

WATER POLLUTION BOARD: Industrial waste of sewage or other wastes which emanate from the property of an individual, a partnership or corporation but which do not reach a stream, river, lake or other body of water is not subject to the provisions of Chapter 204, RSMo, Cum. Supp. 1957, and is not, therefore, within the control and purview of the water pollution board.

March 1, 1960



Mr. Jack K. Smith, Executive Secretary
Water Pollution Board
112 West High Street - P. O. Box 154
Jefferson City, Missouri

Dear Sir:

On February 17, 1960, you wrote to this department for an official opinion. Your opinion request reads:

"Each year the Missouri Water Pollution Board receives many complaints regarding discharges of waste from individual residences. These wastes may be septic tank overflow, kitchen sink waste or laundry waste. In most instances, these wastes form pools in roadside ditches or in low areas. Seldom do these wastes directly reach a stream or river. Practically speaking, these wastes would reach a stream or river only during periods of surface runoff and then, of course, the dilution factor would minimize the harmful effect of pollution.

"While the problems of malfunctioning individual sewage disposal are very real and troublesome, we question whether or not they are problems for this Board's action. We, therefore, request an opinion as to whether or not industrial waste or sewage or other waste discharges which emanate from a person's property but do not reach a stream, river, lake or other body of water are subject to the provisions of Chapter 204, Revised Statutes of Missouri, 1949, Cumulative Supplement 1957."

Mr. Jack K. Smith

In regard to this matter we first direct your attention to numbered paragraph (5) of Section 204.010, Missouri Revised Statutes, Cumulative Supplement 1957. This paragraph is a definition of "Pollution," and reads:

"(5) 'Pollution', the discharge or deposit of sewage, industrial waste or other wastes into the waters of the state in such condition, manner or quantity which causes the waters to be contaminated, unclean, impure, odorous or noxious to such an extent as to be detrimental to public health, to create a public nuisance, to kill or have an unreasonably harmful effect upon fish or other aquatic life, or upon game or other wildlife, or unreasonably detrimental to agricultural, industrial, recreational or other reasonable uses;"

From the above it will be seen that "pollution" exists only where contaminated liquid is discharged into or reaches "the waters of the state."

I now direct your attention to numbered paragraph (7) of Section 204.010, supra. This paragraph defines "waters of the state," and reads:

"(7) 'Waters of the state', all rivers, streams, lakes and other bodies of surface or subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership or corporation."

From the above it will be noted that "waters of the state" do not embrace such small and, in most instances no doubt, temporary puddles of water as would result from individual residences.

We believe that such waste does not come within the purview of numbered paragraph (7), supra, for the further reason that in most instances such waste does not get beyond the property of the individual who produces it, but is confined to the property of the individual, partnership or corporation which brings it into being.

Mr. Jack K. Smith

We would further note that to impose upon the water pollution board, with its very limited personnel, the task of policing the hundreds of thousands of individual residences of this state would be a wholly impossible task and certainly was never the intention of the legislature which enacted the water pollution law.

CONCLUSION

It is the opinion of this department that industrial waste of sewage or other wastes which emanate from the property of an individual, a partnership or corporation but which do not reach a stream, river, lake or other body of water is not subject to the provisions of Chapter 204, RSMo, Cum. Supp. 1957, and is not, therefore, within the control and purview of the water pollution board.

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

Very truly yours,

John M. Dalton
Attorney General

HPW:lc,vlw