In addition to the permit review staff, the Department's request includes 4.0 FTE for enforcement of environmental conditions placed on well operators. The Department indicates that current environmental protection specialists are not proactively inspecting wells because their time is being diverted to reactive investigations of complaints, gas seep mitigation activities, regional ground water studies, reclamation of orphaned well sites, remediation of spills and releases, oversight of emergency situations, and participation in study groups focusing on impacts to wildlife. The proposed new 4.0 FTE would be based in the field and expected to inspect well operations, including wellpads, access roads, and associated production facilities, to ensure compliance with OGCC rules and permit conditions. The FTE would also perform follow-up investigations to ensure that previous violations of OGCC rules and conditions are corrected.

Administrative Support

The remaining 1.0 FTE that is part of the 9.0 new FTE requested by the Department would provide administrative support to the other requested staff, and to the existing staff in the environmental section of OGCC. Among the duties of the 1.0 FTE would be managing and maintaining information from OGCC investigations of water wells and gas seeps. The FTE would help prepare maps and compile summary data from formation pressure tests, water samples, and other scientific analysis. The FTE would also help ensure that operators comply with requirements to submit environmental data.

Underground Contamination Risks

The Department's cost benefit analysis identified three environmental risks of oil and gas operations that the Department hopes to mitigate. One risk is underground contamination from improperly constructed wells due to a lack of review of site specific geology and hydrogeologic data. Staff believes that operators have an economic incentive to avoid wasting oil and gas resources by allowing them to seep underground. The existing permit staff are familiar with the best practices and technologies for avoiding these underground seeps. However, spills do occur. Part of the duties of the proposed new staff would be requiring collection of more baseline data about water conditions and increasing monitoring in high-risk areas. This may result in earlier detection of leaks.

If natural gas leaks into an underground water supply, the problem will usually resolve on its own through organic processes and dissipation once the leak is stopped. Water with natural gas in it is not toxic. Underground gas leaks are primarily a hazard because of the potential for an explosion if the gas reaches the surface and becomes concentrated in a man-made or geologic structure. Underground oil leaks into drinking water supplies could require costly surface treatment of the water. To date there have been very few oil leaks into drinking water supplies in Colorado, and the Department indicates that none of the leaks were major.

Surface Contamination Risks

Another risk the Department is trying to mitigate is surface contamination from improperly located and constructed well pads, access roads, drilling pits, and associated production facilities. Staff believes that the proposed environmental staff may bring a different perspective and expertise to the analysis of well sites than the existing permitting and enforcement employees at the Department, and the staff of the operators. On the other hand, operators have a significant economic incentive to avoid surface contamination. The operator is ultimately liable for surface contamination and it is unlikely that significant surface contamination would go undetected. Operators are required to bond for potential costs associated with contamination. Staff is unsure how many more precautions the proposed environmental staff will identify that operators could and should be taking to prevent surface contamination.

Surface oil spills can generally be remediated through organic processes. Surface spills of saline wastewater require expensive chemical processes to mitigate and can have long-lasting impacts on vegetation, wildlife, and water resources.

Excessive Disturbance of the Surface

The third risk the Department indicated it is trying to mitigate is excessive disturbance to the surface and wildlife (including plants) habitat. **Staff believes that this is the risk most likely to be mitigated by the proposed new FTE.** Staff suspects that when locating, sizing, and designing well pads, access roads, and production facilities most operators currently give more consideration to cost and convenience than to wildlife habitat. In urban areas operators tend to give significant consideration to aesthetics in dealing with surrounding surface owners. However, in rural areas this issue may receive less attention from operators. In the current regulatory environment, wildlife impacts are unlikely to be documented or to become a liability for the operator, and so the economic incentive for operators to take wildlife into consideration in the current regulatory environment is less obvious than in the examples above.

Source of Funds for the Request

In FY 2007-08 the Department increased the conservation mill levy from 0.5 mills to 0.7 mills. The term mill levy is a way to describe an assessment that is based on the value of property. In this case the property is oil and gas. A mill equals $1.00 per $1,000.00 of assessed value. The Department currently charges operators of oil and gas wells $0.70 per $1,000 of production value for costs associated with regulating the industry. Similar to the severance tax, the conservation mill levy is charged based on production value at the well, but unlike the severance tax the mill levy does not use a sliding scale, include an exemption for stripper wells, or allow deductions based on local ad valorem taxes.

The Department has a 1994 memorandum (not an official opinion) from the Attorney General's Office that concluded that the conservation mill levy is a fee rather than a tax, and that therefore the Department does not need a vote of the people in order to increase the assessment. Section 34-60-122 (5), C.R.S. allows the Department to charge up to 1.7 mills, or $1.70 per $1,000.00 of production value.

The Department does not anticipate a need for additional increases in the mill levy to support this decision item. Presumably, if the decision item is rejected it will reduce the need for the mill levy at current assessment levels. However, other variables, such as oil and gas production values, may mean that the Department does not reduce the mill levy if the decision item is rejected.

Staff recommends discussing with the Department whether the conservation mill levy is the appropriate source of revenue for this request. Section 39-29-109 (1) (c) (II), C.R.S. says that in determining how to use severance taxes appropriated for OGCC, the commission should give priority to uses that reduce industry fees and mill levies. Based on the September 2007 Legislative Council Staff revenue forecast, it appears that there will be sufficient severance tax revenues to support higher expenditures in FY 2008-09. Should severance tax revenues be used rather than the mill levy to support this decision item request? An assessment of $0.70 per $1,000.00 of production value does not appear excessively burdensome, but maintaining a higher mill levy to support this decision item may be counter to the legislative intent expressed in Section 39-29-109 (1) (c) (II), C.R.S.

The table below provides a history of the mill levy rate and revenues, and the Department's projection through FY 2008-09.

Fiscal Year	Levy Rate (mills)	Levy Revenue (million $)
1996-97	1.425	$2.193
1997-98	1.400	$2.048
1998-99	1.400	$1.909
1999-00	1.200	$2.093
2000-01	0.600	$2.821
2001-02	0.800	$0.995
2002-03	1.100	$3.372
2003-04	1.100	$5.330
2004-05	0.500	$3.774
2005-06	0.500	$4.968
2006-07	0.500	$3.939
2007-08	0.700	$6.246
2008-09	0.700	$8.155