file EIC (Gen.)

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D.E.P.

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Attorney General

Sawdust Pile at South Twin Lake, Millinocket, Maine.

As I understand the situation, there exists a sawdust pile on the bank of South Twin Lake in Millinocket, Maine. The sawdust pile was placed there by "Ladd's Saw Mill" sometime prior to 1952. Whether the land was owned by Great Northern Paper Company at the time the sawdust pile was placed there was unstated in your memorandum. Presently, portions of the sawdust pile are breaking off and falling into the lake.

I would suggest that the simplest solution to the problem is to simply have the Board of Environmental Protection authorize or vote to send a letter to Great Northern Paper Company outlining the problem and requesting that they remove the sawdust pile.

Absent cooperation by Great Northern Paper Company, there may be some legal action which the State can take. In 1947, the Legislature enacted P.L. 1947, c. 266, § 3, which stated "No person. . . shall place or deposit in the inland waters of this State or on the banks thereof in such a manner that the same shall fall or be washed into such waters any . . . sawdust . . . . "

It would appear to me that the party placing the sawdust on the banks of South Twin Lake after 1947 is responsible for the removal. If the land was owned by Great Northern Paper Company during that time, Great Northern Paper Company, as well as the operator of the saw mill, are probably responsible for the sawdust pile, and responsible for its removal.

If you should request action by this department in the form of a complaint for a mandatory injunction, I would appreciate it if you would provide me with the name of the owner of the land in 1947 and thereafter (I would assume Great Northern would be willing to give you this information) and also the name of the saw mill operation, and whether or not any principals involved in the operation still exist. If the saw mill operation was conducted by a corporation, you can check with the Corporation Department of the Secretary of State for information as to the corporation. Even if the corporation is no defunct, you should be able to get the names of the directors and officers during the period 1947 to 1952 from the Secretary of State, and I believe that we could direct the action against the directors and officers inasmuch as they would be personally responsible for this "criminal" act.

Present section 417 of Title 38, and its predecessors, probably cannot be applied to Great Northern, unless Great Northern owned the land at the time the sawdust pile was made, because the prohibition runs against persons placing or depositing sawdust rather than against the owners of land who merely suffer a sawdust pile placed on the land prior to their ownership to leach into the inland waters.

If all else fails, upon sufficient evidence being tendered by you to us, we would be willing to bring an action for public nuisance. While I am unwilling to speculate as to the probability of success of such an action, perhaps the threat and even the filing of such an action could result in Great Northern removing the pile to better its public image.

ESM/ec