

**Selectmen's OFFICE**  
**Town Of Montville, Maine**

414 CENTER ROAD  
MONTVILLE, MAINE 04941

May 13, 2008

Seth Bradstreet, III, Commissioner  
Maine Department of Agriculture  
Food and Rural Resources  
28 State House Station  
Augusta, Maine 04333

Dear Commissioner Bradstreet:

This letter is a response to your letter of April 10, 2008 stating that the Town of Montville's Genetically Modified Organisms (GMO) Ordinance is invalid. Your stated reason is the Town's failure to comply with the reporting requirement of 17 MSRA 2805(4).

In our opinion, this reporting requirement does not apply to Montville's ordinance because the ordinance applies to plants, animals, and seeds, which by statute are "products" not "operations".

2805(1)(B) "Farm operation" means a condition or activity that occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, operations giving rise to noise, odors, dust, insects and fumes; operation of machinery and irrigation pumps; ground and aerial seeding; ground spraying and disposal of manure; the application of chemical fertilizers, soil amendments, conditioners and pesticides; and the employment and use of labor.

2805(1)(C) "Farm product" means those plants and animals useful to humans and includes, but is not limited to forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products.

**2805(4) Application; municipal ordinances.** This section does not affect the application of state and federal laws. After the effective date of this subsection, a municipality must provide the Commissioner of Agriculture, Food and Rural Resources with a copy of any proposed ordinance that impacts farm operations. The clerk of the municipality or a municipal official designated by the clerk shall submit a copy of the proposed ordinance to the commissioner at least 90 days prior to the meeting of the legislative body or public hearing at which adoption of the ordinance will be considered. The commissioner shall review the proposed

ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. This subsection does not affect municipal authority to enact ordinances.

By making a clear distinction between “products” and “operations” we believe the statute was not intended to apply to “products.”

Although 2805(4) requires the Commissioner to review a proposed ordinance with respect to best management practices, it is our understanding that there are currently no best management practices for GMOs. In fact LD1650, just signed into law on April 14, directs the Maine Department of Agriculture to establish best management practices for the use of genetically engineered crops.

And finally, the Town of Montville has enacted a valid municipal ordinance whereby its citizens have exercised their right of municipal sovereignty to ensure the genetic integrity of their food system.

Sincerely,

Jay LeGore, 1<sup>st</sup> Selectperson

Glen Widmer, 2<sup>nd</sup> Selectperson

Herman Peaslee, 3<sup>rd</sup> Selectperson