

**NATURAL  
RESOURCES  
&  
WATER RIGHTS**

Natural Resources & Environment  
Deputy Attorney General

Federal &  
Interstate Water  
Issues

CERCLA  
Litigation

RMA - NRD's  
Claims

Defense of the  
Colorado River  
Compact

# Program Summary–2009

## NATURAL RESOURCES AND ENVIRONMENT SECTION PROGRAM SUMMARY

### **Introduction to the Natural Resources and Environment Section**

The Natural Resources and Environment (NRE) Section currently has **37** lawyers (37.5 FTE), 9 legal assistants (8.5 FTE), and four support staff. These dedicated employees protect and defend the interests of the State and its citizens in all areas of natural resources law and environmental law. We represent and advise state agencies and boards that regulate and oversee the use and conservation of Colorado's natural resources and the quality of Colorado's environment.

### **Federal and Interstate Water Unit:**

This unit protects the State's interests in the waters of interstate rivers, with respect to both interstate water allocation and federal environmental requirements, including the Endangered Species Act. The unit also works with state water users to protect the state's interests in the timely and reasonable resolution of federal claims for water rights, including reserved water rights and claims for instream flows.

### **Defense of the Colorado River Compact:**

This unit provides legal counsel and representation to the Department of Natural Resources, the Colorado Water Conservation Board, and the State Engineer on issues pertaining to the Colorado River and the Colorado River Compact. The unit's major tasks include researching issues relevant to potential litigation, preparing a litigation database of the voluminous documents relevant to the Colorado River, and assisting the State Engineer in preparing rules for any in-state curtailment of water rights resulting from a Colorado River Compact call. These activities also prepare the State of Colorado to fully participate in ongoing negotiations with the other Colorado River basin states that are signatories to the Colorado River Compact.

### **Natural Resources Damages (NRDs) at Rocky Mountain Arsenal:**

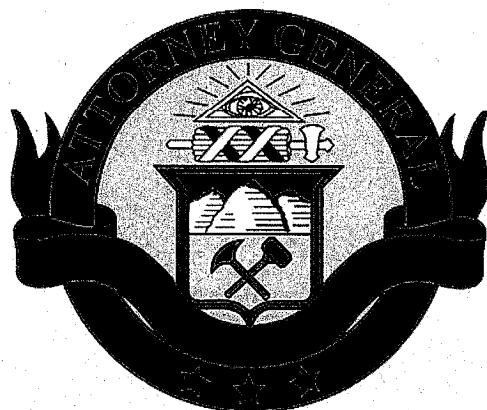
This unit pursues the state's claims against the United States Army and Shell Oil Company for damages due to injuries to the state's natural resources at the Rocky Mountain Arsenal. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) provides states a cause of action for damage to the state's natural resources caused by the release of hazardous substances. Damage recoveries must be used to restore, replace, or acquire the equivalent of the injured resources. In 1983, the State sued the Army and Shell to obtain cleanup of the Arsenal and natural resource damages. The NRD claim has been on "administrative closure" (a long-term stay) while the cleanup of the Arsenal was being selected, designed and implemented. Although cleanup is still ongoing, enough is now known about the extent of cleanup activities to begin estimating the extent of injuries to natural resources. The claim at the Arsenal is potentially quite large – from several tens of millions of dollars to hundreds of

millions. The NRD case consists of two phases: assessment and litigation. We are currently in the assessment phase which should be complete in 2008.

### **CERCLA Litigation Unit/Hazardous and Solid Waste Unit:**

This unit assists several environmental agencies and boards of CDPHE in regulating the storage, treatment and disposal of hazardous and solid wastes. The unit ensures that contaminated sites are promptly and thoroughly cleaned up by those responsible for the contamination, and pursues enforcement actions when appropriate. It also provides legal advice to the Petroleum Storage Tank Committee, which sets oversees reimbursement of cleanup costs that are covered under the Petroleum Storage Tank Fund (essentially a state insurance program). This unit also handles the legal work for ten seriously contaminated sites – known as Superfund sites – most of which are being cleaned up under consent decrees by those who contaminated them. The unit works to recover the state's costs for overseeing these cleanups from the responsible parties to the greatest extent possible. Damages for injury to natural resources (sometimes called NRDs) held by the state in trust for its citizens have been collected from the responsible parties at several sites. The unit assists the state's Natural Resource Trustees (of which the Attorney General is one) in determining how to spend the NRDs funds to restore or replace the injured natural resources such as ground water, wildlife habitat, and fish populations.

# Federal & Interstate Water Unit



## PROGRAM NARRATIVE

**Program Title:** Natural Resources – Federal & Interstate Water Unit

**Long Bill Line Item:** Water & Natural Resources – Federal & Interstate Water Unit

**Change Requests:** No

**Federal and State Statutory Authority:**

§§ 37-60-113, 114, 120, & 121.1; 37-80-116; 37-81-102, C.R.S.

**Program Description:**

This program provides legal counsel and representation to the Colorado Water Conservation Board, the State Engineer, the Department of Natural Resources, and the people of the State of Colorado in matters involving: (1) federal water right claims and regulatory programs that may adversely affect State water rights and (2) interstate water allocations.

### Prioritized Objectives & Performance Measures

Federal & Interstate Water Unit		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
<b>Objectives 1.1</b>	Protect State's interests in all interstate compacts and equitable apportionment decrees for interstate rivers.					
<b>Measure 1.1.1. Achieve objective</b>	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Objectives 1.2</b>	<i>Kansas v. Nebraska and Colorado.</i> This litigation to protect Colorado's rights in the Republican River and the Ogallala Aquifer was approved by the U.S. Supreme Court in FY04. We have been assisting the Division of Water Resources in implementing the settlement. Surface water users in the basin have filed a legal challenge to the State Engineer's administration of wells, and we are assisting the Water Unit in the defense of that matter. We are also continuing to assist the Division of Water Resources in promulgating rules to requiring measuring devices on all wells within the basin as well as rules to administer surface and ground water rights in the basin to comply with the Compact. Additionally, we are working with the Department of Natural Resources to create a presentation to show Kansas the extent of our efforts in compact compliance in an attempt to forestall future litigation over compact compliance.					

<b>Measure 1.2.1.</b> Provide advice and assistance to Division of Water Resources on implementation of settlement.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			

<b>Measure 1.2.2.</b> Provide advice and assistance to Division of Water Resources in promulgating Rules to ensure compact compliance	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			

<b>Measure 1.2.3.</b> Provide advice and assistance to Department of Natural Resources in seeking to forestall additional compact litigation and, if necessary, prepare for a suit by Kansas over compact compliance.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			

<b>Measure 1.2.4.</b> Provide advice and assistance to Division of Water Resources and Water Unit in defending State Engineer's administration of wells.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			

<b>Objectives 1.3</b>	Monitor interstate issues affecting Colorado's rights under the Rio Grande Compact, and assist State Engineer in promulgating and defending well use rules to comply with the Compact.					
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<b>Measure 1.3.1.</b> Monitor U.S. action to quiet title to Elephant Butte Reservoir in New Mexico as necessary to protect Colorado's rights under the Rio Grande Compact. The case has been stayed pending adjudications in Texas and New Mexico.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			

<b>Measure 1.3.2.</b> Monitor	<b>Target</b>	Yes	Yes	Yes		
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Endangered Species Act lawsuits regarding silvery minnow in New Mexico and participate as necessary to protect Colorado's rights under the Rio Grande, Colorado, and Upper Colorado Compacts.	<b>Actual</b>	Yes	Yes			
<b>Measure 1.3.3.</b> Advise State Engineer in approval of Subdistricts to protect senior surface rights and compact deliveries pursuant to SB 04-222.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 1.3.4.</b> Advise State Engineer in promulgation of well-use rules for Water Division 3 (Rio Grande drainage) to protect senior surface rights and compact deliveries by regulating existing wells outside of subdistricts.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 1.3.5.</b> Advise State Engineer in promulgation of well-use rules for Water Division 3 (Rio Grande drainage) to protect senior surface rights and compact deliveries from well impacts, and defend validity of rules in litigation.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Objectives 1.4</b>	Assist State Engineer in efforts to resolve disputes with New Mexico over interpretation and administration of La Plata River Compact.					
<b>Measure 1.4.1.</b> Achieve objective	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 1.4.2</b> In	<b>Target</b>	Yes	Yes	Yes		



conjunction with Department of Natural Resources, work with Wyoming to resolve Compact administration issues raised by this case.	<b>Actual</b>	Yes	Yes			
<b>Objectives 1.5</b>	Monitor interstate issues affecting Colorado's rights under the Costilla Creek Compact, and assist State Engineer to comply with the Compact.					
<b>Measure 1.5.1.</b> Monitor U.S. action regarding listed or candidate threatened or endangered species to protect the interests of the State and its water users.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Objectives 1.6</b>	<i>Kansas v. Colorado.</i> This litigation concerning Colorado's compliance with the Arkansas River Compact is pending before the Special Master. Our goal is to resolve remaining issues and develop procedures to avoid future controversies between Kansas and Colorado.					
<b>Measure 1.6.1.</b> Achieve objective	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Objectives 2.1</b>	Work with parties to the Indian reserved rights litigation and settlement to complete implementation of the settlement by supporting efforts to fund and construct the Animas-La Plata project without unnecessary delay.					
<b>Measure 2.1.1.</b> Support amendment of the Tribes' reserved rights decrees and change of water rights cases in Water Division 7 to conform to the 2000 Settlement Act Amendments in Water Court and any subsequent appeals.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 2.1.2.</b> Support the due diligence case for the Animas – La Plata water rights in Water Division 7 in Water Court and any subsequent appeals.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			

<b>Objectives 3.1</b>	Resolve federal reserved water rights claims of the U.S. Forest Service in Water Division 7.					
<b>Measure 3.1.1.</b> As requested by local water users, pursue quantification, settlement or dismissal of the USFS reserved rights claims in Water Division 7.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 3.1.2.</b> If settlement or dismissal of the claims cannot be achieved, vigorously litigate in Division 7	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Objectives 3.2</b>	Work with other objectives to vigorously pursue quantification and settlement of the U.S. Park Service reserved rights claim for Black Canyon of the Gunnison National Park in Water Division 4.					
<b>Measure 3.2.1.</b> Assist DNR, SEO, DOW and CWCB in pursuing settlement of the United States' claims.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 3.2.2.</b> Continue to participate in water court proceeding concerning the quantification until resolved.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 3.2.3.</b> If settlement ultimately cannot be achieved vigorously litigate the U.S. Park Service reserved rights claim for Black Canyon of the Gunnison National Park.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			

<b>Objectives 4.1.</b>	Protect Colorado's water interests in endangered species recovery efforts.					
<b>Measure 4.1.1.</b>	<b>Target</b>	Yes	Yes	Yes		

Represent and advise state agencies and work with federal and sister state agencies and interested water users to implement endangered species recovery programs in the Colorado, Platte, Rio Grande, and San Juan basins and in other river basins as appropriate.	<b>Actual</b>	Yes	Yes			
<b>Objectives 4.2</b>	Represent and advise state agencies and work with federal and sister state agencies and interested water users to implement endangered species recovery programs in the Colorado, Platte, Rio Grande, and San Juan basins and in other river basins as appropriate.					
<b>Measure 4.2.1.</b> Achieve objective.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Objectives 5.1</b>	Represent the Division Engineer and Colorado Water Conservation Board in supporting the United States' water right application for the Great Sand Dunes National Park and assure any such water right is within the limitations prescribed by the enacting legislation					
<b>Measure 5.1.1.</b> Achieve objective.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Objectives 6.1</b>	Assist the water units in achieving their goals when they do not have necessary staffing to adequately handle their case load.					
<b>Measure 6.1.1.</b> As requested assist the water units in achieving their goals when they do not have necessary staffing to adequately handle their case load.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			

**Trends and Other Baseline Information:**

Continually increasing demands for water and six years of drought have insured that the unit's workload remains heavy. Successful settlements on the North Platte and Republican Rivers still require additional staff time for monitoring and implementation. The State of Kansas recently stated that it intends to initiate another case against Colorado and Nebraska for alleged violations of the Republican River Compact. Kansas likely will allege that Colorado has consumed more water in the Republican River Basin than allowed by the Compact. Similar claims will be made against Nebraska. We are anticipating additional expenses to pay for experts and consultants

for this litigation. Water short down-stream states will continue to covet Colorado's compact entitlements and monitor Colorado's actions closely.

The never-ending and ever-shifting endangered species negotiations on the Platte continue to consume significant time and resources. A trial on the validity of new well-use rules in the Rio Grande (tied to interstate compact compliance) was completed in spring of 2006. For the first time after a truly contested trial on State Engineer's Rules, the Rules were upheld as promulgated. That ruling is now on appeal to the Water Court. Further, cases concerning federal reserved rights for the Black Canyon of the Gunnison and the Great Sand Dunes National Park, additional conjunctive use issues in the Rio Grande Basin, tribal reserved rights from the Animas-La Plata Project, and "bypass flows" imposed by the Forest Service have all heated up with no end in sight. The unit also is taking over the issues on the Arkansas River Compact from outside counsel beginning in FY07, which will require significant attorney time. Issues related to the Colorado River are included in a separate crosswalk. See Defense of the Colorado River Compact. The trend towards open-ended collaborative stakeholder processes is continuing, particularly when it comes to endangered species. This results in the use of more and more resources in traveling to and from, preparing for, and attending meetings involving multiple parties (e.g. other states, federal agencies, Colorado water users, environmental groups), often at locations outside the state.

**Similar or Cooperating Programs:** N/A

**Assumptions and Calculations:**

***For Single Program Line items*** – the fiscal year 2009 (FY09) Personal Services and Operating Budget Request are calculated per Joint Budget Committee (JBC) policy.

1. Determine the FY08 base appropriation for personal services and operating by calculating the following:
  - From the program Schedule 3, identify the total personal services expenditures and operating expenditures in FY07. Then from the Personal Services total, subtract the following centrally allocated appropriations: Salary Survey, Performance Based Pay, Health Life Dental, Short Term Disability, AED and SAED. From the operating total subtract these centrally allocated appropriations: Worker's Compensation, Lease Space, Vehicle Lease payments, Communication service payments, Capital outlay and IT Asset Maintenance.
  - Add the above remaining two figures - Personal Services and Operating (after the centrally appropriated appropriations have been removed) to determine the amount spent in each category from the program line item appropriation.
  - Calculate the percentage of the total that is personal service and the percentage that is operating. Take the percentage that is personal services and multiply it by

the FY08 line item appropriation. This number will be the FY08 base figure for Personal service. The remainder is the FY08 operating base.

2. To compute the FY09 Personal Services Budget Request:

- Take the calculated FY08 personal services base figure from above and add in the program's FY08 salary survey allocation for both classified and non-classified employees.
- Then add in 80% of the programs performance-based pay allocation for both classified & non-classified employees.
- Finally take a 0.2% reduction to the above total and this will be the FY09 personal services request. However, on lines less than 5 FTE the Department did not take the .2 % reduction.

3. The FY09 operating request is the same amount as the calculated FY08 operating number. The Department allocates certain centrally appropriated expenditures (Capital Complex Lease Space, IT Asset Maintenance, Worker's Compensation and Vehicle Lease Payments) to the various line items where they are expended. The actual column expenditures (FY06 and FY07) in the Schedule 3 include these allocated appropriations. The Estimate column includes the projected allocation in the current fiscal year.

For the Federal & Interstate Water Unit the Personal Services Base for FY08 is \$450,390 which is 93.4% of the total FY08 Appropriation. The Operation base is \$32,036, which is 6.6% of the total.

## ASSUMPTIONS AND CALCULATIONS

### Natural Resources & Water Rights/ Federal & Interstate Water

Long Bill Line Item	Total	FTE	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds
<b>Personal Services</b>						
Previous Year Long Bill (SB07-239)	\$450,390	5.5	\$450,390			
FY2007-08 Salary Survey - Classified	\$2,290		\$2,290			
FY2007-08 Salary Survey - Exempt	\$15,709		\$15,709			
FY2007-08 Performance-based Pay - Classified	\$1,665		\$1,665			
FY2007-08 Performance-based Pay - Exempt	\$3,465		\$3,465			
Subtotal PS -	\$473,519	5.5	\$473,519			
OSP base adjustment (0.2%)	(\$947)		(\$947)			
<b>Personal Services Appropriation Request</b>	<b>\$472,572</b>	<b>5.5</b>	<b>\$472,572</b>			
<b>Operating Expenses</b>						
Previous Year Long Bill (SB07-239)	\$32,036		\$32,036			
<b>Operating Expenses Appropriation Request</b>	<b>\$32,036</b>		<b>\$32,036</b>			
<b>GRAND TOTAL - Federal &amp; Instate Water</b>	<b>\$504,608</b>	<b>5.5</b>	<b>\$504,608</b>			

**SCHEDULE 2 - PROGRAM SUMMARY**

Department of Law	FEDERAL & INTERSTATE WATER UNIT											
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09			
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>FEDERAL &amp; INTERSTATE WATER UNIT</b>	446,851	4.6	477,576	4.9	482,426	5.5	561,322	5.5	504,608	5.5	504,608	5.5
General Fund	446,851		477,576		482,426		561,322		504,608		504,608	
General Fund Exempt	-		-		-		-		-		-	
Cash Funds	-		-		-		-		-		-	
Cash Funds Exempt	-		-		-		-		-		-	

**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law		FEDERAL & INTERSTATE WATER UNIT											
		Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09			
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	
<b>I. POSITION DETAIL</b>													
First Assistant Attorney General	98,388	1.0	96,605	0.9	106,584	1.0	106,584	1.0	106,584	1.0	106,584	1.0	
Assistant Attorney General II	71,868	1.0	76,985	1.0	81,768	1.0	81,768	1.0	81,768	1.0	81,768	1.0	
Assistant Attorney General I	91,727	1.5	134,691	2.0	173,106	2.5	173,106	2.5	173,106	2.5	173,106	2.5	
Attorney I	15,250	0.1	59,700	1.0	62,376	1.0	62,376	1.0	62,376	1.0	62,376	1.0	
Legal Assistant II	58,128	1.0	367,981	4.9	423,834	5.5	423,834	5.5	423,834	5.5	423,834	5.5	
<b>TOTAL POSITION DETAIL</b>	<b>335,361</b>	<b>4.6</b>	<b>367,981</b>	<b>4.9</b>	<b>423,834</b>	<b>5.5</b>	<b>423,834</b>	<b>5.5</b>	<b>423,834</b>	<b>5.5</b>	<b>423,834</b>	<b>5.5</b>	
<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>													
(Permanent FTE by position )													
Continuation Salary Subtotal													
<b>(I.B.) OTHER PERSONAL SERVICES</b>													
PERA on Continuation Subtotal	32,816		35,639		43,019		43,019		43,019		43,019		
Medicare on Continuation Subtotal	3,358		3,750		6,146		6,146		6,146		6,146		
Non-Base Building Performance Awards					1,282		1,282		1,282		1,282		
Part-Time/Temporary Salaries													
Contractual Services	6,542		244		8,884		8,884		8,884		8,884		
Leave													
Other													
<b>SUBTOTAL</b>	<b>42,717</b>	<b>4.6</b>	<b>39,633</b>	<b>4.9</b>	<b>59,331</b>	<b>5.5</b>	<b>59,331</b>	<b>5.5</b>	<b>59,331</b>	<b>5.5</b>	<b>49,165</b>	<b>5.5</b>	
<b>(I.C.) PERSONAL SERVICES SUBTOTAL=</b>	<b>378,077</b>	<b>4.6</b>	<b>407,614</b>	<b>4.9</b>	<b>483,165</b>	<b>5.5</b>	<b>483,165</b>	<b>5.5</b>	<b>472,999</b>	<b>5.5</b>	<b>472,999</b>	<b>5.5</b>	
A+B													
Difference													
<b>(I.D.) POTS EXPENDITURES</b>													
Health/Life Dental	14,425		19,647		17,662		17,662		17,662		17,662		
Salary Survey	[15,956]		[28,774]		[17,999]		[17,999]		[17,999]		[17,999]		
Performance Award	494		426		428		428		428		428		
Short Term Disability	713		2,493		2,803		2,803		2,803		2,803		
AED													
SAED	891		495										
Other													
<b>(I.E.) BASE PERSONAL SERVICES TOTAL=</b>	<b>394,600</b>	<b>4.6</b>	<b>430,675</b>	<b>4.9</b>	<b>504,058</b>	<b>5.5</b>	<b>504,058</b>	<b>5.5</b>	<b>472,999</b>	<b>5.5</b>	<b>472,999</b>	<b>5.5</b>	
C+D													

[ ] Indicates a Non-add



**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSES</b>										
1930 - Litigation	15,754		2,693				10,728		11,000	
2220 - Building Grounds Maintenance	941									
2255 - Rental of Buildings	14,412		14,892				350		350	
2510 - In State Travel	345		233				1,320		700	
2511 - In State Common Carrier Fares	1,322		583				2,350		2,000	
2512 - IS Personal Travel Per Diem	2,256		2,351				500		500	
2513 - IS Personal Vehicle Reimbursement	2,081		382				120		120	
2530 - Out of State Travel	121		5				500		500	
2531 - OS Common Carrier Fares	1,378		709				700		700	
2532 - OS Personal Travel Per Diem	451		2,820				2,800		2,800	
2630 - Telephone	3,843						235		235	
2631 - Comm Svcs from Outside Sources	234						6,600		6,600	
2641 - Other ADP Billings - Purchase Services	2,896		6,578				1,000		1,000	
2660 - Insurance	674		733				150		100	
2680 - Contract Printing	921		1,506							
3115 - DP Supplies	151		43							
3117 - Educational	203									
3120 - Books & Subscriptions	199						50		50	
3121 - Office Supplies	51		35				1,750		1,750	
3123 - Postage	670		1,742							
3128 - Non-Capitalized Equipment			69							
3140 - Non-Capitalize dIT - PCs	2,261		2,343				820		820	
4140 - Dues & Memberships	1,086		820				2,280		2,384	
4220 - Registration Fees			2,280							
6224 - Other Furn & Fixtures- Direct Purchase			2,000							
<b>Operating Expense Subtotal:</b>	52,251		42,816				32,253		31,609	
<b>ROLLFORWARD</b>										
General Fund			4,085				-		-	
<b>Potted Operating Expenses</b>										
Workers' Compensation							1,179			
Leased Vehicle Expense							-		-	
Capital Complex Lease Space							17,107			
Lease Space							-		-	

**SCHEDULE 3 - PROGRAM DETAIL**

**FEDERAL & INTERSTATE WATER UNIT**

Department of Law Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>(I.F) DIFFERENCE= II-I.E</b>									(427)	
<b>(I.G.) REQUEST YEAR DECISION ITEMS</b>										
General Fund										
Cash Funds										
Cash Funds Exempt										
<b>II. PERSONAL SERVICE REQUEST (AGGREGATE ADJUSTMENTS TO THE BASE APPROPRIATION)</b>										
Previous Year Long Bill									450,390	
Salary Survey-Classified									2,290	
PBP - Classified									1,665	
Salary Survey Exempt									15,709	
PBP - Exempt									3,465	
OSPB .2% Base Reduction									(947)	
Subtotal -									472,572	
<b>III. PERSONAL SERVICES REQUEST TOTAL</b>										5.5
General Fund	394,600	4.6	430,675	4.9			504,058	5.5	472,999	
Cash Funds	394,600		430,675				504,058		472,999	
Cash Funds Exempt										

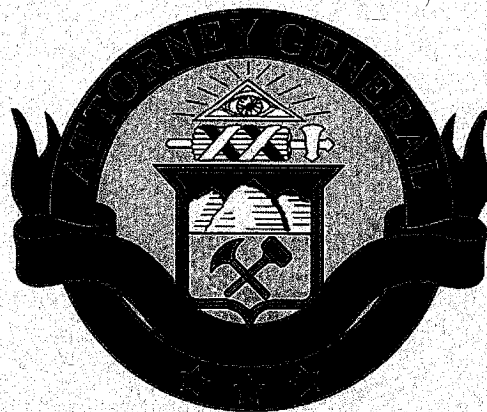
**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law Item	Fund Number	FEDERAL & INTERSTATE WATER UNIT				
		Actual FY 2006	Actual FY 2007	Approp FY 2008	Estimate FY 2008	Request FY 2009
<b>Schedule 3 Total</b>		446,851	477,576	482,426	561,322	504,608
General Funds		446,851	477,576	482,426	561,322	504,608
General Funds Exempt		-	-	-	-	-
Cash Funds		-	-	-	-	-
Cash Funds Exempt		-	-	-	-	-
<b>Cash Funds</b>		-	-	-	-	-
<b>Cash Funds Exempt</b>		-	-	-	-	-

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
IT Asset Maintenance	-		-				6,725			
ADP Capital Outlay							25,011			
<b>Total</b>							25,011			
General Fund	446,851	4.6	477,576	4.9	482,426	5.5	561,322	5.5	504,608	5.5
<b>TOTAL FED &amp; INTERSTATE WATER UNIT</b>	<b>446,851</b>	<b>4.6</b>	<b>477,576</b>	<b>4.9</b>	<b>482,426</b>	<b>5.5</b>	<b>561,322</b>	<b>5.5</b>	<b>504,608</b>	<b>5.5</b>
General Fund	446,851		477,576		482,426		561,322		504,608	
<b>RECONCILIATION OF FUNDS</b>										
Long Bill Appropriation	407,296	5.0	422,445	5.0			482,426	5.5		
Salary POTS	15,956		28,774				24,411			
Health/Life/Dental	11,434		17,662				23,438			
Short Term Disability	483		428				484			
AED	485		2,803				4,731			
SAED							821			
Worker's Compensation	674		819				1,179			
Capital Complex Lease Space	14,350		14,896				17,107			
Lease Space										
IT Asset Maintenance							6,725			
ADP Capital Outlay Allocation	4,573		6,030				-			
Rollforward from Previous FY	(6,030)									
Rollforward to Subsequent FY	(2,370)		(16,281)							
Overexpenditures (Reversions) General Fund										
Lapsed Appropriation Cash Fund	446,851	5.0	477,576	5.0			561,322	5.5		
<b>TOTAL RECONCILIATION</b>										
<b>GRAND TOTAL</b>	<b>446,851</b>	<b>4.6</b>	<b>477,576</b>	<b>4.9</b>	<b>482,426</b>	<b>5.5</b>	<b>561,322</b>	<b>5.5</b>	<b>504,608</b>	<b>5.5</b>
General Fund	446,851		477,576		482,426		561,322		504,608	
General Fund Exempt										
Cash Funds										
Cash Funds Exempt										
Federal Funds										

# Defense of the Colorado River Basin Compact



## PROGRAM NARRATIVE

**Program Title:** Natural Resources – Colorado River

**Long Bill Line Item:** Defense of Colorado River Compact

**Change Requests:** N/A

**Federal and State Statutory Authority:**

§§ 37-60-113, 114; 37-80-116; 37-81-102, C.R.S.

**Program Description:**

This program provides legal counsel and representation to the Colorado Water Conservation Board, the State Engineer, the Department of Natural Resources, and the people of the State of Colorado for purposes of preparing the State of Colorado for, and representing the State of Colorado in, existing and potential litigation over issues pertaining to the Colorado River and the Colorado River Compact.

### Prioritized Objectives & Performance Measures

Natural Resources Colorado River		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
<b>Objectives 1.1</b>	Monitor recently-filed notice of intent to file lawsuit challenging proposed flow releases from Glen Canyon Dam, and participate if it becomes necessary to protect Colorado's rights under the Colorado and Upper Colorado Compacts.					
<b>Measure 1.1.1.</b> Achieve Objective	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Objectives 1.2</b>	Monitor operation of the Colorado River and its storage and other water projects under the Colorado River and Upper Colorado River Compacts, and participate as necessary in interstate negotiations, agreements, and litigation, including advising the Department of Natural Resources.					
<b>Measure 1.2.1</b> Monitor implementation of interim surplus criteria for lower Colorado River basin including California's compliance with its 4.4 Plan.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 1.2.2.</b> Monitor	<b>Target</b>	Yes	Yes	Yes		

test flow proposals for Glen Canyon Dam, and take actions as necessary to protect Colorado's rights under the Colorado and Upper Colorado River Compacts.	<b>Actual</b>	Yes	Yes			
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<b>Measure 1.2.3.</b> Monitor the effects of drought on Colorado River water supplies, and assist DNR in evaluating Colorado's options to respond to Colorado River shortages.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 1.2.4.</b> Monitor the effects of disputes within California on the California 4.4 Plan.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 1.2.5.</b> Continue participating in talks with the Department of Interior to finalize the EIS and ROD on implementing Lower Basin shortages and coordinating Colorado River reservoir operations under low reservoir conditions.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			

<b>Measure 1.2.1</b> Monitor implementation of interim surplus criteria for lower Colorado River basin including California's compliance with its 4.4 Plan.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 1.3.1.</b> Achieve objective.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Objectives 1.4</b>	Monitor settlement provisions of lawsuit challenging operation of Glen Canyon Dam and participate if it becomes necessary to protect Colorado's rights under the Colorado and Upper Colorado Compacts.					
<b>Measure 1.4.1.</b> Achieve objective.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Objectives 1.5</b>	Continue creation of Colorado River Litigation Database.					
<b>Measure 1.5.1.</b> Monitor contract with Vendor for Preparation, Modification of Database Software	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 1.5.2.</b> Monitor contract with Vendor for scanning, OCR processing, initial objective coding of documents.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 1.5.3.</b> Continue scanning and OCR processing, of documents.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 1.5.4.</b> Continue objective and subject coding of documents.	<b>Target</b>	Yes	Yes	Yes		



	<b>Actual</b>	Yes	Yes			
	<b>Actual</b>					
<b>Objectives 1.6</b>	Research issues pertaining to possible future Colorado River Litigation, in-state curtailment of water rights.					
<b>Measure 1.6.1.</b> Research issues pertaining to potential Colorado River litigation.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Measure 1.6.2.</b> Research issues pertaining to possible in-state curtailment of water rights.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			
<b>Objectives 1.7</b>	Assist as requested with representation, research and document preparation relevant to Seven Basin States Colorado River negotiations.					
<b>Measure 1.7.2.</b> Achieve objective.	<b>Target</b>	Yes	Yes	Yes		
	<b>Actual</b>	Yes	Yes			

### Objectives 1.8

Assist as requested with educating legislators, stakeholders, and other interested parties on the practical and legal developments of managing the Colorado River.

Measure 1.8.1 Assist DNR in providing seminars, forums, panel discussions and public meetings as needed to educate the public on issues related to management and operation of the Colorado River and interpretation of the laws that govern the Colorado River.

### Trends and Other Baseline Information:

The Defense of the Colorado River Compact Subunit is a newly-created unit established within the Office of the Attorney General for the specific purpose of preparing the State of Colorado for, and representing the State of Colorado in, existing and potential litigation over issues pertaining to the Colorado River and the Colorado River Compact. The Subunit's major tasks included researching issues relevant to potential litigation, preparing a litigation database of the voluminous documents that could prove relevant to such litigation, and assisting the State Engineer in preparing rules for any in-state curtailment of water rights resulting from a Colorado River Compact call. The Subunit's research and database preparation duties will also contribute to the State of Colorado's ongoing negotiations with the

other Colorado River basin states that are signatories to the Colorado River Compact.

Since the establishment of the Subunit, there has been increased activity with respect to Colorado River and Colorado River Compact related issues. In February 2006, the seven Colorado River basin states succeeded in negotiating a tentative agreement that may address some of the issues relevant to the management of the Colorado River. However, the agreement remains very tenuous, and recently has been jeopardized by positions taken by several of the lower basin states. As a result, the State of Colorado remains concerned that the issues intended to be resolved through the Seven Basin States Agreement will be resolved only through litigation. In addition, continued low flows in the Colorado River have again raised the spectre of shortage, increasing the possibility of litigation. Other issues, such as the lining of the All-American canal and proper operation of Glen Canyon Dam, remain contentious. The possibility of litigation over Colorado River environmental issues remains high. Finally, the low Colorado River flows have increased concerns of a possible Colorado River Compact Call.

In summary, the Colorado River situation remains very volatile, and the State's need to prepare itself for possible litigation over the Colorado River has if anything increased. The Subunit may wish to move more rapidly with respect to research certain issues, and with respect to preparing a litigation database. Thus, it is anticipated the demands on the Defense of the Colorado River Subunit will continue over the forthcoming Fiscal Year.

**Similar or Cooperating Programs:** N/A

**Assumptions and Calculations:**

***For Single Program Line items*** – the fiscal year 2009 (FY09) Personal Services and Operating Budget Request are calculated per Joint Budget Committee (JBC) policy.

1. Determine the FY08 base appropriation for personal services and operating by calculating the following:
  - From the program Schedule 3, identify the total personal services expenditures and operating expenditures in FY07. Then from the Personal Services total, subtract the following centrally allocated appropriations: Salary Survey, Performance Based Pay, Health Life Dental, Short Term Disability, AED and SAED. From the operating total subtract these centrally allocated appropriations: Worker's Compensation, Lease Space, Vehicle Lease payments, Communication service payments, Capital outlay and IT Asset Maintenance.

- Add the above remaining two figures - Personal Services and Operating (after the centrally appropriated appropriations have been removed) to determine the amount spent in each category from the program line item appropriation.
- Calculate the percentage of the total that is personal service and the percentage that is operating. Take the percentage that is personal services and multiply it by the FY08 line item appropriation. This number will be the FY08 base figure for Personal service. The remainder is the FY08 operating base.

2. To compute the FY09 Personal Services Budget Request:

- Take the calculated FY08 personal services base figure from above and add in the program's FY08 salary survey allocation for both classified and non-classified employees.
- Then add in 80% of the programs performance-based pay allocation for both classified & non-classified employees.
- Finally take a 0.2% reduction to the above total and this will be the FY09 personal services request. However, on lines less than 5 FTE the Department did not take the .2 % reduction.

3. The FY09 operating request is the same amount as the calculated FY08 operating number. The Department allocates certain centrally appropriated expenditures (Capital Complex Lease Space, IT Asset Maintenance, Worker's Compensation and Vehicle Lease Payments) to the various line items where they are expended. The actual column expenditures (FY06 and FY07) in the Schedule 3 include these allocated appropriations. The Estimate column includes the projected allocation in the current fiscal year.

For the Defense of the Colorado River Compact Line item appropriation the calculated Personal Services base number for FY08 is \$709,179 which is 93.5% of the total FY08 Appropriation of \$758,880. The Operation base figure for FY08 is \$49,701 which is 6.5% of the appropriated total.

## ASSUMPTIONS AND CALCULATIONS

### Natural Resources & Water Rights/ Colorado River Litigation

Long Bill Line Item	Total	FTE	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds
<b>Personal Services</b>						
Previous Year Long Bill (SB07-239)	\$709,179	4.0			\$709,179	
FY2007-08 Salary Survey - Classified	\$2,317		\$2,317			
FY2007-08 Salary Survey - Exempt	\$8,661		\$8,661			
FY2007-08 Performance-based Pay - Classified	\$556		\$556			
FY2007-08 Performance-based Pay - Exempt	\$1,739		\$1,739			
Subtotal PS -	\$722,452	4.0	\$13,273		\$709,179	
OSP base adjustment (0.2%)	\$0					
<b>Personal Services Appropriation Request</b>	<b>\$722,452</b>	<b>4.0</b>	<b>\$13,273</b>		<b>\$709,179</b>	
<b>Operating Expenses</b>						
Previous Year Long Bill (SB07-239)	\$49,701				\$49,701	
<b>Operating Expenses Appropriation Request</b>	<b>\$49,701</b>		<b>\$0</b>		<b>\$49,701</b>	
<b>Refiance Cost</b>			(\$13,273)		\$13,273	
<b>GRAND TOTAL - Colorado River Litigation</b>	<b>\$772,153</b>	<b>4.0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$772,153</b>	

**SCHEDULE 2 - PROGRAM SUMMARY**

**DEFENSE OF THE COLORADO RIVER COMPACT**

Department of Law Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>COLLECTION AGENCY BOARD</b>	50,437	0.5	359,106	3.9	758,880	4.0	801,655	4.0	772,153	4.0
General Fund	-		-		-		-		-	
General Fund Exempt	-		-		-		-		-	
Cash Funds	-		-		-		-		-	
Cash Funds Exempt	50,437		359,106		758,880		801,655		772,153	

**SCHEDULE 3 - PROGRAM DETAIL**

**DEFENSE OF THE COLORADO RIVER COMPACT**

Department of Law

Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>I. POSITION DETAIL</b>										
Assistant Attorney General II	19,306	0.3	81,923	1.0	90,780	1.0	90,780	1.0	90,780	1.0
Assistant Attorney General I	11,223	0.2	123,277	1.9	134,004	2.0	134,004	2.0	134,004	2.0
Administrative Assistant I	2,665	0.1	60,204	1.0	62,904	1.0	62,904	1.0	62,904	1.0
Legal Assistant II	33,194	0.5	265,404	3.9	287,688	4.0	287,688	4.0	287,688	4.0
<b>TOTAL POSITION DETAIL</b>										
<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>										
(Permanent FTE by Position Continuation Salary Subtotal	33,194	0.5	265,404	3.9	287,688	4.0	287,688	4.0	287,688	4.0
<b>(I.B.) OTHER PERSONAL SERVICES</b>										
PERA on Continuation Subtotal	3,324		26,671		29,200		29,200		29,200	
Medicare on Continuation Subtotal	437		2,955		4,171		4,171		4,171	
Non-Base Building Performance Awards					574		574			
Part-Time/Temporary Salaries										
Contractual Services			30,211		401,392		401,392		401,392	
Leave										
Overtime										
Vacancy Savings										
Other										
<b>SUBTOTAL</b>										
	3,761		59,837		435,338		434,764		434,764	
<b>(I.C.) PERSONAL SERVICES SUBTOTAL=A+B</b>										
	36,954	0.5	325,241	3.9	723,026	4.0	722,452	4.0	722,452	4.0
<b>(I.D.) POTS EXPENDITURES</b>										
Health/Life Dental			7,216		11,275		[10,978]			
Salary Survey	748						[2,295]			
Performance Awards			300		350					
Short Term Disability	38		1,980		3,412					
AED	164				592					
SAED										
Other			850							

[ ] Indicates a Non-add

**SCHEDULE 3 - PROGRAM DETAIL**

**DEFENSE OF THE COLORADO RIVER COMPACT**

Department of Law Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>(I.E.) BASE PERSONAL SERVICES TOTAL=</b> C+D	37,904	0.5	335,587	3.9			738,655	4.0	722,452	4.0
<b>(I.F.) DIFFERENCE= III-I.E</b>									0	
<b>(I.G.) REQUEST YEAR DECISION ITEMS</b>										
General Fund										
Cash Funds										
Cash Funds Exempt										
<b>II. PERSONAL SERVICES REQUEST</b> <b>(AGGREGATE ADJUSTMENTS TO THE BASE</b> <b>APPROPRIATION)</b>										
Previous Year Long Bill									709,179	
Salary Survey-Classified									2,317	
PBP - Classified									556	
Salary Survey Exempt									8,661	
PBP - Exempt									1,739	
OSPB .2% Base Reduction										
<b>SPECIAL BILLS:</b>										
Subtotal -							1,173,993		722,452	
<b>II. PERSONAL SERVICES REQUEST</b> <b>TOTAL</b>	37,904	0.5	335,587	3.9			738,655	4.0	722,452	4.0
General Fund										
Cash Funds										
Cash Funds Exempt	37,904		335,587				738,655		722,452	

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSES</b>										
1930 - Litigation			466		14,188		14,188		14,188	
2512 - IS Personal Travel Per Diem			272		272		272		272	
2530 - Out of State Travel	105		551		551		551		551	
2531 - OS Common Carrier Fares	731		2,791		3,500		3,500		3,500	
2532 - OS Personal Travel Per Diem	703		2,244		3,000		3,000		3,000	
2630 - Telephone			559		700		700		700	
2631 - Comm Svcs from Outside Sources			13,129		15,000		15,000		15,000	
2641 - Other ADP Billings - Purchase Service	19		2		100		100		100	
2680 - Contract Printing			23		50		50		50	
3115 - DP Supplies			597		650		650		650	
3116 - Purchase/Leased Software	3		284		300		300		300	
3121 - Office Supplies	5,737		21		5,800		5,800		5,800	
3123 - Postage			69		90		90		90	
3128 - Noncapitalized Equipment	3,851		1,333		4,000		4,000		4,000	
3140 - Noncapitalized IT - PCs	1,384		1,177		1,500		1,500		1,500	
3143 - Non-Capitalized IT Other										
<b>Operating Expense Subtotal:</b>	12,533		23,519		49,701		49,701		49,701	
<b>OPERATING EXPENSE TOTAL:</b>	<b>12,533</b>		<b>23,519</b>		<b>49,701</b>		<b>49,701</b>		<b>49,701</b>	
General Fund										
Cash Funds										
Cash Funds Exempt	12,533		23,519		49,701		49,701		49,701	
<b>Allocated Operating POTS</b>										
Workers' Compensation	-				857		857			
Leased Vehicle Expense										
Capital Complex Lease Space					12,442		12,442			
IT Asset Maintenance					-		-			
Communication Service Payments					-		-			
ADP Capital Outlay										
<b>Total</b>					<b>13,299</b>		<b>13,299</b>			
Cash Funds					13,299		13,299			
Cash Funds Exempt					-		-			
<b>TOTAL COLORADO RIVER LITIGATION</b>	<b>50,437</b>	<b>0.5</b>	<b>359,106</b>	<b>3.9</b>	<b>801,655</b>	<b>4.0</b>	<b>758,880</b>	<b>4.0</b>	<b>772,153</b>	<b>4.0</b>



**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

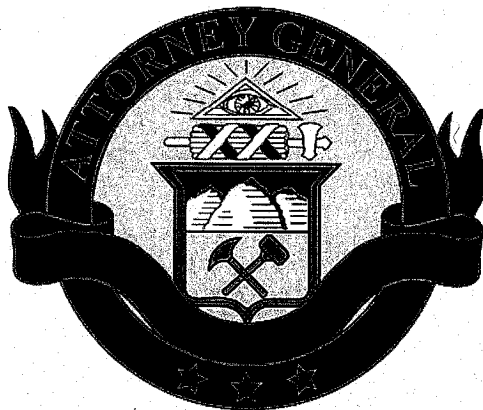
Department of Law Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
General Fund										
General Fund Exempt										
Cash Funds										
Cash Funds Exempt	50,437		359,106		758,880		801,655		772,153	
Federal Funds										
<b>RECONCILIATION OF FUNDS</b>										
Long Bill Appropriation				4.0			758,880			4.0
Special Bills		0.5								
Supplemental HB06-1222	152,262									
Salary POTS							13,847			
Health/Life/Dental							11,275			
Short Term Disability							350			
AED							3,412			
SAED							592			
Worker's Compensation							857			
Capital Complex Lease Space							12,442			
Vehicle Lease Allocation							-			
IT Asset Maintenance							-			
Office Suite Upgrade							-			
Storage Lease Space							-			
ADP Capital Outlay Allocation	40,130									
Communication Service Payments										
ALJ Allocation										
Rollforward to Subsequent FY										
Overexpenditure/(Reversion)										
Lapsed Appropriation Cash Fund			(399,774)							
Lapsed Appropriation Cash Fund Exempt		0.5	359,106	4.0			801,655			4.0
<b>TOTAL RECONCILIATION</b>	(141,955)									
	50,437									
<b>GRAND TOTAL</b>	50,437	0.5	359,106	3.9	758,880	4.0	801,655	4.0	772,153	4.0
General Fund	-		-		-		-		-	
Cash Funds	-		-		-		-		-	
Cash Funds Exempt	50,437		359,106		758,880		801,655		772,153	

**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

**DEFENSE OF THE COLORADO RIVER COMPACT**

Department of Law Item	Fund Number	Actual	Actual	Approp	Estimate	Request
		FY 2006	FY 2007	FY 2008	FY 2008	FY 2009
<b>Schedule 3 Total</b>		50,437	359,106	758,880	801,655	772,153
General Funds		-	-	-	-	-
General Funds Exempt		-	-	-	-	-
Cash Funds		-	-	-	-	-
Cash Funds Exempt		50,437	359,106	758,880	801,655	772,153
<b>Cash Funds</b>		-	-	-	-	-
<b>Cash Funds Exempt</b>		50,437	359,106	758,880	801,655	772,153
Water Conservation Board Litigation Fund		-	-	-	-	-
		50,437	359,106	758,880	801,655	772,153

# Consultant Expense



**ASSUMPTIONS AND CALCULATIONS**

*Natural Resources & Water Rights/ Consultant Expenses*

Long Bill Line Item	Total	FTE	General		Cash Funds		Federal Funds
			Fund	Exempt	Fund	Exempt	
<b>Personal Services</b>							
Previous Year Long Bill (SB07-239)	\$50,000		\$0			\$50,000	
<b>Personal Services Appropriation Request</b>	\$50,000	0.0	\$0			50,000	
<b>Operating Expenses</b>							
Previous Year Long Bill (SB07-239)	-						
<b>Operating Expenses Appropriation Request</b>	-						
<b>GRAND TOTAL - Consultant Expenses</b>	\$50,000	0.0	\$0			50,000	

CFX - Attorney Fee and Cost Fund

**SCHEDULE 2 - PROGRAM SUMMARY**

Department of Law Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>Consultant Expense</b>	13,313	-	-	-	50,000	-	50,000	-	50,000	-
General Fund	-	-	-	-	-	-	-	-	-	-
General Fund Exempt	13,313	-	-	-	-	-	-	-	-	-
Cash Funds Exempt	-	-	-	-	50,000	-	50,000	-	50,000	-

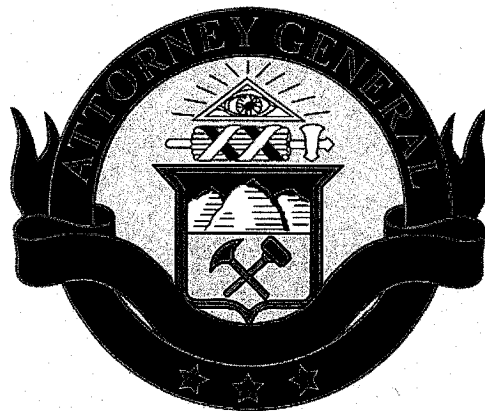
**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>Consultant Expense</b>	13,313	-	-	-	50,000	-	50,000	-	50,000	-
General Fund	13,313	-	-	-	-	-	-	-	-	-
General Fund Exempt	13,313	-	-	-	-	-	-	-	-	-
Cash Funds Exempt	-	-	-	-	50,000	-	50,000	-	50,000	-
<b>CONSULTANT EXPENSE</b>	13,313	-	-	-	50,000	-	50,000	-	50,000	-
General Fund	13,313	-	-	-	-	-	-	-	-	-
General Fund Exempt	13,313	-	-	-	-	-	-	-	-	-
Cash Funds Exempt	-	-	-	-	50,000	-	50,000	-	50,000	-
<b>RECONCILIATION OF FUNDS</b>										
Long Bill Appropriation							50,000			
Supplemental (HB04-1325)							-			
Rollforward from Previous FY	17,887						-			
Rollforward to Subsequent FY	(4,574)						-			
Reversion										
<b>TOTAL RECONCILIATION</b>	13,313						50,000			

**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law Item	CONSULTANT EXPENSE				
	Actual FY 06 Total Funds	Actual FY 07 Total Funds	Approp FY 08 Total Funds	Estimate FY 08 Total Funds	Request FY 09 Total Funds
<b>SCHEDULE 3 TOTAL</b>	13,313	-	50,000	50,000	50,000
General Fund	-	-	-	-	-
General Fund Exempt	13,313	-	50,000	50,000	50,000
Cash Funds Exempt	-	-	-	-	-
<b>Cash Funds Exempt</b> Attorneys Fees and Cost Fund (DO	13,313	-	50,000	50,000	50,000

# **CERCLA & Contracts Unit**



## PROGRAM NARRATIVE

**Program Title:** CERCLA Litigation Unit (and Contracts Line)

**Long Bill Line Item:** Water & Natural Resources – CERCLA & CERCLA Contracts

**Change Requests:** No.

### **Federal and State Statutory Authority:**

The Attorney General powers and duties, Sec. 24-31-101(1)(a) C.R.S., as implemented by Executive Order Nos. D-0038-83, D-0012-86, D-0060-86, D-0084-86, D-0004-96 and D-0007-97; the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42 U.S.C. §§. 9601 to 9675; the Colorado Hazardous Waste Act (CHWA) §§ 25-15-301 to 327; State Hazardous Waste Sites, §§ 25-16-101 to 201; other state and federal public health and environmental statutes.

### **Program Description:**

The CERCLA Litigation Unit has two primary objectives. First, the Unit protects public health and the environment by assisting in the environmental cleanup of sites contaminated with hazardous substances. We provide legal advice to the Colorado Department of Public Health and Environment (CDPHE) regarding the adequacy of proposed cleanup measures, and assist in negotiating or litigating appropriate cleanups. In cases where there are financially viable entities that are responsible for contamination, the Unit also negotiates or litigates to recover costs that the state has incurred in responding to releases of hazardous substances.

The Unit's second objective is to make the public whole by recovering damages for injuries to the state's natural resources, where such injuries were caused by the release of "hazardous substances," as defined under CERCLA. In fulfilling this objective, the Unit acts on behalf of the State's Natural Resource Trustees – the Executive Director of the Department of Public Health and Environment, the Executive Director of the Department of Natural Resources, and the Attorney General. Once damages have been recovered, the Unit works with staff from the other two trustees to oversee their appropriate distribution to restore, replace, or acquire the equivalent of the injured resources. In providing this NRDs assistance, the Unit represents the Attorney General on working groups of citizens from affected communities, and provides counsel to the three State Natural Resources Trustees.



**The ten (10) CERCLA sites this Unit has authority to pursue are:**

<u>CERCLA Site/Location</u>	<u>Responsible Parties</u>
1 <b>Rocky Mountain Arsenal</b> (Adams County)	United States Army and Shell Oil Company
2 <b>Summitville Mine</b> (Rio Grande County)	Robert Friedland, Industrial Constructors Corp., Aztec Minerals Company, Gray Eagle Mining Co., South Mountain Minerals, Union Pacific Resources Company, Cleveland Cliffs Iron Company, Sunoco, Inc., Bechtel Corporation, ARCO, Asarco, Inc.
3 <b>California Gulch</b> (Lake County)	Asarco, Inc., Resurrection Mining Company, Res Asarco Joint Venture and Newmont Mining Corp.
4 <b>Globe Plant</b> (Adams and Denver Counties)	Asarco, Inc.
5. <b>Idarado Mine</b> (San Miguel County)	Idarado Mining Co., Newmont Services, Ltd., and Newmont Mining Corp.
6. <b>Eagle Mine</b> (Eagle County)	Viacom International (successor to Gulf + Western Industries, Inc.)
7. <b>Cotter Mill</b> (Fremont County)	Cotter Corporation
8. <b>Uravan Mill</b> (Montrose County)	Union Carbide and Umetco Corporation
9. <b>Table Mountain Research Center</b> (Jefferson County)	Colorado School of Mines Research Institute and all past sponsors of projects
10. <b>Vasquez Boulevard/ I-70</b> (Denver County)	Asarco, Inc., City and County of Denver

Remedial activities have been completed at most of the sites in the above table. The main exceptions are the Rocky Mountain Arsenal, California Gulch, and the Vasquez Blvd./I-70 site. Generally, even where cleanup has been completed, some residual contamination remains. Under CERCLA, the state is primarily responsible for long-term monitoring and oversight of such facilities, and the unit assists CDPHE in executing these responsibilities. Remediated sites can also be "re-opened," which necessitates substantial additional legal work. An example of this is the Eagle Mine site, discussed in more detail below.

## Prioritized Objectives & Performance Measures

CERCLA Litigation Unit (and Contracts Line	Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
<b>Objectives 1.1</b>	To ensure adequate cleanup and to obtain cost recoveries at the Rocky Mountain Arsenal and California Gulch sites				
Measure 1.1.1. Amount of expended state funds on these two CERCLA sites.	<b>Target</b>	\$1.1 M	\$1.1 M	\$1.1 M	\$1.1 M
	<b>Actual</b>	\$1.1 M	\$1.5 M		
Measure 1.1.2. Amount of State funds recovered on each of these two CERCLA sites.	<b>Target</b>	1.5 M	1.0 M	\$1.0 M	\$1.0 M
	<b>Actual</b>	\$529,000	\$511,000		

### Trends and Other Baseline Information:

Since its inception in FY 1984-85, the CERCLA Litigation Unit has recovered over \$63.3 million dollars, of which \$27.8 million has been returned to the General Fund, \$10.5 million has been deposited in the Hazardous Substance Response Fund for future oversight, and \$10.8 million has been placed in the Natural Resources Damage Recovery Fund. In addition, \$11.7 million has been deposited in custodial funds accounts to pay for the ongoing clean up of the Summitville Mine, and \$2.5 million for natural resource damages at the same Site.

One item in the above table deserves mention – the difference between the projected and actual cost recovery totals for FY 08 (\$1 million projected vs. \$511,000 recovered). Several years ago, we won a cost recovery suit against the Army and Shell at the Arsenal. Since then, we have worked out a process with them for recovering our continuing costs, and there have been only minimal disputes over our ongoing expenditures. While that was also the case this past year, the Army's share of the payment (they split the total evenly) is overdue. We expect to receive it shortly.

As noted above, remedial activities at most of the CERCLA sites listed above have been completed, so the unit's workload has decreased over time. Commensurate FTE reductions have taken place as caseload related to site cleanup and cost recovery issues has diminished; CERCLA Unit staff level has been reduced from 26 FTE in FY 1984-85 to 9.3 FTE for FY 2002-03, and further reduced in FY 2003-04 to 4.8 FTE. Legal work related to cleanup of the Arsenal and California Gulch (the two largest remaining sites) is expected to remain reasonably steady over the next 2-3 years, if not longer. One site where cleanup was completed years ago is being proposed for re-development – the Eagle Mine, near Minturn. Consequently, additional cleanup will be required, and the unit has significantly increased its efforts at this site to assist CDPHE in resolving the many legal issues related to the proposed redevelopment.

While cleanup work has diminished over time, there is a countervailing trend toward significantly increased work related to natural resource damages. Cleanup has progressed sufficiently at two very large sites with remaining remedial work, the Rocky Mountain Arsenal and California Gulch, to allow the state to begin estimating the extent of its natural resource damages claims at those sites. Consequently, we have begun this process, and have initiated settlement discussion with the responsible parties at the two sites. This increased effort to recover damages for injuries to the state's natural resources will result in an increased workload for each site for the foreseeable future. At the California Gulch Site, we have reached an Agreement in Principle with the primary defendants precipitated by the bankruptcy of Asarco. The settlement includes cleanup, past response costs and natural resource damages. Terms for reimbursement of future oversight costs still need to be resolved. The bankruptcy court approved the Agreement in Principle but it is subject to appeal. See Program Narrative for Natural Resource Damage Claims at Rocky Mountain Arsenal for information about that site.

At the sites where we still have funds remaining from prior NRD recovery efforts (Eagle Mine and Summitville), we are working with staff from the other trustees, local governments, and interested citizens to determine the best restoration projects, and to award the remaining funds accordingly. These efforts represent a small part of the Unit's overall workload.

Legal work related to remaining cleanup activities, and to the distribution of past NRD recoveries, is expected to remain steady through FY 2009.

### **Similar or Cooperating Programs:**

At the federal level, the United States Environmental Protection Agency is the agency primarily responsible for implementing the cleanup side of the CERCLA program. The United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration play major roles in implementing the natural resource damages provisions of CERCLA.

### **Assumptions and Calculations:**

***For Single Program Line items*** – the fiscal year 2009 (FY09) Personal Services and Operating Budget Request are calculated per Joint Budget Committee (JBC) policy.

1. Determine the FY08 base appropriation for personal services and operating by calculating the following:
  - From the program Schedule 3, identify the total personal services expenditures and operating expenditures in FY07. Then from the Personal Services total, subtract the following centrally allocated appropriations: Salary Survey, Performance Based Pay, Health Life Dental, Short Term Disability, AED and SAED. From the operating total subtract these centrally allocated

appropriations: Worker's Compensation, Lease Space, Vehicle Lease payments, Communication service payments, Capital outlay and IT Asset Maintenance.

- Add the above remaining two figures - Personal Services and Operating (after the centrally appropriated appropriations have been removed) to determine the amount spent in each category from the program line item appropriation.
- Calculate the percentage of the total that is personal service and the percentage that is operating. Take the percentage that is personal services and multiply it by the FY08 line item appropriation. This number will be the FY08 base figure for Personal service. The remainder is the FY08 operating base.

2. To compute the FY09 Personal Services Budget Request:

- Take the calculated FY08 personal services base figure from above and add in the program's FY08 salary survey allocation for both classified and non-classified employees.
- Then add in 80% of the programs performance-based pay allocation for both classified & non-classified employees.
- Finally take a 0.2% reduction to the above total and this will be the FY09 personal services request. However, on lines less than 5 FTE the Department did not take the .2 % reduction.

3. The FY09 operating request is the same amount as the calculated FY08 operating number. The Department allocates certain centrally appropriated expenditures (Capital Complex Lease Space, IT Asset Maintenance, Worker's Compensation and Vehicle Lease Payments) to the various line items where they are expended. The actual column expenditures (FY06 and FY07) in the Schedule 3 include these allocated appropriations. The Estimate column includes the projected allocation in the current fiscal year.

For the CERCLA Program line item appropriation the calculated Personal Services base number for FY08 is \$426,327 which is 94.3% of the total FY08 Appropriation of \$452,001. The Operation base figure for FY08 is \$25,674 which is 5.7% of the appropriated total.

## ASSUMPTIONS AND CALCULATIONS

### Natural Resources & Water Rights/ CERCLA

Long Bill Line Item	Total	FTE	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds
<b>Personal Services</b>						
Previous Year Long Bill (SB07-239)	\$426,634	4.8	\$402,111		\$24,523	
FY2007-08 Salary Survey - Classified	\$5,964		\$5,964			
FY2007-08 Salary Survey - Exempt	\$9,200		\$9,200			
FY2007-08 Performance-based Pay - Classified	\$3,131		\$3,131			
FY2007-08 Performance-based Pay - Exempt	\$1,725		\$1,725			
Subtotal PS -	\$446,654	4.8	\$422,131	-	\$24,523	-
OSP base adjustment (0.2%)	(\$893)		(\$844)		(\$49)	
<b>Personal Services Appropriation Request</b>	<b>\$445,761</b>	<b>4.8</b>	<b>\$421,287</b>	<b>-</b>	<b>\$24,474</b>	<b>-</b>
<b>Operating Expenses</b>						
Previous Year Long Bill (SB07-239)	\$25,693		\$24,216		\$1,477	
<b>Operating Expenses Appropriation Request</b>	<b>\$25,693</b>		<b>\$24,216</b>	<b>-</b>	<b>\$1,477</b>	<b>-</b>
<b>GRAND TOTAL - CERLA</b>	<b>\$471,454</b>	<b>4.8</b>	<b>\$445,503</b>	<b>-</b>	<b>\$25,951</b>	<b>-</b>

**SCHEDULE 2 - PROGRAM SUMMARY**

Department of Law Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>CERCLA</b>	441,354	4.8	498,507	4.8	452,001	4.8	513,626	4.8	471,454	4.8
General Fund	80,401		438,458		426,123		487,260		445,503	
General Fund Exempt	5,604		15,359		-		488		-	
Cash Funds	-		-		-		-		-	
Cash Funds Exempt	355,349		44,690		25,878		25,878		25,951	
Federal Funds	-		-		-		-		-	

**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>I. POSITION DETAIL</b>										
Assistant Attorney General II	85,272	1.0	80,511	1.0	92,280	1.0	92,280	1.0	92,280	1.0
Assistant Attorney General I	88,244	1.5	87,393	1.5	100,560	1.5	100,560	1.5	100,560	1.5
General Professional V	83,688	1.0	78,782	1.0	89,796	1.0	89,796	1.0	89,796	1.0
Legal Assistant II	77,329	1.3	72,802	1.3	82,976	1.3	82,976	1.3	82,976	1.3
<b>TOTAL POSITION DETAIL</b>										
<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>	<b>334,533</b>	<b>4.8</b>	<b>319,487</b>	<b>4.8</b>	<b>365,612</b>	<b>4.8</b>	<b>365,612</b>	<b>4.8</b>	<b>365,612</b>	<b>4.8</b>
(Permanent FTE by Position) Continuation Salary Subtotal										
<b>(I.B.) OTHER PERSONAL SERVICES</b>										
PERA on Continuation Subtotal	29,971		33,993		37,110		37,110		37,110	
Medicare on Continuation Subtotal	2,644		3,027		5,301		5,301		5,301	
Non-Base Building Performance Awards					1,214		1,214			
Part-Time/Temporary Salaries										
Contractual Services	14,641		66,271		36,160		36,160		37,739	
Leave	366									
Other										
<b>SUBTOTAL</b>	<b>47,623</b>		<b>103,291</b>		<b>79,785</b>		<b>80,150</b>		<b>80,150</b>	
<b>(I.C.) PERSONAL SERVICES SUBTOTAL=</b>										
<b>A+B</b>	<b>382,156</b>	<b>4.8</b>	<b>422,778</b>	<b>4.8</b>	<b>445,397</b>	<b>4.8</b>	<b>445,762</b>	<b>4.8</b>	<b>445,762</b>	<b>4.8</b>
<b>(I.D.) POTS EXPENDITURES</b>										
Health/Life Dental	12,284		16,308		18,798		18,798			
Salary Survey	[15,200]		[7,421]		[15,164]		[15,164]			
Performance Awards					[4,856]		[4,856]			
Short Term Disability	452		401		453		453			
AED	658		2,387		4,415		4,415			
SAED										
Other			386		766		766			

[ ] Indicates a Non-add

**SCHEDULE 3 - PROGRAM DETAIL**

**COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION & LIABILITY ACT**

Department of Law Item	Actual FY 06		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>(I.E.) BASE PERSONAL SERVICES TOTAL=</b> C+D	395,550	4.8	442,260	4.8	469,829	4.8	445,762	4.8
<b>(I.F.) DIFFERENCE- II- I.E.</b>							(0)	
<b>(I.G.) REQUEST YEAR DECISION ITEMS</b>								
General Fund								
Cash Funds								
Cash Funds Exempt								
<b>II. PERSONAL SERVICE REQUEST</b> <b>(AGGREGATE ADJUSTMENTS TO THE</b> <b>BASE APPROPRIATION)</b>								
Previous Year Long Bill							426,635	
Salary Survey-Classified							5,964	
PBP - Classified							3,131	
Salary Survey Exempt							9,200	
PBP - Exempt							1,725	
OSP .2% Base Reduction							(893)	
<b>SPECIAL BILLS:</b>								
Subtotal -							445,762	
<b>II. PERSONAL SERVICES REQUEST TOTAL</b>	395,550	4.8	442,260	4.8	469,829	4.8	445,762	4.8
General Fund	40,201		397,570		443,951		421,288	
General Funds Exempt								
Cash Funds								
Cash Funds Exempt	355,349		44,690		25,878		24,474	
Federal Funds								



## SCHEDULE 3 - OPERATING PROGRAM DETAIL

Department of Law	COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION & LIABILITY ACT													
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09		Total Funds		FTE	
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSES</b>														
1930 - Litigation	4,087		4,015		5,000		4,100		3,417		4,100		3,417	
2220 - Building Grounds Maintenance	2,694				3,000									
2255 - Rental of Buildings	14,711		15,034		700		700		100		700		100	
2512 - IS Personal Travel Per Diem	395		538		100		100		100		100		100	
2513 - IS Personal Vehicle Reimbursement	106		63		100		100		500		500		300	
2530 - Out of State Travel	20		8		2,200		2,200		550		550		2,200	
2531 - OS Common Carrier Fares	354		-		2,600		2,400							
2532 - OS Personal Travel Per Diem	245		25		600		600		2,700		2,700		2,100	
2630 - Telephone	2,089		2,126		2,300		2,100		1,200		1,200		1,000	
2631 - Comm Svcs from Outside Sources	509		968		700		700							
2641 - Other ADP Billings - Purchase Services	757		2,421											
2660 - Insurance	647		703											
2680 - Contract Printing	393		561											
3115 - DP Supplies	2,567		1,402											
3120 - Books & Subscriptions	1,958		2,100											
3121 - Office Supplies	488		968											
3123 - Postage	172		434											
3128 - Non-Capitalized Equipment	157		69											
3131 - Non-Capitalized Bldg Mat'l	5,000													
3132 - Non-Capitalized Furn/Office Syst	1,745		1,179											
3140 - Non-Capitalized IT PC's			4,687											
3143 - Non-Capitalized IT - Other			368											
4140 - Dues & Memberships	679		788		1,000		800		425		425		3,000	
4220 - Registration Fees	425		400		3,000		25,692							
6224 - Other Furn & Fixtures- Direct Purchase			3,000											
<b>Operating Expense Subtotal:</b>	40,200		40,888		27,350		27,350		27,350		27,350		24,215	
<b>OPERATING EXPENSE TOTAL:</b>														
General Fund	40,200		40,888											
Cash Funds	40,200		40,888											
Cash Funds Exempt														
<b>Potted Operating Expenses</b>														
Workers' Compensation														
Leased Vehicle Expense														
Capital Complex Lease Space														

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law Item	COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION & LIABILITY ACT								
	Actual FY 06 Total Funds	FTE	Actual FY 07 Total Funds	FTE	Approp FY 08 Total Funds	FTE	Estimate FY 08 Total Funds	Request FY 09 Total Funds	FTE
Lease Space									
IT Asset Maintenance									
ADP Capital Outlay									
<b>Total</b>	-						15,959		
General Fund							15,959		
Cash Funds Exempt							-		
<b>Rollforward</b>							488		
General Fund Exempt	5,604		15,359				488		
	5,604		15,359				488		
<b>TOTAL CERCLA</b>									
General Fund	441,354	4.8	498,507	4.8	452,001	4.8	513,626	471,454	4.8
General Fund Exempt	80,401		438,458		426,123		487,260	445,503	
Cash Funds	5,604		15,359				488		
Cash Funds Exempt	355,349		44,690		25,878		25,878	25,951	
Federal Funds									
<b>RECONCILIATION OF FUNDS</b>									
Long Bill Appropriation	424,916	4.8	439,286	4.8			452,001		4.8
Salary POTS	15,200		7,424				21,234		
Health/Life/Dental	10,690		17,840				18,798		
Short Term Disability	493		400				453		
AED	495		2,722				4,415		
SAED							766		
Worker's Compensation	621		786				1,029		
Capital Complex Lease Space	13,835		14,301				14,930		
Lease Space	877		877				-		
Vehicle Lease Allocation							-		
IT Asset Maintenance							-		
Building Wiring & Security Upgrades							-		
ADP Capital Outlay Allocation									
Rollforward from Previous FY	7,404		15,359						
Rollforward to Subsequent FY	(15,359)		(488)						
Overexpenditure/(Reversion)- General Fund	(17,816)								
Lapsed Appropriation Cash Fund Exempt									
Lapsed Appropriation Federal Funds									
<b>TOTAL RECONCILIATION</b>	441,355	4.8	498,506	4.8			513,626		4.8

### SCHEDULE 3 - OPERATING PROGRAM DETAIL

Department of Law Item	COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION & LIABILITY ACT											
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>GRAND TOTAL</b>	441,354	4.8	498,507	4.8	452,001	4.8	513,626	4.8	471,454	4.8	445,503	4.8
General Fund	80,401		438,458		426,123		487,260		-		-	
General Fund Exempt	5,604		15,359		-		488		-		-	
Cash Funds	-		-		-		-		-		-	
Cash Funds Exempt	355,349		44,690		25,878		25,878		25,951		25,951	
Federal Funds	-		-		-		-		-		-	

**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law Item	Fund Number	Actual		Approp		Estimate		Request	
		FY 2006	FY 2007	FY 2008	FY 2008	FY 2008	FY 2009		
<b>Schedule 3 Total</b>									
General Funds		441,354	498,507	452,001	513,626	471,454			
General Funds Exempt		80,401	438,458	426,123	487,260	445,503			
Cash Funds		5,604	15,359	-	488	-			
Cash Funds Exempt		-	-	-	-	-			
Federal Funds		355,349	44,690	25,878	25,878	25,951			
<b>Cash Funds Exempt</b>									
Hazardous Substance Response Fund		355,349	44,690	25,878	25,878	25,951			

## ASSUMPTIONS AND CALCULATIONS

### Natural Resources & Water Rights/ CERCLA Contract

Long Bill Line Item	Total	FTE	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds
<b>Personal Services</b>						
Previous Year Long Bill (SB07-239)	\$600,000		\$175,000	-	\$425,000	
<b>Personal Services Appropriation Request</b>	<b>\$600,000</b>	<b>0.0</b>	<b>\$175,000</b>	<b>-</b>	<b>\$425,000</b>	<b>-</b>
<b>Operating Expenses</b>						
Previous Year Long Bill (SB07-239)	\$0					
<b>Operating Expenses Appropriation Request</b>	<b>\$0</b>		<b>\$0</b>	<b>-</b>	<b>\$0</b>	<b>-</b>
<b>GRAND TOTAL - CERLA Contract</b>	<b>\$600,000</b>	<b>0.0</b>	<b>\$175,000</b>	<b>-</b>	<b>\$425,000</b>	<b>-</b>

CFX - DPHE (Hazardous Substance Response Fund)

**SCHEDULE 2 - PROGRAM SUMMARY**

Department of Law	COMPREHENSIVE ENVIRON RESPONSE COMPEN & LIAB ACT CONTRACTS											
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09		Request FY 09	
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>CERCLA CONTRACTS</b>	699,950	-	648,285	-	600,000	-	601,486	-	600,000	-	600,000	-
General Fund	-	-	173,513	-	175,000	-	175,000	-	175,000	-	175,000	-
General Fund Exempt	38,702	-	49,772	-	-	-	1,486	-	-	-	-	-
Cash Funds Exempt	661,249	-	425,000	-	425,000	-	425,000	-	425,000	-	425,000	-

**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law	COMPREHENSIVE ENVIRON RESPONSE COMPEN & LIAB ACT CONTRACTS											
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09		Request FY 09	
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>CERCLA CONTRACTS</b>	661,249	-	598,513	-	-	-	600,000	-	600,000	-	600,000	-
1920 - Purchased Services - Professional	-	-	49,772	-	-	-	1,486	-	-	-	-	-
Rollforward	38,702	-	49,772	-	-	-	1,486	-	-	-	-	-
General Fund Exempt	38,702	-	49,772	-	-	-	1,486	-	-	-	-	-
Cash Funds Exempt	-	-	-	-	-	-	-	-	-	-	-	-
<b>CERCLA CONTRACTS TOTAL</b>	699,950	-	648,285	-	600,000	-	601,486	-	600,000	-	600,000	-
General Fund	-	-	173,513	-	175,000	-	175,000	-	175,000	-	175,000	-
General Fund Exempt	38,702	-	49,772	-	-	-	1,486	-	-	-	-	-
Cash Funds Exempt	661,249	-	425,000	-	425,000	-	425,000	-	425,000	-	425,000	-
<b>RECONCILIATION OF FUNDS</b>												
Long Bill Appropriation	737,500	-	600,000	-	-	-	600,000	-	600,000	-	-	-
Rollforward from previous FY	38,700	-	49,772	-	-	-	1,486	-	1,486	-	-	-
Rollforward to Subsequent FY	(75,601)	-	(1,486)	-	-	-	-	-	-	-	-	-
Reversion	(650)	-	-	-	-	-	-	-	-	-	-	-
<b>TOTAL RECONCILIATION</b>	699,949	-	648,286	-	-	-	601,486	-	600,000	-	600,000	-

**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law	COMPREHENSIVE ENVIRON RESPONSE COMPEN & LIAB ACT CONTRACTS					
	Actual FY 06 Total Funds	Actual FY 07 Total Funds	Approp FY 08 Total Funds	Estimate FY 08 Total Funds	Request FY 09 Total Funds	
<b>SCHEDULE 3 TOTAL</b>						
General Fund	699,949	648,285	600,000	601,486	600,000	
General Fund Exempt	-	-	175,000	175,000	175,000	
Cash Funds Exempt	38,702	648,285	-	1,486	425,000	
	661,897		425,000	425,000		
<b>Cash Funds</b>						
<b>Cash Funds Exempt</b>						
Hazardous Substance Response Fund	661,897	648,285	425,000	425,000	425,000	

**SCHEDULE 2 - PROGRAM SUMMARY**

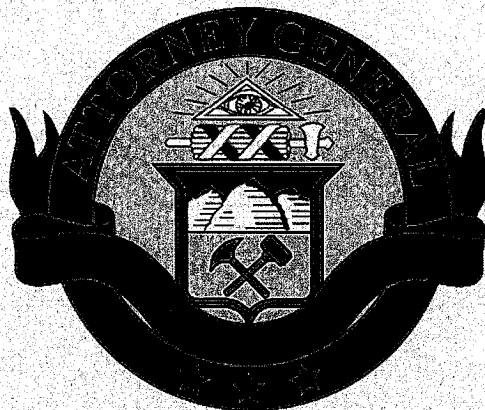
**DEFENSE OF THE COLORADO RIVER COMPACT**

**Department of Law**

Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>COLLECTION AGENCY BOARD</b>										
General Fund	50,437	0.5	359,106	3.9	758,880	4.0	801,655	4.0	772,153	4.0
General Fund Exempt	-		-		-		-		-	
Cash Funds	-		-		-		-		-	
Cash Funds Exempt	50,437		359,106		758,880		801,655		772,153	



# Natural Resource Damage Claims at Rocky Mtn Arsenal



## PROGRAM NARRATIVE

**Program Title:** Natural Resource Damage Claims at Rocky Mountain Arsenal

**Long Bill Line Item:** Natural Resource Damage Claims at Rocky Mountain Arsenal

**Change Requests:** No, just annualization of the 2008 change request.

### **Federal and State Statutory Authority:**

The Attorney General powers and duties, Sec. 24-31-101(1), C.R.S., as implemented by Executive Order Nos. D-0038-83, D-0012-86, D-0060-86, D-0084-86, D-0004-96 and D-0007-97; the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42 U.S.C. §§. 9601 to 9675.

### **Program Description:**

In the 2006 and 2007 legislative sessions, the legislature approved decision items to continue to fund activities supporting our Natural Resource Damage (NRD) claim at the Rocky Mountain Arsenal. The claim at the Arsenal is potentially quite large – from several tens of millions of dollars to hundreds of millions. The responsible parties, Shell and the Army, have thus far failed to offer a settlement acceptable to the state. To ensure the best bargaining position, and to prepare in the event the state is forced to litigate the claim, we request that funding be continued as set out in the original decision item. This decision item totaled \$742,312, and included 2.0 FTE positions. We anticipate that these positions will be needed through at least FY10. We have filled these positions, and have begun our formal Natural Resource Damage Assessment (pursuant to regulations adopted under CERCLA). The Assessment will form the bulk of our case at trial, and will also be used to support our position in any settlement negotiations.

In developing an estimate of FY 2009 expenditures, we have assumed that we would hire contract attorneys, rather than add additional state employees, because the increase in legal workload is only expected to last a year. Further, it is possible that defendants may attempt to delay the actual trial through various strategies. Hiring contract attorneys instead of state FTE's gives us more flexibility to adjust to such tactics, if they are pursued.

We are requesting annualization of our FY08 budget request to allow us to complete the assessment work and initiate litigation in FY09. The process of assessing natural resource damages relies heavily on a variety of scientific and economic experts, and is quite expensive. We expect that expenditures for the Assessment will peak in FY08 at about \$2.6 million, dropping to slightly over \$1.2 million in FY09. Nearly all of the increase in FY08 is for outside experts. In FY09, the Assessment will be complete, but we will need additional legal resources to conduct discovery and trial. We will also incur additional expert expenses revising the Assessment in response to defendants

critiques, preparing for and attending depositions and other discovery, expert reports, pretrial hearings and for trial and other court appearances.

### Prioritized Objectives & Performance Measures

Rocky Mountain Arsenal		Est. FY 07	Req. FY 08	Projected FY 09
<b>Objectives 1.1 Prepare Natural Resource Damage Assessment</b>				
<b>Measure 1.1.1.</b> Draft preliminary assessment screen	<b>Target</b>		X	NA
	<b>Actual</b>		X	
<b>Measure 1.1.2.</b> Conduct public involvement activities	<b>Target</b>		X	NA
	<b>Actual</b>		Parties agreed to hold off	
<b>Measure 1.1.3.</b> Hire necessary experts	<b>Target</b>		X	NA
	<b>Actual</b>		Hired 6 key experts to date	
<b>Measure 1.1.4.</b> Complete NRD assessment	<b>Target</b>		--	7/08 – 12/08
	<b>Actual</b>		--	
<b>Objectives 2.1 Prepare for and initiate litigation</b>				
<b>Measure 2.1.1.</b> Identify and prioritize issues requiring legal research	<b>Target</b>		X (ongoing)	X
	<b>Actual</b>		In process	
<b>Measure 2.1.2.</b> Complete legal research on identified issues	<b>Target</b>		(ongoing task)	X
	<b>Actual</b>		X	
<b>Measure 2.1.3.</b> (a) Retain expert witnesses for trial; (b) Complete expert reports.	<b>Target</b>		(a)	(b)
	<b>Actual</b>		Yes, will need more in FY08	
<b>Measure 2.1.4.</b> Develop discovery strategy	<b>Target</b>		X (ongoing)	X
	<b>Actual</b>		In process	
<b>Measure 2.1.5</b> Hire contract attorneys and legal assistants	<b>Target</b>		--	X
	<b>Actual</b>		--	
<b>Measure 2.1.6</b> Conduct trial	<b>Target</b>		--	X
	<b>Actual</b>		--	
<b>Objectives 3.1 Take case off administrative closure</b>				

## **Trends and Other Baseline Information:**

For the last two years, the legislature approved a decision item to fund activities supporting our Natural Resource Damage claim at the Rocky Mountain Arsenal. The Arsenal NRD case consists of two phases: assessment and litigation. We have begun our formal Natural Resource Damage Assessment (pursuant to regulations adopted under CERCLA). The Assessment will form the bulk of our case at trial, and will also be used to support our position in settlement negotiations.

The initial step in the Assessment is a Preliminary Assessment Screen and Determination. This document was completed last winter, along with a draft Preliminary Estimate of Damages. These documents are required by the regulations to support a natural resource trustee's decision to pursue an assessment and to ensure that the costs of the assessment are reasonable and therefore recoverable under the law. The next step in the Assessment process is development of an Assessment Plan. We anticipate the public release of the Assessment Plan this fall and hope to complete the Assessment itself within 12–18 months.

At this point, we think that the cost estimates for completing the Assessment and initiating litigation are valid. However, some FY 2008 costs may not be incurred until FY 2009, and the trial phase may begin later than originally anticipated (assuming the case does not settle). In developing an estimate of FY 2009 expenditures, we have assumed that we would hire contract attorneys, rather than add additional state employees, because the increase in legal workload associated with pre-trial discovery and trial work is expected to last a short time – most likely one or two years. Predicting the exact course of a natural resource damage trial is difficult. It is typical for federal district court cases in this state to proceed through discovery and trial in less than a year. However, NRD cases are not typical by any means. No NRD cases have been litigated in federal district court in Colorado, and few have been litigated anywhere. Based on experience in other states, it is possible that defendants may attempt to stretch the state's resources and delay the actual trial through various strategies. Hiring contract attorneys instead of state FTEs gives us more flexibility to adjust to such tactics, if they are successfully pursued. The downside of hiring contract attorneys is that the cost is significantly greater (we have assumed \$150/hr.) than inhouse.

**Similar or Cooperating Programs:** None.

## **Assumptions and Calculations:**

***For Single Program Line items*** – the fiscal year 2009 (FY09) Personal Services and Operating Budget Request are calculated per Joint Budget Committee (JBC) policy.

1. Determine the FY08 base appropriation for personal services and operating by calculating the following:

- From the program Schedule 3, identify the total personal services expenditures and operating expenditures in FY07. Then from the Personal Services total, subtract the following centrally allocated appropriations: Salary Survey, Performance Based Pay, Health Life Dental, Short Term Disability, AED and SAED. From the operating total subtract these centrally allocated appropriations: Worker's Compensation, Lease Space, Vehicle Lease payments, Communication service payments, Capital outlay and IT Asset Maintenance.
- Add the above remaining two figures - Personal Services and Operating (after the centrally appropriated appropriations have been removed) to determine the amount spent in each category from the program line item appropriation.
- Calculate the percentage of the total that is personal service and the percentage that is operating. Take the percentage that is personal services and multiply it by the FY08 line item appropriation. This number will be the FY08 base figure for Personal service. The remainder is the FY08 operating base.

2. To compute the FY09 Personal Services Budget Request:

- Take the calculated FY08 personal services base figure from above and add in the program's FY08 salary survey allocation for both classified and non-classified employees.
- Then add in 80% of the programs performance-based pay allocation for both classified & non-classified employees.
- Finally take a 0.2% reduction to the above total and this will be the FY09 personal services request. However, on lines less than 5 FTE the Department did not take the .2 % reduction.

3. The FY09 operating request is the same amount as the calculated FY08 operating number. The Department allocates certain centrally appropriated expenditures (Capital Complex Lease Space, IT Asset Maintenance, Worker's Compensation and Vehicle Lease Payments) to the various line items where they are expended. The actual column expenditures (FY06 and FY07) in the Schedule 3 include these allocated appropriations. The Estimate column includes the projected allocation in the current fiscal year.

For the Rocky Mountain Arsenal Litigation Line item appropriation the calculated Personal Services base number for FY08 is \$2,607,001 which is 97.9% of the total FY08 Appropriation of \$2,661,667. The Operation base figure for FY08 is \$54,666 which is 2.1% of the appropriated total.

## ASSUMPTIONS AND CALCULATIONS

### Natural Resources & Water Rights/ RMA Litigation

Long Bill Line Item	Total	FTE	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds
<b>Personal Services</b>						
Previous Year Long Bill (SB07-239)	\$2,607,001	2.0	\$2,607,001			
FY2007-08 Salary Survey - Classified	\$0					
FY2007-08 Salary Survey - Exempt	\$7,674		\$7,674			
FY2007-08 Performance-based Pay - Classified	\$0					
FY2007-08 Performance-based Pay - Exempt	\$1,408		\$1,408			
Subtotal PS -	\$2,616,083	2.0	\$2,616,083			
OSP base adjustment (0.2%)	\$0		\$0			
<b>Personal Services Appropriation Request</b>	<b>\$2,616,083</b>	<b>2.0</b>	<b>\$2,616,083</b>			
<b>Operating Expenses</b>						
Previous Year Long Bill (SB07-239)	\$54,666		\$54,666			
<b>Operating Expenses Appropriation Request</b>	<b>\$54,666</b>		<b>\$54,666</b>			
<b>Special Bills -</b>						
HB07-1357 Litigation Costs of NRDS	-		(\$2,661,667)		\$2,661,667	
<b>Annualization of FY08 Decision Item</b>						
Previous Year Decision Item Annualized	(\$1,457,825)		(\$9,082)		(\$1,457,825)	
<b>Refinance Cost</b>					\$9,082	
<b>GRAND TOTAL - RMA Litigation</b>	<b>\$1,212,924</b>	<b>2.0</b>	<b>-</b>	<b>-</b>	<b>1,212,924</b>	<b>-</b>

**SCHEDULE 2 - PROGRAM SUMMARY**

Department of Law Item	Rocky Mountain Arsenal											
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09			
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Rocky Mountain Arsenal			565,915	1.9	2,661,667	2.0	2,687,682	2.0	1,212,924	2.0		
General Fund			565,915		-		26,015		-			
General Fund Exempt			-		-		-		-			
Cash Funds			-		-		-		-			
Cash Funds Exempt			-		2,661,667		2,661,667		1,212,924			
Federal Funds			-		-		-		-			

**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law	Item	Actual FY 06		Actual FY 07		Approp. FY 08		Estimate FY 08		Request FY 09	
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>I. POSITION DETAIL</b>											
	Assistant Attorney I		47,294	0.9				61,404	1.0	61,404	1.0
	Assistant Attorney II		89,480	1.0			99,504	1.0	99,504	1.0	1.0
<b>TOTAL POSITION DETAIL</b>											
			136,774	1.9			160,908	2.0	160,908	2.0	2.0
			136,774	1.9			160,908	2.0	160,908	2.0	2.0
<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>											
	(Permanent FTE by position)										
	Continuation Salary Subtotal										
<b>(I.B.) OTHER PERSONAL SERVICES</b>											
	PERA on Continuation Subtotal		13,723				16,332		16,332		
	Medicare on Continuation Subtotal		1,979				2,333		2,333		
	Non-Base Building Performance Awards						352				
	Contractual		394,837				2,400,821				
	Other										
<b>SUBTOTAL</b>											
			410,539				2,419,838		18,665		
<b>(I.C.) PERSONAL SERVICES SUBTOTAL=</b>											
	A+B		547,313	1.9			2,580,746		179,573		2.0
<b>(I.D.) POTS EXPENDITURES</b>											
	Health/Life Dental		5,692				7,452				
	Salary Survey						[7,674]				
	Performance Awards		155				[1,408]				
	Short Term Disability		1,000				199				
	AED						1,943				
	SAED		133				337				
	Other										
	[ ] Indicates a Non-add										
<b>(I.E.) BASE PERSONAL SERVICES TOTAL=</b>											
	C+D		554,292	1.9			2,590,677		179,573		2.0
<b>(I.F.) DIFFERENCE= II- I.E.</b>											



**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law	Rocky Mountain Arsenal											
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09			
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>(I.G.) REQUEST YEAR DECISION ITEMS</b>												
General Fund												
Cash Funds												
Cash Funds Exempt												
<b>II. PERSONAL SERVICES REQUEST (AGGREGATE ADJUSTMENTS TO THE BASE APPROPRIATION)</b>												
Previous Year Long Bill												
Salary Survey-Classified												
PBP - Classified												
Salary Survey Exempt												
PBP - Exempt												
OSPB .2% Base Reduction												
SPECIAL BILLS:												
Subtotal			554,292	1.9	2,590,677	2.0	2,616,083	2.0	2,616,083	2.0	2,607,001	2.0
<b>II. PERSONAL SERVICES REQUEST TOTAL</b>												
General Fund			554,292	1.9	2,590,677	2.0	2,616,083	2.0	2,616,083	2.0	2,607,001	2.0
Cash Funds			554,292	1.9	2,590,677	2.0	2,616,083	2.0	2,616,083	2.0	2,607,001	2.0
Cash Funds Exempt			-		-		-		-		-	
Federal Funds												

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law Item	Rocky Mountain Arsenal									
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSES</b>										
1930 - Litigation			2,471		86,060		50,371			
2630 - Telephone			112		200		200			
2641 - Other ADP Billings - Purchase Services			2,656		3,000		3,000			
2680 - Contract Printing			3		100		100			
3116 - Purchase/Leased Software			389		500		500			
3120 - Books & Subscriptions			73		125		125			
3121 - Office Supplies			3		250		250			
3123 - Postage			55		120		120			
3140 - Non-Capitalized IT- PC's			4,701							
3143 - Non-Capitalized IT - Other			1,160							
<b>Operating Expense Subtotal:</b>			11,623		90,355		54,666			
<b>OPERATING EXPENSE TOTAL:</b>			11,623		90,355		54,666			
General Fund			11,623		90,355		54,666			
Cash Funds Exempt			-		-		-			
<b>Potted Operating Expenses</b>										
Workers' Compensation					429					
Leased Space Allocation					6,221					
IT Asset Maintenance					-					
ADP Capital Outlay					-					
<b>Total</b>					6,650					
General Fund					6,650					
General Fund										
Cash Funds Exempt										
<b>Long Bill Appropriation</b>										
General Fund					2,661,667					
General Fund					2,661,667					
Cash Funds Exempt										
<b>Special Bills</b>										
HB07-1357 Litigation Costs of NRDS					(2,661,667)					
General Fund					(2,661,667)					
Cash Funds Exempt					2,661,667					
<b>ANNUALIZATION OF DECISION ITEMS</b>										

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law Item	Actual FY 06		Actual FY 07		Approp. FY 08		Estimate FY 08		Rocky Mountain Arsenal Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
FY08 Decision Item Annualized Cash Funds Exempt									(1,457,825) (1,457,825)	
<b>FY09 Refinancing</b>										
General Fund									(9,082)	
Cash Funds Exempt									9,082	
<b>TOTAL ROCKY MOUNTAIN ARSENAL</b>										
General Fund				1.9	2,687,682	2.0	2,687,682	2.0	1,212,924	2.0
Cash Funds			565,915				26,015			
Cash Funds Exempt			565,915							
Federal Funds			-		2,661,667		2,661,667		1,212,924	
			-							
<b>RECONCILIATION OF FUNDS</b>				2.0						
Long Bill Appropriation			742,312				2,661,667			2.0
Salary POTS							9,434			
Health/Life/Dental							7,452			
Short Term Disability							199			
AED							1,943			
SAED							337			
Capital Complex Lease Space							6,221			
Workers Compensation							429			
Vehicle Lease Allocation							-			
IT Asset Maintenance							-			
ADP Capital Outlay Allocation							-			
Rollforward from Previous FY year							-			
Restriction			(176,397)							
Overexpenditure/(Reversion)										
Lapsed Appropriation Cash Fund Exempt										
Lapsed Appropriation Federal Funds										
<b>TOTAL RECONCILIATION</b>				2.0			2,687,682			2.0
			565,915		2,661,667				1,212,924	
			565,915		-		26,015		-	
			-		-		-		-	
			-		2,661,667		2,661,667		1,212,924	
<b>GRAND TOTAL</b>				1.9						2.0
General Fund			565,915				2,687,682			
General Fund Exempt			565,915				26,015			
Cash Funds			-				-			
Cash Funds Exempt			-				-			
					2,661,667		2,661,667		1,212,924	

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law		Rocky Mountain Arsenal										
		Actual FY 06		Actual FY 07		Approp. FY 08		Estimate FY 08		Request FY 09		
Item	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds
Federal Funds												

**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law	Item	Fund Number	Rocky Mountain Arsenal					
			Actual FY 2006	Actual FY 2007	Approp FY 2008	Estimate FY 2008	Request FY 2009	
<b>Schedule 3 Total</b>								
General Funds		-	565,915	2,661,667	2,687,682	1,212,924		
General Funds Exempt		-	565,915	-	26,015	-		
Cash Funds		-	-	-	-	-		
Cash Funds Exempt		-	-	2,661,667	2,661,667	1,212,924		
Federal Funds		-	-	-	-	-		
<b>Cash Funds Exempt</b>								
CDPHE Haz Repsonse Fund		-	-	2,661,667	2,661,667	1,212,924		

# Arkansas River Program



**ASSUMPTIONS AND CALCULATIONS**

*Natural Resources & Water Rights/ Arkansas River Litigation*

Long Bill Line Item	Total	FTE	General		Cash Funds		Federal Funds
			Fund	Fund	Exempt	Exempt	
<b>Personal Services</b>							
Previous Year Long Bill (SB07-239)	\$0						
FY2007-08 Salary Survey - Classified	\$0						
FY2007-08 Salary Survey - Exempt	\$0						
FY2007-08 Performance-based Pay - Classified	\$0						
FY2007-08 Performance-based Pay - Exempt	\$0						
Subtotal PS -	\$0	0.0	\$0	-	-	\$0	-
OSP base adjustment (0.2%)	\$0						
<b>Personal Services Appropriation Request</b>	<b>\$0</b>	<b>0.0</b>	<b>\$0</b>	<b>-</b>	<b>-</b>	<b>\$0</b>	<b>-</b>
<b>Operating Expenses</b>							
Previous Year Long Bill (SB07-239)	\$0						
<b>Operating Expenses Appropriation Request</b>	<b>\$0</b>		<b>\$0</b>	<b>-</b>	<b>-</b>	<b>\$0</b>	<b>-</b>
<b>GRAND TOTAL - Arkansas River Litigation</b>	<b>\$0</b>	<b>0.0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>-</b>

This appropriation ended in FY07

**SCHEDULE 2 - PROGRAM SUMMARY**

Department of Law	DEFENSE OF THE ARKANSAS RIVER COMPACT											
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 09		Request FY 09			
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Defense of the Arkansas River Compact	140,000	-	116,339	-	-	-	23,661	-	-	-	-	-
General Fund	68,667	-	68,667	-	-	-	-	-	-	-	-	-
General Fund Exempt	-	-	-	-	-	-	23,661	-	-	-	-	-
Cash Funds Exempt	71,333	-	71,333	-	-	-	-	-	-	-	-	-

**SCHEDULE 3 - PROGRAM DETAIL**

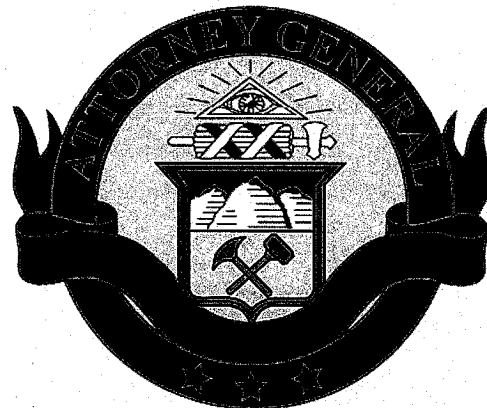
Department of Law	DEFENSE OF THE ARKANSAS RIVER COMPACT											
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 09		Request FY 09			
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Defense of the Arkansas River Compact	140,000	-	116,339	-	-	-	23,661	-	-	-	-	-
General Fund	68,667	-	45,006	-	-	-	23,661	-	-	-	-	-
General Fund Exempt	-	-	-	-	-	-	-	-	-	-	-	-
Cash Funds Exempt	71,333	-	71,333	-	-	-	-	-	-	-	-	-
<b>Rollforwards</b>												
General Fund							23,661					
General Funds Exempt							23,661					
Defense of the Arkansas River Compact	140,000	-	116,339	-	-	-	23,661	-	-	-	-	-
General Fund	68,667	-	45,006	-	-	-	-	-	-	-	-	-
General Fund Exempt	-	-	-	-	-	-	23,661	-	-	-	-	-
Cash Funds Exempt	71,333	-	71,333	-	-	-	-	-	-	-	-	-
RECONCILIATION OF FUNDS												
Long Bill Appropriation	140,000		140,000				-					
Supplemental												
Rollforward from Previous FY							23,661					
Rollforward to Subsequent FY												
Reversion												
Lapsed Appropriation Cash Fund Exempt												
<b>TOTAL RECONCILIATION</b>	140,000		116,339				23,661					



**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law	DEFENSE OF THE ARKANSAS RIVER COMPACT				
	Actual FY 06 Total Funds	Actual FY 07 Total Funds	Approp FY 08 Total Funds	Estimate FY 07 Total Funds	Request FY 09 Total Funds
<b>SCHEDULE 3 TOTAL</b>				23,661	-
General Fund	140,000	116,339	-	-	-
General Fund Exempt	68,667	68,667	-	23,661	-
Cash Fund Exempt	71,333	71,333	-	-	-
<b>Cash Funds Exempt</b> Attorneys Fees and Cost Fund	71,333	71,333	-	-	-

# NR Indirect Cost Assessment



## ASSUMPTIONS AND CALCULATIONS

### Natural Resources & Water Rights/ Indirect Cost Assessment

Long Bill Line Item	Total	FTE	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds
<b>Personal Services</b>						
Previous Year Long Bill (SB07-239)	\$0					
FY2007-08 Salary Survey - Classified	\$0					
FY2007-08 Salary Survey - Exempt	\$0					
FY2007-08 Performance-based Pay - Classified	\$0					
FY2007-08 Performance-based Pay - Exempt	\$0					
Subtotal PS -	\$0	0.0	\$0	-	\$0	-
OSP base adjustment (0.2%)	\$0					
<b>Personal Services Appropriation Request</b>	<b>\$0</b>	<b>0.0</b>	<b>\$0</b>	<b>-</b>	<b>\$0</b>	<b>-</b>
<b>Operating Expenses</b>						
Previous Year Long Bill (SB07-239)	\$0					
<b>Operating Expenses Appropriation Request</b>	<b>\$0</b>		<b>\$0</b>	<b>-</b>	<b>\$0</b>	<b>-</b>
<b>GRAND TOTAL - Indirect Cost Assessment</b>	<b>\$0</b>	<b>0.0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>-</b>

This appropriation ended in FY06

**SCHEDULE 2 - PROGRAM SUMMARY**

Department of Law	INDIRECT COST ASSESSMENT -NR & WR											
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09		Request FY 09	
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>NR &amp; WR INDIRECT</b>	46,205	-	-	-	-	-	-	-	-	-	-	-
Cash Funds	-	-	-	-	-	-	-	-	-	-	-	-
Cash Funds Exempt	46,205	-	-	-	-	-	-	-	-	-	-	-

**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law	INDIRECT COST ASSESSMENT -NR & WR											
	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09		Request FY 09	
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>NR &amp; WR INDIRECT</b>	46,205	-	-	-	-	-	-	-	-	-	-	-
General Fund												
General Fund Exempt												
Cash Funds	46,205											
Cash Funds Exempt												
Federal Funds												
<b>RECONCILIATION OF FUNDS</b>												
Long Bill Appropriation	50,405											
Supplemental												
Rollforward from Previous FY	-											
Rollforward to Subsequent FY												
Reversion	(4,200)											
<b>TOTAL RECONCILIATION</b>	46,205											

**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law Item	Fund Number	INDIRECT COST ASSESSMENT -NR & WR				
		Actual FY 2006	Actual FY 2007	Approp FY 2008	Estimate FY 2008	Request FY 2009
<b>Schedule 3 Total</b>		46,205	-	-	-	-
General Funds		-	-	-	-	-
General Funds Exempt		-	-	-	-	-
Cash Funds		-	-	-	-	-
Cash Funds Exempt		46,205	-	-	-	-
<b>Cash Funds</b>		-	-	-	-	-
<b>Cash Funds Exempt</b>		46,205	-	-	-	-
Hazardous Substance Response Fund		46,205	-	-	-	-