

September 30, 1970

OPINION LETTER NO. 406

(Answered by letter-Nowotny)

Honorable Jack K. Smith
Executive Secretary
Missouri Water Pollution Board
112 West High Street
Jefferson City, Missouri 65101



Dear Mr. Smith:

This is in response to your request which asks:

"I wish to inquire as to whether or not the Missouri Water Pollution Board shall require that all plans and specifications for sewage treatment works, including sanitary sewers, appurtenances, treatment devices, including lagoons, shall be prepared by a registered professional engineer, registered in the State of Missouri. I refer to Senate Bill Number 117, 75th General Assembly, Section 327.181 and Section 327.421. If a registered professional engineer is required to prepare the plans and specifications, presumably his seal would be required on the plans and specifications submitted."

Prior to Senate Bill No. 117, 75th General Assembly, you had made a similar request, and it was our opinion then that 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. Attorney General Opinion No. 83, December 7, 1960, Smith, copy of which is enclosed.

Section 327.421, RSMo 1969, provides:

"This state and its political subdivisions including counties, cities and towns, or

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legally constituted boards, agencies, districts, commissions and authorities of this state shall not engage in the construction of public works involving the practice of architecture, engineering or land surveying, unless the architectural and engineering drawings, specifications and estimates and the plats and surveys have been prepared by a currently registered architect, professional engineer or land surveyor, as the case may require."

Section 327.181, RSMo 1969, provides:

"Any person practices in Missouri as a professional engineer who renders or offers to render or holds himself out as willing or able to render any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advanced engineering subjects or courses related thereto, engineering surveys, and the inspection of construction for the purpose of assuring compliance with drawings and specifications, any of which embraces such service or work either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects and including such architectural work as is incidental to the practice of engineering; or who uses the title 'professional engineer' or 'consulting engineer' or the word 'engineer' alone or preceded by any word indicating or implying that such person is or holds himself out to be a professional engineer, or who shall use any word or words, letters, figures, degrees, titles or other description indicating or implying that such person is a professional engineer or is willing or able to practice engineering."

It does appear that the preparation of plans and specifications for sewage treatment works involves the practice of engineering, and Section 327.421 applies.

However, no provision of Chapter 327 provides that the Water Pollution Board may or shall enforce such provisions. Nor do we find

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any such authorization or direction in the Water Pollution Law, Chapter 204, RSMo. The Missouri Board for Architects, Professional Engineers, and Land Surveyors is the proper authority to enforce the provisions of Chapter 327.

Therefore, this office adheres to its former opinion that the Water Pollution Board would be in excess of its authority to require that plans submitted be prepared by a licensed engineer. As stated on Page 2 of Opinion No. 83, the Water Pollution Board's duty is to examine the plans submitted and any other information they may have and acquire, and determine whether the facility constructed will cause pollution of the waters of the state.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure:
OP.83-1960-Smith