

**WATER POLLUTION BOARD:**  
**SEWAGE DISPOSAL PLANTS:**

The Water Pollution Board is not authorized to grant to any one person, company, or corporation, the exclusive right to construct and operate a system for the disposal of sewage and/or other wastes in a specific watershed.

June 25, 1959



H. M. Hardwicke, M. D.  
Acting Director  
Division of Health and Welfare  
Jefferson City, Missouri

Dear Dr. Hardwicke:

Your recent request for an official opinion reads:

"Enclosed are copies of two letters from Mr. John J. Fischer, 8703 St. Charles Road, St. Louis 14, Missouri, together with a copy of our letter to Mr. Fischer under date of May 29, 1959, relative to exclusive privilege of operating in a watershed.

"Will you please advise as to whether or not the Water Pollution Board is legally authorized to grant to any one person, company or corporation, the exclusive right to construct and operate a system for the disposal of sewage and/or other wastes in a specific watershed under the provisions of Section 204.030, Revised Statutes of Missouri, Cumulative Supplement 1957."

Section 204.030, RSMo Cum. Supp. 1957, reads:

"1. It is unlawful for any person to cause pollution as defined in section 204.010. Any such action is hereby declared to be a public nuisance.

"2. No person, without first securing from the board a permit, shall construct, install or modify any system for disposal of sewage, industrial wastes, or other wastes or any extension or addition thereto

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when the disposal of the sewage, industrial wastes or other wastes constitutes pollution as defined in this chapter; increase the volume or strength of any sewage, industrial wastes or other wastes in excess of permissive discharges specified under any existing permit; or construct or use any new outlet for the discharge of any sewage, industrial wastes or other wastes into the waters of the state which constitutes pollution as defined in this chapter.

"3. Any person desiring to erect or modify facilities or commence or alter an operation of any type which will result in the discharge of sewage, industrial wastes or other wastes into the waters of the state shall apply to the board for a permit to make a discharge which constitutes pollution as defined in this chapter. 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. The board may issue a permit which authorizes the person to make the discharge, and may specify on the permit the conditions under which the discharge shall be made. The board may revoke or modify any permit if the holder of the permit is found to be in violation of subsection 2, or if the holder of the permit fails to operate an existing facility as specified in the approved plan. No permit may be revoked or modified without first giving thirty days' written notice to the holder of the permit of intent to revoke or modify the permit."

A careful examination by us of this section fails to disclose any direct or indirect authorization of the Water Pollution Board to place the limitation upon the issuance of permits which is the subject of your inquiry. Neither does the chapter which sets up the Water Pollution Board take any cognizance of the geographical area designated by you as a "watershed." It would appear that the implication of Section 204.030, supra, is that the Board may issue such permits as it determines any particular situation warrants.

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CONCLUSION

It is the opinion of this department that the State Water Pollution Board is not authorized to grant to any one person, company, or corporation, the exclusive right to construct and operate a system for the disposal of sewage and/or other wastes in a specific watershed.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Very truly yours,

John M. Dalton  
Attorney General

HP:ba