

Rural Water Districts: The Nightmare is Real

Picture it. You're standing downtown, in the middle of Main Street, high noon on a Tuesday. Not a car in sight. To your left, what used to be a neat row of shops is now a series of boarded-up windows, locked doors and "For Lease" signs. To your right, the town's only barber sits alone on a bench in front of his empty shop, sipping RC from a bottle and watching the tumbleweeds pass. Suddenly, a dark shape appears on the horizon. You squint at it, certain at first that it must be a mirage, then with a shimmer it takes form — a car. Shiny and black, it purrs importantly into the center of town and slips up to the curb to a stop near the place where you stand. A tall man in a dark suit emerges from the driver's seat, turns to you and smiles.

"You the mayor?" he says.

"Sure am," you say, extending your hand. He takes it in his and gives it a firm shake, still smiling, and says, "Man, have I got a deal for you!"

Turns out he represents Acme Worldwide Widget, and they've decided to relocate their international headquarters to this very municipality. Administrative offices and warehouse in town, and a great big factory just outside.

"Bout four hundred jobs, give or take," he says. "Can we deal?" The expression of abject joy on your face suffices as an answer, apparently, for he continues before you can speak. "Y'all will have to build us a road out there, of course, probably a new traffic light too, and lay all the pipes for the water lines and such," — You nod vigorously — "But you'll get your money back," he continues. "We'll be buying our water from you, see, and..." But you don't hear anything else he says. You feel dizzy, your vision goes dim. Water, the man said. Of course the City will provide water to the factory. But — the Rural Water District — your ears are ringing — names are floating through your head, names of cities who have lived this nightmare: McAlester, Elk City, Union City, Coweta, Muldrow — You cry out in despair, then sit bolt upright in bed, blinking and confused,

covered with a clammy sweat. A dream. Just a terrible dream. It could never happen in real life. Could it?

Sure it could. It's happened before. The City of Holdenville made all the investments to provide for a new prison that would create 250 jobs for the area, but guess who's selling them water? Not Holdenville. That right is exclusively the rural water district's. "We took on this debt in order to create these jobs, and the rural water district is taking the gravy," said Holdenville Mayor Jack Barrett. "Why should we be out a \$34 million investment, and let them take the top layer? They did nothing."

In McAlester, the rural water district tried to maintain the exclusive right to service the Pittsburg County Exposition Center — even though they didn't have the capacity to provide enough water to satisfy fire codes. And speaking of fire codes, the Union City Fire Department, built to service the growing area between Union City and Oklahoma City, doesn't have a flushing toilet anywhere in the station. You can't get a drink of water there, either. The Canadian County Rural Water District agreed to service the station, but the price they demanded was far too exorbitant to fit in the fire station's budget. Water purchased from Union City, of course, would be reasonably priced, but alas, the station is in rural water territory. So in order to have adequate water to fight fires, they're having to truck it in from a remote location. Absurd? Sure. Unusual? Not even close.

"Water Wars" between cities and rural water districts will be one focus of OML's upcoming Water Workshop on Thursday, November 14. The workshop will discuss the problems that can occur when cities try to expand, and also what can be done to deal with these issues when they arise.

Attendees will also learn about supply, upcoming regulations, infrastructure, pollution and water scarcity issues, and how to plan for these eventualities in order to minimize adverse effects for local residents. New rules for drinking

water, storm water and wastewater treatment will be illuminated, and representatives from the Department of Environmental Quality will emphasize the importance of following regulations. A panel of municipal representatives and industry experts will discuss new trends in water infrastructure design. Homeland security issues relating to water will be examined, as will funding options for water projects.

Water issues affect everyone. As these issues become more and more complicated, the need for education and communication is vital. Don't miss this chance to arm yourself with the information necessary to let your town grow while protecting its most vital resources.

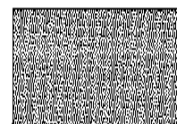


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RURAL WATER CASE STUDY : MCALESTER

The Industrial Park: The City of McAlester, population 17,183, developed the Steven W. Taylor Industrial Park in the early 1980s. The City approached Rural Water District #7 (RWD) at that time to participate in the park development. The RWD declined. McAlester obtained federal grants to lay the water lines and has supplied the park with water since 1984. The Park now employs 5,000 people in the McAlester area.

The Fairground: In 1997 the Pittsburg County Exposition Center was developing a fairground in RWD territory. The property owners planned to purchase water from RWD #7 until the RWD advised the Center that its largest water line was not sufficient to service the sprinkler system which was installed for fire protection; RWD could only supply water for toilets and sinks. The property owners opted to purchase city water instead. City water was cheaper, and the city offered fire protection. The property owners additionally requested detachment from the RWD territory. The Wagoner County Commissioners did detach the Exposition Center and the Taylor Industrial Park, along with several others in 1997. The RWD had never sold water to any of the detached territories.

RWD Action: Upon detachment, RWD #7 filed a claim asserting territorial rights to all the detached entities, including a golf course owned by the Thundercreek Golf Authority to which McAlester claimed no interest. The industrial park, however, was developed on land given to the city at statehood. RWD based its territorial claim on an abandoned homestead that it had serviced in years past.

City Response: The City of McAlester responded that it was willing to relinquish service to the fairground, and that it had no interest in the golf course or the house. But it would not surrender the industrial park, which employed 5,000 citizens. The city refused to endanger the success of the development by lost jobs or dilapidation, as RWD lines were physically incapable of sustaining service to a development of this size.

Current Status: After years of litigation the City of McAlester prevailed (although the case is on appeal). The City received permission from the Federal District Court to discontinue selling water to RWD #7, but has not yet exercised this option. This litigation has cost the City of McAlester and its insurance carrier NAICO in excess of \$360,000. As a collateral issue, the suit necessitated McAlester to sue the insurance carrier, which had refused to pay the litigation expenses.

This relationship of litigation with the RWD has burdened McAlester city government for six years, and far from being over, McAlester has received notice that RWD #7 has appealed to the Tenth Circuit Court in Denver -- for a second time. The appeal will cost both parties a minimum of \$30,000 each. A resolution will likely not ensue until after the Tenth Circuit opinion.

RWD Expectation? Randy Green, McAlester's City Manager, says that before detachment, the RWD did not exercise any options to service the territories. He suggests that RWD's strategy is to occupy the territory and surcharge an encroachment fee on any profits derived from the city's investments, planning, and labor. Green maintains that the RWD, which was created only to bring water service to residences in rural areas, lacks the industrial capacity to service any industrial development, even if it did win in court.

Green further stated that the City of McAlester sells water to many entities. Because of the cost of chemicals and other water treatment components, McAlester increased its rates in 1995. Among its clients were the City of Krebs, other RWDs, three prison facilities including the state's maximum security prison and the hospital, buildings and prison industries. All of the purchasing entities except RWD #7 signed the new contract. No. 7 brought the City of McAlester before OWRB for a "rate mediation" hearing. McAlester prevailed in the rate mediation, and that is when RWD #7 brought suit against McAlester.

Baxter disagrees with Rural Water Association

Okemah City Manager Bob Baxter has voiced his opinion about the Oklahoma Rural Water Association and to the territorial rights of Rural Water Districts, and those comments were published in an article in the Aug. 2002 edition of Oklahoma Cities & Towns.

Baxter explained why he spoke up about what he feels is an unfair association and how rural water districts can lead to lost economic growth.

In the article Baxter said that the Oklahoma Rural Water Association (ORWA) is an organization where cities with populations of 10,000 or less and rural water districts can be members by paying dues. He said the association is supposed to help its members by lobbying for legislation and providing training.

Baxter said he feels that the ORWA does not protect and help cities, but instead they will fight against cities when it comes to battles that involve rural water districts.

"You pay your dues to an organization who will use the money to pay a rural water district to fight against you," said Baxter.

According to the article, Baxter said, "In the case of some of these towns that have been members, funds from the association have been used to support legal action against municipalities."

He added, "Even though the Rural Water Association provides training and technical expertise, they are getting money from the state Water Resources Board and the Department of Environmental Quality to provide this training. They can't deny it to cities and towns that aren't members."

Baxter further commented, "I am not against rural water districts, not at all. I am all for providing water to rural residents. But it is wrong to have an association that you pay dues to using that money to fight against you."

As for the territorial rights issues or rural water districts, Baxter explained in the article, "They (rural water districts) have federal protection. They have this federal debt, so they're protected from competition with cities. If

we're moving into their area, we're competing with them for customers. So all across the state, water districts are refusing to pay off their loans so that they can keep this protection, even though they have assets far in excess of what it would take to pay it off."

Baxter also spoke of how the city of Okemah had to turn down the opportunity to provide for an interested industry, which was a livestock processing facility that wanted to locate five miles outside of Okemah's city limits.

Baxter said the facility would have required more water than the rural water district could have provided and the city of Okemah would be unable to provide water for them due to it being located in a rural water district.

"Okemah had the capacity to serve the facility, but they couldn't do it. It would have been an encroachment into the rural water district's territory. There was no way we could have sold them water," said Baxter.

Phillip Klutts, who is a past president of the Oklahoma Rural Water Association and a present member of the executive board, said he was totally caught off guard with Baxter's comments and very surprised. He said that copies of the article from Oklahoma Cities & Towns was circulated among the members at a ORWA meeting.

"I was not aware there was a problem here," said Klutts. "The rural water districts stimulate growth here. There is limited ground water here and the water districts do, without any question, stimulate economic growth."

Klutts was asked about the benefits of being a member of the ORWA and what a member can get by paying dues. He said, "The dues are not mandatory. We have a staff of 15 to 20 people who travel the state to provide training at no cost. They help with any problems people might have."

Klutts added that the dues are very nominal and they are based upon the number of water taps that exist within a rural water district or small city.

"A very minor part of our budget comes from paying dues," said Klutts. "We operate an insurance program,

which serves over 350 water systems of rural water districts and small communities...I think Mr. Baxter has been misinformed and we do a lot to benefit rural water systems."

Klutts further commented that the ORWA helps get funds through grants and loans, plus helps to generate funds, for the water development fund, which assists water systems in the rural areas and in small cities.

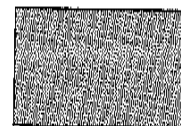
"There is just a whole wide range and variety of things we do," said Klutts. "And cities do benefit."

As for territory rights, Klutts commented, "There is a federal statute that says if a water system has a federal loan to meet its needs, then other public entities can not serve in that area. You can't take away their customers because then how are they supposed to pay back their loans. The federal government protects those water systems."

Baxter said on Thurs. that the city of Okemah would not be renewing its membership with ORWA, which it has held for a number of years. He also encourages the ORWA and the Oklahoma Municipal League to reconvene meetings to discuss problems, such as territorial rights, plus contract agreements between Municipal Authorities and Rural Water Districts that will be fair to both.

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In The News

LOCAL PEOPLE, PLACES AND EVENTS

Water rights group focus on rural water issues

The Elgin city council approved a \$50 membership fee to join the Associated Municipal Water Providers. This is a new organization formed to provide a focused voice for municipal water issues. According to the solicitation letter sent out they will lobby the legislature "to provide a focused voice for municipal water issues."

This group proposes to "highlight issues of conflict with Oklahoma's rural water districts. Conflicts between municipalities and rural water districts aren't unique to our state. The issue has become so serious nationwide that the National League of Cities has taken on a full-time staff member to work on it exclusively

"...many of you have experienced obstructions to your communities' growth as a direct result of conflicts with rural water districts.

"For issues of territory and control, the interests of ORWA and municipalities are often very different. When conflicts arise, the ORWA backs the rural water interests over municipal and economic development interests in Oklahoma.

"Nothing should be permitted to interfere with the economic growth of Oklahoma's cities and towns - economic development is in everyone's best interest."

Absent from the November meeting were Mayor Larry Thoma and councilwoman Gloria Middleton.

Indianoma FFA to hold annual "Holiday Meat Sale"

The Indianoma FFA's Booster Club is having a Holiday Meat Sale! Smoked hams for \$30; Smoked brisket for \$30 and Smoked turkeys for \$25. ORDER NOW! Deadline is Nov. 22!! Meat will be smoked and ready to pick up on Nov. 27!

To order contact Mr. Dempsey at 246-3524 or 246-3266; Richard Kraut Stoll at 246-3373 or Ron Griffin at 246-3223.

Porter Hill Firefighters to host breakfast, lunch fundraiser

On Saturday and Sunday, November 23 and 24, the Porter Hill Volunteer Fire Department will host a fundraiser all-you-can-eat breakfast from 5:00 a.m. "Until it's gone" according Dale Sims of the Porter Hill Bait Shop. Beginning at 11:00 a.m. the firefighters will serve a lunch of chili, beans and stew. Cost for the meal will be \$5.00 per plate with all proceeds being to used to keep the Porter Hill Volunteers in the firefighter business.

Deer hunters are invited to stop by The fire station (located behind the Porter Hill Bait Shop and across the street from the Texaco Food Mart). for breakfast and register for the 2002 Big Buck Contest and the Buck Fever Contest.

Drive out to Porter Hill this weekend and have breakfast, lunch or both with a bunch of great guys and show your support their efforts!

In a ceremony held 7 November 19 in the state tol, newly elected membe legislature were given the public office by member Oklahoma Supreme Cou
Among those sworn in Joe Dorman, D-Rush Dorman was elected to th

Education

Education, education, e is the mantra for sustain nomic growth in south Oklahoma, at least acco Court Newkirk and Ga with the Lawton-Fort Sill of Commerce and Indust

In a business forum W hosted by Cameron Un School of Business, gues that only 25% of student roll in a college or univ graduate. Oklahoma' graduation rate of 21% below norm.

The big concern is increase that percentage fact, if any, do funding i on education and specifi number of college gradi can the other 75% of c dents be inspired to stay Is it the quality of teachi port staff, location, peers, or can answers b other ways. How impo tor is the age of the st education costs? Doe Oklahoma busin nity even demand a ser cated workforce? One spires another.

Gary Miller told au bers that Lawton n

School

Candidates for Bo tion in all Comanche (districts file Declarati dacy beginning at 8 Dec. 2, 2002.

Monica Baughmat the Comanche Cou Board, said the filir end at 5 pm, Wedn 2002.