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TO: Tim Mahoney, Lorain County Rural Water
DATE: June 21, 2000
SUBJECT: 7 U.S.C. §1926(b)

Per our conversation in Washington, DC, last month -- I inquired to the USDA about the application of section 1926(b) territorial protection to Rural Utility Service's guaranteed loan program.

According to USDA, guaranteed loans are covered by 1926(b) authorities including service area protections. The federal statutory authority for loans and "insured" loans are contained in the same provision [7 U.S.C. §1926(a)(1)] the protects direct loan -- "[t]he Secretary is also authorized to make or insure loans to associations, including corporations not operated for profit..." This authorization is covered by the following subsection [1926(b)] which extends to "service provided or made available through any such association."

This policy has not been challenged in any court according to USDA and to the best of my knowledge. Please contact me if I can be of any assistance.

CITE 7 USC Sec. 1926

EXPCITE TITLE 7
CHAPTER 50
SUBCHAPTER I

Sec. 1926. Water and waste facility loans and grants

(a) Criteria; definitions; limitation on allowable uses of Federal funds; inclusion of interest or other income in gross income on sale of insured loan

(1) The Secretary is also authorized to make or insure loans to associations... With respect to loans of less than \$500,000 made or insured under this paragraph that are evidenced by notes and mortgages, as distinguished from bond issues, borrowers shall not be required to appoint bond counsel to review the legal validity of the loan whenever the Secretary has available legal counsel to perform such review.

(b) Curtailment or limitation of service prohibited

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.