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*Agricultural Waste
Solid Waste*

1503-1

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6/29/78

MEMORANDUM

TO: Hollis A. McGlaufflin, Director, Bureau of Land Quality Control
FROM: Philip Ahrens, Assistant Attorney General
SUBJECT: Slaughterhouse Waste as "Solid Waste"
DATE: June 26, 1978

You have asked me whether slaughterhouse waste from a large-scale meat packing company is considered "agricultural wastes" within the context of the Maine Solid Waste Management Act (38 M.R.S.A. Section 1301 et seq.). Such waste should not be considered "agricultural waste." 1/

The facts which you have related to me are as follows. A packing company ("Company") purchases animals for butchering, packages the butchered meat (beef, lamb, pork and veal) for resale and transports by truck certain useless animal wastes and by-products ("slaughterhouse waste") to a private land disposal site. The Solid Waste Division of the Department of Environmental Protection has requested the Company to apply for approval of its disposal site pursuant to the Maine Solid Waste Management Act ("Act"), 38 M.R.S.A. Section 1301 et seq. The Company claims that the slaughterhouse waste constitutes "agricultural wastes" and thus is exempted from the statutory definition of solid waste:

"Solid waste" means useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septic tank sludge or agricultural wastes. 38 M.R.S.A. Section 1303(7).
(emphasis added)

1/ You have also asked if the Company's disposal site is subject to the Act if the wastes are not exempt as "agricultural wastes." Whether the slaughterhouse waste constitutes "solid wastes" as defined at 38 M.R.S.A. Section 1303(7), and specifically whether the slaughterhouse waste is of "insufficient liquid content to be free flowing," is a factual determination best made by the Department.

May 25, 1978

The Act does not contain a statutory definition of "agricultural wastes." The legislative history of the Act is silent as to what the Legislature may have meant by "agricultural wastes" and the exemption accorded such wastes. Federal solid waste statutes do not contain a definition of agricultural wastes, but interestingly, specifically include agricultural wastes within the definition of solid waste. See Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6903(27)

All statutes should be interpreted to give effect to the manifest intent of the Legislature. The Act contains a Declaration of Policy as follows:

The Legislature declares it to be the policy of the State of Maine consistent with its responsibility to protect the health, safety and welfare of its citizens, enhance and maintain the quality of the environment, conserve natural resources and prevent water and air pollution, that it shall encourage solid waste programs, public or private, which will reduce the volume of solid waste production, improve efforts to reuse and recover valuable resources currently being wasted and which will not adversely affect the public health, safety and welfare of the citizens nor degrade the environment.

The Legislature also finds and declares that economic, efficient and environmentally sound method of waste disposal is of the highest priority. Municipalities are generating increasing amounts of solid waste with no systematic or consistent methods being used to reduce the volume of waste or to soundly dispose of it. Failure to plan properly for future solid waste may further deplete already taxed natural resources and aggravate environmental and public health problems resulting from present inadequate practices of resource recovery and solid waste disposal. 38 M.R.S.A. Section 1302. (emphasis added).

It is apparent from the Declaration of Policy that the Legislature intended the Act to be broadly interpreted within the spirit of the policy declaration and that any exemptions should be construed narrowly. Thus "agricultural wastes" should not be read so as to include all operations which, although connected with the raising of livestock and the preparation of livestock for consumption, are primarily commercial or industrial in nature.

It is helpful to note that commercial and industrial solid waste are terms specifically recognized in the Act. 38 M.R.S.A. Section 1305 states that "Each municipality shall provide a solid waste disposal facility for domestic and commercial solid waste generated within the municipality and may provide such a facility for industrial wastes...." (emphasis added).

May 25, 1978

Webster's Third New International Dictionary defines "commerce," "industry" and "agriculture" as follows:

Commerce - the exchange or buying and selling of commodities, especially on a large scale and involving transportation from place to place.

Industry - a department or branch of a craft, art, business or manufacture: a division of productive or profit-making labor, especially one that employs a large personnel and capital especially in manufacturing.

Agriculture - a. the science or art of cultivating the soil, harvesting crops, and raising livestock: Tillage, Husbandry, Farming. b. the science or art of the production of plants and animals useful to man and in varying degrees the preparation of these products for man's use and their disposal (as by marketing). (emphasis added). 1/

1/ The above dictionary definition of "agriculture" was adopted by the Maine Supreme Judicial Court in Dionne v. Blier, 226 A.2d 527 (Me. 1967), where the Court found that an employee who was grading, sorting and packing potatoes at the employer's potato house at a railroad station was engaged in "agriculture" within the workman's compensation statutes. However, Dionne can be distinguished from the case you have presented. In Dionne, it was stipulated that "...all of the potatoes which were stored in the house in which the Plaintiff sustained his accident and was injured, were potatoes which had been planted, grown, harvested and stored by the Defendant and that he was not, at this time, engaged in the grading, packing and shipping of potatoes which had been grown and harvested by any other farmer, but was dealing with his own potatoes." 226 A.2d at 528. The Court later stated "If the grading, sorting and packing had been carried out in a potato house at Defendant's farm, the agricultural character of the work under the Act would not be questioned. The fact that the potatoes had been transported from the farm to the potato house at the railroad did not alter or change the activity from agriculture to commerce or industry with consequent application of Section 3 denying the defenses." 226 A.2d at 529. Thus in Dionne the employer was engaged in the complete potato operation from growing through final shipping; in the case you present to me, the slaughterhouse operation is a separate and distinct operation conducted by an independent corporation which is involved in only a limited part of the livestock business. The Court in Dionne, citing Larson's Workmen's Compensation Law, conceded that "excessive specialization, commercialization or marketing by the farmer may cause the work to lose its agricultural standing." 226 A.2d at 529.

May 25, 1978

It is clear that certain operations are more properly considered "commercial" or "industrial" rather than as "agricultural." Such a distinction was recognized in H. Duys & Co., Inc. v. Tone, 5 A.2d 23 (Conn. 1939), where the Court stated:

However, many activities connected with preparation of farm products for use or sale which formerly were carried on upon the farm or in intimate connection with it, such as the making of butter, cheese and cider have gradually become specialized and removed from the farm, and when this is done such work may properly be regarded as thereby becoming industrial in nature rather than agricultural in the common conception of that term. 5 A.2d 23, 28.

Other activities which are carried out in Maine which are considered "commercial" or "industrial," rather than "agricultural," include canneries (e.g. blueberries), tanneries (animal hides), potato processing and paper mills. Each of the above-noted activities may fall within a broad literal interpretation of the dictionary definition of "agriculture," but it would be highly improbable that the Legislature intended those activities to be considered "agricultural" rather than "commercial" or "industrial."

The operations undertaken by the Company you have described should be considered as "commercial" or "industrial" rather than as "agricultural." The slaughtering operation is a specialized process involving a large number of livestock; the animals are not raised by the Company but are purchased, ready for slaughter; the slaughtering operation is the primary work performed by the Company.

It is therefore the opinion of this office that slaughterhouse waste from a large-scale meat packing company should not be considered "agricultural wastes" within the context of the Maine Solid Waste Management Act.

PA:ldp

cc: Representative Elizabeth Mitchell

Robert Long, Vassalboro Town Manager