

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 09-0105

**Date:** January 14, 2009

**Prime Sponsor(s):** Rep. Curry  
Sen. Schwartz

**Bill Status:** House Agriculture

**Fiscal Analyst:** Marc Carey (303-866-4102)

**TITLE:** CONCERNING THE AUTHORIZATION OF A WATER QUALITY MONITORING PROGRAM IN THE PICEANCE BASIN RELATING TO THE EFFECTS OF OIL AND GAS OPERATIONS.

<b>Fiscal Impact Summary</b>	<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
<b>State Revenue</b>	\$0	\$0
<b>State Expenditures</b>		
Cash Funds		
Oil and Gas Conservation and Environmental Response Fund	\$500,000	\$500,00
<b>FTE Position Change</b>	0.3 FTE	0.1 FTE
<b>Effective Date:</b> 90 days after adjournment (August 4, 2009 if adjournment is May 6, 2009) unless a referendum petition is filed		
<b>Appropriation Summary for FY 2009-2010:</b> See State Appropriations section.		
<b>Local Government Impact:</b> Affected local governments in the Piceance basin may be responsible for covering a share of the costs of implementing the surface and groundwater monitoring program.		

**Summary of Legislation**

This bill requires the Colorado Oil and Gas Conservation Commission (COGCC) to contract with the United States Geological Survey (USGS) to develop and implement a baseline surface and ground water monitoring program in the Piceance Basin in Rio Blanco, Mesa, Delta, Garfield and Gunnison counties. The purpose of this program will be to provide accurate and consistent water quality and quantity data to discern long-term quality trends within the basin.

The bill also requires the General Assembly to appropriate up to \$500,000 annually in each of the next 4 years from the Oil and Gas Conservation and Environmental Response Fund (OGCERF) in support of this program. The bill caps the state's share at 50 percent of total program costs, and directs the COGCC to seek the remaining share from the federal government, oil and gas operators, affected local governments, and affected water conservation and conservancy districts. The bill prohibits the COGCC from spending any state money until financial commitments for the nonstate portion of the monitoring program are received.

## **Background**

***Current USGS Projects in the Piceance Basin.*** In addition to the program contemplated by this bill, the USGS is currently working on or planning 3 major water quality projects related to energy development in the Piceance Basin. The first project is the development of a comprehensive database of water quality within the basin. Most of the existing data have been collected and this information will be synthesized to assess baseline water quality in the region and identify gaps in the existing monitoring network. To date, a total of \$1 million has been committed to this project from energy companies, state and local governments, and water conservancy districts. Of this amount, the USGS has contributed \$100,000 in matching funds.

The second project is a baseline water quantity and water quality monitoring effort in the Northern Piceance Basin. This project is funded by the Bureau of Land Management (BLM) for a total of \$267,000 from FY 2007-08 through FY 2009-10.

A proposed third project would involve groundwater age-dating and geochemistry in the Northern Piceance Basin, with a focus on the Shell Oil Shale Pilot Study area. This effort would be funded by Shell Oil, at proposed ranges of \$244,000 through \$377,000.

The proposed project funded through this legislation would focus on water quality monitoring and be guided by the findings of the gap analysis performed in the first project described above. The USGS would work with the established stakeholder groups (which include the COGCC) to identify regional monitoring priorities.

***Oil and Gas Conservation and Environmental Response Fund (OGCERF).*** Colorado currently charges a fee of 0.7 mills on every dollar of wellhead market value of all oil and natural gas produced, saved, sold or transported from the well. This money goes in to the OGCERF, and is used to:

- investigate, prevent, monitor or mitigate conditions causing a significant adverse environmental impact;
- gather baseline data on any resource impacted by oil and gas operations; and
- investigate alleged violations causing an adverse environmental impact.

Current statute specifies that the fee may not exceed 1.7 mills. The levy may be changed by order of the COGCC if the expenses that are paid from the fund require an adjustment. Over the last 10 fiscal years, aside from a few temporary upward adjustments, the mill levy has tended to trend downwards, ranging from a high of 1.4 mills in FY 1997-98 to a low of 0.5 mills from FY 2004-05 through FY 2006-07. In addition, current statute specifies that the COGCC ensure that the 2-year average of the unobligated portion of the fund does not exceed \$4 million, and that there is an adequate balance to address environmental response needs.

### State Expenditures

*Department of Natural Resources, COGCC.* The bill requires the General Assembly to appropriate *up to* \$500,000 annually in each of the next 4 years from the OGCERF to fund a baseline water monitoring program within the Piceance Basin. At this time, the total cost of the project is unknown, but the bill specifies that the state's share be no more than 50 percent of the total costs. Thus, the state share will depend upon the level of matching funds that are secured for the project. Given the degree of projects already underway, and the number of stakeholders that have already contributed to these efforts, this fiscal note assumes that the \$500,000 cap will be reached in each of the 4 fiscal years specified in the bill.

In addition, the COGCC will incur costs of \$16,586 and 0.3 FTE in FY 2009-10 and \$6,634 and 0.1 FTE in FY 2010-11 in administrative costs, related to contract management, based on the following assumptions:

- work would be performed by an Environmental Protection Specialist II;
- 100 hours will be required to work with USGS representatives to craft the work agreement in FY 2009-10;
- 320 hours will be required to meet with USGS representatives and other stakeholders regarding potential supplemental funding in FY 2009-10;
- 4 2-day trips to the Piceance basin will be required annually to ensure contract compliance; and
- 100 hours annually to review progress reports to ensure contract compliance.

These costs will be covered through the \$500,000 required appropriation in the bill.

### Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 1.

<b>Table 1. Expenditures Not Included Under HB 09-1062*</b>		
<b>Cost Components</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$2,054	\$685
Supplemental Employee Retirement Payments	\$483	\$247
<b>TOTAL</b>	<b>\$2,537</b>	<b>\$932</b>

\*More information is available at: [http://www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf)

### **Local Government Impact**

Affected local governments in Rio Blanco, Mesa, Delta, Garfield and Gunnison counties may be responsible for covering a share of program costs. At this point, this share is unknown. Delta, Garfield and Rio Blanco counties and 8 municipalities within the region have already contributed money in the earlier phases of the USGS projects. Any local impact is conditional on the determination that affected local governments will cover a share of total program costs.

### **State Appropriations**

For FY 2009-10, the Department of Natural Resources will require an appropriation of \$500,000 from the Oil and Gas Conservation and Environmental Response Fund for allocation to the Colorado Oil and Gas Conservation Commission. In addition, an authorization of 0.3 FTE is required.

### **Departments Contacted**

Natural Resources

### **Departmental Differences**

The department identified the need for \$93,585 and 1.0 FTE in FY 2009-10 and \$88,357 and 1.0 FTE in FY 2010-11. The FTE would be responsible for writing the governing contract with USGS and securing the requisite matching funds from industry, local government, and federal sources. In addition, substantial travel would be required for project oversight. According to the department, these costs would be over and above the \$500,000 needed for the project.

However, conversations with USGS representatives indicated that the proposed project is envisioned as a follow-on to three other existing projects, as detailed in the background section above. As described in this section, the required funding for the first 3 projects has already been secured from other entities, and a well-defined group of stakeholders has been established, including the COGCC. In addition, because USGS has extensive experience contracting with a variety of funding sources, they have a variety of turnkey funding agreements that are easily customizable for the project at hand. For this reason, the estimated costs associated with writing the contract and securing supplemental funding have been substantially reduced.

Finally, because the bill merely requires *up to* a \$500,000 appropriation for the program, this fiscal note assumes that the additional costs incurred by the department will be covered by, and not be in addition to, the required appropriation.