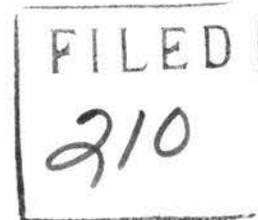


*Opinion # 135-1970
should accompany
this opinion.*

April 9, 1971

Opinion Letter No. 210
Answered by letter-Klaffenbach

Honorable George P. Dames
Representative, District 104
Room 411B, Capitol Building
Jefferson City, Missouri 65101



Dear Representative Dames:

This letter is in response to your opinion request in which you forward certain questions posed by constituents.

The questions ask whether a county court has authority to give public utilities permission to install waterlines "in the ditch and adjacent to the roadway"; whether a certain road was established by the county or by the state and the dimensions and the time of the establishment of the roadway.

The latter part of your informant's letter presents certain questions concerning a specific controversy in which the county, a political subdivision of this state, is involved and for that reason such questions are not the proper subject of an opinion of this office.

Your first question asks whether the county can grant an easement to install utility lines in ditches constituting part of the right-of-way of a county road.

Under Section 49.270, RSMo 1969, the county court is authorized to "sell and cause to be conveyed any real estate, goods or chattels belonging to the county". And, in Odell v. Pile, 260 SW2d 521, the Supreme Court of Missouri held that this express grant included authority to grant an easement.

Section 229.100, RSMo 1969, which is mentioned in the correspondence attached to your request and which requires the assent of the county court before pipes can be laid states:

Honorable George P. Dames

"No person or persons, association, companies or corporations shall erect poles for the suspension of electric light, or power wires, or lay and maintain pipes, conductors, mains and conduits for any purpose whatever, through, on, under or across the public roads or highways of any county of this state, without first having obtained the assent of the county court of such county therefor; and no poles shall be erected or such pipes, conductors, mains and conduits be laid or maintained, except under such reasonable rules and regulations as may be prescribed and promulgated by the county highway engineer, with the approval of the county court."

Therefore the county court has the power to hold land, to convey land, and to grant easements for pipeline purposes.

Very truly yours,

JOHN C. DANFORTH
Attorney General