

September 3, 2009

VIA E-MAIL and U.S. MAIL

Cory Allen Heidelberger, President  
Lake Herman Sanitary District  
1883 Cottonwood Cove Trail  
Madison, SD 57042

Dear Cory:

Following up on your e-mail to me on August 18, 2009, I have had a chance to talk with Jeff Hallem, an Assistant Attorney General, concerning the questions which you posed. He essentially reaffirmed what I had told you, which was that a special district such as a sanitary district has only those powers expressly provided to it by state statutes. State statute provides that sanitary districts can only expend funds for wastewater facilities, and by vote, water facilities and road construction and maintenance. As Jeff pointed out, there are other special districts which would be authorized to do the various things which you posed in your questions # 2 and #3.

He also told me that the Attorney General would likely decline to issue an opinion altogether because of the limitations expressed above.

He cited to me the South Dakota Supreme Court case of *Cooper v. Hauschild*, 527 NW2d 908, in which the court said, among other things, that they would not condone circumvention of statute by any governmental entity in an attempt to do indirectly what it lacks authority to do directly.

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Consequently, there is no need to request an opinion from the Attorney General. Should you have any questions about these matters, do not hesitate to contact me. Thank you.

Yours very sincerely,

LAMMERS, KLEIBACKER & BROWN, LLP

J.B. Lammers

JBL/ke