



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Carlee Brown, Manager, Interstate, Federal, and Water Information Section

DATE: November 15-16, 2017 Board Meeting

AGENDA ITEM: 7a. 2018 Projects Bill
Non-Reimbursable Project Investments
(2) Litigation Fund Budget - Refresh

Introduction

Section 37-60-121(2.5) provides that the Colorado Water Conservation Board is authorized "to expend, pursuant to continuous appropriation and subject to the requirements of paragraph (b) of this subsection (2.5), a total sum not to exceed the balance of the litigation fund, which is created, for the purpose of engaging in litigation...to defend and protect Colorado's allocations of water in interstate streams and rivers..." Paragraph (b) of section 121(2.5) provides: "pursuant to the spending authority set forth in paragraph (a) of this subsection (2.5), moneys may be expended from the litigation fund at the discretion of the board if (I) with respect to litigation, the Colorado Attorney General requests that the Board authorize the expenditure of moneys in a specified amount not to exceed the balance of the fund for the costs of litigation associated with one or more specifically identified lawsuits meeting the criteria set forth in paragraph (a) of this subsection (2.5)."

The current request is to refresh the Fund up to \$2,000,000 for FY 2018/19. The Litigation Fund supports the Attorney General's work to effectively protect Colorado's interests in interstate streams and rivers by participating in negotiation and litigation. The Attorney General requested \$1,048,500 of new authorizations from the Colorado Water Conservation Board in May 2017. This funding will support litigation-related activities for the Rio Grande, the Republican, and the Colorado River Basins. The Litigation Fund is also used for work in the Arkansas River Basin, but the Attorney General indicated that no additional authorizations for that basin are needed at this time. The Board authorized this funding proposal at their May 2017 meeting.

Staff Recommendation

Staff recommends the Board request the General Assembly to authorize the transfer of up to \$2,000,000 from the Construction Fund or so much as may be necessary in order to restore the balance of the Litigation Fund up to \$2,000,000 to allow the Attorneys General Office to continue to prepare and participate in ongoing legal matters on behalf of the Colorado Water Conservation Board.





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The CWCB has received a letter from Attorney General Cynthia Coffman stating that a total of \$1,048,500 of will be needed in FY17-18 to adequately defend the State's apportionments under the Compacts in negotiations, litigation, and other processes. The funds will be allocated as follows:

- 1) Colorado River Basin: \$525,000 for FY 17/18
- 2) Republican River Basin: \$138,500 for FY 17/18
- 3) Rio Grande Basin: \$385,000 for FY 17/18

The CWCB will request a refresh of the Litigation Fund up to \$2,000,000 each year through annual appropriations in order for the Board to respond to unforeseen legal challenges. The current fund balance is \$3,048,500. This balance, coupled with the Attorney General's estimate of FY17-18 expenses just over \$1M, indicates that the estimated impact to the Construction fund will be minimal on July 1, 2018.

P R O J E C T D E T A I L S		
Project Cost:	Up to	\$2,000,000
NRI Funding Request:	Est:	\$100,000
Funding Source:	Construction Fund	
Project Type:	Other	
Type of Grantee:	State Government	

L O C A T I O N		
Benefits:	Statewide	
Water Source:	N/A	
Drainage Basin:	All Basins	