

August 20, 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:

First, let me apologize for not having answered your e-mail yesterday. I was gone most of the day and was unable to do that for you. I will do the best I can to respond now to your questions.

One first must look to the state statutes which permit creation of sanitary districts, found as you know at SDCL 34A-5. Specifically, SDCL 34A-5-26 provides as general powers of the trustees, among other things, at (4), to construct and operate storm and sanitary sewers and sewage and solid waste disposal plants and systems. Obviously, sanitary districts are restricted in their powers, and they have only those powers granted by state statutes. SDCL 34A-5-41 also provides for the operation of a water system, and the road district statutes provide at SDCL 31-12A-20.1 that the Board of Trustees of any sanitary district may submit to the voters of the district the question of whether the district shall be authorized to exercise powers of road districts. None of those, however, seem to fit the parameters of the projects which you have mentioned.

These projects which you mention are arguably tangent to the functions of a sanitary district, but I would hesitate to put my stamp of approval on expenditure of your funds for those purposes, without some approval from a

Cory Allen Heidelberg  
August 20, 2009  
Page Two

---

higher authority. In that regard, you could ask for an Attorney General's Opinion on these subjects. Even that opinion is not the equivalent of a court's approval, but would be sufficient to permit you to move forward toward those objectives. There would be no cost to the district in seeking that opinion, other than my preparing the necessary letter of request. You may want to discuss that among your board and let me know what your decision may be. Thank you.

Yours very sincerely,

LAMMERS, KLEIBACKER & BROWN, LLP

J.B. Lammers

JBL/ke