

April 28, 1978

OPINION LETTER NO. 111
Answer by Letter - Klaffenbach

Honorable Milt Harper
Prosecuting Attorney
Boone County Courthouse
Columbia, Missouri 65201

FILED
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Dear Mr. Harper:

This letter is in response to your question asking whether the county court or the county clerk has the legal authority to place on a primary election ballot a proposition asking whether the voters by a "yes" or "no" vote approve construction of the Meramec Dam and Lake.

The proposition voted on would be merely advisory. Such a proposition is not within the legal scope of initiative or referendum.

We note that Senate Bill No. 727, Second Regular Session, 79th General Assembly, which has been signed by the Governor and is now law, requires that the Governor call a preference election in which the voters in certain counties will express their views as to whether the Meramec Dam and Meramec Park Lake should be constructed. However, Boone County is not included in the provisions of that law.

Clearly the county court is invested with only such powers with reference to the management of the affairs of the property and business of the county as are expressly conferred on it by statute and such as may be fairly implied from those expressly granted. Walker v. Linn County, 72 Mo. 650 (Mo. 1880). We know of no law authorizing the county court or county clerk to put such a proposition on the ballot and no such authority can be implied.

Very truly yours,

JOHN ASHCROFT
Attorney General