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May 8, 1975

Richard W. Billings, Executive
Director

Land Use Regulation Commission

Joseph E. Brennan, Attorney General

Attorney General

Permit Requirements of Spruce Budworm Program

This will respond to your memorandum dated April 25, 1975, requesting our opinion whether or not the Bureau of Forestry is required to apply to LURC for a permit for the proposed budworm spray program.

Under current Commission Standards, the following uses of land do not require a permit:

"forest management activities including timber harvesting; agriculture, fire prevention activities, wildlife management practices, and soil and water conservation practices," Standards, § 221, II. B. 1. C.
or

"emergency operations conducted for the public health, safety or general welfare such as resource protection, law enforcement, and search and rescue operations," Standards § 221, II. B. 1. g.

In our opinion, the spruce budworm spraying project would not require a permit by virtue of either of the foregoing Commission Standards. Further support for this conclusion lies in the fact that the Act appropriating funds for the State's share of the spruce budworm control program (L.D. 689), which has been enacted as an emergency measure, provides as follows:

". . . a severe outbreak of spruce budworm has developed in the forests of Maine, threatening the destruction of one of Maine's outstanding natural resources, threatening further destruction by fire and damage to wildlife and other environmental damage, and threatening the economy and employment of the State, and

". . . the following legislation is vitally necessary to control this outbreak so as to save the 3,500,000 acres of Maine forest to be sprayed and the other Maine forest lands which are vulnerable to the spread of this infestation."

In view of the foregoing, it is not necessary, in this opinion, to address the question whether the term "development" as that term is defined in 12 M.R.S.A. § 682.7 extends to programs like the spruce budworm spraying program.

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JOSEPH E. BRENNAN
Attorney General