



DEPARTMENT OF NATURAL RESOURCES

John W. Hickenlooper
Governor

*FY 2011-12 Supplemental and FY 2012-13 Budget Amendment
January 3, 2012*

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Executive Director

Department Priority: 1 Local Government Liaisons

Summary of Incremental Funding Change for Fiscal Years 2011-12 and 2012-13	Total Funds	Cash Funds	FTE
OGCC – Local Government Liaisons FY 11-12 Supp.	\$62,413	\$62,413	0.5
OGCC – Local Government Liaisons FY 12-13 B.A.	\$203,925	\$203,925	2.0

Request Summary:

The Oil and Gas Conservation Commission (OGCC) is requesting a \$62,413 FY 2011-12 supplemental and a \$203,925 FY 2012-13 budget amendment for an additional 2.0 FTE, effective March 1, 2012. The funding source would be the Oil and Gas Conservation and Environmental Response Fund. The requested positions would serve as liaisons between the OGCC and local governments.

Background and Details of Request:

Counties that are new to oil and gas development, or have previously experienced only limited development in rural areas, are being pushed by their constituency to take action and provide protection against the oil and gas industry. The extensive publicity surrounding the Niobrara shale oil play, the extraordinary level of leasing activity, and the ongoing national debate on hydraulic fracturing have generated a considerable amount of anxiety. In response to their concerns, local officials, many of whom are unfamiliar with this type of industrial activity or the role of the OGCC, are crafting rules that often conflict with the State's. Gunnison County officials, for example, proposed additional set back requirements and more restrictive surface casing rules. They recently agreed to a memorandum of understanding with the State, however, but only after extensive involvement by the Department of Natural Resources. In the

meantime, El Paso County issued a four-month moratorium on the issuance of drilling permits, commencing in September, while it develops county oil and gas regulations. The city of Colorado Springs recently followed with its own six-month moratorium. Longmont, Commerce City, and Aurora are currently considering bans on oil and gas operations.

Other local governments that have recently either implemented or considered oil and gas regulations, such as additional set back requirements, downhole regulations, ground and surface water sampling requirements, and hydraulic fracturing regulations include: Routt County, Elbert County, Douglas County, the town of Coal Creek in Fremont County, Arapahoe County, Rio Grande County, Adams County, Fort Collins in Larimer County, and the town of Craig in Moffat County. In an attempt to avoid the development of a patchwork of local regulations that potentially conflict with State rules, OGCC staff has made dozens of presentations to local government officials and the public regarding oil and gas issues and the role of the OGCC.

The following is a sampling of OGCC staff involvement in local public meetings:

- Gunnison County - OGCC staff participated in October 2010; and

June, July, August, and September 2011 public meetings. OGCC and Gunnison officials approved a Memorandum of Understanding on October 31, 2011.

- Routt County - OGCC staff participated in two September 2011 public meetings.
- Elbert County - OGCC staff participated in January, June, October, and November 2011 public meetings.
- Douglas County - OGCC staff participated in April and June 2011 public meetings.
- Coal Creek, Fremont County - OGCC staff made presentations in January 2011 and participated in a town meeting in March 2011.
- Arapahoe County - OGCC staff participated in July, October, and November 2011 public meetings.
- El Paso County - OGCC staff participated in June, August, October, and November 2011 public meetings.
- Rio Grande County - OGCC staff presented to the Rio Grande Basin Roundtable in March 2011.
- Craig, Moffat County - OGCC staff attended a Craig City Council oil and gas information meeting in September 2011.
- Longmont, Boulder County – OGCC staff presented to Longmont City Council in November and December 2011.
- Broomfield – OGCC staff presented to the City and County of Broomfield in December, 2011.

- Adams County – OGCC staff met with the Planning Commission in December 2011.

This time-intensive effort to stave off a morass of rules, through which the industry and public would have to operate, is essential and welcomed by local governments and industry alike, but it is unsustainable. OGCC senior staff members, one or more of whom typically prepare for and travel to these events, are left with little time to devote to their technical and supervisory responsibilities. These same staff members are also routinely inundated with emails and phone calls from these communities; and failing to respond in a timely manner could bolster the argument for more local regulations.

To address this recent, substantial workload increase the agency has considered two alternatives: 1) request funding for contractors to perform these outreach activities; or 2) request funding for two additional FTE. The former was ultimately deemed impractical given the long term nature and complexity of these issues. The state may experience fluctuations in the number of drilling applications from year to year, but they are expected to increase over the long term as a result of depletion of existing fields and the ongoing energy needs of the U.S. The large conventional oil and gas fields have already been discovered. Operators are now looking for the little fields, unconventional plays, and smaller reservoirs. This ongoing need for additional energy resources will continue to drive oil and gas operations into new areas. More traditional oil and gas areas will also be impacted, as new technologies are developed. Any concerns or potential risks associated with them would require the agency's attention. Even old technologies in new areas are huge concerns to residents, as illustrated by the recent controversy over hydraulic fracturing.

The OGCC needs oil and gas professionals with in-depth knowledge of the agency, the industry, and environmental issues, as well as the ability to prepare presentations and articulate the agency's

policies and rules. A technical background and longevity at the agency are key to the necessary efficiency of the requested positions. The ability to work with relative independence and deliver a consistent message at the local forums they attend is essential. Other staff members will not have time to closely review and edit all presentation materials.

Moreover, the requested staff members would need the skills to work closely with local governments to integrate them into the state's permitting and regulatory processes. The OGCC can incorporate local concerns into the state processes, provided local governments understand and use those processes. This requires ongoing individual attention. If there is a breakdown in communication, due to the state's lack of skills or resources, then local governments would likely pursue a different route to gain local control of oil and gas activity, probably resulting in more rules for industry. Some of the communication could be rather difficult. For example, there will be times when the OGCC does not agree with a local government's recommendation on a permit. When a situation like this arises, for reasons ranging anywhere from technical to legal, it is essential that the OGCC's liaison for that area explain the state's decision directly to the impacted local government, allowing the latter to pass along accurate information to its constituents. A better understanding of the state's position should reduce tension and save time for everyone involved, including the oil and gas operators. Good community relations are important to them and the state should be doing more to prevent local roadblocks, based on misinformation, to development.

The requested local government liaisons would perform the following duties. The estimated time required for each task is included.

- Participate in local government meetings concerning oil and gas activity. Discuss the industry oversight roles of local, state, and federal governments and how,

through coordination, multiple levels of government can provide an appropriate, relatively predictable regulatory environment for the industry, and still address specific local issues. *Average 12 hours per week x 52 weeks = 624 (includes preparation and travel time).*

- Educate county governments, municipalities, and special districts about the OGCC's Local Governmental Designee (LGD) program and how, through the LGD process, they have the ability to: provide input into drilling permits, location assessments (Form 2As), and well density requests; submit complaints; appeal Commission orders; request consultation with the OGCC or CDPHE; and extend the public comment period on permits. *Average 10 hours per week x 52 weeks = 520.*
- Provide outreach and training to Local Governmental Designees to improve the efficiency and effectiveness of the LGD program. *Average 22 hours per week x 52 weeks = 1,144 hours.*
- Review local government comments on Form 2As and provide individual attention to LGDs regarding their concerns. Once educated about the LGD process, the OGCC expects LGDs, particularly those representing areas new to development, to frequently comment on Form 2As. *Average 18 hours per week x 52 weeks = 936 hours.*
- Prepare and maintain presentation materials that can be used by other OGCC staff members to ensure a consistent message is delivered by the state. *Average 2 hours per week x 52 weeks = 104 hours.*
- Act as a first point of contact for local governments, and prepare verbal or written responses to their questions, as

appropriate. *Average 18 hours per week x 52 weeks = 936 hours.*

FTE calculation: Total estimated hours of 4,264 divided by 2,080 hours/FTE = approx. 2.0 FTE

Assumptions for Calculations:

- **Salaries:** Due to competition with the oil and gas industry for skilled employees, the OGCC has been unable to attract qualified staff at range minimum salaries in recent years. The scarcity of applicants has forced the OGCC to conduct multiple searches and ultimately pay salaries up to 30% above range minimum. The requested positions would be classified as Environmental Specialist IIIs, because they require extensive oil and gas experience as an Environmental Specialist, or related profession. To successfully compete for and retain qualified candidates, the OGCC is requesting that funding be appropriated at 20% above the range minimum (\$5,733 x 1.2 = \$6,880/month).
- **Laptops:** Due to frequent travel and presentations, laptops with upgraded processors and storage for use with GIS software and OGCC custom applications will be required. Estimated cost is \$1,800/laptop x 2 = \$3,600.
- **Cell Phones:** Due to frequent travel, cell phones will be required. Verizon basic plan is \$31.53/month x 2 FTE x 12 months = \$757
- **Travel Expenses:** An average of one overnight trip per month per employee is expected. \$220/trip x 1 trip/month x 12 months x 2 FTE = \$5,280
- **Home-based office expenses:** The OGCC is currently planning to locate these staff positions in the regions most affected by oil and gas activity, thus incurring minor, but ongoing home office phone, fax, and Internet services. Typical monthly Qwest package for these services is \$146.45/month x 12 months

= \$1,757. After subtracting common policy of \$450 for Telephone Base, the OGCC requests \$1,307 x 2 FTE = \$2,614.

- **Mileage:** Combined, the requested FTEs would use their personal vehicles to travel an estimated average of 350 miles per week x 52 weeks = 18,200 miles/year x \$0.50/mile = annual cost of \$9,100.

Consequences if not Funded:

The consequences of not funding this request as a FY 2011-12 supplemental and FY 2012-13 budget amendment are potentially far reaching. If the state ignores opportunities to maximize the coordination, compatibility, and predictability of state and local regulations, Colorado might be considered an “unfriendly state” to industry, with potentially hundreds of regulatory regimes. Lawsuits by the industry, challenging local rules, would likely follow. Colorado is already considered to have the most comprehensive oil and gas regulations in the nation; and, by statute, the OGCC is mandated to foster the responsible, balanced development of the state’s oil and gas resources.

Additionally, the state would likely be drawn into any litigation between the industry and local governments. Significant costs in terms of the OGCC’s and Attorney General’s staff time would be incurred, but, because the litigation is between third parties, the state will have little or no control over the processes or outcomes. Legislation to address local government issues could also be pursued. Either or both scenarios would cause major distractions for staff, as well as elected officials.

The need for the positions is urgent, as well as long term. It will not fade in a few years, due to ongoing demand for energy and the constant push to develop new resources. This is a resource-rich state that is ranked fifth in the nation in natural gas production and third in natural gas reserves. There are many untapped horizons throughout the state. Improved exploration, drilling, and

completion technologies are making previously unknown or uneconomical oil and gas plays very attractive, even at relatively low commodity prices. As prices rise, as they inevitably will, the pace of development will accelerate even more, and, as some local governments become comfortable working with the state and industry, others will be impacted for the first time.

Every month, local governments are discussing oil and gas regulation. The Oil and Gas Conservation Commission cannot afford to wait to address these issues while additional regulations are adopted (see the discussion of recent events in the Background Section on page 1 of this request). Because additional local regulations and moratoriums are being considered over the coming months, the Department is seeking a supplemental to better address local regulation issues as soon as possible.

Impact to Other State Government Agency:

None expected.

Current Statutory Authority or Needed Statutory Change:

This request will *not* necessitate a statutory change. The following statutes give the OGCC

broad authority to request these additional resources:

CRS 34-60-102(1): Oil and Gas Conservation Act – declares it is to be in the public interest to foster the responsible, balanced development, production, and utilization of the natural resources of oil and gas in the state of Colorado in a manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources...

CRS 34-60-106(2)(d): The commission has the authority to regulate...Oil and gas operations so as to prevent and mitigate significant adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations to the extent necessary to protect public health, safety, and welfare, including protection of the environment and wildlife resources, taking into consideration cost-effectiveness and technical feasibility.

Cash Fund Projections:

The Oil and Gas Conservation and Environmental Response Fund (Fund 170) is capable of funding this request without a mill levy increase, under current production and product price projections. Table 1 below shows the agency's projections through FY 2013-14.

Table 1

Cash Fund Name	Cash Fund Number	FY 2010-11 Expenditures	FY 2010-11 End of Year Cash Balance	FY 2011-12 End of Year Cash Balance Estimate	FY 2012-13 End of Year Cash Balance Estimate	FY 2013-14 End of Year Cash Balance Estimate
Oil and Gas Conservation and Emergency Response Fund	170	\$5,454,078	\$7,865,329	\$7,500,000	\$6,500,000	\$5,800,000