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 April 26, 1993

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MEMORANDUM

TO: Michael S. Merrill, Director, Debt Management  
 Donald R. Odom, Chief Assistant County Attorney

FROM: Hank Morgan, Holland & Knight

RE: Cone Ranch Grazing Lease Revenues

You have asked us to consider whether revenues derived from the short term leasing of Cone Ranch lands for cattle grazing would constitute Gross Revenues under the Utility Bond Resolution or otherwise be considered revenues of the Water/Wastewater Utility Fund.

The acquisition of the Cone Ranch tract was refinanced by the issuance of Water/Wastewater Utility Revenue Bonds in 1991 and we understand that for accounting purposes such land is considered an asset of the Utility System. We also understand that leases for grazing purposes are made for terms of no longer than five years and grazing does not in any way interfere with the present or any future use of the Cone Ranch land as a wellfield for the Utility System.

We first considered whether the grazing revenues would constitute "Gross Revenues" under the Bond Resolution, requiring them to be deposited into the Revenue Fund. Because cattle grazing is not, in our view, an operation of the Water/Wastewater System, we conclude that such revenues are not included in the definition of "Gross Revenues" under the Bond Resolution.

We also considered whether such short term leases for grazing purposes would be considered a "disposition" of property of System under Section 11.06 of the Bond Resolution, requiring such moneys to be deposited in the Renewal and Replacement Fund or the

Donald R. Odom, Chief Assistant County Attorney  
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Debt Service Account established under the Bond Resolution. While one can argue that because the land has been booked as an asset of the System any leasing would amount to a granting of a property right formerly held by the System, we do not believe such short term leasing constitutes a "disposition" of property of the System within the meaning of that section because the activity of grazing cattle is irrelevant to the operation of the System.

In light of the foregoing, we conclude that the revenues derived from the short term leasing of the Cone Ranch land for grazing purposes constitutes a general revenue of the County available for any lawful County purpose.

If you have any questions, please do not hesitate to give me a call. Please pass along this memorandum to anyone at the County whom you believe should appropriately receive it.

HMM/lkb  
LAK-44120

cc: Kris Landkammer  
Linda Miller  
Sue Parrish  
Bernie Barton