

# FY 2009-10 Supplemental Capital Construction Request

## Public Health and Environment

*Superfund Site Cleanup - California Gulch, Captain Jack Mill, Standard Mine*

**Motion:** Approve the supplemental request to extend spending authority of the FY 2007-08 appropriation for the Superfund Site cleanup project (\$27.0 million, including \$2.7 million CFE and \$24.3 million FF).

### GENERAL INFORMATION

2004-006

#### 1. Which supplemental criterion does the request meet?

Unforeseen Contingency

The Department of Public Health and Environment says this supplemental request is necessary due to delays in receiving federal funding and implementation difficulties involving federal agencies.

#### 2. Which projects will be restricted to fund the supplemental request?

A restriction will be unnecessary because the supplemental request is for extension of existing spending authority and does not involve additional spending authority.

#### 3. Has the request been approved by OSPB and CCHE?

Yes

### PRIOR APPROPRIATION AND SUPPLEMENTAL REQUEST INFORMATION

The appropriation to be amended was authorized in the following bill: SB 07-0239

<u>Fund Source</u>	<u>Prior Appropriations</u>	<u>Supplemental Request</u>	<u>Future Requests</u>	<u>Total Cost</u>
CFE	\$3,430,224	\$0	\$0	\$3,430,224
FF	\$30,872,016	\$0	\$0	\$30,872,016
	\$34,302,240	\$0	\$0	\$34,302,240

### REASON FOR SUPPLEMENTAL REQUEST

This supplemental request is for an extension of spending authority for funds previously appropriated to continue work at the California Gulch Superfund Site. The project also performs clean-up work at the Captain Jack and Standard mine sites. Extending spending authority will allow work to continue at all three sites. Due to implementation difficulties and delays in receiving federal funding, the project's FY 2007-08 appropriation of \$27.0 million (\$2.7 million CFE and \$24.3 million FF) will not be encumbered or expended prior to the expiration date of May 22, 2010. The department is requesting an extension of spending authority for this appropriation until 2013. No new spending authority is being requested. The Hazardous Substance Response Fund is the source of cash funds for the project.

According to the department, work at the California Gulch site has been delayed due to implementation difficulties involving the U.S. Bureau of Reclamation. The U.S. Environmental Protection Agency (EPA) is considering declaring the proposed remedy for the California Gulch site as "unimplementable" and may be pursuing a new remedy. The department says that work at the Captain Jack site was stalled due to delays in receiving federal remedial design funds, which significantly affected the overall project schedule, including remedial action. Stabilization work has been performed at the Standard Mine site, and officials are currently determining a plan of action for mitigating the site. The department indicates that spending authority must be extended to provide the 10

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percent state share of funding for site cleanup. The federal government requires a state match to be in place before a state Superfund contract can be signed and cleanup can proceed. Because of limited federal funding, projects that are not ready to proceed will have funds diverted to other projects nationally.

The department says that failure to ensure an extension in spending authority for the project will adversely affect public health and the environment at all three sites, with continued exposure of local residents to toxic metals at the sites, further contamination of drinking water sources, and negative impacts on aquatic ecosystems. The department notes that failure to proceed on these projects could influence funding decisions for other Superfund sites in Colorado. The department also notes that Superfund Records of Decision, vetted through a public comment process and approved by the department and the EPA, mandate cleanup of the sites under the Superfund Act.

### **SUMMARY OF PROJECT**

The California Gulch, Standard Mine, and Captain Jack Mine Superfund cleanup projects mitigate areas contaminated by mining activity. The California Gulch site covers an area of 16.5 square miles in Lake County near Leadville, the Standard Mine site covers about 10 acres near Crested Butte, and the Captain Jack Mine site sits at the headwaters of the Lefthand Creek watershed near Ward in Boulder County. The federal Superfund program provides for cleanup of hazardous/radioactive waste sites on the EPA's National Priorities List. Twenty-two sites in Colorado have been identified for inclusion on the list, including the California Gulch, Standard, and Captain Jack sites.

After the California Gulch Site was listed, mining companies and the EPA performed studies and cleaned up portions of the site. Mining companies also constructed the Yak Tunnel Water Treatment Plant as part of the cleanup, which removes contaminants from the Arkansas River. A portion of the site has no responsible party and therefore requires government funding for the cleanup. The remaining work includes additional mine waste cleanup and water treatment. Work on the Captain Jack site is proceeding to excavate and contain contaminated surface material and to neutralize contaminated subsurface water. Initial assessments have been made and stabilization work has been performed at the Standard Mine site, and officials are now determining a course of action for mitigation.

In 1985, the General Assembly approved Senate Bill 85-109, which recognized the existence of sites subject to the Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or the Superfund Act). The federal government provides up to 90 percent of funding for Superfund site cleanup. Senate Bill 85-109 created the Hazardous Substance Response Fund to provide the state's share of site cleanup. The state is authorized to obtain federal funds to complete cleanup activities when no responsible party is willing or able to perform the necessary cleanup.

### **QUESTIONS / OUTSTANDING ISSUES**

All responses to staff questions have been incorporated into the write-up above.