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November 24, 2015

Senator Thomas Saviello, Chair
Representative Craig Hickman, Chair
Commission To Study the Public Reserved Lands Management Fund
c/o Legislative Information
100 State House Station
Augusta ME 04333-0100

Dear Senator Saviello and Representative Hickman:

On October 15, 2015, you wrote seeking guidance from this Office as to whether three proposed uses of revenue from Public Reserved Lands would be consistent with the public trust limitations on the use of such revenue. These limitations are embodied in Article X of the Maine Constitution. I responded by letter of October 26, 2015, providing an overview of the governing law and offering some observations about how that law applies to the proposed uses identified in your letter. You have now asked for additional guidance regarding whether a fourth proposed use – funding educational programs related to forestry and logging at public and private institutions in Maine, including purchasing and maintaining teaching equipment – would be constitutionally permissible.

Please see my letter of October 26, 2015, for a more detailed discussion of two opinions addressing this issue and the general parameters of these trust funds.

One of the original uses for which the Public Reserved Lands were set aside was to support schools, and education through public institutions likely remains a permissible use of revenue derived from these lands. *Opinion of the Justices*, 308 A.2d 253, 254, 270-71 (Me. 1973). The Legislature, as trustee, has some discretion to determine what, if any, public educational programs or expenses should be funded with this revenue. Any legislation authorizing expenditure of Public Reserve Land revenue for these or other purposes should acknowledge the exercise of the Legislature's authority as trustee, and should include specific fact-finding as to why the expenditure is consistent with public trust limitations.

Your letter also mentions the possibility of funding educational programs at private institutions. Directing Public Reserve Lands revenue, or any public money, to private educational institutions could create constitutional concerns. If your Commission develops a concrete proposal to use the revenue in this way, or if the Legislature is presented with one, I would be happy to review it and offer my thoughts at that time. I hope this information is helpful to the Committee.

Sincerely,

Janet T. Mills
Attorney General