

IDAHO ASSOCIATION OF COUNTIES
GUIDELINES FOR APPLICATION FOR ASSISTANCE
IN NATURAL RESOURCE POLICY AND LITIGATION

The assistance provided by the Natural Resource Policy and Litigation Fund (“Fund”) is not designed to supplant county funds, but to assist counties in their efforts to litigate and actively involve themselves in natural resource cases and policy issues.

CRITERIA FOR THE NATURAL RESOURCE POLICY AND LITIGATION FUND

1. **Assessments:**
The first year, and every other subsequent year (unless deemed unnecessary by the IAC Board of Directors) the counties will be assessed an amount equal to \$125,000 and prorated based upon the amount of PILT received in Idaho.

2. **Criteria for Use of Fund:**
A “Natural Resource Policy and Litigation Oversight Fund Committee” (“Committee”), consisting of a Chairman chosen from three (3) clerks and three (3) commissioners appointed by the IAC President, establishes the criteria and then reviews and determines the propriety of using the Natural Resource Litigation Fund to defend such cases and become involved in policy issues. One clerk and commissioner shall be appointed from Northern Idaho (IAC Districts 1 and 2 one each from South-Western Idaho (Districts 3 and 4); and one each from South-Eastern Idaho (Districts 5 and 6). The Oversight Committee will then make recommendations to the IAC Board of Directors who will have final approval authority for expending funds and establishing future criteria as needed. If a conflict of interest arises with a member of the Oversight Committee or the IAC Board of Directors, such member shall not participate in any vote.

3. **Natural Resource Litigation Fund Restrictions:**
Any participating county may initially apply for unlimited funds for each case with the extent of the usage of such funds to be determined by the Oversight Committee and the IAC Board depending on the availability of the funds.

4. **Reimbursement:**
The fund may pay for the appropriate litigation costs, as outlined below, but not settlement costs. If costs are awarded to the county as a result of the litigation, such costs shall be reimbursed to the Natural Resource Policy and Litigation Fund in the same proportion as paid by the county and the fund.

5. **Disbursement of Funds:**
The IAC Board of Directors will authorize and disburse the funds upon receipt of claims and receipts.

6. **Permitted Uses of Natural Resource Policy and Litigation Funds:**
Costs related to expert witnesses, additional legal services (other than Prosecuting Attorney) and court preparation costs (depositions, exhibits, charts, etc.) are eligible. Training and public information may be provided by IAC and other affected organizations. (Registration fees may be charged for any training.) Reimbursed costs may

also include those associated with multi-county involvement in a regional or statewide natural resource policy issue. Such costs might include the hiring of legal counsel or consultants to assist and represent the counties during the policy process. Travel costs are the responsibility of each county.

7. **Professional Services on Retainer:**

The IAC Board may solicit professional services from a company or companies on a retainer including but not limited to expert witnesses, other legal services and discussion with consultants as may be necessary.

8. **Fund Administrator:**

The IAC will serve as fund administrator. Specific paperwork may be signed by the Oversight Committee chairman.

9. **Criteria Review for Merits of Case:**

The IAC Executive Director and Staff will review and make a recommendation to the Oversight Committee. The Oversight Committee will make the final decision on whether the case has merits or not and make specific recommendations to the IAC Board for final approval.

10. **Access to Fund:**

Requests for funding can be made at any time by participating counties without limits. The IAC Board will make the final decision based on the merits of the case and the availability of funds. If the Oversight Committee determines that there is an emergency, the IAC Executive Committee can make an interim decision, subject to final review by the entire IAC Board.

11. **Non-payment of Assessments:**

Any county that does not pay its assessment shall not have access to the fund. The Oversight Committee and IAC Board will make decisions on future situations.

12. **Settlement Authority:**

If a disagreement over settlement criteria occurs between a county and the Oversight Committee, the county shall have final authority over the settlement. The IAC Board shall have the final say as to the amount and the extent of any funds committed to the case. Funds shall be used for litigation expenses only and shall not be used to pay any settlement considerations.

13. **County Reports:**

Any county that is given funding shall provide updates or briefings, as requested, to the Oversight Committee so it can monitor the litigation. Once the case is concluded, a copy of all the material shall be sent to IAC.

14. **Reports to the IAC Board of Directors:**

The Oversight Committee Chairman shall report to the IAC Board at each meeting and to the membership at both the Annual and Midwinter Legislative Conferences each year.

APPLICATION FOR ASSISTANCE

Applications for assistance in litigation involving natural resource issues and litigation will be processed by the IAC Natural Resource Policy and Litigation Oversight Fund Committee and then forwarded to the IAC Board of Directors for final approval. Each application shall include a proposed total budget, the amount being requested and an estimated timeline for completion and will be evaluated based upon the following criteria:

1. The nature of the issue and potential impacts of either taking or not taking a position.
2. The amount of a county's resources committed to assist in the policy or litigation.
3. Whether the results of your issue or case will impact other counties with the same or similar issues.
4. Whether expert witnesses will be required to testify on behalf of represent the counties.
5. The amount of IAC Natural Resource Policy and Litigation funding available and the amount estimated to be required by the proposed issue representation or litigation.
6. The possibility of a joint effort with other interested parties and their willingness to provide financial assistance.
7. In the case of litigation,
 - a. Whether the issues in the case under consideration will be settled by pending litigation in another county's case.
 - b. Whether the case can be joined with another county's case.
 - c. The probability of a successful outcome in the case based on a review by objective legal counsel.
 - d. The nature of the issues involved in the case.
 - e. The possibility of statewide or federal precedent (positive or negative) being set by the case.
8. In the case of a policy issue,
 - a. Whether the case will substantially impact natural resource policy in Idaho.
 - b. The timeframe and likelihood for conclusion of such a policy issue (i.e. the drafting and acceptance of state or federal legislation or rules).
 - c. Whether the issue is in compliance with existing IAC policy and/or resolutions as accepted by the IAC membership.