COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE

FY 2010-11 STAFF BUDGET BRIEFING

DEPARTMENT OF NATURAL RESOURCES

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

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

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FY 2010-11 BUDGET BRIEFING
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE

DEPARTMENT OF NATURAL RESOURCES

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

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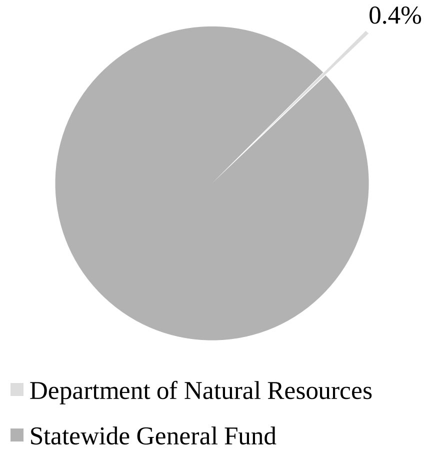
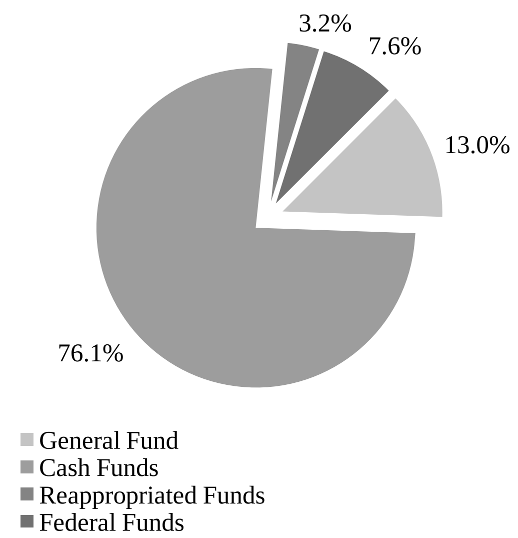


Department Funding Sources



Budget History
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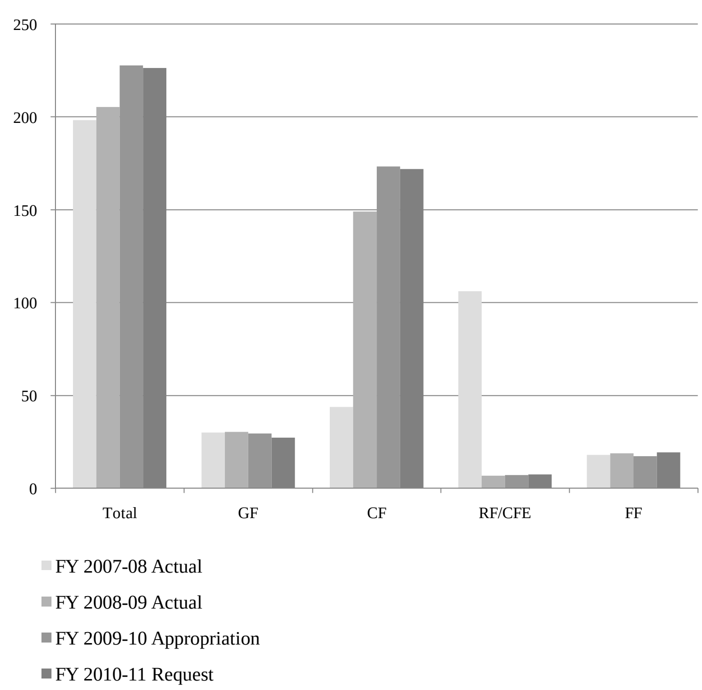
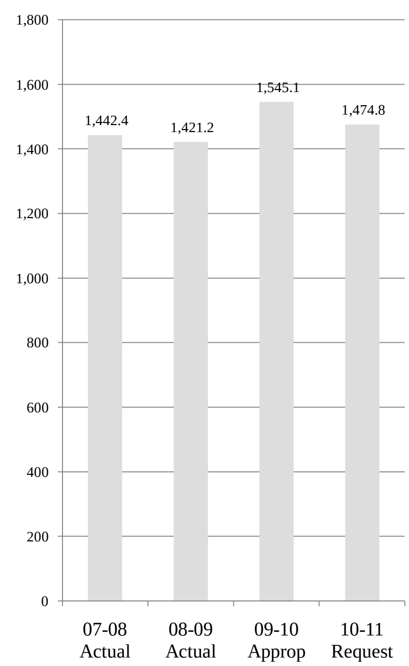
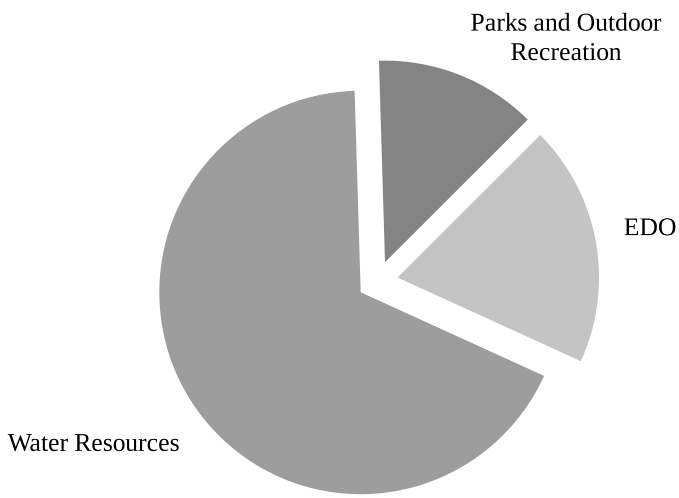


FTE History



Unless otherwise noted, all charts are based on the FY 2009-10 appropriation.

Distribution of General Fund by Division



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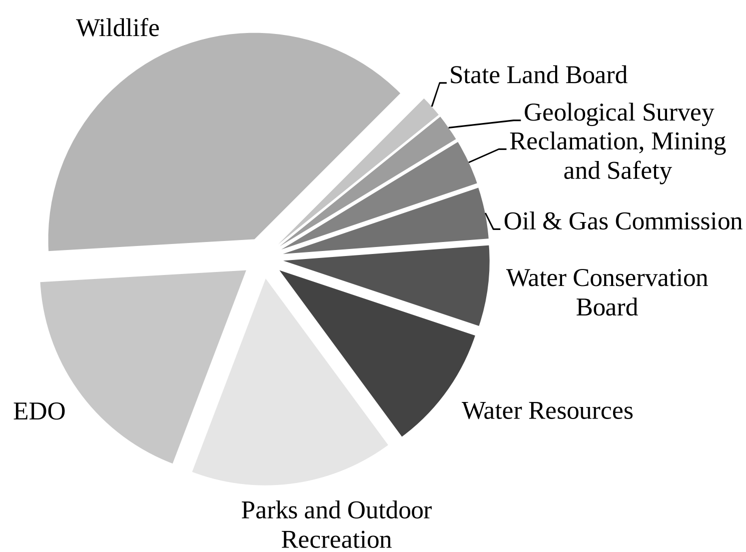

FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Natural Resources
(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

DEPARTMENT OVERVIEW

Key Responsibilities

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

This document covers only the Division of Reclamation, Mining, and Safety, the Colorado Geological Survey, the Oil and Gas Conservation Commission, and the State Board of Land Commissioners. The remaining divisions were included in a separate document and presented by another analyst.

Factors Driving the Budget

For FY 2009-10, funding for the entire department consists of 13.0 percent General Fund, 76.1 percent cash funds, 3.2 percent reappropriated funds, and 7.6 percent federal funds.

Severance Tax (Operational Account) Expenditures
Section 39-29-108 (2), C.R.S., provides that 50 percent of severance tax revenues are credited to the Severance Tax Trust Fund and 50 percent of the revenues are used by the Department of Local Affairs for grants and distributions to local governments impacted by mining activities. Of the revenue credited to the Severance Tax Trust Fund, 50 percent is allocated to the Perpetual Base

Account of the Severance Tax Trust Fund (or 25 percent of total severance tax revenues), which is used by the Colorado Water Conservation Board for water construction projects. The other 50 percent of Severance Tax Trust Fund revenues (or 25 percent of total severance tax revenues) is allocated to the Operational Account to fund programs that "promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water."

Historically, severance tax revenues have been highly variable. The amount of severance tax revenues available to the Operational Account influences the funding levels for many programs in the Department. House Bill 08-1398 divided programs funded from the Operational Account into two tiers. The tier 1 programs support the day-to-day operations of the Department of Natural Resources, including paying salaries for employees, and are funded through the Long Bill. The tier 2 programs primarily support grants, loans, research, and construction and are generally funded through statute. The bill reduced the required reserve for tier 1 programs from twice the annual appropriations to one times the annual appropriations and established a new reserve requirement for tier 2 programs equal to 15 percent of the authorized expenditures. The distribution of funding for tier 2 programs is staggered with 40 percent released July 1, 30 percent released January 4, and the final 30 percent released April 1 each year. Tier 2 programs are subject to proportional reduction if mid-year revenue projections indicate there are insufficient funds to cover the full authorizations. The following table shows revenues to and expenditures from the Operational Account from FY 2005-06 through FY 2010-11. See the issue write-up beginning on page 9 for a discussion of the status of the Operational Account.

	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Estimate	FY 10-11 Estimate
Beginning balance	$25,399,591	$50,851,610	$40,012,876	$46,588,101	$68,073,848	$49,642,022
Revenues	64,468,852	33,312,271	39,367,947	81,052,610	19,161,552	39,514,520
Total available	$89,868,443	$84,163,881	$79,380,823	$127,640,711	$87,235,400	$89,156,542
Tier 1 Programs	7,167,084	8,669,679	9,715,887	12,701,274	15,818,033	14,230,122
Tier 2 Programs	31,849,749	35,481,326	23,076,835	46,865,589	21,775,345	42,201,072
Ending balance	50,851,610	40,012,876	46,588,101	68,073,848	49,642,022	32,725,348
Reserve	26,896,272	28,864,470	32,431,774	19,731,112	17,293,581	20,560,283
Unobligated	23,955,338	11,148,406	14,156,327	48,342,736	32,348,441	12,165,065

State Board of Land Commissioners

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

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

SCHOOL TRUST REVENUE	FY04-05 Actual	FY05-06 Actual	FY06-07 Actual	FY07-08 Actual	FY08-09 Actual
School Trust-Total Revenues	$53,771,940	$63,868,553	$61,151,881	$69,495,847	$74,023,628
Mineral Rental	1,253,324	1,751,130	1,614,907	2,023,401	1,739,678
Mineral Royalties/Bonuses	40,121,204	50,399,909	46,715,425	53,105,648	58,327,085
Surface Rental	7,988,701	8,009,916	8,371,449	8,819,293	8,305,534
Commercial/Other	4,033,546	3,478,051	3,259,564	5,172,228	5,210,122
Land Sales	75,707	11,286	60,021	4,085	3,250
Interest and Penalties	149,153	126,634	16,694	315,960	381,501
Timber Sales	150,305	91,627	1,113,821	55,232	56,458

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 experienced a significant increase in oil and gas drilling activity from 2002 through 2008, which dramatically affected the Colorado Oil and Gas Conservation Commission's workload and necessary expenditures. Drilling activity, as measured by the number of permit applications received by the OGCC and by the number of active drilling rigs in Colorado, has dropped off significantly in FY 2009-10 but the amount of oil and gas activity in the State remains a driver of the OGCC's and the Department's budget.

Oil and Gas Conservation Commission	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Actual	FY 08-09 Actual	FY 09-10 Estimate	FY 10-11 Estimate
Workload Activity						
Drilling Permits Received	5,829	6,664	7,661	6,910	3,000	3,000
Location Assessments (Form 2A) Received	N/A	N/A	N/A	67	1,500	1,500
Number of Active Wells	30,324	32,021	35,686	39,944	43,000	45,000
Active Drilling Rigs	83	97	113	87	40	40
OGCC Expenditures[1/]	$3,977,718	$6,067,702	$6,533,355	$8,226,522	$9,187,907	$8,580,033
Total FTE	38.0	43.4	53.0	54.6	73.0	69.0

[1/] Division-only expenditures include all fund sources; does not include centrally appropriated items funded in the Executive Director's Office. Expenditures for FY 2009-10 and FY 2010-11 reflect the appropriation and request, respectively.

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

DECISION ITEM PRIORITY LIST

Decision Item	GF	CF	RF	FF	Total	FTE
1	(19,573)	48,694	(1,557)	2,919	30,483	0.0
Leased Space Adjustments						
Executive Director's Office and Colorado Geological Survey. The Department requests to renew ten existing leases, to reflect two current leases fully in the Long Bill, and to annualize the effects of H.B. 08-1395 (property tax exemption for government leases). *Statutory authority: Section 24-75-112 (1) (b) and (g), C.R.S.*						
2	0	0	225,000	0	225,000	0.0
Public Access Program Damage and Enhancement Reappropriation						
State Land Board. The Department requests $225,000 reappropriated funds (Wildlife Cash Fund) spending authority in the State Land Board's budget in order to accurately reflect Public Access Program expenditures which are currently recorded in the Division of Wildlife's budget. Funds are from payments by the Division of Wildlife to the State Land Board for public access to Land Board lands for hunting. *Statutory authority: Section 36-1-101.5 (6) (c), C.R.S.*						
3	0	2,231,880	0	0	2,231,880	0.0
Shift Funding for the Division of Wildlife from the Capital Construction to the Operating Budget						
4	0	6,750,000	0	1,350,000	8,100,000	0.0
State Parks Capital Line Item Consolidation and Capital Reorganization						
5	(20,000)	20,000	0	0	0	0.0
Increase Fee Revenue for Satellite Monitoring System						
NP-1	(96,173)	(312,534)	(155,510)	(21,743)	(585,960)	(64.0)
Statewide Information Technology Staff Consolidation						
Multiple Divisions. This statewide common policy request, submitted in the Governor's Office budget request, would transfer a total of 64.0 FTE from the Department to the Governor's Office of Information Technology. In addition, the request would reduce appropriations in the amount of $5,859,561 total funds (including $961,726 General Fund) from various line items in FY 2010-11 and increase appropriations by $5,273,601 total funds (including $865,553 General Fund) to three line items: Purchase of Services from Computer Center, Multiuse Network Payments, and Management and Administration of OIT.						
NP-2	9,521	177,879	0	(16,910)	170,490	0.0
Annual Fleet Vehicle Replacements						
Total	**(126,225)**	**8,915,919**	**67,933**	**1,314,266**	**10,171,893**	**(64.0)**

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

OVERVIEW OF NUMBERS PAGES

The following table summarizes the total change, in dollars and as a percentage, between the Department's FY 2009-10 appropriation and its FY 2010-11 request.

Total Requested Change for the Entire Department, FY 2009-10 to FY 2010-11 (millions of dollars)

Category	GF	CF	RF	FF	Total	FTE
FY 2009-10 Appropriation	$29.7	$173.4	$7.3	$17.4	$227.8	1,545.1
FY 2010-11 Request	27.4	172.0	7.6	19.4	226.5	1,474.8
Increase / (Decrease)	($2.3)	($1.4)	$0.3	$2.0	($1.4)	(70.3)
Percentage Change	-7.6%	-0.8%	3.6%	11.8%	-0.6%	-4.6%

Total Requested Change for DRMS, CGS, OGCC, and SLB, FY 2009-10 to FY 2010-11 (millions of dollars)

Category	GF	CF	RF	FF	Total	FTE
FY 2009-10 Appropriation	$0.0	$20.4	$0.9	$4.6	$25.9	219.3
FY 2010-11 Request	0.0	19.8	1.1	4.5	25.4	212.3
Increase / (Decrease)	$0.0	($0.7)	$0.2	($0.1)	($0.5)	(7.0)
Percentage Change	n/a	-3.2%	25.6%	-1.7%	-2.0%	-3.2%

The following table highlights the individual changes contained in the Department's FY 2010-11 budget request, as compared with the FY 2009-10 appropriation, for the portion of the Department covered in this briefing packet. For additional detail, see the numbers pages in Appendix A.

Requested Changes, FY 2009-10 to FY 2010-11

Category	GF	CF	RF	FF	Total	FTE
Division of Reclamation, Mining, and Safety						
Restore FY 2009-10 Personal Services Reduction	0	42,861	0	27,262	70,123	0.0
Indirect Cost Adjustments	0	(2,293)	0	56,998	54,705	0.0

Category	GF	CF	RF	FF	Total	FTE
DI NP-1 - Statewide Information Technology Staff Consolidation	0	0	0	(187,920)	(187,920)	(2.0)
Annualize Prior Year Funding	0	(1,652)	0	(766)	(2,418)	0.0
Subtotal	**$0**	**$38,916**	**$0**	**($104,426)**	**($65,510)**	**(2.0)**
Colorado Geological Survey						
Indirect Cost Adjustments	$0	($56,640)	$0	$26,707	($29,933)	0.0
Annualize Prior Year Funding	$0	($2,252)	$0	$0	($2,252)	0.0
DI #1 Leased Space Adjustments	0	0	(1,557)	0	(1,557)	0.0
Subtotal	**$0**	**($58,892)**	**($1,557)**	**$26,707**	**($33,742)**	**0.0**
Oil and Gas Conservation Commission						
Restore FY 2009-10 Personal Services Reduction	$0	$108,278	$0	$0	$108,278	0.0
Indirect Cost Adjustment	0	79,274	0	2,249	81,523	0.0
Annualize S.B. 07-198	0	(445,200)	0	0	(445,200)	0.0
DI NP-1 - Statewide Information Technology Staff Consolidation	0	(350,772)	0	0	(350,772)	(4.0)
Annualize Prior Year Funding	0	(1,703)	0	0	(1,703)	0.0
Subtotal	**$0**	**($610,123)**	**$0**	**$2,249**	**($607,874)**	**(4.0)**
State Land Board						
DI #2 - Public Access Program Damage and Enhancement Reappropriation	$0	$0	$225,000	$0	$225,000	0.0
Restore FY 2009-10 Personal Services Reduction	0	45,641	0	0	45,641	0.0
Indirect Cost Adjustments	0	5,272	0	0	5,272	0.0
DI NP-1 Statewide Information Technology Staff Consolidation	0	(77,568)	0	0	(77,568)	(1.0)
Annualize Prior Year Funding	0	(1,545)	0	0	(1,545)	0.0
Subtotal	**$0**	**($28,200)**	**$225,000**	**$0**	**$196,800**	**(1.0)**
Total Change	**$0**	**($658,299)**	**$223,443**	**($75,470)**	**($510,326)**	**(7.0)**

FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Natural Resources
(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

BRIEFING ISSUE

ISSUE: Status of the Operational Account of the Severance Tax Trust Fund

Discusses the status of fund balances and revenue volatility in the Operational Account of the Severance Tax Trust Fund.

SUMMARY:

- ❏ Based on the December 2009 Legislative Council Staff Revenue Forecast, revenues to the Operational Account of the Severance Tax Trust Fund will decrease from $79.8 million in FY 2008-09 to $17.9 million (excluding estimates of interest earned) in FY 2009-10 and rise to $38.3 million in FY 2010-11 and $48.4 million in FY 2011-12.

- ❏ Including an estimate of interest earned, current appropriations, authorized expenditures, and required reserves would leave uncommitted balances of $32.3 million in the Operational Account at the end of FY 2009-10, $12.2 million at the end of FY 2010-11, and $13.6 million at the end of FY 2011-12.

- ❏ The Committee may wish to consider a transfer from the Operational Account to the General Fund to balance the budget. Based on the December forecast, the General Assembly could transfer up to $12.2 million without impacting currently authorized programs. Reductions to current authorizations would allow for a larger transfer.

- ❏ The Governor is proposing to permanently refinance $2.1 million General Fund appropriated to the Division of Parks and Recreation with an equal amount of cash funds from the Operational Account starting in FY 2009-10. The proposal would offset the impact on the Operational Account by reducing authorized expenditures for water infrastructure development by $6.0 million in FY 2010-11 and $2.5 million in FY 2011-12 and beyond.

- ❏ The Governor is also requesting legislative authority to make a one-day transfer of up to $30.0 million from the Operational Account to the General Fund at the end of FY 2009-10.

RECOMMENDATION:

Staff recommends that the JBC 1) consider transferring funds from the Operational Account to the General Fund to balance the budget and 2) discuss the long term solvency of the Operational Account with the Department at the upcoming hearing.

DISCUSSION:

Background

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

Under current statute, enacted as a JBC bill in 2008 (H.B. 08-1398), Operational Account expenditures are divided into two categories. Tier 1 expenditures support salaries and on-going core programs of the Department of Natural Resources. Tier 2 programs support grants, loans, research, and construction. The reserve requirement for tier 1 programs is equal to one full year of operating appropriations. The reserve requirement for tier 2 programs is equal to fifteen percent of authorized expenditures. The distribution of funding for tier 2 programs is staggered with 40 percent released July 1, 30 percent released January 4, and the final 30 percent released April 1. If a mid-year projection indicates there will be insufficient revenues to the Operational Account to support all statutorily authorized expenditures, the tier 2 programs are automatically proportionally reduced to fit the projections.

The Operational Account has statutory reserve and prorating requirements in part because severance tax revenues are highly variable from year to year. For example, revenues increased 284 percent between FY 2002-03 and FY 2003-04 and are expected to decline by 78 percent from FY 2008-09 to FY 2009-10. The variability of severance tax revenues is partly attributable to the volatility in price and production of oil and natural gas, the primary sources of severance tax revenue. In addition to inherent price volatility, statute (Section 39-29-104 (2) (b)) allows severance taxpayers to deduct a portion of local property taxes from severance tax liability. Because of a lag in the way property taxes are calculated, the amount of the deduction against the severance tax is based on production values from two years prior, which can generate significant swings in severance tax liability. Finally, changes in local tax policy can significantly change the deduction against the state severance tax liability. As a result of these factors, severance tax revenues do not always track trends in resource price, making forecasting the revenues a challenge.

December 2009 Revenue Forecast

Revenue forecasts over the past year highlight the difficulty of forecasting severance tax revenue levels. The December 2009 Legislative Council Staff Revenue Forecast predicts a significant decline in revenues from FY 2008-09 ($319.1 million in total severance revenues) to FY 2009-10 ($71.6 million in total severance revenues). However, the forecast indicates that the outlook for severance tax revenues has improved since the September forecast, which predicted $41.0 million in total revenues in FY 2009-10. The December forecast predicts increased revenue levels each year through FY 2011-12 relative to the September forecast and indicates that there would be sufficient revenues to fund current appropriations and authorizations through FY 2011-12, which was not the case under the September forecast.

Potential Transfer to General Fund

The General Assembly has historically used the Operational Account to help address General Fund shortfalls. A few examples include:

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

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

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

Including a relatively conservative estimate of $1.25 million per year in interest earned for the Operational Account, projected revenues would leave uncommitted balances of $32.3 million in FY 2009-10, $12.2 million in FY 2010-11, and $13.6 million in FY 2011-12 after accounting for current appropriations, authorizations, and required reserves (see overview table on page 13). Thus, based on the December forecast, the Committee could transfer up to $12.2 million from the Operational Account to the General Fund in either FY 2009-10 or FY 2010-11 (but not both years) without affecting program operations.

The Committee could also consider reducing existing authorizations or appropriations to allow for a larger transfer to the General Fund. For example, during the FY 2010-11 briefing for the Governor's Office, staff recommended that the Committee consider eliminating the statutory transfer of $6.5 million from the Operational Account to the Governor's Energy Office for weatherization in FY 2010-11 and FY 2011-12. Doing so would make that amount available for either transfer to the General Fund, refinancing General Fund appropriations, or for other Operational Account programs.

With respect to potential transfers to the General fund or refinancing of General Fund expenditures, staff notes that the authorized expenditures from the Operational Account exceed anticipated revenues in FY 2009-10 and FY 2010-11 and are just below anticipated revenues in FY 2011-12. The following table shows Operational Account revenues vs. expenditures for FY 2007-08 through

FY 2011-12, based on the December 2009 Legislative Council Staff Revenue Forecast.

Operational Account Revenues and Expenditures

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Estimate*	FY 2010-11 Estimate*	FY 2011-12 Estimate*
Revenues	$39,057,043	$81,216,379	$19,161,552	$39,514,520	$49,677,107
Expenditures	32,792,722	59,566,863	37,593,378	56,431,194	49,180,554
Surplus/(Deficit)	**$6,264,321**	**$21,649,516**	**($18,431,826)**	**($16,916,674)**	**$496,553**

*Estimated expenditures are based on FY 2009-10 appropriations (Tier 1) and authorized expenditures (Tier 2) and include an estimate of $1.25 million per year in interest. Estimated revenues are based on December 2009 Legislative Council Staff Revenue Forecast.

As a demonstration of the volatility of severance tax revenues and forecasts, using the September 2009 revenue forecast would predict larger deficits in each of the estimated year: $26.1 million in in FY 2009-10, $21.6s, including a $6.7 million deficit in FY 2011-12.

Staff recommends that the Committee consider transferring Operational Account Revenues to the General Fund in FY 2009-10 or FY 2010-11 to assist with the budgetary shortfall. Staff further recommends that the Committee consider cuts to expenditures from the Operational Account to better align expenditures with revenues over the long term and discuss the long term solvency of the Operational Account with the Department at the upcoming hearing.

Like last year, staff asked the Department for feedback on how to prioritize Operational Account expenditures if they need to be reduced. Based on the September 2009 revenue forecast and the Governor's balancing plan based on that forecast, the Department indicated that it would oppose cuts to Operational Account expenditures to assist with General Fund balancing (other than the State Parks proposal discussed on page 14). However, the responses provide analysis and justification for the Department's positions with respect to a variety of programs funded from the Operational Account. Staff has attached the Department's response as Appendix C of this document.

#	Severance Tax Trust Fund Operational Account Revenues and Expenditures Under Current Law Based on December 2009 LCS Revenue Forecast												
	Date Printed: December 20, 2009	Statutory Site	Actual FY 07-08		Actual FY 08-09		Appropriation FY 09-10		Estimated FY 10-11		Estimated FY 11-12		Key Bills
1	Beginning balance		$40,012,876		$46,588,101		$68,073,848		$49,642,023		$32,725,349		
2	Revenue		39,457,043		81,216,379		19,161,552 (est.)		39,514,520 (est.)		49,677,107 (est.)		
3	Public School Energy Fund	39-29-109.5	(89,096)		(163,769)		TBD		TBD		TBD		
4	**TOTAL Available for Expenditure**		**79,380,823**	100.0%	**127,640,711**	100.0%	**87,235,400**	100.0%	**89,156,543**	100.0%	**82,402,456**	100.0%	
5	Roll-forwards		0		0	0.0%	1,832,635	2.1%	0		0		
	Tier 1	39-29-109.3 (1)											
6	Colorado Geological Survey	(b)	2,197,478	2.8%	2,451,579	1.9%	2,510,057	2.9%	2,560,258	2.9%	2,611,463	3.2%	
7	Oil and Gas Conservation Commission	(a)	2,300,213	2.9%	2,639,668	2.1%	3,095,122	3.5%	3,157,024	3.5%	3,220,165	3.9%	
8	Division of Reclamation, Mining, and Safety	(c)	3,925,306	4.9%	3,817,071	3.0%	4,167,386	4.8%	4,250,734	4.8%	4,335,748	5.3%	
9	Colorado Water Conservation Board	(d)	1,292,890	1.6%	1,266,839	1.0%	1,319,250	1.5%	1,319,250	1.5%	1,319,250	1.6%	
10	Division of Parks and Outdoor Recreation	(f)	0	0.0%	1,234,058	1.0%	1,324,592	1.5%	1,324,592	1.5%	1,324,592	1.6%	SB 08-13
11	Division of Wildlife	(e)	0	0.0%	1,292,059	1.0%	1,618,264	1.9%	1,618,264	1.8%	1,618,264	2.0%	SB 08-13
12	**SUBTOTAL Tier 1**		9,715,887	12.2%	12,701,274	10.0%	14,034,671	16.1%	14,230,122	16.0%	14,429,482	17.5%	
	Tier 2	39-29-109.3 (2)											
13	Water Conservation Board Litigation Fund		0		0		0		0		0		HB 06-1313 (Sect. 17)
14	Underground water storage		0		0		0		0		0		SB 06-193
15	Water infrastructure development	(a)	6,000,000		7,000,000		5,775,000		10,000,000		10,000,000		SB 06-179
16	Soil Conservation Districts matching grants	(b)	0		450,000		450,000		450,000		0		HB 06-1393
17	Water efficiency grants	(c)	800,000		1,800,000		0		0		0		SB 07-008/HB 08-1398
18	Species Conservation Trust Fund	(d) & (e)	0		12,513,886		4,500,000		11,000,000		4,000,000		SB 08-168/SB 08-226
19	Low income energy assistance	(f)	12,000,000		13,000,000		3,250,000		13,000,000		13,000,000		HB 08-1387
20	Renewable energy - Higher ed consortium	(g)	2,000,000		2,000,000		0		0		0		HB 06-1322
21	Renewable energy - Agriculture	(h)	500,000		500,000		500,000		500,000		500,000		HB 06-1322
22	Interbasin water compacts	(i)	1,626,835		1,145,067		745,067		745,067		745,067		HB 05-1177/HB 06-1400
23	CO Water Research Institute - CSU	(j)	150,000		500,000		0		0		0		HB 08-1405
24	Forest restoration grants/ bark beetle	(k) and (n)	0		1,000,000		2,500,000		2,500,000		2,500,000		SB 08-71/HB 09-1199
25	Tamarisk control	(l)	0		1,000,000		0		0		0		HB 08-1346 (Sect. 29)
26	Acquatic Nuisance Species Fund	(m)	0		5,956,636		4,006,005		4,006,005		4,006,005		SB 08-226
27	**SUBTOTAL Tier 2**		23,076,835	29.1%	46,865,589	36.7%	21,726,072	24.9%	42,201,072	47.3%	34,751,072	42.2%	
28	**TOTAL Expenditures**		**32,792,722**		**59,566,863**		**37,593,378**		**56,431,194**		**49,180,554**		
29	**Ending Balance**		46,588,101		68,073,848		49,642,023		32,725,349		33,221,902		
30	Tier 1 Reserve	39-29-109.3 (3)	19,431,774		12,701,274		14,034,671		14,230,122		14,429,482		HB 02-1041/HB 08-1398
31	Tier 2 Reserve	39-29-109.3 (3)	0		7,029,838		3,258,911		6,330,161		5,212,661		HB 08-1398
32	Low income energy assistance reserve		13,000,000		0		0		0		0		HB 06-1200/HB 08-1387
33	**TOTAL Reserve Requirement**		32,431,774	40.9%	19,731,112	15.5%	17,293,581	19.8%	20,560,283	23.1%	19,642,143	23.8%	
34	**UNOBLIGATED BALANCE**		**14,156,327**	17.8%	**48,342,736**	37.9%	**32,348,442**	37.1%	**12,165,067**	13.6%	**13,579,759**	16.5%	

(est.) = estimate. Revenue Estimates based on Legislative Council's March 2009 Economic Forecast, not including interest.
TBD = To be determined

Governor's Legislative Proposals
The Governor has submitted two legislative proposals related to the Operational Account.

State Parks Refinance
The first proposal would:

- permanently refinance $2.1 million General Fund in the Division of Parks and Recreation with Operational Account revenues, starting in FY 2009-10;
- offset the impact to the Operational Account by reducing tier 2 transfers to the Water Supply Reserve Account (managed by the Colorado Water Conservation Board) by $6.0 million in FY 2010-11 and $2.5 million in FY 2011-12 and beyond; and
- increase the State Parks' maximum Operational Account allocation from 5 percent of the fund balance to 10 percent and decrease the Oil and Gas Conservation Commission's (OGCC) cap from 40 percent to 35 percent. <u>Because the OGCC is only utilizing 3.5 percent of the estimated fund balance in FY 2009-10, and State Parks would utilize approximately 5 percent under the proposal, the adjustment has no impact on the funding available to the OGCC. However, this may be perceived as a reduction to OGCC funding even though reducing the percentage cap would not affect actual funding.</u>

The overview table on page 15 shows the impact of the proposal on the Operational Account as a whole based on the December 2009 forecast.

The Department discusses the proposal to refinance State Parks as a General Fund balancing proposal that is neutral for State Parks. The cut to the Water Supply Reserve Account will result in less funding for water projects in FY 2009-10 and beyond. Given that the Division of Water Resources receives the bulk of the Department's General Fund appropriation, General Fund balancing was likely to affect water programs. The Department has elected to cut the Water Supply Reserve Account rather than positions in the Division of Water Resources. The General Assembly may also wish to reduce a different Operational Account authorization outside of the Department, an option that may not have been available to the Department.

One-Day Transfer Authority
The Governor is also requesting legislative authority to make a one-day transfer of up to $30.0 million from the Operational Account to the General Fund if necessary to balance the General Fund Budget at the end of FY 2009-10. The proposal is part of a larger package of one-day transfers similar to S.B. 09-279, which allowed for a one-day transfer of $21.3 million from the Operational Account to the General Fund at the end of FY 2008-09.

Based on the December revenue forecast, there should be sufficient revenue in the Operational Account to support a one-day transfer of up to $30.0 million at the end of the fiscal year. While a transfer of that size would utilize existing reserves in addition to the uncommitted balances, repayment the following day would make the necessary revenues available for the reserve in FY 2010-11.

Severance Tax Trust Fund
Operational Account Revenues and Expenditures Under Governor's State Parks Proposal Based on December 2009 LCS Revenue Forecast

	Date Printed: December 20, 2009	Statutory Site	Actual FY 07-08		Actual FY 08-09		Appropriation FY 09-10		Estimated FY 10-11		Estimated FY 11-12		Key Bills
1	Beginning balance		$40,012,876		$46,588,101		$68,073,848		$47,494,608		$34,430,519		
2	Revenue		39,457,043		81,216,379		19,161,552 (est.)		39,514,520 (est.)		49,677,107 (est.)		
3	Public School Energy Fund	39-29-109.5	(89,096)		(163,769)		TBD		TBD		TBD		
4	**TOTAL Available for Expenditure**		**79,380,823**	100.0%	**127,640,711**	100.0%	**87,235,400**	100.0%	**87,009,128**	100.0%	**84,107,626**	100.0%	
5	Roll-forwards		0		0	0.0%	1,832,635	2.1%	0		0		
	Tier 1	39-29-109.3 (1)											
6	Colorado Geological Survey	(b)	2,197,478	2.8%	2,451,579	1.9%	2,510,057	2.9%	2,560,258	2.9%	2,611,463	3.1%	
7	Oil and Gas Conservation Commission	(a)	2,300,213	2.9%	2,639,668	2.1%	3,095,122	3.5%	3,157,024	3.6%	3,220,165	3.8%	
8	Division of Reclamation, Mining, and Safety	(c)	3,925,306	4.9%	3,817,071	3.0%	4,167,386	4.8%	4,250,734	4.9%	4,335,748	5.2%	
9	Colorado Water Conservation Board	(d)	1,292,890	1.6%	1,266,839	1.0%	1,319,250	1.5%	1,319,250	1.5%	1,319,250	1.6%	
10	Division of Parks and Outdoor Recreation	(f)	0	0.0%	1,234,058	1.0%	3,472,007	4.0%	3,472,007	4.0%	3,472,007	4.1%	SB 08-13
11	Division of Wildlife	(e)	0	0.0%	1,292,059	1.0%	1,618,264	1.9%	1,618,264	1.9%	1,618,264	1.9%	SB 08-13
12	**SUBTOTAL Tier 1**		9,715,887	12.2%	12,701,274	10.0%	16,182,086	18.5%	16,377,537	18.8%	16,576,897	19.7%	
	Tier 2	39-29-109.3 (2)											
13	Water Conservation Board Litigation Fund		0		0		0		0		0		HB 06-1313 (Sect. 17)
14	Underground water storage		0		0		0		0		0		SB 06-193
15	Water infrastructure development	(a)	6,000,000		7,000,000		5,775,000		4,000,000		7,500,000		SB 06-179
16	Soil Conservation Districts matching grants	(b)	0		450,000		450,000		450,000		0		HB 06-1393
17	Water efficiency grants	(c)	800,000		1,800,000		0		0		0		SB 07-008/HB 08-1398
18	Species Conservation Trust Fund	(d) & (e)	0		12,513,886		4,500,000		11,000,000		4,000,000		SB 08-168/SB 08-226
19	Low income energy assistance	(f)	12,000,000		13,000,000		3,250,000		13,000,000		13,000,000		HB 08-1387
20	Renewable energy - Higher ed consortium	(g)	2,000,000		2,000,000		0		0		0		HB 06-1322
21	Renewable energy - Agriculture	(h)	500,000		500,000		500,000		500,000		500,000		HB 06-1322
22	Interbasin water compacts	(i)	1,626,835		1,145,067		745,067		745,067		745,067		HB 05-1177/HB 06-1400
23	CO Water Research Institute - CSU	(j)	150,000		500,000		0		0		0		HB 08-1405
24	Forest restoration grants/ bark beetle	(k) and (n)	0		1,000,000		2,500,000		2,500,000		2,500,000		SB 08-71/HB 09-1199
25	Tamarisk control	(l)	0		1,000,000		0		0		0		HB 08-1346 (Sect. 29)
26	Acquatic Nuisance Species Fund	(m)	0		5,956,636		4,006,005		4,006,005		4,006,005		SB 08-226
27	**SUBTOTAL Tier 2**		23,076,835	29.1%	46,865,589	36.7%	21,726,072	24.9%	36,201,072	41.6%	32,251,072	38.3%	
28	**TOTAL Expenditures**		**32,792,722**		**59,566,863**		**39,740,793**		**52,578,609**		**48,827,969**		
29	**Ending Balance**		46,588,101		68,073,848		47,494,608		34,430,519		35,279,657		
30	Tier 1 Reserve	39-29-109.3 (3)	19,431,774		12,701,274		16,182,086		16,377,537		16,576,897		HB 02-1041/HB 08-1398
31	Tier 2 Reserve	39-29-109.3 (3)	0		7,029,838		3,258,911		5,430,161		4,837,661		HB 08-1398
32	Low income energy assistance reserve		13,000,000		0		0		0		0		HB 06-1200/HB 08-1387
33	**TOTAL Reserve Requirement**		32,431,774	40.9%	19,731,112	15.5%	19,440,996	22.3%	21,807,698	25.1%	21,414,558	25.5%	
34	**UNOBLIGATED BALANCE**		**14,156,327**	17.8%	**48,342,736**	37.9%	**28,053,612**	32.2%	**12,622,822**	14.5%	**13,865,099**	16.5%	

(est.) = estimate. Revenue Estimates based on Legislative Council's March 2009 Economic Forecast, not including interest.
TBD = To be determined

FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Natural Resources
(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

BRIEFING ISSUE

ISSUE: Oil and Gas Development Activity and OGCC Workload

Provides an update on oil and gas activity in Colorado and the workload and staffing of the Oil and Gas Conservation Commission.

SUMMARY:

- ❏ The Commission is experiencing a roughly 60 percent drop in the submission of applications for permits to drill (APDs) from FY 2007-08 actual levels to the estimate for FY 2009-10. The decline in APD workload is partially offset by the receipt of oil and gas location assessment forms required by the new OGCC rules.

- ❏ The reduced number of APD submissions has allowed the Commission staff to reduce the backlog of APDs awaiting approval over the past several months.

- ❏ Well drilling activity has also declined in Colorado and throughout the region.

- ❏ Staff does not recommend cutting the existing OGCC staff at this time. However, the OGCC has 4.0 appropriated FTE that can not be filled within the appropriated resources, and staff may recommend eliminating those 4.0 FTE during figure setting for FY 2010-11. Doing so would not result in monetary savings because the OGCC is using the resources associated with those FTE to pay existing staff.

RECOMMENDATION:

Staff recommends that the Committee discuss the causes of the decline in oil and gas activity and the resulting impacts on the OGCC's workload and staffing needs at the Department's hearing.

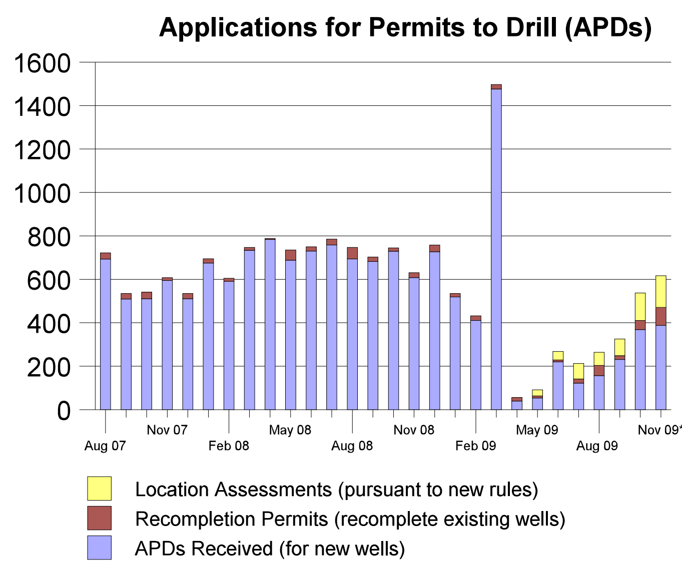
DISCUSSION:

The Oil and Gas Conservation Commission (OGCC) has experienced a decline in both the submission of applications for permits to drill (APDs) and in drilling activity in 2009. Because wells are active for years, the number of active wells in the State continues to grow each year although it is growing at a slower rate than in recent years.

APD Submissions

The number of APD submissions grew rapidly from a total of approximately 2,000 submitted in FY 2001-02 to more than 7,500 in FY 2007-08. The Commission received roughly 7,000 APDs in FY 2008-09 but the number of submissions has declined steeply in FY 2009-10: OGCC staff currently anticipate a total of approximately 3,000 APD submissions this year. The APD estimate understates the workload for the year because the agency's new rules require processing of an additional form related to oil and gas facilities other than wells. The OGCC is anticipating receipt of about 1,500 such forms this year, for a total of 4,500 items including APDs and location assessments.

Within the past two years, the number of APDs and permits for recompletion of existing wells submitted per month has also varied significantly (see graph below).



As shown in the graph, the number of applications varied between about 500 and 800 permits per month from August 2007 through early 2009. In March 2009, immediately prior to the implementation of the OGCC's new rules, the industry submitted 1,496 applications, presumably to ensure that any resulting permits fell under the old rules. Immediately following the April 2009 implementation of the new rules, there was a lag in application submissions, although the number of applications has risen each month since July 2009.

The decline in new applications has allowed the OGCC staff to reduce the backlog of APDs awaiting processing. The backlog stood at 1,397 APDs (1,414 including recompletion permits) in November 2008, it peaked at 2,004 permits (2,038 including recompletions) in April 2009 following the spike in applications prior to implementation of the new rules, but had declined to 627 (686 including recompletions) by the end of October 2009.

The industry accumulates approved APDs above and beyond what would be feasible to drill within a given year. According to OGCC staff, the industry is holding approximately 3,000 approved APDs, many of which will not be drilled before expiring and will therefore require refiling. Thus, while APD submission volume is an important workload indicator for the OGCC's permitting staff, it does not necessarily indicate the amount of drilling and development activity taking place on the ground.

Drilling Activity

Following approval of an APD by the OGCC, the industry has a limited time in which to actually drill the well. The old rules allowed one year to drill a well before the operator had to refile the permit. Under a rule change approved by the OGCC this month, the industry will now have two years to drill a well before needing to refile any permit approved under the new rules.

Similar to the decline in APD submissions in FY 2009-10, the State has seen a decline in drilling activity, particularly on the western slope. As shown in the following table, Colorado and most other states in the region have experienced drops in drilling activity since 2007. The percentage reduction in active rigs in Colorado from July 2008 to July 2009 (70.5 percent) is higher than the average for the states included in the snapshot below but is lower than the percentage reductions in Montana (93.8 percent) and Utah (72.7 percent).

Snapshot of Drilling Activity in Western States, July 2007 through July 2009
(data from Anderson Reports, Inc., provided by OGCC staff)

State	Rigs Active 7/29/07	Rigs Active 7/29/08	Rigs Active 7/29/09	Percent Change (2008 to 2009)
Colorado	124	132	39	-70.5%
Montana	19	16	1	-93.8%
Nebraska	4	3	2	-33.3%
New Mexico	29	18	9	-50.0%
North Dakota	39	77	42	-45.5%
South Dakota	2	2	1	-50.0%
Utah	48	55	15	-72.7%
Wyoming	81	90	33	-63.3%
Total	**346**	**393**	**142**	**-63.9%**

Staff does not have adequate data to assess the role of the new rules in the decline in activity in Colorado. The new rules would not explain the decline in drilling activity for previously-approved permits because those permits were granted under the old rules. Based on the available information, it would seem that economic factors including the price of natural gas are the most important factors driving the current decline in drilling of existing permits, although it is possible that challenges related to the new rules would play a more significant role in the future.

<u>Industry Concerns</u>

In discussions with staff, the industry has outlined three concerns about the regulatory climate for oil and gas development in Colorado.

- Permit turn-around time: The industry is concerned about OGCC's permit processing time. Staff does not have adequate data to evaluate permit processing times relative to comparable states in the region. The Department expects to have processing time data available for the hearing with the JBC in January, and OGCC staff are working with the industry to reconcile methods of measuring and reducing the time required to process permits. For example, the OGCC has traditionally excluded the 10 day "completeness review" immediately following permit submission from their measure of processing time but will now include the completeness review in their measures to make data more comparable to industry expectations.

- Wildlife Consultations: The industry is concerned because the final rules require the use of best management practices for wildlife protection but the best management practices have yet to be developed. The industry argues that this has resulted in inconsistent conditions of approval being imposed by different Division of Wildlife (DOW) personnel and that the uncertainty regarding wildlife requirements discourages investment in Colorado. The OGCC confirms that the best management practices have not been developed because of pressing needs for staff time in permit processing. The OGCC expects to work on the management practices in late CY 2010, but until that time it does appear that there will be uncertainty regarding the DOW's expectations with respect to development in wildlife habitat. The industry argues that this is one of the factors discouraging development on the Western Slope.

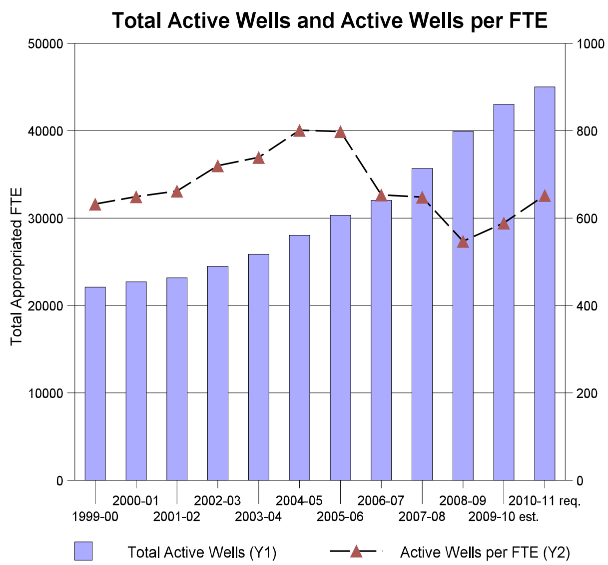
- Produced Water: The industry has indicated that uncertainty surrounding the legal status of "produced water" from oil and gas wells is also discouraging investment in Colorado. In April 2009, the Colorado Supreme Court ruled that coal bed methane (CBM) wells require water well permits from the State Engineer's Office. According to the industry, it is not yet clear whether this ruling will be applied to non-CBM wells; if so, every oil and gas well in the state would be required to have a groundwater well permit. The State Engineer's Office has proposed new rules to clarify the situation but they are not yet final. The OGCC has no role in this issue but the industry highlights it as another source of uncertainty affecting oil and gas activity in Colorado.

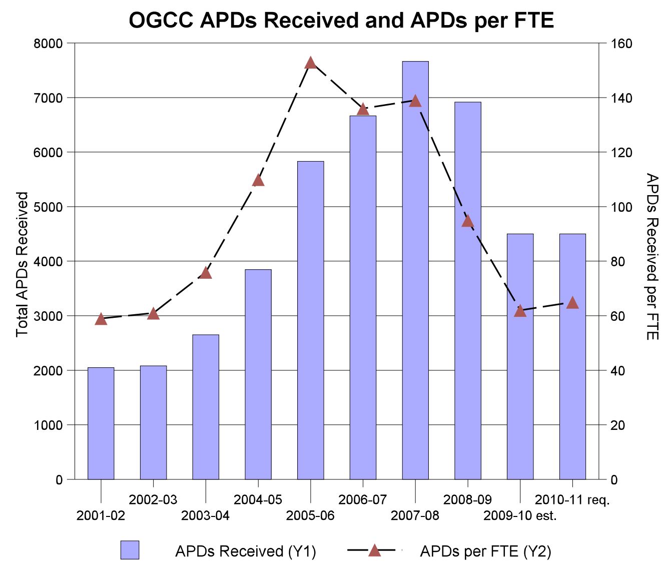
Given that drilling activity has declined throughout the region, staff would argue that the economy in general, and natural gas prices in particular, appear to be the primary driver of the current decline in oil and gas activity in Colorado. However, the industry's concerns warrant further discussion with the Department. **Staff recommends that the Committee discuss the state of oil and gas activity at the Department's hearing in January, specifically including the industry's three major concerns outlined above.**

OGCC Workload Measures and Staffing Levels

The OGCC uses a variety of workload measures to assess staffing needs. The number of APDs and other permits submitted is an indicator of the OGCC's permitting workload, while the amount of drilling activity and the number of active wells are indicators of the Commission's inspection and oversight workload. While the number of APDs is down relative to recent years, the number of active wells in the state (and the OGCC's inspection and oversight workload) continues to increase as a result of the 20 to 30 year lifespan of active wells.

The following charts display workload measures historically used by the OGCC and the JBC to assess staff needs for the OGCC.





As shown in the graphs, the number of wells per FTE and the number of APDs (including the new location assessment forms) per FTE in FY 2010-11 are expected to return to approximately the levels from FY 2000-01 and FY 2001-02. Thus, if the Committee wishes to return to service levels similar to those in FY 2001-02 (roughly the beginning of the large increases in development), then maintaining current staffing levels would be appropriate.

Staff notes that the appropriated FTE levels for FY 2009-10 and the requested levels for FY 2010-11 are inflated by 4.0 FTE. The OGCC received a net increase of 18.0 FTE in FY 2008-09 (21.0 new FTE were awarded in the Long Bill but 3.0 of the new FTE were eliminated and replaced with contract staff through the supplemental process). However, the OGCC has only hired 14.0 of the 18.0 appropriated FTE because they hired new staff at salaries above the range minimum and there are insufficient resources to hire the remaining 4.0 FTE. The vacant FTE consist of 2.0 environmental staff and 2.0 oil and gas location assessment analysts (OGLA staff). Staff offers three options for the Committee's consideration.

1. Status quo. The FTE would remain appropriated but vacant.

2. Fund some or all of the 4.0 FTE. The Committee could provide additional resources to allow the OGCC to hire some or all of the 4.0 vacant FTE. Hiring all of the FTE would cost roughly $350,000 to $400,000 cash funds from the Oil and Gas Conservation and Environmental Response Fund (funded through the industry mill levy) and/or the Operational Account of the Severance Tax Trust Fund. If it would improve permit processing times, the industry might support funding the additional staff.

3. Eliminate the vacant FTE. Doing so would not result in monetary savings but would improve the transparency of OGCC staffing levels.

FY 2010-11 Joint Budget Committee Staff Budget Briefing
Department of Natural Resources
(Division of Reclamation, Mining, and Safety, Colorado Geological Survey, Oil and Gas Conservation Commission, State Board of Land Commissioners)

BRIEFING ISSUE

INFORMATIONAL ISSUE: State Land Board Direct Sales Legislative Proposal

Discusses the State Land Board's 2010 Session legislative proposal to allow the Land Board to make direct sales to local governments.

SUMMARY:

- The State Land Board (SLB) is proposing a statutory change to allow for direct sales of land to local governments without going to public bid.

- The proposal would allow the SLB greater flexibility to manage its portfolio of lands but generates some concern about revenue optimization.

- The proposal would also authorize the SLB to spend reclamation bonds and damage deposits. The SLB collects such bonds and deposits when selling or leasing land but does not have authority to spend the funds.

DISCUSSION:

<u>Direct Sales</u>
The SLB is proposing a statutory change that would allow the Board to make direct sales (without a public bid process) to local governments and special districts. <u>The proposal would allow no more than two direct sales per fiscal year and would require the purchase to be based on fair market value supported by an independent appraisal.</u>

Under current statute, the Board may only transact directly with school districts (including charter schools) and the federal government; all other transactions require a public bid. When asked why local governments warrant special treatment in terms of direct sales, the Department gives two basic reasons.

- First, local governments have authority to control land use associated with state trust lands under Article IX, Section 10 (1) (c) of the State Constitution. The Board requires local government approval to change a parcel's land use, with the exception of subdivisions above 35 acres per lot. As a result, local governments' plans restrict the use of state trust property. Public auctions of properties that have been planned for and used as open space, or which need to be disposed of as a condition of entitlement, are problematic for the Board and the local governments involved.

- Second, the Board argues that local governments can provide unique value for trust property that the private sector cannot because of the local governments' power to annex, entitle, or serve parcels with infrastructure. Without the local governments' services, the Board's ability to meet its fiduciary responsibility would be constrained. The Board argues that a public bid, which inherently focuses on the highest dollar amount, assumes that bidders are equal and ignores benefits that a local government can offer beyond the purchase price for an individual parcel.

The Board believes that the ability to sell directly to local governments will benefit the Board and the trusts under three scenarios:

- Remnant properties: In cases where the Board has lands of little market value that still incur management costs, the Department believes the option of a direct sale would reduce management and transaction costs and improve performance for the trusts. The Department highlights reverted railroad rights of way in Creede and Pueblo as examples of this scenario. <u>Given the low value of the properties, staff is not certain why a public auction would not be feasible, as it does not sound like other entities would be likely to want to purchase the properties in question. However, there seems to be little risk of loss to the trust for this category of properties, and direct sales may not be particularly controversial in these cases.</u>

- Entitlement properties: During the development process, with changes in land use for a given parcel, the board may entitle land to a local government. The Board believes that the ability to sell some parcels directly to the local government as part of the entitlement process may add value to the property the Board is seeking to entitle or to adjacent or nearby trust land. According to the Board, examples include the Board's effort to entitle land in the Town of Lochbuie and to develop an industrial park on trust land near Sterling. <u>Based on discussions with the Board, this has not been a pressing need to this point but the Board may wish to pursue more of these transactions in the future. Again, the risk to the trust seems relatively low.</u>

- Historic use: In some cases, such as when a parcel is surrounded by locally managed open space, has functioned as open space, and is planned as open space by the local government, the Board believes that it can be advantageous to sell directly to the local government. Doing so may reduce transaction costs and may allow for more productive negotiations with respect to the use of other properties within that government's jurisdiction. For example, allowing a direct sale of one parcel may facilitate concessions from the local government with respect to another parcel under the local government's jurisdiction. <u>This appears to be the most controversial scenario of the three outlined by the Department because of concern about the loss of potential revenue relative to a public bid for the parcel in question. Stakeholders that believe the Board should maximize revenue for every transaction individually may disagree with the premise behind this category of transactions and may not want to give the Board the flexibility to risk a lower return on one transaction to increase the return on a different parcel.</u>

Reclamation Bonds and Damage Deposits

The Board currently collects reclamation bonds and damage deposits when selling or leasing property but has no authority to spend the revenues. The proposal would deposit any such funds that the Board has deemed forfeited and/or required for remediation activities into the State Land Board Trust Administration Fund and continuously appropriate the funds to the State Land Board.

The Board has not needed such authority in the past but anticipates greater need for this authority as commercial real estate takes on a greater role for the trusts. Outside of potential concerns with the continuous appropriation of the funds, staff does not see significant issues with the damage deposit proposal, as it is focused on funds that are already collected and only applies to funds deemed forfeited or necessary for remediation.

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	FY 2010-11 Change Requests
DEPARTMENT OF NATURAL RESOURCES					
Executive Director: James Martin					
(2) DIVISION OF RECLAMATION, MINING, AND SAFETY (Loretta Pineda, Acting 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.					
(A) Coal Land Reclamation					
Program Costs	2,064,990	2,087,395	2,139,662	2,173,584	
FTE	19.3	18.1	23.0	23.0	
CF - Severance Tax	573,832	438,355	448,746	455,859	
Federal Funds	1,491,158	1,649,040	1,690,916	1,717,725	
Indirect Cost Assessment	104,878	164,900	142,656	146,137	
CF - Severance Tax	33,437	53,777	30,393	24,937	
Federal Funds	71,441	111,123	112,263	121,200	
(A) Coal Land Reclamation	2,169,868	2,252,295	2,282,318	2,319,721	
FTE	19.3	18.1	23.0	23.0	
Cash Funds	607,269	492,132	479,139	480,796	
Federal Funds	1,562,599	1,760,163	1,803,179	1,838,925	
(B) Inactive Mines					
Program Costs	681,803	1,437,869	1,839,497	1,651,264	DI NP-1
FTE	5.6	10.4	18.4	16.4	
CF - Abandoned Mine Safety Reclamation Fund	0	50,239	520,000	520,000	
RF/CFE - Abandoned Mine Safety Reclamation Fund	75,667	0	0	0	
Federal Funds	606,136	1,387,630	1,319,497	1,131,264	
Mine Site Reclamation	152,324	52,089	410,790	410,790	
FTE	0.4	0.4	1.2	1.2	
CF - Severance Tax	152,324	52,089	380,790	380,790	
RF/CFE - Public Health and Environment	0	0	30,000	30,000	
Reclamation of Forfeited Mine Sites					
CF - Severance Tax	0	0	171,000	171,000	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	FY 2010-11 Change Requests
Abandoned Mine Safety					
CF - Severance Tax	111,611	112,113	100,000	100,000	
FTE	0.2	0.1	0.2	0.2	
Indirect Cost Assessment	61,373	144,022	93,330	144,148	
CF - Severance Tax	10,433	28,473	8,250	12,464	
Federal Funds	50,940	115,549	85,080	131,684	
(B) Inactive Mines	1,007,111	1,746,093	2,614,617	2,477,202	
FTE	6.2	10.9	19.8	17.8	
Cash Funds	274,368	242,914	1,180,040	1,184,254	
Reappropriated Funds/Cash Funds Exempt	75,667	0	30,000	30,000	
Federal Funds	657,076	1,503,179	1,404,577	1,262,948	
(C) Minerals					
Program Costs	2,066,937	1,915,434	2,171,788	2,206,014	
FTE	18.8	20.8	24.1	24.1	
CF - Severance Tax	1,033,590	976,539	1,123,614	1,141,451	
CF - Mined Land Reclamation Fund	930,000	938,895	1,048,174	1,064,563	
CFE - Mined Land Reclamation Fund reserves	103,347	0	0	0	
Indirect Cost Assessment					
CF - Severance Tax	126,522	114,718	109,392	107,829	
(C) Minerals	2,193,459	2,030,152	2,281,180	2,313,843	
FTE	18.8	20.8	24.1	24.1	
Cash Funds	2,090,112	2,030,152	2,281,180	2,313,843	
Reappropriated Funds/Cash Funds Exempt	103,347	0	0	0	
(D) Mines Program					
Colorado and Federal Mine Safety Program	572,790	505,140	519,170	519,040	
FTE	5.0	5.0	5.0	5.0	
CF - Severance Tax	286,222	307,218	318,303	318,173	
CF - Fees	5,975	2,179	10,000	10,000	
Federal Funds	280,593	195,743	190,867	190,867	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	FY 2010-11 Change Requests
Blaster Certification Program	103,494	106,714	109,486	109,486	
FTE	1.0	1.0	1.0	1.0	
CF - Severance Tax	21,734	22,410	22,842	22,842	
Federal Funds	81,760	84,304	86,644	86,644	
Indirect Cost Assessment	28,346	30,565	29,958	31,927	
CF - Severance Tax	16,881	15,850	14,644	15,156	
Federal Funds	11,465	14,715	15,314	16,771	
(D) Mines Program	704,630	642,419	658,614	660,453	
FTE	6.0	6.0	6.0	6.0	
Cash Funds	330,812	347,657	365,789	366,171	
Federal Funds	373,818	294,762	292,825	294,282	
(E) Emergency Response Costs					
CF - Severance Tax	12,200	24,900	25,000	25,000	
(2) DIVISION OF RECLAMATION, MINING, AND SAFETY - SUBTOTAL a/	6,087,268	6,695,859	7,861,729	7,796,219	
FTE	50.3	55.8	72.9	70.9	
Cash Funds	3,314,761	3,137,755	4,331,148	4,370,064	
Reappropriated Funds/Cash Funds Exempt	179,014	0	30,000	30,000	
Federal Funds	2,593,493	3,558,104	3,500,581	3,396,155	

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

(3) COLORADO GEOLOGICAL SURVEY (Vince Matthews, Director and State Geologist)

Primary functions: providing geologic information to the public and government agencies. Cash funds are from severance tax revenues, fees for geological services provided, and grants. Reappropriated funds are from transfers from other state agencies for geological services.

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	FY 2010-11 Change Requests
Environmental Geology and Geological Hazards Program	1,515,437	1,525,872	2,544,199	2,541,833	
FTE	13.8	11.9	17.2	17.2	
CF - Severance Tax	833,907	860,506	930,963	930,963	
CF - Fees for geological services	281,574	149,840	554,027	553,218	
RF/CFE - Other state agencies	288,256	245,276	456,429	454,872	
Federal Funds	111,700	270,250	602,780	602,780	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	FY 2010-11 Change Requests
Coalbed Methane Stream Depletion Study					
CF - Severance Tax	0	0	0	0	
Mineral Resources and Mapping	1,185,793	1,164,228	1,460,932	1,459,601	
FTE	8.5	8.1	10.5	10.5	
CF - Severance Tax	920,925	955,662	1,041,721	1,040,390	
CF - Local government payments for geo. services	58,099	0	92,390	92,390	
Federal Funds	206,769	208,566	326,821	326,821	
Colorado Avalanche Information Center	526,210	638,223	690,146	690,034	
FTE	7.3	7.4	7.7	7.7	
CF - Severance Tax	149,200	151,424	159,509	159,509	
CF - Fees/Grants	2,251	116,997	125,193	125,081	
RF/CFE - Fees	368,843	346,597	387,053	387,053	
Federal Funds	5,916	23,205	18,391	18,391	
Indirect Cost Assessment	59,169	182,498	186,137	156,204	
CF - Severance Tax	0	134,901	167,844	111,204	
Federal Funds	59,169	47,597	18,293	45,000	
(3) COLORADO GEOLOGICAL SURVEY - SUBTOTAL	3,286,609	3,510,821	4,881,414	4,847,672	
FTE	29.6	27.4	35.4	35.4	
Cash Funds	2,245,956	2,369,330	3,071,647	3,012,755	
Reappropriated Funds/Cash Funds Exempt	657,099	591,873	843,482	841,925	
Federal Funds	383,554	549,618	966,285	992,992	

(4) OIL AND GAS CONSERVATION COMMISSION (David Neslin, Director)

Primary functions: promoting and regulating responsible development of oil and gas natural resources. Cash funds are from the Oil and Gas Conservation and Environmental Response Fund and the severance tax.

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	FY 2010-11 Change Requests
Program Costs	4,836,176	5,215,837	5,975,347	5,731,150	DI NP-1
FTE	51.0	52.6	71.0	67.0	
CF - Severance Tax	2,199,310	2,616,378	3,095,122	3,095,122	
CF - OGC Environmental Response Fund	1,946,095	2,599,459	2,880,225	2,636,028	
RF/CFE - OGC Environmental Response Fund	690,771	0	0	0	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	FY 2010-11 Change Requests
Underground Injection Program					
Federal Funds	89,115	95,189	96,559	96,559	
FTE	2.0	2.0	2.0	2.0	
Plugging and Reclaiming Abandoned Wells	219,959	191,534	220,000	220,000	
CF - OGC Environmental Response Fund	0	191,534	220,000	220,000	
RF/CFE - OGC Environmental Response Fund	219,959	0	0		
Environmental Assistance and Complaint Resolution	296,932	312,032	312,033	312,033	
CF - OGC Environmental Response Fund	296,932	312,032	312,033	312,033	
RF/CFE - OGC Environmental Response Fund	0	0	0	0	
Emergency Response	344,678	0	1,500,000	1,500,000	
CF - OGC Environmental Response Fund	0	0	1,500,000	1,500,000	
RF/CFE - OGC Environmental Response Fund	344,678	0	0	0	
Special Environmental Protection and Mitigation Studies					
CF - OGC Environmental Response Fund	326,396	81,173	325,000	325,000	
Piceance and D-J Basin Water Studies and Environmental Data Tool Development					
RF/CFE - OGC Environmental Response Fund	0	0	0	0	
Phase II Raton Basin Gas Seep Investigation					
RF/CFE - OGC Environmental Response Fund	0	0	0	0	
Data Cleanup Project - CF					
CF - Severance Tax	96,029	0	0	0	
S.B. 07-198 Coalbed Methane Seepage Projects					
CF - OGC Environmental Response Fund	96,259	2,003,400	445,200	0	
Indirect Cost Assessment - Total Funds	227,811	327,357	313,768	395,291	
CF - OGC Environmental Response Fund	222,254	319,294	310,119	389,393	
Federal Funds	5,557	8,063	3,649	5,898	

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	FY 2010-11 Change Requests
(4) OIL & GAS CONSERVATION COMMISSION - SUBTOTAL	6,533,355	8,226,522	9,187,907	8,580,033	
FTE	53.0	54.6	73.0	69.0	
Cash Funds	5,183,275	8,123,270	9,087,699	8,477,576	
Reappropriated Funds/Cash Funds Exempt	1,255,408	0	0	0	
Federal Funds	94,672	103,252	100,208	102,457	

(5) STATE BOARD OF LAND COMMISSIONERS (Brownell M. Bailey, Director)

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

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	FY 2010-11 Change Requests
Program Costs	3,673,354	3,637,746	3,772,447	3,738,975	DI NP-1
FTE	29.0	35.1	38.0	37.0	
CF - Land Board Trust Administration Fund	810,441	3,562,746	3,697,447	3,663,975	
CF - SBLC Land and Water Management Fund	75,000	75,000	75,000	75,000	
RF/CFE - Land Board Trust Administration Fund	2,787,913	0	0	0	
Public Access Program Damage and Enhancement Costs (New Line Item Requested)					
RF/CFE - Division of Wildlife	0	0	0	225,000	DI 2
Indirect Cost Assessment					
CF - Land Board Trust Administration Fund	156,845	221,075	165,450	170,722	
(5) STATE LAND BOARD - SUBTOTAL a/	3,830,199	3,858,821	3,937,897	4,134,697	
FTE	29.0	35.1	38.0	37.0	
Cash Funds	1,042,286	3,858,821	3,937,897	3,909,697	
Reappropriated Funds/Cash Funds Exempt	2,787,913	0	0	225,000	

a/ Senate Bill 09-22 continuously appropriated $3,000,000 cash funds for the SLB Investment and Development Fund in FY 2009-10 and $4,000,000 in FY 2010-11. As these moneys are continuously appropriated, they are not appropriated by the General Assembly and are not shown in the Long Bill, nor are they reflected in the JBC staff numbers pages.

	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Appropriation	FY 2010-11 Request	FY 2010-11 Change Requests
DEPARTMENT OF NATURAL RESOURCES					
TOTAL FOR INCLUDED DIVISIONS	19,737,431	22,292,023	25,868,947	25,358,621	
FTE	161.9	172.9	219.3	212.3	
Cash Funds	11,786,278	17,489,176	20,428,391	19,770,092	
Reappropriated Funds/Cash Funds Exempt	4,879,434	591,873	873,482	1,096,925	
Federal Funds	3,071,719	4,210,974	4,567,074	4,491,604	
CF - Severance Tax	*6,578,157*	*6,865,313*	*8,148,133*	*8,112,689*	

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APPENDIX B: SUMMARY OF MAJOR LEGISLATION

- ❏ **S.B. 09-022 (Bacon/Solano):** Increases the annual limit of payments generated from state school lands that can be credited to the State Board of Land Commissioners Investment and Development Fund from $1.0 million to $5.0 million, in equal increments over 3 years, and removes the repeal of the fund.

- ❏ **S.B. 09-024 (White/Sonnenberg & Curry):** Modifies the responsibilities of the Division of Wildlife with respect to game damage issues. As a result of the bill, the Division of Wildlife must: contact landowners within 48 hours and consult with the landowner within 5 business days of a damage prevention material request being filed; provide temporary game damage prevention materials within 15 business days of receiving a request; provide permanent game damage prevention materials within 45 business days of receiving a request, under certain circumstances; pay for damages that occur between the request of damage prevention materials and the receipt of damage prevention materials if the deadlines are not met. Appropriates $600,000 from the Wildlife Cash Fund to the Division of Wildlife in FY 2008-09 and appropriates $1,450,000 from the Wildlife Cash Fund to the Division of Wildlife in FY 2009-10.

- ❏ **S.B. 09-106 (Isgar/Roberts):** Increases a statutorily authorized transfer from the Operational Account of the Severance Tax Trust Fund to the Water Supply Reserve Account in FY 2010-11 from $6.0 million to $10.0 million and authorizes a similar transfer each year thereafter. Allows any unencumbered and unexpended amount in the Water Supply Reserve Account to remain in the fund. Limits grants and loans from the Water Supply Reserve Account to "covered entities" that have adopted a water conservation plan.

- ❏ **S.B. 09-124 (Isgar/Roberts):** Extends a $500,000 per year transfer from the Operational Account of the Severance Tax Trust Fund to the Agriculture Value-added Cash Fund through FY 2011-12. The transfer was previously set to expire after FY 2008-09. The Agriculture Value-added Cash Fund is used to promote agricultural energy-related projects and research.

- ❏ **S.B. 09-125 (Isgar/Curry):** Appropriates $5,880,000 cash funds from the Colorado Water Conservation Board Construction Fund to the Department of Natural Resources in FY 2009-10 for various water-related projects. Gives the Colorado Water Conservation Board (CWCB) the authority to deauthorize grants previously approved by the General Assembly and use any remaining funds for other statutorily authorized purposes if a specific grant project has been completed or is no longer feasible. Creates the continuously appropriated

Wild and Scenic Rivers Fund for the CWCB to use in developing a state alternative to the wild and scenic river designation under federal law for river preservation. Reduces an annual transfer from the Operational Account of the Severance Tax Trust Fund to the Interbasin Compact Committee Operation Fund beginning on July 1, 2009, from $1,145,067 to $745,067. Finally, extends a loan from two years to twelve years, initially issued in 2007 and totaling $60,600,000 for the Southern Colorado Water Conservancy District Water Activity Enterprise Arkansas Valley Conduit Project.

- ❑ **S.B. 09-158 (Isgar/Baumgardner):** Requires the Department of Natural Resources to carry out a study of federal and state landowner conservation programs that offer monetary compensation to landowners who set aside lands or adopt specific land management strategies. The Department is tasked to report the findings of the study to the House of Representatives Committee on Agriculture, Livestock, and Natural Resources and the Senate Committee on Agriculture and Natural Resources at the same time as the annual species conservation eligibility list and annual report are submitted. Appropriates $50,000 from the Operation and Maintenance Account of the Species Conservation Trust Fund (authorized in H.B. 09-1289) to the Executive Director's Office of the Department of Natural Resources for FY 2009-10.

- ❑ **S.B. 09-195 (Keller/Pommer):** Supplemental appropriation to the Department of Natural Resources to modify FY 2008-09 appropriations included in the FY 2008-09 Long Bill (H.B. 08-1375).

- ❑ **S.B. 09-208 (Tapia/Pommer):** Transfers in FY 2008-09 the following to the General Fund: $20,000,000 from the Perpetual Base Account of the Severance Tax Trust Fund and $10,250,000 from the Colorado Water Conservation Board Construction Fund.

- ❑ **S.B. 09-259 (Keller/Pommer):** General appropriations act for FY 2009-10.

- ❑ **S.B. 09-279 (Tapia/Pommer):** Transfers in FY 2008-09 to the General Fund $15,000,000 from the Perpetual Base Account of the Severance Tax Trust Fund and transfers in FY 2009-10 to the General Fund $62,000,000 from the Perpetual Base Account of the Severance Tax Trust Fund.

- ❑ **S.B. 09-293 (Isgar/Curry):** Makes the following changes to transfers from the Operational Account of the Severance Tax Trust Fund:

  •Reduces funding for the Water Supply Reserve Account by $3.0 million in FY 2008-09 and $4,225,000 in FY 2009-10;
  •Eliminates contingent funding for the Water Efficiency Grant Program of up to $1.0 million, dependent on the prior year unobligated revenue, in FY 2009-10;
  •Reduces funding for the Species Conservation Trust Fund by $4.5 million in FY 2009-10;
  •Reduces funding for low income energy assistance by $9,750,000 in FY 2009-10;

•Increases funding for low income energy assistance by $13.0 million in FY 2012-13; and
•Reduces funding for the Healthy Forests and Vibrant Communities Fund by $500,000.

The bill also makes changes to the allocation by program of money for low-income energy assistance and money for the Healthy Forests and Vibrant Communities Fund.

- ❑ **H.B. 09-1017 (Pace/Hodge):** Clarifies the authority of the Colorado Water Conservation Board (CWCB) to operate the Water Efficiency Grant Program. The bill specifies that moneys in the Water Efficiency Grant Program Cash Fund are to be continuously appropriated to the CWCB for the grant program until the projects financed are completed or until June 30, 2012, whichever occurs first.

- ❑ **H.B. 09-1129 (Looper/Romer):** Establishes a pilot program for the collection of precipitation from rooftops for nonpotable uses. The pilot program will be carried out by the Colorado Water Conservation Board. Appropriates $14,280 from the Colorado Water Conservation Board Construction Fund to the Colorado Water Conservation Board in FY 2009-10.

- ❑ **H.B. 09-1199 (Scanlan/Gibbs):** Further defines and expands the roll of the Colorado State Forest Service in helping local communities mitigate the risk of wildfires, and plan for response. Transfers from the Operational Account of the Severance Tax Trust Fund $1,950,000 to the newly created Healthy Forests and Vibrant Communities Fund and $50,000 to the Wildland-urban Interface Training Fund each year for three years beginning in FY 2009-10. Allows expenditures from the Healthy Forests and Vibrant Communities Fund for the following:

•Community Wildfire Protection Plans ($475,000);
•Wildfire mitigation ($225,000);
•Community watershed restoration ($100,000);
•Revolving loans to promote the use of woody biomass in heating applications ($80,000);
•Revolving loans to provide start-up capital for new facilities or equipment to harvest, remove, use, and market beetle-killed and other timber taken for wildfire mitigation ($320,000):
•Outreach and technical assistance ($700,000); and
•The Department of Public Health and Environment to study prescribed burning ($50,000).

Appropriates $50,000 from the Wildland-urban Interface Training Fund to the Department of Public Safety in FY 2009-10.

The bill also expands the allowable uses of the existing Forest Restoration Pilot Program Cash Fund to allow up to $1,000,000 of that fund to be used each year for community watershed restoration. Finally, the bill authorizes the Governor to make a one-time transfer from the Disaster Emergency Fund to the Wildfire Emergency Response Fund.

- **H.B. 09-1289 (Curry/Isgar):** Appropriates $5,825,000 from the Capital Account of the Species Conservation Trust Fund and $2,553,070 from the Operation and Maintenance Account of the Species Conservation Trust Fund to the Department of Natural Resources for programs to conserve native species that have been listed as threatened or endangered under state or federal law, or are candidate species or are likely to become candidate species as determined by the United States Fish and Wildlife Service.

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

JBC Staff Question

If the General Assembly needs to relieve pressure on the General Fund through refinancing with cash funds or transferring cash balances to the General Fund, how would the Department recommend evaluating and prioritizing the programs currently funded from the Operational Account? Should tier 2 programs be reduced proportionally across the board, as provided in statute, or are there some tier 1 or tier 2 programs that could manage reductions more easily and with less disruption than others? Please let me know if the scenario changes depending on whether it is a one-time or long-term reduction.

Department Response

SECTION 1 - PREFACE TO RESPONSE: Before attempting to answer this question, it is important to note that today's environment is significantly different than it was a year ago when we first answered this question. As such, there are places where last year's response does not adequately capture the Department's current position. There are several significant changes that merit discussion to help put our response in perspective. Each will be briefly discussed below:

> **Funding for Water Programs –** Last session, the General Assembly transferred $107 million from CWCB cash funds to the General Fund (these transfers involved both the Perpetual Base Account and the CWCB Construction Fund). These transfers severely restricted the ability of the CWCB to issue new loans for water projects in both FY 2009-10 and FY 2010-11. Non-reimbursable grants that also support water projects and other water-related programs have also been scaled back to reflect the reduced revenue available for water programs. Recognizing that Colorado will have an increasingly difficult time meeting water supply needs in the future with these reductions, the Governor has made protecting water programs a priority in recent budget balancing packages.
>
> **Declining Severance Tax Revenues** – When we wrote our original response to this question last year, severance tax revenue projections were much rosier. When we wrote the original response last Fall, the most current (September 20, 2008) Legislative Council Staff Economic and Revenue Forecast projected that the State would receive $220.2 in severance tax revenues in FY 2009-10. In contrast, Legislative Council is now projecting that Colorado will earn $41.0 million in severance tax revenues in FY 2009-10 (a reduction of 80 percent overall). Unfortunately, this sharp decline will mean $40 million less going to the Operational Account in FY 2009-10 than was once projected. Thankfully, severance tax

revenues in FY 2008-09 came in higher than projected, resulting in a higher than usual fund balance being rolled into FY 2009-10. This will soften some – but not all - of the blow of the current decline in severance tax revenues.

Structural Problems with Operational Account Spending – Recent Legislative Council Staff revenue projections not only lowered FY 2009-10 projected severance tax revenues, they have also lowered projected severance tax revenue collections in FY 2011-12 and FY 2012-13 by over $100 million per year (again comparing the September 2008 LCS forecast with the September 2009 LCS forecast). These projections reflect the low current price of natural gas and declining economic activity, which has reduced the demand for energy. The decline in severance tax revenues has exposed a structural problem with the Operational Account. This structural problem is detailed in the table below:

	FY 2009-10	**FY 2010-11**	**FY 2011-12**
Projected Revenue	$11.5 million	$34.8 million	$42.5 million
Projected Spending	$37.6 million	$56.4 million	$49.2 million
Difference	($26.1 million)	($21.6 million)	($6.7 million)

Note: Projected Spending includes estimated spending for Tier 1 programs as well as spending for Tier II programs authorized per Colorado Revised Statutes. Projected Spending does not include potential proportional reduction which may be required to balance spending.

Essentially, projected spending is significantly greater than projected revenues in each of the next three years. As such, we are projected to spend down the balance in the Operational Account by over $50 million over the next three years. While the large current fund balance will allow for this through FY 2010-11 with few practical problems, by FY 2011-12 the problems will start to become very real. In FY 2011-12, the Department of Natural Resources is projecting that all Tier 2 programs will have to be reduced by over 17% to meet year end reserve requirements (which will require cutting roughly $6.0 million of authorized spending). It is important to note that any reductions made for General Fund balancing purposes will be on top of cuts made to balance Operational Account spending.

Significant Operational Account Reductions Have Already Been Made – Last year, the General Assembly passed S.B. 09-293. This bill made almost $23 million in reduction to Tier II programs, including: (1) a reduction of $7,225,000 in funding for the Water Supply Reserve Account; (2) a reduction of $9,750,000 in various Low Income Energy Assistance (LEAP) programs; (3) a reduction of $4,500,000 in statutory transfers to the Species Conservation Trust Fund; (4) a reduction of $1,000,000 in statutory transfers to the Water Efficiency Program Cash Fund, and; (5) a reduction of $500,000 for Forestry programs funded under H.B. 09-1199. In addition, S.B. 09-125 (the annual CWCB Projects Bill) eliminated $500,000 of staffing costs that had previously been funded from the Operational Account of the Severance Tax Trust Fund and instead permanently refinanced them with CWCB Construction Fund moneys. As such, any reductions for General Fund purposes come on top of the $23.5 million in Operational Account reductions which have already been made.

The Operational Account is Already Assisting the State with the General Fund Revenue Shortfall – As you know, the Governor has proposed refinancing roughly $2.1 million of General Fund expenses in the Division of Parks and Outdoor Recreation with moneys from the Operational Account of the Severance Tax Trust Fund. While the Department acknowledges that this refinancing was necessary to assist with the State's General Fund revenue shortfall, this increase necessitates a $6.0 million reduction in Water Supply Reserve Account grant funding in FY 2009-10 (to cover the first two years of additional spending by State Parks and the associated increase in the Tier 1 reserve required with this additional spending). On a longer term basis, the Water Supply Reserve Account will need to be reduced from $10.0 million per year to $7.5 million per year to accommodate the Parks refinance.

SECTION II – PRINCIPLES RELATED TO THE OPERATIONAL ACCOUNT - Before discussing specific programs, there are a few principles regarding the management of the Operational Account which guided this analysis. These principles are summarized below:

Operational Account Moneys Should Only Be Taken If Absolutely Necessary - This response will analyze the potential for achieving budgetary reductions in spending from the Operational Account on the Severance Tax Trust Fund. However, it is important to note that Governor Ritter submitted to the General Assembly a $320 million budget balancing plan for FY 2009-10 in August of 2009. In October of 2009, the Governor submitted an additional $270 million of proposed General Fund cuts to address declining General Fund revenue projections. As such, it is not clear that additional General Fund cuts are needed at this time. Consequently, the Department of Natural Resources does not recommend any reductions in natural resource related programs funded out of the Operational Account at this time. However, the Department realizes that the State's revenue situation may deteriorate over the coming months. As such, the Department will attempt to answer this question with the understanding that further reductions in Operational Account spending may be needed if revenues continue to decline.

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

This Analysis Will Only Focus on DNR Programs - As you know, a large number of state departments now receive funding from the Operational Account of the Severance Tax Trust Fund, including the Governor's Office, the Department of Human Services, the Department of Higher Education, and the Department of Agriculture. Given that most of these programs fall outside of the Department's sphere of knowledge and expertise, it is probably not appropriate for the Department to attempt to prioritize programs outside of DNR.

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

<u>SECTION III – ANALYSIS OF SPECIFIC OPERATIONAL ACCOUNT PROGRAMS</u> – This section will analyze specific programs funded from the Operational Account. While this will not cover every program funded out of the Operational Account, this covers the programs JBC Staff asked about and covers most of the non-FTE related funding from the Operational Account. Please note, **the Department will likely oppose reductions to any of these programs** at this time in light of the fact that the Governor has already submitted a plan to balance General Fund spending to projected revenues. Again, we view this exercise as discussing our Operational Account spending priorities and preparing for additional cuts, should they be needed. These priorities are often being considered with the understanding that any budget reduction would only be temporary. As such, we are often considering the impact of waiting 1-3 years to achieve a program's goal.

Low-income Energy Assistance Program - This program receives $13.0 million annually to provide direct bill assistance to citizens for their home heating costs, as well as funding weatherization and other energy efficiency projects designed to reduce the use/cost of energy consumption for home heating purposes. Under S.B. 07-122, the Public Utilities Commission (PUC) can consider the needs of low-income households when setting utility rates. For this to occur, action by the PUC to implement such a change would be needed. It is possible that some part of the $13.0 million program could be eliminated and, in essence, funded instead through a utility rate structure change designed to help provide relief to low-income households. JBC Staff have also questioned the need for the funding of the weatherization portion of the LEAP program given that the State will receive $79.5 million for weatherization programs over the next three years (for full details, see pages 13 through 15 of the JBC Staff Briefing document dated November 19, 2009).

Forfeited Mine Site Reclamation – In FY 2007-08, the Department received an appropriation of $342,000 from the Operational Account to reclaim forfeited mine sites. These are previously bonded sites where, for various reasons, the permits were revoked. Unfortunately, the bond was not always adequate to cover the cost of reclamation, sometimes due to the solvency of the operator, and sometimes due to the bond caps that existed until the late 1980s. In all cases, there is not a solvent company to clean up such sites. In FY 2008-09, the Department identified that the longer term need (not counting projects to be funded under the original FY 2007-08 appropriation for this purpose) was to reclaim 35 “forfeited” mine sites at an estimated total cost of $1,710,000. In FY 2008-09, the Department received an additional $342,000 to continue addressing these mine sites. Under the original plan, reclamation of the 35 sites would have been achieved through five appropriation of $342,000 each starting in FY 2008-09. Unfortunately, last year the Joint Budget Committee cut funding for this line item in half. This will roughly double the amount of time it takes to address the environmental and public health problems at these mines sites. There are currently about 30 underfunded forfeited sites remaining to be reclaimed for a total of $1,197,000 in 2006 dollars. It will already take at least seven years of additional funding to complete this list of reclamation projects at current funding levels. Unfortunately, the cost escalates over time due to extraordinary inflation in construction costs; therefore, long term funding reductions will further delay stabilization of these sites and further compound inflationary cost increases. As such, the Department can not support any further reductions to this line item.

Mine Site Reclamation – In FY 2009-10, the Division will also receive $380,790 in severance tax for Mine Site Reclamation. These funds were designated for partnering with local watershed groups, local Soil Conservation Districts, and the Colorado Department of Public Health and Environment to match Section 319 Clean Water Act and other conservation grants. This funding enhances local watershed initiatives in dealing with environmental, water quality and non-point source issues associated with abandoned mines, including acid mine drainage, and erosion of mine and mill waste piles into streams and rivers. This funding is critical to local watersheds as they develop long-term plans and best management practices for dealing with the effects of past mining operations within their watersheds.

This state funding matches other federal and local funding. On the average, $60,000 of state funds per watershed leverages $180,000 of federal funding. Long term reductions will greatly affect the ability of these local groups to be successful in receiving federal funding. There are over 150 sites in Colorado where partnerships for environmental clean-up are essential to completing the work given the costs involved. These funds provide local economic benefits in the creation of hundreds of jobs in Colorado’s construction industry. Economic impacts extend into the construction, labor, equipment and services industries. Given the many benefits of this program, the Department does not support reducing this line item.

Severance Tax Grants - The CWCB gets $1,275,000 annually to address a variety of water projects and water studies. This line item funds important water supply studies and planning efforts, instream flow projects, water conservation planning, and flood protection efforts. There may be some ability to reduce the size of this grant program, which would require the CWCB to prioritize the highest priority projects and the most immediate needs, while postponing lower priority projects. However, given the significant cuts already made to water programs (including the $107 million reduction in CWCB cash funds and the proposed $6.0 million reduction to the Water Supply Reserve Account in FY 2009-10), the Department would not currently support any reduction to this program.

Division of Wildlife - Under S.B. 08-013, the Division of Wildlife will get $1.5 million per year to study the impacts of energy development on wildlife and wildlife habitat, as well as to study best management practices to reduce such impacts. This money will be used to hire contractors to complete a variety of studies. The Department does not believe it is in the best interest of the State to rescind this funding permanently and forego these studies. Since most of these studies have been started, a reduction in funding and associated stoppage of a study will result in the initial spending on the study having been wasted. These studies, once completed, will be invaluable to the management of Colorado's wildlife resources and minimizing the impact energy development on wildlife and wildlife habitat. It is also worth pointing out that a bill by the Interim Water Committee is already looking to take some or all of the Division of Wildlife's Operational Account funding to backfill budget cuts taken by the Division of Water Resources.

Oil and Gas Conservation Commission - Severance tax revenues could be saved by refinancing a greater percentage of the OGCC budget with mill levy revenues. This would require the OGCC to raise the mill levy from its current level. The oil and gas industry is already suffering due to relatively low energy prices and decreased demand for energy resulting from the current slowdown in economic activity. Further, current statutes direct that the OGCC give priority to uses of Operational Account moneys which reduce industry fees and the mill levy. Funding a greater percentage of the OGCC budget with a higher mill levy – then using additional money from the Operational Account for General Fund purposes – would directly contradict the intent of this statute. For these reasons, the Department does not currently support this idea.

Water Supply Reserve Account – This Water Supply Reserve Account is an important part of solving the State's long-term shortage of water. A larger appropriation for this program allows the Department and the Interbasin Compact Committee to provide funding for actual implementation of water projects (as opposed to funding only technical studies that support such water projects). The Department also believes that this money is essential to the roundtable process because it provides incentive for people to participate in interbasin water discussions and it increases the likelihood of win-win interbasin water transfers. Unfortunately, as the largest natural resource program funded out of the Operational Account, the Department has already had to propose reducing this program by $6.0 million in FY 2009-10. Given the reductions which have already been proposed to this program – and given the significant cuts made to water programs in general - the Department is opposed to any further reduction to this program in FY 2009-10.

Species Conservation Trust Fund - S.B. 09-1289 appropriated $4.0 million for payment towards Colorado's obligations in the Platte River Recovery Program. With this payment, Colorado's obligation on the South Platte will be reduced to roughly $6.0 million going in to FY 2010-11. The General Assembly could choose to minimize the payment made to the Platte River Recovery Program in FY 2010-11. However, the Department believes that any such effort should involve a clear plan on how this obligation will be paid off (including any statutory adjustments needed to provide for the future transfers which would be needed to achieve a payoff of the State's obligation towards this species recovery program). It is worth reiterating that a negative consequence of reducing current appropriations for the Platte River Recovery Program will be that the State will accrue additional interest payments as a result of paying down its obligation more slowly. It is also worth pointing out that the statutory transfers to the Species Conservation Trust Fund decline from $11.0 million in FY 2010-11 to $4.0 million in FY 2011-12 and $0 in FY 2012-13 and beyond. Although the Department is likely to seek additional Species Conservation Trust Fund transfers in out years, structural problems in the Operational Account (as discussed on the first page of this response) may make adequate funding of this program somewhat problematic. As such, deferring the paydown of the Platte River obligation is a somewhat risky strategy.

A reduction to this program may also involve prioritizing other species protection programs, including protection of federally-listed species as well as "species of concern" protected by the Division of Wildlife. However, the Department is concerned about the potential for a more vigilant federal threatened and endangered species program. Two species of particular concern in this regard are the Gunnison sage-grouse and the greater sage-grouse (both under consideration for federal listing). New endangered species listings – and the associated land and water use restrictions – could have significant economic impacts on Colorado. Given this, the Department would not recommend any significant reductions in these conservation programs.

JBC Staff Question

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

Department Response

In the event that it is necessary, the Department would prefer direct transfers of severance tax to the General Fund. Such transfers are inherently one-time in nature. A refinancing, on the other hand, may create the expectation that such refinanced programs be permanently financed from severance tax. Depending on the exact proposal, it is not clear that such refinancing would be sustainable from this revenue stream over the long run. Again, the Department believes there is already a structural imbalance between revenues and authorized spending in this account. While the Department has had to propose spending an additional $2.1 million of Operational Account money in State Parks, this was intentionally accompanied by an offsetting proposal to reduce spending in the Water Supply Reserve Account to avoid worsening this imbalance. Additional refinancing and/or transfers would also require deeper programmatic cuts to severance tax funded programs because, over the next several years, there is already not enough money to fund all authorized programs. As noted in many of the answers above, many of these programs have already been reduced significantly and the associated programmatic impacts are becoming more and more significant.

At the same time, the Operational Account has been used to address several emerging natural resource crises, including: (1) the spread of zebra mussels and other aquatic nuisance species (ANS), and; (2) bark beetle infestation and other forest health issues. The aquatic nuisance species budget was created at a time when there was one infected water body in the State (Pueblo Reservoir). There are now eight waters that have tested positive for zebra mussels. This has increased the cost of containment considerably, such that the Department is already straining to fully address the zebra mussel problem within the current budget. Similarly, a significant number of acres of forest have been severely impacted by bark beetles. The current budget allows funding to treat only a small portion of the affect forest land. Reflecting both the priority of these issues and the under-funding of these programs, both forestry and aquatic nuisance species programs were generally protected from the Operational Account reductions contained in S.B. 09-293.

One question we have been asked is "Why not fully refinance all General Fund in State Parks with money from the Operational Account?" This would require an additional \$1.7 million of Operational Account (if you didn't refinance Generally Funded potted allocations in the Executive Director's Office intended for State Parks) or \$2.6 million (if you included pots). Remembering that such a refinance would also require a larger Tier 1 reserve, fully funding all of State Parks with severance tax would require a cut of roughly \$4.8 million in Tier II spending in the first year (accounting for both the increase in Tier 1 reserve and a decrease in Tier II reserves because this would inherently have to involve cutting some other programs). Within DNR, the only pots of money big enough to absorb this kind of reduction would be: (1) the Water Supply Reserve Account, which is already proposed for a major reduction in FY 2009-10; (2) Species Conservation, where significant reductions could result in major economic impacts if additional species were to be federally listed and where the State has obligations for an additional \$6.0 million related to the Platte River Agreement; (3) Aquatic Nuisance Species funding, which is already insufficient to address this critical issue and which would threaten very significant impacts to boating recreation and municipal and agricultural water infrastructure, and; (4) forestry funding, which is one of the most important emerging natural resources issues and an issue which has received strong support from the Governor and a wide variety of legislators. Quite simply, we do not believe that cutting these programs any more would be prudent. As such, the Department would strongly oppose the full refinancing of State Parks' General Fund with severance tax. It is also worth pointing out that financing such a large portion of the State Parks budget with severance tax would be risky both from the perspective of what the Operational Account can reasonably afford to pay AND from the perspective of providing State Parks with a consistent and diversified revenue stream on which to operate. Because State Parks play a critical role in the State's tourism economy – and because the citizens of Colorado are increasingly turning to state parks for recreation during this down economy – providing State Parks with a predictable, stable funding stream on which to operate will maximize the benefits of our State Park system.