

OPINION 4

OFFICIAL OPINION NO. 4

June 6, 1975

Mr. William S. Young, Chairman  
Indiana Port Commission  
Post Office Box 189  
Portage, Indiana 46368

Dear Chairman Young:

This is in response to your request for my official opinion on the following question:

“Is the Indiana Port Commission a ‘municipality’ as that term is defined in the Federal Water Pollution Control Act?”

ANALYSIS

The Federal Water Pollution Control Act is found in Title 33 of the United States Code at Section 1151, *et seq.* “Municipality” is defined in the Act as follows:

“The term ‘municipality’ means a city, town, borough, county, parish, district, or other *public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes*, and an Indian tribe or an authorized Indian tribal organization.” 33 USC § 1173(f) (My emphasis.)

The Indiana Port Commission falls within the terms of this definition if it is (1) a public body created pursuant to State law and (2) has jurisdiction over disposal of wastes.

The Indiana Port Commission was created pursuant to Chapter 11 of the Acts of the Indiana General Assembly of 1961 as found in Title 8, Article 10, Chapter 1 of the Indiana Code of 1971, Section 8-10-1-1, *et seq.* The law creating the Indiana Port Commission has withstood constitutional challenge and is a valid law of the State of Indiana. *Orbison v. Welsh* (1962), 242 Ind. 385, 179 N.E. 2d 727.

## 1975 O. A. G.

The Indiana Code of 1971, Section 8-10-1-7 gives the Indiana Port Commission authority to construct, maintain and operate a port project and to do all acts and things necessary or proper to the operation of a port. As defined in the Indiana Code of 1971, Section 8-10-1-2(c), the term "port project" specifically includes "works for the treatment of sewage, garbage and wastes. . . ."

The Indiana Port Commission is, therefore, a public body created pursuant to State law and having jurisdiction over disposal of wastes.

### CONCLUSION

It is, therefore, my Official Opinion that, as the term is defined in the Federal Water Pollution Control Act, the Indiana Port Commission is a "municipality" as a public body created by State law and having jurisdiction over disposal of wastes.