

VOLUME NO. 43

OPINION NO. 1

COUNTIES - Obligation to provide waste disposal and landfill services;
COUNTY GOVERNMENT - Obligation to provide waste disposal and landfill services;
SOLID WASTE - County's obligation to provide waste disposal and landfill services;
MONTANA CODE ANNOTATED - Sections 7-11-101 to 7-11-108, 7-11-104, 7-13-201 to 7-13-243, 7-13-203.

HELD: A county has no legal obligation to provide solid waste disposal and landfill services to towns that have used the county's landfill on a charge-per-load basis where there is no refuse disposal district or interlocal agreement between the towns and county to provide such services.

January 25, 1989

Gary L. Spaeth
P.O. Box 1361
Red Lodge MT 59068

Dear Mr. Spaeth:

As town attorney for Joliet, Fromberg, and Bridger, you have requested my opinion on the following question:

Does Carbon County have any legal obligation to provide solid waste disposal and landfill services to towns which have used the county's landfill on a charge-per-load basis?

You explain in your request that Carbon County has provided landfill services to the towns of Joliet, Fromberg, and Bridger for several years on a charge-per-load basis, and that the county intends to discontinue that arrangement because the landfill is closing. I further understand that the county has not created a refuse disposal district nor entered into an interlocal agreement with the towns to provide such services.

It is my opinion that the county has no statutory obligation to provide landfill services to Joliet, Fromberg, and Bridger. While it is apparent that the refuse disposal statutes (§§ 7-13-201 to 243, MCA) give the county an opportunity to enter into such an arrangement, there is no county obligation to provide refuse disposal services under section 7-13-203, MCA, which provides:

(1) Whenever it becomes necessary, the commissioners may create a refuse disposal district for the purpose of collection and/or disposal of refuse.

(2) Cities and towns may be included in the district if approved by the city and town councils. [Emphasis supplied.]

The same conclusion may be drawn from the statutes concerning interlocal agreements, §§ 7-11-101 to 108, MCA, which provide under section 7-11-104, MCA:

Any one or more public agencies may contract with any one or more other public agencies to perform any administrative service, activity, or undertaking which any of said public agencies entering into the contract is authorized by law to perform. Such contract shall be authorized and approved by the governing body of each party to said contract. Such contract shall set forth fully the purposes, powers, rights, obligations, and responsibilities of the contracting parties. [Emphasis supplied.]

Refuse disposal districts and interlocal agreements are legal obligations, the creation of which requires that definite procedures be followed. As noted above, Carbon County did not undertake either of these legal obligations with the towns Joliet, Fromberg, or Bridger.

THEREFORE, IT IS MY OPINION:

A county has no legal obligation to provide solid waste disposal and landfill services to towns that have used the county's landfill on a charge-per-load basis where there is no refuse disposal district or interlocal agreement between the towns and county to provide such services.

Sincerely,