Schedule 13
Funding Request for the 2014-15 Budget Cycle

Department: Natural Resources
Request Title: Coal Regulatory Program Refinancing
Priority Number: R-3

Dept. Approval by: Willi H. Lewis 10/23/2013 Date

OSPB Approval by: [signature] 10/25/13 Date

- ☑ Decision Item FY 2014-15
- ☐ Base Reduction Item FY 2014-15
- ☐ Supplemental FY 2013-14
- ☐ Budget Amendment FY 2014-15

Line Item Information		FY 2013-14		FY 2014-15		FY 2015-16
		1	2	3	4	5
	Fund	Appropriation FY 2013-14	Supplemental Request FY 2013-14	Base Request FY 2014-15	Funding Change Request FY 2014-15	Continuation Amount FY 2015-16
Total of All Line Items	**Total**	2,126,557	-	2,126,557	-	-
	FTE	22.0	-	22.0	-	-
	GF	-	-	-	-	-
	GFE	-	-	-	-	-
	CF	449,087	-	449,087	352,881	352,881
	RF	-	-	-	-	-
	FF	1,677,470	-	1,677,470	(352,881)	(352,881)
(A) Coal Land Reclamation, Program Costs	**Total**	2,126,557	-	2,126,557	-	-
	FTE	22.0	-	22.0	-	-
	GF	-	-	-	-	-
	GFE	-	-	-	-	-
	CF	449,087		449,087	352,881	352,881
	RF	-	-	-	-	-
	FF	1,677,470		1,677,470	(352,881)	(352,881)

Letternote Text Revision Required? Yes: ☐ No: ☑ **If yes, describe the Letternote Text Revision:**

Cash or Federal Fund Name and COFRS Fund Number: Operational Account of the Severance Tax Trust Fund (Fund #704)

Reappropriated Funds Source, by Department and Line Item Name:
Approval by OIT? Yes: ☐ No: ☐ **Not Required:** ☑
Schedule 13s from Affected Departments:
Other Information:

Cost and FTE

- The Division of Reclamation, Mining, and Safety Coal Program requests an ongoing net-zero funding source adjustment to replace $352,881 of federal funds with severance tax revenue due to federal budget reductions.

Current Program

- The Coal Program is responsible for permitting and regulating coal mines in order to protect public health and safety and to ensure reclamation of surface acreage. These services benefit the general public, coal mine operators and other government agencies.
- Current funding for the program is 79% Federal Funds and 21% Cash Funds.
- The coal sites cover 185,515 acres, primarily located in western Colorado: nine active sites, 29 non-producing or in reclamation, one sorting facility, and 83 exploration sites.

Problem or Opportunity

- Federal grant funds from Office of Surface Mining (OSM) are projected to be reduced in FY 2014-15 due to impacts of federal sequestration. A final grant amount may be known by April 2014.

Consequences of Problem

- If this reduction in federal funding is not replaced, 3.5-4.0 FTE (18% of total program FTE) would be reduced along with associated travel/operational costs. This will result in a reduced capacity of approximately 72 permitting actions, 158 inspections and two enforcement actions per year.
- Decreased staffing levels will cause permitting action delays that will impact mine expansions/ production and local economies; less frequent inspections will increase the risk of environmental damages such as water pollution and mine waste pile failure impacting public roadways/streams.
- Colorado was delegated regulatory authority in 1980 from the Department of the Interior, which ensures effective coordination between the program, mine operators, and local communities. This has resulted in a compliance record of 98% by the mine operators. Significant decline in the state's regulatory capability may cause this authority to be challenged. State primacy is also required to receive $7.7 million in federal funds for safeguarding abandoned mine openings.

Proposed Solution

- Maintain current staffing levels and regulatory integrity by increasing severance tax revenue to cover a federal funds reduction. The coal industry pays severance taxes, thus it is a relevant revenue option. Similar refinancing has occurred in eight prior fiscal years ranging from $33,000 to $240,000.

Department Priority: R-3
Request Detail: Division of Reclamation, Mining, and Safety – Coal Regulatory Program Refinancing

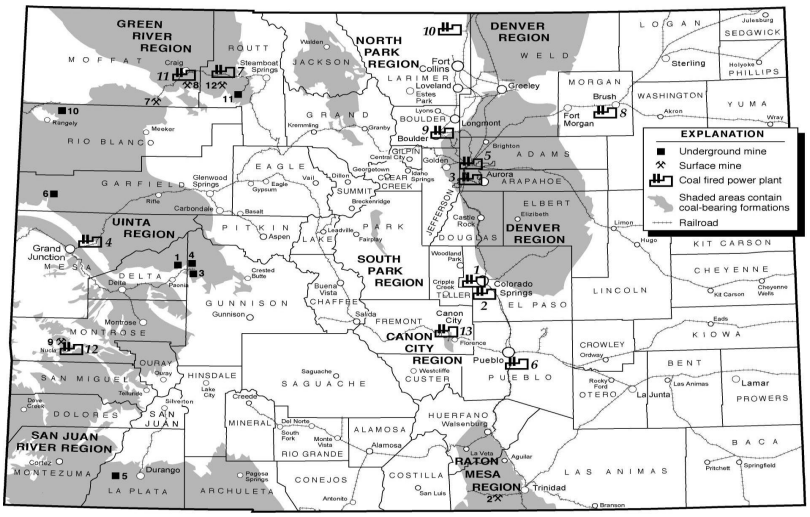
Summary of Incremental Funding Change for FY 2014-15	Total Funds	General Fund
Coal Regulatory Program Refinancing	$0	$0

Problem or Opportunity:

Federal grant funds to the Coal Regulatory Program (Coal Program) in FY 2014-15 are projected to be reduced by 15 percent, or $352,881, from the Department of the Interior/Office of Surface Mining (OSM) due to federal sequester policies. The 15% is calculated on the current federal grant amount of $2,352,537. This magnitude of federal funds reduction would require a reduction of 3.5 to 4.0 FTE, along with the associated operating costs. The loss of up to 4.0 FTE results in an annual workload decrease of approximately 72 permitting actions, 158 site inspections, and 2 enforcement/violation actions. This will result in permit approval delays, which can cause production delays at the mines, and less timely site inspections and identification of environmental or public health problems. This request is for additional severance tax to replace the reduction in federal funds in order to maintain current regulatory effectiveness and the staffing level. The final amount of severance tax revenue required is dependent on the final grant amount, which should be known by April 2014, and the FY 2014-15 state appropriation. This is an overall net zero change to the program's base budget.

Program Background:
Colorado's coal industry produced 28,791,021 tons of coal and employed over 2,000 miners in 2012. Coal mine operations in western Colorado play an integral role in the economic vitality of the communities. The Coal Program currently regulates 9 active coal mine sites, 29 sites in reclamation or currently not in production, 1 sorting facility and 83 exploration sites, covering 185,515 permit acres. Reclamation bonds covering these sites total $207.9 million. The mine sites range in size from 1 to 20,100 acres and the majority are located on federal lands managed by the Bureau of Land Management and/or the U.S. Forest Service. Figure 1 shows the geographic location of the state's coal mine regions. See Attachment A for a larger version of the map.

FIGURE 1 – Coal Mine Regions



The federal Surface Mining Control and Reclamation Act (SMCRA) was enacted in 1977. Pursuant to this 1977 Act, Colorado was granted regulatory authority (state primacy) over both surface coal mines and the land area that exists above underground coal mines in 1980. State primacy is successful in Colorado through the use of state-specific practices that promote environmental protections aligned to specific land/vegetation conditions and by fostering ongoing relationships with local stakeholders, while also supporting a viable and compliant Colorado coal industry. Colorado's coal regulatory primacy is also a requirement for receiving approximately $7.7 million federal Office of Surface Management (OSM) funds for the Inactive Mine Reclamation Program. These funds are used to fund projects for closure of abandoned mine openings and hazard mitigation at historic mine sites that pre-date SMCRA laws. The coal grant also funds $85,000 in the federally required Blasters Certification Program, which provides certification and testing of coal mine personnel responsible for the use of explosives and other technical positions.

The regulatory staff consist of 11.5 Environmental Protection Specialist (EPS) FTE operating in two teams, each of which include one supervisor. An EPS position is held by a highly trained professional responsible for both permitting and inspection compliance with all mining rules at the mine site. Specialists monitor mining operations from the time the permit is issued until the last acres are reclaimed and the bond is released. Emphasis is placed on ensuring mines operate within federal and state regulations and control impacts on topsoil, surface water, groundwater, re-grading, revegetation, blasting, toxic materials handling, coal processing waste disposal and subsidence associated with underground mining. Certain FTE on each team who have more extensive backgrounds in engineering, geology, hydrology, or range science, provide additional review of specific aspects of permits, inspections or enforcement actions.

A key goal for the Coal Program is to ensure coal mine lands are reclaimed to a beneficial post mining use. Reclamation phases are monitored by Coal Program staff over a span of 10 years at most sites. Reclaimed lands in Colorado are most often returned to the post mining land use of range land to support economic activities such as livestock grazing, in conjunction with wildlife habitat designed to protect species common to the pre-mined areas. Other post-mining land uses include re-establishment of managed pasture

land for economic harvest of plant species such as alfalfa hay and crop land used for harvesting local agricultural products. Some locations are also returned to developed uses such as light residential or light industrial. The goal is to return the land to a use that supports economic and environmental values equal to or better than the pre-mine condition.

Program Funding:
The Coal Program is currently funded with 79 percent federal grant funds from OSM and 21 percent severance tax as the required state match. This funding ratio is based on coal mine acreage on federal lands (approximately 79 percent) versus non-federal acreage. Federal grant funding for the Coal Program has fallen below 79 percent of the total state spending authority in eight of the past 15 fiscal years. Severance tax revenue was used to refinance the program in those fiscal years in increments from $33,000 to $240,000. In FY 2011-12, $273,306 was approved to cover a projected 15 percent federal grant reduction that did not ultimately occur – the severance tax funds were returned through a supplemental budget adjustment.

The federal sequester polices were passed through the Budget Control Act which requires government-wide reductions totaling $1.2 trillion, to be enacted through automatic spending reductions that are divided evenly over a nine-year period from 2013 to 2021. Although non-defense cuts were projected to be approximately 5 percent annually by the Office of Management and Budget (OMB)[1], the actual reductions to state grants have varied as each federal agency balances internal reductions with state grant adjustments. The Coal Program's 2013 grant was reduced by 1.21 percent. The severity of the initial sequester reduction was tempered because of OSM's ability to include previously appropriated, unspent grant funds that other states had reverted back to OSM within the 2013 grant distributions. Such federal funds reversions are not projected to be available in the 2014 grant cycle; therefore, OSM is projecting reductions closer to 19 percent. Due to the uncertainty of final grant amounts compared to projections in prior cycles, the 15 percent reduction used in this request is considered to be a reasonable estimate. Final state grant amounts should be known by April-June 2014 (the 2013 amounts were finalized in early June 2013). In order to maintain the current staffing levels and regulatory success in the Coal Program, the severance tax amount requested in this document would need to be aligned to the final OSM grant amount and state base spending authority, either in time for finalization of the FY 2014-15 Long Bill or through a subsequent Supplemental request. The division will provide any updated federal grant information to the Governor's Office of State Planning and Budgeting (OSPB) and the General Assembly's Joint Budget Committee (JBC) during the budget review process.

[1] *OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013*, March 1, 2013.

Cash Funds Source/Projection:
Severance tax revenues in the Operational Account are projected to be adequate to fund this request, along with the corresponding required reserve account increase, based on June 2013 revenue forecasts by OSPB and Legislative Council. Specifics on the mechanics of the Severance Tax Operational Account are as follows:

- The additional severance tax revenue requested here would be from the Operational account of the Severance Tax Trust Fund, per state statute 39-29-109.3 (1)(c) C.R.S. [2013].

- The statute categorizes DRMS as one of four divisions that are referred to as "Tier 1" programs, each of which have a statutory cap on how much of the Operational Account can be appropriated to that agency. The DRMS cap is 25%, and the Division utilized 7.4% in FY 2013-14.
- There is also a doubling effect of any increase approved for Tier 1 programs because the statute requires a corresponding increase to the reserve account for Tier 1 allocations.
- Tier 1 program allocations are also weighed against important programs referred to as "Tier 2" within the statute as indicated by prioritizations of requests and legislation.

Impacts to Department Goals/Objectives:

The Coal Program operates under the following strategic plan objectives:

- Promote the responsible development of the State's mineral and energy resources while protecting public health, safety, welfare and the environment;
- Reclaim coal and mineral mined acres to beneficial post mining land use;
- Protect the environment by ensuring regulatory compliance at coal and mineral mine sites; and
- Coordinate permitting, regulatory and public review processes with federal, state and local agencies and implement interagency agreements for groundwater, storm water, point source and mine waste issues.

The integrity of permit review and bond calculation is imperative to set a strong foundation for a successful mine operation, ensuring the state is adequately covered from operator failure and establishing the road-map for reclamation. FTE reductions in the program will directly impact the ability to maintain the current permitting and inspection integrity, which in turn impacts mine production levels and environmental protections. Table 1 below shows broad parameters used to assess workload demands and effectiveness, with results shown from FY 2012-13.

TABLE 1 – Workload Measures from FY 2012-13 Operational Plan

# of Regulatory FTE = 11.5 FTE			
Permitting Measures	**FY 2012-13**	**Inspection/Enforcement Input Measures**	**FY 2012-13**
# of Mine Sites Including Exploration	122	# of Known Required Inspections	367
# of New Permit Applications/ Modifications Received	198	# of Citizens Complaints	5
# of Permit Actions with Public Objections	5	# of Inspections Completed	455
# of Permit Applications and Modifications Approved	209	# of "Notices of Violation" Found	7
# of Acres Permitted	185,515	% of Mines in Compliance	98%
# of Acres Reclaimed/ Released from Financial Warranty	4,994		

Note: These workload measures count every action as equal to each other and do not fully depict variances due to complexity, legal reviews, or citizen involvement that expands staff time/expertise per each action.

Proposed Solution:

Increasing severance tax revenue by $352,881 to cover a projected federal funds shortfall in the Coal Program in FY 2014-15 is the preferred refinancing alternative because the coal industry is already paying severance taxes. Since FY 1999-2000, federal funds have not met the program's 79 percent funding proportion (based on mine acreage on federal lands) in a total of eight state fiscal years. Severance taxes in the range of $33,000 to $240,000 were approved in each of those eight years to maintain the program's base funding and staffing levels. In all other state fiscal years, federal grant funds were adequate to cover 79 percent of the base program funding. Financing of the Coal Program will continue to require annual reviews if federal sequester policies continue as authorized through 2021, and jeopardize the ability of federal funds to keep pace with state appropriation increases.

Consequences if Request is Not Funded:

Cost of Regulatory FTE Reductions:

A 15 percent federal funds reduction, without an increase in severance tax appropriations, equates to a loss of approximately 3.5 to 4.0 FTE, which is an 18% reduction in the program's total 22.0 FTE. The program currently has 11.5 FTE performing regulatory activities. Supervisor positions are not included in this count as they serve an overall team coordination role and less of a direct role on permit reviews and site inspections. Coal's regulatory FTE are responsible for overseeing the entire life of the mines from permit review to site inspections/enforcement to overseeing final reclamation on the site. The program does not divide FTE into those who only review permits and others who only perform site inspections. It is valuable for each regulatory FTE to be informed on the permitting parameters in order to oversee all other aspects of the life of the mine. Although this system provides valuable back-up for staff across two regulatory teams, it also causes all facets of regulation (permitting, bond calculation, inspections and enforcement) to suffer if FTE are reduced.

The Coal Program has made it a high priority to maintain a consistent number of regulatory FTE level (11-14 FTE) over many years. This has been the key to the program's success in early identification of problems and prevention of environmental or "off-site" damage. A reduction in regulatory staff will spread the current balanced workload over fewer FTE, causing delays in permit reviews and an inability to maintain current inspection frequencies. Delayed problem identification may lead to sediment pond failures, soil erosion/landslides on public roadways, and water pollution impacts on fisheries or agricultural uses.

Any required FTE reduction would occur from the more recently hired regulatory FTE due to the limited number of administrative staff paid by the program (2.0 direct administrative/bond specialist positions plus 2.9 out of 6 division-wide administrative FTE) and the need for 2.0 experienced, supervisory staff to cover higher level tasks of rule-making, legal actions and analysis of complex/unique mine site conditions. Table 2 below shows examples of payroll and operating costs associated with reductions of 3.5-4.0 entry-level Environmental Protection Specialist (EPS) FTE that would need to be reduced to cover a 15% ($352,881) or greater reduction in the federal coal grant.

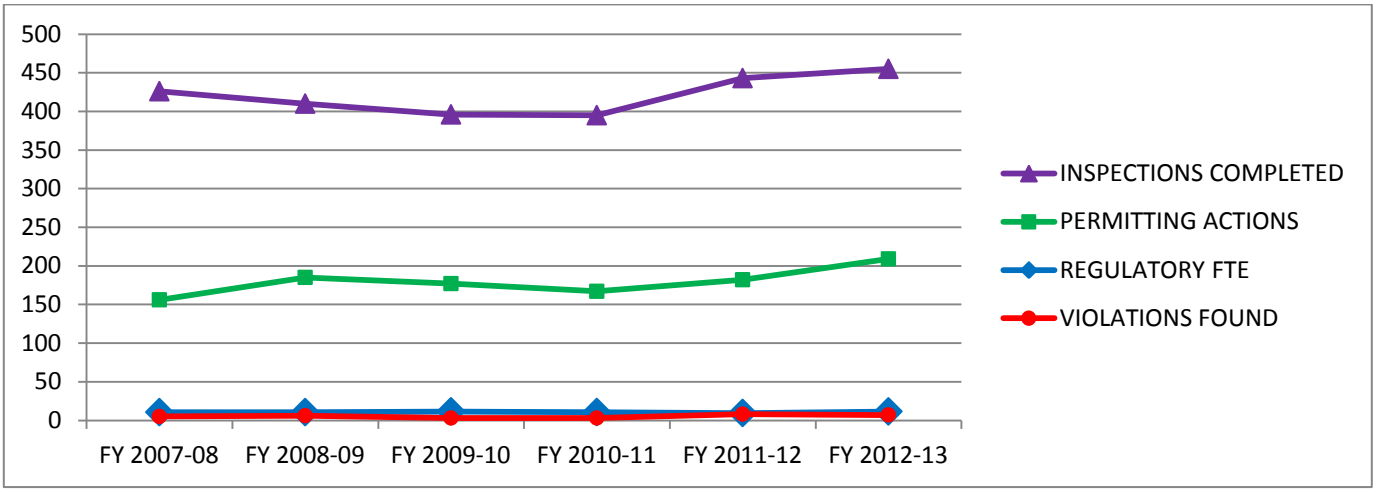
TABLE 2 – Payroll and Associated Operating Cost of 3.5 – 4.0 FTE						
	3.5 FTE REDUCTION	PAYROLL COST (1)	OPERATING ESTIM (2)	**4.0 FTE REDUCTION**	PAYROLL COST (1)	OPERATING ESTIM (2)
EPS I	1.0	87,524	5,800	1.0	87,524	5,800
EPS I	1.0	93,478	5,800	1.0	93,478	5,800
EPS II	1.0	96,968	5,800	1.0	96,968	5,800
EPS II	0.5	51,461	2,900	1.0	102,922	5,800
TOTAL	3.5 FTE	$329,431	$20,300	4.0	$380,892	$23,200
	Total Costs for 3.5 FTE: $349,731			**Total Costs for 4.0 FTE: $404,092**		

(1) Payroll costs are based on FY 2013-14 salary and benefit levels. (2) Operating cost: Travel @ $3,200 +vehicle fuel @ $1,800 + field supplies @ $800 (annualized cost of field computer/GPS equipment, software, water testing and surveying equipment).

Workload Reductions:

The main workload components for the regulatory staff as tracked in the department's strategic plan are permitting, inspection and enforcement. As shown in Figure 2, permitting and inspection workloads have increased 15-20% since 2011.

FIGURE 2 - Regulatory Workload Measures



FY2007-08	FY2008-09	FY2009-10	FY2010-11	FY2011-12	FY2012-13	
426	410	396	395	443	455	INSPECTIONS COMPLETED
156	185	177	167	182	209	PERMIT ACTIONS APPROVED
10.6	10.6	11.6	10.7	9.5	11.5	REGULATORY FTE [2]
5	6	3	3	8	7	VIOLATIONS FOUND

[2] The regulatory FTE count above does not include supervisory EPS and administrative staff who assist with bonds; FTE fluctuations are due to timing of vacancies and hiring.

A reduction of 3.5 – 4.0 regulatory FTE would result in workload reductions of approximately 72 permitting actions, 158 inspections, and 2 enforcement actions. The basis for these estimates is a generalized calculation of dividing the workload numbers shown above in Figure 1 by the 11.5 regulatory

FTE who perform those duties. Table 3 shows these calculations using FY 2012-13 FTE and workload numbers. A straight-line division of workload numbers by an FTE count does not account for the varied complexity of work tasks that demand different amounts of staff time nor does it recognize the over-lapping staff hours when the staff who hold specialized expertise add review hours to the base hours put in by the original staff assigned to that mine site.

TABLE 3 – Workload Reduction from Loss of Funding for 4.0 FTE			
	Workload Reductions	Calculation: Reduction per 1 FTE	Extrapolation to 4.0 FTE
PERMIT ACTIONS	72 per year	209 permit actions approved per year divided by 11.5 FTE = 18 actions per FTE	18 permit actions x 4 FTE = a decrease of 72 per year
INSPECTIONS	158 per year	455 inspections per year divided by 11.5 FTE = 39.6 inspections per FTE	39.6 inspections x 4 FTE = a decrease of 158 per year
ENFORCEMENT/ VIOLATIONS	2 per year	Average enforcement actions over six years in Figure 2 = 5 actions per year divided by 11.5 FTE = 0.4 actions/FTE	0.4 enforcement actions x 4 FTE = 1.6 = rounded to a decrease of 2 per year

Permitting actions include new permits, permit revisions/amendments, exploration permits and modifications, bond adjustments and releases, permit renewals, permit transfers, and midterm reviews. Most actions are implemented within time frames described in statute or rule. However, inter-agency coordination and public involvement, through the program's technical review process and operator response requirements can increase the time needed to complete the permitting process. Current permitting actions are primarily for modifications to existing coal mines, but the industry has also expanded with 2 new mines and 1 new loadout facility over the past 5 years.

The *known* required inspection counts are based on state and federal regulations requiring that each producing mine, along with most sites in reclamation and active loadout facilities be inspected once a month; sites in temporary cessation and sites that have achieved phase two bond release (topsoil and initial vegetation reestablishment) are inspected once per quarter; and sites where the bond was forfeited are inspected two to four times per year, based upon environmental hazard risk.

Direct Impacts to Mine Operations from Regulatory FTE Reductions / Costs Avoided by Approving Severance Tax Funding

The following are examples of possible impacts that an 18% FTE reduction in the Coal Program would have on actual mine operations:

(1) Delays in permit review/approvals related to major mine permit expansions can result in shutting down or delaying production. Western Colorado coal mines are integral to the economic vitality and socio-

economic infrastructure of communities in the region. The following are examples of lost payroll and tax/royalty revenue due to a 30-day stop in production.

Payroll Costs Impact: 30 day mine shut-down will impact $2.2 million in lost payroll/productivity. $2.2 million is based on an average of 232 coal mine employees per mine [2,091 total miners in Colorado (2012) divided by 9 producing mines] @ $9,647 salary per month for each employee. *[Source of salary rate: Colorado Mining Association website - http://www.coloradomining.org/mc_miningfacts.php; Source of number of employees: DRMS website - Coal Production Report/December 2012 - http://mining.state.co.us/Reports/Reports/Pages/Coal.aspx]*

Tax/Royalty Payments Impact:
Coal production in Colorado mines for 2012 was approximately 29 million tons, which resulted in total payments of taxes and royalties of roughly $138 million. Since these payments are based on tons produced, any break in production would reduce tax/royalty revenues to the state and federal government. See Table 4 below for an example of lost tax/royalty revenue that could result from a 30-day shut-down of a larger sized mine.

TABLE 4: Example of Lost Tax and Royalty Revenue due to a 30-day Shut-Down of a Large Mine	
Total state-wide coal production and related tax/royalty revenue payments *[Source: Colorado Mining Association]*	
29,000,000 tons	Tons produced per year
$137,600,000	Total tax/royalty payments per year
$4.7448/ton/year	Estimated tax/royalty payment per ton per year [$137.6 million revenue divided by 29 million tons]
Application of Per Ton Tax/Royalty Rate to Single, Large Mine	
7,000,000 tons	Tons produced per year
$33,213,600/year	Tax/royalty payments per year [7 million tons x $4.7448/ton]
$90,996/day	Estimated daily tax/royalty revenue [$33,213,600 divided by 365 days]
$2,729,885 per 30 days	Estimated 30 days value of tax/royalty that is lost due to a 30-day shut-down if permit review/approval is delayed [$90,996 x 30 days]

[Source of tax/royalty payments from 2012: Colorado Mining Association website http://www.coloradomining.org/Content/FileManager/2012_Coal_Report_2nd_Version_5.28.13.pdf]

(2) Decreased inspection frequencies could cause delayed identification of problems on surface areas of coal mines. Coal regulations define inspection frequencies for all phases of a coal mine, from active production through the 10 year reclamation cycle. The projected loss of 158 inspections per year, due to a reduction of 4.0 FTE, would be distributed over all 122 coal sites, whether actively producing or in reclamation, because environmental problems can occur in any of those mine phases. Examples of

environmental problems that could arise from such delays and estimated costs to mitigate those problems are shown below:

Scenario 1: Estimated cost to resolve a moderate landslide onto a public roadway = $1,151,835

In the fall of 2011, a native area of a surface mine in Colorado, which was east of their refuse pile expansion, created a landslide. This area is immediately adjacent to Colorado Highway 133 (CO-133). This slide fortunately stopped short of CO-133, but it exemplifies the real possibility of the existence of land-slides impeding public highways.

Assumptions: Slide of approximately 100,000 cubic yards and 10 acres occurs and impedes a 600-foot portion of CO-133 (this example would be one-fourth the length of the actual slide in 2011).

Impacts: CO-133 is a major east/west highway in this part of the state. Any closure of the highway would require traffic to be re-routed through Delta and Grand Junction. This adds approximately 5 hours to any trip. There is also the real possibility that occupants of a vehicle(s) travelling on the highway at the time of the slide could be seriously injured.

Required Repair Work: Slide material must be replaced and compacted in order to remain stable; drainage must be re-established in the slide area; slide area must be re-seeded and mulched to stabilize; reconstruction of 600-foot section of CO-133; and reconstruction of highway ditches.

Direct Mitigation Cost: The direct cost of mitigation for this scenario is $1,151,835 based on software that calculates the costs of earth-moving equipment and operator-hours, roadway/ditch reconstruction and re-seeding costs (see Attachment B for details). This cost does not include any socioeconomic costs such as lost travel time and increased fuel cost imposed on motorists detoured away from CO-133.

Scenario 2: Estimated cost to mitigate a retainage pond that overflows onto a public highway = $1,490,483

During the summer of 2008, a rain storm caused a mine site retainage pond to clog, fill and eventually overflow. The pond is immediately adjacent to Colorado Highway 13 (CO-13). Mud and water flowed across CO-13 and required a Colorado Department of Transportation (CDOT) snow plow to clear the mud off the highway. The pond embankment did not fail and the remaining water was contained in the pond which was an estimated quantity of 2.6 million gallons.

Assumptions: A large rain event creates more significant damage to the degree of causing erosion and embankment failure. The large volume of water damages a 100-foot portion of CO-13 (this scenario assumes one-half of the pond embankment length versus the real occurrence above).

Impacts: CO-13 is a major north/south truck route connecting I-70 with Wyoming. Any closure of the highway would require traffic to be re-routed through Grand Junction and Steamboat Springs, adding approximately 8 hours to any trip. Any occupants in vehicles travelling on the highway at the time of embankment failure could be seriously injured or killed. Also, areas adjacent to CO-13 are regionally important for agriculture and would be severely damaged and/or destroyed by any failure.

Required Work: Temporarily re-route all of the runoff into the remaining open pit while the pond is reconstructed; clean up of the mud and debris from the embankment and runoff; reconstruct the pond (including excavating the pond to increase its volume); repair the hay field across CO-13;

reconstruct a 100-foot section of CO-13; return original runoff route back to repaired pond (reclaim the temporary ditch that was built the divert water to open pit during repairs).

Direct Mitigation Cost: The direct cost of mitigation for this scenario is $1,490,483. This is an estimate to mitigate the pond, road and adjacent agricultural lands only (see Attachment C for details). Socioeconomic costs such as lost productivity of agricultural land or increased time and fuel cost for re-routed commercial trucks are not included.

(3) State Primacy Review: If the Coal Program consistently fails to meet permitting timeframes and environmental problems persist, the Office of Surface Mining may review the state's primacy/authority over the regulatory process. Revocation of states' authority is neither common nor immediate. The initial impact would be that federal OSM staff would increase their inspections/oversight actions at the mines per their FTE availability, causing additional work for the state regulatory staff to respond to inquiries from and to produce documents for the federal staff. The regulated industry would also be subject to an uncertain regulatory landscape if federal oversight overlaps or replaces state regulation practices. Also, as mentioned earlier, if state primacy were to be revoked, the $7.7 million federal funds to the Inactive Mines Reclamation Program would end, ceasing a significant portion of work on safeguarding historic mine sites.

Anticipated Outcomes:

The outcome of approving $352,811 additional severance tax revenue in the Coal Program is to maintain 11.5 regulatory FTE in the program in order to ensure continued, successful regulatory practices for the coal industry. The current staffing level allows expeditious, thorough and proactive service to all stakeholders, including mine operators, local community representatives and other state/federal government agencies.

Ultimately, the Coal Program operates to protect the public health, safety, and welfare from potentially adverse impacts of mining activities, which includes protecting the natural environment. Maintaining the current regulatory staff level is necessary to maintain the following key measures of a viable coal industry:

- *Number of acres reclaimed* is a measure of land area that is successfully reclaimed from the physical impacts of mining. To qualify for inclusion under this measure, the acres must be physically inspected by regulatory staff, vegetation must be successfully and permanently restored to beneficial use, and any and all other permit conditions for reclamation must be fully met, which takes a minimum of 10 years to complete. Maintaining current staffing levels ensures reclaimed sites are inspected in a timely manner, which in turn allows a timely release of mine operators from further obligations.

- *Number of mines in compliance with regulatory and statutory requirements* is a measure of the percent of mine sites that complied with federal and state regulations and is measured as the percentage of inspections that did not result in a violation action during the performance period. Colorado's coal industry has consistently achieved 98 to 99 percent compliance. This is attributed to the industry's excellent compliance commitment, and the consistent level of coordination that has occurred between the regulatory staff in the Coal Program and mine operators.

Assumptions and Calculations:

The requested amount in this Change Request is based on the following information:

- The estimated federal grant reduction rate of 15% versus an OSM estimate of 19% is an effort to consider the uncertainty of grant projections that has occurred in prior grant cycles;
- The 15% reduction amount of $352,881 is calculated on the current 2013 federal grant amount of $2,352,537 (aligns to the state FY 2013-14). Severance tax revenue is requested to fully replace this estimated grant reduction amount
- This refinancing will be reviewed annually in order to restore the current 21% state cash and 79% federal funds balance if the federal sequester rules are halted or reduced in impact.
- If the final grant amount is greater than anticipated, the Division will only utilize sufficient Severance Tax revenue to replace the grant reduction amount. Excess funds will be reverted at the end of the year, or through a future budget action.
- Table 3 is repeated below to reiterate the workload reduction that is estimated if the base program funding is not protected with severance tax revenue.

TABLE 3 – Workload Reduction from Loss of Funding for 4.0 FTE

	Workload Reductions	Calculation: Reduction per 1 FTE	Extrapolate to 4.0 FTE
PERMIT ACTIONS	72 per year	209 permit actions approved per year divided by 11.5 FTE=18 actions/FTE	18 permit actions x 4 FTE = a decrease of 72 per year
INSPECTIONS	158 per year	455 inspections per year divided by 11.5 FTE = 39.6 inspections per FTE	39.6 inspections x 4 FTE = a decrease of 158 per year
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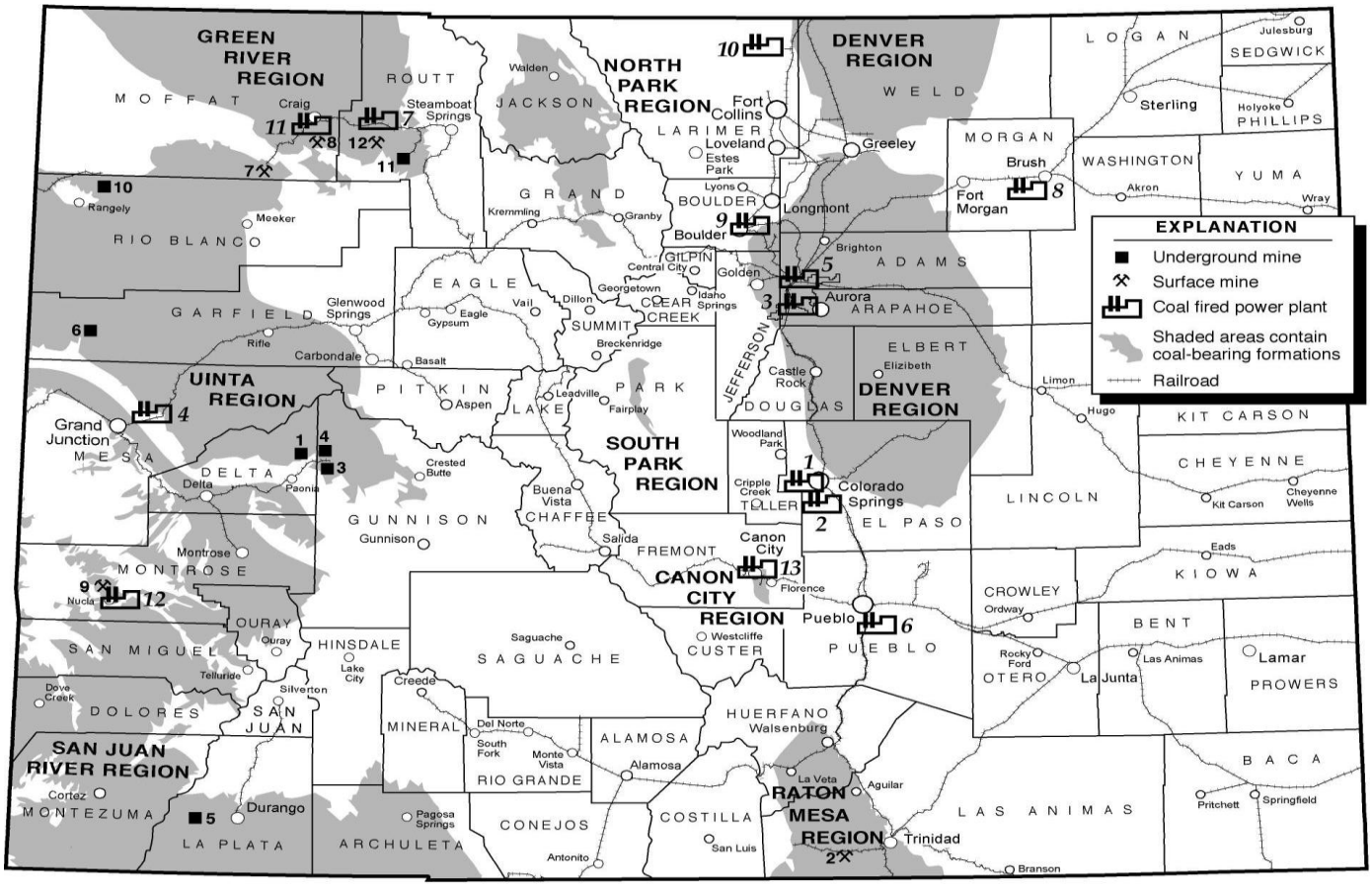
If severance tax revenue is approved to maintain Coal's FY 2014-15 base program, this requested amount may need to be adjusted during the budget development cycle, as federal and state numbers will change during the process.

Supplemental, 1331 Supplemental or Budget Amendment Criteria:

A Supplemental will not be sought to cover the 1.21% reduction to the federal grant funds for the state FY 2013-14. The program will absorb the loss in revenue for the current fiscal year in operating costs.

ATTACHMENT A – Coal Mine Regions



ATTACHMENT B: COST SUMMARY
Scenario 1 – Cost Estimate to Mitigate a Moderate Landslide on a Public Roadway

Task description: Scenario 1 Cost Summary

Site: Mine Example A Permit Action: Scenario 1 Permit/Job#: Cxxxx-xx

PROJECT IDENTIFICATION

Task #: S1A State: Colorado Abbreviation: None
Date: 7/11/2013 County: Gunnison Filename: Cxx-S1A
User: ZZZ

Agency or organization name: DRMS

TASK LIST (DIRECT COSTS)

Task	Description	Form Used	Fleet Size	Task Hours	Cost
S1B	Remove and Replace Slide Material to HR-01 Area	TRUCK1	1	412.58	$290,292.95
S1C	Compact Slide Material at HR-01 Area	COMPACT	1	199.89	$26,148.00
S1D	Reconstruct Ditches at HR-01 Slide Area	DOZER	1	44.96	$7,420.88
S1E	Drill Seed Mix #1 on HR-01 Slide Area	REVEGE	1	20.00	$92,144.70
S1F	Reconstruct CO 133 Ditches	DOZER	1	38.44	$6,344.81
S1G	Reconstruct CO 133 and Riprap fro HR-01 Ditches	DEMOLISH	1	0.00	$475,739.65
S1H	Drill Seed Mix #1 on CO 133 Ditches	REVEGE	1	3.00	$4,951.20
		SUBTOTALS:		**718.87**	**$903,042.19**

INDIRECT COSTS

OVERHEAD AND PROFIT:

Liability insurance:	2.02%	Total =	$18,241.45
Performance bond:	1.05%	Total =	$9,481.94
Job superintendent:	359.44 hrs	Total =	$21,314.50
Profit:	10.00%	Total =	$90,304.22
		TOTAL O & P =	$139,342.11
		CONTRACT AMOUNT (direct + O & P) =	$1,042,384.30

LEGAL - ENGINEERING - PROJECT MANAGEMENT:

Financial warranty processing (legal/related costs):	0.00	Total =	0.00
Engineering work and/or contract/bid preparation:	6.00%	Total =	$62,543.06
Reclamation management and/or administration:	4.50%		$46,907.29
CONTINGENCY:	0.00	Total =	$0.00
		TOTAL INDIRECT COST =	$248,792.46
		TOTAL BOND AMOUNT (direct + indirect) =	**$1,151,834.65**

ATTACHMENT C: COST SUMMARY

Scenario 1 – Cost Estimate to Mitigate a Retainage Pond Overflow on a Public Highway

Task Description: Scenario 2 Cost Summary

Site: Mine Example B Permit Action: Scenario 2 Permit/Job#: Cxx-xxx

PROJECT IDENTIFICATION

Task #: S2A State: Colorado Abbreviation: None
Date: 7/11/2013 County: Moffat Filename: Cxxx-S2A
User: MMM

Agency or organization name: DRMS

TASK LIST (DIRECT COSTS)

Task	Description	Form Used	Fleet Size	Task Hours	Cost
S2B	Temporarily Reroute Runoff to Pit	DOZER	1	81.75	$20,566.32
S2C	Clean Mud and Debris from Fields and Surrounding Area	TRUCK1	1	258.29	$246,711.77
S2D	Repair Damage to Upgradient Pit Area	DOZER	1	190.74	$47,981.80
S2E	Reconstruct Prospect Pond Embankment	TRUCK1	1	61.09	$48,611.09
S2F	Repair Hayfield	TRUCK1	1	128.18	$74,495.22
S2G	Reconstruct CO 13 and Import Topsoil	DEMOLISH	1	400.00	$704,752.00
S2H	Remove Temporarily to Pit	DOZER	1	28.68	$7,213.90
S2I	Reseed Prospect Pond Embankment	REVEGE	1	4.00	$849.44
S2J	Reseed Repaired Hay Field	REVEGE	1	40.00	$10,478.70
		SUBTOTALS:		**1192.73**	**$1,161,660.24**

INDIRECT COSTS

OVERHEAD AND PROFIT:

Liability insurance:	2.02%	Total =	$23,465.54
Performance bond:	1.05%	Total =	$12,197.43
Job superintendent:	596.37 hrs	Total =	$35,364.44
Profit:	10.00%	Total =	$116,166.02
		TOTAL O & P =	$187,193.43
		CONTRACT AMOUNT (direct + O & P) =	$1,348,853.67

LEGAL - ENGINEERING - PROJECT MANAGEMENT:

Financial warranty processing (legal/related costs):	0.00	Total =	0.00
Engineering work and/or contract/bid preparation:	6.00%	Total =	$80,931.22
Reclamation management and/or administration:	4.50%		$60,698.42
CONTINGENCY:	0.00	Total =	$0.00
		TOTAL INDIRECT COST =	$328,823.07
		TOTAL BOND AMOUNT (direct + indirect) =	**$1,490,483.31**