

“Correspondence
from the District”

Stutsman Rural Water District

1812 Hwy. 281 North

Jamestown ND 58401-2104

E-Mail: srwdistrict@guestoffice.net

Phone: 701-252-7727

Fax: 701-252-8711

Toll Free: 1-888-302-7727

July 22, 2010

Honorable Mayor Katie Andersen
Jamestown City Council Members
102 3rd Ave. SE
Jamestown, ND 58401

Re: Rural water service to Border States Paving, Stutsman Co. Road Dept., and Hospital backup water supply

Dear Mayor Andersen and City Council Members:

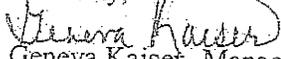
I wish to thank the Mayor and Council Members for allowing Stutsman Rural Water District to provide water service, through our expansion project to Stutsman County Road Department and Border States Paving.

The mission of Stutsman Rural Water District is to provide a quality water supply to rural users. The District does not view itself as competition for City water supply customers. We do not actively pursue new customers within City limits, and have only considered providing service when it is requested of us and the area cannot be supplied with City services. Approximately one year ago, the District was invited to meetings by representatives of the Jamestown Hospital and the City of Jamestown. At that time, a request was made to Stutsman to provide a backup water supply for the new Hospital. Since our Engineering firm was working on the design of the District's expansion project for that area at the time, the Hospital was included in the plans.

We realize that there are City ordinances that need to be addressed regarding another entity supplying water where the City already has service. The District basically views this backup water supply as providing a service to the Community to insure the public whether it be City or Rural residents, that their Hospital will have a water supply if an emergency should occur. The District has no plans to serve other businesses or residents within the City limits of Jamestown if the City can supply the water service themselves. We currently have 550 rural residents within our District, on a waiting list for quality water service. Competing for water service within City Limits certainly would not be in the District's best interests.

Stutsman Rural Water District welcomes the opportunity to work together with the City of Jamestown to continue to provide everyone with the opportunity to obtain good quality water and help maintain a good quality of life for all rural and city residents.

Sincerely,


Geneva Kaiser, Manager
Stutsman Rural Water District

cc: Jeff Fuchs, Jamestown City Administrator
cc: Stutsman Rural Water District Board of Directors

Stutsman Rural Water District

1812 Hwy. 281 North

Phone: 701-252-7727

Jamestown ND 58401-2104

Fax: 701-252-8711

E-Mail: sruwdistrict@questoffice.net

Toll Free: 1-888-302-7727

May 23, 2011

City of Jamestown
Mr. Jeff Fuchs, City Administrator
102 3rd Ave. SE
Jamestown, ND 58401

Dear Jeff;

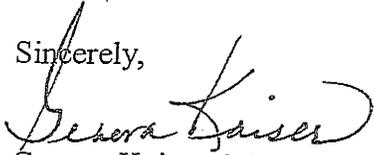
The Stutsman Rural Water District Board of Directors has discussed the possible sale of part of its service territory in Woodbury Twsp., 139-64, Sections 2 and 3, to the City of Jamestown, at its April and May Board meetings. More research needs to be done, but at this point, the only precedent we have found was that in 1997/98, the City of Fargo purchased 4 sections of residential service area from Cass Rural Water District for \$125,000 per section (\$500,000). There was no water line installed in that area at the time of the buy out. During that same time period, the City of West Fargo paid the same amount for 4 more sections of service territory without waterline installed in that area as well. There is also a residential area where Cass Rural Water District provides the water service and the City of Fargo provides sewer service to approximately 1,000 accounts. As I stated, more research needs to be done in order for the Board of Directors to make an informed decision on this matter.

The District plans to continue with its Capital Improvement and Expansion Project. The City of Jamestown was made aware of these plans approximately 2 ½ years ago, and was updated on a regular basis until final design was completed. Construction is currently underway on the Hwy. 281/52 Bypass area. The main transmission line will be installed through section 3 as originally designed.

The District has and will continue to promote and encourage economic growth around the City of Jamestown and jointly with the City of Jamestown whenever possible, and has no intention of hindering future growth to the area named in paragraph 1, however, territorial boundaries do exist and were set when Stutsman Rural Water Users, Inc. reorganized as a political subdivision and became Stutsman Rural Water District. There have been several areas that have been annexed in the past 12 years that were part of the District's territory, and while the SRWD Board may have been willing to look the other way on this, they also want it to be clear that further annexation of the District's service territory will not be acceptable in the future without reasonable compensation. Stutsman Rural Water District has always respected the City of Jamestown's territorial boundary and sought permission to serve its citizens that did not have a potable water supply available to them within the annexed areas of Jamestown. The District is simply asking for the same respect.

You or any of the City Council Members are welcome to attend a District Board meeting held on the second Tuesday of each month at 9:00 a.m., if you wish to discuss this further. Please call our office at 252-7727 to be placed on the Agenda.

Sincerely,



Geneva Kaiser, Manager
Stutsman Rural Water District

cc: SRWD Board of Directors

Terry Nieland

Darrell Patzer

Mardee Heinrich

Joel Lees

Roger Florhaug

Ron Wanzek

Nathan Hochhalter

Scott Sandness, Attorney for SRWD

Martin Richman, JRMC

Bob Keller, Bartlett & West, Inc.

Stutsman Rural Water District

1812 Hwy. 281 North

Jamestown ND 58401-2104

E-Mail: srwdistrict@questoffice.net

Phone: 701-252-7727

Fax: 701-252-8711

Toll Free: 1-888-302-7727

June 27, 2011

Mayor Katie Andersen
Jamestown City Hall
102 3rd Ave. SE
Jamestown, ND 58401

Dear Mayor Andersen;

Stutsman Rural Water District finds it necessary to follow up on our first response letter to the City of Jamestown dated May 23, 2011; in light of the recent news article in the Jamestown Sun regarding emergency water service to the Jamestown Regional Medical Center, (JRMC). I have attached a copy of that response letter for your convenience.

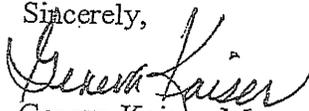
Stutsman Rural Water District's, (SRWD), position on providing an emergency or backup water supply to the JRMC remains the same as it has always been. JRMC requested that SRWD provide an emergency or backup water service to JRMC in the case of an emergency. SRWD Board of Directors agreed to the JRMC request only if the City of Jamestown would allow such connection. SRWD considers this an emergency or backup water supply only, and agreed to it because the Board of Directors believes it is an important service to our community. Given recent catastrophic events in our state, it should be more evident than ever before that no community is immune to disaster.

Since the City Council approved the backup connection, there have been two meetings held between the parties involved. Somehow things got off track and issues such as service to the surrounding territory became part of this contract. As Manager of SRWD, I am again requesting that those issues be addressed at another time and we concentrate on getting an agreement signed to simply provide an emergency water service/supply to the JRMC. We fully understand that this connection is only to be used in an emergency situation and truly hope it will never be necessary to use the emergency water service from SRWD.

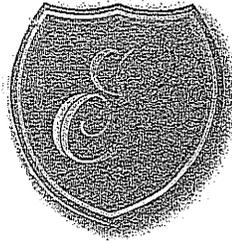
I would like to schedule a meeting with you to discuss this issue as soon as possible. As you may or may not be aware, our construction in this area is underway and will be completed soon.

Please call me at your earliest convenience so we may schedule a meeting. I look forward to hearing from you.

Sincerely,


Geneva Kaiser, Manager
Stutsman Rural Water District

cc: SRWD Board of Directors
Scott Sandness, Attorney for SRWD



SANDNESS LAW

June 6, 2012

City of Jamestown
Ken Dalsted, City Attorney
102 3rd Ave. SE
Jamestown, ND 58401

RE: Water service to US 52/Hwy. 281 Bypass Area

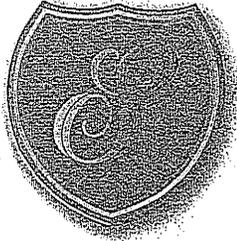
Dear Mr. Dalsted,

As you are aware, the proposed Titan Machinery Development site located in the NE ¼ of Section 4 -1 39 -64 is partially in the City of Jamestown's annexed territory and partially in Stutsman Rural Water District (SRWD) service territory. According to the drawings received by SRWD, part of the shop will lie in SRWD service territory. It is my understanding that the Council is considering further annexation of additional territory adjacent to the Titan Machinery Development site.

Over the past 26 years, Stutsman Rural Water District has expanded its services in the rural communities surrounding Jamestown and throughout greater Stutsman County. During this same period, the City of Jamestown has concentrated on providing services within the City limits and until recently, has not turned its attention to the one mile zone. Consequently, SRWD has invested a substantial amount of Federal and ND Municipal Bond Bank dollars in these areas and currently has the ability to provide quality water service to individual residences and businesses located within its service area. Stutsman Rural Water District fully intends to provide water service to users within its territory.

SRWD has always promoted growth in Stutsman County and will continue to do so. While SRWD acknowledges that it cannot prevent annexation of land by the City; it can take legal action to prevent the City from providing water service within a newly annexed area until a water service agreement has been reached. See 7 USC Sec. 1926(b) which states: "The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event."

SRWD has brought this to the City Council's attention many times over the past 18 months. The City's offer has been for SRWD to simply surrender its service territory without compensation. That offer is unreasonable and the City is hereby given notice that it is not acceptable.



SANDNESS LAW

Letter to Ken Dalsted, Page 2

SRWD is still willing to work with the City to reach a water service agreement that mutually benefits both parties. Cass Rural Water and Fargo have a mutually beneficial agreement where Fargo provides sewer service and Cass Rural Water provides water service to approximately 1000 residential accounts and the new Davies High School. Other large communities in the state have similar agreements with their bordering rural water systems.

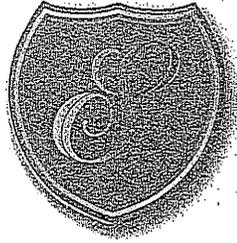
The City of Jamestown now has an opportunity to settle this issue before legal action is necessitated. The City has already annexed areas that were in SRWD service territory (JRMC). Any further attempts to provide water service within SRWD territory without a water service agreement will be met with legal action. This will include any corridor necessary for the installation of City water pipeline to the Bypass area.

Please feel free to contact me at your earliest convenience to discuss this matter.

Sincerely,

Scott Richard Sandness
Attorney at Law

cc: Stutsman Rural Water District



SANDNESS LAW

September 21, 2012

City of Jamestown
Mr. Ken Dalsted, City Attorney
102 3rd Ave. SE
Jamestown, ND 58401

RE: Water service to US 52/Hwy 281 Bypass Area

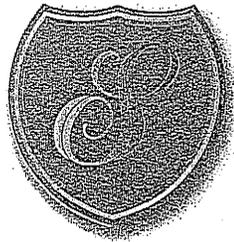
Dear Mr. Dalsted,

The City should be advised that we have retained the services of Steven M. Harris of Doyle Harris Davis & Haughey in Tulsa, Oklahoma. Mr. Harris is a nationally renowned expert on water law specializing on § 1926(b) rights and will act as co-counsel in this case if matters proceed to litigation.

It is our understanding that the City is moving forward with its expansion plans and intends to provide water service to the areas surrounding the Jamestown Regional Medical Center and Titan Machinery, where SRWD has the ability to provide the water service and has made a substantial investment of federal dollars to enable it to do so. This area has been in dispute with the City for several years and we have made many attempts to discuss this matter with you. Stutsman is hereby invoking its right of protection of § 1926(b). Please note that the 8th Circuit Court of Appeals has previously ruled that any doubts about whether a water district is entitled to the protections of § 1926(b) should be resolved in favor of the federally indebted association. (1)

It is our understanding that the City intends to rely on the water purchase contract that was in existence before the federal indebtedness occurred and will argue that such constitutes a waiver of the District's § 1926(b) rights. Please be aware that this is not correct. § 1926(b) rights are held by the rural residents served by the District and the USDA. Stutsman Rural Water lacks the power to waive those rights through a private contract without the express approval of the USDA. Such was not procured at the time of the purchase agreement. Therefore the City cannot rely on said contract in any subsequent action and Stutsman Rural Water can enforce its § 1926(b) rights. It is important to note that § 1926(b) preempts all state and local laws which function to frustrate or deny SRWD's right of exclusivity under § 1926(b). When North Dakota authorized SRWD to borrow money from the federal government the State of North Dakota accepted all of the federal statutory and regulatory restrictions associated with such borrowing. (2) (§ 1926(b) is "Spending Clause" legislation. (3)) This federal preemption serves to functionally nullify the granting of any franchise or permit by local or state government which functions to allow some other entity (public or private) to sell water in competition with SRWD.

1 "Finally, any "[d]oubts about whether a water association is entitled to protection from competition under § 1926(b) should be resolved in favor of the FmHA-indebted party seeking protection for its territory." *Sequoyah County Rural Water Dist. No. 7 v. Town of Muldrow*, 191 F.3d 1192, 1197 (10th Cir. 1999) (citations omitted). Congress enacted section 1926 (b) to encourage rural water development and to provide greater security for FmHA loans. *See id.* At 1196. Therefore, our holding is supported by the policy underlying the federal statute." *Rural Water System No. 1 v. City of Sioux Center* 202 F.3d 1035, 1038 (8th Cir.2000)



SANDNESS LAW

Letter to Kenneth Dalsted

Page 2

Stutsman Rural Water District must protect the interests of its customers and residents within its service area. One purpose of § 1926(b) is to protect SRWD's ability to repay its federal loans and has the further indirect beneficial effect of protecting SRWD's ability to repay any state loans and other contractual obligations.

Until an agreement is in place, we ask that the City of Jamestown cease any further encroachment upon SRWD service territory. Please accept this letter as our demand to cease any competitive sales and prevent any encroachments from being connected to water service providers other than SRWD. Please be aware that installation of any water line in the disputed area without an agreement in place with SRWD could result in the forfeiture of that waterline to SRWD if suit becomes necessary.

SRWD is still open to discuss and reach an agreement for this area with the City of Jamestown. However, if we do not hear from you regarding scheduling a meeting by October 1, 2012, we will proceed with litigation. If such becomes necessary, Mr. Harris will proceed in Federal District Court on our behalf.

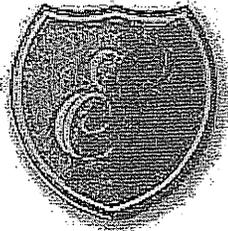
Sincerely,

Scott Richard Sandness
Attorney at Law

cc: Stutsman Rural Water District
SRWD Board of Directors
Katie Andersen, Mayor
Jamestown City Council
Jeff Fuchs City Administrator

2 "We held that "where the federal § 1926(b) protections *have attached*, § 1926(b) preempts local or state law that can be used to justify...encroachment upon [a] disputed area in which an indebted association is legally providing service under state law." *Id.* At 715 (emphasis added) (internal quotation marks and brackets omitted). In other words, a state or local government may not act "to take away from an indebted rural water association any territory for which the association is entitled to invoke the protection of § 1926(b)." *Id.* at 716 (emphasis added)." *Moongate Water Co., Inc. v. Dona Ana Mutual Domestic Water Consumers Ass'n.* 420 F.3d 1082, 1090 (10th Cir. 2005)

3" Application of § 1926(b) to the facts of this case is similarly consistent with the limits of the Spending Clause. "Congress' spending power enables it to further broad policy objectives by conditioning receipt of federal moneys upon compliance by the recipient with federal statutory and administrative directives." *Kansas v. United States*, 214 F.3d 1196, 1198 (10th Cir.2000) (quoting *Fullilove v. Klutznick*, 448 U.S. 448, 474, m 100 S. Ct. 2758, 65 L.Ed.2d902 (1980)." *Glenpool Utility Services Authority V. Creek County Rural Water Dist. No. 2*, 861 F.2d 1211, 1216 (10th Cir. 1988)



SANDNESS LAW

October 11, 2012

Ken Dalsted
City Attorney
PO Box 1727
Jamestown, ND 58402-1727

RE: Water service to US 52/Hwy 281 Bypass Area

Dear Mr. Dalsted,

Last night Stutsman Rural Water District's Board of directors met and passed a resolution authorizing negotiation and discussion with the City of Jamestown. Specifically the Board indicated that it is willing to consider a settlement of our present dispute along the following terms and conditions:

1. SRWD will retain its service area in Sections 2 and 4 next to the JRMC. This includes Titan Machinery. SRWD will provide water service to all customers in these areas.
2. SRWD will agree to the City of Jamestown providing water service to the customers in Section 3 (the section where the JRMC is located). By ceding the right to provide water service for this area the City of Jamestown will pay \$2.91 per 1000 gallons back to the initial date of service to compensate the District for lost revenue for the hospital and clinic. In addition the City will buyout John Correll's 5 year service contract if they wish to provide him water. Finally, the City will pay the District \$1.50 per 1000 gallons for the next 40 years as compensation for future lost revenue. The price per gallon for future lost revenue will be adjusted annually for inflation and tied to the CPI - U.
3. SRWD will connect its line to the JRMC for the purpose of providing emergency back-up.
4. The City will acknowledge SRWD's territory and will agree that it will never again encroach upon said territory.
5. The City will acknowledge that SRWD enjoys 1926(b) protection under Federal Law.

Please be advised that while this letter is made for the purpose of settlement, that it does not constitute a formal offer that can be accepted at this time. All conditions would be subject to a final and definitive written settlement contract which must be approved by the parties' respective legal counsel, approval by SRWD and the City following all state law formalities, and final approval by the USDA.

None the less we are hopeful that this will further the conversation in this matter.

Sincerely,


Scott Richard Sandness
Attorney at Law

cc: Stutsman Rural Water District
Steven Harris, Esq.



SANDNESS LAW

November 28, 2012

City of Jamestown
Ken Dalsted, City Attorney
102 3rd Ave. SE
Jamestown, ND 58401

Re: Encroachments by the City of Jamestown, in violation of 7 U.S.C. § 1926(b) and
N.C.C.C. § 6-09.4-22 - Settlement Negotiations

Dear Mr. Dalsted,

Stutsman Rural Water District ("Stutsman") has asked me to correspond with you in furtherance of efforts to accomplish a settlement between Stutsman and the City of Jamestown ("Jamestown"). One issue that may be impeding settlement is an incorrect belief on the part of Jamestown that the 2005 Water Purchase Contract (Exhibit 1) is a valid and enforceable contract.

Previously we have advised you that the exclusivity provision in the 2005 water purchase contract was unenforceable because a private contract cannot trump 7 U.S.C. § 1926(b) ("§1926(b)"). See *Jennings Water, Inc. v. City of North Vernon, Ind.*, 895 F.2d 311, 318 (7th Cir.1989).

Further research reveals that a North Dakota statute (with similar language as that found in § 1926(b)) also serves to invalidate the 2005 water purchase contract. N.D. Statute, § 6-09.4-22(1) (see Exhibit 7)¹ contains language nearly identical to 1926(b). More importantly § 6-09.4-22(2) expressly serves to invalidate the 2005 water purchase contract for the reason that Stutsman's lender at the time (North Dakota Municipal Bond Bank) was not a party to the 2005 water purchase contract. (North Dakota Municipal Bond Bank is a lender contemplated by § 6-09.4-22.) I have attached Exhibits 2 and 3 to this letter, which are copies of bonds issued in 2001 and 2004. North Dakota Municipal Bond Bank is identified as the obligee/bond holder. The 2001 and 2004 bonds are the type of indebtedness contemplated by § 6-09.4-22. The current version of § 6-09.4-22 was approved and filed March 25, 2005. The 2005 water purchase contract was dated November 18, 2005. (The predecessor version of § 6-09.4-22 is also attached as Exhibit 6. There is no material difference between the 2005 statute and its predecessor.) I have also attached to this letter Stutsman's bonds which were issued in 2006 and 2009. See Exhibits 4 and 5. These bonds also entitle Stutsman to the protection described in § 6-09.4-22.

¹ Exhibit 7 contains three (3) ND statutes all addressed to the issue of exclusivity. § 6-09.4-22 appears to be the applicable statute here. I have attached all three statutes to show that ND has a strong policy virtually identical to the policy reflected in 1926(b).



SANDNESS LAW

Based on state and federal law, there is simply no basis under which Jamestown can argue that the 2005 water purchase contract is valid or enforceable, at least as to the issue of Stutsman's right to be the exclusive water service provider relative to the areas in controversy. More

importantly, under state law, Stutsman has had the continuous right to be the exclusive water service provider under state law, since at least 2001.

Stutsman has provided Jamestown with terms of settlement (subject to a definitive settlement contract approved by both parties using statutory formalities for public entities and subject to approval by the Bond holders and the USDA). For there to be any meaningful progress toward settlement, it makes sense for Jamestown to provide a written response with sufficient detail, that Stutsman can evaluate how far apart the parties are.

In the event that litigation becomes necessary to resolve the dispute, Stutsman wants to be able to disclose to the District Court that Stutsman has taken all reasonable steps to exhaust settlement possibilities, before filing suit. It is presently not possible for Stutsman to present anything to its bond holders and the USDA, unless and until Jamestown provides a clear and definitive settlement proposal in response to Stutsman suggested basis for settlement.

Please advise if Jamestown is willing to present its own plan/proposal for settlement. If Jamestown declines to make a settlement proposal acceptable to Stutsman (and Stutsman's lenders) we will have no alternative but to file suit once we have completed our due diligence. As I am sure you are aware, a § 1926(b) suit is brought pursuant to 42 U.S.C. § 1983 ("§ 1983"). Controlling case authority interpreting § 1983 makes it presumptive that Stutsman would be entitled to an attorney fee award together with its reasonable litigation expense. In addition, Stutsman would be entitled to (1) damages for past encroachments, (2) injunctive relief to preclude existing and future encroachments and (3) forfeiture of Jamestown infrastructure utilized to violate the federal statute. (See *North Alamo Water Supply Corp. v. City of San Juan, Tex.* 90 F.3d 910, 918-919 (5th Cir.1996).² Although there is no case authority interpreting § 6-09.4-22, it is reasonable to expect that the state law would be enforced consistent with § 1926(b).

² "We conclude that in ordering the transfer of the infrastructures to the Utility, the district court did not abuse its discretion. Rule 54(c) vests district courts with broad discretion to fashion a remedy, even if the remedy awarded is not specifically requested in the prayer for relief." *North Alamo Water Supply Corp. v. City of San Juan, Tex.* 90 F.3d 910, 918-919 (5th Cir.1996) (emphasis added)



SANDNESS LAW

Sincerely,

Scott R. Sandness
Attorney at Law

Co-Counsel:
Steven M. Harris
Doyle Harris Davis & Haughey
1350 S. Boulder
Suite 700
Tulsa, Oklahoma 74119
918-592-1276
918-592-4389 (fax)
www.1926bLaw.com

cc: Stutsman Rural Water District
Mayor Katie Anderson

AGREEMENT FOR THE SALE OF
WATER BY THE CITY OF JAMESTOWN

TO

STUTSMAN RURAL WATER DISTRICT

THIS AGREEMENT is entered into by and between the City of Jamestown, a municipal corporation, whose post office address is 102 Third Avenue Southeast, Jamestown, North Dakota, hereinafter referred to as "Jamestown", and Stutsman Rural Water District, whose address is 3322 Highway 281 North, Jamestown, North Dakota, hereinafter referred to as "Stutsman".

1.

NOTICE

Any notice given to Jamestown should be sent to the attention of the City Administrator and any notice given to Stutsman should be sent to the attention of its manager. Any such notice given shall be complete upon delivery to the other party at the address set forth above. Either party may modify or change this address upon providing written notice to the other party.

2.

PURPOSE

The purpose of this agreement is for Jamestown to sell treated water to Stutsman and related issues. Jamestown has determined that Jamestown will have water production capacity in

excess of its citizen's needs and will have sufficient excess capacity to sell treated water to Stutsman pursuant to the terms and conditions of this agreement.

Jamestown draws water for treatment from a series of wells authorized pursuant to state water permit #01120. This agreement is for the sale of treated water and does not apply to any other service provided by the City of Jamestown.

3.

SALE OF WATER

Jamestown agrees to sell to Stutsman at mutually agreed point or points of connection with Stutsman's lines as specified in this agreement, water from the Jamestown water system of the same quality as provided to all other water users within the City of Jamestown and of a quantity and quality as set forth in this agreement.

4.

QUANTITY, PRESSURE and COSTS

A. Jamestown shall treat and deliver a quantity of treated water in a volume to be determined, at the sole discretion of Stutsman, provided, however, the quantities shall not exceed the sum of 400,000 gallons per day of treated water measured at the point of delivery unless Stutsman has received prior authorization from Jamestown. It is hereby acknowledged and

understood that Stutsman intends to ramp up to a volume of 300,000 to 400,000 gallons per day over a period of years.

B. In the event that Jamestown shall impose rationing or other water use restrictions on city users, the same rationing or restriction shall apply to Stutsman. Stutsman shall adopt such rules and regulations to allow it to comply with this requirement. Jamestown shall deliver water to each point of delivery at the existing line pressure, but in no case shall the pressure be less than 40 p.s.i. No guarantee or commitment is provided by Jamestown that there shall be supplied under this contract adequate water pressure or volume of water required for fire protection.

C. Sufficient quantity and pressure is not guaranteed beyond the points of connection. Stutsman shall notify the City of its estimated yearly and monthly use before January 1 of each year. For water treatment and delivery provided, Stutsman agrees to pay Jamestown a cost per unit of water figured as follows:

- (1) Stutsman shall pay to Jamestown a fixed monthly fee of \$250.00.
- (2) Stutsman shall pay Jamestown for metered water transferred to Stutsman's system at the same unit rate Jamestown charges to its residents.

D. The unit rate established by the City of Jamestown shall be subject to adjustment from time to time by Jamestown. A unit of water is 100 cubic feet of water or approximately 748 gallons.

E. The City will bill Stutsman on or before the 5th day of each month for the prior month's charges. Payment shall be made in full within 15 days of the date of billing.

5.

TERM

The term of this agreement shall be for ten (10) years. The ten year term shall begin on the date that Stutsman makes its connection to the Jamestown system which shall be memorialized by written documents signed by both parties and shall be attached hereto. This agreement shall automatically be renewed for a like term unless either party gives written notice to the other party, at least two (2) years prior to the end of the then current term, that it elects not to renew the agreement for an additional term of ten (10) years.

6.

GENERAL OBLIGATIONS

A. Stutsman and Jamestown agrees that it will comply with the rules and regulations of the Environmental Protection Agency, the North Dakota State Health Department for water use distribution and discharge, as well as any rules and regulations

otherwise adopted and applied to water use by the City of Jamestown upon its residential customers. Any costs associated with causing Stutsman's distribution system to comply with any state, city, or federal regulation shall be born by Stutsman.

B. Jamestown shall provide for equal service as provided to all other residential users of Jamestown water, to the point of connection, except as otherwise limited by this agreement.

C. Jamestown further agrees that it shall use reasonable diligence to provide regular and uninterrupted service, but Jamestown shall not be liable to Stutsman or to any of Stutsman's users for damages, breach of contract, or otherwise, for suspension or diminution of service, including but not listed by way of limitation, that occasioned by or in consequence of any event or events beyond the control of the City, acts of God or public enemy, fire, tornado, flood, earthquake, or other catastrophe, strikes or other failure or breakdown of the transmission or other facilities including, but not limited to, transmission, metering, treatment and storage facilities, or by compliance with any law, regulation, court order, or other legal directive. Stutsman shall indemnify Jamestown for any claims made by a customer of Stutsman based upon any of the above.

D. In the event a shortage shall occur at any point of delivery, Stutsman agrees to accept reduced service provided

that the service is the same as that given to all other customers served by Jamestown in the zone which includes that point of delivery.

7.

INSTALLATION, CONNECTION AND ANNEXATION

A. Stutsman shall be responsible for the installation of all points of connection with Jamestown's water system and for any water lines necessary to connect with Stutsman's water system. This agreement allows the Stutsman connection to be made at mutually acceptable locations in the southeast portion of the City (a 'Bloom Road' connection) and in the northwest portion of the City (a 'Fairgrounds' connection) and at any other mutually agreed upon locations. The Fairgrounds connection shall be made with a Pressure Sustaining Valve per requirements of the City. Stutsman shall provide to the City, at Stutsman's expense, documentation of testing and calibration of the Pressure Sustaining Valve initially upon construction completion and periodically upon request by the City. It is understood by Stutsman that the water supply availability at the Fairgrounds connection is subject first to the needs of Jamestown. Jamestown shall deliver a quantity of treated water to Stutsman to the following extent:

- * Bloom Road Connection shall be a maximum flow rate not to exceed 277 gpm.

* Fairgrounds connection shall be a maximum flow rate not to exceed 200 gpm.

B. Jamestown shall own the required metering equipment.

The manner of connecting to the water system of Jamestown and meter installation shall be in the manner and with the permits required by the City Engineer, including a specified double backflow prevention system as approved by the City Engineer at the point of connection. The City Engineer and Stutsman shall cooperate in determining specifications of the connections to the City system. Ultimate requirements shall be as required by the Jamestown City Engineer.

C. Stutsman shall provide to the City Engineer a copy of all plans and specifications prior to Stutsman's connection to Jamestown system. Stutsman shall provide to the City of Jamestown a copy of a design as finally constructed. All costs of the installation and the connections and installation of meters shall be born by Stutsman.

D. The connecting facilities, and all other lines and apparatus, other than meters necessary for Stutsman's connections to the City water system shall be the property of Stutsman. Jamestown shall have access to all such facilities for inspection, review, and monitoring.

E. (1) The parties acknowledge the provisions of United State Code Annotated Title 7 Sec. 1926 and related state law. As

additional consideration for the supplying of water under this agreement, the parties agree that upon annexation of lands within the statutory extra-territorial jurisdiction of the City of Jamestown to Jamestown, Jamestown may assume all or part of Stutsman's system in said area. Upon any such annexation, Jamestown shall thereafter, unless otherwise agreed, have the exclusive right to supply water to all locations within the annexed area. This exclusive right shall survive the termination of this agreement and any extension thereof within the annexed area. Jamestown and Stutsman shall negotiate the assumption of any appropriate part of the Stutsman's system by the City of Jamestown. The rights of assumption and annexation provided herein as to areas not annexed during the term of this agreement shall cease upon termination of this agreement and any extension thereof.

(2) In the event of such annexation and assumption, relocation of metering points will be at the expense of Stutsman.

(3) In the event of annexation, Jamestown shall, as hereinafter provided, provide Stutsman compensation for certain water lines and related improvements located within the annexed area. Except as otherwise provided, all water lines and infrastructure located within the annexed area shall become the

property of Jamestown. Any compensation to be paid shall be computed as follows:

- (a) It is understood and agreed that Stutsman has an indebtedness of \$1,853,933.31 as of January 1, 2004, and has 1097 members. This existing indebtedness figure shall be the only indebtedness figure that shall be used in any annexation assumption calculations under this agreement and any extension thereof.
- (b) The remaining portion of said indebtedness in paragraph (a) existing on the date of any future annexation, shall be the debt figure to be used in arriving at the per member debt.
- (c) Jamestown shall pay the then existing per member debt for each member annexed to the City of Jamestown. The member numbers to be determined at the time of annexation.
- (d) If the infrastructure to be acquired in the annexed area was paid for by Stutsman, then Jamestown shall reimburse Stutsman the unamortized portion of the original construction cost based upon a forty (40) year useful life, provided the infrastructure was built to Jamestown's construction

specifications in effect at the time of construction. If the infrastructure acquired through annexation was not built to Jamestown specifications in effect at the time of construction, Jamestown shall not reimburse Stutsman for any such water lines and infrastructure. Jamestown agrees not to assume any of Stutsman's main infrastructure which is needed by Stutsman to transmit water from one service area of Stutsman's system to another service area of Stutsman's system. Possible scenarios for the computation of acquisition costs are attached as Exhibit A.

- (e) If the water lines or infrastructure acquired through annexation was paid for by the member, then Jamestown shall not reimburse Stutsman or the member the unamortized portion of the original cost.
- (f) Nothing in this agreement shall prohibit Stutsman from constructing in its acquired right of way water lines and infrastructure which is required by Stutsman solely to transport water between its service areas. Such construction shall be in accordance with

applicable Jamestown specifications. Any maintenance of such infrastructure shall be the responsibility of Stutsman. If such main is the principal supply line for the hook-ups acquired by Jamestown, Jamestown shall have to construct Jamestown's own parallel water main.

F. All of the specifications for the connection and metering shall be in writing and shall be attached to this agreement as Exhibit B.

G. The location of the connection shall be as shown on the attached Exhibit C which shall be attached to this agreement after the parties have agreed upon the location.

H. Stutsman will furnish, install, operate, and maintain at its own expense at each point of delivery, the necessary backflow prevention devices, including, but not limited to, a meter vault, pit or house, visual remote, water sampling device, flow recording device and required devices of standard type for properly measuring the quantity of water delivered to the Stutsman. Said equipment must be acceptable to Jamestown. Furthermore, it is agreed:

(1). That if either party believes a meter reading to be in error, it shall present its claim in writing, to the other party's business office before said

bill is delinquent (not later than the fifteenth (15th) day of the month). Such claim, if made after the bill has become delinquent, shall not be effective in presenting discontinuance of service, as herein provided. The Stutsman must pay said bill under protest and said payment shall not prejudice the claim of error.

(2). Upon either party presenting a claim of error in a meter reading, the meter will be calibrated upon payment of the actual cost of the calibration by the requesting party, provided, however that if the meter is found to over-register beyond two percent (2%) of the correct volume, the City shall bear the cost of calibration and if the meter is found to under-register beyond two percent (2%) of the correct volume, then Stutsman shall bear the cost of calibration.

(3). Any adjustments of Stutsman's bill, in the event of over registering or under registering of a meter, as shown by calibration, shall not eliminate the obligation to make future payments required by Stutsman of any amounts as set forth in this contract. If adjustments are required based upon the calibration, they shall be made to the current months

and previous month's billing. Adjustments made based upon meter failure shall be negotiated based upon records available.

8.

MAINTENANCE

A. Stutsman shall be responsible for the proper maintenance of its connection with Jamestown's system which maintenance shall be required from time to time by the City Engineer.

9.

LIMITATIONS

A. Jamestown shall have no responsibility for the distribution of water in Stutsman's system beyond the points of connection. Stutsman agrees to indemnify and hold harmless Jamestown and its agents and employees from and against all claims, damages, loss, and expenses of whatever nature, arising out of Stutsman's water system or from acts of Stutsman's users, agents, employees or contractors.

B. Jamestown shall have no responsibility to insure Stutsman's compliance with any state or federal regulation. Stutsman has no responsibility to insure that Jamestown's compliance with any state or federal regulation.

10.

CANCELLATION AND AMENDMENT

A. If one party defaults, the other may terminate this Agreement or exercise other remedy available at law or in equity, A party shall give written notice of a default to the other (and to Rural Utilities Service, a Division of Rural Economic Development, State of North Dakota, if Stutsman is in default) by certified mail return receipt requested and the default must be cured within 90 days mailed.

11.

ASSIGNABILITY

This agreement may not be assigned by a party to this agreement without the written consent of the other party.

12.

MERGER CLAUSE

This agreement, with attachments, constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind the parties unless in writing and signed by the parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The parties, by the signature below of their authorized representatives, hereby

EXHIBIT A

City of Jamestown / Stutsman Rural Water District
Annexation Illustrations
January, 2004

For purposes of this illustration it is assumed that SRWD has 1100 members and an outstanding indebtedness as of January 1, 2004 of \$1,870,000.00.

The existing debt as of January 1, 2004 is the only debt that is to be used in future annexation calculations.

The remaining portion of the existing debt on the date of any future annexation is the debt to be used in arriving at per member debt.

Basic understanding would be that the City will pay to the SRWD the existing per member debt for each member annexed to the City of Jamestown.

If the infrastructure acquired through the annexation was paid for by the SRWD, then the City would reimburse the District the unamortized portion of the original construction cost, based on a 40 year useful life, providing the infrastructure acquired was built to City Specifications at the time of construction.

If the infrastructure acquired through the annexation was paid for by the SRWD, then the City would not reimburse the District the unamortized portion of the original construction cost if the infrastructure so acquired was not built to City Specifications at the time of construction.

If the infrastructure acquired through the annexation was paid for by the member, then the City would not reimburse the District or the member the unamortized portion of the original cost.

EXHIBIT A

Illustration A

Assumptions:

Annexation Date:	August, 2004
# Members:	1100
Debt per Member:	\$ 1,700.00
Original Infrastructure Cost:	\$ 30,000.00
Year Built:	1984
Built to City Specs:	Yes
Construction Paid For By:	District
# of Members Annexed:	15

City would pay to SRWD:

Debt:	15 X \$1700.00=	\$25,500.00
Infrastructure:	50% X \$30,000.00 =	<u>15,000.00</u>
Total		\$40,500.00

Illustration B

Assumptions:

Annexation Date:	November, 2004
# Members:	1100
Debt per Member:	\$ 1,700.00
Original Infrastructure Cost:	\$ 30,000.00
Year Built:	1984
Built to City Specs:	No
Construction Paid For By:	District
# of Members Annexed:	15

City would pay to SRWD:

Debt:	15 X \$1700.00=	\$25,500.00
Infrastructure:	0% X \$30,000.00 =	<u> -</u>
Total		\$25,500.00

EXHIBIT A

Illustration C

Assumptions:

Annexation Date:	January, 2009
# Members:	1140
Debt per Member:	\$ 800.00
Original Infrastructure Cost:	\$ 20,000.00
Year Built:	1979
Built to City Specs:	Yes
Construction Paid For By:	District
# of Members Annexed:	30

City would pay to SRWD:

Debt:	30 X \$800.00=	\$24,000.00
Infrastructure:	25% X \$20,000.00 =	<u>5,000.00</u>
Total		\$29,000.00

Illustration D

Assumptions:

Annexation Date:	January, 2020
# Members:	1230
Debt per Member:	\$ -
Original Infrastructure Cost:	\$ 20,000.00
Year Built:	1999
Built to City Specs:	Yes
Construction Paid For By:	Users
# of Members Annexed:	25

City would pay to SRWD:

Debt:	25 X \$.00=	\$ -
Infrastructure:	25% X \$20,000.00 =	<u>-</u>
Total		\$ -

EXHIBIT A

Illustration E

Assumptions:

Annexation Date:	July, 2020
# Members:	1205
Debt per Member:	\$ -
Original Infrastructure Cost:	\$ 40,000.00
Year Built:	1995
Built to City Specs:	Yes
Construction Paid For By:	District
# of Members Annexed:	17

City would pay to SRWD:

Debt:	17 X \$.00=	\$ -
Infrastructure:	37.5% X \$40,000.00 :	<u>15,000.00</u>
Total		\$15,000.00

EXHIBIT A

City of Jamestown / Stutsman Rural Water District Annexation Illustrations January, 2004

For purposes of this illustration it is assumed that SRWD has 1100 members and an outstanding indebtedness as of January 1, 2004 of \$1,870,000.00.

The existing debt as of January 1, 2004 is the only debt that is to be used in future annexation calculations.

The remaining portion of the existing debt on the date of any future annexation is the debt to be used in arriving at per member debt.

Basic understanding would be that the City will pay to the SRWD the existing per member debt for each member annexed to the City of Jamestown.

If the infrastructure acquired through the annexation was paid for by the SRWD, then the City would reimburse the District the unamortized portion of the original construction cost, based on a 40 year useful life, providing the infrastructure acquired was built to City Specifications at the time of construction.

If the infrastructure acquired through the annexation was paid for by the SRWD, then the City would not reimburse the District the unamortized portion of the original construction cost if the infrastructure so acquired was not built to City Specifications at the time of construction.

If the infrastructure acquired through the annexation was paid for by the member, then the City would not reimburse the District or the member the unamortized portion of the original cost.

EXHIBIT A

Illustration A

Assumptions:

Annexation Date:	August, 2004
# Members:	1100
Debt per Member:	\$ 1,700.00
Original Infrastructure Cost:	\$ 30,000.00
Year Built:	1984
Built to City Specs:	Yes
Construction Paid For By:	District
# of Members Annexed:	15

City would pay to SRWD:

Debt:	15 X \$1700.00=	\$25,500.00
Infrastructure:	50% X \$30,000.00 =	<u>15,000.00</u>
Total		\$40,500.00

Illustration B

Assumptions:

Annexation Date:	November, 2004
# Members:	1100
Debt per Member:	\$ 1,700.00
Original Infrastructure Cost:	\$ 30,000.00
Year Built:	1984
Built to City Specs:	No
Construction Paid For By:	District
# of Members Annexed:	15

City would pay to SRWD:

Debt:	15 X \$1700.00=	\$25,500.00
Infrastructure:	0% X \$30,000.00 =	<u>-</u>
Total		\$25,500.00

EXHIBIT A

Illustration C

Assumptions:

Annexation Date:	January, 2009
# Members:	1140
Debt per Member:	\$ 800.00
Original Infrastructure Cost:	\$ 20,000.00
Year Built:	1979
Built to City Specs:	Yes
Construction Paid For By:	District
# of Members Annexed:	30

City would pay to SRWD:

Debt:	30 X \$800.00=	\$24,000.00
Infrastructure:	25% X \$20,000.00 =	<u>5,000.00</u>
Total		\$29,000.00

Illustration D

Assumptions:

Annexation Date:	January, 2020
# Members:	1230
Debt per Member:	\$ -
Original Infrastructure Cost:	\$ 20,000.00
Year Built:	1999
Built to City Specs:	Yes
Construction Paid For By:	Users
# of Members Annexed:	25

City would pay to SRWD:

Debt:	25 X \$.00=	\$ -
Infrastructure:	25% X \$20,000.00 =	<u>-</u>
Total		\$ -

EXHIBIT A

Illustration E

Assumptions:

Annexation Date:	July, 2020
# Members:	1205
Debt per Member:	\$ -
Original Infrastructure Cost:	\$ 40,000.00
Year Built:	1995
Built to City Specs:	Yes
Construction Paid For By:	District
# of Members Annexed:	17

City would pay to SRWD:

Debt:	17 X \$.00=	\$ -
Infrastructure:	37.5% X \$40,000.00 :	<u>15,000.00</u>
Total		\$15,000.00

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA

STUTSMAN RURAL WATER DISTRICT

WATER SYSTEM IMPROVEMENT REVENUE BOND OF 2001

Interest Rate
2.50%

Maturity Date
September 1, 2020

Date of Original Issue
September 1, 2001

Registered Owner: North Dakota Municipal Bond Bank

Principal Amount: Six Hundred Sixty Six Thousand One Hundred Eighty Eight Dollars
(\$666,168.00)

COPY

The Stutsman Rural Water District, Stutsman County, North Dakota (the "District"), a political subdivision of and existing under and pursuant to the laws of the State of North Dakota, for value received, hereby promises to pay from its Water System Fund to the Registered Owner specified above, or registered assigns, the Principal Amount specified above on the Maturity Date set forth above, upon the presentation and surrender hereof, and to pay to the Registered Owner hereof interest on such Principal Amount from the Date of Original Issue at the Interest Rate set forth above semiannually on March 1 and September 1 commencing September 1, 2001. Principal is payable in lawful money of the United States of America at the main office of the Bank of North Dakota, in Bismarck, North Dakota, as paying agent and registrar under the Resolution hereinafter described or of its successor as such. Interest shall be paid by check or draft mailed to the registered owner at the owner's address set forth on the registration books or by deposit to the registered owner's account at the Bank of North Dakota.

This Bond in the aggregate principal amount of \$666,168 is issued pursuant to and in full conformity with the constitution and laws of the State of North Dakota, including NDCC Chapter 61-35 (the "Act"). This Bond is issued pursuant to the Stutsman Rural Water District Resolution (the "Resolution") Authorizing the Issuance of the Stutsman Rural Water District, Water System Improvement Interim Certificates of 2000 (the "Interim Certificates") and the Stutsman Rural Water District, Water System Improvement Revenue Bond of 2001 (the "Bonds"). Reference is hereby made to the Resolution for a description of the Funds and Accounts pledged to the payment of the Bonds and the rights of the registered owners of the Bonds. This Bond is issued for the purpose of redeeming the outstanding Interim Certificates.

This Bond shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, nor shall the Issuer be subject to any pecuniary liability thereon. No holder of this Bond shall ever have the right to compel any exercise of the taxing power of the Issuer to pay this Bond or the interest thereon, nor to enforce payment thereof against any property of the Issuer. This Bond shall not constitute a charge, lien, nor encumbrance, legal or equitable, upon any property of the Issuer. This Bond, including interest therein, is payable solely from the revenue pledged to the payment thereof and does not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation.

This Bond is transferable, as provided in the Resolution, only upon books of the Issuer kept at the main office of the Bank of North Dakota, by the registered owner hereof in person or by the owner's duly authorized attorney, or it may be surrendered in exchange for a new bond or bonds of the same aggregate principal amount, maturity and interest rate, as provided in the Resolution.

This Bond is subject to optional redemption as set out in the Resolution.

It is further certified, recited and declared that all acts, conditions and things required by the constitution and the statutes of the State of North Dakota to exist, to have happened and to have been performed precedent to and in connection with the issuance of the Bonds have been performed in due time, form and manner as required by law; and that the issuance of the Bonds is within every debt and other limit prescribed by law.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by the manual or facsimile signatures of the President and Secretary/Treasurer of the District, all as of the Date of Original Issue set forth above.

STUTSMAN RURAL WATER DISTRICT

Attest:

Jerry Mickelson
President
(SEAL)

William J. ...
Secretary/Treasurer

COPY

CERTIFICATE OF AUTHENTICATION
This Bond is the Bond described in and issued
under the provisions of the within-mentioned Resolution.
BANK OF NORTH DAKOTA
Bismarck, North Dakota

By Ladonna ...
An Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (please print or typewrite name and address of transferee) the within bond and all rights and title thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

PLEASE INSERT SOCIAL SECURITY NUMBER OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

[Empty box for Social Security Number or other identifying number]

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed: NOTICE: Signature(s) must be guaranteed by an "eligible guarantor institution" that is a member of or a participant in a "signature guarantee program" (e.g. the Securities Transfer Agents Medallion Program, the Stock Exchange Medallion Program or the New York Stock Exchange, Inc. Medallion Signature Program).

\$666,168 Stutsman Rural Water District Water System Improvement Revenue Bonds of 2001

We have acted as bond counsel in connection with the issuance by the Stutsman Rural Water District, Stutsman County, North Dakota (the "District") of its \$666,168 Water System Improvement Revenue Bonds of 2001, initially dated September 1, 2001 (the "Bond") pursuant to North Dakota Century Code Chapter 61-35 (the "Act") and the Resolution Authorizing Issuance of Water System Improvement Interim Certificates of 2000 and Water System Improvement Revenue Bond of 2001 adopted by the District (the "Resolution"). The Bond is issuable in fully registered form in the denominations of \$5,000 or any integral multiple thereof, of single maturities. The interest on the outstanding principal amount of the Bond shall be payable at an annual rate of 2.5% on each March 1 and September 1 during which the Bond is outstanding. The installments of principal due on the Bond mature on September 1 in the years and amounts set forth below:

Table with 6 columns: Year, Principal, Year, Principal, Year, Principal. Rows list years from 2001 to 2020 and corresponding principal amounts.

Interest is payable on March 1 and September 1 in each year, commencing September 1, 2001, to the holder of record as of the close of business on the 15th day of the immediately preceding month. The installments of principal due on the Bond are subject to prepayment on any interest payment date with the consent of the Bond Bank at a price equal to the principal amount thereof plus accrued interest. The interest on the Bond is payable by check or draft mailed by the Bank of North Dakota, as bond registrar and paying agent, and the principal thereof is payable to the registered holder upon presentation at the office of such bond registrar and paying agent.

We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based on our examination, we are of the opinion, as of the date hereof and under existing law, as follows:

- 1. The District is duly created and validly existing as a body corporate and politic and public instrumentality of the State of North Dakota with the corporate power to adopt the Resolution, perform the agreements on its part contained therein and issue the Bond.
2. The Resolution and the Loan Agreement have been duly adopted by the District and constitute valid and binding obligations of the District enforceable upon the District.
3. Pursuant to the Act, the Resolution creates a valid lien on the funds pledged by the Resolution for the security of the Bond on a parity with other bonds (if any) issued or to be issued under the Resolution, subject to no prior lien granted under the Act.
4. The Bond has been duly authorized, executed and delivered by the District and is a valid and binding special obligation of the District, payable solely from the sources provided in the Resolution.
5. The interest on the Bond is excluded from gross income of the owners for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted that for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings. The opinions set forth in the preceding sentence are subject to the condition that the District comply with all requirements of the Internal Revenue Code of 1986 (the "Code") that must be satisfied subsequent to the issuance of the Bond in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. Failure to comply with certain of such requirements could cause the interest on the Bond to be so included in gross income retroactive to the date of issuance of the Bond. The District has covenanted to comply with all such requirements. The Bond and the interest thereon are exempt from all North Dakota taxes except inheritance, estate and transfer taxes and the tax imposed on certain financial institutions under North Dakota Century Code Chapter 57-35-3. We express no opinion regarding other state or federal tax consequences arising with respect to the Bond.

It is to be understood that the rights of the holder or holders of the Bond and the enforceability of the Bond and the Resolution may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

COOK WEGNER & WIKE PLLP Bismarck, ND

We certify that the foregoing is a full and correct copy of the text of the legal opinion of bond counsel on the issue of the Bond of the Stutsman Rural Water District, Stutsman County, North Dakota rendered as of the date of the original delivery of and payment for the Bond.

Signature of Terry Steinfeld, President

Signature of Mardie Steinfeld, Secretary/Treasurer

STUTSMAN RURAL WATER DISTRICT, NORTH DAKOTA
Water System Improvement Revenue Bond of 2004

Term Bond

Principal Amount: Not to Exceed Two Hundred and Two Thousand Dollars (\$202,000)
(Final Principal Amount as recorded on the attached schedule and grid herein)

Registered Holder: North Dakota Municipal Bond Bank

Dated Date
April 1, 2004

Maturity Date
September 1, 2023

Interest Rate
2.50%

CUSIP
NA

Interest Payment Dates
March 1 and September 1

Initial Interest Payment Date
September 1, 2004

Registrar/Paying Agent
Bank of North Dakota

STUTSMAN RURAL WATER DISTRICT (the "District"), a political subdivision of and existing under and pursuant to the laws of the State of North Dakota acknowledges itself indebted and for value received hereby promises to pay to the Registered Holder on the Record Date (the 15th day of the month, whether or not a business day, immediately preceding each interest payment date) the principal installments set out in the hereto attached amortization schedule and as recorded on the grid on the reverse hereof (which schedule shall be revised in accordance with Section 2.02 of the Loan Agreement in the event funds are advanced to the District other than as originally set forth in attached amortization schedule), unless redeemed prior thereto as provided in the Resolution at which time interest shall cease to accrue provided money for such redemption is on deposit with the Paying Agent, and to pay interest on the Principal Amount at the Interest Rate specified above from the Dated Date hereof to the Initial Interest Payment Date and on each Interest Payment Date thereafter including the Maturity Date. Such interest will be payable by check or draft to the Registered Owner.

This term bond is a duly authorized bond of the District (the "Bond") issued by the District in the aggregate principal amount of not to exceed \$202,000 under and pursuant to North Dakota Century Code ("NDCC") Chapter 61-35 and the Resolution Authorizing Issuance (the "Resolution") adopted by the District on March 10, 2004. Capitalized terms used herein which are not specifically defined herein shall have the same meanings given to such terms in the Resolution. A copy of the Resolution is on file in the office of the District in Jamestown, North Dakota.

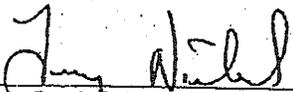
The Bond:

- (i) is transferable, as provided in the Resolution;
- (ii) is subject to optional redemption, as provided in the Resolution; and
- (iii) shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been signed by the Paying Agent.

As provided in the Resolution, the principal of and interest on the Bond is payable from the Stutsman Rural Water District Water System Fund into which are deposited monies received by the District in respect of the services furnished by the District's water utility system. This Bond, including the interest thereon, is payable solely from the revenue pledged to the payment thereof and does not constitute a debt of the District within the meaning of any constitutional or statutory limitation. This Bond shall not constitute a charge, lien, nor encumbrance, legal or equitable, upon any property of the District. The District has no power to levy any taxes. It is hereby recited that all acts, conditions, and things required by law to exist, happen, and to be performed precedent to and in the issuance of the Bond have existed, happened, and been performed in due time, form, and manner as required by law; and that the issuance of the Bond is within every debt and other limit prescribed by law.

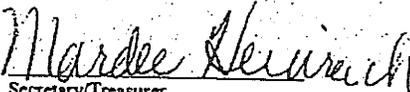
IN WITNESS WHEREOF, the District has caused the Bond to be executed in the name of the District and on its behalf by the manual signature of the President of the Board of Directors and attested to by the manual signature of the Secretary/Treasurer of the Board of Directors.

STUTSMAN RURAL WATER DISTRICT



President, Board of Directors

ATTEST:

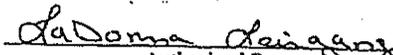


Secretary/Treasurer

CERTIFICATE OF AUTHENTICATION

This is the Bond delivered pursuant to the Resolution mentioned within.

BANK OF NORTH DAKOTA
Bismarck, North Dakota
as Bond Registrar



Authorized Representative

I hereby certify that the Bond is issued pursuant to law and is within the debt limit of Stutsman Rural Water District.

Mardee Heinrich
Secretary/Treasurer

Record of Advances

Amount	Date	Officer's Initials	Amount	Date	Officer's Initials
(1)\$			(6)\$		
(2)\$			(7)\$		
(3)\$			(8)\$		
(4)\$			(9)\$		
(5)\$			(10)\$		
		Total			

\$202,000
STUTSMAN RURAL WATER DISTRICT
WATER SYSTEM IMPROVEMENT REVENUE BOND OF 2004

We have acted as bond counsel to Stutsman Rural Water District (the "Issuer") in connection with the issuance by the Issuer of \$202,000 Stutsman Rural Water District, Water System Improvement Revenue Bond of 2004 dated April 1, 2004 (the "Bond"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion.

The Bond is issued pursuant to North Dakota Century Code, Chapter 61-35 and the Resolution Authorizing Issuance adopted March 10, 2004 (the "Resolution"). Under the Resolution, the Issuer has pledged certain revenues (the "Revenues") for the payment of principal of, premium (if any) and interest on the Bond when due.

Regarding questions of fact material to our opinion, we have relied on the representations of the Issuer contained in the Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Based on the foregoing, we are of the opinion that, under existing law:

1. The Issuer is validly existing under the constitution and laws of the State of North Dakota with the power to adopt the Resolution, perform the agreements on its part contained therein and issue the Bond.
2. The Resolution has been duly adopted by the Issuer and constitutes a valid and binding obligation of the Issuer enforceable upon the Issuer.
3. The Resolution creates a valid lien on the Revenues and other funds pledged by the Resolution for the security of the Bond on a parity with other bonds (if any) issued or to be issued under the Resolution.
4. The Bond has been duly authorized and executed by the Issuer and is a valid and binding limited obligation of the Issuer, payable solely from the Revenues and other funds provided therefor in the Resolution.
5. Interest on the Bond is excludable from gross income of the owners for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations. The opinion set forth in the preceding sentence is subject to the condition that the Issuer complies with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Bond in order that interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. The Issuer has covenanted to comply with all such requirements. Failure to comply with certain of such requirements may cause the interest on the Bond to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bond.
6. The interest on the Bond is excludable from gross income for State of North Dakota income tax purposes (other than the tax imposed on financial institutions by North Dakota Century Code, Chapter 57-35.3).

The rights of the owners of the Bond and the enforceability of the Bond and the Resolution are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

We express no opinion regarding the accuracy, adequacy, or completeness of any offering material relating to the Bond. Further, we express no opinion regarding tax consequences arising with respect to the Bond other than as expressly set forth herein.

Respectfully submitted,
Cook Wegner & Wike PLLP
Bismarck, North Dakota

I certify that the foregoing is a full and correct copy of the text of the legal opinion of bond counsel on the issue of the within Bond of Stutsman Rural Water District, rendered as of the date of the original delivery of and payment for the Bond.

Mardee Heinrich
Secretary/Treasurer

**STUTSMAN RURAL WATER DISTRICT
WATER REVENUE BOND OF 2006**

Term Bond

Principal Amount: Not to Exceed One Million Four Hundred Fifty Five Thousand Dollars (\$1,455,000)
(Final Principal Amount as recorded on the attached schedule and grid herein)

Registered Holder: North Dakota Public Finance Authority

Dated Date
January 23, 2006

Maturity Date
September 1, 2025

Interest Rate
2.50%

CUSIP
NA

Interest Payment Dates
March 1 and September 1

Initial Interest Payment Date
March 1, 2006

Registrar/Paying Agent
Bank of North Dakota

STUTSMAN RURAL WATER DISTRICT (the "Issuer"), a political subdivision of and existing under and pursuant to the laws of the State of North Dakota acknowledges itself indebted and for value received hereby promises to pay to the Registered Holder on the Record Date (the 15th day of the month, whether or not a business day, immediately preceding each interest payment date) the principal installments set out in the hereto attached amortization schedule and as recorded on the grid on the reverse hereof (which schedule shall be revised in accordance with Section 2.02 of the Loan Agreement in the event funds are advanced to the Issuer other than as originally set forth in attached amortization schedule), unless redeemed prior thereto as provided in the Resolution at which time interest shall cease to accrue provided money for such redemption is on deposit with the Paying Agent, and to pay interest on the Principal Amount at the Interest Rate specified above from the Dated Date hereof to the Initial Interest Payment Date and on each Interest Payment Date thereafter including the Maturity Date. Such interest will be payable by check or draft to the Registered Owner.

This term bond is a duly authorized bond of the Issuer (the "Bond") issued by the Issuer in the aggregate principal amount of not to exceed \$1,455,000 under and pursuant to North Dakota Century Code ("NDCC") Chapter 61-35 and the Resolution Authorizing Issuance (the "Resolution") adopted by the Issuer on October 11, 2005. Capitalized terms used herein which are not specifically defined herein shall have the same meanings given to such terms in the Resolution. A copy of the Resolution is on file in the office of the Issuer in Jamestown, North Dakota.

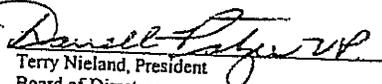
The Bond:

- (i) is transferable, as provided in the Resolution;
- (ii) is subject to optional redemption, as provided in the Resolution;
- (iii) is subject to the payment of the principal installments set out in the attached amortization schedule; and
- (iii) shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been signed by the Paying Agent.

As provided in the Resolution, the principal of and interest on the Bond is payable from the Stutsman Rural Water District Water System Fund into which are deposited monies received by the Issuer in respect of the services furnished by the Issuer. This Bond, including the interest thereon, is payable solely from the revenue pledged to the payment thereof and does not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation. This Bond shall not constitute a charge, lien, nor encumbrance, legal or equitable, upon any property of the Issuer. The Issuer has no power to levy any taxes. It is hereby recited that all acts, conditions, and things required by law to exist, happen, and to be performed precedent to and in the issuance of the Bond have existed, happened, and been performed in due time, form, and manner as required by law, and that the issuance of the Bond is within every debt and other limit prescribed by law.

IN WITNESS WHEREOF, the Issuer has caused the Bond to be executed in the name of the Issuer and on its behalf by the manual or facsimile signature of the President and attested to by the manual or facsimile signature of the Secretary/Treasurer

STUTSMAN RURAL WATER DISTRICT


Terry Nieland, President
Board of Directors

ATTEST:


Mardee Heinrich, Secretary/Treasurer

CERTIFICATE OF AUTHENTICATION

This is the Bond delivered pursuant to the Resolution mentioned within.

BANK OF NORTH DAKOTA
Bismarck, North Dakota
as Paying Agent

Authorized Representative

Record of Advances

Amount	Date	Officer's Initials	Amount	Date	Officer's Initials
(1)\$			(6)\$		
(2)\$			(7)\$		
(3)\$			(8)\$		
(4)\$			(9)\$		
(5)\$			(10)\$		
			Total		

\$1,455,000
STUTSMAN RURAL WATER DISTRICT
WATER REVENUE BOND OF 2006

We have acted as bond counsel to Stutsman Rural Water District, Jamestown, North Dakota (the "Issuer") in connection with the issuance by the Issuer of \$1,455,000, Stutsman Rural Water District Water Revenue Bond of 2006 dated January 23, 2006 (the "Bond"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion.

The Bond is issued pursuant to North Dakota Century Code, Chapter 61-35 and the Resolution Authorizing Issuance adopted October 11, 2005 (the "Resolution"). Under the Resolution, the Issuer has pledged certain revenues (the "Revenues") for the payment of principal of, premium (if any) and interest on the Bond when due.

Regarding questions of fact material to our opinion, we have relied on the representations of the Issuer contained in the Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Based on the foregoing, we are of the opinion that, under existing law

1. The Issuer is validly existing as a body corporate and politic and public instrumentality of the State of North Dakota with the power to adopt the Resolution, perform the agreements on its part contained therein and issue the Bond.
2. The Resolution has been duly adopted by the Issuer and constitutes a valid and binding obligation of the Issuer enforceable against the Issuer.
3. The Resolution creates a valid lien on the Revenues and other funds pledged by the Resolution for the security of the Bond on a parity with other bonds (if any) issued or to be issued under the Resolution.
4. The Bond has been duly authorized and executed by the Issuer and is a valid and binding limited obligation of the Issuer, payable solely from the Revenues and other funds provided therefor in the Resolution.
5. Interest on the Bond is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations. The opinion set forth in the preceding sentence is subject to the condition that the Issuer complies with all requirements of the Internal Revenue Code of 1986 as amended, that must be satisfied subsequent to the issuance of the Bond in order that interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. The Issuer has covenanted to comply with all such requirements. Failure to comply with certain of such requirements may cause interest on the Bond to be included in gross income for federal income tax purposes retroactively to the date of issuance of the Bond.
6. The interest on the Bond is excludable from gross income for State of North Dakota income tax purposes (other than the tax imposed on financial institutions by North Dakota Century Code, Chapter 57-35.3).

The rights of the owners of the Bond and the enforceability of the Bond and the Resolution are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

We express no opinion regarding the accuracy, adequacy, or completeness of any filing material relating to the Bond. Further, we express no opinion regarding tax consequences arising with respect to the Bond other than as expressly set forth herein.

Respectfully submitted,
Cook Wegner & Wike PLLP
Bismarck, North Dakota

I certify that the foregoing is a full and correct copy of the text of the legal opinion (bond counsel) on the issue of the within Bond of the Stutsman Rural Water District, rendered as of the date of the original delivery of and payment for the Bond.


Mardee Heinrich, Secretary/Treasurer

STUTSMAN RURAL WATER DISTRICT
WASTEWATER REVENUE BOND OF 2009

Term Bond

Principal Amount: Not to Exceed Five Million Five Hundred Thousand Dollars (\$5,500,000)
(Final Principal Amount as recorded on the attached schedule and grid herein)

Registered Holder: North Dakota Public Finance Authority

<u>Dated Date</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP</u>
June 27, 2009	September 1, 2029	0.50%	NA
<u>Interest Payment Dates</u>	<u>Initial Interest Payment Date</u>	<u>Registrar/Paying Agent</u>	
March 1 and September 1	September 1, 2009	Bank of North Dakota	

STUTSMAN RURAL WATER DISTRICT (the "Issuer"), a political subdivision of and existing under and pursuant to the laws of the State of North Dakota acknowledges itself indebted and for value received hereby promises to pay to the Registered Holder on the Record Date (the 15th day of the month, whether or not a business day, immediately preceding each interest payment date) the principal installments set out in the hereto attached amortization schedule and as recorded on the grid on the reverse hereof (which schedule shall be revised in accordance with Section 2.02 of the Loan Agreement, dated July 27, 2009 and entered into between the Registered Holder and the Issuer, in the event funds are advanced to the Issuer other than as originally set forth in the attached amortization schedule), and on the Maturity Date unless redeemed prior thereto as provided in the Resolution Authorizing Issuance adopted by the Issuer on May 26, 2009 (the "Resolution"), at which time interest shall cease to accrue provided money for such redemption is on deposit with the Paying Agent, and to pay interest on the Principal Amount at the Interest Rate specified above from the Dated Date hereof to the Initial Interest Payment Date and on each Interest Payment Date thereafter including the Maturity Date. Such interest will be payable by wire, check or draft to the Registered Owner.

This term bond is a duly authorized bond of the Issuer (the "Bond") issued by the Issuer in the aggregate principal amount of not to exceed \$5,500,000 under and pursuant to North Dakota Century Code ("NDCC") Chapter 61-35 and the Resolution. Capitalized terms used herein which are not specifically defined herein shall have the same meanings given to such terms in the Resolution. A copy of the Resolution is on file in the office of the Secretary/Treasurer in Jamestown, North Dakota.

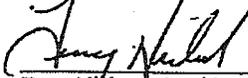
The Bond:

- (i) is transferable, as provided in the Resolution;
- (ii) is subject to optional redemption, as provided in the Resolution;
- (iii) is subject to the payment of the principal installments set out in the attached amortization schedule; and
- (iv) shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been signed by the Paying Agent.

As provided in the Resolution, the principal of and interest on the Bond is payable from the Issuer's water system fund into which are deposited monies received by the Issuer in respect of the water and wastewater services furnished by the Issuer. This Bond, including the interest thereon, is payable solely from the revenue pledged to the payment thereof and does not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation. The Issuer has no power or authority to levy any taxes. This Bond shall not constitute a charge, lien, nor encumbrance, legal or equitable, upon any property of the Issuer. It is hereby recited that all acts, conditions, and things required by law to exist, happen, and to be performed precedent to and in the issuance of the Bond have existed, happened, and been performed in due time, form, and manner as required by law; and that the issuance of the Bond is within every debt and other limit prescribed by law.

IN WITNESS WHEREOF, the Issuer has caused the Bond to be executed in the name of the Issuer and on its behalf by the manual or facsimile signature of the President of the Board of Directors and attested to by the manual or facsimile signature of its Secretary/Treasurer.

STUTSMAN RURAL WATER DISTRICT


Terry Njeland, President
Board of Directors

ATTEST:


Mardee Heinrich, Secretary/Treasurer

CERTIFICATE OF AUTHENTICATION

This is the Bond delivered pursuant to the Resolution mentioned within.

BANK OF NORTH DAKOTA
Bismarck, North Dakota
as Paying Agent

Authorized Representative

Record of Advances

Amount	Date	Officer's Initials	Amount	Date	Officer's Initials
(1) \$			(6) \$		
(2) \$			(7) \$		
(3) \$			(8) \$		
(4) \$			(9) \$		
(5) \$			(10) \$		
		Total			

\$5,500,000
 STUTSMAN RURAL WATER DISTRICT
 WASTEWATER REVENUE BOND OF 2009

We have acted as bond counsel to Stutsman Rural Water District (the "Issuer") in connection with the issuance of its \$5,500,000 Wastewater Revenue Bond of 2009 dated July 27, 2009 (the "Bond"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion.

The Bond is issued pursuant to North Dakota Century Code, Chapter 61-35 and the Resolution Authorizing Issuance adopted by the Issuer on May 26, 2009 (the "Resolution"). Under the Resolution, the Issuer has pledged certain revenues (the "Revenues") for the payment of principal of, premium (if any) and interest due on the Bond.

Regarding questions of fact material to our opinion, we have relied on the representations of the Issuer contained in the Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Based on the foregoing, we are of the opinion that, under existing law:

1. The Issuer validly exists as a body corporate and politic and public instrumentality of the State of North Dakota with the power to adopt the Resolution and enter into the Loan Agreement, to perform the agreements on its part contained therein, and to issue the Bond.
2. The Resolution has been duly adopted by the Issuer and constitutes a valid and binding obligation of the Issuer enforceable against the Issuer.
3. The Resolution creates a valid lien on the Revenues and other funds pledged by the Resolution for the security of the Bond on a parity with other bonds (if any) issued or to be issued under the Resolution.
4. The Bond has been duly authorized, executed and delivered by the Issuer and is a valid and binding limited obligation of the Issuer, payable solely from the Revenues and other funds provided therefore in the Resolution.

The rights of the owners of the Bond and the enforceability of the Bond and the Resolution are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

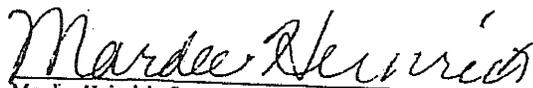
We express no opinion regarding the accuracy, adequacy, or completeness of any offering material or other financial disclosure relating to the Bond.

This opinion is given as of the date hereof and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in laws that may hereafter occur.

Respectfully submitted,

Cook Wegner & Wike PLLP
 Bismarck, North Dakota

I certify that the foregoing is a full and correct copy of the text of the legal opinion of bond counsel on the issue of the within Bond of the Stutsman Rural Water District, Jamestown, North Dakota, rendered as of the date of the original delivery of and payment for the Bond.


 Mardee Heinrich, Secretary/Treasurer

1997 North Dakota Laws Ch. 97 (S.B. 2086)

NORTH DAKOTA 1997 SESSION LAW SERVICE
REGULAR SESSION OF THE 55TH LEGISLATIVE ASSEMBLY
Copr. (C) West Group 1997. All rights reserved.

Additions are indicated by <<+ Text +>>; deletions by
<<- Text ->>. Changes in tables are made but not highlighted.

Ch. 97 (S.B. 2086)
West's No. 126

MUNICIPAL BOND BANK, STATE AGENCY OR ENTERPRISE—LOANS TO POLITICAL SUBDIVI-
SIONS—PROTECTION OF SERVICE DURING LOAN TERM

AN ACT to create and enact a new section to chapter 6-09.4 of the North Dakota Century Code, relating to the protection of service provided or made available by a political subdivision through a loan from the municipal bond bank or any other state agency or enterprise.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09.4 of the North Dakota Century Code is created and enacted as follows:

Protection of service during term of loan

1. The service provided or made available by a political subdivision through the construction or acquisition of an improvement, or the revenues therefrom, financed in whole or in part with a loan to the political subdivision from the bond bank or any other state agency or enterprise, may not be curtailed or limited by inclusion of all or any part of the area served by the political subdivision within the boundaries of any other political subdivision, or by the granting of any private franchise for similar service within the area served by the political subdivision, during the term of the loan. The political subdivision providing the service may not be required to obtain or secure any franchise, license, or permit as a condition of continuing to serve the area if it is included within the boundaries of another political subdivision during the term of the loan.
2. Under the circumstances described in subsection 1, nothing prevents the two political subdivisions, with the bond bank or other state agency or enterprise, from negotiating an agreement for the right or obligation to provide the service in question, provided that any agreement is invalid and unenforceable unless the bond bank or other state agency or enterprise is a party to the agreement and unless the agreement contains adequate safeguards to ensure the security and timely payment of any outstanding bonds of the bond bank issued to fund the loan.

Approved March 19, 1997. Filed March 19, 1997.

ND LEGIS 97 (1997)

ND LEGIS 97 (1997)

END OF DOCUMENT

West's North Dakota Century Code Annotated Currentness
Title 6. Banks and Banking
Chapter 6-09.4. Public Finance Authority

→§ 6-09.4-22. Protection of service during term of loan

1. The service provided or made available by a political subdivision through the construction or acquisition of an improvement, or the revenues therefrom, financed in whole or in part with a loan to the political subdivision from the public finance authority or any other state agency or enterprise, may not be curtailed or limited by inclusion of all or any part of the area served by the political subdivision within the boundaries of any other political subdivision, or by the granting of any private franchise for similar service within the area served by the political subdivision, during the term of the loan. The political subdivision providing the service may not be required to obtain or secure any franchise, license, or permit as a condition of continuing to serve the area if it is included within the boundaries of another political subdivision during the term of the loan.

2. Under the circumstances described in subsection 1, nothing prevents the two political subdivisions, with the public finance authority or other state agency or enterprise, from negotiating an agreement for the right or obligation to provide the service in question, provided that any agreement is invalid and unenforceable unless the public finance authority or other state agency or enterprise is a party to the agreement and unless the agreement contains adequate safeguards to ensure the security and timely payment of any outstanding bonds of the public finance authority issued to fund the loan.

CREDIT(S)

S.L. 1997, ch. 97, § 1; S.L. 2005, ch. 89, § 21.

NDCC 6-09.4-22, ND ST 6-09.4-22

Current through the 2011 Regular and Special Sessions of the 62nd
Legislative Assembly

2012 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

END OF DOCUMENT

West's North Dakota Century Code Annotated Currentness
Title 61. Waters

Chapter 61-02. Water Commission

→§ 61-02-68.18. Protection of service during term of guarantee or loan

1. The service provided or made available by owners of water projects through the construction or acquisition of an improvement, or the improvement revenues, financed in whole or in part with a guarantee or loan to the owners of water projects from the commission or any other state entity, may not be curtailed or limited by inclusion of all or any part of the area served by the owners of water projects within the boundaries of any other owners of water projects, or by the granting of any private franchise for similar service within the area served by the owners of water projects, during the term of the guarantee or loan. The owners of water projects providing the service may not be required to obtain or secure a franchise, license, or permit as a condition of continuing to serve the area if it is included within the boundaries of another owner of a water project during the term of the guarantee or loan.

2. Under the circumstances described in subsection 1, nothing prevents the two owners of water projects and the commission or other state entity from negotiating an agreement for the right or obligation to provide the service in question, provided that an agreement is invalid unless the commission or other state agency or enterprise is a party to the agreement and unless the agreement contains adequate safeguards to ensure the security and timely payment of any outstanding notes of the commission issued to fund the loan.

CREDIT(S)

S.L. 1999, ch. 536, § 7.

NDCC 61-02-68.18, ND ST 61-02-68.18

Current through the 2011 Regular and Special Sessions of the 62nd
Legislative Assembly

2012 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

END OF DOCUMENT

West's North Dakota Century Code Annotated Currentness
Title 61. Waters
Chapter 61-37. Irrigation District Finance Program

→§ 61-37-18. Protection of service during term of guarantee or loan

1. The service provided or made available by an irrigation district through the construction or acquisition of an improvement, or the improvement revenues, financed in whole or in part with a guarantee or loan to the irrigation district from the program or any other state agency or enterprise, may not be curtailed or limited by inclusion of all or any part of the area served by the irrigation district within the boundaries of any other irrigation district, or by the granting of any private franchise for similar service within the area served by the irrigation district during the term of the guarantee or loan. The irrigation district providing the service may not be required to obtain or secure any franchise, license, or permit, as a condition of continuing to serve the area if it is included within the boundaries of another irrigation district during the term of the guarantee or loan.

2. Under the circumstances described in subsection 1, nothing prevents the two irrigation districts and the program or other state agency or enterprise from negotiating an agreement for the right or obligation to provide the service in question, provided that any agreement is invalid and unenforceable unless the program or other state agency or enterprise is a party to the agreement and unless the agreement contains adequate safeguards to ensure the security and timely payment of any outstanding bonds of the program issued to fund the loan.

CREDIT(S)

S.L. 1999, ch. 536, § 9.

NDCC 61-37-18, ND ST 61-37-18

Current through the 2011 Regular and Special Sessions of the 62nd
Legislative Assembly

2012 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

END OF DOCUMENT

CUSTOMER NEWS LETTER

There have been several newspaper articles recently and over the past 18 months regarding territorial issues between Stutsman Rural Water District (SRWD) and the City of Jamestown. This issue directly affects you as a customer and member of SRWD and the intent of this news letter is to inform you of the position your Board of Directors has taken in this territorial dispute.

For the past 26 years, SRWD has built its business around the City of Jamestown and greater Stutsman County. SRWD initially began as a Non Profit Corporation in 1986 and reorganized as a Water District in 1999 under the provisions of the ND Century Code. At that time, the service area was established for the Water District. SRWD became federally indebted to USDA Rural Development in 2010 (a 40 year loan), when we began construction of Phase 1 of our Capital Improvement and Expansion Project. The customers of SRWD now fall under the protection of federal law 1926(b). This law was put in place by the federal government (USDA) to insure that rural residents have the opportunity to receive and enjoy a safe, good quality water supply at an affordable price. Since it is much more expensive to deliver water to rural residents, the federal government protects the service area of the water district from encroachment by municipalities to ensure that the water district has the ability to maintain and grow its customer base in order to pay its debt and maintain affordability in its future water rates for its customers.

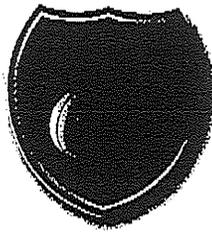
Currently at issue is Section 3, Woodbury Twsp. The Jamestown Regional Medical Center is located on a portion of Section 3. This entire section is within the SRWD service area and is also a very desirable area for future development opportunities. The City of Jamestown believes that it has the right to annex this entire area without compensation to SRWD. State and Federal law states that a City has a right to annex, however, annexation does not automatically give the municipality the right to serve the utilities. The City has also recently annexed 15 acres in Section 4 at the new Titan Machinery building site. This is also in SRWD's service area. If SRWD were to give up these service areas; it could potentially give up millions of dollars in future revenues for the water system over the course of the next 40 years if this area develops. The water system is currently 26 years old and the cost of future operations and maintenance falls back to the customers through water rates as SRWD does not have the benefit of property taxes or any other type of revenue to pay for its infrastructure and improvements as a City does. SRWD also has approximately 30% of its customers within 2 miles of Jamestown. These customers are the most cost efficient customers to serve within our water system and help maintain lower water rates for all of our customers. Annexation of these customers without SRWD retaining the water service could cause your water rates to increase substantially.

Many attempts have been made over the past 18 months to discuss these issues with the City and those efforts have been ignored. It has become necessary for your Board of Directors to retain the services of Steven Harris, a federal water law attorney that specializes in 1926 (b) protection of the customers of a federally indebted water district. Information on Mr. Harris and the many cases he has been involved with over the past 22 years can be found on his website at www.1926blaw.com. SRWD encourages growth and has made a generous offer to the City which would allow them to develop the Section 3 area, and still guarantee income for SRWD. Please remember that the City will still receive all property taxes, special assessments, sewer revenue, and any other revenue derived from those individuals and businesses that locate in that area. SRWD has no claim on anything other than water service revenue and that is our only source of income. As rural residents, all of the SRWD customers support Jamestown in various ways, particularly with sales tax dollars. Some of you work at Jamestown businesses or own your own business in Jamestown. Without the support of rural patronage, many of the business in Jamestown would not exist.

SRWD wants you to be assured that your Board of Directors is acting in your best interests in protecting the future financial stability of the water district for you - its customer. We hope to settle the service area dispute without litigation, but are prepared to move forward with litigation if necessary.

Stutsman Rural Water District Board of Directors

This was sent to SRWD members



SANDNESS LAW

December 14, 2012

City of Jamestown
Ken Dalsted, City Attorney
102 3rd Ave. SE
Jamestown, ND 58401

Re: Encroachments by the City of Jamestown, in violation of 7 U.S.C. § 1926(b) and
N.C.C.C. § 6-09.4-22 - Settlement Negotiations

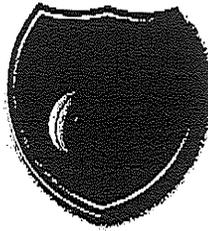
BY FACSIMILE ONLY (701) 252-5903

Dear Mr. Dalsted:

The following is not an offer that can be accepted but rather is intended solely as terms which both sides can consider and discuss in furtherance of our efforts to reach a final, written and binding settlement contract. The following are general terms which could be incorporated into a final agreement provided they are formally agreed to by the District and the City in a comprehensive settlement contract.

1. City of Jamestown ("City") shall pay the SRWD \$15,000.00 for its lost profit related to water service provided by the City to the Jamestown Regional Medical Center ("JRMC");
2. SRWD will provide backup water service to the JRMC. Furthermore SRWD agrees to waive future royalties for lost revenue with regards to water service provided by the City to the JRMC by the City.
3. The royalty fee for any and all water consumers (other than JRMC) situated in (consume water within) section 3 who receive water service from the City, will be a monthly fee of \$1.50 per 1,000 gallons provided/delivered to, or taken by, any consumer of water, for the life of the Agreement (which is a minimum of 40 years). The City will report water delivered to its water consumers (City's billing and consumption data) to SRWD and pay the applicable fee, no later than the 20th of each month throughout the life of the agreement. SRWD shall have the right to audit the City's billing records and other accounting data to verify the accuracy of the monthly reports at least 2 times per calendar year. Royalty fees shall be increased annually by either the CPI-U or rate increases imposed by SRWD on its own customers, whichever is greater. (For example, if SRWD imposes a 2% increase in water rates upon its own members/customers, the \$1.50 per 1,000 gallons royalty would increase by 2%. If for the same period, the CPI-U increases by 2.25%, then the \$1.50 would increase by 2.25% rather than by 2%.) The same royalty (and inflationary adjustment) applies to Titan Machinery in Section 4.

Phone 701-952-LAW 1 (5291) Fax 701-952-5292
219 First Ave S. Maple Mall, Suite 5 • P.O. Box 915 • Jamestown, ND 58402-0915
Email: ssandness@hotmail.com



SANDNESS LAW

4. The City will serve Titan Machinery in section 4 and pay a royalty fee as described above. However, SRWD will retain its right to serve all other water consumers situated in or which consume water within Section 4 and the City shall not deliver or provide water service to any person or entity other than Titan Machinery, within property presently owned by Titan. The City is free to provide sewer service in Section 4. SRWD agrees to provide to the City, SRWD's records regarding water sales if such data will facilitate the City billing for sewer service.
5. The City will acknowledge that SRWD enjoys 1926 (b) protection under Federal law, and that SRWD enjoys the right of exclusivity pursuant to NDCC 6-09.4-22 and/or 61-02-68.18 (or any successor/amendment to said state and federal statutes) and that SRWD retains the right of exclusivity in all other areas within SRWD's territory, not expressly specified or described herein.
6. The term of the agreement is for a period of 40 years regardless of whether SRWD is indebted to any state or federal entity or agency, or for so long as SRWD is indebted to any state or federal entity or agency, whichever occurs last.

As stated above, this is not an offer, however it is intended to express terms which SRWD has an interest in incorporating into a final definitive settlement contract.

Sincerely,



Scott R. Sandness
Attorney at Law

Co-Counsel:
Steven M. Harris
Doyle Harris Davis & Haughey
1350 S. Boulder
Suite 700
Tulsa, Oklahoma 74119
918-592-1276
918-592-4389 (fax)
www.1926bLaw.com

cc: Stutsman Rural Water District
Mayor Katie Anderson