

MAINE STATE LEGISLATURE

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November 22, 1972

Stephen Groves

Environmental Protection

John M. R. Paterson, Assistant

Attorney General

Grandfather Rights of Georgia Pacific

Facts:

In 1963 Georgia Pacific Corporation inquired of the E.I.C. as to whether a new outfall from their existing paper mill in Woodland, Maine required a waste discharge license. 38 M.R.S.A. § 413. At that time the facts showed no change in quality or quantity and it was determined that no such license was required.

The present facts indicate that Georgia Pacific has increased production and adversely changed the quality of its effluent to the St. Croix River.

Question:

Must Georgia Pacific obtain a license to discharge to State waters?

Answer:

Yes.

Reasoning:

An Opinion of this office issued December 29, 1967 states that any increase in quality or adverse change in quantity subjects any "grandfathered" discharge to licensing requirements.

In addition, Title 38 M.R.S.A. § 413(3)(a) specifically states:

"Upon a significant increase in the quantity or a significant adverse change in quality of any discharge exempted from licensing by subsection 2, the exemption granted by subsection 2 is extinguished and void and the . . . corporation . . . causing the increase or change shall seek a license under section 414."

NOT A FORMAL STATEMENT

This section clearly applies to the instant case. No prior opinion of the E.I.C. or this office estops the application of the above-cited opinion or statutory provisions.

There is no reason to assume that the 1963 opinion of the E.I.C. is in error, however. Based on a review of the communications at that time, there appeared to be no reason to believe that any such changes had occurred. Furthermore, this office only rendered its opinions in 19 .

JMRP/ec

NOT A FORMAL OPINION