

Date: Tue, 09 Sep 2008 09:28:21 -0400  
To: @usda.gov  
From: Mike Keegan <keegan@ruralwater.org>  
Subject: USDA to review 7USC §1926(b) [revised]

I am writing to offer assistance and cooperation on any efforts within USDA to review 7USC §1926(b) and work to reconcile any local controversies over service area disputes.

In the past, we have cooperatively worked with USDA staff and the national municipal groups to resolve controversies of fact and law - and to provide comment and perspective on the agency's analysis. We have met the National League of Cities on this issue in the past with positive results.

In principle and practice, section 1926(b) authorities do not stifle growth or hinder economic development. Its purpose and its application by the courts is to ensure that most people realize the benefit of economic growth in unincorporated areas.

Courts have ruled for and against both rural water districts and municipalities in a host of precedent setting 1926(b) cases, denying the right to serve growth areas to rural water districts where it is not meritorious (as was the case in the 10th Circuit's Rural Water District No. 1 v. City of Wilson where the growth area was awarded to the municipality). And this appears to be a trend, as reflected in the circuit court rulings in LeAx, Ohio and Chesapeake Ranch, Maryland.

Thank you for your consideration. We are eager to provide perspective to any agency staff looking into the issue, and work directly with local or national municipal representatives to resolve any controversies, in a mutually beneficial manner, at the local level or the national policy level.

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