

“District Establishment”

STATE OF NORTH DAKOTA
OFFICE OF THE STATE ENGINEER

IN THE MATTER OF: The Establishment of the Stutsman Rural Water District))))	FINDINGS OF FACT, CONCLUSIONS, AND ADMINISTRATIVE ORDER NO. 99-6
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PROCEDURAL HISTORY OF ADMINISTRATIVE ORDER

1. Under North Dakota Century Code (N.D.C.C.) § 61-35-25 a nonprofit corporation established under N.D.C.C. title 10 for the specific purpose of operating a rural water system may petition the State Engineer to organize a water district.
2. Stutsman Rural Water Users, Inc., (Stutsman), a nonprofit corporation, Box 547, Jamestown, ND 58402, through its attorney, Bradley A. Cruff, filed a petition to organize a water district with the Office of the State Engineer on June 21, 1999.
3. As set forth in its Articles of Incorporation, the purpose of Stutsman is to provide by purchase, lease, or otherwise, lands and improvements for the purpose of establishing a water distribution system in the state of North Dakota for the use and benefit of its members and not for the purpose of pecuniary profit or direct financial gain to the corporation itself or its members.
4. N.D.C.C. § 61-35-25 allows a nonprofit corporation established for the specific purpose of operating a rural water system to petition the State Engineer to organize a district in the manner provided in N.D.C.C. § 61-35-02. The signatures of the corporation's officers on the petition and a resolution adopted by the members in the manner provided in N.D.C.C. ch. 10-33 for dissolution approving



the petition suffice in lieu of signatures of owners of fifty percent of the real property in the proposed district, if the petition presenter provides evidence satisfactory to the State Engineer that a sufficient number of members of the proposed district will subscribe or have subscribed to benefit units to make its operation feasible.

5. N.D.C.C. § 61-35-04 requires the State Engineer to fix a time for a hearing on the petition to establish a water district not less than fifteen days nor more than forty-five days after the filing of the petition. The State Engineer shall prepare a notice as required by N.D.C.C. § 61-35-05. At least seven days before the date fixed for the hearing on the petition, the notice must be:

- a. Published in the official county newspapers in the counties included within the district.
- b. Transmitted with a copy of the original petition to the State Engineer.

6. N.D.C.C. § 61-35-05 provides that the notice prepared by the State Engineer must set forth:

- a. The location of the area designated by the petitioners to be included in the proposed district, as described or shown by the original petition.
- b. The time and place fixed by the state engineer for the hearing on the petition.
- c. That all owners or tenants of real property or other interested persons within the boundaries described may appear and be heard.
- d. That the proposed district, if organized, has no power or authority to levy any taxes.

7. N.D.C.C. § 61-35-07 provides that if the State Engineer finds the required notice of hearing has been given and that the proposed district is reasonably necessary for the public health, convenience, and comfort of the

residents, the State Engineer shall make an order establishing the district as a political subdivision, designating its boundary, and identifying it by name or number. The order must be published in the same newspaper or newspapers that published the notice of hearing.

FINDINGS OF FACT

8. Stutsman is a public water system and is subject to regulation so that persons served by Stutsman may purchase healthful water, free of harmful contaminants. N.D.C.C. § 61-28.1-01. It is the policy of the state that safe supplies of drinking water are essential to the maintenance of public health and welfare and that persons served by public water systems must be able to rely upon the quality of water used for human consumption. Id.

9. A special meeting of the members of Stutsman was held on April 21, 1999, to consider a resolution to approve filing the petition with the State Engineer to organize a water district and approve the voluntary dissolution of Stutsman subject to approval of the petition by the State Engineer. The resolution was adopted by a vote of 55 yes, 2 no, and 1 abstained. Although the petition indicated that the requirements of N.D.C.C. § 10-26-01(01) had been met, the resolution adopted by the members also meets the requirements of N.D.C.C. ch. 10-33 for dissolution.

10. The petition filed with the State Engineer contains a description of the area to be served, the signatures of the corporation's officers, a resolution adopted by the members of Stutsman, and specifies the reason a district is needed is to provide the most favorable financing options available, including sales tax exemptions, for current debt restructuring and possible future expansion projects

of Stutsman Rural Water District. The petition requests that the district be named Stutsman Rural Water District.

11. The description of the area to be served encompasses portions of Foster, Griggs, LaMoure, Logan, and Stutsman Counties.

12. The petition stated 981 water users will subscribe to benefit units of the proposed district and Stutsman has been financially successful since its inception. The petition package contains the independent auditor's report on the financial statements of Stutsman for the years ending June 30, 1996 through 1998. The year-end equity balance ranged from \$4,624,363 to \$4,684,283.

13. The notice set forth the location of the area designated by the petitioners to be included in the proposed water district; and the time, date, and place of 1:00 p.m. on July 19, 1999, at the State Office Building, 900 East Boulevard Ave., Bismarck, North Dakota, for the hearing on the petition. The notice specified that all owners or tenants of real property or other interested persons within the boundaries described will be heard and given an opportunity to submit evidence, orally or in writing, and show cause why the proposed water district should or should not be established; and that the proposed district, if organized, has no power or authority to levy any taxes.

14. A notice of hearing on the petition for creation of a water district was sent to the North Dakota Advertising Services, Inc., on June 30, 1999, which sent the notice to the official county newspapers of Foster, Griggs, LaMoure, Logan, and Stutsman Counties for publication. The notice was published in the Foster County Independent on July 5, 1999; the LaMoure Chronicle and the Napoleon Homestead on July 7, 1999; and the Griggs County Sentinel-Courier and

Jamestown Sun on July 9, 1999. The affidavit of publication was dated July 14, 1999. The hearing date was July 19, 1999.

15. A hearing was held at the State Office Building, 900 East Boulevard Ave., Bismarck, North Dakota, at 1:00 p.m. on July 19, 1999, in the basement conference room.

16. Gary Schultz, manager of Stutsman, stated that Stutsman will provide safe clean drinking water to the public and keep water rates affordable. The system has been providing water service for more than 13 years. The future needs are to add pipe and 300 to 400 water users throughout the system at an estimated cost of \$2.6 million. The proposed district's boundary has been established by process of communication between the surrounding water systems. The north end of the system has 70 users wanting water service and Ramsey County Rural Water has signed up 64 of those users. The Stutsman system meets current water quality standards.

17. Mr. Schultz also stated that if Stutsman would become a district it would then be able to take advantage of a loan rate of 3 percent by using the Drinking Water State Revolving Loan Fund through the State Department of Health. This would benefit the proposed district with interest savings of \$20,000 per year per one million dollars of debt incurred for any improvement project. Mr. Schultz testified that the interest rate was estimated to be 2 percent less for a water district. He stated that Stutsman would save \$8,700 annually by being tax-exempt on purchases.

18. Stutsman provided resolutions from the cities of Buchanan, Cleveland, Courtney, Kensal, Montpelier, Spiritwood Lake, and Streeter consenting to inclusion of the cities within the boundaries of the proposed water district.

19. The incorporated cities of Jamestown, Medina, Pingree, and Woodworth have not passed a resolution to be included in the district.

20. Several people testified at the hearing they have concerns about not obtaining water. They have tried to obtain water by signing up with Stutsman in the past and are currently signed up with a proposal by Ramsey County Rural Water. They stated connecting to rural water as a group is much more affordable than on an individual basis.

21. Terry Nieland, President of Stutsman, indicated that Stutsman is currently providing water service, but some of the pipelines are only 1 1/4-inch in size and need to have a parallel pipeline. Mr. Nieland indicated that Stutsman is willing to provide water service to users within the proposed boundary.

CONCLUSIONS

22. Stutsman is a nonprofit corporation established under N.D.C.C. title 10 for the specific purpose of operating a rural water system.

23. The State Engineer received a petition to organize a water district under N.D.C.C. § 61-35-25 from Stutsman on June 21, 1999.

24. The required notice of hearing was given at the time and in the manner required by law.

25. The hearing was held at the time and place specified in the notice of hearing.

26. Since 1986 Stutsman has provided water to its members. The 1996-1998 audit reports show a positive equity balance averaging over \$4,600,000. The operation of a water district is feasible.

27. Stutsman Water District, if established, would be exempt from sales tax and be able to issue tax exempt bonds instead of taxable bonds or other loans resulting in a lower interest rate amounting to a annual savings of approximately \$20,000 per one million dollars of debt for 1,000 users.

28. The formation of the district will keep water rates affordable and ensure a continued quality water supply through a public system for the public health, convenience, and comfort of the residents.

ORDER CREATING STUTSMAN RURAL WATER DISTRICT
ADMINISTRATIVE ORDER NO. 99-6

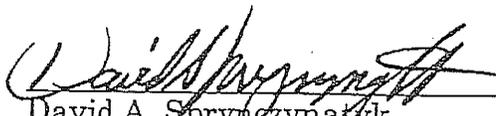
A petition signed by the directors of Stutsman Rural Water Users, Inc., requesting the North Dakota State Engineer to organize a water district to encompass portions of Foster, Griggs, LaMoure, Logan, and Stutsman Counties, North Dakota, was filed in the Office of the State Engineer on June 21, 1999, requesting the establishment thereof.

After review and consideration of the record for the establishment of the proposed water district by Stutsman Rural Water Users, Inc., it is the State Engineer's opinion that pursuant to North Dakota Century Code § 61-35-07, the proposed district is reasonably necessary for the public health, convenience, and comfort of the residents of the district.

IT IS HEREBY ORDERED THAT:

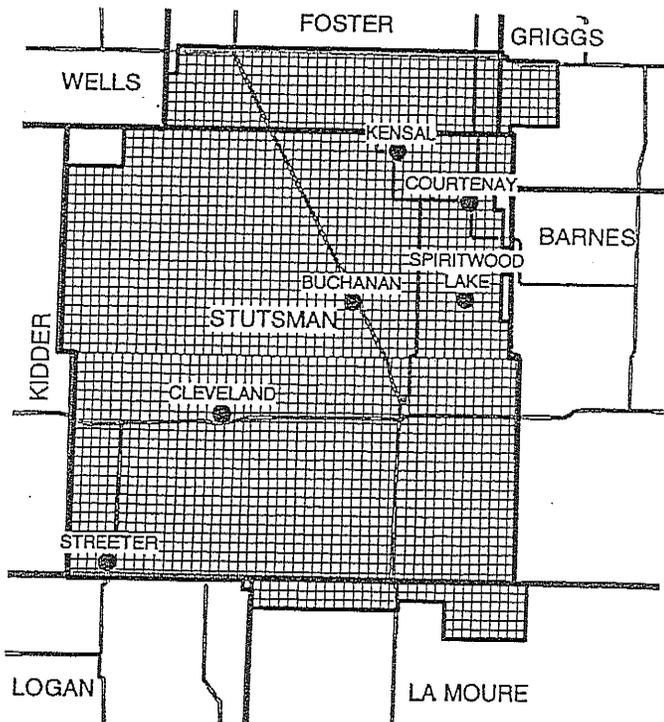
1. Effective September 1, 1999, the district is a political subdivision known as Stutsman Rural Water District; and
2. Stutsman Rural Water District is comprised of the lands as shown on Attachment 1, excluding the land within the boundaries of the incorporated cities of Jamestown, Medina, Pingree, and Woodworth.

Dated this 7th day of September, 1999.



David A. Sprynczynatyk
State Engineer

Stutsman Rural Water District



North Dakota State Water Commission

Scale: 1"=20mi.