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February 20, 1976

Abbie C. Page

Office of Energy Resources

Robert J. Stolt, Assistant

Attorney General

Interpretation of 5 M.R.S.A. §§ 5004 and 5006

This will respond to your memorandum of December 24, 1975, regarding the above subject.

Your memorandum inquires as to OER's coordination and funding activities under Sections 5004(3)(F) and 5006. Specifically you ask whether these sections or any section, part, or subpart of the Energy Resources Act (5 M.R.S.A. § 5004, et seq.) requires all requests for energy research and development funds be channeled through the State Office of Energy Resources or whether an applicant may deal directly with the appropriate funding agency.

The sections of the Energy Resources Act applicable to your inquiry are §§ 5004(3)(F), 5005(1)(G), 5005(1)(H) and 5006. Sections 5004(3)(F) and 5005(1)(G) and (H) are directory as opposed to mandatory, i.e., they are mere directions without obligatory force. See Opinion of the Justices, 124 Me. 453, 468-469 (1924). Thus OER's coordination activity can be accomplished only with the cooperative effort of all state agencies, private organizations and the Federal Government involved in development of energy programs. OER's function is to diplomatically bring all of these factions to an harmonious working relationship.

Section 5006 designates OER as the state agency responsible for handling "all energy matters within the state which are not the specific responsibility of another state agency. . . ." In conjunction with this designation, OER is authorized to "accept, use and administer all energy funds, including federal, state and private. . . which become available pursuant to [the Energy Resources] Act." Essentially, that means that requests for research and development funds from the Maine Energy Resources Development Fund must be made to the Director of the Office of Energy Resources. OER does not have authority to require all requests for energy research and development funds regardless of the funding source to be channeled through its office. Applicants seeking funds from a funding agency other than OER may deal directly with that agency.

ROBERT J. STOLT
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RJS/ec