

# NATURAL RESOURCES

## Forest Health / Restoration

**HB 09-1162** (Signed into Law)  
Intergovernmental Cooperation  
For Wildfire Mitigation

**HB 09-1199** (Signed into Law)  
Healthy Forests Vibrant  
Communities Act

**SB 09-016** (Postponed Indefinitely)  
Incentives To Harvest Bark  
Beetle Timber

**SJR 09-015** (Signed into Law)  
Forest Health Stewardship  
Contracting

## Colorado Oil and Gas Conservation Commission

**HB 09-1167** (Postponed Indefinitely)  
Colorado Oil and Gas Commission  
Wildlife Rule Impact on Oil and Gas  
Wells

**HB 09-1272** (Signed into Law)  
Approve Oil and Gas Commission  
Rules

**SB 09-004** (Postponed Indefinitely)  
Moratorium on Oil and Gas  
Commission Rules

**SB 09-229** (Postponed Indefinitely)  
Colorado Oil and Gas Commission  
Wildlife Protections

## Endangered Species Recovery

**HB 09-1289** (Signed into Law)  
Species Conservation Trust Fund

## Game Damage and Coyote Control

**SB 09-024** (Signed into Law)  
Wildlife Division Response to Game  
Damage

**SB 09-027** (Postponed Indefinitely)  
Protect Public Safety Control  
Coyotes

## Wildlife Habitat

**SB 09-235** (Signed into Law)  
Wildlife Habitat Stamps and  
Passports

## Forest Health / Restoration

Colorado has 24.4 million acres of forest and woodlands that are changing rapidly due to weakened conditions from drought, which causes susceptibility to forest insects, diseases, and wildfires. Recent aerial surveys confirm that high elevation forests are threatened by spruce beetle, mountain pine beetle, and sudden aspen decline. Due to the massive beetle epidemic, approximately 1.9 million acres of forest have been infested since 1996, and 400,000 acres of pine trees have been recently infested.

The General Assembly passed several measures during the 2009 legislative session to mitigate threats from wild land fires, improve community wildfire protection and forest health, protect watersheds and the public water supply, and promote the harvest, removal, or use of beetle-killed timber.

The Colorado Healthy Forests and Vibrant Communities Act of 2009 and the Healthy Forests and Vibrant Communities Fund are established by **House Bill 09-1199**. The bill addresses the risk of wildfire in Colorado and the development of community wildfire protection plans (CWPPs) to bring together federal, state, and local interests, including nongovernmental entities, to address the risk of wildfire to life, property, and infrastructure in the state.

Among other duties to support firefighters, communities, and infrastructure from wildfire, the bill specifically directs the Colorado State Forest Service (CSFS) to:

- support long-term ecological restoration to support the public water supply and high-quality wildlife habitats through the implementation and monitoring of Forest Restoration Pilot Program grants;
- support local business development and job creation by administering a revolving loan fund to support woody biomass utilization, marketing timber products, and
- supporting the increased use of woody biomass in bio-heating;
- work with the Governor's Energy Office and the Air Quality Control Commission to support the increased use of woody biomass in bio-heating; and
- issue a statewide request for proposals for the Wildfire Risk Mitigation Loan Program will assist businesses with loans for new facilities or equipment to harvest, remove, use, and market beetle-killed or other timber taken from private, federal, state, county, or municipal forest lands as part of a wildfire risk reduction or fuels mitigation treatment.

The bill also directs the Air Pollution Control Division to work with key regulatory and management entities to evaluate existing prescribed fire permit program rules and implement such rules for appropriate responsible use of, and increase where possible, prescribed fire as a land management tool. Regulatory and management entities include the forest service, local agencies, and private land managers. The implementation of such program rules must consider the balance between air quality standards and the benefits of prescribed fires. The division must report to the Air Quality Control Commission with a recommendation by June 30, 2010.

Additionally, the bill:

- transfers \$1.95 million from the operational account of the Severance Tax Trust Fund to the Healthy Forests and Vibrant Communities Fund;
- transfers \$50,000 from the operational account of the to the Wildland-Urban Interface Training Fund for FY 2009-10 through FY 2011-12;
- allows the CSFS to use up to \$1 million dollars annually from the Forest Restoration Pilot Program Cash Fund until July 1, 2012, to mitigate community wildfire risks; and
- authorizes the Governor to make a one-time transfer of up to \$600,000 from the Disaster Emergency Fund to the Wildfire Emergency Response Fund as well as access moneys in the Healthy Forests and Vibrant Communities Fund for healthy forests and vibrant communities activities through an executive order or proclamation.

***Local government agreements.*** Some local governments currently have intergovernmental agreements (IGAs) between a local government and a county to mitigate wild land fires in areas owned by the local government that are located either entirely or partially outside its own boundaries and inside the boundaries of a county. Such agreements are required pursuant to **House Bill 09-1162** to mitigate wild land fires in areas owned by the local government that are outside its own

boundaries. An IGA is required on or before July 1, 2011, for any local government that owns land inside the territorial boundaries of a county that is at least 50 percent forest land, or land that constitutes a wild land area. However, local governments are not required to enter into a new agreement if an existing agreement, including a mutual aid agreement, satisfies the requirements of the bill and is in place when the bill goes into effect on August 4, 2009.

Additionally, the bill allows the Division of Parks and Outdoor Recreation in the Department of Natural Resources and any other state agency to enter into a contract, intergovernmental agreement, or memorandum of understanding to allow fire mitigation on state property with personnel and equipment under the control of a fire department. The bill defines "fire department" to include the duly authorized fire protection organization of a local government, a fire protection district, other special districts providing fire protection, and a not-for-profit, nongovernmental entity that is organized to provide firefighting services. Activities to be undertaken by a fire department may include prescribed burning as a component of wildfire mitigation and exercises to promote the training of firefighting personnel.

***Federal stewardship contracts.*** The United States Forest Service (USFS) and Bureau of Land Management (BLM) implement federal stewardship contracting as a cost-effective tool to subsidize various land management objectives. Stewardship contracts provide a broad range of natural resource management activities used to improve, maintain, or restore forest or rangeland, restore or maintain water quality, improve fish and wildlife habitat, and reduce hazardous fuels. **Senate Joint Resolution 09-015** provides the following directives from the General Assembly concerning stewardship contracting for forest health:

- that the USFS Regional Forester for the Rocky Mountain Region and the BLM Colorado State Director collaborate with the Colorado State Forester and key stakeholders to identify and obtain the necessary funding to implement up to three long-term (ten-year) stewardship contracts in Colorado;
- that these stewardship contracts address forest conditions in Colorado's front range, high country, and Southwest regions in a way that emphasizes community protection, provides for improved forest resilience, and offers locally-based economic opportunities; and
- that the Governor and Colorado's Congressional delegation work with the U.S. Department of Agriculture's (USDA) Undersecretary for Natural Resources and the Environment and the USFS Washington, D.C., office to facilitate the implementation of such stewardship contracts in Colorado.

***Mitigation measures to address the bark beetle infestation.*** **Senate Bill 09-016**, which was postponed indefinitely, would have provided a five-year property tax exemption for business personal property used to harvest, transport, process, or market timber killed by bark beetles. Through the establishment of the Bark-beetle Mitigation Revolving Fund, loans would have been granted by the Colorado State Forest Service to provide start-up capital to businesses that purchase facilities or equipment used for the harvest, removal, or use of beetle-killed timber. The loan program would have been repealed July 1, 2014.

Finally, the bill would have required the state forester to identify areas in Colorado where the bark beetle infestation had resulted in imminent fire danger. The state forest service would have provided an ombudsman staff member to aid property owners and businesses in navigating obstacles faced when harvesting beetle-killed timber in different jurisdictions.

## Oil and Gas Issues

In 2007, the Colorado General Assembly enacted House Bill 07-1298 and House Bill 07-1341 requiring the Colorado Oil and Gas Conservation Commission (COGCC) to balance energy development with public health and safety, wildlife, and the environment. Four bills were introduced in 2009 that address the rules adopted by the COGCC to implement the 2007 legislation. One bill passed, while the other three were defeated. **House Bill 09-1272** continues the rules and regulations of state agencies that were adopted or amended on or after November 1, 2007, and before November 1, 2008. Included in this law are the rules adopted by the COGCC on December 11, 2008, to implement House Bill 07-1341 and House Bill 07-1298. The law repeals the rule that requires an oil and gas operator to consult with the COGCC, the surface owner, and the DOW concerning impacts to wildlife resources. It also repeals the rule concerning atmospheric tanks used for crude oil storage and vent lines for these tanks. The law allows the other rules adopted by the COGCC to take effect. **Senate Bill 09-004** would have specified that the rules promulgated by the COGCC concerning the protection of public health, safety, and welfare, and the protection of wildlife resources, could not take effect prior to July 1, 2010. **Senate Bill 09-229** would have required the COGCC to obtain consent from a surface owner or the surface owner's appointed tenant prior to imposing any conditions for wildlife resource protection pursuant to the "Wildlife Habitat Stewardship Act of 2007." It also would have required the COGCC to use off-site mitigation measures if the surface owner or tenant withholds such consent. **House Bill 09-1167** would have prohibited the COGCC from promulgating any rule regarding wildlife feeding, breeding, habitation, or migration, if such rule would adversely impact the operation, servicing, or maintenance of a producing oil or gas well.

## Endangered Species Recovery

The Species Conservation Trust Fund was created in 1998 to pay for expenses associated with cooperative agreements, recovery programs, and other activities designed to meet the state's obligations under the federal Endangered Species Act. **House Bill 09-1289** appropriates money from both the operation and maintenance account and the capital account of the Species Conservation Trust Fund for programs recommended by the Executive Director of the Department of Natural Resources. The recommended programs are designed to conserve native species listed as threatened or endangered under state or federal law; candidate species; or species likely to become candidate species as determined by the United States Fish and Wildlife Service. The bill appropriates over \$2 million from the operation and maintenance account and over \$5 million from the capital account as follows:

### *Operation and maintenance account appropriation:*

- \$711,070 for the Grouse Conservation Program;
- \$982,000 for native fish conservation;
- \$500,000 for wildlife research; and
- \$360,000 for the Natural Areas Program.

### *Capital account appropriation:*

- \$4 million for the Platte River Recovery Program;

- \$500,000 for the Upper Colorado River Recovery Program;
- \$500,000 for instream flow protection; and
- \$825,000 for the Grouse Conservation Program.

## **Game Damage and Coyote Control**

When wild game, such as elk or deer, cause damage to personal property, crops, and fences, landowners can submit a claim for damages to the Division of Wildlife (DOW) in the Department of Natural Resources. To stop damage from occurring, the DOW provides damage prevention materials to landowners under specified conditions. As a result of **Senate Bill 09-024**, the DOW must:

- contact landowners within two business days after damage prevention materials are requested, and communicate with the landowner within 5 business days of a damage prevention material request being filed;
- provide temporary game damage prevention materials within 15 days of receiving a request;
- provide permanent game damage prevention materials within 45 days of receiving a request; and
- under certain circumstances, pay for damages that occur between the time the damage prevention materials are requested and the receipt of damage prevention materials if the deadlines are not met or the provided materials are insufficient to prevent game damage.

The bill specifies that the DOW is not liable for damages under certain circumstances including:

- when appropriate damage prevention materials have been provided but the claimant refused to accept or use the materials for damage prevention; and
- if the claimant charges more than \$500 per person, per season for access to or across their property for big game hunting under certain circumstances.

Game damage prevention materials will only be available to landowners who:

- do not unreasonably restrict hunting species likely to cause damage on their land or access across lands under the landowner's control; and
- do not charge more than \$500 per person, per season, to hunt on or across the landowner's property.

In cases where the DOW determines that wildlife is causing excessive property damage, the bill contains provisions that authorize the DOW to issue a permit to the property owner or his or her designee to kill a specified number of the species of wildlife causing the damage. Additionally, the bill directs the DOW to provide an annual report to the General Assembly that includes:

- information about the herd management objectives set by the DOW;
- requests for game damage prevention materials and DOW's response to these requests;
- the quantity and adequacy of game damage materials issued; and
- permits issued to take wildlife causing damage.

During the winter of 2009, residents in several Denver-area towns and suburban areas experienced conflicts with coyotes. **Senate Bill 09-027**, postponed indefinitely in the Senate Agriculture and Natural Resources Committee, would have directed the Department of Agriculture and the DOW to give a higher priority to the protection of humans from coyotes in wildland-urban interface areas and in habitat corridors within developed areas. The Commissioner of Agriculture and the DOW would have also been directed to cooperate with local governments' animal control efforts. Under the bill, commissioner and the DOW executive director were required to report to the legislative committees of reference during their 2010 departmental presentations on the implementation of the bill.

## **Wildlife Habitat**

A person between the ages of 18 and 65 must purchase a Colorado Wildlife Habitat Stamp or a Lifetime Colorado Wildlife Habitat Stamp when applying for or purchasing a hunting or fishing license. **Senate Bill 09-235** makes changes to the fees for wildlife habitat stamps issued by the Division of Wildlife from \$5 to \$10 and raises the price of a lifetime stamp from \$200 to \$300. The bill also eliminates the need for non-sportsmen to purchase a stamp to access state wildlife areas. Instead, the bill creates the Colorado Wildlife Passport, a voluntary purchase non-sportsmen may make to support the DOW. The final version of the bill directs the House Agriculture, Livestock, and Natural Resources Committee, and the Senate Agriculture and Natural Resources Committee to meet jointly at least once during the 2010 legislative session to study the issues raised by the reengrossed version of the bill, including how money generated from the fee increases is used and the authority for DOW to purchase land with this funding. It prohibits the use of habitat stamp fee proceeds for the purchase of a third-party conservation easement unless 15 percent or more of the purchase price comes from a source other than the division. The Wildlife Commission is authorized to waive this requirement under certain circumstances. The sunset review of the Colorado Wildlife Habitat Stamp Committee is extended to December 31, 2013.