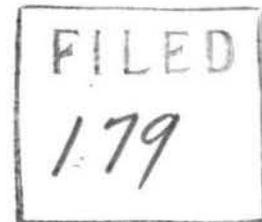


June 6, 1972

OPINION LETTER NO. 179
Answer by Letter - Nowotny



Mr. Clifford L. Summers
Executive Director
Water Resources Board
Post Office Box 271
Jefferson City, Missouri 65101

Dear Mr. Summers:

This is in reply to your request for an official opinion of this office as to whether the counties and cities in Missouri can: (1) agree under long-term contract with the United States to provide operation, maintenance and replacement of federally financed water control projects and to agree to reimburse the federal government for all or part of those added costs associated with identified local benefits or uses, in return for investment by the federal government in these projects; and (2) can they further agree to hold and save the United States free from damages due to the construction works and, if so, do they have legal authority to pay damages for failure to perform.

Section 70.115, RSMo 1969, provides as follows:

"Any county or city in which the corps of engineers of the United States army or any other department or agency of the government of the United States is authorized by congress to construct works for recreational purposes along any river or tributary thereof lying within or adjacent to the city or county may, if in the opinion of the governing body of the county or city the construction is for the public welfare:

Mr. Clifford L. Summers

(1) Enter into an undertaking in the name of the county or city to hold the United States free from any damage to persons or property resulting during construction or after completion thereof;

(2) Contract with the government of the United States in the name of the county or city to maintain, keep in repair and operate the works, when completed; and

(3) Furnish all necessary lands, rights-of-way and easements for construction of the works."

Therefore, it is our opinion that the counties and cities in Missouri have the necessary authority to enter into such agreements.

Very truly yours,

JOHN C. DANFORTH
Attorney General