

FILE

Subject

Health Public

West Pass

Conv to

Water Pollution



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

August 20, 1974

Opinion No. 74- 279

Jerome H. Svore
Regional Administrator
U. S. Environmental Protection Agency
Region 7
735 Baltimore, Room 249
Kansas City, Missouri 64108

Dear Mr. Svore:

You have requested a statement defining the responsibilities of our office for enforcement of Kansas water pollution control statutes.

While it is settled in Kansas law that the attorney general is the state's chief law enforcement officer, initial responsibility for the enforcement of criminal statutes rests with the county attorney. K.S.A. 65-167 and 65-171(f) are criminal in nature and, although we customarily lend our legal and investigative assistance to the extent needed, it would be his responsibility to initiate the suit. Should there be, as can be readily imagined, a conflict between the county attorney's official duty under these statutes and his responsibility to a private client, we would have to decide whether to initiate prosecution under our general powers of superintendency.

K.S.A. 65-171(d) prescribes civil penalties for a broad range of violations. K.S.A. 65-171(e) places responsibility for recovery of these civil penalties in the attorney general. We imagine that the bulk of enforcement activity will be, as it has been with respect to the Kansas Air Quality Control Act, civil in nature.

Very truly yours,

VERN MILLER
Attorney General

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