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July 21, 2010

Darla Garrett
Office Manager
Osage RWD 8
Burlingame, KS 66414

Dear Darla;

It was a pleasure to visit with you this morning concerning the matter of the water district meter located at 13729 SW 81st Street, Auburn. As I mentioned, Marvin Steele was referred to KRWA yesterday by several state agencies for further discussion about that matter. I returned Marvin's call and also contacted your office. Your courtesy in returning the call this morning was very much appreciated.

Subsequent to our discussion this morning, I phoned Mr. Steele and provided your office number to him. He indicated to me that he intended to contact you concerning his nephew's desire to have the meter reinstated upon payment of back charges. Mr. Steele commented that his nephew was not made aware of the circumstances regarding the water district benefit unit at the time of the sale.

This past legislative session, the Committee on Natural Resources introduced Senate Bill 496 that would have impacted this issue. Likely due to the economic situation, more properties are in foreclosure; new buyers then learn of what they consider expensive fees to regain service from rural water districts. KRWA was afforded the opportunity to review and comment on the draft bill prior to introduction. The bill represents the policy that most water districts presently follow – that is, to not immediately forfeit the benefit unit (at 6 months) but to give every opportunity for the present or future landowner to bring the membership to good standing by paying back charges. A part of the legislation also addressed penalties. It is appropriate to charge the delinquent fee on the amount due, for example, a \$200 water bill multiplied by whatever percentage or late fee there is. However, it is not appropriate to compound the late fee on the total bill each month. Additional late fees would be on the monthly minimums only. This would reduce the potential bill to the subsequent landowner vs. having it become exorbitant.

Counsel has advised KRWA that it is within the authority of a RWD board of directors to reconsider the forfeiture and to allow the owner to have the meter be reinstated upon payment of the back water bill and the late fees that may be due on that bill, and then the additional subsequent monthly minimums since the time of non-payment. That approach keeps the bill as reasonable as possible and the district is out of nothing. Again, the late fees would not apply to the entire bill on successive months.

KRWA encourages RWDs to be as reasonable as possible in their policies. The problem is that the penalty of the forfeiture is not really borne by the violator, but instead becomes the liability of the new owner. It's better for the RWD (and the community at large) to recover the delinquency and keep the meter active than to have a property going unoccupied or without being a customer of the RWD.

Thanks again for your call; please let us know if the Association can be of any assistance.

Sincerely,

Elmer Ronnebaum
General Manager

Enclosure
C: Russell Calhoun, Chairman

SENATE BILL No. 496

By Committee on Natural Resources

2-1

9 AN ACT concerning water; relating to rural water districts; amending
10 K.S.A. 82a-617 and repealing the existing section.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 82a-617 is hereby amended to read as follows: 82a-
14 617. (a) Immediately following the granting of incorporation by the board
15 of county commissioners, and at the time and place set out in the notice
16 of hearing, the owners of land within any such district shall select from
17 their number a board of directors. The number of members on ~~said the~~
18 board, not to exceed nine ~~(9)~~, shall be determined by majority vote of
19 those owners of land present. ~~Provided, on the condition that~~ any original
20 director who shall fail to subscribe to one ~~(1)~~ or more benefit units and
21 pay the established unit fee for each unit to which ~~he or she the director~~
22 subscribes within ~~thirty (30)~~ 30 days after entry in the minutes of the
23 board of a declaration of availability of such benefit units for subscription,
24 shall forfeit ~~his or her the director's~~ office.

25 (b) Within seven ~~(7)~~ days after the election of the original board,
26 proposed bylaws shall be submitted for adoption at a meeting of owners
27 of land located within the district, notice of which shall be given to each
28 such landowner as provided in K.S.A. 82a-615, *and amendments thereto*.
29 Those owners of land located within the district present at such special
30 meeting may adopt and amend any of such proposed bylaws and may
31 propose and adopt additional or other bylaws. Such bylaws may be
32 amended at any annual or special meeting of the participating members
33 of the district.

34 (c) *When land to which a water benefit unit is attached is the subject*
35 *of an action for judicial foreclosure and sale, any benefit unit attached to*
36 *that land shall not be forfeited, or if forfeited, such benefit unit shall be*
37 *reinstated upon the following conditions:*

38 (1) *In the previous 24 months prior to the date of foreclosure, the*
39 *benefit unit has received a payment of any water use charge or other*
40 *monthly charge payable to the rural water district; and*

41 (2) *the foreclosing creditor, its assignee, or the purchaser of the prop-*
42 *erty to which the benefit unit is attached, pays all charges associated with*
43 *such unit including charges for water purchased, monthly minimum fees,*

1 *monthly debt service fees or similar charges, late payment fees and any*
2 *reasonable disconnect and reconnect fees properly charged to such benefit*
3 *units.*

4 Sec. 2. K.S.A. 82a-617 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its
6 publication in the statute book.