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BLAINE L. CARLTON

November 1, 1988

Mr. Mark O. Walsh, Associate Director
Utah Association of Counties
55 South State Street, Suite 300
Salt Lake City, UT 84111

RE: The Trust Land Management Act and the Creation of
Special Service Districts

Dear Mark:

We have reviewed the opinion from the Associate Solicitor of the Department of Interior dated October 8, 1988. Based on that opinion, we believe the following points need to be emphasized to each county creating a special service district:

1. It is important that each district be established in strict compliance with the requirements of the Utah Special Service District Act. We would therefore recommend that prior to any moneys being disbursed to a district from the State, we review each county's proceedings creating the district to make certain that the county has complied with all State procedural requirements.

2. It is important that the special service district be politically and financially independent from the county. To help insure that independence, the following steps should be taken:

(a) Once a district has been created, separate records and accounts should be established by the district and maintained independently from all records and accounts of the county. The moneys received from allocations by the State should be paid directly to the district and should not at any time be deposited with or flow through the county.

(b) The county must create an administrative control board having at least three members. It is preferable that no member of the county commission serve on the

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administrative control board. If for any reason it is deemed necessary for a member of the county commission to serve on the administrative control board, we believe that only one member of the county commission should serve.

(c) The county and district should enter into an interlocal cooperative agreement pursuant to Title 11, Chapter 13, Utah Code Annotated, wherein the district's area of jurisdiction could be more fully delineated. It is important that the district's responsibilities be broad enough to make day-to-day decisions with respect to the use of its moneys. The decisions involving the utilization of moneys received from the State must be made by the district, not the county. It is also important to emphasize in the interlocal agreement that the county would not have the responsibility to undertake the functions of the district if the district itself failed to execute those functions. That means that the responsibilities assumed by the district are, in fact, the responsibilities of the district and not of the county so long as the district is in existence.

(d) It is important to recognize that the board of county commissioners cannot disband the administrative control board at will. Once the members of the board have been selected, they must have the right to continue to serve in that capacity throughout their term of office.

3. We believe it is important that each county attorney review the Associate Solicitor's opinion and be prepared to assist the county in making those decisions which will further demonstrate the political and financial independence of the district.

To accomplish the objectives outlined in 2(c) above, we would be willing to prepare a form of interlocal agreement that each county and district may wish to consider.

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If we can be of further assistance, please feel free to
contact us.

Yours very truly,

BALLARD, SPAHR, ANDREWS & INGERSOLL

A handwritten signature in black ink, appearing to read 'BLC', written over the typed name of the signatory.

Blaine L. Carlton

BLC:cf/L94788