

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:00 a.m. on February 2, 2000 in 245-N of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes Office  
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Wayne M. Stallard, Attorney, for Pottawatomie Rural Water District #4  
Karen K. Ebert, Salina, Kansas, Landowner in Pottawatomie County  
Gary Conklin, Attorney for Karen Eber  
William Jackson, Chairman, Board of Directors, Pottawatomie Rural Water District #2  
Edward S. Dunn, Holton, Jackson County Rural Water District #3  
Eldon E. Crouch, Pottawatomie Rural Water District #4

Others attending:

See attached list.

With a motion from Senator Stephens and a second from Senator Morris the minutes of the January 27, 2000 were adopted.

Introduction of bills

Senator Downey requested introduction of a bill requiring Kansas Department of Health and Environment to design a program to protect the water in the Equus beds. Senator Goodwin moved to accept the request and the bill be drafted. Senator Biggs seconded the motion. Motion carried.

Senator Morris requested a bill be introduced to authorize that bonds be issued to repay the tax that is owed on passed natural gas production. Senator Goodwin moved to accept the request and the bill be drafted. Senator Vratil seconded the motion. Motion carried.

Senator Biggs requested a bill be introduced concerning confined facilities for swine the bill would require those facilities with a 1,000 animal units under the permitting process. He moved the request be accepted and the bill be drafted. Senator Stephens seconded the motion. Motion carried.

Chairperson Corbin opened the hearing on **SB 405–Procedure for the release of lands from water districts.**

Wayne Stallard, attorney, for the Rural Water District No.4, Pottawatomie County supported the bill as it would give the Board of County Commissioners authority to settle disagreements. This statute provides that: “after a finding that the granting of the petition is to the best interest of the affected landowners and the district” the County Commissioners can release the territory (Attachment 1). He responded to questions.

Karen K. Ebert, Salina, Kansas, landowner in Pottawatomie County, Kansas, supported the bill. Ms. Ebert is landowner in Water District #2 and she wants her property released so that she can be serviced by Water District #4 that has been granted an easement to run new lines across her property, and they have agreed to extend water service to her property. The hook up for water service is significantly less in District #4, therefore she request her property be released from water district #2, and the request was denied. Under current law the findings of the Board of County Commissioners must be endorsed by the board of directors of the existing district, in her opinion that does not allows the county commissioners to rule on the bases of evidence and facts presented (Attachment 2). Ms. Ebert’s testimony contains

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

supporting exhibits. She responded to several questions concerning the cost difference to receive water service from the two districts.

Gary F. Conklin, Attorney, representing Karen Ebert and Elna Moore of Westmoreland, Kansas, supported the bill. In the case of his clients, the county commission should have the right to hear arguments and reach a decision concerning release of a landowner's property from a water district without approval of the district. Attached to Mr. Conklin's testimony are supporting exhibits (Attachment 3).

Mr. Conklin submitted written testimony from Elna H. Moore supporting **SB 405** (Attachment 4)

William Jackson, Chairman, Board of Directors of Water Districts #2, introduced staff and board members attending with him. He said they opposed the bill as it eliminates the need for the water district's approval and gives the decision making to the county commissioners. He believes that rural water district boards of directors are best prepared to make decisions for the interest of the entire water districts. Another factor he thought should be considered was the loans that many water districts have with USDA. He quoted a federal statute that prevents a competing utility from taking customers or potential customers of a utility who are a borrower from the USDA (Attachment 5).

Edward S. Dunn, Holton, Jackson County Rural Water District #3, opposed the bill as it would impact other water districts and he thought these decision were best made at the local level. He responded to questions. Chairperson Corbin asked him to please submit in writing his remarks. He agreed to do so.

Eldon E. Crouch, Pottawatomie Rural Water District #4 spoke in opposition to the legislation.

David K. Bailey, General Manager, Post Rock Rural Water District, Ellsworth, Kansas submitted written testimony opposing **SB 405** (Attachment 6).

The hearing on **SB 405** was closed.

The meeting adjourned at 9:02 a.m. The next scheduled meeting will be February 3, 2000.

**SENATE ENERGY & NATURAL RESOURCES  
COMMITTEE GUEST LIST**

Please Sign in  
Black Ink

DATE: 2-2-2000

NAME	REPRESENTING
Dave Holtman	Western Resources
James Bradley	RWD #2 Pott Co
Eileen Jackson	Pott. RWD #2
Bill Jackson	Pott RWD #2
Maria E Bradley	Pottawatomie Co RWD #2
Alan Soelter	Bartlett & West Engineers /
Karen Ebert	self -
Danny Amble	Karen Ebert and Elma Moore
Wayne M. Stallard	City RWD #4 Pott Co, KS
Alan Barber	Kan Drainage District
Eldon E. Crouch	Pott Water Dist. #4
Richard Larson	Pott Cnty Commissioner
Edward S. Dunn	Ja Co. RWD #3
Tom Johnson	House Dist #1
Charles A. Marnell	Ja. Co RWD #3
Alan Crowe	KLO/AMI

WAYNE M. STALLARD

ATTORNEY AT LAW

307 LEONARD STREET

ONAGA, KANSAS 66521

February 2, 2000

TELEPHONES:

Office: 785-889-4231

Residence: 785-889-4522

FAX: 785-889-4232

Senator David Corbin, Chairman  
Senate Energy and Natural Resources Committee  
Room 245, State House  
Topeka, Kansas

Senator Corbin and Members of the Committee:

I am the attorney for Rural Water District No. 4, Pottawatomie County, Kansas, which will begin construction of a water distribution line this spring to supply potable water to Westmoreland, Kansas, and rural farm homes in an area from Westmoreland to east of St. Marys, Kansas.

Rural Water Districts are formed and governed by K.S.A. 82a-612 thru 82a-645. The Board of County Commissioners are charged with the formation of the districts and legalize any attachments of territories to the districts. Language throughout the statutes state that the commissioners are to make findings that:

"will be conducive to and will promote the public health, convenience, and welfare".

While the statutes set out the manner in which the County Commissioners should review these matters, the inclusion of the following in K.S.A. 82a-630:

"endorsed by the board of directors of the district"

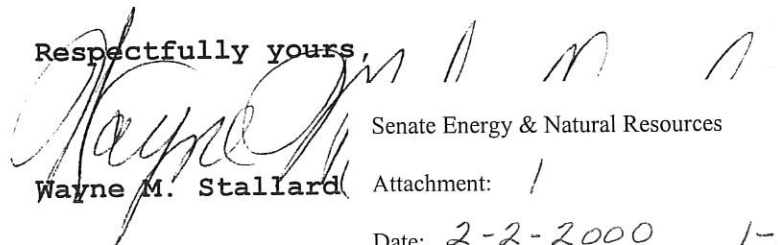
in which the petitioners' land is located has the effect of blocking any consideration by the Board of County Commissioners as to the merits of petitioners' cause. Disagreements occur and they need to be settled by an appropriate body, which logically is the Board of County Commissioners. This statute provides that:

"After a finding that the granting of the petition is to the best interest of the affected landowners and the district"

the County Commissioners can release the territory. By deleting the prior endorsement of the district from the statute, it makes it possible for the County Commissioners to have a hearing on all issues and render a decision. The statute in its present form solves nothing. Developing rural water districts in this state need the assistance of the Boards of County Commissioners to coordinate new development.

I have attached a map showing the shaded area that has asked permission to be attached to Rural Water District No. 4. The water line is the dark line running thru the territory.

Respectfully yours,



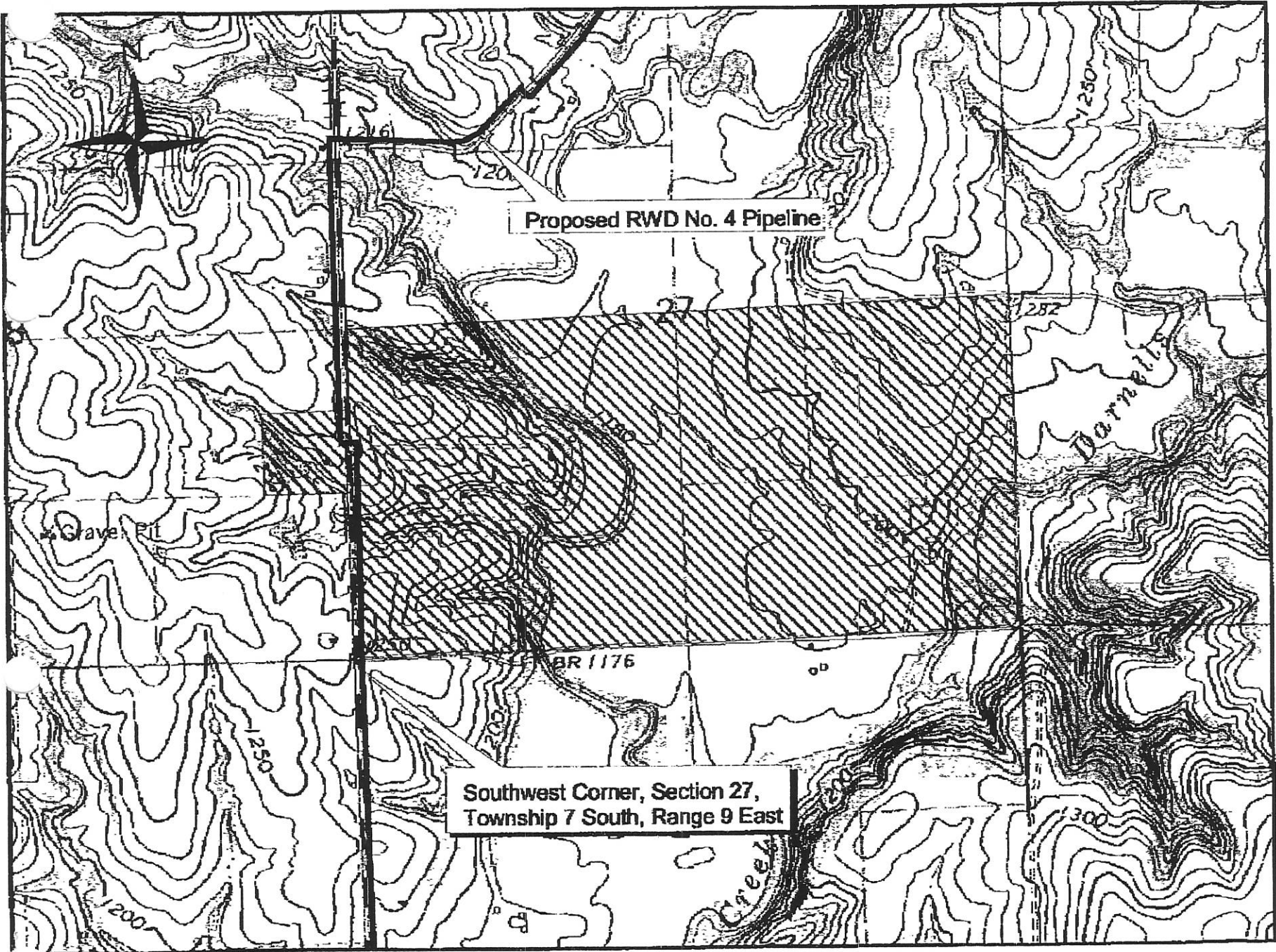
Wayne M. Stallard

Senate Energy & Natural Resources

Attachment: 1

Date: 2-2-2000

1-1



Proposed RWD No. 4 Pipeline

Southwest Corner, Section 27,  
Township 7 South, Range 9 East

Grave Pit

Dorm Pit

BR 1176

Creek

WRITTEN TESTIMONY K.S.A. 82a-630

To: Senator David Corbin  
Chairman, Senate Energy and Natural Resources Committee  
2nd Floor, State House  
Topeka, Kansas

From: Karen K. Ebert,  
Landowner of SW 1/4 Section 27, Township 7, Range 9 East of the 6th P.M.  
Pottawatomie County, Kansas ( Shown on Exhibit 1)  
319 Gail Drive  
Salina, Ks 67401

Subject: Amendment to K.S.A. 82a-630

I am addressing this committee concerning K.S.A. 82a-630. As a landowner in the State of Kansas, I as well as thousands of other landowners are affected by this statute.

In the last year, I have done extensive research concerning the Rural Water Districts of Pottawatomie County. I have discussed this matter many times with local boards and USDA Rural Development, and the Kansas Rural Water Association. All of these entities agree the mission of Rural Water is to provide adequate, safe, clean water to Rural America at a reasonable and economical cost.

My property lies within the boundaries of Rural Water District # 2 of Pottawatomie County, as indicated on Exhibit 1. My property also borders Rural Water District # 4. On January 8, 1999, I received a letter from Rural Water District # 4 to allow an easement to run through my property to serve new patrons. At this time I called Rural Water District # 4, to ask if I too could become a patron and receive water. I was told that my land lays within Rural Water District # 2 and until a release was acquired from the current district, my land could not be served by Rural Water District # 4. Thus, began the search which is summarized in Exhibit 2.

On February 4, 1999 I sent letter to Rural Water District # 2 and Rural Water District # 4 asking for quotes for service. ( Exhibits # 3 and 4) Quotes were received and are so shown in Exhibit # 8 and 10. Basically, Rural Water District # 2 where my property lies were between \$ 7,600 and \$ 14,200. Quotes for Rural Water District # 4 would offer me service for \$ 600, if I could get a release from Rural Water District # 2.

Senate Energy & Natural Resources

Attachment: 2

Date: 2-2-2000

2-1

I called to set an appointment with Rural Water District # 2 and was given a time at their next meeting, March 15, 1999. I instructed my attorney to draw a petition for me to present to the board for release. I then appeared at the meeting and gave the facts and reasons for the release of my land from their district. The board denied my request saying they could not give away prospective patrons, as that my damage them in the future. I asked them for the same costs which 42 patrons had been given in 1995 and 1996, which was \$ 2,500. They said they could not do that because they had had grant and loan money to use for that expansion. I asked why I had not been included in that expansion. Mr. DeWayne Frank, a board member, said " I guess we should have thought of that, and put you on, but we just didn't think about it."

In April, my attorney, Mr. Conklin and I met for an extensive meeting to discuss our options. We decided to do more research and continue to try to be released. I sent a letter to Mr. Bill Kirk the State Director of USDA Rural Development in Topeka on August 2, 1999, which is shown as Exhibit 5. On August 19th, I had not received a response so called his office. I was transferred to Mr. Steve Tharmen and he listened to my concerns and told me he would do some checking and get back to me. On August 25th, 1999, Mr. Tharmen called me to say he had done some more checking and had asked The Kansas Rural Water Association in Seneca to call me. On August 31, 1999, Greg Duryea called to say we were in Rural Water District # 2 and we would have to seek release from them before we could go into Rural Water District # 4. That day I called Mr. Tharmen back to discuss this some more and he basically said he could not help us and apologized. On Sept 3, 1999, I called Kansas Rural Water Association again and discuss the situation with Mr. Elmer Ronnebaum. His comments were the same, to seek release from the existing board. He also said his organization encourages districts to "be good neighbors and to take a realistic look at each case of release and acceptance of new members into their districts".

On October 26, 1999 I again wrote letters to the two districts asking for quotes. (See Exhibits 7-10). I asked for responses by November 10, which I received. Basically, Rural Water District # 2 would offer service for the quoted \$ 7,600 to \$ 14,200. They also addressed my question about future grant/loan money with the comment "there are no plans at this time and a project would not be justified. Rural Water District # 4 said they would extend water for \$600, pending release of our property of District # 2.

Exhibit 11 shows the letter I sent Rural Water District # 2 for release along with a petition. I requested a reply by February 1, 2000. *No response to date*

I would like to make these final points.

My situation may be isolated. However, the way the statue is currently, there is no third party with authority to mediate this situation and look at all the facts from a non-bias opinion. As a citizen, I should have the right to petition for the release of my property and if not so granted be able to plead my rights to the County Commission of

the county which the real estate is located. The present statute allows for the County Commission to hear the case, but the language is "and be endorsed by the board of directors of the existing district". I feel this phrase defeats the authority the County Commission has because the board must therefore agree with the release. This does not allow the County Commissioners to rule on this based on the evidence and facts presented. This does not say all releases brought before the board of County Commissioners would be granted. The commissioners would still need to determine appropriately if the release be granted and it would be up to the patrons and the Rural Water boards to present evidence to merit this.

As landowners, none of us want our land torn up twice if that is not necessary, nor can any of us afford to take possession of water at an inflated costs. Please weigh this evidence in reaching your decision.

Thank you for your time in this matter

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Karen K. Ebert".

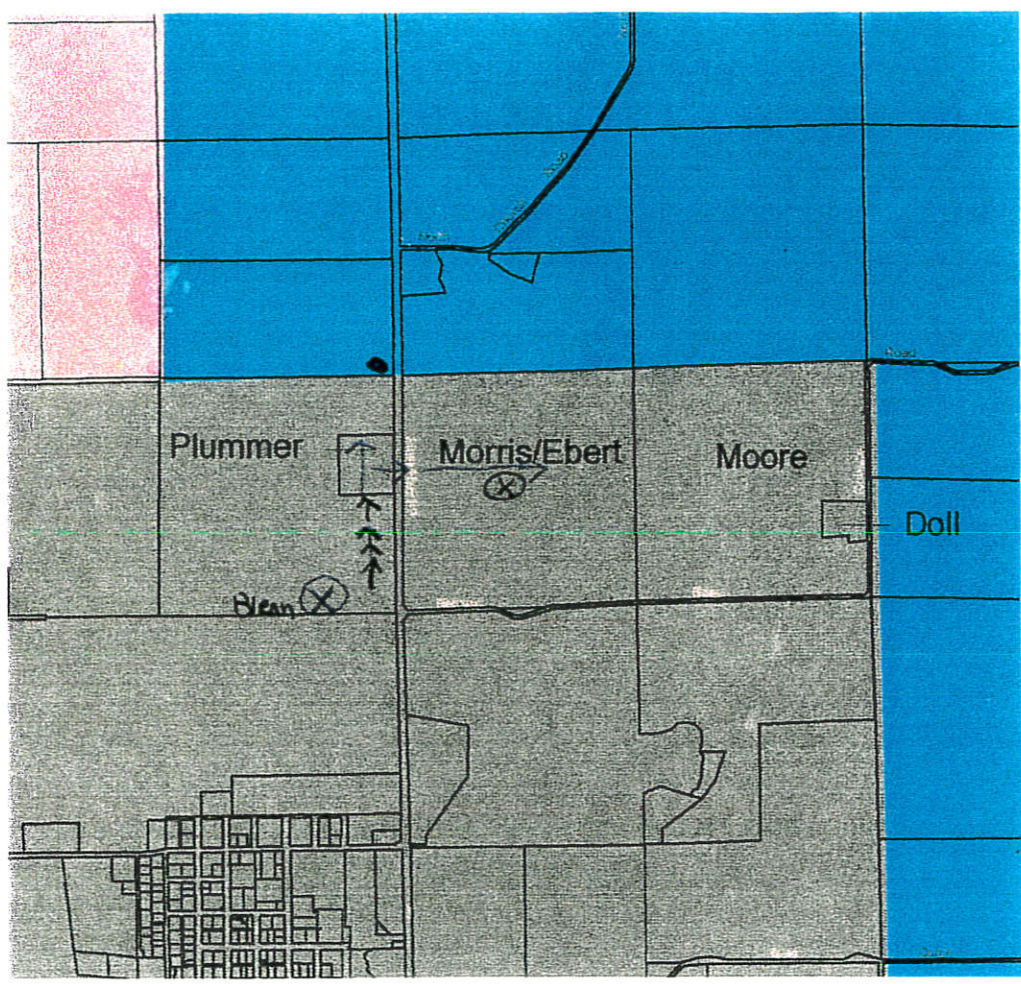
Karen K. Ebert



#1

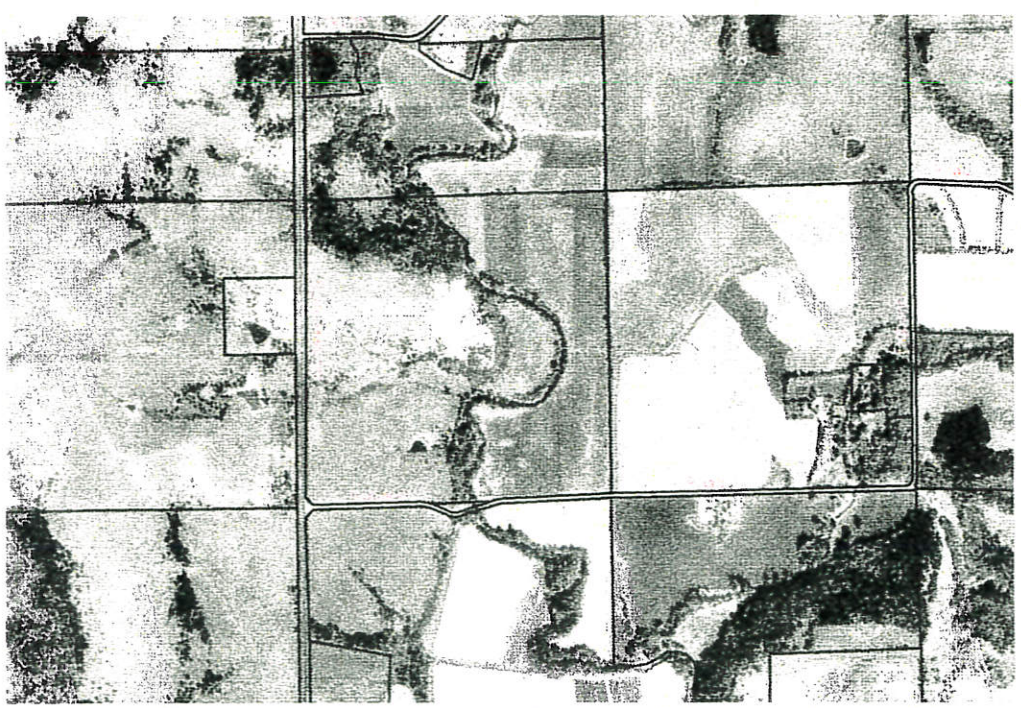


# Rural Water Districts Area North of Westmoreland, KS



Rwdist	
0	
1	
2	
3	
4	

(X) Blenn - last  
connection  
we would dig  
from there  
NORTH



Aerial Photo of Propertie  
Photo Date - 1991

Pottawatomie County GIS  
3-1-99



#2

January 8, 1999

Received letter from RWD # 4 to allow easement

Called them to ask what costs would be to get Water  
I was told I had to be released from RWD #2 before  
they could give me service. Then began procedure to  
file petition to be released from RWD # 2

February 4, 1999

Sent letter to RWD # 2 and RWD # 4 to ask for quotes  
for service. Eileen Jackson gave quotes for hook up,  
I called Lester Krouse on Eileen Jackson's suggestion  
to get quotes for the costs to dig. Prices ranged from  
\$7,600 to \$14,200 to get service from RWD #2. These  
prices were for meter, digging the line from last hookup,  
(Blenn property) north 1/4 mile; cost to bore under Hwy 99,  
including permits and ok from State of Ks, digging line 1/4  
mile east to home

February 23

Called to set up a time to meet with RWD # 2, given appt  
on Monday March 15th

March 15

Met with Board of Rural Water District # 2 in Olsburg at  
7:30pm. I presented case with documentation. Board  
denied request based on fact they could not give up any  
future prospects. They would not offer water to me at  
any reduced price or consider any type of compromise.  
It was obvious they had their mind made up prior to me  
attending with any facts.

April

met with Gary Conklin, we will do more research and  
discuss options

August 2, 1999

Sent letter to Mr. Bill Kirk, State Director of USDA Rural  
Development in Topeka. Did not receive a response, so I  
called on August 19, 1999. Mr. Kirk was out of town, but  
was transferred to Mr. Steve Tharmen. He listened to my  
concerns and said he would do some checking and get back  
to me.

August 25th

Steve Tharmen called to say he had put a "bloodhound" on  
this to see what he could find out. On August 31, 1999,

Greg Duryea called to say we were in District # 2 and we had to be released to be able to get service. He said he believed that Steve planned to discuss this with RWD # 2, and maybe I should visit with him again.

Aug 31

Called Steve Tharman again, asked what we could do to get out. He said no one but RWD # 2 could let us out, didn't think if we were anywhere else in the state there would be a problem, but the board may be difficult to work with. He suggested we try to get a release and if that didn't work he wasn't sure what we should do. I ask him if he was aware they had received a loan and if they could have included us on the loan. He said they did receive money and they could have and probably should have included us. When I asked him if he thought we were discriminated against, he said it could be viewed that way.

September 3

Called Mr. Elmer Ronnebaum at Kansas Rural Water Association in Seneca. went over scenario with him, he said to pursue it. Kansas Rural Water Association stand is "that Rural Water Districts should work together to supply safe, adequate water at a reasonable cost to rural Americans." They also encourage boards to "be good neighbors to all in their county, regardless of boundaries and to take a realistic look at each case of release and acceptance of new members into their district".

In our conversation, we discussed that the possibility of RWD # 2 obtaining a loan to provide the 3 of us service at any reduction, is very doubtful and that their intention to provide us service is only to the extent that we pay the inflated amount to get the service. We both agree they don't really care if we get water or not, they only want to keep us out of the new RWD # 4.

Elmer suggested we try to write to RWD # 2, ask for a release, and require a response *in writing* within a reasonable time. If they denied the request, he suggested a meeting with the County Commissioners to let them know what is going on in their county, ask them to consider re-aligning the districts to serve the people and/or write to the Board of RWD # 2 seeking the release of our land.

If that does not work, let him know and we can see if he can

Called Steve Tharman, he will try to get me copies of the loan acquired for SW area of the district that was granted the expansion loan.

October 26, 1999

Wrote letters to RWD # 2 and RWD # 4 asking for quotes, information. Asked for response by Nov 10

November 4, 1999

Received response from RWD # 4 saying the costs would be \$ 700 ( \$100 has been paid for feasibility study, leaving \$600 due). They will serve us if we can get release from RWD # 2.

November 16, 1999

Received response from RWD # 2 saying the costs would be between \$ 6,440 to \$ 15,000. Discussed the arrangement of deposits. Also stated there is no plans at this time to obtain grant and/or loan funds to finance construction, that our property is on the northern border of the district and does not justify an expansion.

December 15, 1999

Discussed with Elna Moore, Danny Plummer and Gary Conklin the desire to ask for release from RWD # 2 given all the facts of the responses of the two districts. We decided to present request again along with petition and ask for response by Feb. 1, 2000.

#3

FILE COPY

February 4, 1999

Rural Water District # 4  
24325 Oregon Trail Road  
St Marys, KS 66536

Dear Board of Directors:

I am part owner of some land in Pottawatomie County. I believe the land is in your water district.

The land is as follows:

SW 1/4 of 27-7-9 near Westmoreland

I would like figures from you to set up service to the farm. The water is borderline adequate for our renters and we must explore options as quickly as possible. Please send the quotes at your earliest convenience.

If it is necessary for me to attend your meeting to get this, please put me on your next agenda and inform me of the time and place. If you can send me quotes via mail, please do so as soon as you can. I have enclosed an envelope for your convenience.

Sincerely,



Karen K Ebert

319 Gail Drive

Salina KS 67401

(785) 826-9869 home

(785) 827-3606 office 9:30-3:30

# 41

**FILE COPY**

February 4, 1999

Rural Water District # 2  
309 2nd  
Olsburg, Ks 66520

Dear Board of Directors:

I am part owner of some land in Pottawatomie County. I believe the land is in your water district.

The land is as follows:  
SW 1/4 of 27-7-9 near Westmoreland

I would like figures from you to set up service to the farm. The water is borderline adequate for our renters and we must explore options as quickly as possible. Please send the quotes at your earliest convenience.

If it is necessary for me to attend your meeting to get this, please put me on your next agenda and inform me of the time and place. If you can send me quotes via mail, please do so as soon as you can. I have enclosed an envelope for your convenience.

Sincerely,



Karen K Ebert  
319 Gail Drive  
Salina KS 67401 (785) 826-9869 home  
(785) 827-3606 office 9:30-3:30

#5

August 2, 1999

Mr. Bill Kirk, State Director  
USDA Rural Development  
1200 SW Executive Drive  
Topeka,KS 66615

Dear Mr. Kirk:

I am writing to you for assistance in establishing water to a property I own in Pottowatomie county. The property is located in the SW 1/4 27-7-9 near Westmoreland.

The property is currently served by a well, and the water is adequate and safe at the present time. However, to retain the value and to assure future safe water, I am interested in bringing Rural Water to the property.

I currently border two Rural Water Districts, those being RWD # 2 located in Olsburg, Kansas and RWD #4 located in St. Marys, Kansas. RWD # 4 has petitioned me for an easement to run water lines along the fence line of my west boundary. At the time I granted this easement, I questioned the district about what the costs of getting Rural Water to my home from these lines. The home sets 1/4 miles from where the line is being placed. I was told that I was actually in RWD # 2 and unless my property was released from RWD # 2, they could not provide me service. At which time the property was de-annexed, RWD # 4 could provide me water for the fee of \$ 2,500, since they currently have grant money available.

I called RWD # 2 to get quotes for service to my property at that time. The quotes were from \$7,600 to \$14,200. These figures included the cost of meter, digging the line for 1/2 mil, and boring under Highway 99 to reach the property. These figures seemed very expensive to me.

On the advice of an attorney, I was encouraged to approach the RWD # 2 board on the logic of allowing my land to be released. I then took the steps to draw up the petition for de-annexation. I presented this to the board of directors of FEW # 2 on March 15, 1999. The request was denied, primarily based on the fact that my property was in their district and they could not let another district start taking possible patrons from them.

They also mentioned that they could have put me on a grant they had just completed, but "they just didn't think about it." I was not offered service or was never aware of this grant.

Mr. Kirk, I would like to know what steps I must take to be de-annexed from RWD # 2 and be allowed to get service with FWD #4. I have taken the appropriate steps to seek permission from RWD #2, only to be denied. My reasons are apparent and are as follows:

- 1) RWD # 2 is unprofessional in their approach to this matter and to patrons seeking water. I felt when I met with the board, the matter had already been decided before I presented the facts. I also felt that they really do not care if I become a patron of their district, but they certainly do not want me to become a patron of RWD # 4.
- 2) Grant money was available to the patrons of RWD # 2, however not all of the patrons were put on this grant. They had knowledge that there were several patrons in my area needing water, however the grant was only used in another area of the district. One of the board members and his neighborhood was allowed on the grant and were allowed to hook up for \$ 2,500 total expenses. They are tying my hands to pay anywhere from \$ 7,600 to \$ 14,200 for the same service. This board should not be allowed to discriminate against patrons in the district by providing the service to only those they wish at a discount.
- 3) Rural Water District # 4 can provide at a reasonable cost, water to my property. Rural Water District # 2 cannot provide water at the same or a reasonably close amount to the same costs.
- 4) It is in the best interest of all to not lay lines, tear up farmland twice to lay lines next to each other. It is a duplication of service and is not cost effective to do this.

I hope you will review this matter. In my opinion, common sense and economically there is only one solution. That is to be released from the current district and allow me to get water from the district that can provide it at the best costs and with as little disruption to my property as possible.

I can be reached during the day at work: (785) 827-3606 from 9 AM to 4PM each day. Feel free to call if you have questions or need more information.

Sincerely,



Karen K. Ebert  
319 Gail Drive  
Salina, KS 67401

cc: Senator Sam Brownback



# 4

September 15, 1999

Karen Ebert  
319 Gail Drive  
Salina, KS 67401

RE: Water Service

Dear Karen:

This is in response to our telephone call on 9/9/99 regarding your efforts to obtain rural water service from one of the Pottawatomie County water districts.

As discussed in previous phone calls, it has been determined that your property, located in Pottawatomie County (legal description - SW 1/4 27-7-9), is within the legal boundary of RWD #2 Pottawatomie County (RWD #2).


It is our understanding that your property borders RWD #4 Pottawatomie County (RWD #4). We further understand that for the cost of a benefit unit (\$2500), RWD #4 plans to provide water to patrons within their service area. This is possible because of a combination loan & grant received from USDA.

Based on conversations you have had with the RWD #2 Board of Directors, it is our understanding that water service would cost anywhere from \$7600 to \$14,200, depending on the amount of rock encountered. It is also our understanding that you would be expected to pay the entire cost of getting water to your property. This includes the purchase and installation of 1/2 mile of water line, cost of boring under highway #99, and meter expense.

During our last correspondence you requested information on the subsequent loan and grant that RWD #2 acquired in 1995 and 1996. The following information was requested:

1. Amount of loan and grant received for project and use of funds.
2. Map showing the new users added to the system with loan & grant funds.
3. List of property owners receiving new water service.

The loan docket has been reviewed and the following information is supplied:

1. Project consisted of two parts:
  - a. Adding 45 rural users located in the southern portion of the district. This area was determined ineligible for grant funds, based on income. They were determined eligible for a loan of \$259,000.
  - b. Development of two wells, construction of a chlorination building, installation of distribution line to connect the wells to the water system and detention storage. The benefiting area was determined eligible for a loan and grant of \$303,200 and \$372,500 respectively.
2. Of the 45 new users that were added to the water system, one included a meter for the State Park. The following legal descriptions indicate the location of the new users:
  - Section 12 & 13 of township 9, range 7.
  - Section 7,8,18,17,19,& 20 of township 9, range 8. 
3. It is our opinion that this item is subject to the provisions of the Freedom of Information Act and cannot be disclosed at this time.

Please be advised that a majority of the information contained in our files is subject to the provisions of the Freedom of Information Act, enacted in 1966, and may only be obtained by filing a Freedom of Information Request.

Contact our office if you have additional questions.



STEVE E. THARMAN  
Specialist, Community & Business Programs

cc: Dennis D. Stafford, RDM, USDA Rural Development, Manhattan, KS

October 26, 1999

# 7

Rural Water Board # 2  
309 2nd Street  
Olsburg, Ks 66520

**FILE COPY**

Dear Board of Directors of RWD # 2

I have previously contacted you concerning release from Rural Water District # 2 of the following real estate which I own in my Trust along with my brother and his wife, Michael E Morris and Kim R Morris:

The Southwest Quarter (SW1/4) of Section 27,  
Township 7, Range 9, East of the 6th P.M.  
Pottawatomie County, Kansas

As you know, my brother and I are interested in obtaining rural water but were previously advised that a hook up would cost between \$7,600 to \$14,200. These numbers are attached for you to examine. In addition Elna Moore who owns the SE 1/4 of Section 27, Township 7, Range 9 and Daniel Plummer, who owns a 10 acre tract in Section 28, Township 7, Range 9 would like to obtain water for their properties.

Please advise if:

- 1) The cost range for obtaining service is still between \$7,600 and \$14,200 as previously stated.
- 2) Please divided the amounts between the three properties and give us a figure for each of the three properties, using the assumption that we three landowners are working together and agree to share costs that pertain to each of our properties. Example: the first 1/4 mile of line could be divided between Danny and Karen, as the line is necessary to get water Morris-Ebert property.
- 3) If we were to receive service from District # 2, when would the project be started and completed.
- 4) What are your plans for expansion in the future into our area and your plans to get grant and/or loan money to finance water in our area.

I would appreciate hearing from you on or before November 10th. If you need further information from me to answer any of my questions, please let me know.

Very truly yours,

Karen Ebert

cc: Steve Tharman  
Elmer Ronnebaum

**Costs of Rural Water District # 2 service to property owned by Karen Ebert & Michael and Kim Morris**

*SW 1/4 27-7-9 in Pottawatomie County, Kansas*

**FILE COPY**

**PRICES TO INCLUDE:**

Hook up and meter set up:

1/4 mile line north from Blenn Property to Danny Plummer Property

Bore Under Highway # 99

1/4 mile line east to home

Cost per Eileen Jackson and Board for Hook up and Meter set up: \$ 2,500

Cost per Lester Krouse for Line to dig and lay pipe:

\$ 2.00 to \$5.00 per foot depending on ground make up.

Most likely there is some rock, so probably be the higher end of the quote

Cost for company to bore under Highway 99 per Eileen and Lester:

Between \$1,200 and \$ 1,800 depending on company, permit costs, etc.

	<b>MINIMUM COSTS</b>		<b>MAXIMUM COSTS</b>
<b>HOOK UP</b>	<b>\$2,500</b>		<b>\$ 2,500</b>
<b>Line:</b>			
<b>first 1/4 mile to be shared</b>			
<b>by Ebert/Morris &amp; Plummer</b>	(\$2,640 - 2)		(\$ 6,600 - 2)
<b>1/4 mile @ \$2.00</b>	<b>\$ 1,300</b>	<b>@ \$5.00</b>	<b>\$ 3,300</b>
 <b>Bore Under Hwy #99</b>	 <b>\$ 1,200</b>		 <b>\$ 1,800</b>
 <b>East 1/4 mile</b>			
<b>(all Ebert/Morris</b>			
<b>expense) 1/4 mile @ \$2.00</b>	<b>\$ 2,640</b>	<b>@ \$ 5.00</b>	<b>\$ 6,600</b>
 <b><u>MINIMUM:</u></b>	 <b>\$ 7,640</b>	<b><u>MAXIMUM:</u></b>	 <b>\$ 14,200</b>

# 8

**POTTAWATOMIE RWD #2  
309 SECOND STREET  
P.O. BOX 5  
OLSBURG, KS 66520  
785-468-3542**

November 15, 1999

Mrs. Karen Ebert  
319 Gail Dr.  
Salina, KS 67401

**Re: Water Service**

Dear Mrs. Ebert:

This letter is in response to your letter addressed to the board of directors of RWD No. 2 dated October 26, 1999. First, we wish to confirm that RWD No. 2 looks forward to the opportunity to provide water to your property in the SW quarter of 27-7-9 Pottawatomie County. That land is located within the boundaries of RWD No. 2, within one-half mile of an existing water main, and the District has more than adequate supplies of water to serve your property and that of your neighbors.

The cost estimates that were provided to you previously are still our best estimates of the cost providing service. The benefit unit fee (sometimes called hook-up fee) remains \$2,500 each. The benefit unit is the right to connect to the District's water system and includes the cost of setting the meter on your property. If Mr. Plummer decides he would also like to obtain water for his property, then he would also pay \$2,500 for that right.

The other costs are related to the extension of the District's water line to serve your properties. The District's contractor based the costs quoted to you earlier on estimates. The contractor charges \$2.00 per foot for construction in dirt, and \$5.00 per foot for construction through heavy rock. Because the amount of rock can not be determined until the excavation is complete, the estimates previously provided to you ranged from a low of \$6,440 (100 % for the costs of construction at \$2.00 per foot, plus \$1,200 for the boring under Highway 99) to \$15,00 (100% of the costs of construction at \$5.00 per foot, plus \$1,800 for the boring under Highway 99). In the usual case, we would propose for the District, you and the other interested property owners to reach an agreement with construction of these lines, based on the contractor's best estimate of the cost, with costs split among your property owners as you agree. The best estimate of costs would then need to be deposited with the District in advance. Once the construction was complete, the amount of rock, and thus the costs of construction, would be determined. Any excess costs would be charged to you property owners in accordance with the agreement. Any surplus deposit would be refunded to you property owners in accordance with the agreement. Note that the above estimates do not include any costs for serving Mrs. Moore. While the District would be glad to provide service to her as well, to date she has not made any contact to the District, and the District does not give an estimate of the costs for providing service to her property.

Concerning the terms of a sharing arrangement, the District will generally approve of any sharing arrangement you property owners wish to make. In this case, it would seem most reasonable for you and Mr. Plummer to share the costs of the first approximately one-quarter mile extension equally, with the cost of the road boring and additional extension to your property to be paid by you. If Mrs. Moore was to participate, then we would expect her to pay one-third of the costs of the first quarter mile extension, then half of the costs of the road boring and additional extension to reach your property, and all of the costs of

extending from your property to hers. Again, it is not possible to provide exact costs at this point until the project is complete.

In terms of time when service would become available, as soon as we entered into the Water Line Extension Agreement and received your deposit, the contractor would be hired to install the project. Assuming favorable weather, we would expect service to be available with 30 days from the contract with the contractor.

Concerning future plans for expansion in the area and plans to obtain grant and/or loan funds to finance construction, there are no plans at this time. As discussed above, there is an existing water line within one-half mile of your property. Your property is near the northern boundary of the District. The District has not been made aware of any considerable need for a project that would justify a grant/loan to complete. Water line extensions, such as being proposed here, are very common ways of providing service to nearby properties and are specifically provided for in the Water District's rules and regulations as proposed by Rural Development and on file with the Kansas Division of Water Resources.

I hope this information will be of help to you. I wish to confirm that the District's staff is always ready to discuss your interest in water service to your property at any time. The board meets monthly, and we would welcome you to attend any of our meetings. We very much look forward to working with you in the future.

Very truly yours,



William Jackson  
Chairman, Board of Directors

# 9

October 28, 1999

Mr. Bud Crouch  
Rural Water District # 4  
24235 Oregon Trail Road  
St. Marys, Ks 66536

Dear Mr. Crouch:

I am writing to request information from you and your Board of Directors. I own property in Pottawatomie County, that being the SW 1/4 27-7-9 along with my brother and his wife, Michael E. Morris and Kim R Morris.

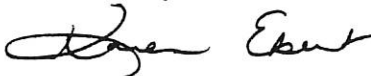
I am under the opinion that your Board will offer our property attachment to your district and water if we are allowed release from Rural Water District # 2.

I would like the following from you in writing by November 10, 1999 if possible:

- 1) Written statement saying we will be allowed to attach into your district if and when we are allowed release from Rural Water District # 2.
- 2) Cost of the meter and all costs involved to get water to the home located on the SW 1/4 27-7-9.
- 3) Current rates of water.
- 4) Expected date of completion of this water being at the home and any date of expiration of these costs and guarantees.
- 5) It would also be appreciated if you could quote costs to hook up Elna Moore and Daniel Plummer, as we are all petitioning to be released from Rural Water District # 2 together.

I appreciate your promptness to this matter.

Sincerely,



Karen Ebert

cc: Steve Tharman  
Elmer Ronnebaum

# 10

November 4, 1999

Mrs Karen Ebert  
319 Gale Drive  
Salina, Kansas 67401

Dear Mrs. Ebert,

In your Nov. 1 letter you requested a list of the following information.

1) Written acknowledgment of acceptance:

Pott. County Rural Water District # 4 will render service to the homes of Elna Moore, Daniel Plummer, and Karen Ebert-Michael Morris (one in the same) after receiving proof of their release from Pott Rural Water District # 2.

2) Cost involved:

You have already paid \$100.00 for the feasibility study, additional cost of \$600.00 payable to Rural Water District # 4 is required for the cost of the Benefit Unit (meter) which will be placed within 50ft of your home. The cost of piping the water from the meter to your home will be yours.

3) Current rates for water:

The current water rate has not been established. Our estimated monthly cost will be a minimum of \$35.00 with a water usage rate of \$3.60 per thousand gallons.

4) Date of completion:

The District # 4 project should be finished some time during the next 24 months, starting Jan. 1, 2000.

There will be no additional cost to you for us to set a meter within fifty feet of your homes. Failure to comply on the release from District # 2 would render this letter of statement invalid.

5) Cost to Elna Moore and Daniel Plummer:

The cost will be equal to all in this proposed annexation, \$600.00.

Thanks for your inquiry.

Yours truly,



Bud Crouch  
RWD # 4 Chairman



# 11

January 5, 2000

Pottawatomie R.W.D # 2  
309 Second Street  
P O Box 5  
Olsburg, Ks 66520

Dear Board Members:

Thank you for your correspondence of November 15, 1999. In the letter, you have responded to each of the questions, and confirmed the costs to be \$ 2,500 for the Benefit Unit and anywhere from \$2.00 to \$ 5.00 per foot for excavation, and \$ 1,200 to \$ 1,800 to bore under Highway 99, bringing the total costs between \$ 6,440 to \$ 15,000 for water to Danny Plummer and Ebert/Morris property again depending on the amount of rock or difficulty in the digging to be determined at that time.

We would also like to share with you the costs as quoted by RWD # 4 to each of our properties, (see attached letter). As we had discussed earlier, the costs are much lower simply because the availability of funds from the USDA. We understand your position of not being able to have funds available at this time. It is very disappointing to us that we were not added to your most recent grant/loan received from USDA in 1995 and 1996 consisting of loans of \$ 259,000, \$303,200 and a grant for \$372,500, figures which were provided by USDA to us in September of 1999.

For those reasons, we are asking for release from RWD # 2 at this time. The costs speak for themselves and we feel the district that has funds available can serve our properties more economically. It is simply not feasible to acquire water from your district at this time and is in the best interest as landowners to seek detachment from your district. We also note in your response that you have no future plans to attain a grant or loan to provide water to these properties, *"as they are on the boundary of your district and the board has not been made aware of any considerable need for a project that would justify a grant/loan to complete."*

Please consider this request as a win-win situation for landowners and Rural Water. The mission of Rural Water is to provide adequate and economical water to Rural Kansas. We feel if that mission is to be carried out, you as a board, have the obligation to allow us as landowners to be released from your district

Enclosed is the Release of lands from the interested parties for your signatures.  
Thank you in advance for your assistance in this matter.

Please return the petition and response to Mrs. Karen Ebert at 319 Gail Dr.  
Salina, Ks 67401 or Mr. Gary Conklin P O Box 157 Westmoreland, Ks 66549 by  
February 1, 2000

Sincerely,

A handwritten signature in cursive script that reads "Karen K Ebert". The signature is written in black ink and is positioned above the printed name.

Karen K Ebert

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF  
POTTAWATOMIE COUNTY, KANSAS

In the Matter of the Release of )  
Certain Lands from Rural Water )  
District No. 2, Pottawatomie )  
County, Kansas )

No. \_\_\_\_\_

PETITION TO RELEASE CERTAIN LANDS FROM RURAL WATER DISTRICT  
NO. 2, POTTAWATOMIE COUNTY, KANSAS

TO: The Board of County Commissioners of Pottawatomie County, Kansas

The undersigned petitioners, who seek release from certain lands hereinafter described from Rural Water District No. 2, Pottawatomie County, Kansas, represent and state as follows:

1. The description of the lands requested to be released from Rural Water District No. 2, Pottawatomie County, Kansas, is as follows:

The South Half ( $S\frac{1}{2}$ ) of Section 27 and Ten (10) acres in a square being 40 rods by 40 rods situated in the Southeast corner of the North Half of the Southeast Quarter ( $N\frac{1}{2}SE\frac{1}{4}$ ) of Section 28, all in Township 7 South, Range 9 East of the 6th P.M., in Pottawatomie County, Kansas.

2. The lands described above are without an adequate supply of water.

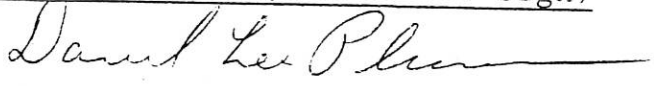
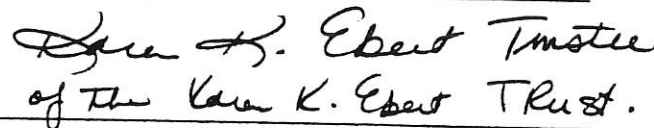
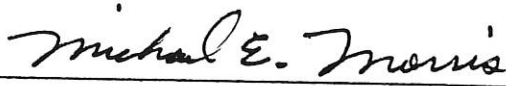

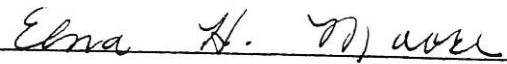
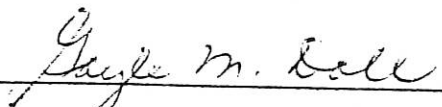
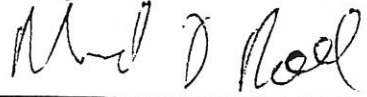
3. It is apparent that the lands described above included within Rural Water District No. 2, Pottawatomie County, Kansas, cannot be economically or adequately served by the facilities of said district.

4. Attachment to Rural Water District No. 4, Pottawatomie County, Kansas, of the lands described above will be conducive to and will promote the public health, convenience and welfare.

5. Granting the release of the above described lands from Rural

Water District No. 2 is for the best interest of the affected land owners and the district.

WHEREFORE, petitioners pray that the Board of County Commissioners of Pottawatomie County, Kansas, determine that it is to the best interest of the affected land owners and Rural Water District No. 2 that the lands heretofore described be released from Rural Water District No. 2 and issue a certificate releasing said lands and separate from Rural Water District No. 2, Pottawatomie County, Kansas.

Name and Address of Landowner (as it appears on tax rolls)	Signature of Landowner (if jointly owned, both must sign)
Daniel Lee Plummer 15450 Highway 99 Westmoreland, KS 66549	
Karen K. Ebert Trust 319 Gail Salina, KS 67401	
Michael E. Morris 319 Gail Salina, KS 67401	
Kim R. Morris 319 Gail Salina, KS 67401	
Elna H. Moore Trust 108 Cochrun Westmoreland, KS 66549	
Gayle M. Doll 14110 Robson Road Westmoreland, KS 66549	
Richard D. Doll 14110 Robson Road Westmoreland, KS 66549	

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF  
POTTAWATOMIE COUNTY, KANSAS

In the Matter of the Release of )  
Certain Lands from Rural Water )  
District No. 2, Pottawatomie )  
County, Kansas )

No \_\_\_\_\_

ENDORSEMENT BY THE BOARD OF DIRECTORS OF  
RURAL WATER DISTRICT NO. 2, POTTAWATOMIE COUNTY, KANSAS

The undersigned Board of Directors of Rural Water District No. 2, Pottawatomie County, Kansas, have read and understand the foregoing Petition For Release Of Certain Lands From Rural Water District No. 2, Pottawatomie County, Kansas" and by its endorsement hereof approve of such release.

\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
Board of Directors, Rural Water  
District No. 2, Pottawatomie  
County, Kansas.

WRITTEN TESTIMONY K.S.A. 82a-630

To: Senator David Corbin  
Chairman, Senate Energy and Natural Resources Committee  
2<sup>nd</sup> Floor, State House  
Topeka, Kansas

From: Gary F. Conklin  
Attorney at Law  
108 North Second Street  
Westmoreland, Kansas 66549

Subject: Amendment to K.S.A. 82a-630

Facts: I represent Karen Ebert (hereinafter Karen) of Salina, Kansas, and Elna Moore (hereinafter Elna) of Westmoreland, Kansas.

Karen owns the SW $\frac{1}{4}$  of Section 27, Township 7, Range 9 East of the 6<sup>th</sup> P.M., Pottawatomie County, Kansas. Elna owns the SE $\frac{1}{4}$  of Section 27, Township 7, Range 9 East of the 6<sup>th</sup> P.M., Pottawatomie County, Kansas. The realty owned by Karen and the realty owned by Elna are located on the east and north edges of the boundary for Rural Water District #2, Pottawatomie County, Kansas, which is also the south and west boundary of Rural Water District #4. Both Karen's realty and Elna's realty are wholly within District #2. Neither Karen nor Elna presently receives rural water. Both Karen and Elna are interested in obtaining rural water district services for their respective properties.

Rural Water District #2 has advised Karen that the cost of extending water service to her and one other patron would range between \$7,000.00 and \$14,200.00. (See Exhibit No. 1 attached.) This cost is prohibitive.

Rural Water District #4 will run water lines in the proximity of Karen's and Elna's realty this year in order to service the City of Westmoreland which lies to the south of Karen's and Elna's tracts. District #4 advised Karen that the cost of extending their rural water service to Karen's and Elna's properties would be \$600.00. (See Exhibit No. 2 attached.)

Karen and Elna requested that their respective properties be released from District #2 so that they could receive water service at an affordable price. District #2 refused that request.

Request: Karen and Elna respectfully request that consideration be given to amending K.S.A. 82a-630 by striking the language "and be endorsed by the board of directors of the district," all as shown on Exhibit No. 3 attached. A citizen should have the right to petition for the release of his/her realty from a District when it appears that such District cannot economically provide service to the realty. While K.S.A. 82a-630 affords a procedure intended for this purpose, it appears that the District where the realty is located must approve the request for release:

"The petition shall describe by section or fraction thereof and by township

Senate Energy & Natural Resources

Attachment: 3

Date: 2-2-2000 3-1

and range the lands affected and be signed by at least seventy-five percent (75%) of the total number of the owners of land desiring release, and be endorsed by the board of directors of the district.”

Requests for transfer to the county commissioners under K.S.A.82a-630 will occur most frequently when there is a disagreement between the landowner and the district concerning the transfer. In those instances it is necessary to have an impartial agency such as the county commissioners make a determination as to whether the transfer should be allowed. The ability of the landowner to reach the commission should not be dependent on a favorable endorsement by the district which is then an adverse party. Removal of the language “and be endorsed by the board of directors” would not provide the landowner with an advantage in a hearing before the county commission. The commissioners would still be required to find that the district could not “economically or adequately” service the property.

The purpose of rural water districts is to provide an adequate supply of potable water to as many landowners as possible. Where this objective can best be accomplished by allowing lands to be transferred from one district to another, consent should be freely given. Requests of this nature will not be frequent, but will arise when there are genuine issues involved. Requests without merit can be appropriately disposed of by the county commission.

When a request for transfer is made or opposed, neither party should have the ability to prevent the hearing and resolution of issues by an independent fact finder. In the present case, the county commission should have the right to hear arguments and reach a decision concerning release of a landowner’s property from a water district without approval of the district.

Dated: February 2, 2000

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Gary F. Conklin

EXHIBIT #1  
page 1

**POTTAWATOMIE RWD #2  
309 SECOND STREET  
P.O. BOX 5  
OLSBURG, KS 66520  
785-468-3542**

November 15, 1999

Mrs. Karen Ebert  
319 Gail Dr.  
Salina, KS 67401

**Re: Water Service**

Dear Mrs. Ebert:

This letter is in response to your letter addressed to the board of directors of RWD No. 2 dated October 26, 1999. First, we wish to confirm that RWD No. 2 looks forward to the opportunity to provide water to your property in the SW quarter of 27-7-9 Pottawatomie County. That land is located within the boundaries of RWD No. 2, within one-half mile of an existing water main, and the District has more than adequate supplies of water to serve your property and that of your neighbors.

The cost estimates that were provided to you previously are still our best estimates of the cost providing service. The benefit unit fee (sometimes called hook-up fee) remains \$2,500 each. The benefit unit is the right to connect to the District's water system and includes the cost of setting the meter on your property. If Mr. Plummer decides he would also like to obtain water for his property, then he would also pay \$2,500 for that right.

The other costs are related to the extension of the District's water line to serve your properties. The District's contractor based the costs quoted to you earlier on estimates. The contractor charges \$2.00 per foot for construction in dirt, and \$5.00 per foot for construction through heavy rock. Because the amount of rock can not be determined until the excavation is complete, the estimates previously provided to you ranged from a low of \$6,440 (100 % for the costs of construction at \$2.00 per foot, plus \$1,200 for the boring under Highway 99) to \$15,00 (100% of the costs of construction at \$5.00 per foot, plus \$1,800 for the boring under Highway 99). In the usual case, we would propose for the District, you and the other interested property owners to reach an agreement with construction of these lines, based on the contractor's best estimate of the cost, with costs split among your property owners as you agree. The best estimate of costs would then need to be deposited with the District in advance. Once the construction was complete, the amount of rock, and thus the costs of construction, would be determined. Any excess costs would be charged to you property owners in accordance with the agreement. Any surplus deposit would be refunded to you property owners in accordance with the agreement. Note that the above estimates do not include any costs for serving Mrs. Moore. While the District would be glad to provide service to her as well, to date she has not made any contact to the District, and the District does not give an estimate of the costs for providing service to her property.

Concerning the terms of a sharing arrangement, the District will generally approve of any sharing arrangement you property owners wish to make. In this case, it would seem most reasonable for you and Mr. Plummer to share the costs of the first approximately one-quarter mile extension equally, with the cost of the road boring and additional extension to your property to be paid by you. If Mrs. Moore was to participate, then we would expect her to pay one-third of the costs of the first quarter mile extension, then half of the costs of the road boring and additional extension to reach your property, and all of the costs of



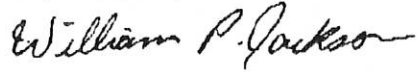
extending from your property to hers. Again, it is not possible to provide exact costs at this point until the project is complete.

In terms of time when service would become available, as soon as we entered into the Water Line Extension Agreement and received your deposit, the contractor would be hired to install the project. Assuming favorable weather, we would expect service to be available with 30 days from the contract with the contractor.

Concerning future plans for expansion in the area and plans to obtain grant and/or loan funds to finance construction, there are no plans at this time. As discussed above, there is an existing water line within one-half mile of your property. Your property is near the northern boundary of the District. The District has not been made aware of any considerable need for a project that would justify a grant/loan to complete. Water line extensions, such as being proposed here, are very common ways of providing service to nearby properties and are specifically provided for in the Water District's rules and regulations as proposed by Rural Development and on file with the Kansas Division of Water Resources.

I hope this information will be of help to you. I wish to confirm that the District's staff is always ready to discuss your interest in water service to your property at any time. The board meets monthly, and we would welcome you to attend any of our meetings. We very much look forward to working with you in the future.

Very truly yours,



William Jackson  
Chairman, Board of Directors

**COSTS OF RURAL WATER DISTRICT # 2 SERVICE  
TO PROPERTY**

**Costs include:**

**Hook up and meter set up**

**1/4 mile line north from Blenn Property to Danny  
Plummer Property**

**bore under Highway 99**

**1/4 mile line east to home**

---

**Costs per Eileen Jackson:**

**Hook up and meter set up:                      \$ 2,500**

---

**Costs per Lester Krouse for line:**

**Line costs:    Between \$ 2.00 to \$ 5.00 per foot depending  
on ground, rock ect.**

**Company to bore under Highway 99:  
                    between \$ 1,200 and \$ 1,800 depending on company  
and permits costs**

---

<b>Minimum Costs</b>		<b>Maximum Costs</b>	
hook up:	\$ 2,500		\$ 2,500
line:1/4 mile to Plummer to be shared @ \$2.00	\$ 1,320	at \$5.00	\$ 3,300
under Hwy 99	\$ 1,200	max	\$ 1,800
East 1/4 mile @ \$2.00	<u>\$ 2,640</u>	at \$ 5.00	<u>\$ 6,600</u>
<i>Minimum :</i>	\$ 7,600	<i>Maximum</i>	\$ 14,200

EXHIBIT #2

November 4, 1999

Mrs Karen Ebert  
319 Gale Drive  
Salina, Kansas 67401

Dear Mrs. Ebert,

In your Nov. 1 letter you requested a list of the following information.

1) Written acknowledgment of acceptance:

Pott. County Rural Water District # 4 will render service to the homes of Elna Moore, Daniel Plummer, and Karen Ebert-Michael Morris (one in the same) after receiving proof of their release from Pott Rural Water District # 2.

2) Cost involved:

You have already paid \$100.00 for the feasibility study, additional cost of \$600.00 payable to Rural Water District # 4 is required for the cost of the Benefit Unit (meter) which will be placed within 50ft of your home. The cost of piping the water from the meter to your home will be yours.

3) Current rates for water:

The current water rate has not been established. Our estimated monthly cost will be a minimum of \$35.00 with a water usage rate of \$3.60 per thousand gallons.

4) Date of completion:

The District # 4 project should be finished some time during the next 24 months, starting Jan. 1, 2000.

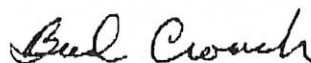
There will be no additional cost to you for us to set a meter within fifty feet of your homes. Failure to comply on the release from District # 2 would render this letter of statement invalid.

5) Cost to Elna Moore and Daniel Plummer:

The cost will be equal to all in this proposed annexation, \$600.00.

Thanks for your inquiry.

Yours truly,



Bud Crouch  
RWD # 4 Chairman

a chairman, vice-chairman, secretary and treasurer for a term of one (1) year and until a successor is elected and has qualified.

History: L. 1957, ch. 540, § 16; June 29.

**82a-628. Duties of chairman of board; compensation of chairman and other persons; budget, audit and report.** It shall be the duty of the chairman of the board of directors to keep in repair such works as are constructed by the district as authorized in this act and to operate such works, all as directed by said board. The chairman and all persons who may perform any service or labor as provided herein shall be paid such just and reasonable compensation as may be allowed by the board of directors and said board shall annually prepare an estimated budget for the coming year, adjust water rates, if necessary to produce sufficient revenue required by such budget, shall cause an annual audit of the district's records and accounts to be made, and shall make a report on said matters at each annual meeting.

History: L. 1957, ch. 540, § 17; June 29.

**82a-629. Dissolution of district; disposition of property and apportionment of proceeds.** Whenever a petition signed by  $\frac{3}{4}$  of the subscribers and benefit unit owners in any district organized under provisions of K.S.A. 82a-612 *et seq.*, and amendments thereto, is presented to the board of county commissioners stating that all of the district's debts and obligations have been fully paid; that the board of directors has not held a meeting for more than six months prior to the date of signing the petition; and that the district is not functioning, and shall continue to be inoperative, the board of county commissioners shall make findings thereon. If the board of county commissioners finds the allegations in the petition to be true, the board shall provide for the disposition of any property owned by the district and for the apportionment of the proceeds thereof together with any other moneys belonging to the district to an adjoining rural water district or to any other political subdivision of the state. No money, property or the proceeds thereof shall be distributed to any private interests. The board of county commissioners shall issue a certificate stating that the allegations in the petition are true and declaring the district dissolved. The board of county commissioners shall make full minutes of the hearing in its journal and deliver such certificate to the secretary of the district. The secretary of the district, within 30 days thereafter, shall deliver all

records, maps, plans and files to the county clerk, and thereupon the district shall be dissolved.

History: L. 1957, ch. 540, § 18; L. 1985, ch. 337, § 1; L. 1991, ch. 291, § 1; March 21.

**82a-630. Release of lands from district, when; petition, finding, certificate.** If it becomes apparent that certain lands included within a district cannot be economically or adequately served by the facilities of the district, the owners of such lands may petition the county commissioners to release those lands from the district. The petition shall describe by section or fraction thereof and by township and range the lands affected and be signed by at least seventy-five percent (75%) of the total number of the owners of land desiring release, and be endorsed by the board of directors of the district. After a finding that the granting of the petition is to the best interests of the affected landowners and the district, the board of county commissioners shall issue a certificate stating that the lands involved are released and separated from the district. Full minutes of the hearing shall be entered in the journal of the board of county commissioners and the certificate shall be delivered to the secretary of the district who shall within thirty (30) days cause the records of the district to be amended to exclude the lands affected. The secretary of the district shall transmit a copy of any such certificate to the chief engineer.

History: L. 1959, ch. 415, § 5; L. 1977, ch. 355, § 1; April 9.

**82a-631. Conversion of certain cooperative and nonprofit corporations into rural water districts; petition; requirements.** Any cooperative or nonprofit corporation organized prior to July 1, 1957, for purposes authorized by sections 82a-612 to 82a-629, both sections inclusive, of the General Statutes Supplement of 1957, may, by a vote of a majority of the members present at a regular meeting, or at a meeting duly called for that purpose, and provided a quorum is present, elect to petition the county commissioners to incorporate the lands within its corporate boundaries into a rural water district. Said petition shall: (1) Be accompanied by a map showing the corporate boundaries of the area served, a roster of the stockholders, complete with addresses; (2) state the name of the corporation desiring to be incorporated as a rural water district; (3) state that prior to the construction of water facilities by the corporation, the area was without an adequate wa-

W) in testimony only.

To: Senator David Corbin  
Chairman, Senate Energy and Natural Resources Committee  
2nd Floor, State House  
Topeka, Kansas

From: Elna H. Moore  
Landowner of SE $\frac{1}{4}$  of Section 27, Township 7, Range 9  
Westmoreland, Kansas

Subject: Amendment to K.S.A. 82a-630

I have appeared before Rural Water District #2, at which time, I made a request for release from that district. Neither Mr. Moore or I was aware that our property had been attached to that water district. At the time of Mr. Moores illness, he advised me of the new Water District #4 being formed and that I should sign up to be a part of that. After his death, I appeared before the #2 Board Members and was advised they had voted to deny my request.

Because of their excessive cost estimate to me and the reasonable cost to the District #4 landowner, and also other reasons, I have requested Gary F. Conklin to represent me in requesting this change and amending K.S.A.82a-630 by striking the language "and be endorsed by the board of directors of the district.", and allowing the County Commission to have the right to hear arguments and reach a decision concerning release of a landowners property from a water district without approval of the district.

Respectfully,  
  
Elna H. Moore  
108 N. Cochran  
Westmoreland, Kansas 66549

Senate Energy & Natural Resources

Attachment: 4

Date: 2-2-2000 4-1

**Rural Water District No. 2**  
**Pottawatomie County, Kansas**  
**309 Second Street**  
**Olsburg, Kansas 66520**

February 2, 2000

TO: Senator David Corbin  
Chairman, Senate Energy and  
Natural Resources Committee  
Room 245 North

**Re: Testimony of RWD No. 2, Pottawatomie County, Kansas**  
**In Opposition to Senate Bill No. 405**

Rural Water District No. 2, Pottawatomie County, Kansas, serves 218 residences, farms and ranches in western Pottawatomie County. The district believes that SB No. 405 may have been introduced in response to a situation in that district. Specifically, a property owner has requested to be released from the territory of RWD No. 2 in order to be attached to the territory of a newly formed district, RWD No. 4, Pottawatomie County. As a new start-up district, RWD No. 4 can offer inexpensive benefit units and line extension costs to be funded through loans and grants that RWD No. 4 is obtaining from the USDA. RWD No. 2 has offered to extend service to this and adjoining properties, but must charge a standard benefit unit fee and collect from the property owners the cost of extending its water lines. This is all in accordance with RWD No. 2's by-laws and rules and regulations, and is the usual course of events in most of the rural water districts in Kansas. Two of the members of the board of directors of RWD No. 2 have received service in the same manner. The only thing that is unusual at all about this case is the existence of a neighboring start-up district that can offer lower connection costs, made possible through the USDA loans, which the owners of that district will pay for over the next 40 years.

We have attempted to resolve this situation, without success to date. A copy of the water district Chairman's letter to one of the property owners, dated November 10, 1999, is attached.

The board of directors of RWD No. 2 have offered to extend service to the properties in question. The board of directors of RWD No. 2 remains of the opinion that it is not in the best interests of RWD No. 2 to release that property from the territory of the district. Neither is it in the best interests of the property owners that their land be released because water service is immediately available from RWD No. 2, whereas water service will not be available from RWD No. 4 for some number of months or years. Under current law, the land cannot be released from RWD No. 2's territory without its approval. SB 405 eliminates the need for the water district's approval, turning that decision over to the County Commissioners.

Aside from the reasons specific to the RWD No. 2 situation, there are other reasons why we think the Committee should not approve SB No. 405. These include the following:

Senate Energy & Natural Resources

Attachment: 5

Date: 2-2-2000

5-1

1. Rural water district boards of directors are expert in what can or cannot be economically or adequately served by the facilities of their district. The Board of County Commissioners are not. Note that per K.S.A. 82a-612 (defining "Board of County Commissioners" as the Board of County Commissioners in which the greatest portion of the territory of the water district is located), the County Commissioners of one county may be deciding what is in the best interests of the water district and landowners who live in an entirely different county. We think that SB 405 could result in the County Commissioners having to hold "trials" where the water district's engineers and board members provide evidence about why the release should not be ordered, and property owners presenting evidence why it should. We doubt that commissioners want to be placed in this position.

2. In many cases, the commissioners will be powerless to give the property owners what they want. Like most rural water districts in Kansas, RWD No. 2 owes money to the United States government on loans made by the USDA to the water district. A Federal statute, 7 U.S.C. § 1926(b), prevents a competing utility from taking customers or potential customers of a utility who is a borrower from the USDA. This statute will enter into many of the commissioners' decisions under SB 405.

3. SB 405 does not apply only to the fringes of the rural water district territory, but would apply to any place within the district. The result could be potential "holes" in water district territory.

5. Rural watered districts have the power of condemnation (K.S.A. 82a-619). Generally, this power applies only to land located within the territory of the district. Generally, we are extremely reluctant to use condemnation powers, but sometimes that is the only way to lay necessary pipeline. Land located within an area released from the territory of the district would no longer be capable of being condemned for these purposes.

6. Rural water districts necessarily must make long-range plans and commitments. These plans can be upset if, unexpectedly, land is released from the district.

For all these reasons, RWD No. 2 asks the Committee members to vote against SB No. 405.

Respectfully submitted,



EILEEN JACKSON, Manager  
RWD No. 2, Pottatomie County, Kansas



**Rural Water District No. 2**  
**Pottawatomie County, Kansas**  
**309 Second Street**  
**Olsburg, Kansas 66520**

November 10, 1999

Mrs. Karen Ebert  
319 Gail Dr.  
Salina, KS 67401

**Re: Water Service**

Dear Mrs. Ebert:

This letter is in response to your letter addressed to the board of directors of RWD No. 2 dated October 26, 1999. First, we wish to confirm that RWD No. 2 looks forward to the opportunity to serve water to your property in the SW quarter of 27-7-9, Pottawatomie County. That land is located within the boundaries of RWD No. 2, within one-half mile of an existing water main, and the District has more than adequate supplies of water to serve your property and that of your neighbors.

The cost estimates that were provided to you previously are still our best estimates of the cost of providing service. The benefit unit fee (sometimes called hook-up fee) remains \$2,500 each. The benefit unit is the right to connect to the District's water system, and includes the cost of setting the meter on your property. If Mr. Plummer decides he would also like to obtain water for his property, then he would also pay \$2,500 for that right.

The other costs are related to the extension of the District's water line to serve your properties. The costs quoted to you earlier were based on estimates by the District's contractor. The contractor charges \$2.00 per foot for construction in dirt, and \$5.00 per foot for construction through heavy rock. Because the amount of rock cannot be determined until the excavation is complete, the estimates previously provided you ranged from a low of \$6,440 (100% of the costs of construction, at \$2.00 per foot, plus \$1,200 for the boring under Highway 99) to \$15,000 (100% of the costs of construction at \$5.00 per foot, plus \$1,800 for the boring under Highway 99). In the usual case, we would propose for the District, you and the other interested property owners to reach an agreement with construction of these lines, based on the contractor's best estimate of cost, with costs split among you property owners as you agree. The best estimate of costs would then need to be deposited with the District in advance. Once the construction was complete, the amount of rock, and thus the costs of construction, would be determined. Any excess costs would be charged to you property owners in accordance with the agreement. Any surplus deposit would be refunded to you property owners in accordance with the agreement. Note that the above estimates do not include any costs for serving Mrs. Moore. While the District would be glad to provide service to her as well, to date she has not made any contact to the District, and the District does not give an estimate of the costs for providing service to her property.

Concerning the terms of a sharing arrangement, the District will generally approve of any sharing arrangement you property owners wish to make. In this case, it would seem most reasonable for you and Mrs. Plummer to share the costs of the first approximately one-quarter mile extension equally, with the cost of the road boring and additional extension to your property to be paid by you. If Mrs. Moore was to participate, then we would expect her to pay one-third of the costs of the first quarter mile of the extension, then half of the costs of the road boring and additional extension to reach your property, and all of the costs of extending from your property to hers. Again, it is not possible to provide exact costs at this point until the project is complete.

In terms of the time when service would become available, as soon as we entered into the Water Line Extension Agreement and received your deposit, the contractor would be hired to install the project. Assuming favorable weather, we would expect service to be available within 30 days.

Concerning future plans for expansion in the area and plans to obtain grant and/or loan funds to finance construction, there are no plans at this time. As discussed above, there is an existing water line within one-half mile of your property. Your property is near the northern boundary of the District. The District has not been made aware of any considerable need for a project that would justify a grant/loan to complete. Water line extensions, such as being proposed here, are very common ways of providing service to nearby properties and are specifically provided for in the Water District's rules and regulations as proposed by Rural Development and on file with the Kansas Division of Water Resources.

I hope this information will be of help to you. I wish to confirm that the District's staff is always ready to discuss your interest in water service to your property at any time. The board meets monthly, and we would welcome you to attend any of our meeting. We very much look forward to working with you in the future.

Very truly yours,

WILLIAM JACKSON  
Chairman, Board of Directors

## Post Rock Rural Water District

103 North Douglas  
Ellsworth, Kansas 67439  
785-472-4486 fax 785-472-4499

January 27, 2000

Senator David Corbin  
Chairman of Energy and Natural Resources  
Room 120 South, State House  
Topeka, Kansas 66612

**Re: Senate Bill No. 405**

Dear Senator Corbin,

The Management and Board of Directors of the Post Rock Rural Water District are not support Senate Bill 405.

It appears that it will only serve to cloud issues that there is already latitude to resolve and would result in further litigation in the courts.

It would be in direct conflict with federal Statute 1926b where it applies and would create standards that would be impossible for anyone to define or resolve.

Respectfully submitted,



David K. Bailey  
General Manager

cc file

Senate Energy & Natural Resources

Attachment: 6

Date: 2-2-2000

6-1