

May 4, 1998  
ILR 98-C

President R. Lane Beattie, Co-chairman  
Speaker Melvin R. Brown, Co-chairman  
Members of the Audit Subcommittee  
State Capitol Building  
Salt Lake City UT 84114

**Subject: Copperton Improvement District**

Dear Legislators:

As per your request, we have reviewed specific facets of Copperton Improvement District (CID or district) operations and have concluded there is some merit to the allegations you received during the 1998 Legislative General Session. Specifically, we have focused on two problems with past district operations that inappropriately benefitted CID trustees and are linked to a lack of clear oversight definition within the **Utah Code**. First, the Copperton Improvement District does not follow statutory employment practices which appears to have resulted in violations of state laws. Second, CID lacks internal controls that are the expected “norm” for governmental agencies which may have resulted in further violations. The lack of state and/or county management oversight is a contributing factor to Copperton Improvement District’s problems. We believe that CID should comply with state laws and that further clarification of oversight functions described within the **Utah Code** would be beneficial in preventing similar problems in the future.

The Copperton Improvement District falls under **Utah Code** 17A-2-301 which addresses the creation, regulation, and governance of improvement districts throughout the state. As can be surmised, the **Utah Code** also holds improvement districts to many of the same laws that are applicable to other public entities (e.g. maintaining proper control over public monies, prohibiting the employment of relatives, and maintaining an appropriate separation between board member and full or part-time employee status). Improvement districts are also required to have annual audits and to submit those reports to the State Auditor. However, aside from the requirement to submit audit reports to the State Auditor, there is no specific state agency or oversight body responsible for the financial and business matters of improvement districts.

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## **CID is not Following Some Sections of Utah Code**

The Copperton Improvement District board chairman's past actions have been contrary to **Utah Code** 17A-1-306 which prohibits board members from being a full or part-time employee of the district while serving on the district's governing board. The **Utah Code** further states that no board member can be compensated separately as a board member and as an employee for the same entity or organization. Boards serve an oversight function for organizations, monitoring employee performance. The ability to oversee employee actions is compromised when board members work as employees for the organization they oversee. A review of CID's 1997 records shows the current board chairman charged CID 214 hours of work at \$10.00 per hour for a total of \$2,140. This practice was also noted in the 1995 and 1996 financial audits of the improvement district's records that Osborne, Robbins & Buhler, L.L.C. conducted.

Financial auditors found that *"during 1996, all three members of the district's board of trustees were paid wages in addition to the approved board member compensation"* and that the firm *"...had a similar comment regarding this issue for the year ended December 31, 1995."* The auditors recommended that *"...the district implement a policy in accordance with State law that prohibits members of the board of trustees from being an employee of the district while serving on the board."* CID's response to the auditor's comments stated that the size of the district made it difficult to find adequate help and so some board members are *"pressed into working for the district. This happens only in emergency situations and does not represent a material problem for the district."*

The Legislative Auditor General's Office concurs with the financial auditors and recommends the district implement controls to ensure compliance with **Utah Code** prohibiting board members to be employed by the district. Our discussions with the District's board chairman and their accountant indicated *"they didn't see anything wrong with it since they are so small."* Thus, the board decided they would continue working as needed despite the auditor's recommendation that they implement a policy in accordance with state law prohibiting board members from working for the district. We also believe a review of statutory requirements and their application to smaller systems may be in order.

In a related issue, we believe the Copperton Improvement District board chairman exhibited inappropriate behavior by awarding district work to his stepson. In 1996 and 1997, the district contracted with Flag-Rant, Inc., for 25 fire hydrant snow flags. Twenty flags were purchased in 1996, but there is no record of their installation. CID's 1997 records indicate that the board chairman installed five flags in that year for \$256, resulting in an average cost of at least \$75 per flag. District records show Flag-Rant was paid a total of \$628, with \$575 for hydrant flags and \$53 in related accessories.

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District associates reported that Flag-Rant's snow flags are manufactured on the board chairman's premises and that the chairman's stepson has experienced health problems and "...gone through some tough times so [the board chairman] has been helping him out." We believe the close relationship between the CID chairman and the Flag-Rant owner is contrary to the intent of the **Utah Code**. The CID board reported that the board chairman's close relationship with Flag-Rant's owner helped the district obtain the flags for half price (\$23 per flag). However, inquiries with other hydrant snow flag distributors indicate that similar products regularly sell for \$13 per flag, with installation costs virtually non-existent since it requires loosening and tightening one bolt to install the hydrant flags.

Salt Lake County does not require snow flags on its fire hydrants and interviews with the state's climatologist indicate Copperton acquires 36.2 inches of snowfall annually, which is the same as downtown Salt Lake City. The Salt Lake County Fire Department has budgeted for hydrant flags in other locations and has elected not to place flags in Copperton. As a result, Copperton is currently the only community in Salt Lake County with snow flags on its hydrants.

### **CID Lacks Effective Internal Controls**

Copperton Improvement District lacks internal controls that are the expected "norm" for governmental agencies. The lack of standard controls may have resulted in violations of state statute and appears to be contributory to the allegations you have heard. There have been allegations of district supplies and materials being used to enhance the board chairman's residence, district property missing or not accounted for, and other accusations which indicate more active guardianship of district assets may be in order. The district's lack of internal controls may have resulted in violations which might not have occurred otherwise.

### **Copperton Assets Have Been Used by Board Chairman**

The allegation discussed in this section concerns the use of district provided supplies and materials being used to enhance the board chairman's property. We believe this allegation has merit, showing at the very least a lack in the separation of personal and public funds. Discussions with the board chairman and other CID associates identify that concrete ordered and paid for by the district on two separate occasions ( in July and August 1997), had been placed at the board chairman's residence. Further, both the chairman and his CID work associates state that the board chairman used CID staff and employed outside concrete grading and hauling services paid for by the district for the work at his own residence. All costs were originally paid from district funds because, in both cases, concrete was ordered for a CID activity.

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The board chairman maintains he has paid back the district for all concrete and labor work done at his home. The district received a personal check from the chairman in October 1997 for \$775 to pay for all personal charges. Inspection of payment documents and discussions with individuals involved, indicate the chairman's reimbursement was insufficient. The chairman's accounting of costs are based on his use of concrete left over in the trucks after CID jobs were completed. Interviews with both delivery drivers and our own observations indicate the greatest part of the material and labor on each occasion appear to have taken place on the chairman's property. Assigning material costs from the drivers' recollections and prorating labor costs based on materials used shows that the chairman actually should have paid back \$1,554.

CID's board chairman's decision to use district assets and materials for personal matters was inappropriate and points to the need for stronger oversight and accountability for the Copperton Improvement District. As previously stated, further refinement of oversight functions of the district would be beneficial in preventing similar problems in the future. Further, a review of costs should be conducted to determine if the chairman should reimburse the district an additional \$779. As a result of this review, the district's board chairman reported paying the district an additional \$108 for the residential concrete and labor charged to the district.

### **District Property Missing and Unaccountable**

Copperton Improvement District's board chairman states that CID is unable to account for an estimated \$25,000 worth of district property. District employees are unable to give an accounting of the district's assets. The 1995-1996 external audits reported that the district's *"...records still show several assets which are very old and which the district may not have. To update the property and equipment records, we recommend taking a physical inventory of the district's assets. This would facilitate the identification of any gain or loss on disposition, and assist in evaluating the adequacy of insurance coverage."* The district responded by stating that, *"A detailed inventory will be conducted by the general operations manager prior to the year end."* Conversations with the district's employees indicate this inventory has not been conducted. The board chairman and CID's employees informed us they do not know

which items belong to the district and which do not. The board chairman told us that *"no one knows what's out there [at CID's pumping station]."*

To illustrate the problem, Kennecott's Manager of Security and Loss Prevention informed us that they recently recovered the frame of one of their contractor's pickup trucks from Copperton's pumping station. The district's board chairman stated that they have discovered engines reportedly stolen from Colorado at their pumping station and indicated that the district was in a "mess." District employees allege that the former water master is holding several

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thousand dollars worth of equipment belonging to the district. The former employee informed us of his desire to return all of CID's property, but stated that his attorney advised him to retain all of their equipment until CID returns his own property in kind. The confusion surrounding the district's assets and property could have been avoided if accounting controls had been implemented as the external audit recommended.

### **Other Related District Problems**

The district has also been accused of illegal chemical dumping on district and Kennecott Copper property, as well as problems with "alleged" misrepresentations by former district employees posing as chemical cleaning distributors. These allegations, coupled with those previously discussed, indicate increased district oversight would enhance the district's ability to comply with **Utah Code** and would minimize CID's tendency to repeat similar problems in the future.

In summary, Copperton Improvement District is an independent agency that only receives state oversight from the Department of Environmental Quality for its operations as they relate to public health. The **Utah Code** requires certain financial controls over special improvement districts but does not specify any enforcement procedures. It is implied that enforcement of the **Utah Code**, as with that of any independent organization, will be compelled by either the Utah Attorney General or county prosecutors if they determine that alleged violations are significant. Special district oversight currently is limited to public awareness and voter participation through the selection of board members. The lack of significant oversight for special districts by either the state or the county may be an area needing closer examination by the Legislature.

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We hope that we have adequately addressed your concerns. If there is any additional information you need or if you have any further questions, please feel free to contact our office.

Sincerely,

Wayne L. Welsh  
Legislative Auditor General

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