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Ohio Attorney General
c/o Opinions
30 East Broad Street, 26th Floor
Columbus, OH 43215

SENT VIA EMAIL TO: OpinionsRequest@OhioAttorneyGeneral.gov

RE: Request for Attorney General Opinion

Dear Attorney General:

I am writing in my capacity as the Prosecuting Attorney of Monroe County, Ohio, and statutory legal counsel to the Monroe County Board of Health, to request a formal opinion concerning the respective authority and responsibilities of a regional water and sewer district and a county board of health regarding mandatory connections to a sanitary sewer system constructed and operated by a regional water and sewer district organized under R.C. Chapter 6119.

This question has arisen in Monroe County in connection with the construction of a new sanitary sewer system by the Ohio and Lee Township Water and Sewer Authority, a regional water and sewer district organized pursuant to R.C. Chapter 6119. The Authority has represented to property owners that connection to the new system may ultimately be required and has indicated that the County Health Department would be responsible for enforcing such connection requirements.

The Monroe County Board of Health recognizes its independent statutory responsibilities concerning household sewage treatment systems and its obligation to administer and enforce applicable provisions of Ohio law and Ohio Administrative Code Chapter 3701-29. The Board seeks clarification, however, regarding the extent to which it is required to enforce connection to a sewer system operated by a Chapter 6119 regional water and sewer district when the district itself has been granted express statutory authority concerning mandatory connections.

R.C. 6119.06(AA) authorizes a regional water and sewer district to require the owner of premises within the district to connect to a water resource project determined to be accessible and found to require connection to prevent or abate pollution or protect the health and property of persons within the district. The statute further provides that such connection shall be made pursuant to procedures established by the district's board of trustees and pursuant to such orders as the board may find necessary to ensure and enforce compliance with those procedures.

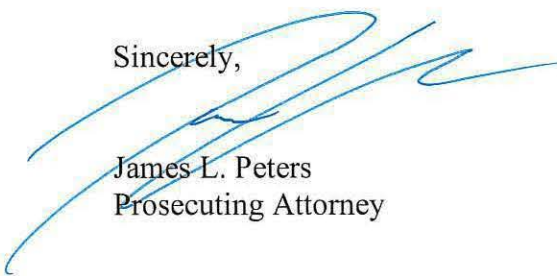
Accordingly, I respectfully request the Attorney General's opinion on the following questions:

1. Does R.C. 6119.06(AA) authorize the board of trustees of a regional water and sewer district to directly require property owners within the district to connect to an accessible sanitary sewer system and to issue and enforce orders necessary to obtain compliance with that requirement?
2. If a regional water and sewer district possesses such authority, what procedures or enforcement mechanisms are available to the district under R.C. Chapter 6119 to enforce a mandatory connection requirement against a property owner who refuses to connect?
3. When a regional water and sewer district possesses authority under R.C. 6119.06(AA) to require and enforce connection to its sewer system, does Ohio law impose a separate mandatory duty upon the county board of health to initiate enforcement proceedings against property owners who have not connected, or may the regional water and sewer district enforce its own connection requirements pursuant to R.C. 6119.06(AA)?
4. How should the authority granted to a regional water and sewer district under R.C. 6119.06(AA) be harmonized with the duties of a county board of health under applicable provisions of the Revised Code and Ohio Administrative Code Chapter 3701-29 concerning accessible sanitary sewers and the regulation of household sewage treatment systems?

Clarification of these issues is important to the Monroe County Board of Health in determining the scope of its statutory responsibilities and in properly distinguishing those responsibilities from the independent statutory powers and duties of a regional water and sewer district.

Should you have any questions, please feel free to contact me. Thank you in advance for your assistance in this matter.

Sincerely,



James L. Peters
Prosecuting Attorney

cc: Health Department