



DES MOINES WATER WORKS  
Board of Water Works Trustees

Agenda Item No. III-G  
Meeting Date: August 25, 2015  
Chairperson's Signature  Yes  No

**AGENDA ITEM FORM**

**SUBJECT: Nitrate Litigation Cost Reauthorization**

**SUMMARY:**

Des Moines Water Works' federal lawsuit seeking greater protection of our source waters is scheduled for trial in August of 2016. As you know, the preparation for this suit, including extensive water sampling and testing of drainage district discharges as well as legal and scientific research, involved substantial resources and expense. Moreover, since the Notice of Intent to Sue issued in January and the lawsuit filed in March, significant legal expenses have been incurred in both moving forward with this lawsuit, as well as responding to the defendants' discovery requests, and preparing and retaining expert and fact witnesses.

With an eye toward appropriating sufficient resources to carry the litigation through the scheduled trial date in August of 2016, the CEO and General Manager and Legal Counsel are requesting an additional appropriation of \$450,000 to sustain foreseeable expenses between now and the scheduled trial date in Sioux City. While Des Moines Water Works has articulated repeatedly an interest in seeking a negotiated settlement beneficial to our ratepayers, the defendants have flatly denied any contribution to source water degradation in their legal filings and failed to convene any meaningful discussions with Des Moines Water Works that accepts our fundamental concern about agricultural contributions to surface water pollution in the Raccoon and Des Moines Rivers. While public relations campaigns and legal denials can be resourced, constructive discussions apparently cannot be pursued by the defendants, leaving Des Moines Water Works with no viable option other than its continued pursuit of consumer protection through litigation for greater environmental protection of the State's source waters.

**FISCAL IMPACT:**

An additional \$450,000 will be allocated for legal and expert services.

**RECOMMENDED ACTION:**

Authorize an additional amount of up to \$450,000 for legal and expert services in pursuit of source water protection suit under federal and state laws, allowing the CEO and General Manager the ability to return for additional authorization, as may be necessary to protect rate payer interests in pursuit of source water protection.

**BOARD REQUIRED ACTION:**

Motion to authorize an additional amount of up to \$450,000 for legal and expert services in pursuit of source water protection suit under federal and state laws, allowing the CEO and General Manager the ability to return for additional authorization, as may be necessary to protect rate payer interests in pursuit of source water protection.

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| <p>_____/_____<br/>(date)</p> | <p>_____/_____<br/>(date)</p> | <p>_____/_____<br/>William G. Stowe<br/>CEO and General Manager (date)</p> |
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Attachments: None.