

4.6.3 Application and Review Process/Completing Permit Application Forms/ Continuing Authorities

Applicability:

All applications for construction and operating permits must specify a Continuing Authority for the facility or site in order to be considered complete.

Content:

The continuing authority is the permanent organization that will be responsible for the operation, maintenance and modernization of the facility or site for which the permit application is being made. The important regulatory citation related to continuing authorities is 10 CSR 20-6.010(3).

The term "permanent organization" is not defined in the Clean Water Law or the CWC regulations. Reading of the complete Continuing Authority Rule indicates that a continuing authority can be any of the legal entities identified in the definition of "person" as presented in the Clean Water Law at Section 644.016(14) and in the regulations at 10 CSR 20-2.010(52).

The owner of the facility is the person or organization that has legal title to the property, improvements and equipment. In most cases, the owner will be the continuing authority. However, there can be an owner and a separate continuing authority. If there is an owner and a separate permanent organization is the continuing authority, information about both needs to be in the application.

The Continuing Authority Rule not only identifies the legal entities that can be accepted as a permanent organization for operation, maintenance and modernization, but also establishes an order of preference among the permanent organizations. Publicly Owned Treatment Works (POTWs), and Public Service Commission (PSC) regulated facilities, are the first choices; and there are provisions that distinguish three groups of POTWs. Persons as defined in Law and Regulation are next in order of preference with one exception. The exception is that property owners associations are identified as being last in order of preference; and, to be accepted, a property owners association has to demonstrate the various qualifications specified in the rule, including owning the facility.

The reason for establishing an order of preference (i.e. a hierarchy) is that years of compliance activities demonstrate that, in general, the entities listed as being preferred provide better and more reliable operation, maintenance, repair, upgrading and replacement of facilities. This leads to better permit compliance and protection of water quality.

Either the owner or the continuing authority may submit the first or initial permit application for a facility. The continuing authority is responsible for submitting the applications for permit renewals. The continuing authority's responsibility to operate, maintain and modernize the facility includes all of the administrative and management activities such as communications and reporting, oversight of staff, and permit and other regulatory compliance.

Missouri permit application forms also require identification of the facility operator; that is, the name, certificate number and telephone number of the individual responsible for operating the facility. This relates to the person in charge of the facility (e.g. chief operator, supervisor) whether an employee or contract operator. The operator is not the facility's continuing authority.

Normally, the department does not insist on the submission of operator information unless the facility is a POTW or PSC-regulated and subject to the operator certification requirements of 10 CSR 20-9.020, Classification of Wastewater Treatment Systems.

An applicant for a construction permit or an initial operating permit must demonstrate that:

- a continuing authority will accept responsibility for the facility, and
- the higher preference authorities are not available or waive their legal right to provide collection and treatment service.

This information needs to be reviewed by the permit writer with special attention paid when the owner and continuing authority are not the same. The standing of private corporations can be checked with the Public Service Commission if the facility is a regulated private sewer company and with the Secretary of State's Office web site to determine if the corporation is in good standing. A link to the Secretary of State's Office web site is in Other Links below.

In situations where the owner is an individual person (e.g. Mr. John Smith), title to the property can be verified if it is believed necessary to do so by review of county plat maps or through contact with the County Recorder of Deeds or Assessor. If a separate continuing authority is an individual person, if it is believed to be necessary, that individual can be asked for written information to support the claim that the capability exists to operate, maintain and modernize the facility. The soundness of such information may be difficult to prove or disprove.

For sewer extension construction permits, if the continuing authority is to be different from the owner and permit applicant, written acceptance of the completed sewers by the continuing authority should be provided by the applicant or sought by the review engineer. SWRO has developed a form useful for this purpose, Continuing Authority Approval for Sewer Line Extension, a copy of which is in the Permit Manual Links folder on the T-drive (see Other Links below).

Other situations related to continuing authority requirements may be encountered. For example, in developments in lake areas or rural settings, multiple parties may request to be co-owners or co-continuing authorities for a treatment facility serving two or more private properties. If these properties cannot be served by a more stable and capable permanent organization, an agreement for the joint use and maintenance of the sewage disposal facility can be developed and accepted by the department. Seek the guidance of the Permits and Engineering Section or Division Counsel in these situations. An example, Continuing Authority Joint Use Agreement, is presented in the Permits Manual Links folder.

Legal References:

Code of State Regulations:

10 CSR 20-2.010(52)	Definitions - Person
10 CSR 20-6.010(2)(A)	Construction and Operating Permits - Permit Applications - Forms, Required Map and Fees
10 CSR 20-6.010(3)	Construction and Operating Permits - Continuing Authorities

Other Links:

[Water Pollution Construction and Operating Permit Application Forms](#)

[Continuing Authority Approval for Sewer Line Extension](#)

[Continuing Authority Joint Use Agreement](#)

[Secretary of State's Office](#)

Key Words:

Continuing authority, permanent organization, person, complete control

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Modification Date: 04/05/2005