

EXHIBIT D

**COOPERATIVE AGREEMENT FOR MUTUAL ASSISTANCE
IN LAW ENFORCEMENT**

This Agreement is made and entered into by and between those Utah public agencies listed hereafter as signatories to this Agreement, the United States Bureau of Indian Affairs, Uintah and Ouray Agency, and the Ute Indian Tribe of the Uintah and Ouray Reservation.

WITNESSETH:

WHEREAS, under the Utah Inter-local Cooperation Act, Chapter 13 of Title 11, Utah Code Annotated (1953) as amended, the state agencies and subdivisions which are signatories to this Agreement are public agencies duly authorized to enter into agreements with and among each other and with Indian Tribes and federal agencies for the purpose of undertaking joint and cooperative action to provide and further law enforcement services and police protection; and

WHEREAS, the Bureau of Indian Affairs is also a public agency as defined in the Utah Inter-local Cooperation Act and is authorized pursuant to 25 U.S.C. Sections 2803(8) and 2804(a) to assist and enter into agreements with other agencies for the cooperative provision of law enforcement services in Indian country and in nearby areas; and

WHEREAS, the Ute Indian Tribe of the Uintah and Ouray Reservation is a federally recognized Indian Tribe, and possesses authority pursuant Article VI of its Constitution to provide for

the maintenance of law and order within said Reservation, which responsibility (other than the enforcement of Tribal wildlife laws) has been delegated to the Bureau of Indian Affairs pursuant to Tribal Resolution 85-193; and

WHEREAS, recent decisions of the United States Supreme Court and United States Court of Appeals for the Tenth Circuit have defined the present extent of the Uintah and Ouray Reservation and have resulted in a checkerboarded pattern of Reservation and non-Reservation land, making practical law enforcement difficult without the kind of a cooperative undertaking provided for herein; and

WHEREAS, both Indian and non-Indian residents of the area covered by this Agreement will be better served by a "seamless" system of law enforcement, ensuring that violations of the law are consistently and appropriately handled, with the objective that law enforcement be prompt, fair and efficient and that life, liberty and property be protected, both on the Uintah and Ouray Indian Reservation and in the rest of the Uintah Basin area; and

WHEREAS, the signatory parties find that the protection of health, safety and welfare of the public and the interest of prompt and efficient law enforcement makes desirable and beneficial the establishment of a cooperative agreement pursuant to which violations of the law are dealt with regardless of where they occur and cooperation and mutual assistance characterize the

relationship between participating law enforcement agencies; and

WHEREAS, the governing body of each of the signatory parties has, where appropriate, by resolution agreed to adopt this Agreement;

NOW, THEREFORE, the purpose and intent of this Agreement is to provide a framework for issuing cross-deputizations from the signatory state public agencies to qualified law enforcement personnel of the Bureau of Indian Affairs and also for issuing cross-deputizations from the Bureau of Indian Affairs and Ute Indian Tribe to qualified state law enforcement personnel. Such cross-deputizations shall authorize the parties' respective law enforcement officers to exercise reciprocal peace officer powers within the Uintah and Ouray Indian Reservation and in those areas within the original confines of the Reservation which have been held to no longer be part of the Reservation. For the purposes aforesaid, it is hereby covenanted and agreed between and among the parties signatory to this Agreement as follows:

1. **Cross Deputization:**

In order to further the foregoing purposes, the parties will take the following actions:

a. The Bureau of Indian Affairs and Ute Indian Tribe will deputize (the Bureau for federal purposes and the Tribe for tribal purposes), as requested by the chief law enforcement officer of such party, the full-time law enforcement officers of the signatory state public agencies who are (1) acceptable to the Bureau and Tribe, (2) qualified pursuant to Utah State Peace Officers Standards and Training requirements to perform law enforcement functions within Duchesne and Uintah Counties, and

(3) meet applicable standards for federal deputization.

b. The signatory state agencies will deputize, as requested by the chief Bureau of Indian Affairs law enforcement officer on the Uintah and Ouray Reservation, the full-time law enforcement officers of the Bureau of Indian Affairs who are (1) acceptable to the signatory state agencies, and (2) qualified pursuant to Utah State Peace Officer Standards and Training requirements, to perform law enforcement functions within those areas of their respective jurisdictions which may be within the original exterior boundaries of the Uintah and Ouray Indian Reservation.

c. It is understood that regardless of qualifications, peace officer deputization for purposes of this agreement may be withdrawn by the issuing public agency at any time. Upon withdrawal, the officer and officer's supervisor shall be notified of the reason for such withdrawal. Withdrawal, however, need not be for cause and is at the sole discretion of the issuing agency. After withdrawal, re-issuance of peace officer deputization of such officer shall be at the discretion of the issuing public agency.

2. **Direction and Control:**

All peace officers deputized as deputies of another party pursuant to this Agreement shall nevertheless remain under the ultimate control and supervision of the public agency which permanently employs such officer. Such officer shall, however, follow any directions proffered from the deputizing agency while acting in that agency's jurisdiction pursuant to this Agreement.

3. **Policies and Procedures:**

Any peace officer who renders aid or acts under a deputization authorized pursuant to this Agreement shall be responsible for complying with the policies and procedures of his home jurisdiction, regardless of the jurisdiction in which he is performing such peace officer duties.

4. Training and Qualifications:

It is understood and agreed that notwithstanding any provisions of this Agreement, each party shall be completely and solely responsible for the qualifications, training, ability and fitness for duty of its own peace officers including when such peace officers are acting as deputies for another party under authority of this Agreement.

Each of the signatory parties agrees to make training opportunities which it conducts available to peace officers of the other signatory parties, and to sponsor such peace officers, and certify to their status as deputies, or prospective deputies, pursuant to this Agreement, for purposes of qualifying such officers for state or federal peace officer training. Each of the signatory parties further agrees to make its cross-deputized officers available for training requested by the deputizing agency. All training shall be at the expense of the party permanently employing such peace officers. Any party whose officers are proposed to be deputized pursuant to this Agreement shall submit to the deputizing agency proof of qualifying credentials and other evidence and documentation available respecting the officer's fitness for duty.

In addition to the training provided for herein, the State agrees to provide for its law enforcement officers (and make available to officers employed by its political subdivisions in

the area) on a regular basis training which includes information on proper protocol to be used in dealing with members of the Tribe, limitations on each officer's jurisdictional and cross-deputization authority, and an appreciation and understanding of matters of cultural importance. The BIA will provide similar training to its officers.

5. Liability:

Nothing in this Agreement shall be construed to mean that any of the parties hereto have, by executing this Agreement, waived any immunities or subjected themselves to any liabilities to which they would not be otherwise subjected by law. In addition, the provisions of Section 11-13-24 Utah Code Ann., shall, if otherwise applicable, apply to the peace officers affected by this agreement. No party to this agreement shall be held liable for any loss or damage by reason of its failure to effectively respond to any law enforcement problem in the territory or jurisdiction of any other party. This Agreement shall not be construed as, or deemed to be, an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action hereunder for any cause whatsoever. The parties further agree as follows:

a. When providing mutual assistance or acting as deputies of another public agency pursuant to this Agreement, the peace officers responding shall not be considered for any purpose to be employees of the deputizing public agency. All employment rights and wage compensation for work performed as deputies pursuant to this Agreement shall be the responsibility of the public agency

which permanently employs the peace officers. All peace officers retain all pension and disability rights, salaries, workmens compensation protection and all rights of regular employment while acting under authority conferred pursuant to this Agreement.

b. No employment right, property interest, liberty interest, civil right or personal entitlement of any kind shall be created by the extending, acceptance or holding of a cross-deputization pursuant to this Agreement. No peace officer of any party shall have a cause of action against any other party, its officers or employees, for failure to deliver or for arbitrary revocation of a cross-deputization. Each party agrees to indemnify and hold harmless every other party from all such claims by its own peace officer employees.

c. Under no circumstances shall any party be held liable for the acts of peace officers of another party performed under the color of this Agreement. Rather, the permanent employer of the deputized officer shall remain liable for any civil liabilities resulting from acts or conduct of such officer, and such deputized officer shall be deemed to be performing regular duties for his permanent employer while performing services pursuant to this Agreement.

d. Each party agrees to indemnify and save harmless the other parties to this Agreement from all claims and liabilities whatsoever which may arise out of the negligence or misconduct of any peace officer of that party, while such peace officer is rendering services or acting pursuant to this Agreement. Each party also agrees to bear all costs for its own defense of any litigation arising out of any incident during which a deputization of another party is used.

e. All the immunities from liabilities, exemption from laws, ordinances and policies and procedures which peace officers employed by the various parties hereto have in their own jurisdictions, shall be effective in the jurisdiction in which they are acting as deputies, to the extent allowed by law.

f. Each party to this Agreement agrees that it and its contracted insurance carrier, if any, shall be liable for all legally determined damages caused by its own peace officers. Each party agrees to obtain sufficient insurance coverage, or to adequately self-insure, to meet its responsibility hereunder.

Such insurance shall include workmens compensation, vehicular comprehensive and collision, bodily injury, property damage, liability insurance, false arrest, and general liability insurance.

6. Commencement, Duration and Termination of Agreement:

This Agreement shall become effective from and after such time as it has been executed by the official representatives of each party, pursuant to resolution of the governing body of such party, where such is required, and upon approval by the authorized attorney of each party, and final approval by the Attorney General of the State of Utah. Any party to this Agreement may cancel or terminate the Agreement, or withdraw therefrom, upon sixty (60) days written notice to the other parties. Additional public agencies may become parties to this Agreement upon acceptance and execution of this Agreement as set forth above, and upon approval of the governing bodies of these public agencies already parties to this Agreement.

7. Actions Pursuant to This Agreement:

It is contemplated that the parties hereto shall act together initially, as a united law enforcement system, when carrying out this Agreement. However, the cooperative nature of the undertaking shall not give State officers the right to patrol Reservation land off State highways, County roads and areas of non-Indian owned fee lands, nor shall it give Bureau of Indian Affairs officers the right to patrol non-Reservation lands. Follow-up investigation and prosecution of criminal conduct shall

generally be turned over to that party having primary jurisdiction to deal with the persons involved. Pursuant to Section 11-13-7(1) Utah Code Ann., and in furtherance of these objectives, it is agreed that the chief law enforcement officers of each of the parties hereto shall meet together not less than quarterly as a joint board and may establish procedures and operational plans for the rendering of mutual law enforcement assistance under this Agreement. It is further agreed that, when rendering such assistance pursuant to this Agreement, the following guidelines shall be utilized, unless or until otherwise agreed between the chief law enforcement officers of the parties:

a. Each of the parties to this Agreement authorizes its chief law enforcement officer, his designee, or officer commanding in his absence, to render and request mutual police aid to and from the other parties to this Agreement to the extent of available personnel and equipment. The judgment of such chief law enforcement officer, his designee or officer commanding in his absence, of each party rendering aid, as to the amount of personnel and equipment available shall be final.

b. Peace officers of each party may act in the jurisdiction of the other parties only (1) upon formal request, (2) where they have pursued a fleeing suspect in a "hot pursuit" situation, or (3) upon any occasion of crime being committed in the presence of that officer. They may act to prevent bodily harm, destruction of property, commission of crime, or escape from the scene of criminal conduct. Such officers may also act in any circumstances where action in their own jurisdiction would be appropriate and called for without prior authorization pursuant to the statutes and rules of their own jurisdiction and the policies and procedures of that law enforcement agency. In such circumstances it will be implied that the deputizing agency is in need of assistance and that the law enforcement officer is authorized to act pursuant to this Agreement as a special deputy, to provide immediate aid or services without formal request for assistance being necessary.

c. Persons apprehended under authority of this agreement shall generally be taken to the nearest holding facility. The deputizing agency shall be informed of such arrest or detention as soon as is practical. Thereafter, the party having primary jurisdiction over the apprehended person (or responsibility to prosecute pursuant to a Diversion Agreement among the parties) shall arrange transportation of such person to its holding facility.

d. Follow-up criminal investigations shall be conducted by the agency having primary jurisdiction (unless otherwise agreed). Thereafter, the party having primary jurisdiction over the apprehended person shall arrange transportation of such person to its holding facility. The responding deputized officer shall turn over information to the deputizing agency on any criminal activity, and shall fully cooperate with the primary agency and assist with the follow-up investigation as requested by such agency and authorized by his supervisor.

e. After any person has been arrested under authority of this Agreement and been transported to a holding facility as set forth herein, he shall thereafter be processed and dealt with pursuant to direction of the agency having primary jurisdiction over such arrested person (or responsibility to prosecute pursuant to a Diversion Agreement among the parties). Except for diverted offenses, all persons arrested shall be referred to that court having jurisdiction over such apprehended person.

8. Peace Officer Credentials Required:

It is understood and agreed that, except in extreme emergencies or when life is in immediate danger, or as otherwise authorized by his commanding law enforcement officer, all officers of other public agencies acting pursuant to authority conferred under this Agreement shall only act when in possession of proper peace officer credentials.

9. Costs:

It is intended that the parties hereto shall bear their own costs arising from this Agreement.

10. Consistent with Federal and State Law, Provisions Severable Disputes:

Provisions of this Agreement shall be interpreted, where possible, to be consistent with applicable federal, state and tribal laws. If particular provisions of this Agreement shall be found inconsistent with federal, state or tribal laws, rules or regulations, such provisions shall be deemed to be severable, and the balance of the Agreement shall remain in force, unless terminated pursuant to the provisions of this Agreement. Original jurisdiction to hear and decide any disputes or litigation arising pursuant to or as a result of this Agreement shall be in the United States District Court for the District of Utah.

11. No Waiver of Sovereignty or Jurisdiction Intended:

It is understood and agreed that the purpose of this Agreement is to facilitate and promote predictable and efficient law enforcement within the jurisdictions of the parties signatory to this Agreement. It is further understood that no acquiescence in or waiver of claims of rights, sovereignty, authority, boundaries, jurisdiction, or other beneficial interests is intended by this Agreement; no rights or jurisdiction shall be gained or lost at the expense of the other parties to this Agreement; and actions taken in furtherance of this Agreement shall not be interpreted as having that intention or effect.

12. Prior Agreements Superseded:

This Agreement supersedes, rescinds and repeals any and all prior agreements and resolutions on the subject of mutual law enforcement and cross-deputization between, among or that involve the parties hereto. To the extent that any resolution or agreement of any of the parties conflicts with this Agreement, or any portion hereof, this Agreement shall control.

IN WITNESS WHEREOF, this Cooperative Agreement for Mutual Assistance in Law Enforcement is duly made and executed by and in behalf of the Ute Indian Tribe of the Uintah and Ouray Reservation; United States Bureau of Indian Affairs; State of Utah; Duchesne County, Utah; and Uintah County, Utah (which acknowledgments are affixed on the following pages attached hereto) by authority of an appropriate resolution by the governing body of each such party, where required.

APPROVAL BY UTE INDIAN TRIBE
OF THE UINTAH AND OURAY RESERVATION

Ute Indian Tribe

By C. Riley [Signature] DATE: 10/17/98
Chairman, Tribal Business Committee

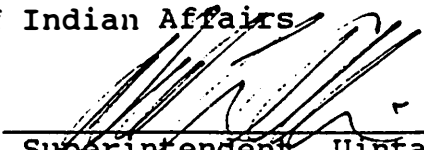
APPROVED:

[Signature]
Attorney

DATE: 10/17/98

APPROVAL BY THE UNITED STATES
BUREAU OF INDIAN AFFAIRS

Bureau of Indian Affairs


By: 

Superintendent, Uintah and Ouray
Agency

Date: 10/17/98

APPROVAL BY DUCHESNE COUNTY, UTAH

County of Duchesne, Utah

By 
Chairman,
Board of County Commissioners

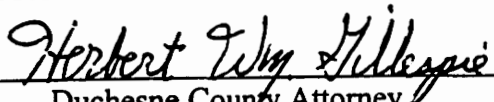
Date: 10/13/98

ATTEST:


Duchesne County Clerk

Date: 10/13/98

APPROVED:


Duchesne County Attorney

Date: 10/19/98

Duchesne County, Utah

APPROVAL BY UINTAH COUNTY, UTAH

County of Uintah, Utah

By: James H. Vincent
Chairman
Board of County Commissioners

Date: 10.20.98

ATTEST:

Dot H. [Signature]
Uintah County Clerk

Date: Oct. 20, 1998

APPROVED:

[Signature]
Uintah County Attorney

Date: October 19, 1998

APPROVAL BY ATTORNEY GENERAL, STATE OF UTAH


The foregoing COOPERATIVE AGREEMENT FOR MUTUAL ASSISTANCE IN
LAW ENFORCEMENT is approved this 15th day of October,
1998.

JAN GRAHAM
Attorney General,
State of Utah

By: Charles C. Pinyoley

APPROVAL BY STATE OF UTAH

State of Utah

By 
Governor

DATE: Oct 26, 1978

STATE OF UTAH
300
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