

REGISTERED ENGINEERS:
MUNICIPALITIES:

The Water Pollution Board should accept plans and specifications submitted by duly appointed city engineers without regard to whether they are licensed in the state.

December 7, 1960



Honorable Jack K. Smith
Executive Secretary
Water Pollution Board
112 West High
Jefferson City, Missouri

Dear Mr. Smith:

This will acknowledge receipt of your request for an opinion which reads:

"From time to time a city engineer not registered in Missouri but duly appointed by city officials submits plans and specifications for sewer extension to us for review and issuance of permits.

"We desire your opinion as to whether or not we should accept plans and specifications for sewage works improvements from a city engineer who is not registered in this state."

You also state the Water Pollution Board has adopted a regulation which requires plans and specifications for sewage improvements submitted to the Board be prepared by an engineer licensed in Missouri.

Certain regulations pertaining to the issuance of a permit, the open public hearing rules, the application for a permit and construction and operating permits were submitted to this office for review by the State Division of Health; and in a letter dated August 25, 1958, this office approved the regulations in general as being valid and consistent with Chapter 204, RSMo, Cum. Supp. 1957. This regulation you mentioned above was included as part of those regulations.

You now inquire about a specific regulation as applied to particular facts; namely, whether you should accept plans submitted by a duly appointed city engineer who is not licensed

Honorable Jack K. Smith

in the state since you have a regulation requiring all plans to be prepared by a licensed engineer.

Section 204.030, subdivision (3), V.A.M.S., provides in part that any person desiring to erect or modify facilities or commence or alter an operation of any type which will result in a discharge of sewage, industrial waste or other wastes into the waters of the state which will constitute a pollution as defined in this act, shall apply to the Water Pollution Board for a permit. This section further provides:

"***The board, under the conditions it prescribes, may require the submission of such plans, specifications and other information as it deems relevant in connection with the issuance of the permits. The board shall determine whether or not the discharge will cause a condition of pollution contrary to the public interest. ***"

It should be observed there is no express statutory provision requiring the plan submitted to have been prepared by a licensed engineer. Therefore, the question arises whether such an authority may be implied.

The statute provides the Board may require the submission of such plans, specifications and other information it deems relevant. This is to enable a board to determine from the plans submitted whether the act contemplated will cause excessive pollution. Their action must be governed by what the plans reveal and not the manner in which such plans were prepared.

Their duty is to examine the plans submitted and determined from them, and any other information they may have and acquire, determine whether the facility constructed according to the plans will cause or prevent excessive pollution of the waters of the state.

CONCLUSION

It is, therefore, our opinion that the rule of the Water Pollution Board requiring that plans submitted be prepared by a licensed engineer is invalid because it is in excess of the power and authority granted the Board.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly,

JOHN M. DALTON
Attorney General

AMM:ar/ml