

Op. # 129

OPINION No. 129  
Answered by Letter (General  
Anderson)

June 22, 1966

FILED  
129

The Honorable Warren E. Hearnes  
Governor of Missouri  
Executive Office  
Jefferson City

Dear Governor:

This letter is in response to certain questions set out in a previous letter from you in regard to participation by the State of Missouri in the activities of the River Basin Commission which may now be established under the provisions of P. L. 89-80, titled "The Water Resources Planning Act".

I apologize for the delay in furnishing you with this information. However, the matter was up for review on three different occasions because of differences of opinions of those doing the research.

The following are the answers to the questions set out in your letter:

- 1) It is the opinion of this office that the so-called River Basin Commission is an agency of the Federal Government and under Article 3, Section 38a of the Constitution and under Section 256.200 (5) the Water Resources Board may cooperate with that agency, provided those proposals are within the scope of Section 256.180 to 252.260 RSMo Cum. Supp. 1965. We are able to find no power that authorizes the Governor to so cooperate.
- 2) It is the opinion of this office that neither the Governor nor the Board has been given authority by the Legislature to express concurrence or non-concurrence in the establishment of the River Basin Commission.

XERO COPY

XERO COPY

XERO COPY

XERO COPY

Governor Hearnes  
Page 2  
June 22, 1966

- 3) This office entertains considerable doubt that the State of Missouri can participate in the River Basin Commission activities without express authorization by statute. Certainly this is absolutely necessary in order for the State of Missouri to contribute funds to the Commission. It is the opinion of this office that there must be express authorization and appropriation for that purpose.

Respecting your reference as set out in your letter, of Section 26.130, it seems that this has reference to a different law of Congress even though it is in the same general area. This office does not believe that this Statute could be considered as giving you the authority granted in Section 26.130 to cooperate with respect to Public Law 89-80.

With respect to your reference to Article III, Section 39, paragraph 4 which provides that the General Assembly shall not have power "to pay or authorize payment of any claim against the State or any County or any Municipal Corporation of the State under any agreement or contract made without express authority of law;", it appears that this does constitute a prohibition against the State spending money in connection with its participation in the River Basin Commission, unless and until the Legislature has specifically acted upon it.

You ask whether or not a formal opinion should be requested on this subject. You also request that a copy of our reply be forwarded to the Water Resources Board.

I believe that you would be interested in reviewing our tentative and anticipated answers as set out in this letter before deciding whether or not a formal opinion should be issued to you by this office. I will also await the forwarding of a copy of this reply to the Water Resources Board until you so authorize it.

I shall await your decision in this matter. For your information a formal opinion has been drafted and can be immediately forwarded upon your request.

Respectfully,

NORMAN H. ANDERSON  
Attorney General

NHA/hw

XERO  
COPY

XERO  
COPY

XERO  
COPY

XERO  
COPY