



THE SECRETARY OF THE INTERIOR  
WASHINGTON

NOV 18 2005

The Honorable Richard Durbin  
United States Senate  
Washington, D.C. 20510

Dear Senator Durbin:

Thank you for the opportunity to discuss your concerns about the road signs placed by Kane County in southern Utah. This issue has been of serious concern to the Department and we are committed to resolving it as quickly as possible. You expressed your concerns in a clear and forthright manner and I appreciate hearing from you directly.

As contemplated by the 10<sup>th</sup> Circuit Court in *Southern Utah Wilderness Alliance v. Bureau of Land Management*, 425 F.3d 735 (10<sup>th</sup> Cir. 2005), the Department is beginning immediately a good faith consultation with Kane County to resolve all issues of disagreement, including the validity of claims and the use of the land. To lead the Department's efforts in this consultation, I have appointed Larry Jensen, Regional Solicitor, who is one of the most respected senior attorneys at the Department and who has extensive litigation and negotiation experience.

Since we spoke, I have learned that Kane County (and Garfield County) filed a lawsuit on November 14 against the Department to avoid expiration of the statute of limitations. The lawsuit raises the propriety of the road closures and use restrictions in the Management Plan for the Grand Staircase-Escalante National Monument. The lawsuit has not yet been served on the Department. After we have had an opportunity to fully consider the ramifications of this new development, we will inform you and the Utah Congressional Delegation of the Federal Government's response to the complaint. We are urging Kane County to go forward with the consultation as the preferred alternative to that litigation, and the current indication is that negotiation will be their primary focus.

Kane County has agreed to begin the consultation on November 30, 2005. While we cannot prejudge the outcome of this consultation, Mr. Jensen will articulate in this consultation the applicable and appropriate Federal rights and responsibilities that apply in this situation. As this consultation proceeds, we will follow the guidelines set forth by the 10<sup>th</sup> Circuit. As also discussed by the Court, there is "a commendable spirit of mutual accommodation that should characterize the relations of levels of government in our federal system. Both levels of government have responsibility for, and a deep commitment to, the common good, which is better served by communication and cooperation than by unilateral action."

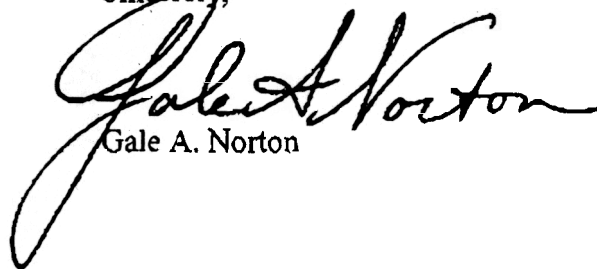
The Honorable Richard Durbin  
Page Two

You strongly expressed that this issue is important to environmental organizations, as articulated in their letter of November 16, 2005. In my view, it is appropriate for Mr. Jensen to personally hear these perspectives. Therefore, I have directed Mr. Jensen, at the earliest opportunity, to meet with representatives of these groups. The Department will plan to hold a public meeting as part of the consultation process where the views of interested citizens can be heard. Further, we note that consultation meetings would be subject to Utah's Sunshine Law which requires that any meeting at which a majority of the county commissioners are present be open to the public. All public comments will be seriously considered. While this consultation is underway, the Bureau of Land Management will monitor impacts of road use on public lands.

Both Deputy Secretary Lynn Scarlett and I will monitor this consultation. I have directed my Chief of Staff, Brian Waidmann, to set up a process to keep you and the Utah Congressional Delegation informed on a monthly basis about the progress and outcome of this consultation generally and the progress in addressing the signage issue specifically.

If you have any questions, please call me.

Sincerely,



Gale A. Norton