

The statute does not define rated capacity of equipment. In *Polliak v. Smith*, 19 N.J. Super. 365 (Ch. Div. 1952), the court interpreted "equipment" as used in a will bequeathing property as follows:

"*Funk & Wagnalls' New Standard Dictionary of the English Language* (1937) defines 'equipment' as the act or process of equipping with all needful supplies for any special service; 'equip' is defined: to provide with all that is necessary for a successful undertaking. In *Eastern Penn. Power Co. v. State Bd., &c.*, 100 N.J.L. 255, 126 A. 216 (Sup. Ct. 1924), our former Supreme Court defined equipment as: 'Equipment means that which is needful, that which is necessary.'" 19 N.J. Super. at 369-70.

Within the above interpretation, the pump and well are equipment, both being an integral part of the undertaking, the withdrawal of water from the earth. The Legislature intended to protect wells in use at the capacity at which they could be used at the time of delineation. Thus if a well with a yield potential of 1,000,000 gallons daily had a pump capable of only 500,000 gallons daily at the time of delineation, the rated capacity of equipment is 500,000 gallons. In any similar example the smallest capacity of any part of the diversion equipment is its "rated capacity."

Very truly yours,

DAVID D. FURMAN  
*Attorney General*

By: MORTON I. GREENBERG  
*Deputy Attorney General*

July 29, 1960.

HONORABLE DWIGHT R. G. PALMER  
*Commissioner*  
State Highway Department  
Trenton, New Jersey

FORMAL OPINION 1960—No. 24

DEAR COMMISSIONER:

You have raised the question as to whether municipalities along the route of the proposed East-West Freeway in Essex County may contribute to the cost of construction by contract with the Federal and State governments. The statutes specifically authorize such participation by municipalities as well as counties. R.S. 27:8-1 provides:

"The commissioner may apply to and contract with the United States government or any official thereof for aid in road work, and with the governing bodies of counties and other subdivisions of the state for doing such work with the aid of the state and federal governments. Such governing bodies may enter into such contracts and raise funds to meet their share of the cost in the manner provided by law for raising money for the construction, improvement and maintenance of roads."

R.S. 27:8-3 provides that where the federal, state and local governing bodies all contribute to the construction of highways, the contribution of the state is limited to fifty per cent of the balance of the cost remaining after deducting the amounts paid by the federal government. As noted in the context of the quoted statute, the local governing bodies are authorized to raise the funds for their share of the cost as already provided in R.S. 40:1-1 et seq. This includes the power to borrow money and issue bonds.

The statutes were enacted in 1916, L. 1916, c. 236. (Assembly Bill No. 170). The Statement following the bill stated that the bill was passed to authorize the State to accept federal aid for road work in accordance with the bill then pending in the United States Congress.

Federal law also anticipates contributions of local governing bodies to the costs of construction of the interstate highway system. The definition of state funds in 23 U.S.C.A. section 101(a) includes funds raised by the state or subdivisions thereof and made available for expenditure under the direct control of the state highway department. In 23 U.S.C.A. section 110(a) it is provided that after all the plans for the route and construction are approved an agreement is to be executed by the state highway department and the Secretary of Commerce for the construction and maintenance of the roads. Subsection (b) of section 110 provides that the Secretary of Commerce in executing the agreement may rely upon the representations of the state highway department with regard to the arrangements or agreements made by the state highway department and the appropriate local governing bodies to share in the construction cost.

The municipalities through which the East-West Freeway in Essex County will pass undoubtedly anticipate benefits from the construction of the highway as a depressed highway. The factor that the highway would not be owned or controlled by the municipalities is immaterial in view of the express authority granted to municipalities under the statute to contribute and the accruing benefit to them regardless of the ownership or control.

Sincerely,

DAVID D. FURMAN  
*Attorney General*

July 27, 1960.

HONORABLE EDWARD J. PATTEN  
*Secretary of State*  
State House  
Trenton, New Jersey

FORMAL OPINION 1960—No. 25

DEAR SECRETARY PATTEN:

You have requested our opinion whether the Secretary of State should accept for filing a Certificate of Corporate Dissolution prepared and submitted pursuant to R.S. 14:13-1 or R.S. 14:13-3 if such Certificate of Dissolution is not accompanied by a certificate signed by the Director of the Division of Taxation certifying that all corporate taxes have been paid.