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STATE OF MAINE

79-164

Inter-Departmental Memorandum Date September 7, 1979

To Albert Willis

Dept. Bureau of Forestry

From Jeffrey R. Pidot, Assistant

Dept. Attorney General

Subject Bureau of Forestry Responsibility for Structural Fires

You have inquired whether the Maine Bureau of Forestry has any legal responsibility either (1) to provide fire protection for buildings and structures within the Maine Forestry District (the "District"), or (2) to reimburse municipalities which are not part of the District for costs of structural fire protection services voluntarily provided to unorganized townships within the District. For the following reasons, my response to both of these questions is in the negative.

Under its legislation,* the Bureau of Forestry is to "have the responsibility for the control of forest fires in all areas of the State." 12 M.R.S.A. § 8002(1)(a). The Bureau of Forestry has a direct obligation to provide for prevention and control of forest fires in the Maine Forestry District and, in addition, has more indirect responsibilities with respect to forest fire control in municipalities outside of the District. 12 M.R.S.A. §§ 1203, 9201. However, there is in the Bureau's statutes no creation of any power or duty, nor indeed is there any broad expression of any purpose or intent, which may be said to obligate the Bureau to undertake control or suppression of building or other structural fires which do not affect the forest resource.

The second part of your question is whether the Bureau may have some duty to reimburse municipalities which are not members of the District for structural fire control services which are volunteered to landowners within the District. Again, absent some expression of legislative direction in this matter, no such obligation may be said to exist.

The Bureau's laws do provide for partial reimbursement of costs incurred by municipalities which are members of the District "for fire protection other than what the Maine Forestry District provides." 12 M.R.S.A. § 1601-A. While the purposes for which such reimbursement may be applied are less than precisely stated in the law, the availability of such reimbursements is clearly limited to member municipalities in the District.

Municipalities which are not members of the District are provided by the Bureau of Forestry partial reimbursement for costs incurred in controlling and extinguishing forest fires. 12 M.R.S.A. §§ 9204, 9205. However, such reimbursement is clearly limited to costs incurred for forest fire protection.

* I have considered your questions in light of the statutes of the Bureau of Forestry as recodified in 1979. 12 M.R.S.A. §§ 8001, et seq., P.L. 1979, c. 545. This recodification, which did not substantively alter the preexisting law with respect to the matters here in issue, will take effect on September 14, 1979.

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In sum, there appears no requirement in the Bureau's statutes that it either directly furnish structural fire protection services or reimburse municipalities, not members of the District, for costs incurred in providing such services to landowners within the District. These conclusions are further supported by the fact that, as to many of the unorganized townships within the District, the law provides that the respective county commissioners may make arrangements for the provision of and payment for structural fire protection services. 30 M.R.S.A. §§ 1201, 1202.

If I can be of any further assistance in this matter, please let me know.

JRP/d

cc: Steve Diamond ✓