

Churchill County  
Agenda Report

Date Submitted: February 11, 2008

Agenda Date Requested: February 20, 08  
Time Requested: 3 minutes

To: Board of Churchill County Commissioners  
From: Alan Kalt, County Comptroller

Subject Title: Consideration and Possible Action re: Approval of participation in specialized legal counsel with Armstrong Teasdale LLP for legal representation in the License Application by DOE for the Yucca Mountain Project with the Nuclear Regulatory Commission

Type of Action Requested: (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

Does this action require a Business Impact Statement? ( ) Yes ( X ) No

Recommended Board Action:

A motion to approve/deny Churchill County's participation with Esmeralda, Lander and Mineral County to engage in the professional services of Armstrong Teasdale LLP to provide legal representation for the County in the Department of Energy's filing of the License Application for the Yucca Mountain Project in front of the Nuclear Regulatory Commission. This contract is subject to oversight funding. Furthermore, authorize the Chair to sign the engagement agreement upon the approval by the District Attorney's Office.

Discussion:

As noted in the letter from Robert List, the NRC process is now in the pre-licensing phase in advance of DOE's filing of the License Application for the Yucca Mountain Project later this year. This NRC process requires the participation of legal counsel to represent the interests of the counties who are members of the Affected Units of Local Government. It is suggested that the law firm would represent four counties with common interest in the NRC process: Esmeralda, Churchill, Lander and Mineral. Cost would be shared on an equal basis with each County paying 25% of the fees and related expenses. The Washington DC law firm of Armstrong Teasdale LLP has been recommended by the group to support our efforts. See the draft scope of work for licensing proceedings for more details.

Churchill County is LSN certified with the Department of Energy and has standing in the process. Churchill County receives funding to conduct oversight activities. These hearings will be very technical in nature as well as procedural in the form of providing input into the NRC proceedings. The proposed contract will protect our interest and reduce our cost related. The contract could be terminated if oversight funding was not available to support this project. The final engagement agreement will be forwarded to all Counties for signature upon approval.

Financial Impacts:

Churchill County receives funding from the Department of Energy as an Affected Unit of Local Government (AULG). This funding can only be used for oversight activities. The proposed cost

to Churchill County for the period of March 1<sup>st</sup> to June 30<sup>th</sup>, 2008 would be \$25,000 and \$75,000 for the following fiscal year. There is adequate oversight funding to support this contract.

Prepared By: Alan Kalt

Date: February 11, 2008

Concurrences: \_\_\_\_\_

Date: February 11, 2008

(County Manager)

  
\_\_\_\_\_


Date: 2/11/08

(Comptroller)

  
\_\_\_\_\_

Date: 2/11/08

(Rex Massey, Yucca Mtn Consultant for Churchill Co)

  
\_\_\_\_\_

Date: 2/11/08

(Civil Deputy District Attorney)

Board Action Taken:  
Motion: \_\_\_\_\_

1) \_\_\_\_\_ Aye/Nay  
2) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)



February 8, 2008

Mr. Rex Massey  
Research and Consulting Services, Inc.  
P.O. Box 19549  
Reno, NV 89511

Re: Churchill County NRC-related legal services

Dear Rex:

As you know, the NRC process is now in the pre-licensing phase in advance of DOE's filing of the License Application for the Yucca Mountain Project later this year.

This NRC process requires the participation of legal counsel to represent the interests of the counties who are members of the AULG group.

As consultants to Esmeralda County, we have followed the evolution of the process closely, and believe the time has arrived to engage legal counsel for our representation. In anticipation of this need, I have recently affiliated with Armstrong Teasdale LLP, a law firm with excellent credentials to represent counties before the NRC and its hearing boards. I would personally supervise the firm's activity in this regard. For further details concerning Armstrong Teasdale's experience and capabilities, please refer to their website at [www.armstrongteasdale.com](http://www.armstrongteasdale.com).

We are suggesting that the firm represent four counties with common interests in the NRC process: Esmeralda, Churchill, Lander and Mineral. Costs would be shared on an equal basis, with each county paying 25% of the fees and related expenses.

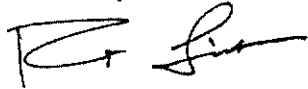
We have prepared a draft Scope of Services and a Proposed Budget for the engagement, both of which are attached.

A proposed engagement agreement will be forwarded to you next week with the hope that the matter might be placed on the Board of Commissioners' agenda for

consideration this month in order to enable commencement of services on March 1, 2008.

I stand ready to meet with you or with your county officials to discuss the matter, and look forward to working with you and them as we enter this important new phase of the consideration of the Yucca Mountain Project.

Sincerely,

A handwritten signature in black ink, appearing to read "R. List", written over a horizontal line.

Robert List  
President

**Proposed Budgets for Armstrong Teasdale LLP Legal**

**Representation in Nuclear Regulatory Commission Proceedings**

	March 1 – June 30, 2008	July 1, 2008-June 30, 2009
ES	\$25*	\$75
CH	\$25	\$75
LA	\$25	\$75
MN	<u>\$25</u>	<u>\$75</u>
TOTAL	\$100**	\$300**

\*All sums are shown in thousands, are maximum amounts not to be exceeded except as noted in \*\* below, and subject to final contract approval and receipt of Oversight funds by individual counties.

\*\*Sums not expended prior to June 2008 shall be carried over into subsequent FY as supplements.

Jan 25, 2008

### **Draft Scope of Work for Licensing Proceedings**

1. Enter appearances on behalf of the Counties' before the Nuclear Regulatory Commission's (NRC's) Pre-license Application Presiding Officer (PAPO) Board;
2. Represent Counties in NRC licensing proceeding; identify and comply with all procedural requirements that may be imposed by the PAPO Board;
3. Review License Application;
4. Coordinate, communicate and work closely in conjunction with the Counties' consultants and staff in all of the activities set forth herein;
5. Within 90 days of the commencement of the engagement, present to the Counties a list of potential effects of the construction and operation of the Yucca Mountain repository and related activities upon the public health, safety, environment and economic well-being of the Counties;
6. Provide advice and counsel to the Counties to determine and establish whether the Counties will participate in the NRC proceedings as parties or as interested local governments;
7. Provide advice and counsel to the Counties to assist in the evaluation and establishment of the Counties' policies concerning participation in Contentions;
8. Make recommendations to the Counties regarding the retention of technical experts for the purposes of evaluating the affects of the Yucca Mountain repository on the Counties' interests;
9. Meet and communicate with legal counsel for other Affected Units of Local Government to coordinate and arrange cooperative participation and expense-sharing in NRC process;
10. Monitor, evaluate, and submit monthly reports to the County Commissioners in each of the Counties on Yucca Mountain related actions by federal agencies (e.g. NRC, Department of Energy, and Environmental Protection Agency) which are related to the licensing case and bear upon the Counties' interests;
11. Conduct periodic meetings and briefings with Counties regarding license proceedings; and
12. Undertake other tasks related to license proceedings as directed by the Counties.