

Approved Ivan Sand
Date

*MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative Ivan Sand at
Chairperson

1:30 ~~xxx~~ p.m. on March 3, 1983 in room 521-S of the Capitol.

All members were present except:

Committee staff present:

Theresa Kiernan, Revisor of Statutes Office
Mike Heim, Legislative Research Department
Jeanne Mills, Secretary to the Committee

Conferees appearing before the committee:

Steve Rose, Chairman, Blue Ribbon Committee of the Johnson County Commission
William E. Franklin, Chairman, Johnson County Commission
Bob Bacon, County Commissioner, Johnson County
Representative Fred Rosenau
Norman Ledgin, representing Rep. Rosenau

Chairman Ivan Sand called the meeting to order. He drew the members attention to copies of the Standing Committee Report of HB 2334 (See Attachment I). This bill was passed out of Committee favorably as amended on March 2 by a conceptual motion and this report reflects the Committee's amendment.

The Chairman further gave an overview of the day's meeting. It was called by a motion made at the February 23rd meeting to invite the Johnson County Commission to attend a Committee meeting to discuss the Stanley sewer problem.

William E. Franklin, Chairman of the Johnson County Commission, was present to introduce his fellow commissioners in attendance at the meeting. They were introduced as follows: Johnna Lingle, second district; Bob Bacon, third district; Janet Leick, fourth district; Bruce Craig, fifth district.

Steve Rose, Chairman, Blue Ribbon Committee, was present. This committee was organized with the purpose of providing advice to the board on the subject of equitable apportionment of cost among property owners for waste water systems within the Johnson County Unified Waste Water District and, more particularly, with reference to the apportionment of costs in the Blue River Main Waste Water District. Mr. Rose read the informal report of this meeting which is attached (See Attachment II). Copies of the formal report were distributed to the members prior to the meeting. A copy of that report is attached (See Attachment III).

Mr. Rose responded to questions from the members. One member referred to the informal report and asked who cast the dissenting vote on a particular vote that was taken by the committee. Mr. Rose responded it was Marvin Rainey who dissented on the motion to include the words "not unreasonable" in their report. The member further asked who petitioned for the sewers. Was it large landowners or small landowners? Mr. Rose said they did not reach a conclusion as to any pattern as to the size of the acreage held by landowners who petitioned. They felt, however, anyone with very much acreage was doing so for a profit to enhance the value of their land. It was asked how many petitioners had 30 acres or more. Mr. Rose said they did not have this information. A member made the point that farming property would not benefit. Mr. Rose said he would say that if property was valuable then the price of the sewer was not a large price to pay. Another member asked if the members of the area carried the petitions for the sewer district. Mr. Rose said this was not brought out. The member further asked if people were misled. Mr. Rose said the sewer lines and the plant were at a cost considerably higher than people were led to believe. The ultimate price was twice the estimate, but costs were in line with practices in the State of Kansas. The member pointed out there was a 100 percent increase in the cost when it was implemented. He further asked if there was a hearing. Mr. Rose said proceedings were in accordance with the law. A member asked who the residents were that petitioned. Mr. Rose deferred to staff and they did not have the information available at the meeting. Another member asked why there was a change in the method of assessment to square footage equalization and Mr. Rose said because there was a change in the county commissioners. Another member asked if all of the costs are fixed and he responded they are with no additional costs other than lateral lines. A member questioned Mr. Rose concerning the percentage of landowners that petitioned. The member understood it to be 48 percent rather than the 51 percent. Mr. Rose said he understood that there was 51 percent as they were in accordance with the law. A member

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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referred to the formal report on page 2., (3), where it is stated that changes should be made in the future regarding the creation of waste water districts; however, the committee did not feel that decisions made on this project were unreasonable. When asked for an explanation, Mr. Rose said the Blue Ribbon Committee felt the design, engineering and petitioning were not unreasonable, but there is room for improvements to avoid this situation in the future.

William E. Franklin, Chairman of the Johnson County Commission, returned to the floor. He introduced members of their staff that were in attendance at the meeting. He clarified the feelings of the county commissioners and distributed three handouts (See Attachment IV). He addressed costs and stated the Blue River #5 and #6 projects are not unreasonable for a project of this type. On similar projects in their county, Blue River #5 was third lowest on a list of 14 for costs for interceptor lines. Costs per acre from the time of apportionment had a 20 percent increase. For the treatment plant this project is sixth. There are five projects higher in costs. The Board of County Commissioners are now moving ahead with the apportionment hearings scheduled for June 7, 1983, when it will be recommended that the area method of assessment be used. They are now in the process of recalculating the costs. He stated the county commission does not want countywide assessment.

Bob Bacon, Johnson County Commissioner, was present to respond to questions and give background. He is the only commissioner that was present at the inception of the sewer district. A member asked if there was a public hearing and he responded there were two hearings. There was one to consider the creation of the sewer district and the other for the creation of the district. It was further asked if a contractor was engaged before this time and he said no, they approved the creation of the district from preliminary plans with lines drawn on a map. The member further asked if the original hearings were for one-third the size of the district and Mr. Bacon said it was and every time they expanded, they had a hearing. It was asked when they changed contractors and Mr. Bacon said they never did. They had a 201 study of the Blue Riven Basin by Black and Veach. The member asked if Black and Veach recommended a lagoon and he responded they did suggest that concept. Another member asked what type of notification was made. He said notice was made by individual mailed notice to each property owner. It was further asked if the county applied for matching funds and was refused. Mr. Bacon said they did not make formal application because the Environmental Protection Agency (EPA) would not consider this a primary need project. The EPA did not want to contribute to urban sprawl. Another member asked if it is true that there were only 48 percent of the landowners on the petition and he said they had 56.89 percent confirmed by the consulting engineers and the attorney for the district. Another member asked about the growth factor for the area in 1977 and Mr. Bacon said it was bursting at the seams. Another member asked who wanted the sewer. The response was that it was a mixture of small homeowners and large landowners. The member wanted to know further if the Stanley High School is on the district sewer. Mr. Bacon said it is not as they have their own facility and the purpose of the district was not to make it larger to lower the costs. It was asked what procedure will be used when others come into the sewer district. Mr. Bacon said they will buy in. Another member asked if the costs of the treatment plant are different than the cost of the sewer district. Mr. Bacon said they are and explained how they differ. At this point in the testimony, Mr. Bacon pointed out that this sewer district is in his county commission district. Another member asked how many people in the area have signed the petitions that live there and he estimated 40 names. Another member asked what consulting firm projected the growth. Mr. Bacon said Campbell, Barber, and Lambeth projected there would be 800 homes by 1986. Based on this formula there would be 2.5 homes per acre with 3.5 people per house. A member asked if there was concern by the patrons when this was enlarged and he said no, in fact they put this project on a fast track to be in use in 18 months. The member pointed out that with 800 homes in 1986, wasn't it an unwise assessment. He said this was a projection of Campbell, Barber, and Lambeth and his figures may be wrong. It was further questioned about the 48 percent petition and he said this subject is under litigation.

Representative Fred Rosenau was present to provide more information to the Committee concerning this area (See Attachment V and Attachment VI). Mr. Norman Ledgin, representing Rep. Rosenau, was introduced by the Representative. Mr. Ledgin made several statements about this situation in the sewer district. Those statements are listed.

- 1) He referred to a copy of a Black and Veach report with the statement that the cost of the Stanley subdistrict sewer program would be \$322,700. It was dated 1977. The hearing was on December 6, 1977, with the hearing officer being Robert Bacon.

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The population projections were for the entire metropolitan area with a projected low rate of population growth in this suburban rural area of Stanley. It was suggested to construct a small sewer at year zero and construct another sewer parallel to the first at year 20 so that the two sewers could carry the ultimate load. The plan was for 1,200 acres in and around Stanley and it was actually formed with fewer than 1,100 acres. In a period of five months from December 6, 1977, to May 9, 1978, the estimates of the Stanley sewer rose from \$322,700 to \$2.2 million.

- 2) He stated that the attorney for the title company found 29 signature errors on the petition.
- 3) He asked if the EPA would not fund the project, then why did the county proceed?
- 4) He said he is interested in knowing how the county goes about selecting engineers and attorneys for such projects and what prompted the commission to adopt on November 3, 1981, a conflict of interest policy. The week before there was discussion of a conflict of interest in a community within the county involving an engineer.
- 5) The population projection used by the engineer for this sewer district indicates that there will be 23,625 people living within the four square miles (6,000 per square miles) or the same density of Los Angeles in 1992 or nine years from now. He estimates there are fewer than 400 people living there at present. Later the projection was changed to the year 2020. He provided copies of the report of the projection (See Attachment VII).
- 6) He said he was distressed that people whose land was crossed by the laying of the sewer lines were never notified that nominal reimbursement checks were waiting at the courthouse for them to pick up.
- 7) The people of Stanley just found out that the early payments made during the first month following the reapportionment hearing were held over a year. When asked why this was done, they were told by one of the finance people, Mr. Malencoff, that the attorneys for the county wanted to keep this money for leverage. They cannot understand what kind of leverage.
- 8) Finally, the Stanley sewer is not working very efficiently and one of the problems is under-use.

A member asked what could be done in the future to prevent this from happening in the future. Mr. Ledgin said they when the cost over-runs are encountered in the future, the people paying should be kept in touch.

Representative Rosenau returned to the floor for comments and responded to questions. A member asked if he thought the developers have the edge on getting what they want done. Representative Rosenau said he did not know.

Mr. Franklin appeared to brief the Committee on HB 2305, HB 2306, and HB 2307. He said the Johnson County Commission was opposed to all three bills.

HB 2305 (Sewer districts; delay of payment of costs.) . Mr. Franklin stated they are opposed to countywide assessment at large. The commission is committed to the benefit district concept. A member asked what the cost would be if it was spread countywide. Mr. Franklin said if the \$9.6 million was spread, it would be about 1.2 mills (estimate). Discussion followed on recommendations of the Blue Ribbon Committee. Mr. Franklin stated that the people in Johnson County are not in favor of a countywide spread. Another member said that ultimately the county will have to pay for it and Mr. Franklin said they do not know that as it is a hypothetical situation. Discussion followed on what would happen to property if homeowner could not pay.

HB 2306 (Counties; benefit districts; undeveloped areas not included.) was discussed and Mr. Franklin said this bill is a nightmare and very inequitable. A member asked how much good a sewer does for farm land and Mr. Franklin said in terms of the farm land, nothing, but it will increase the value of the land and change the concept of the profession of the owner.

HB 2307 (Payment of costs of certain sewer improvements in urban area counties.) is opposed by the commission. Discussion followed on a similar bill in the Senate (SB 155). Another member asked Mr. Franklin's personal opinion of what is going to happen to the people in Stanley. He responded that there will be a few people seriously damaged but

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most will not be and the development will begin to take place again. The whole question of timing has caused this situation and it is not the intent of the commission for this situation to occur.

HB 2010 (Sewer districts; delay in the assessment of cost of construction.) was discussed. Representative Patterson made the motion, seconded by Representative Acheson, to report HB 2010 favorable for passage. Motion carried.

Representative Dean made the motion, seconded by Representative Fry, to table HB 2305. Motion carried.

Representative Dean made the motion, seconded by Representative M. J. Johnson, to table HB 2306. Motion carried.

Representative Dean made the motion, seconded by Representative Baker, to report HB 2307 favorable for passage. A division was called with nine (9) voting "for" and nine (9) voting "against." The Chairman broke the tie and voted "yes." Motion carried.

Representative Patterson made the motion, with a proper second, to approve the minutes of the March 2, 1983, meeting as printed. Motion carried.

Meeting adjourned.

* Audio tapes of this meeting are on file with Legislative Administrative Services in Room 511-S at the Statehouse in Topeka, Kansas.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

DATE March 3, 1983

NAME	ADDRESS	REPRESENTING
Howard Leggin	15900 Antioch, Stanley, KS	Rep. Rosewood
Gerry Raby	Co Courthouse Olathe	Bd of Co Comm. Jo Co.
Mary Fisher	Tepeka	D of Budget
Janet D. Leick	Co Courthouse Olathe	Bd of Co Comm
Bob Barry	Olathe Courthouse	Johnson County
Johnna Tingle	Jo Co Comm.	" "
DOUG SMITH	JO CO UWD	JOHNSON COUNTY
JOHN MOSER	" " "	" "
Magellan Moser	18190 Fernhill, Stilwell	Blue Ribbon Committee, Blue River Sewer
William E. Frankh	8017 Fontana	County Commissioner
Brian Shapley	Pravic Village 4026 S 20107 Hall Stilwell	
Low Sander	Roads 20107 HALL STILWELL, KS.	
Carol Shapley	✓	
Mary Louise Byar	Box 23154 Stanley, KS.	Stanley Cit. Comm.
Carol A. O'Keefe	21315 S Hall ^{Beeper} St. Louis	Stanley Cit Comm
Hazel W. Ball	7527 Kay ^{Stanley, KS} Lyons, KS.	" " "
Mark Henson	Breeland Park	City of P etc
Nancy Brown	15729 ^{overbrook} Stanley	OXFORD TOWNSHIP TRUSTEE
Anita Jellie	11425 W 156th Ter	Olathe
Grace Hanna	15991 Outlook	Stilwell
Regan R. Carney	1524 Summit Olathe	Jo County Commissioner
Lair Welch	Rt 1 Stilwell, KS	
Phil Harross	410 W. Center Olathe	Johnson County Const
Jerry Raehl	Ct House Olathe, KS	Johnson County, Legal Dept

March 3, 1983 minutes of House Local Government Committee were recorded on audio tape. Upon completion of a transcription of the meeting, the transcription will be microfilmed and appended to the end of the minutes of the 1983 House Local Government Committee.

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

Your committee on Local Government

Recommends that House Bill No. 2334

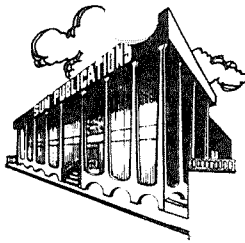
"AN ACT concerning the correction of recorded plats."

Be amended:

On page 1, by striking all in lines 21 to 31, inclusive, and inserting the following:

"Section 1. If, after recording a subdivision plat, an error is found in distances, angles, bearings, subdivision or street names, block or lot numbers, the computation of dimension or elevation or other details of the plat, except in connection with the outer boundaries of the plat, and if the property described in that part of the plat containing the error is under single ownership, the engineer of the city or county that approved the plat may file an affidavit with the register of deeds that the error was made. The affidavit shall describe the nature and extent of the error and the appropriate correction. The register of deeds shall record the affidavit, and shall place in the margin of the recorded plat a notation that the affidavit has been filed, the date of filing and the book and page where it is recorded. The filing of the affidavit shall correct any such errors, but shall have no effect on the validity of the plat or any property interest recorded by reference thereto.";

And the bill be passed as amended.



Attach II

SUN PUBLICATIONS, INC.

I-435 and Metcalf Overland Park, Kansas 66212 (913) 381-1010

The Blue Ribbon Committee met at the Doubletree at 8 a.m. until 5 p.m. on Saturday, February 12th.

The first part of the meeting, before lunch, was taken up with the issue of what actually occurred with the sewers from petition to completion of the project.

It was the feeling of the group that before it could offer suggestions on financial relief, it must first determine what lead to the current problem.

The process included the following:

- 1) A half-hour presentation by Doug Smith and his staff on the boundaries of the district, the chronological events from petition to completion, including litigation; the methods of assessment determined, and all the basic facts related to the district.
- 2) Prior to the meeting, approximately one week before, I had sent to all committee members a complete packet of information, including engineering designs, resolutions, maps, and general information on the wastewater district. Therefore, much of the de-briefing was merely a summary of information already studied by members for several days.
- 3) Kent Crippin made a presentation on a proposal to consolidate treatment plants in the wastewater district. Using figures earlier provided by the wastewater staff, he also presented to the group the effects of the various assessment formulas to show the impact on small, medium, and large property owners in the various developments in Stanley and Leawood. Pictures of small homes in Stanley, and their current assessments were distributed among committee members.
- 4) At the request of several members, the wastewater staff again produced the map showing the plats originally petitioning for sewers. It was the objective of the group to determine if a few large property owners were the primary instigators of the sewer petitioning. It was noted with some interest that there were several large land owners who did NOT petition, some who did -- medium ones who did and did not -- and small owners who did and did not. Therefore, there was no consensus as to the influences of larger developers. They concluded that there obviously was a profit motive, however, because sanitary reasons for petitioning did not seem to be a driving force behind farms of 30 acres, for example.



"Offset Printers and Publishers"

Attach II

- 5) There were three independent sanitary engineers at the meeting -- two on the committee and one as resource. They were Fred Gibson, J. C. Nichols Co.; Glenn Gray, Larkin & Associates; and the resource engineer was Charles Keller, Black & Veatch. All three had spent considerable time during several days before the meeting studying the engineering designs.

The engineers reached these conclusions:

- a) While the engineering designs were probably "overly optimistic", they were consistent with the standards of that day and were even consistent with those of the state of Kansas at that time. Certain EPA restrictions caused some of the "largeness" of the system. Old, outdated assumptions (such as 3.5 persons per unit) were still being utilized.
- b) In hindsight, it is likely that none of the engineers would have built such an elaborate and expensive system so soon. The Black & Veatch engineer said a lagoon-system would have been appropriate. But he also said what was done was still within the bounds of reasonable engineering practices.
- c) They stated that engineering is an art, as well as a science, and that one must still guess how many people will live in an area and then assume how many will flush their toilets or use their showers at any given time. They agreed that one must build to handle the optimum day, or else waste will back up into someone's house.
- d) They all agreed that, given the rural nature of the area, it should have been considered that growth there might happen in a different way than in urban areas of the past, within Johnson County.
- e) They agreed that, with the drying up of EPA funds, it made the project far more expensive.
- f) They agreed that future sewers be determined and designed by a whole new set of updated assumptions and considerations -- that the old way of doing things is no longer appropriate.

But again, in summary, all engineers were unanimous in their evaluation that there was nothing negligent nor unreasonable in design, from an engineering standpoint.

- 6) The group then considered whether the original charge by Commissioners were unreasonable. That is, the ultimate engineering may have been in conformity with past practices, but perhaps it was unreasonable to have even formed the district and the assumptions given to the engineers may have been unreasonable.

There was considerable discussion on this matter. At least one member of the committee felt strongly that in hindsight, he -- as a commissioner -- would not have proceeded with the district as it was conceived. Others disagreed, maintaining that with information available then, it was not unreasonable.

The words "not unreasonable" were debated and, in fact, a separate motion was made to include these words in our report. It passed with one dissenting vote.

It was noted that there had been a number of misstatements made in the past about the formation and engineering design of the district. The committee concluded that it might be useful to the commissioners, the public, and the legislators, if the committee formally released its findings and conclusions regarding those matters. It later did so in formal motions.

The group then adjourned for lunch.

* * * * *

When the group returned, the discussion turned to the issue of assessment.

Committee members wanted to know what the understanding of lot owners were at the time they petitioned. Doug Smith informed the group that in his review of tape recordings of the original hearings, the lot owners were informed that the "square foot" area equalization method would "probably" be used.

Again, the group reviewed the impact of the different assessment formulas on different size lots. It considered impacts on very small homes, 5 acres, 10 acres, up to 160 acres. We asked for and received from staff a sheet showing the breakdown of lot sizes in the district by various size-categories (under 5 acres, 5-10 etc.) It was noted that there were a large number of lots 5 acres or more.

It was the unanimous consensus of the group that the square-foot assessment was more appropriate than combined average because:

- a) This was the original concept presented to homeowners.
- b) It would more likely give a break to those who petitioned for sanitary reasons, as opposed to profit motive.

The group unanimously voted to recommend reassessing on the square-foot, area equalization basis.

The discussion then turned to financial relief for the large property owners. It was noted that these were not all large, wealthy individuals, but in fact included many medium-sized farms. In fact, the group used as its example a "little old lady with 30 acres."

These are some of the ideas presented and explored and the general comments:

- 1) Consolidate treatment plants throughout county and/or wastewater district. Some members thought this was a good concept but did not have enough information, such as the actual state of condition of older plants. Fred Gibson, J. C. Nichols, said it was erroneous to conclude that older systems were due for major repair. Some, he said, had been renovated fairly recently and most would require minor repair, at best.

The "Bacon" proposal was discussed at length. The group felt it had merit for the future but did not think the county should rush into this concept based on Blue River. Therefore, they recommended the county study its feasibility. This was not to be misconstrued as a recommendation.

- 2) The idea of a capital levy for those in the immediate watershed gained support. It was very appealing to virtually all of the group to consider a concept which would tax those who will eventually benefit. Legal minds said it was too late for Blue River, but all agreed this might have tremendous merit for the future.
- 3) A county loan was discussed. Fairly elaborate plans were presented by resource people. All were similar to plans aired in the past -- the county loans the money and the residents repay the county.

There was much skepticism about this plan because of potential losses in recovery. But, mostly, a great many of the committee felt the rest of the county was indirectly being asked to bear the burden, or share the burden, for another district.

- 4) Private investment. A representative from E. F. Hutton, Patrick Keel, made a brief presentation on his company's efforts to obtain private financing. They are working on a project in Suffolk, NY, but he said there were tremendous obstacles and was rather pessimistic about its prospects here.
- 5) Deferral of payments. More time was spent on this than any other concept. In fact, at one point the group was debating whether to offer a deferral to those with less than 20 acres and over 10 years or until land was platted.

One member suggested that deferral of payments could actually stunt the growth of that community, because as the "balloon" came nearer, would-be homebuyers and developers would shy away.

The deferral program discussed still would include interest payments and some annual principal payments.

However, the more the proposal was discussed, the less attractive it sounded to everyone. They could see no equitable way to administer it, and they thought it might actually harm the community.

I could see at that point there was very little sentiment for a "bailout" solution. There seemed to be strong philosophical objections. The mood of the group can be characterized as follows:

Homeowners petitioned for sewers, in accordance with the law. While some did so for sanitary reasons, many obviously sought profit. On a square-foot assessment formula, those who sought sanitary relief will receive assessment relief.

The county or others outside that district should not be asked in any way to subsidize their risk. If it had gone well, those people would have gained. It didn't, and they lost.

Nothing was done by the county that warrants special consideration, nor does it warrant asking others outside the district to share the burden. It was agreed that IF the committee had found gross neglect or gross bad judgment by the county or engineers, then some relief would have been in order.

It was noted by some members of the committee that property owners might be over-reacting by claiming they will lose their homes. There is a three year period in which they can pay before foreclosure occurs.

One member, a developer, said that while things look bleak now, that in 18 months the "little old lady on 30 acres" with sewers might be able to sell her property for considerably more than it's worth today.

With the tide moving in that direction, I asked the committee for a straw vote: How many felt that "the people petitioned for the sewers, therefore they should be expected to pay for it. Period."

Seven out of ten voted this way. This included individuals of all political and philosophical persuasions.

The three dissenters included one, who was in favor of a deferral of payments, and two were generally in favor of consolidating treatment plants.

* * * * *

Shortly thereafter the group adjourned.

A formal report was issued to the Commissioners on Monday. A copy was distributed by mail to all committee members. I told them, unless I heard from them, I would consider the report to be correct. Heard nothing.

Attach III

March 2, 1983

Enclosed for your review is the report and membership of the Special "Blue Ribbon" Committee on Blue River Waste Water District Cost Apportionment in Johnson County.

The Johnson County Board of County Commissioners will present testimony before the House Local Government Committee on March 3, pertaining to purposed legislation affecting sewer districts.

Atch. III

BLUE RIBBON COMMITTEE MEMBER:

Robert F. Bennett, Former Kansas Governor, attorney in Overland Park,
Bennett, Lytle, Wetzler, Winn, Martin

E. Stephen Brown, Vice President, Stern Brothers Investment Bankers,
former Prairie Village councilman

Kaye Cleaver, former member Johnson County Planning Commission,
former Pres. League of Women Voters, Acct. Executive,
Smith, Barney, Harris Upham

Tom Congleton, Developer of Corporate Woods, Chairman of the Board,
Jones & Company

Kent Crippin, Leawood Mayor and Chairman, Johnson County Council
of Mayors, partner, Lee-Crippin, Inc.

Jack Gardner, Attorney whose Olathe firm, Gardner, Davis, Kremer,
Yorten, Hubbard, Ruzicka has wide experience in
representing sewer districts; current pres. of Kansas
Bar Assn.

Fred Gibson, Secretary and Director of J. C. Nichols Company, more
than 30 years experience in residential dvpt.

Glenn Gray, Managing Partner, Larkin & Associates; more than 30 years
experience as engineer consultant. Has extensive experience
in sewer construction in Johnson County and throughout
Kansas City

Marvin Rainey, Overland Park Attorney, former mayor of Overland Park,
current city attorney of Shawnee

Bill Tschudy, with Zahner and Company, investment firm specializing
in Municipal Bonds, former city manager of Olathe

Steve Rose, Chairman - President and Co-Publisher of Sun Publications, Inc.

SPECIALLY APPOINTED RESOURCE PEOPLE (NON-VOTING)

Norman Gaar, State Senator, attorney, bond expert

~~Myron Nelson, Former Chairman of Johnson County Wastewater District
for 30 years~~

Dick Noon, Vice President, Mission State Bank

Doug Smith, Administrator of Johnson County Unified Wastewater District

REPORT BY THE SPECIAL COMMITTEE ON BLUE RIVER
WASTE WATER DISTRICT COST APPORTIONMENT

Pursuant to action previously taken by the Board of County Commissioners, I was requested to form a citizens committee for the purpose of providing advice to the Board on the subject of equitable apportionment of cost among property owners for waste water systems within the Johnson County Unified Waste Water District and, more particularly, with reference to the apportionment of costs in the Blue River Main Waste Water District. In accordance with that direction, I did select a group of citizens residing in Johnson County, Kansas who have broad knowledge and experience in the public and commercial affairs of the county. A list of the members selected is attached hereto.

On Saturday, February 12, 1983, all members of the committee met at the Doubletree Inn from approximately eight o'clock in the morning to approximately five o'clock in the afternoon. A number of individuals knowledgeable in the formation of sewer districts, the development of engineering criteria, the apportionment of costs, and the financing of expenditures, were present as non-voting resource persons, a list of whom is attached hereto.

Mr. Chairman and Members of the Board, the committee, having met, begs leave to submit the following report and recommendations.

The committee reviewed the procedures followed by the Board in the formation of the district, the design criteria utilized in designing the district, the demographic projections available at the time of forming the district, as well as comparisons with the actual ultimate cost. The committee also reviewed trended cost

comparisons for waste water districts previously formed in Kansas, and took into consideration the change in economic circumstances which have occurred since the district was formed in 1978. Several members of the committee felt it was important, in developing the recommendations for the apportionment of cost, to determine whether or not errors in judgment or in fact were made which were so gross as to affect a decision as to how the apportionment of cost should occur.

Based on the information submitted to the committee, the committee is of the opinion that, while honest minds do differ, particularly now and after the fact, as to whether the district should have been created, and as to whether the system should have been designed as it was:

1. The district was in fact created in accordance with the practices and procedures then and theretofore prevailing in Johnson County for the creation of waste water districts.

2. The engineering design criteria used were in accordance with the practices and criteria then and theretofore used for the design of waste water systems in Johnson County.

3. Although, particularly now and after the fact, the committee cannot find that the decisions then made were unreasonable, the committee is of the opinion that in the future, in the creation and enlargement of waste water districts and in the development of design criteria, the Board

and its staff should:

(a) Exercise greater discretion in granting petitions for creation or enlargement of waste water districts in substantially undeveloped areas, looking beyond the mere fact that the required percentage of ownership is present on the petitions to such questions as whether or not the area is ready for the development of a waste water system, what the cost of that development will be on existing owners, and what the effect of that cost will be in either encouraging or deterring timely growth and development.

(b) Re-appraise and re-evaluate the current engineering design criteria for waste water district construction to avoid over-design and to implement, where possible, a phasing of construction and improvements based upon then current needs.

(c) Consider the feasibility of providing for a capital improvement fund financed by an ad valorem levy over an entire watershed to pay the cost of improvements which will ultimately serve the entire watershed.

(d) Consider the feasibility of consolidating all county waste water districts and spreading the cost of then current and future treatment plant improvements and similar common expenditures over all of the county's waste water districts.

As to Items (c) and (d), the committee did not feel that

it had sufficient information to make a specific recommendation and that, in fact with a detailed study, neither proposal might be determined to be feasible, but that both were worthy of further study and analysis for future consideration by the Board.

The committee proceeded to a consideration of the cost apportionment of the Blue River Waste Water District. The committee considered the representations which were made at the time the district was created, the various apportionment methods currently available, including the square foot method, the area equalization method, and the combined average method. The committee also gave consideration to the question of deferral of a part or all of the assessment for a period of time and to the possible absorption, either with or without repayment, of a portion of the cost by the entire Johnson County Waste Water System or by the county itself. After considerable deliberation, upon motions duly made, seconded, and carried, the following recommendations are submitted:

1. The apportionment of the cost of the Blue River Waste Water District, exclusive of the treatment plant, should be made on the square foot area equalization method.

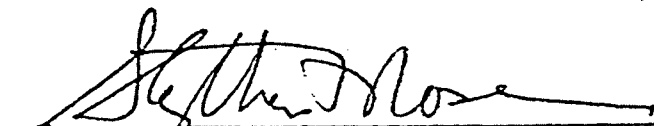
2. The apportionment of the cost of the treatment plant of the Blue River Waste Water District should be on the square foot area equalization method.

A substantial majority of the committee opposed deferral of cost apportionment assessment payments by advances made by the county

or by the waste water districts in the county, whether or not those advances were to be repaid with or without interest. It is fair to state that a substantial majority of the committee supported apportionment on a square foot basis because the cost per acre was the disclosed cost at the time the districts were formed, though there were some who also felt that such an apportionment would produce the least hardship. The view was presented by one member that some blending of apportionment weighted more heavily on square footage and less heavily on assessed valuation would be appropriate. Some other members felt that this might be true for future districts, particularly if the method of apportionment was clearly set forth in the petition. However, no action was taken by the committee on these recommendations.

The committee regrets that it was not able to address the apportionment problems which may exist in the Indian Creek Middle Basin Main Waste Water District apportionment or any long-range recommendations for future waste water district creation or design. The committee hopes, however, that the recommendations it has made will be of assistance to the Board in making the immediate decisions required as well as implementing long-range feasibility studies for future waste water district creations, construction, administration, and financing.

Respectfully submitted,



Stephen F. Rose, Chairman

CAMPBELL, BARBER, LAMBETH & ASSOCIATES, P.A.

CONSULTING ENGINEERS

6223 SLATER

P.O. BOX 315

SHAWNEE MISSION, KANSAS 66201

Attach IV

722-1220

June 26, 1978

Mr. Donald E. Steck
Chief Engineer
Johnson County Unified Sewer Districts
P. O. Box 39
Shawnee Mission, Kansas 66201

Re: Petition for creation of
Blue River Sewer Sub-District No. 5
in Johnson County, Kansas

Dear Mr. Steck:

We have reviewed the petition for the creation of Blue River Sewer Sub-District No. 5, Johnson County, Kansas, and have obtained the following results:

Total Benefit Area for the Blue River Sewer Sub-District No. 5 1,059.97 Acres

Total Area Signed in Favor 602.97 Acres

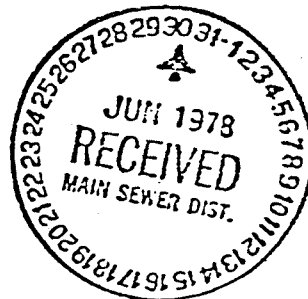
The percentage is 56.89% in favor of the creation of this Sewer Sub-District .

Very truly yours,

CAMPBELL, BARBER, LAMBETH & ASSOCIATES, P.A.

James A. Lambeth
James A. Lambeth, P.E.

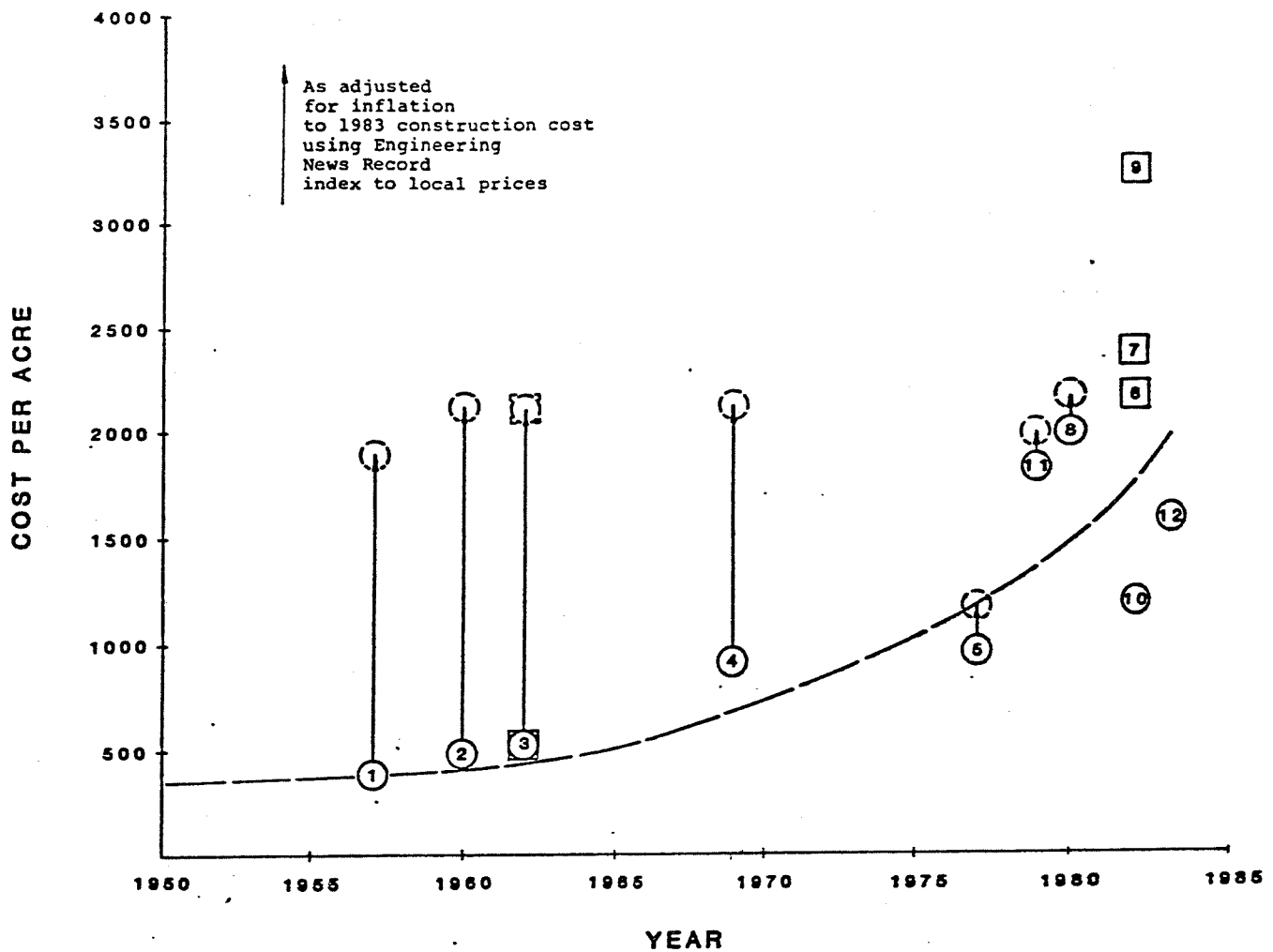
JAL:nac



M.K.N. _____
D.E.S. _____
J.H.W. _____
R.G.E. _____
C.N.E. _____
E.H.E. _____
JAL

Attach IV

HISTORY OF COSTS FOR UNIFIED WASTEWATER DISTRICT INTERCEPTOR LINES



COMPARISON OF COSTS FOR INTERCEPTOR LINES

<u>SYMBOL</u>	<u>DISTRICT</u>	<u>DATE BONDED</u>	<u>COST PER ACRE</u>	<u>INDEX FACTOR</u>	<u>1983 COST PER ACRE</u>
①	Indian Creek SSD #1	1957	\$ 375	5.15	\$1,930
②	Indian Creek SSD #2	1960	495	4.70	2,325
③	Indian Creek SSD #3	1962	515	4.47	2,300
④	Indian Creek SSD #4	1969	815	2.85	2,325
⑤	Indian Creek SSD #5	1977	850*	1.37	1,160
⑥	Tomahawk Creek SSD #4	1982	2,180*	1.00	2,180
⑦	Tomahawk Creek SSD #5	1982	2,360*	1.00	2,360
⑧	Cedar Mill SSD #1	1980	2,000	1.12	2,240
⑨	Mill Creek SSD #2	1982	3,260	1.00	3,260
⑩	Mill Creek SSD #1 (Lenexa)	1982	1,210	1.00	1,210
⑪	Little Mill Creek SSD #2	1980	1,730	1.12	1,940
⑫	Blue River SSD #5		1,600**	1.00	1,600

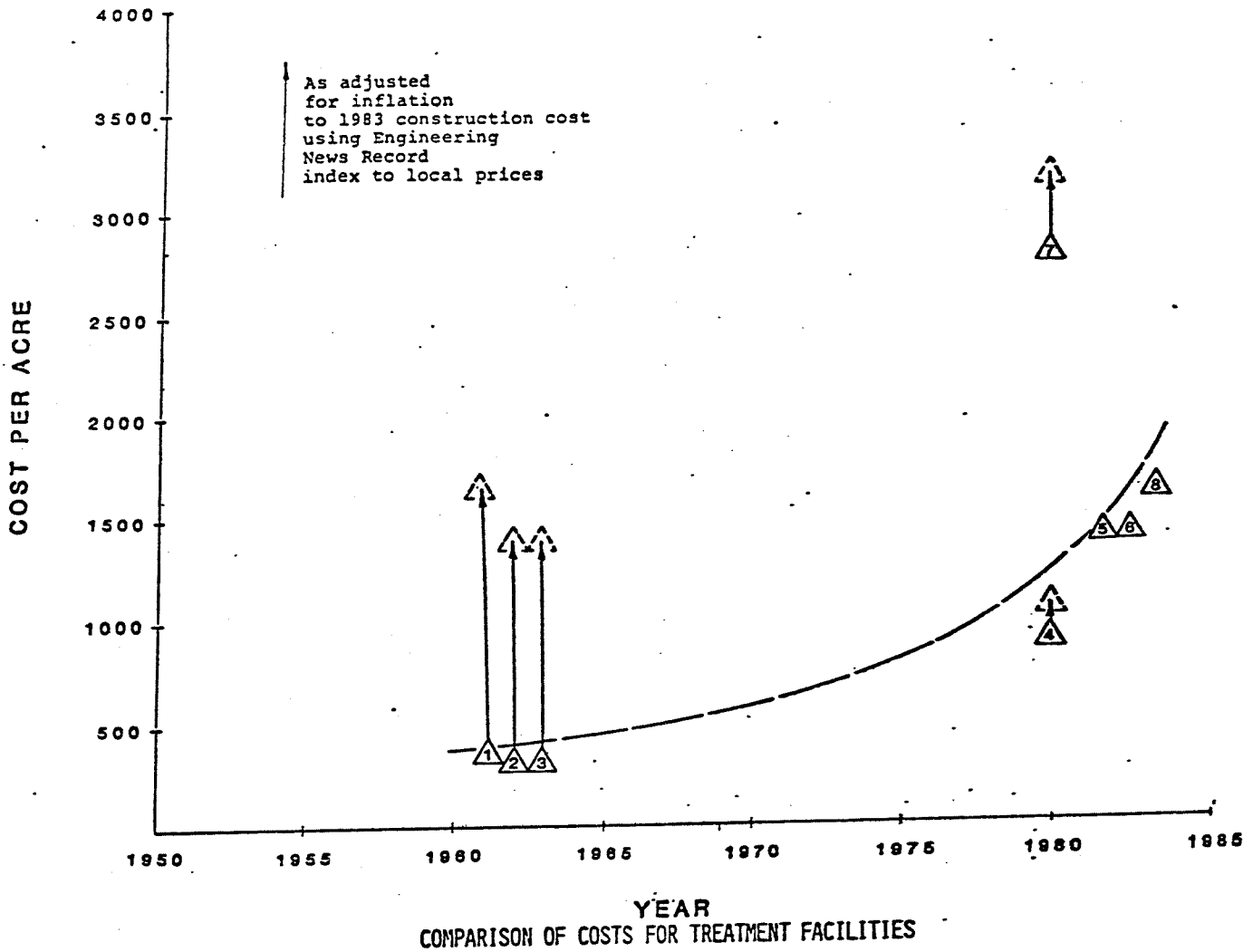
* This is cost per acre apportioned after retirement of temporary notes by EPA grants.

** Cost per acre had it been apportioned 7-82

○ or □

Indicates level of service was ¼ or ½ mile from top of district boundry.

HISTORY OF COSTS FOR UNIFIED WATER DISTRICT TREATMENT FACILITIES



YEAR
COMPARISON OF COSTS FOR TREATMENT FACILITIES

<u>SYMBOL</u>	<u>DISTRICT</u>	<u>DATE BONDED</u>	<u>COST PER ACRE</u>	<u>INDEX FACTOR</u>	<u>1983 COST PER ACRE</u>
△1	Indian Creek SSD #1	1962	\$ 368	4.47	\$1,650
△2	Indian Creek SSD #2	1962	305	4.47	1,370
△3	Indian Creek SSD #3	1962	305	4.47	1,370
△4	Cedar Mill SSD #1	1980	900	1.12	1,010
△5	Mill Creek SSD #2	1982	1,400	1.00	1,400
△6	Mill Creek SSD #1 (Lenexa)	1982	1,400	1.00	1,400
△7	Little Mill Creek SSD #2	1980	2,820	1.12	3,160
△8	Blue River MSD #1		1,620 *	1.00	1,620

* Cost per acre had it been apportioned 7-82

JOHNSON COUNTY UNIFIED WASTEWATER DISTRICTS

Blue River Sewer Sub-District No. 5
Chronology

December 6, 1977 Environmental assessment hearing held in the Blue Valley High School to discuss the facility study prepared by Black & Veatch for the Upper Blue River Watershed (201 Study.)

May 9, 1978 Public meeting held at the Blue Valley High School with property owners in the Stanley community to discuss the Upper Blue River Water Quality Management Plan and the possibility of creating Blue River Sewer Sub-District No. 5.

June 26, 1978 Creation Hearing held at Blue Valley High School, Resolution #78-132 created Blue River SSD No. 5.

August 22, 1978 Resolution #78-171 - Modification #1, enlarging Blue River SSD No. 5.

July 3, 1979 Resolution #79-143 - Modification #2, enlarging Blue River SSD No. 5.

August 7, 1979 Contract for engineering for Blue River SSD No. 5, Contract No. 1 (gravity lines and appurtenances).

October 16, 1979 Resolution #79-247 - Modification #3, enlarging Blue River SSD No. 5.

December 18, 1979 Resolution #80-16 awarded construction contract to Tri-City Construction Co. for Contract No. 1, Section No. 1.

January 21, 1980 Construction started Contract No. 1, Section No. 1.

April 15, 1980 Resolution #80-183 awarded construction contract to McCorkendale Construction Co. for Contract No. 1, Section No. 2.

May 1, 1980 Resolution #80-186 - Modification #4, removal of land from Blue River SSD No. 5.

May 28, 1980 Construction started on Contract No. 1, Section No. 2

September 24, 1980 Construction completed and accepted on Contract No. 1, Section No. 2.

December 23, 1980 Construction completed and accepted on Contract No. 1, Section No. 1.

Blue River S r Sub-District No. 5
Chronology (Cont.)

October 5, 1982 Attorney's Certificates of Project Costs for both Contract No. 1, Sections Nos. 1 and 2.

December 21, 1981 Apportionment notice mailed to property owners in Blue River SSD No. 5.

January 5, 1982 Apportionment Hearing held at Blue Valley High School Auditorium.

January 26, 1982 Lawsuit filed against the Blue River SSD No. 5 apportionment.

December 20, 1982 Memorandum Decision and Judgement whereby the courts dismissed all litigation pending against Blue River SSD No. 5.

January 11, 1983 Plaintiff's motion to alter or amend or, in the alternative, motion for additional or amended findings was denied by Judge Woodworth.

February 1, 1983 Notice of Appeal was filed by Plaintiff/Appellants.

February 22, 1983 Judge Woodworth denied BOCC's motion for order requiring supersedeas bond.

February 22, 1983 This appeal was docketed in the Office of Clerk of the Kansas Court of Appeals.

JOHNSON COUNTY UNIFIED WASTEWATER DISTRICTS

Blue River Sewer Sub-District No. 6
Chronology

September 5, 1978 Creation Hearing held and Blue River Sewer Sub-District No. 6 created by Resolution #78-179.

August 7, 1979 Contract for Engineering Services between Blue River SSD No. 6 and Campbell, Barber, Lambeth & Associates, P.A.

August 21, 1979 Attorney Contract naming James G. Butler, Jr. as attorney for Blue River SSD No. 6.

October 7, 1980 Resolution #80-379 - Modification #1, enlarging Blue River SSD No. 6.

August 4, 1981 Resolution #81-223 - awarding construction contracts to McCorkendale Construction Co. for Contract No. 1, Section No. 1 and Contract No. 2, Section No. 1.

August 21, 1981 Construction started on Contract No. 1, Section No. 1 and Contract No. 2, Section No. 1.

April 20, 1982 Construction completed on Contract No. 1, Section No. 1.

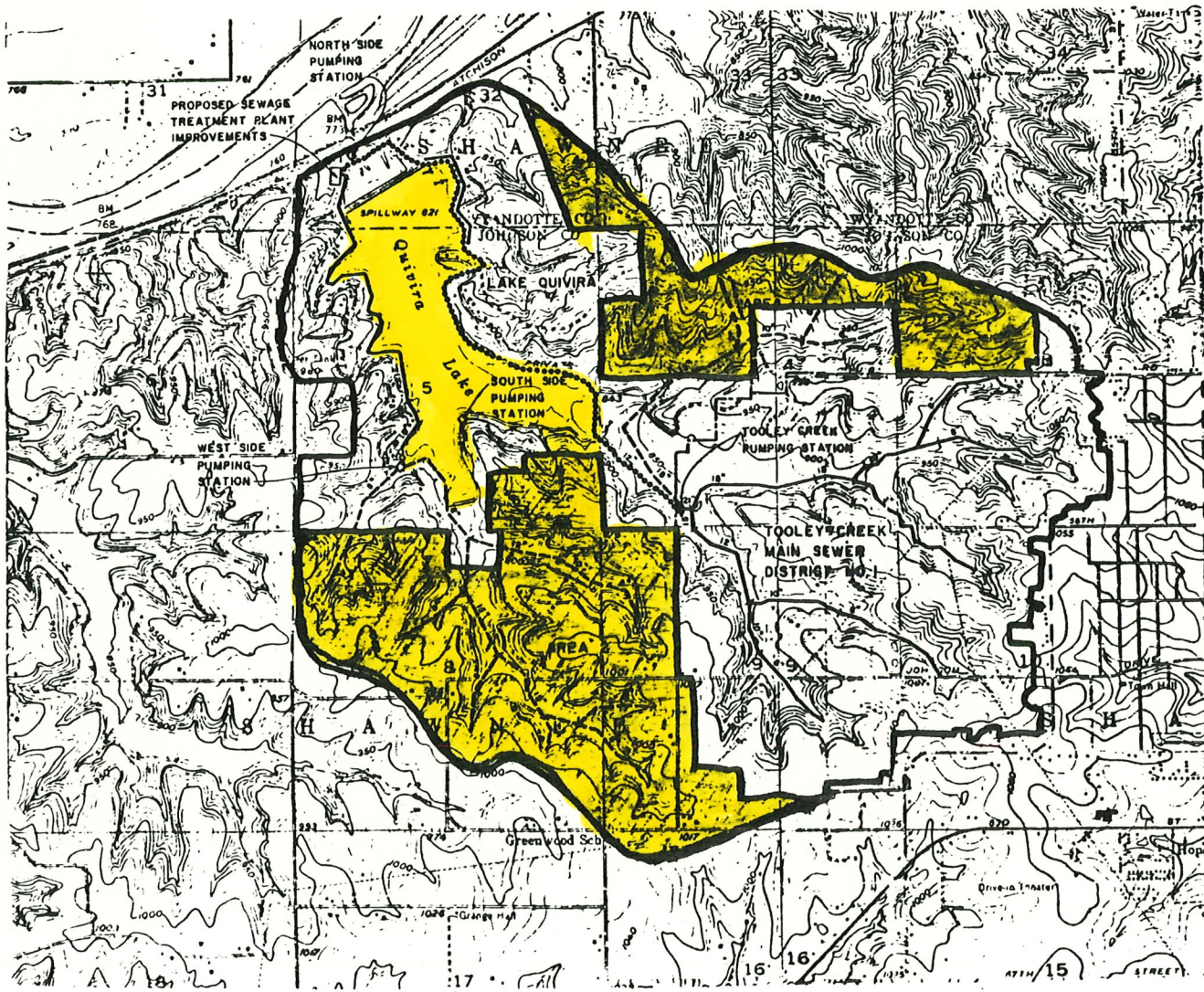
July 15, 1982 Construction completed on Contract No. 2, Section No. 1.

September 17, 1982 Attorney's Certificate of Project Costs for both Contract No. 1, Section No. 1 and Contract No. 2, Section No. 1.

JOHNSON COUNTY UNIFIED WASTEWATER DISTRICTS

Blue River Main Sewer District No. 1
Chronology

March 6, 1979	Resolution #79-57 - created Blue River Main Sewer District No. 1.
August 21, 1979	Project Attorney Contract naming James G. Butler, Jr. as project attorney for Blue River Main.
August 21, 1979	Contract for Engineering Services naming Ponzer, Sears and Youngquist Consulting Engineers, P.A. as project engineers for Blue River Main.
September 4, 1979	Real estate contract for purchase of treatment plant site.
April 1, 1980	Contract No. 2 awarded to Garney Construction Co. (lift station and appurtenances).
July 31, 1980	Contract No. 1, Section No. 1 awarded to Interstate Construction Co. (treatment plant).
August 11, 1980	Construction started on Contract No. 1, Section No. 1.
September 1, 1980	Construction started on Contract No. 2.
November 10, 1981	Construction completed on Contract No. 2.
December 9, 1981	Construction completed on Contract No. 1, Section No. 1.
March 11, 1982	Contract No. 1, Section No. 2 awarded to Brunn-Ulmer Construction Co. (partial flume modifications).
March 15, 1982	Construction started on Contract No. 1, Section No. 2.
April 26, 1982	Construction completed on Contract No. 1, Section No. 2.



LEGEND

- EXISTING PUMPING STATION TO BE ENLARGED
- PROPOSED PUMPING STATION
- PROPOSED GRAVITY SEWER
- FUTURE GRAVITY SEWER
- PROPOSED FORCE MAIN
- FUTURE FORCE MAIN
- AREA BOUNDARY

— Johnson Drive
 — WATERSHED
 ■ EXCLUDED LANDS

**TOOLEY CREEK BASIN
 PROPOSED IMPROVEMENTS
 BLACK & VEATCH
 1978**

FIGURE 5

Attach V

Atch. V



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

February 10, 1983

The Honorable Fred W. Rosenau
State Representative, Thirty-Ninth District
Room 281-W, Statehouse
Topeka, Kansas 66612

Re: Tooley Creek Sewer District

Dear Representative Rosenau:

Attorney General Stephan has asked that I inform you of the result of our investigation of the above-referenced matter. You had requested the investigation with a view toward the possibility of our office instituting an appropriate court action to effect a respreading of the district's assessments, since some of the territory in the district was improperly excluded from assessment. (See Attorney General Opinion No. 81-282.)

We have spent considerable time and effort investigating this matter. Jeff Southard and I have not only engaged in extensive research of the legal questions involved, but we also have spent many hours visiting with the Board of County Commissioners of Johnson County, the Board's legal counsel, the attorney for the sewer district, officials of the Johnson County Sewer District Office and personnel in the county clerk's office in Johnson County. We spent numerous hours reviewing data prepared by the latter office regarding the assessed valuation of all property in the district and the sewer assessments made on each parcel of said property.

As a result of our investigation, we believe a summary of the facts may be made as follows: By resolution in 1975, the Board of County Commissioners of Johnson County annexed certain tracts of land to the Tooley Creek Sewer District No. 1, said tracts lying within the City of Lake Quivira. While the entire city was added to the district, specified tracts were declared by this resolution to be exempt from assessment,

Fred W. Rosenau
Page Two
February 10, 1983

until such time as they were developed. These tracts included the golf course, picnic area, horse trails and barns and Quivira Lake itself, all of which are owned by Lake Quivira Inc., a nonprofit organization. In Attorney General Opinion No. 81-282, this exclusion was determined to be improper under the statutes governing the creation of the district.

In April of 1982, after the bonds for the district had been sold, certain residents of the district commenced a law suit seeking to set aside the assessments. The plaintiffs in this suit had received rather large notices of assessment. The suit was dismissed, however, with the court finding that the plaintiffs lacked standing and that they were out of time to challenge the assessments. This latter conclusion was based on a requirement contained in K.S.A. 19-2705, that only thirty days could elapse after the notices of assessment were sent out before suit on such assessments was barred. We note here that it was on behalf of these plaintiffs that you requested Attorney General Opinion No. 81-282, and we also note that it was too late for these plaintiffs to commence a law suit at the time you requested our opinion in November of 1981.

The assessments in the district consisted of three distinct parts, depending on the improvement. The first, which was spread over only the original part of the district, was assessed on an area basis in order to pay for the main sewer line. The second, which also was confined to the original district, was assessed on the value of the unimproved land, and was levied for the purpose of paying for the costs of the pumping station. Only the third assessment was spread over the entire district (as enlarged by the addition of the City of Lake Quivira). It also was based on the unimproved value of the land, and was made for the purpose of paying for the costs of the treatment plant. As a result, the improper exclusion of the properties noted above would affect only the third portion of the assessment. This is an important fact, since this portion of the assessment is only 18% of the total assessment made against a typical property owner in the district.

While the excluded areas represent nearly three-fourths of the acreage of Lake Quivira, they are assessed so as to be worth only twenty percent of the tracts which have been platted and assessed. In round numbers, the assessed value of the area excluded is \$100,000, while the assessed value of the property of Lake Quivira included in the district is \$535,000. As the total value of the district at present is assessed at just over \$1,000,000, inclusion of the excluded tracts would lower the assessment for a typical taxpayer by about 10%.

Fred W. Rosenau
Page Three
February 10, 1983

To illustrate the effect, we specifically considered the assessments against the properties owned by Mr. Bross, one of the plaintiffs in the above-referenced law suit and one of the persons on whose behalf you requested our assistance. The total assessment made by the sewer district against the properties owned by Mr. Bross is \$31,500. The portion of his assessment attributable to the treatment plant assessment is \$5,752. Thus, the inclusion of the presently excluded territory would reduce this assessment by approximately \$570.

Of course, the reduced assessments which might be enjoyed by certain taxpayers in the district would necessitate a corresponding increase in the assessments of other taxpayers. As noted above, the excluded territory is owned by Lake Quivira, Inc., which is composed of the homeowners in the city of Lake Quivira. On the one hand, each of these homeowners would have a reduced assessment on the property owned by each of them, but they would be responsible collectively for the assessment made against Lake Quivira, Inc. (approximately \$80,000).

Here, we can only speculate as to the method that might be employed in determining each member's proportionate share. The increased assessment could be divided equally among the 375 homeowners who are members of Lake Quivira, Inc., resulting in an increased assessment for each homeowner in the approximate amount of \$213. Or, it could be imposed on the proportionate value of each member's individual tract of land. For a homeowner with an assessed valuation of \$2,500 (one of the larger assessed values in the city) the extra amount due would be approximately \$300. Of course, this would be offset by the reduction in that homeowner's personal assessment from the district (i.e., a reduction from \$2,200 to \$2,000), but suffice it to state that, irrespective of the method used to allocate the assessment against Lake Quivira, Inc., each of these homeowners would have a net increase in the assessment for which he or she is responsible.

In light of the above facts, we have concluded that it would be inappropriate for this office to commence a law suit seeking to have the excluded lands assessed. Clearly, if such suit were successful, the monetary results would be de minimis. Not only is the amount of each taxpayer's projected reduction in assessment relatively small in comparison to the taxpayer's total assessment, but the monetary results are further minimized by the necessary costs of litigation. This office would be required to devote considerable time and effort in prosecuting the suit, and, of course, there would be expenses incurred by the sewer district itself in defending the suit. When conferring with attorneys in the Johnson County Counselor's office and the attorney for the sewer district, they indicated

Fred W. Rosenau
Page Four
February 10, 1983

their intention of defending the validity of the assessments, if a suit were filed, because of the potential consequences they perceive regarding the validity of the bond issue. The expenses of defending the action presumably would be borne by the taxpayers in the district.

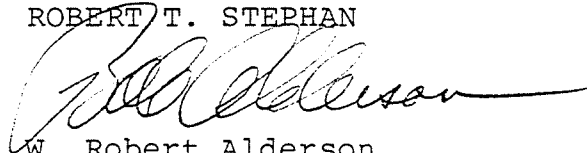
Also influencing our decision is the fact that we have found no denial of procedural due process to any of the taxpayers in the district, at least to the extent that the statutory procedures have been followed. We are aware, for example, that Mr. Bross was fully apprised of the proposed assessments and his right to contest the same within the statutorily prescribed time. Because of the minimal monetary consequences of a successful law suit, we think it inappropriate to bring an action which cannot now be brought by an individual taxpayer who has, in effect, slept on his statutory rights.

Our decision that the commencement of a law suit to seek the assessment of land which has been excluded from the sewer district assessments in no way detracts from our opinion that the exclusion of this land was improper. We have made this view known, not only in our formal opinion, but in conversations with the Johnson County Commissioners, its legal staff and the attorney for the sewer district. Although we have not received any formal recognition of their agreement with our position, we are confident, at least, that they understand our legal position and recognize its validity as a general proposition. We also understand their position that the factual circumstances attending the inclusion of Lake Quivira in the Tooley Creek Sewer District preclude the strict application of the principles upon which our prior opinion was based. These differences, of course, would necessarily be at issue in a law suit seeking to assess the excluded lands. Thus, while we have not compromised our legal position, we do not think it would benefit the taxpayers of the state as a whole or the taxpayers in the Tooley Creek Sewer District to commence an action which potentially might require the expenditure of more money than it would save.

While I am sure that this letter does not convey the decision you anticipated, I trust you can appreciate the effort and attention devoted to this matter. If this office can be of further assistance, please let me know.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN



W. Robert Alderson
First Deputy Attorney General

Fred W. Rosenau
Page Five
February 10, 1983

cc: The Honorable Norman E. Gaar
The Honorable David Louis
Johnson County Board of County Commissioners
Dennis Moore
Terry Roehl
Mr. and Mrs. Joe Bross
Mr. and Mrs. R. L. Smith



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

December 16, 1981

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 81-282

The Honorable Fred Rosenau
State Representative, 39th District
3050 South 65th Street
Kansas City, Kansas 66106

Re: Counties and County Officers -- Public Improvements --
Sewer Districts; Territory Subject to Assessment

Synopsis: In determining which property within a sewer district is to be assessed for the costs of constructing district improvements, K.S.A. 1980 Supp. 19-2704a provides that public roads, public parks and public cemeteries shall be exempt, with these being the only exclusions. Under decisions of the Kansas Supreme Court, all other property within the district must be assessed equally, and the county commission is without the power to exclude areas from assessment which are unimproved or which currently do not utilize the sewers, or to agree not to assess such areas until they are developed. Cited herein: K.S.A. 1980 Supp. 19-2704a.

* * *

Dear Representative Rosenau:

As State Representative for the 39th district, which includes portions of Wyandotte and Johnson Counties, you request our opinion on a matter concerning a sewer district located in the northern part of Johnson County. Specifically, you raise several questions concerning the formation of Tooley Creek Sewer District No. 1, the way it was financed, and the way assessments are made to support it. This third inquiry goes both to the amount of territory which has been so assessed, and the effect of the assessment on particular tracts.

The Honorable Fred Rosenau
Page Two

A brief description of the district's characteristics and history is appropriate prior to an examination of the specific points you raise. Located on the extreme north edge of Johnson County, the district is roughly in the shape of a dumb-bell, with the ends corresponding to the City of Lake Quivira (on the northwest) and developed portions of the City of Shawnee (on the southeast). The area in-between is not included within any incorporated city at the present time (being located between 51st and 55th streets), is rural in nature and is for the most part comprised of wooded hills. Together with that portion of the City of Shawnee included in the district, this latter area was included in the district as it was originally comprised in 1971. The City of Lake Quivira petitioned for inclusion in 1975 after having previously constructed its own sewer lines. As a result, Lake Quivira is included only in those portions of the district's assessments which go to those projects which benefit territory therein (i.e., treatment facility, pumping station, force main).

Additional information which should be noted includes the fact that the assessments made by the district employ two different methods. For that portion of the project which includes the gravity sewers laid in the original district area, an area equalization method was used whereby all land is assessed equally on a per acre basis. As Lake Quivira is not included in this portion of the project, the remainder of the district bears a cost of \$646,771. For the remaining portions of the project, which include Lake Quivira, an assessed valuation method is used which reflects the use to which the property is put, as well as any improvements thereon. Costs for these portions include \$896,591 for the treatment facility, and \$358,540 for the pumping station and force main. It also should be noted that while substantial federal grants were available for the latter two portions of the project, they were apparently not available for the initial phase.

From your written opinion request and subsequent conversations with this office, your inquiries may be listed as follows:

- 1) Was land improperly excluded from the district's assessment base when Lake Quivira was added to the district?
- 2) Has land been improperly excluded from the district, in that two parcels entirely surrounded by the district are not within the district for assessment purposes?
- 3) Was the assessment method used by the district in the first section of the project (i.e. area equalization) improper as being unreasonable, discriminatory and grossly disproportionate to the benefits received by certain parcels?

3

The Honorable Fred Rosenau
Page Three

While we have examined materials which deal with all three of these points, our opinion which follows deals with only the first query. This is due to an inherent limitation which the opinions of this office carry, i.e., they can deal only with questions of law, and may not determine issues of fact. Such determinations are solely within the province of the courts (or of agencies empowered with quasi-judicial authority). Behrman v. Public Employees Relations Board, 225 Kan. 435 (1979). We are accordingly precluded from rendering an opinion on the second and third portions of your inquiry, as they hinge on issues of reasonableness or arbitrariness which are unresolved. See, e.g., Hurley v. Board of County Commissioners, 188 Kan. 60 (1961) (grossly unfair assessment of farmland on area basis), Snyder Realty v. City of Overland Park, 208 Kan. 273 (1971) (exclusion of isolated tracts from benefit district), Mullins v. City of El Dorado, 200 Kan. 336 (1968) (challenge to assessment made on frontage basis).

As to the first issue, however, there are no such unresolved questions. A copy of the Amended Minutes of the Johnson County Commissioners (sitting as the governing body of Tooley Creek Main Sewer District No. 1), dated March 11, 1975, indicates the method under which the district was enlarged to include Lake Quivira. In addition to findings that a petition containing the requisite number of signatures had been filed and that the proposed inclusion would be practical, proper and in conformity with the district plan, the Board also found that

"WHEREAS, said petition states that there are located within said enlargement and creation, extensive recreational areas where no sanitary sewer services would be utilized and that for the purpose of assessments to be levied by the main and lateral sewer districts, those portions designated as recreational areas be excluded from assessments with the express understanding that if sanitary sewer services are requested in the future by the then owners of any portion of said recreational areas, such areas will immediately become subject to assessments by the main and lateral sewer districts."

In its resolution on the question of annexation, the Board accepted the recommended exclusion of the "recreational areas" which were referred to in its findings. These areas, totaling 14 tracts in all, were specifically described in an Exhibit A which was attached to the resolution. As per the terms of

The Honorable Fred Rosenau
Page Four

the resolution, such areas were not to be assessed for sewer district charges until such time as they were requested by the then-owners. We are informed that the territory exempted involved property owned by a private, not-for-profit corporation, Quivira, Inc., and included a golf course, a lake and several horse trails and barns.

In our opinion, the above-exclusion of the enumerated recreational areas was beyond the power of the Board of County Commissioners. We base this conclusion on both statutory and case law authority. In examining the statutes under which this district was organized, we find no authorization for this type of exclusion. While K.S.A. 1980 Supp. 19-2704a does contain language creating certain exemptions from assessments, these extend only to "public roads, public parks, and public cemeteries," and so do not speak to the private recreational lands involved here. Again, while the statute also speaks to the removal of land from the effects of any special assessment, this event occurs only when the land is to be platted and streets and roads dedicated for public use, with only the latter capable of being removed. No express power to exempt recreational land is given, nor do we believe, in light of the following case authorities, that such a power can be present by implication.

In examining the underlying concept on which special assessments are levied, the Supreme Court stated in Mullins v. City of El Dorado, supra:

"The foundation of the power to make a special assessment for a local improvement of any character, including the construction of a sanitary sewer system, is that the property against which the assessment is levied derives some special benefit from the improvement. A special assessment, therefore, is in the nature of a tax levied against property according to the benefits conferred. While the property is made to bear the cost of the improvement, it or its owner suffers no pecuniary loss thereby since, theoretically at least, the property is increased in value by an amount equal to the tax levied against it." 200 Kan. at 341.

The court held further that:

"It is a matter of common knowledge that a sewer system ordinarily enhances the value of

the property it is designed to serve. Additionally, in many instances the installation of a sewer greatens the opportunity for development of the property into a higher and better use. While present use may properly be considered in determining benefits, it is not controlling. The property must be considered in its general relation to other properties in the assessment district regardless of present use. The benefit from the improvement is presumed to inure to the property itself rather than to the particular use being made of it at the time. (48 Am.Jur., Special of Local Assessments §23.) Thus, the test is not whether the property is enhanced in value for the particular purpose to which it is devoted at the time of assessment but whether it is enhanced in value for any purpose." (Citation omitted.) (Emphasis added.) 200 Kan. at 345.

The Court applied the principle set forth in Mullins in a rather extreme case in State ex rel. v. City of Topeka, 201 Kan. 729 (1968), where the land used by the state of Kansas for its Reception and Diagnostic Center was held amenable to an assessment for a neighborhood park. The present occupants of the assessed property, accused and convicted felons, clearly would derive little benefit from the presence of a park nearby, and the remoteness of any other use of the property in the foreseeable future was stipulated. These factors were held to be irrelevant; the ground itself was "benefited" by the creation of the park, and this was sufficient to justify an assessment against it.

Also of interest is the case of Board of Education of U.S.D. No. 345 v. City of Topeka, 214 Kan. 811 (1974). There, the school district objected to the inclusion of a 28-acre tract used for school purposes within a lateral sanitary sewer district. Discussing the school district's arguments that the land as presently used could not benefit from the sewer, the court cited Mullins and held that as the land could at some future date be used for residential, motel or commercial use, it should be assessed along with other property in the district. Once again, present use was held irrelevant, given that the land could conceivably be developed in the future.

Yet another applicable decision is that of Snyder Realty Co. v. City of Overland Park, 208 Kan. 273 (1971). There, an apartment complex was assessed for improvements done to streets which were all at least 1/2 mile away. However, a country

The Honorable Fred Rosenau
Page Six

club which did front on the streets was not assessed, a fact which led the court to find the levy improper, as being an arbitrary action on the city's part. The court held that if the apartment complex was benefitted, the country club must of necessity also be benefitted, with the existing uses of the two tracts being irrelevant. 208 Kan. at 278.

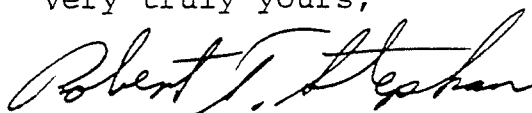
Given such holdings, it would appear, as a matter of law, that the exclusion of the recreational property within the City of Lake Quivira was improper. Absent a showing that the property could never be developed so as to require the sewer lines, the line of cases cited above requires the property to be included in those portions of the assessment which the rest of Lake Quivira must bear. As the court noted in Johnson County Commissioners v. Robb, 161 Kan. 683 (1946):

"If [present use] were a test, the owner of real estate which had not been improved, and which had no present need for a sewer connection, would pay nothing. Benefits from installation of a sewer system arise not only from use, but from availability for use. The construction of a sewer benefits real property, just as does paving of streets and the laying of water mains. The property is more valuable because the improvements are made.

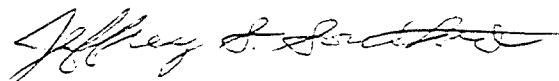
"We are not aware of any statute which provides that assessments to pay for sewer installation depend on amount of use, or that an assessment is invalid prior to the time the sewer is actually used." 161 Kan. at 694.

In conclusion, in determining which property within a sewer district is to be assessed for the costs of constructing district improvements, K.S.A. 1980 Supp. 19-2704a provides that public roads, public parks and public cemeteries shall be exempt, with these being the only exclusions. Under decisions of the Kansas Supreme Court, all other property within the district must be assessed equally, and the county commission is without the power to exclude areas from assessment which are unimproved or which currently do not utilize the sewers, or to agree not to assess such areas until they are developed.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Jeffrey S. Southard
Assistant Attorney General



Atch VI

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE (913) 296-2215
CONSUMER PROTECTION: 296-3751

March 1, 1983

The Honorable Fred Rosenau
State Representative, Thirty-Ninth District
Room 281-W, State Capitol
Topeka, Kansas 66612

Re: Opinion Request Concerning Formation of Blue River
Sub-sewer District No. 5

Dear Representative Rosenau:

This letter is in response to your request for an opinion of this office on a question concerning the Blue River Sub-sewer District No. 5 in Johnson County, Kansas. Specifically, you request that this office examine the petition procedure by which the district was created with an eye to determining whether Kansas statutes were correctly followed. Because of the following considerations, however, this office must decline to issue such an opinion.

First, you should be aware that the opinions of this office are confined to questions of law. Of necessity, we must limit our opinions to situations where the facts are not in dispute. The validity of a petition creating a sewer district is by its very nature a question of fact, i.e., are the signatures valid, are there enough, have any been withdrawn, and so forth. Hence, it is inappropriate to respond to your inquiry, since this office would have to act as a court in deciding which facts to adopt in making our conclusions.

Second, as you are aware, the creation of the Blue River sewer district, as well as its subsequent history, has been extremely controversial. Much public debate has taken place about the district and the burden that the assessments generated therefrom will place on residents. The matter has been before the county commission on numerous occasions, is the subject of several proposed bills in the current session of the Legislature, and has also been the subject of at least two different lawsuits, one of which is now on appeal.

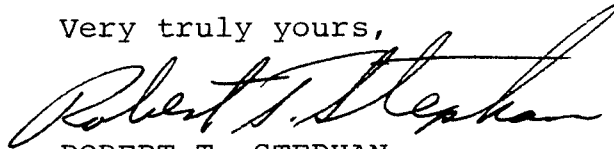
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Fred Rosenau
Page Two
March 1, 1983

It is also because of these lawsuits that this office cannot respond to your request, for it is the long-standing policy of this office to refrain from issuing opinions on matters in which court action is pending or threatened. As the opinions of this office do not have the force of law, their issuance in such situations can only serve to confuse matters and perhaps delay an eventual resolution of the litigation. Such would surely be the case here, where several different avenues are currently being pursued in hopes of resolving what is truly an unfortunate situation.

I can appreciate your concern for the residents of the district, for it is a concern that I share. I trust you understand, however, the reasons why this office cannot respond to your request.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Robert T. Stephan". The signature is written in dark ink and is positioned above the typed name.

ROBERT T. STEPHAN
Attorney General of Kansas

RTS:JSS:hle

JOHNSON COUNTY TITLE COMPANY, INC.

A wholly owned subsidiary of
CHICAGO TITLE INSURANCE COMPANY
142 North Cherry
Olathe, Kansas 66061

Telephone: 782-0041

C E R T I F I C A T E

JOHNSON COUNTY TITLE COMPANY, INC., hereby certifies that the record owner of the following described property during the "search period" was:

Leo M. Chaney and Martha Ann Chaney, husband and wife, as joint tenants

by Warranty Deed dated 4/27/46, filed as File No. 349111, in Book 207 at Page 398.

LEGAL DESCRIPTION OF PROPERTY:

The Southwest Quarter of Section 7, Township 14, Range 25, Johnson County, Kansas. (EXCEPT parts taken for highway)

(64.53 acres, more or less in sewer District)

Liability of the Company under this certificate is limited to the amount paid for same.

Dated at Olathe, Kansas this 20th day of September, 1982.

JOHNSON COUNTY TITLE COMPANY, INC.

By Margie Roberts
Vice President

Certificate No. 101

JOHNSON COUNTY TITLE COMPANY, INC.

A wholly owned subsidiary of
CHICAGO TITLE INSURANCE COMPANY
142 North Cherry
Olathe, Kansas 66061

Telephone: 782-0041

C E R T I F I C A T E

JOHNSON COUNTY TITLE COMPANY, INC., hereby certifies that the record owner of the following described property during the "search period" was:

Leonard Emerson Eastland and John Robert Eastland (subject to the life estate of Edith L. Eastland),

by Warranty Deed dated 7/2/74, filed 7/2/74, as File No. 991078, in Volume 982 at Page 349.

LEGAL DESCRIPTION OF PROPERTY:

All that part of the Northeast quarter of Section 7, Township 14, of Range 25, lying South of the South line of the South line of the right of way of the Oceola Subdivision of the Frisco Railway Company, containing 113.24 acres; also beginning on the north line of the right of way of the Oceola Subdivision of the Frisco Railway Company at the southwest corner of lot nine (9), in County Clerks Subdivision of a part of the Northeast quarter, of Section 7, in Township 14, of Range 25, thence westerly along said right of way line 140 feet, thence north 317.5 feet, thence 135.7 feet, thence south 314.5 feet to the place of beginning, containing 1 acre, containing in the aggregate 114.24 acres, in Johnson County, Kansas, together with the one-half (1/2) of railway right of way adjacent to the above described lands, subject to that part taken for highway purposes containing 8.02 acres, more or less.

(116.22 acres, more or less)

Liability of the Company under this certificate is limited to the amount paid for same.

Dated at Olathe, Kansas this 20th day of September, 1982.

JOHNSON COUNTY TITLE COMPANY, INC.

By

Margie Roberts
Vice President

Certificate No. -137

JOHNSON COUNTY TITLE COMPANY, INC.

A wholly owned subsidiary of
CHICAGO TITLE INSURANCE COMPANY
142 North Cherry
Olathe, Kansas 66061

Telephone: 782-0041

C E R T I F I C A T E

JOHNSON COUNTY TITLE COMPANY, INC., hereby certifies that the record owner of the following described property during the "search period" was:

Walter V. Maelzer and Viola V. Maelzer, husband and wife, as joint tenants,

by Warranty Deed dated 6/20/62, filed 6/29/62, as File No. 650339, in Book 505 at Page 492.

Contract for Deed, dated 3/26/76, filed as File No. 1052482, in Volume 1162 at Page 672.

LEGAL DESCRIPTION OF PROPERTY:

All of lots 18, 19 and 20, Block 3, in the Town of Stanley, Kansas, according to the recorded plat thereof. (.234 acres)

Liability of the Company under this certificate is limited to the amount paid for same.

Dated at Olathe, Kansas this 20th day of September, 1982.

JOHNSON COUNTY TITLE COMPANY, INC.

By Margie Roberts
Vice President

Certificate No. -153

JOHNSON COUNTY TITLE COMPANY, INC.

A wholly owned subsidiary of
CHICAGO TITLE INSURANCE COMPANY
142 North Cherry
Olathe, Kansas 66061

Telephone: 782-0041

C E R T I F I C A T E

JOHNSON COUNTY TITLE COMPANY, INC., hereby certifies that the record owner of the following described property during the "search period" was:

Albert E. Hyer, Jr., and Janet P. Hyer, husband and wife, joint tenants

By Warranty Deed, dated 12/29/69, filed 12/30/69, as File No. 845540, in Deed Book 679 at Page 171.

LEGAL DESCRIPTION OF PROPERTY:

The Southwest Quarter of the Northwest Quarter of Section 8, Township 14, Range 25, Johnson County, Kansas, EXCEPT Frye's Addition to Stanley.

Blocks 1 & 2, Frye's Addition to Stanley

The above description, contained in the above-referenced deed, was subsequently replatted into Lots 1-16, inclusive, Frye Industrial Park, of which Lots 1 through 8 was re-platted in Lots 1-17, inclusive, Frye Industrial Park Resurvey. The ownership of subject property did not change prior to or during the "search period", except as to Lots 14 and 15 of Frye Industrial Park. The certificate with ownership information relating to said Lots 14 and 15 is found under a separate certificate herein.

(33.12 acres, more or less)

Liability of the Company under this certificate is limited to the amount paid for same.

Dated at Olathe, Kansas this 20th day of September, 1982.

JOHNSON COUNTY TITLE COMPANY, INC.

By Margie Roberts
Vice President

Certificate No. -185

JOHNSON COUNTY TITLE COMPANY, INC.
A wholly owned subsidiary of
CHICAGO TITLE INSURANCE COMPANY
142 North Cherry
Olathe, Kansas 66061

Telephone: 782-0041

C E R T I F I C A T E

JOHNSON COUNTY TITLE COMPANY, INC., hereby certifies that the record owner of the following described property during the "search period" was:

Ben B. Sweeten and Mae B. Sweeten, husband and wife, as joint tenants,

by Warranty Deed dated 9/14/73, filed 10/3/73, as File No. 967381, in Volume 935 at Page 981.

LEGAL DESCRIPTION OF PROPERTY:

That part of the NW 1/4 of the NE 1/4 of Section 12, Township 14 South, Range 24 East, in Johnson County, Kansas, being more particularly described as follows: Beginning at a point on the North line of said NW 1/4 of the NE 1/4, 330 feet East of the Northwest Corner thereof, thence East 300 feet to a point on the West line of a dedicated road; thence South 330 feet parallel to the West line of said Quarter Section and along the West line of said road; thence West 300 feet and parallel to the North line of said Quarter Section; thence North 330 feet and parallel to the West line of said Quarter Section to the point of beginning. (2.07 acres, more or less)

Liability of the Company under this certificate is limited to the amount paid for same.

Dated at Olathe, Kansas this 20th day of September, 1982.

JOHNSON COUNTY TITLE COMPANY, INC.

By Margie Roberts
Vice President

Certificate No. 195

JOHNSON COUNTY TITLE COMPANY, INC.

A wholly owned subsidiary of
CHICAGO TITLE INSURANCE COMPANY
142 North Cherry
Olathe, Kansas 66061

Telephone: 782-0041

C E R T I F I C A T E

JOHNSON COUNTY TITLE COMPANY, INC., hereby certifies that the record owner of the following described property during the "search period" was:

Leonard D. Chaney and Ralph E. Chaney (tenants in common)
(subject to the life estate of Leo N. Chaney)
By Warranty Deed, dated 8/13/64, filed 8/13/64, as File No. 706472, in Deed Book 553 at Page 648

LEGAL DESCRIPTION OF PROPERTY:

All of Lot 5, County Clerk's subdivision of part of the SW $\frac{1}{4}$ of Section 5, Township 14, Range 25, except the following described tracts:

Excepted Tract I: Beginning at a point 40 rods East of the Northwest corner of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 5, Township 14, Range 25; thence East 40 rods; thence North 20 rods; thence West 40 rods; thence South 20 rods to the place of beginning, all in said County Clerk's subdivision of part of the Southwest $\frac{1}{4}$ of Section 5, Township 14, Range 25 of said County.

Excepted Tract II: Beginning at a point on the north line of Lot 5 of County Clerk's subdivision of part of the SW $\frac{1}{4}$ of Section 5, Township 14, Range 25, of said County, 30 feet east of the west line of said SW $\frac{1}{4}$ of Section 5; thence east along said north line of said Lot 5 a distance of 250 feet; thence south and parallel with the west line of said Lot 5 a distance of 80 feet; thence West and parallel with the north line of said Lot 5 a distance of 250 feet; thence north and parallel to the west line of said Lot 5 a distance of 80 feet to the point of beginning.

Excepted Tract III: Beginning at a point on the west line of Lot 5 of said County Clerk's subdivision of part of the SW $\frac{1}{4}$ of Section 5, Township 14, Range 25, of said County, 30 feet east and 50 feet north of the northwest corner of the southwest quarter of the southwest quarter of the southwest quarter of Section 5, thence north 71 feet along the west line of said Lot 5; thence east and parallel to the south line of said Lot 5, a distance of 250 feet; thence south and parallel to the west line of said Lot 5 a distance of 71 feet; thence west and parallel to the south line of said Lot 5, a distance of 250 feet to the place of beginning.

(2.91 acres, more or less)

Liability of the Company under this certificate is limited to the amount paid for same.

Dated at Olathe, Kansas this 20th day of September, 1982.

JOHNSON COUNTY TITLE COMPANY, INC.

By Margie Roberts
Vice President

Certificate No. -13

JOHNSON COUNTY TITLE COMPANY, INC.

A wholly owned subsidiary of
CHICAGO TITLE INSURANCE COMPANY
142 North Cherry
Olathe, Kansas 66061

Telephone: 782-0041

C E R T I F I C A T E

JOHNSON COUNTY TITLE COMPANY, INC., hereby certifies that the record owner of the following described property during the "search period" was:

Virgil A. Dedrick and Robin L. Dedrick, husband and wife, as joint tenants,

by Warranty Deed dated 4/8/72, filed 4/10/72, as File No. 909111, in Volume 826 at Page 970.

LEGAL DESCRIPTION OF PROPERTY:

Lot 1, AMENDED PLAT OF NORTH CHERRY ADDITION, a subdivision in Johnson County, Kansas, according to the recorded plat thereof, in the City of Stanley. (.30 acres, more or less)

Liability of the Company under this certificate is limited to the amount paid for same.

Dated at Olathe, Kansas this 20th day of September, 1982.

JOHNSON COUNTY TITLE COMPANY, INC.

By Margie Roberts
Vice President

Certificate No. 30

JOHNSON COUNTY TITLE COMPANY, INC.

A wholly owned subsidiary of
CHICAGO TITLE INSURANCE COMPANY
142 North Cherry
Olathe, Kansas 66061

Telephone: 782-0041

C E R T I F I C A T E

JOHNSON COUNTY TITLE COMPANY, INC., hereby certifies that the record owner of the following described property during the "search period" was:

The Johnson County National Bank and Trust Company, as Successor Trustee under the Drs. Radke and Hoffman, P.A. Profit Sharing Plan,

by Trustee's Deed dated 5/26/76, filed 6/11/76, as File No. 1062101, in Volume 1122 at Page 378.

LEGAL DESCRIPTION OF PROPERTY:

Beginning at a point 294 feet East of the SW corner SE 1/4 6-14-25 thence North 474.5 feet; thence East 348.45 feet to a point 20.5 feet North of the SE corner, Lot 5 ROLLING VIEW ACRES, thence South 474.5 feet to a point 40 feet South of the SE corner of Lot 1, ROLLING VIEW ACRES, thence West 348 feet to the point of beginning, except the South 40 feet thereof for 151st Street. (3.475 acres, more or less).

Liability of the Company under this certificate is limited to the amount paid for same.

Dated at Olathe, Kansas this 20th day of September, 1982.

JOHNSON COUNTY TITLE COMPANY, INC.

By Margie Roberts
Vice President

Certificate No. 58

EPA Would Have Required Monthly Sewer Cost Disclosure

By **NORM LEDGIN**

STANLEY — Had the Stanley sewer qualified for Environmental Protection Agency funding, Johnson County would have been required to tell Stanleyites what their estimated monthly costs would be.

That information became clear this week upon *The Gazette's* being furnished a copy of EPA Program Requirements memo 76-3, effective Jan. 2, 1977.

The Stanley sewer not only failed to qualify, but—

- Commissioner Bob Bacon said earlier this year EPA funding had been applied for but had been denied.

- Bacon said denial had been based on the EPA's not wanting to encourage urban sprawl.

- Bacon added such a policy

failed to dissuade Johnson County officials from going ahead with the Stanley sewer and putting it on a "fast track."

- When evidence indicated Johnson County had never applied for EPA funding of the Stanley sewer, Bacon later conceded he had "misstated" the situation.

- Project engineers and attorneys were entitled to (and there is evidence they received) flat percentage fees because of the non-EPA nature of the project, and facilities were installed to serve up to 23,625 people where about 400 now live.

- Those same professionals crop up in records as either past political associates or campaign backers of former Commissioner John Franke

(who made the motion to form the Stanley sewer sub-district, later going to work for EPA) and Bacon.

EPA memo 76-3 contains a number of sections requiring financial disclosure, but the one coming closest to issues now in court between Stanleyites and Johnson County officials is the following:

"The facility plan shall present the cost information listed below. These may be only rough estimates, and may be presented as a range of possible costs when major unknowns exist such as whether or not substantial parts of the project are grant eligible...

"4. The estimated monthly charge for operation and maintenance, the estimated monthly debt service charge, the estimated connection charge, and the total monthly

charge to a typical residential customer."

Stanleyites were told by sewer petitioners their costs would range between \$10 and \$30 a month.

But total assessments and interest resulting from installation of about \$10 million worth of sewerage for Stanley's roughly 400 people will run closer to \$300 a month for at least 15 years.

Stanley residents have also paid for a title search that found petitioners fell short of a statutorily-required 51 percent of land area ownership to get the district established. Records from Chicago Title Co. show they had only 48 percent.

Johnson County officials were not required to check the signatures.

LEONARD O. THOMAS
L. D. LYSAUGHT
GEORGE MAIER, JR.
ROGER D. STANTON
JON C. CHRISTIE
ERVIN G. JOHNSTON
RICHARD HILLSAP
CHARLES O. THOMAS
LARRY E. BENSON
DAVID K. FROMME
DAVID L. HIGGINS
JAMES P. ZAKOURA
HOWARD L. ROSENTHAL
MONTIL BELLOT
LEE M. SMITHMAN
DONALD C. RAMSAY
WADE A. OOROTHY
JOHN D. PETERSEN
H. DAVID BARR
KAREN L. SMITH
WILLIAM J. PAPROTA
EDMUND S. GROSS
PEGGY GRANT-COBB
ROBERT E. JOHNSTON
J. DONALD LYSAUGHT, JR.
MARK D. HINDERKS

LAW OFFICES
WYANDOTTE THOMAS & LYSAUGHT
CHARTERED
101 W. WOODS - SUITE 420
101 WEST 110TH STREET
P. O. BOX 12245
OVERBROOK, KANSAS 66212-0245
AREA CODE 913
642-7770

ARTHUR J. STANLEY
(1874-1967)
J. E. SCHROEDER
(1906-1967)
LEE E. WEEKS
RETIRED

WYANDOTTE COUNTY OFFICE
HOME STATE BANK BUILDING
MINNESOTA AT FIFTH
P. O. BOX 1028
KANSAS CITY, KANSAS 66117
321-7800

October 15, 1982

Citizens Legal Fund
Blue River Sub-Sewer District No. 5
c/o Charles D. Ehinger,
Chairman, Executive Committee
Box 23057
Stanley, Kansas 66084

Mrs. Hazel Ball
Member, Executive Committee
7527 Kay-Lynne Road
Stanley, Kansas 66223

Ms. Carol O'Keefe
Member, Executive Committee
7225 West 151st Street
Stanley, Kansas 66223

Ms. Nancy Brown
Member, Executive Committee
15429 Overbrook Lane
Stanley, Kansas 66224

Mr. Albert Lowman
Member, Executive Committee
7355 West 151st Street
Stanley, Kansas 66223

Mr. Paul Dutoit
Member, Executive Committee
c/o Dutoit Construction Company
Box 23297
Stanley, Kansas 66223

✓ Mr. Norm Legend
Member, Executive Committee
Box 23221
Stanley, Kansas 66223

Dear Sirs and Madames:

This is with regard to our opinion and report to your Committee relative to our interpretation of the results of the title search conducted

LAW OFFICES
WEEKS, THOMAS & LYSAUGHT
CHARTERED
14 CORPORATE WOODS, SUITE 420
8717 WEST 110TH STREET
P O BOX 12245
OVERLAND PARK, KANSAS 66212-0245

Citizens Legal Fund, et al.
October 15, 1982
Page Two

29
signature
error

by Chicago Title Insurance Company relative to the acreage and owners thereof within Sub-Sewer District No. 5 and, based thereon, whether or not the requisite 51% ownership was in favor of the creation of the District at the time of its formation on June 26, 1978.

As stated, our opinion is given only with regard to the area of the originally created District and no opinion whatsoever is given with regard to additional district areas arising from enlargement applications.

The Title Company ownership search period covered the period May 9, 1978 through June 26, 1978, said later date being the date of the creation of Blue River Sub-Sewer District No. 5.

We have delivered to your Chairman, Charles Ehinger, copies of the Title Company certificates for the total area searched and we have retained the originals together with the area maps in our office and file. If any of you should desire to review the Title Company's certificates or the maps themselves, please contact the undersigned.

As a preliminary matter, I deem it best to confirm to you that the applicable statutes under which Blue River Sub-Sewer District No. 5 were created were K.S.A. 19-2704(a), et seq., and said K.S.A. 19-2704(a) generally provides that a Board of County Commissioners may, after complying with other requisite requirements not germane for the purposes of this opinion and discussion, create a Sub-Sewer District such as No. 5 ". . . upon presentation of a petition signed by the owners, or others having expressly reserved the right to do so, of fifty-one percent (51%) or more of the acreage in the main sewer districts, lateral or joint sewer districts or taxing districts sought to be created, . . . provided, that all public roads, public parks and public cemeteries in such districts shall be exempt from assessment . . ." (Emphasis supplied).

With the foregoing in mind, as well as the fact that the District created constitutes a Sub-Sewer District and not a Main Sewer District, it is our opinion that the applicable area to which the 51% consenting requirement must be applied is the taxing district area subject to assessment and the same is not to include areas within public roads, etc., which are not subject to assessment.

For your information, we attach as Attachment 8 hereto a Xerox copy of a map of the district area as originally created which supposedly shows the boundary and the determined acreage within the boundaries of the district in favor of the creation, with such

LAW OFFICES
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OVERLAND PARK, KANSAS 66112-0245

Citizens Legal Fund, et al.
October 15, 1982
Page Three

showing being represented by the black shaded areas depicted upon said map. For your further information, the map attached was copied from the original thereof maintained in the composite file of the Johnson County Unified Wastewater District's Office in connection with the creation of Sub-Sewer District No. 5. Please note that the shaded areas on said map also exclude right-of-way areas.

We attach as Attachments 1 through 6 hereto applicable spread and/or calculation sheets pertaining to the ownership areas, in square footage amounts, contained within the boundaries of Sub-Sewer District No. 5 as created by the Board of County Commissioners on June 26, 1978, with such calculations being of area exclusive of areas within public roads, etc. We also attach, as Attachment 7, a map and accompanying sub-maps showing the Title Company search areas within the district and Attachments 1-5 pertain to those respective areas. With regard to those mentioned attachments and calculation sheets, the designated Title Company search certificates are correspondingly numbered to coincide to the tract numbers represented under the attachments to the petition circulated for signature to create the Sub-Sewer District. In those instances wherein land within the boundaries of the Sub-Sewer District was not included within the petition designations or attachments at the time of submission for creation to the Board of County Commissioners, those omitted parcels or tracts are indicated by the words "Not on Petition". Also, with respect to such omitted tracts which were not described on the originally submitted petition, since no signatures whatsoever with regard thereto were obtained since the same were not attached to the petition, the areas thereof were assigned to the nonconsenting or "no" category. Similarly, if a tract was listed upon the petition but no signatures obtained, such tract and the area thereof was assigned to the "no" category. With regard to the "yes" category, if the petition and/or the tract description was signed by the record owner(s) as shown by the title certificates, the tract and the area thereof was assigned to the "yes" category. However, if the signature(s) obtained did not meet or conform to the record title ownership as evidenced by the title certificates, such was noted by the reference "Signature Error" and, in such case, the supposed "yes" square footage was assigned to the "no" category.

With regard to square footage determinations, the amounts as set forth on Attachments 1 through 6 were compiled from one of two sources being: (1) computations obtained or verified from computations set out on maps obtained from the offices of the Johnson County Unified Wastewater Districts which were, we are advised, prepared for square footage assessment purposes for the spread of special assessments on

LAW OFFICES
WEEKS, THOMAS & LYSAUGHT

CHARTERED

14 CORPORATE WOODS - SUITE 420

8717 WEST 110TH STREET

P. O. BOX 12245

OVERLAND PARK, KANSAS 66212-0245

Citizens Legal Fund, et al.

October 15, 1982

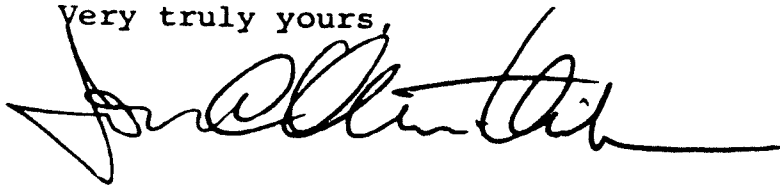
Page Four

the main sewer line within Sub-Sewer District No. 5; and (2) to the extent not set out or provided on said maps described in (1) above, by independent calculations either by this firm or by Chicago Title Insurance Company. You should understand that this opinion is subject to the express limitation that such square footages can only be finally confirmed or verified as either correct or incorrect or subject to adjustment plus or minus by appropriate field survey.

Based upon and subject to the foregoing, it is our opinion that, at the time of the creation of Blue River Sub-Sewer District No. 5, on June 26, 1978, the area within the boundaries thereof, exclusive of portions within public roads, public parks and public cemeteries, constituted 43,522,022.99 square feet or 999.13 acres. It is our further opinion that, based upon our interpretation of the submitted title evidence, the percent opposed to the creation of the district was 51.77 percent and the percent in favor was 48.23 percent. Accordingly, in our opinion, less than the required 51% of the owners of the acreage within the taxing district approved of the creation of the district.

If any of you have any questions with regard to this matter, please do not hesitate to contact the undersigned.

Very truly yours,



Jon C. Christlieb

for

WEEKS, THOMAS & LYSAUGHT, CHARTERED

JCC:BF

Encls.

DISTRICT AREA ALLOCATIONS - ORIGINAL DISTRICT

Reference area within District:

SW 1/4, Sec. 5-14-25;
 Title Co. Search Map 1,
 Certificates Numbered 1-51,
 both inclusive

<u>Certificate No.</u>	<u>Petition No.</u>	<u>Square Footage</u>	<u>Yes</u>	<u>No</u>
1	225	9,576.0	9,576.0	
2	226	4,200.0		4,200.0
3	222	12,510.0	12,510.0	
4	223	12,510.0	12,510.0	
5	224	12,510.0		12,510.0
6	227	22,304.0	22,304.0	
7	228	6,614.0	6,614.0	
8	229	20,558.0	20,558.0	
	242	17,010.0	17,010.0	
9	230	11,954.0	11,954.0	
10	231	18,727.0		18,727.0
11	232	18,450.0		18,450.0
	241	22,275.0		22,275.0
12	233	20,000.0		20,000.0
13	234)			
	235)	121,778.0	Sig. Error	121,778.0
14	234)	27,500.0	Sig. Error	27,500.0
	235)			
15	236	40,000.0		40,000.0
16	248	742,904.62	742,904.62	
17	237	77,920.0	77,920.0	
	240	394,045.0	394,045.0	
223	Dougan (part of Cert. 17)	7,080.0		7,080.0
18	239	24,800.0		24,800.0
19	238	9,000.0	Sig. Error	9,000.0
20	244	6,125.0		6,125.0
21	243	12,434.0		12,434.0
22	245	30,059.0		30,059.0
23	246	13,031.0		13,031.0
24	247	34,750.0	34,750.0	
25	249	20,218.0		20,218.0
	250	21,773.0		21,773.0
26	298)	7,163.0		7,163.0
	299)			
27	300	9,375.0	9,375.0	
28	301	21,875.0		21,875.0
29	302	12,500.0		12,500.0
30	Not on Petition	13,325.0		13,325.0
31	Not on Petition	12,947.0		12,947.0
32	Not on Petition	12,947.0		12,947.0
33	Not on Petition	12,707.3		12,707.3
34	Not on Petition	12,707.3		12,707.3
35	Not on Petition -Lot 7	12,947.3		12,947.3
36	Not on Petition -Lot 8	12,947.3		12,947.3
		14,847.3		14,847.3
37	131	166,013.0	166,013.0	
		139,800.0	139,800.0	
38	251	60,264.0		60,264.0
39	141	15,552.0		15,552.0
40	140	40,435.0		40,435.0
41	135	29,938.0		29,938.0
42	137	13,851.0		13,851.0
43	136	11,970.0		11,970.0
44	134	11,115.0		11,115.0

<u>Certificate No.</u>	<u>Petition No.</u>	<u>Square Footage</u>	<u>Yes</u>	<u>No</u>
45	139	55,987.0		55,987.0
46	138	38,880.0	38,880.0	
47	133	81,648.0		81,648.0
48	142	50,155.0		50,155.0
49)	144A)			
50)	144B)	71,928.0		71,928.0
51)	144C)			
	Not on Petition Vacated portion E. 3rd Street in N. Cherry Addition (not included in N. Cherry lot allocations)	5,660.0		5,660.0
Totals		2,742,100.12	1,716,723.62	1,025,376.5

Percent Yes	62.60616115%
Percent No	37.39383885%
Total	<u>100.00000000%</u>

DISTRICT AREA ALLOCATIONS - ORIGINAL DISTRICT

Reference area within District:

S 1/2 Sec. 6-14-25;
 Title Co. Search Map 2,
 Certificates Numbered 52-88
 and 217-222, respectively

<u>Certificate No.</u>	<u>Petition No.</u>	<u>Square Footage</u>	<u>Yes</u>	<u>No</u>
52	87	1,889,198.0	1,889,198.0	
53	89	1,887,280.46	1,887,280.46	
54	90	498,674.0		498,674.0
55	105	266,666.06	266,666.06	
56	129	128,502.0		128,502.0
	281	44,690.0		44,690.0
57	106	39,641.0	39,641.0	
58	107	84,784.0	Sig. Error	84,784.0
	276	17,435.0	Sig. Error	17,435.0
	277	15,301.0	Sig. Error	15,301.0
	278	15,309.0	Sig. Error	15,309.0
	279	15,316.0	Sig. Error	15,316.0
	280	3,141.0	Sig. Error	3,141.0
59	128	Taken on Certs. 71,72,73 & 74		
60	282	6,000.0		6,000.0
61	283	16,000.0		16,000.0
62	284	25,000.0		25,000.0
63	285	23,000.0		23,000.0
64	286	15,866.0		15,866.0
65	287	15,866.0	15,866.0	
66	288	15,866.0	15,866.0	
	289	15,866.0	15,866.0	
67	290	15,866.0		15,866.0
	291	15,866.0		15,866.0
	292	15,866.0		15,866.0
	293	15,866.0		15,866.0
68	294	15,868.0		15,868.0
69	295	15,867.0	15,867.0	
	296	7,938.0	7,938.0	
	297	23,800.0	23,800.0	
70	111)			
71	114)			
72	115)	1,787,522.0		1,787,522.0
73	102)	Includes Sq. Ft.		
74	100)	w/in Cert. #59		
75	103	20,677.0		20,677.0
76	104	27,570.0		27,570.0
77	98	11,332.0		11,332.0
78	122	28,330.0		28,330.0
79	123	26,913.0	26,913.0	
80	126	26,913.0		26,913.0
81	121	21,247.0	21,247.0	
82	118	21,247.0		21,247.0
83	94	21,247.0		21,247.0
	96	22,667.0		22,667.0
84	101	13,328.0		13,328.0
85	119	15,600.0		15,600.0
86	117	14,460.0		14,460.0
87	95	19,968.0	19,968.0	
88	99	17,819.0	17,819.0	
217	112	17,250.0	17,250.0	
218	110	73,851.0		73,851.0
219	113	24,750.0		24,750.0

<u>Certificate No.</u>	<u>Petition No.</u>	<u>Square Footage</u>	<u>Yes</u>	<u>No</u>
220	93	21,645.0		21,645.0
221	97	25,147.0		25,147.0
222	116	Sq. Ft. taken at Cert. 70-74		
Totals		7,425,821.52	4,281,185.52	3,144,636.0
Percent Yes	57.65268541%			
Percent No	42.34731459%			
Total	<u>100.00000000%</u>			

DISTRICT AREA ALLOCATIONS - ORIGINAL DISTRICT

Reference area within District:

NW 1/4 and NE 1/4 and a portion of
 SW 1/4 and SE 1/4, all in Sec.
 7-14-25; Title Co. Search Map(s) 3 & 4,
 Certificates Numbered 89-101 and
 102-138, respectively

<u>Certificate No.</u>	<u>Petition No.</u>	<u>Square Footage</u>	<u>Yes</u>	<u>No</u>
89	3	180,181.0	180,181.0	
90	7	63,679.0	63,679.0	
91	2	163,079.0	163,079.0	
92	1	469,762.0	469,762.0	
93	11	47,168.0	47,168.0	
94	9	125,122.0	125,122.0	
95	6	4,830,058.0	4,830,058.0	
96	14	41,400.0		41,400.0
97	10	41,400.0	41,400.0	
98	5	42,900.0	42,900.0	
99	4	146,000.0		146,000.0
100	8	182,500.0		182,500.0
101	12	3,015,189.0		3,015,189.0
102	23	362,865.0	Sig. Error	362,865.0
103	29	70,548.0		70,548.0
104	28	76,106.0	76,106.0	
105	27	75,856.0	Sig. Error	75,856.0
106	26	54,032.0		54,032.0
107	25	25,673.0		25,673.0
108	24	25,673.0	25,673.0	
109	32	25,673.0		25,673.0
110	21)			
	22)	74,204.0	Sig. Error	74,204.0
111	19	28,211.0		28,211.0
112	42	18,559.0	18,559.0	
113	30	19,332.0		19,332.0
114	39	21,150.0		21,150.0
115	47	21,150.0	Sig. Error	21,150.0
116	37	20,377.0		20,377.0
117	38	20,377.0	20,377.0	
118	40	18,800.0	18,800.0	
119	41	17,544.0	17,544.0	
120	46	21,160.0	21,160.0	
121	45	20,874.0	20,874.0	
122	43	19,847.0	19,847.0	
123	35	19,590.0		19,590.0
124	36	19,470.0	19,470.0	
125	Not on Petition)	4,700.0		4,700.0
126	Not on Petition)			
126A	44	19,211.0	19,211.0	
127	20	174,180.0		174,180.0
128	252	30,304.0	30,304.0	
129	253 - Lot 4	12,878.0	12,878.0	
	255 - Lot 5			
130	254	35,470.0	Sig. Error	35,470.0
131	256)	19,896.0	19,896.0	
	258)			
132	257	43,958.0	43,958.0	
134	260	16,760.0	16,760.0	
135	261	21,667.0	21,667.0	
133)	259 - Lot 9)	132,406.5		132,406.5
136)	262 - Lot 12)			
137	16	4,694,300.96		4,694,300.96
138	48	406,197.0	406,197.0	
Totals		16,037,437.46	6,792,630.0	9,244,807.46

Percent Yes 42.35483391%
 Percent No 57.64516609%
 Total 100.00000000%

DISTRICT AREA ALLOCATIONS - ORIGINAL DISTRICT

Reference area within District:

NW 1/4 and portion of NE 1/4,
 Sec. 8-14-25; Title Co. Search
 Map 5, Certificates Numbered
 139-169 and 185-193, respectively,
 and Title Co. Search Map 5A,
 Certificates Numbered 170-184

<u>Certificate No.</u>	<u>Petition No.</u>	<u>Square Footage</u>	<u>Yes</u>	<u>No</u>
139	155	3,372.0	3,372.0	
	156	3,372.0	3,372.0	
140	157	10,678.0	10,678.0	
141	158	2,810.0		2,810.0
	159	3,372.0		3,372.0
	160	3,372.0		3,372.0
	161	3,372.0		3,372.0
142	162	3,372.0	3,372.0	
	163	3,372.0	3,372.0	
	164	3,372.0	3,372.0	
	165	3,372.0	3,372.0	
143	166)	13,488.0		13,488.0
	167)			
	168)			
	169)			
144	170	3,372.0		3,372.0
	171	3,372.0		3,372.0
	172	3,372.0		3,372.0
145	173	3,372.0	3,372.0	
	174	3,372.0	3,372.0	
	175	3,372.0	3,372.0	
	176	3,372.0	3,372.0	
	177	3,372.0	3,372.0	
	178	3,372.0	3,372.0	
	179	3,372.0	3,372.0	
	180	13,488.0	13,488.0	
146	181	12,645.0		12,645.0
147	182	4,215.0		4,215.0
148	183	3,372.0		3,372.0
	184	3,372.0		3,372.0
	185	3,372.0		3,372.0
	186	3,372.0		3,372.0
149	187	31,560.0	31,560.0	
150	188	3,156.0		3,156.0
	189	3,156.0		3,156.0
151	190	6,312.0	6,312.0	
152	191	3,156.0	3,156.0	
	192	3,156.0	3,156.0	
	193	3,156.0	3,156.0	
153	194	3,156.0	Sig. Error	3,156.0
	195	3,156.0	Sig. Error	3,156.0
	196	3,156.0	Sig. Error	3,156.0
154	197	22,092.0		22,092.0
155	198	15,780.0	Sig. Error	15,780.0
156	203	25,248.0		25,248.0
157	204)			
	205)			
	206)			
	207)	30,000.0	30,000.0	
	208)			
	209)			
	210)			
	211)			

<u>Certificate No.</u>	<u>Petition No.</u>	<u>Square Footage</u>	<u>Yes</u>	<u>No</u>
158	212) 213) 214) 215)	14,550.0		14,550.0
159	60 216) 217) 218) 219)	11,100.0 11,100.0	Sig. Error Sig. Error	11,100.0 11,100.0
160	68 220	14 ft. of Lot 5 included in Cert. No. 159 Included in Cert. No. 161 (r/w)	Sig. Error Sig. Error	
161	57 221	16,800.0 16,800.0	Sig. Error Sig. Error	16,800.0 16,800.0
162	49 263	7,124.0 6,875.0	Sig. Error Sig. Error	7,124.0 6,875.0
163	264	6,875.0		6,875.0
164	265 274	25,248.0 5,568.0		25,248.0 5,568.0
165	266	6,312.0		6,312.0
166	267 268	3,156.0 3,156.0		3,156.0 3,156.0
167	269 270 271 272	3,156.0 3,156.0 3,156.0 3,156.0	3,156.0 3,156.0 3,156.0 3,156.0	
168	273	12,624.0		12,624.0
169	275	5,568.0		5,568.0
170	Not on Petition	Included in Cert. No. 158		
171	61	103,795.0		103,795.0
172	66	16,571.0		16,571.0
173	54	75,256.0		75,256.0
174	17	31,100.0		31,100.0
175	18	Included in Cert. No. 161 (r/w)		
176	62	20,937.0	20,937.0	
177	65	19,356.0	Sig. Error	19,356.0
178	63	44,353.0	44,353.0	
179	67	27,625.0	27,625.0	
180	31	327.0	Sig. Error	327.0
181	59	20,376.0	20,376.0	
182	64	43,000.0		43,000.0
183	69	110,365.0		110,365.0
184	53	196,681.0	196,681.0	
185	Not on Petition	66,989.0 43,691.0 43,786.0 42,177.0 48,934.0 45,682.0 42,214.0 43,610.0 43,610.0 44,118.0 49,483.0 43,670.0 43,575.0 43,575.0 43,520.0 53,579.9 52,612.5 201,800.0 93,749.0 94,601.9		66,989.0 43,691.0 43,786.0 42,177.0 48,934.0 45,682.0 42,214.0 43,610.0 43,610.0 44,118.0 49,483.0 43,670.0 43,575.0 43,575.0 43,520.0 53,579.9 52,612.5 201,800.0 93,749.0 94,601.9

<u>Certificate No.</u>	<u>Petition No.</u>	<u>Square Footage</u>	<u>Yes</u>	<u>No</u>
		94,594.2		94,594.2
		94,587.2		94,587.2
186	Not on Petition	96,191.1		96,191.1
		43,575.0		43,575.0
		43,575.0		43,575.0
187	316	1,420,491.6	1,420,491.6	
188	52	142,862.0		142,862.0
189	52	62,123.0		62,123.0
190	55	231,522.0	231,522.0	
	56	81,996.0	81,996.0	
191	51	1,653,684.0	1,653,684.0	
192	71	2,461,108.79	2,461,108.79	
	72			
193	71	157,292.00	157,292.0	
	72			
Totals		8,934,921.19	6,474,032.39	2,460,888.8
Percent Yes		72.45763284%		
Percent No		27.54236716%		
Total		100.00000000%		

DISTRICT AREA ALLOCATIONS - ORIGINAL DISTRICT

Reference area within District:

NE 1/4 Sec. 12-14-24 and
 N 1/2 of SE 1/4 Sec. 12-14-24;
 Title Co. Search Map(s) 6,
 Certificates Numbered 194-216,
 both inclusive

<u>Certificate No.</u>	<u>Petition No.</u>	<u>Square Footage</u>	<u>Yes</u>	<u>No</u>
194	84	95,700.0		95,700.0
195	83	87,000.0	Sig. Error	87,000.0
196	82	209,632.5		209,632.5
<u>W.E. Acres</u>				
197	Lot 1 303	162,039.5		162,039.5
198	Lot 4 304	207,900.0		207,900.0
199	Lot 5 305	207,900.0		207,900.0
200	Lot 6 306	207,900.0		207,900.0
201	Lot 7 307	207,900.0		207,900.0
202	Lot 8 308	207,900.0		207,900.0
203	Lot 9 309	213,097.5		213,097.5
204	Lot 10 310	210,012.0	210,012.0	
205	Lot 12 312	210,012.0		210,012.0
206	Lot 11 311	210,012.0		210,012.0
207	(Lot 13 313 & 314 (Lot 14	215,262.3 210,012.0		215,262.3 210,012.0
208	Lot 15 315	210,012.0		210,012.0
209	79	1,039,067.9		1,039,067.9
210	81	598,630.0		598,630.0
211	76	262,945.0		262,945.0
212	80	861,575.0	861,575.0	
213	78	435,294.0	435,294.0	
214	75	217,647.0	217,647.0	
215	77	204,392.0		204,392.0
216	85-86	1,689,900.0		1,689,900.0
Totals		8,381,742.7	1,724,528.0	6,657,214.7
Percent Yes	20.57481435%			
Percent No	79.42518565%			
Total	100.00000000%			

RECAPITULATION






	<u>Square Footage</u>	<u>Yes</u>	<u>No</u>
Attachment 1	2,742,100.12	1,716,723.62	1,025,376.50
Attachment 2	7,425,821.52	4,281,185.52	3,144,636.00
Attachment 3	16,037,437.46	6,792,630.00	9,244,807.46
Attachment 4	8,934,921.19	6,474,032.39	2,460,888.80
Attachment 5	<u>8,381,742.70</u>	<u>1,724,528.00</u>	<u>6,657,214.70</u>
Totals	43,522,022.99 SqFt	20,989,099.53 SqFt	22,532,923.46 SqFt

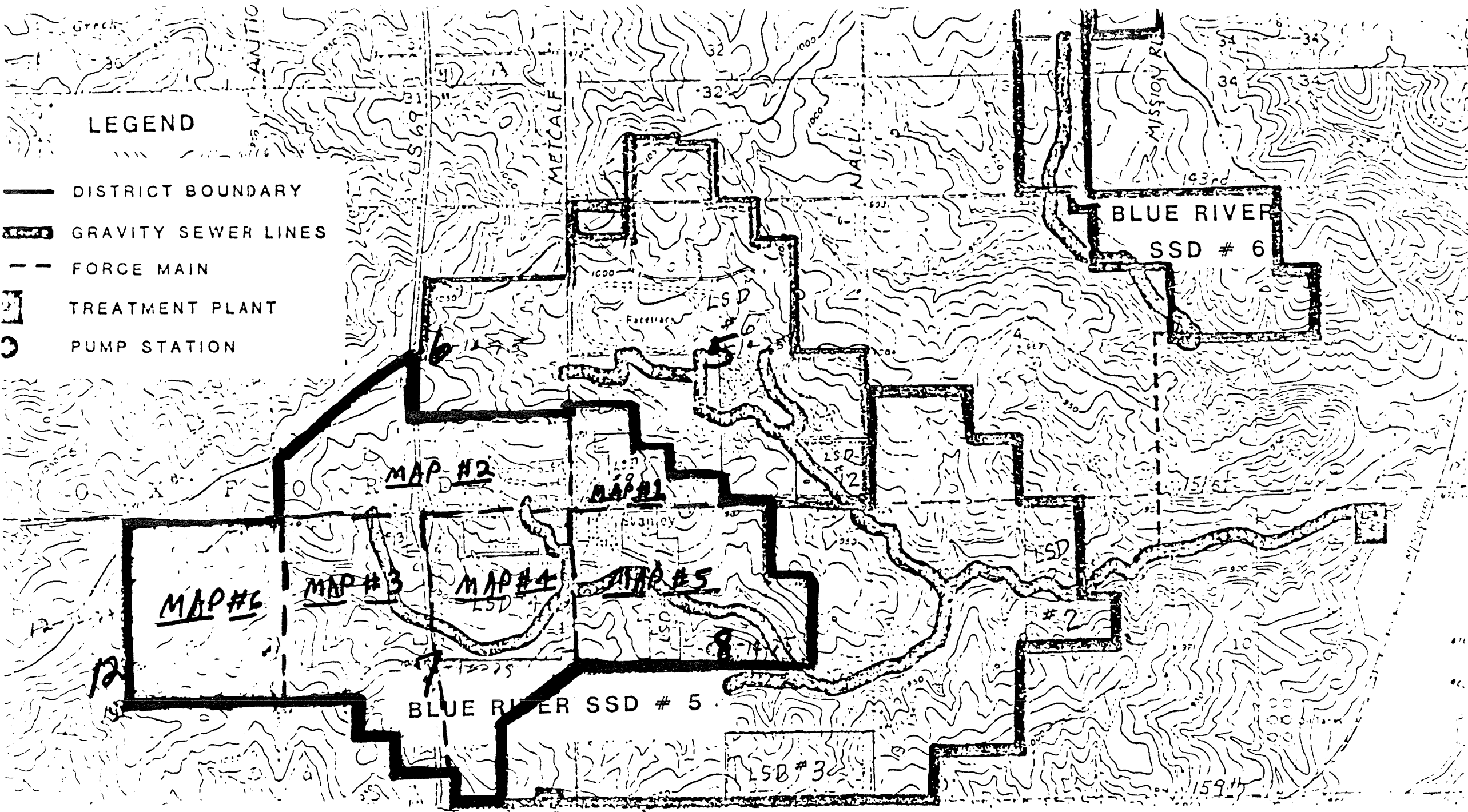
"Yes" square footage of 20,989,099.53 ÷ total square footage of 43,522,022.99 = 48.22638767% in favor

"No" square footage of 22,532,923.46 ÷ total square footage of 43,522,022.99 = 51.77361233% opposed

Total acres within area of taxing district exclusive of public roads, etc. - 999.13 acres

LEGEND

-  DISTRICT BOUNDARY
-  GRAVITY SEWER LINES
-  FORCE MAIN
-  TREATMENT PLANT
-  PUMP STATION



DESCRIPTION: BLUE RIVER SEWER SUB-DISTRICT NO. 5

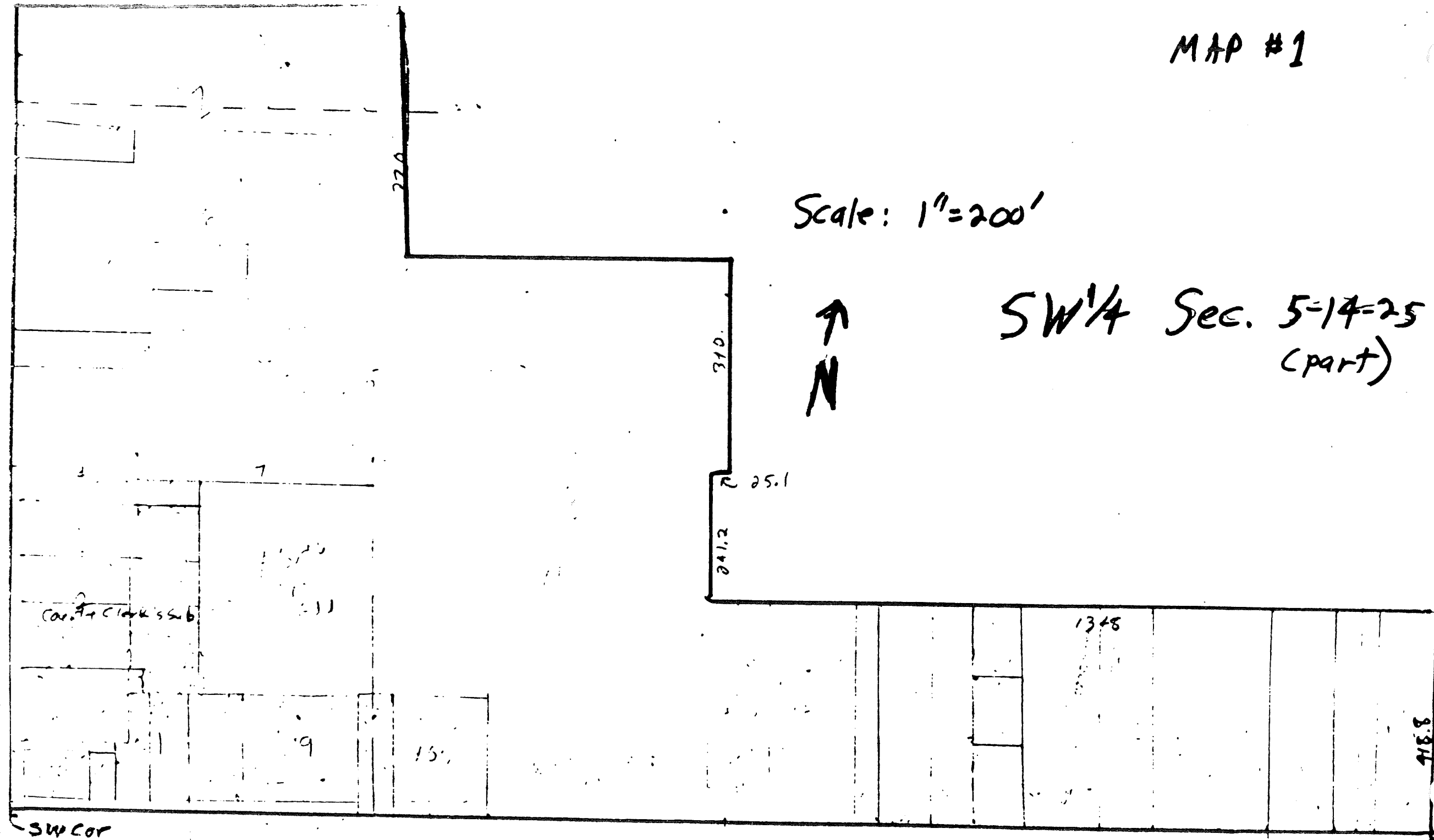
Beginning at the Northeast corner of Section 12, Township 14 South, Range 24 East, Johnson County, Kansas; thence West along the North line of said Section 12 to the North 1/4 corner of said Section 12; thence South along the North-South centerline of said Section 12 to a point on the South line of the North 645 feet of the Southeast 1/4 of said Section 12; thence East on a line 645 feet South of and parallel to the North line of said Southeast 1/4 to a point on the West line of Section 7, Township 14 South, Range 25 East, Johnson County, Kansas; thence South along said West line to a point on the South line of the North 1/4 of the Southwest 1/4 of said Section 7; thence East along the South line of the North 1/4 of the Southwest 1/4 of said Section 7 to a point on the West line of the Northeast 1/4 of the Southwest 1/4 of said Section 7; thence South along said West line to a point on the South line of said Northeast 1/4 of the Southwest 1/4; thence East along said South line to a point on the West line of the Northeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 7; thence South along said West line to a point on the South line of the Northeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 7; thence East along said South line and the North line of the Southwest 1/4 of the Southwest 1/4 of the Southeast 1/4 of said Section 7 to a point on the Easterly right of way line of U. S. Highway No. 69; thence South following along said Easterly right of way line to a point on the South line of said Section 7; thence East along said South line to a point on the East line of the Southwest 1/4 of the Southeast 1/4 of said Section 7; thence North along said East line to the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of said Section 7; thence Northeasterly to the East 1/4 corner of said Section 7; thence East along the East-West centerline of Section 8, Township 14 South, Range 25 East, Johnson County, Kansas to a point on the East line of the Southwest 1/4 of the Northeast 1/4 of said Section 8; thence North along said East line to a point on the South line of the North 1/2 of the Northeast 1/4 of said Section 8; thence West along said South line to a point on the East line of the West 1/2 of the Northwest 1/4 of the Northeast 1/4 of said Section 8; thence North along said East line to a point on the South line of Section 5, Township 14 South, Range 25 East, Johnson County, Kansas; thence West along said South line to a point on the East line of the Southwest 1/4 of said Section 5; thence North along said East line 418.8 feet; thence West along a line 418.8 feet North of and parallel to the South line of said Section 5 1,348 feet; thence North 241.20 feet; thence East 25.1 feet; thence North to a point 1,050 feet North of the South line and 1,326 feet East of the West line of the Southwest 1/4 of said Section 5; thence West along a line 1,050 feet North of the South line of said Southwest 1/4 to a point 729 feet East of the West line of said Section 5; thence North on a line 729 feet East of and parallel to the West line of said Section 5 to a point 200 feet North of the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 5; thence West on a line 200 feet North of and parallel to the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 5 to a point on the East line of Section 6, Township 14 South, Range 25 East, Johnson County, Kansas; thence South along said East line to a point on the North line of the South 1/2 of the Southeast 1/4 of said Section 6; thence West along said North line and the North line of the South 1/2 of the Southwest 1/4 of said Section 6, to a point on the Westerly right of way line of U. S. Highway No. 69; thence Northerly along said Westerly right of way line to a point on the North line of the Southwest 1/4 of said Section 6; thence Southwesterly to a point on the West line of the East 1/2 of the Southwest 1/4 of said Section 6, said point being 660 feet South of the North line of the Southwest 1/4 of said Section 6; thence Southwesterly to a point on the West line of said Section 6, said point being 1,000 feet North of the Southwest corner of said Section 6; thence South along said West line to the point of beginning.

MAP #1

Scale: 1"=200'



SW 1/4 Sec. 5-14-25
(part)



370

310

25.1

241.2

1348

9

15

48.8

Cor. to Clark's Sub

SW COR

SE COR

MAP #2



1" = 400'

W L1 H1/2 64

SW 1/4

SE 1/4

Rolling view
Acres

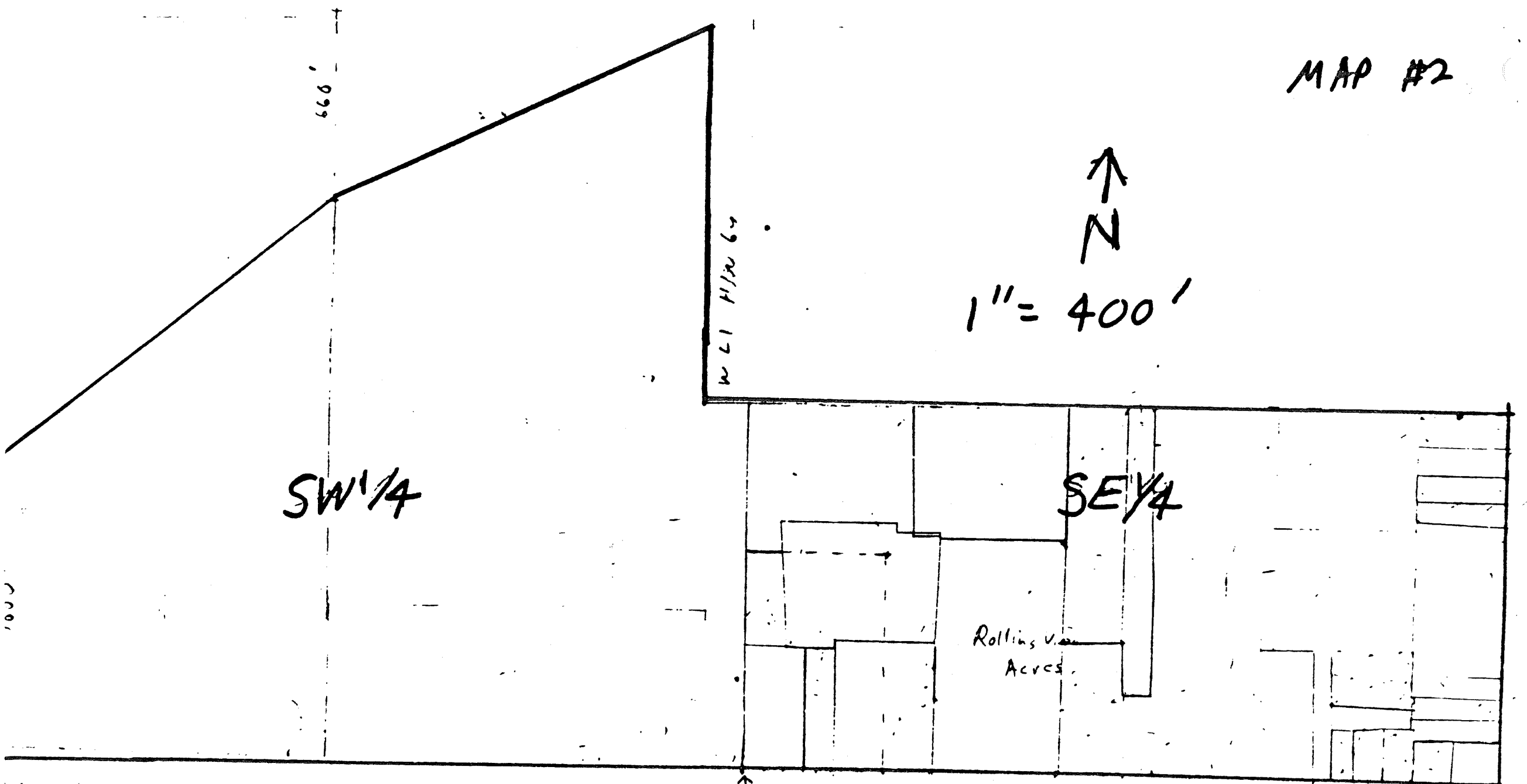
1/4 corner
of section

Section 6 Twp 14 Rng 25

SE Cor

200'

50'

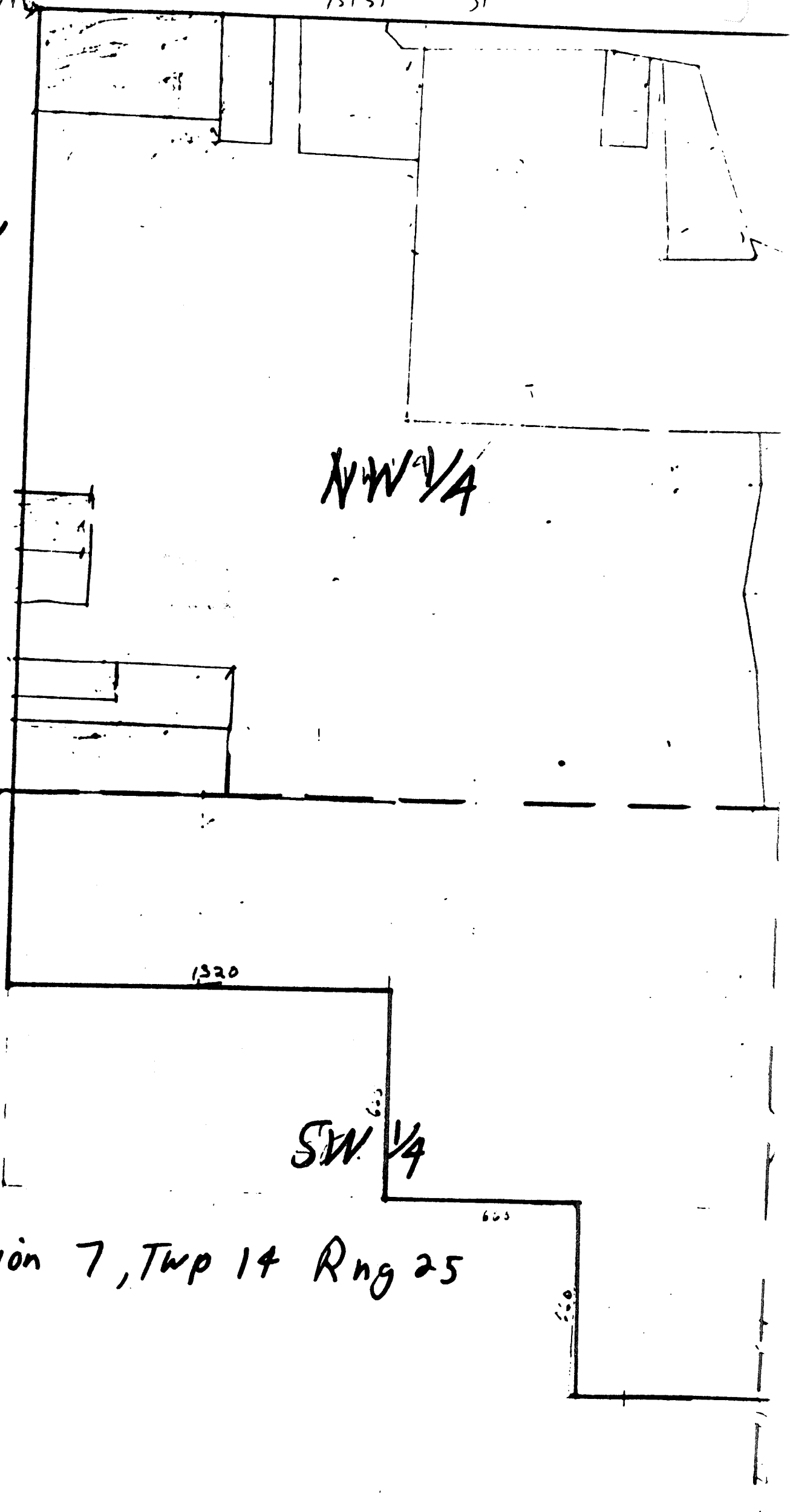


NW Corner NW 1/4

151st ST



1" = 400'



NW 1/4

SW Corner NW 1/4

1320

SW 1/4

600

500

Section 7, Twp 14 Rng 25

1111 1111 1111 1111 1111

83.7
4W

67
County
Clerks
Subdivision

N
1" = 400'

NE 1/4

2421.35

SE
NE

SE 1/4

E Line US 29

320

MAP #5

Section 8, Twp. 14, Rng. 25

NW Cor.
NW 1/4

NE Cor NW 1/4

Stanley
Ligon's 1st Add.
Res. Envt. D. Park

SEE
ATTACHED
MAP #5-A

NW 1/4

NE 1/4



Scale: 1" = 400'

1320

660

1320

766

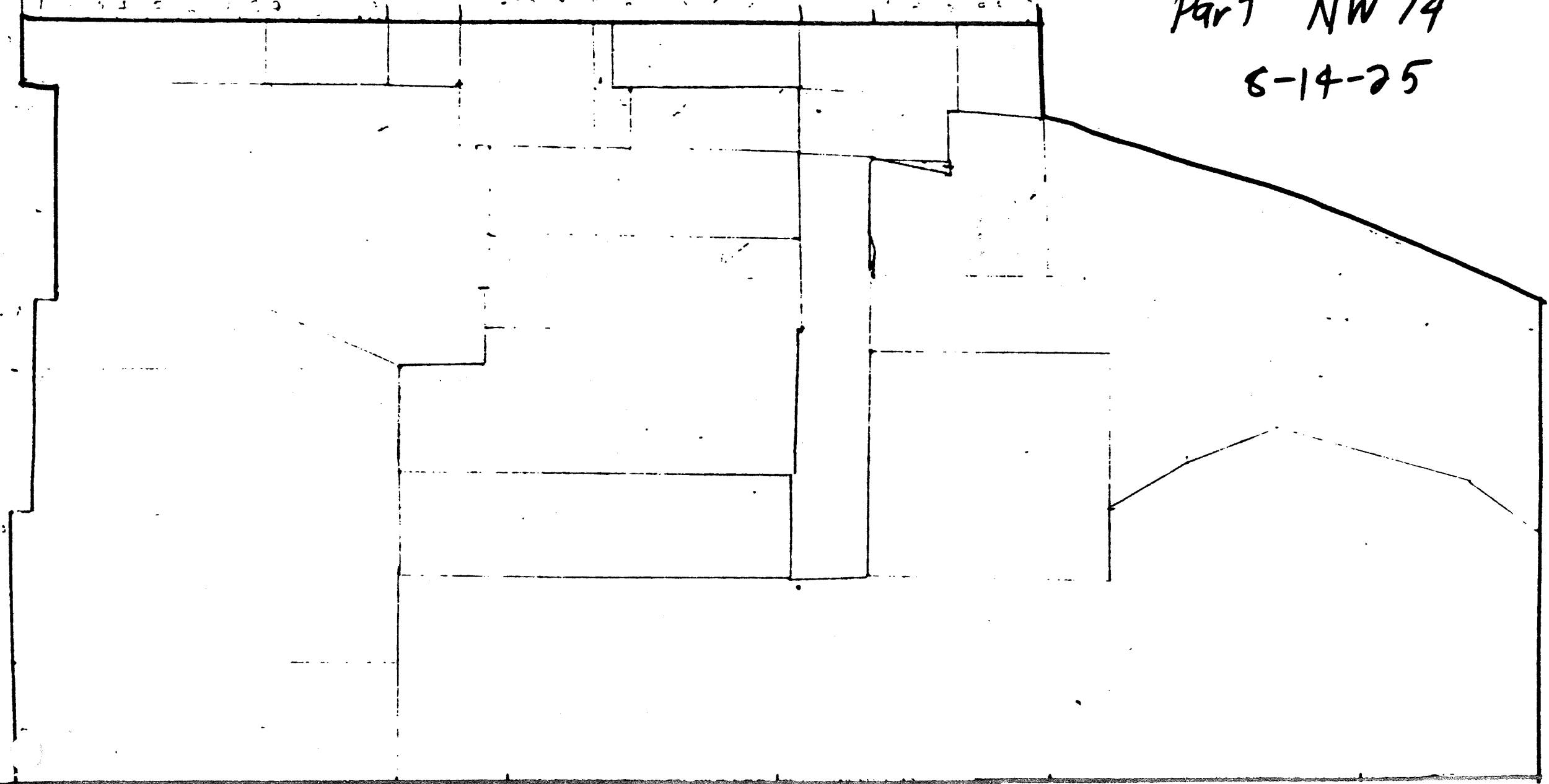
1320

SW
Cor

MAP #5-A

Part NW 1/4

8-14-25

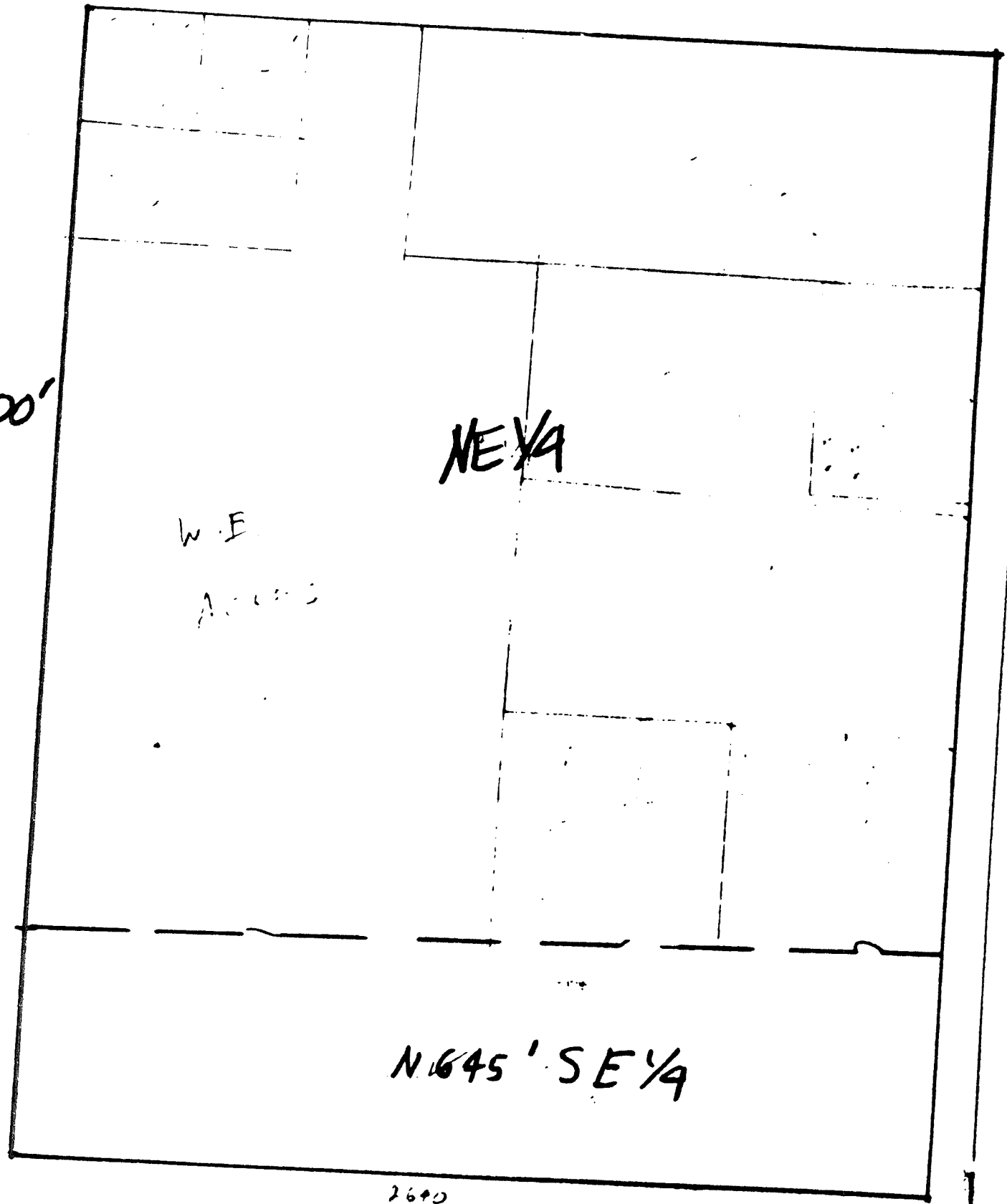


MAP #6

Section 12, Twp. 14, Rng 24



"= 400'



NE 1/4

W.E.
Access

NW 1/4 SE 1/4

2640

Attach VII

FOR MAIN SEWER DISTRICT FILES
SUBMIT WITH PLANS FOR APPROVAL

Rec'd

Blue River Sewer Sub-District

August 15, 19 79

MAIN SEWER DISTRICT No. 5, Contract 1

ENGINEER Campbell, Barber, Lambeth & Assoc.,

JOINT SEWER DISTRICT

DESIGNED BY James G. Butler, Jr.
CONTRACT will be (PRIVATE) (PUBLIC)

LATERAL SEWER DISTRICT

THIS (IS) (IS NOT) AN EXTENSION OF AN EXISTING
(LATERAL) (JOINT) or (MAIN) SEWER DISTRICT

1. TOTAL TRIBUTARY AREA 3400 + ACRES, TO LOWER REACHES OF LINES.
2. a. THIS PROJECT (IS) (IS NOT) WITHIN THE BOUNDARIES OF A MAIN SEWER DISTRICT.
 b. THIS PROJECT (IS) (IS NOT) WITHIN THE BOUNDARIES OF A JOINT SEWER DISTRICT.
 c. THIS PROJECT (IS) (IS NOT) WITHIN THE BOUNDARIES OF A LATERAL SEWER DISTRICT.
 d. COMMENTS: (Additional sheets if necessary)
3. ALL LINES (ARE) (ARE NOT) SET PER RULE 7, REG. 1 "RULES & REGULATIONS"
4. a. ALL THE LINES, MANHOLES, Etc. (ARE) (ARE NOT) WITHIN RECORDED OR PLATTED EASEMENTS.
 b. CONSTRUCTION EASEMENTS (HAVE) (HAVE NOT) BEEN ACQUIRED.
 c. COMMENTS: (Additional sheets if necessary)
 Construction easements will have to be acquired
5. ELEVATIONS SHOWN ON PLANS (ARE). (ARE NOT) U.S.C.S.
 COMMENTS:
6. ALL PERMANENT BENCH MARKS (ARE) (ARE NOT) SHOWN ON TRACINGS.
 (If not shown please submit a copy of them for our records)

7. ESTIMATED HOUSE CONNECTIONS

FIRST YEAR	TENTH YEAR	TOTAL PROBABLE CONNECTIONS
100	6750	15-20 yrs

PIPE SIZE	TYPE	LIN. FT.	9. NUMBER OF MANHOLES	
			STANDARD DROP	TOTAL NUMBER
10"	VCP	3220	5	5
15"	VCP	3548		
18"	VCP	1724		
21"	VCP	7044		
24"	VCP	1577		
27"	VCP	2477		
30"	RCP	1937		
TOTAL, LIN. FT.			10. NUMBER OF CLEAN OUTS	
29,235			11. NUMBER OF WYES None	

FOR MAIN SEWER DISTRICT ONLY

1. PAYMENTS OF RECORD YES NO

2. PAYMENTS OF MAIN DIST. YES NO

3. PAYMENTS OF JOINT DIST. YES NO

4. PAYMENTS OR ENLARGEMENT OF L.S.D. YES NO

5. PLANS AND SPECIFICATIONS RECEIVED

6. PLANS AND SPECIFICATIONS DISTRICT APPROVED

7. PLANS AND SPECIFICATIONS STATE APPROVED

8. COMMENTS ON REVERSE SIDE OF PLANS

PERMIT NUMBER

Attach VII