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ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

November 13, 1974

OPINION LETTER NO. 2

Honorable Joe D. Holt
State Representative, District 109
808 Court Street
Fulton, Missouri 65251

Dear Representative Holt:

This is in answer to your request asking whether a sewer district organized under the provisions of Sections 249.430 through 249.660, RSMo, located within a third class county can furnish service to property located outside the county in which the district was organized.

It is our view that a sewer district organized under the provisions of such sections is without authority to furnish service to property located outside the district boundaries either within the county in which it is organized or outside of such county. Section 249.440 provides that in accordance with the provisions of Section 249.450, the county court shall have power to establish sewer districts and provide for the construction of sewers therein. Section 249.540, giving the county court the right to condemn any land within or without the district for right-of-way for sewers or other improvements or structures deemed necessary in connection with the sewer system of the sewer district does not, we believe, give authority to the sewer district to provide sewer service to persons living outside the district, but authorizes the acquisition of property by the county court within or without the district necessary to provide a sewer system to persons within the sewer district.

It is therefore our view that the provisions of Sections 249.430 through 249.660 do not authorize such a sewer district to furnish service to property located outside such sewer district.

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Section 250.010, RSMo, provides, in part, as follows:

"1. In addition to all powers granted by law and now possessed by cities, towns and villages in this state for the protection of the public health, any city, town or village, whether organized under the general law or by special charter or constitutional charter, and any sewer district organized under chapter 249, RSMo, as that chapter now exists, or as it may be amended, is hereby authorized to acquire, construct, improve or extend and to maintain and operate a sewerage system and to provide funds for the payment of the cost of such acquisition, construction, improvement or extension and operation as hereinafter provided. Such sewerage system may be constructed and operated either within or without the corporate boundaries of any such city, town or village or sewer district." (Emphasis Added)

Section 250.190, RSMo, provides as follows:

"Any such city, town or village or sewer district operating a sewerage system or a combined waterworks and sewerage system under this chapter shall have power to supply water services or sewerage services or both such services to premises situated outside its corporate boundaries and for that purpose to extend and improve its sewerage system or its combined waterworks and sewerage system. Rates charged for sewerage services or water services to premises outside the corporate boundaries may exceed those charged for such services to premises within the corporate limits." (Emphasis Added)

Under the provisions of Sections 250.010 and 250.190, sewer districts organized under Chapter 249 are authorized to construct and operate the sewerage system and furnish sewerage services to persons outside the corporate boundary of the sewer district as well as those persons within the corporate boundaries of such district.

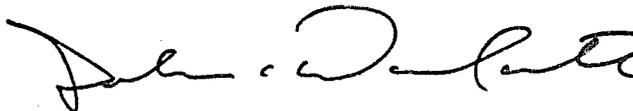
It is our view that the provisions of Sections 250.010 and 250.190 do not grant authority to sewer districts organized under the provisions of Sections 249.430 through 249.660 to provide sewer services to persons living outside the sewer district. It is our view that sewer districts organized under Sections 249.430

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through 249.660 do not have "corporate" boundaries but are simply geographical areas, the boundaries of which are set by order of the county court and such sewer districts are not political subdivisions or public corporations and therefore have no "corporate" boundaries. It is our view that the reference to "corporate boundaries" in Sections 250.010 and 250.190 limits the application of such sections to the sewer districts organized under Chapter 249, which are incorporated districts, including districts organized under provisions of Sections 249.010 through 249.420 and districts organized under Sections 249.760 through 249.810. Section 249.060 provides that a sewer district organized under its provisions is "incorporated" by the court and that the district shall then be a "body corporate" and shall possess the powers like or similar to public corporations. Section 249.767 provides for the incorporation of a sewer district and that such district is a "public corporation". Section 249.777 provides that the sewer district therein provided for is a political subdivision of the state. It is our view that only sewer districts which are actually "incorporated" have "corporate boundaries" and that only such sewer districts as have been "incorporated" are included within the provisions of Sections 250.010 and 250.190.

Therefore, it is our view that a sewer district established by the county court under the provisions of Sections 249.430 through 249.660, RSMo, located within a third class county cannot furnish service to property located outside the boundaries of such district.

Very truly yours,



JOHN C. DANFORTH
Attorney General