

Resolution 2020-004

RESOLUTION TO RETAIN OUTSIDE COUNSEL

WHEREAS, the Albany County & Prosecuting Attorney is requesting authorization to hire outside counsel to assist with preparation of an amicus brief by January 13, 2020, in support of the petition for rehearing filed on December 27, 2019 in the 10th Circuit Court by the Pioneer Canal-Lake Hattie Irrigation District. The petition requests the 10th Circuit reconsider their opinion which reversed the opinion from the US District Court, which contended that the 10th Circuit Court did not follow Supreme Court precedent on boundaries of bodies of water. As a result of the 10th Circuit Court opinion, the irrigation district, loses its ability to store over 80% of its water rights in the Lake Hattie Reservoir. Thereby, Lake Hattie Reservoir would become un-useable because if the lake cannot be filled to capacity, silt accumulates on the outlet works, making the lower portions of the lake almost impossible to use. Further the conveyance loss to get that 20% of water to the lake would mean that most of the water would never get there (because of conveyance loss).

WHEREAS, the 10th Circuit Court decision effects the ability of Emergency Management for Albany County and City of Laramie, Wyoming to work with the Irrigation District to eliminate, reduce, or minimize the risk of harm from flooding of the Laramie River by limiting Pioneer Canal-Lake Hattie Irrigation District from diverting water from the Laramie River into Lake Hattie Reservoir or other portions of the system before it reaches the City of Laramie, Wyoming.

WHEREAS, according to the flood plain map, there are businesses and residences located in the City of Laramie, Wyoming that could be flooded when the Laramie River reaches flood stage in the City. Additionally, flooding can negatively impact publicly owned infrastructures such as parks, walkways, storm sewers, lift stations, sewer systems and drinking water systems.

WHEREAS, funds are available through a special fund of national resources for support of such cases and the Albany County & Prosecuting Attorney will attempt to secure funds to pay for outside counsel's services.

WHEREAS, Wyo. Stats. § 18-3-302, and §18-3-520, enables the County Commissioners of any County to employ one or more attorneys to appear and prosecute and assist the County and Prosecuting Attorney on behalf of the people of such County in any action or proceeding, whether civil or criminal;

WHEREAS, in such case the nature and necessity of employment shall appear in the records of the County Commissioners according to Wyo. Stat. § 18-3-520;

WHEREAS, it appears to the Board of County Commissioners that an outside counsel is needed to assist the Albany County & Prosecuting Attorney to carry out her duties;

NOW THEREFORE THE BOARD OF COUNTY COMMISSIONERS OF ALBANY COUNTY, WYOMING, RESOLVES:

Section 1. That the foregoing recitals are incorporated in and made a part of this resolution by this reference.

Section 2. That outside counsel be and are hereby appointed and employed in the above referenced matter to perform the official duties in this matter that would otherwise be performed by the Albany County & Prosecuting Attorney and her deputies and for that time and for this matter, outside counsel shall have the same powers given by law to the Albany County & Prosecuting Attorney as is so provided by Wyo. Stat. § 18-3-105.

PASSED, APPROVED, AND ADOPTED THIS 6th day of January 2020.

**THE BOARD OF COUNTY
COMMISSIONERS OF ALBANY COUNTY,
WYOMING**



Terri Jones, Acting Chairperson

ATTEST:



Jackie R. Gonzales,
Albany County Clerk