

MAINE STATE LEGISLATURE

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COMMITTEE ON:
ENERGY AND NATURAL RESOURCES

LD#:

2244

TITLE:

An Act to Reclassify Surface Waters of the State

HEARING DATE:

2/13/90

WORK SESSION DATE:

2-22-90

REPORTED OUT DATE:

3-6-90

COMMITTEE REPORT:

OTPAIM.



114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2244

H.P. 1622

House of Representatives, January 26, 1990

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative LORD of Waterboro.

Cosponsored by Representative GOULD of Greenville, Representative DEXTER of Kingfield and Representative JACQUES of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Reclassify Surface Waters of the State.



Be it enacted by the People of the State of Maine as follows:

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3 Sec. 1. 38 MRSA §467, first ¶, as enacted by PL 1985, c. 698,
4 §15, is amended to read:

6 All surface waters lying within the boundaries of the State
7 which that are in river basins having a drainage area greater
8 than 100 square miles which that are not classified as lakes or
9 ponds and are ~~not-otherwise~~ classified in this section are ~~Class~~
10 ~~B-~~waters.

12 Sec. 2. 38 MRSA §467, sub-§§2, 3 and 5, as enacted by PL 1985,
13 c. 698, §15, are amended to read:

14 2. **Dennys River Basin.**

16 A. Dennys River, main stem.

18 (1) From the outlet of Meddybemps Lake to the Route 1
20 Bridge bridge - Class AA.

22 (2) From the Route 1 bridge to tidewater - Class B.
23 Further, the Legislature finds that the free-flowing
24 habitat of this river segment provides irreplaceable
25 social and economic benefits and that this use must be
26 maintained.

28 B. Dennys River, tributaries - Class A unless otherwise
29 specified.

30 (1) All tributaries entering above below the Route 1
32 bridge - Class A B.

34 3. **East Machias River Basin.**

36 A. East Machias River, main stem.

38 (1) From the outlet of Pocomoonshine Lake to a point
39 located 0.25 miles above the Route 1 bridge - Class AA.

40 (2) From a point located 0.25 miles above the Route 1
42 bridge to tidewater - Class G B. Further, the
43 Legislature finds that the free-flowing habitat of this
44 river segment provides irreplaceable social and
45 economic benefits and that this use must be maintained.

46 B. East Machias River, tributaries - Class A unless
48 otherwise specified.

50 (1) All tributaries entering above below the Route 191
51 bridge in Jacksonville - Class A B.

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5. Machias River Basin.

A. Machias River, main stem.

(1) From the outlet of Fifth Machias Lake to its confluence with the a point 100 feet upstream of the Route 1A bridge in Whitneyville Mill Pond - Class AA.

(2) ~~From the outlet of the a point 100 feet upstream of the Route 1A bridge in Whitneyville Mill Pond to the site of the low dam opposite the ends of West Street and Hardwood Street in Machias to tidewater~~ - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

~~(3) From the site of the low dam opposite the ends of West Street and Hardwood Street in Machias to tidewater~~ --Class-G.

B. Machias River, tributaries - Class A unless otherwise specified.

(1) All tributaries entering above ~~the river's confluence with the~~ below Route 1A in Whitneyville Mill Pond which are not otherwise classified - Class A B.

(2) Mopang Stream, from the outlet of Mopang Second Lake to its confluence with the Machias River - Class AA.

(3) Old Stream, from the outlet of First Lake to its confluence with the Machias River - Class AA.

(4) West Branch of the Machias River, from the outlet of Lower Sabao Lake to its confluence with the Machias River - Class AA.

(5) New Stream, in Northfield and Wesley - Class AA.

Sec. 3. 38 MRSA §467, sub-§6, ¶B, as enacted by PL 1985, c. 698, §15, is amended to read:

B. Mousam River, tributaries - Class B.

~~(1) East Branch of Shaker Brook from the Route 4 bridge to the Alfred Waterbere boundary~~ --Class-G.

~~(2) Hay Brook (Alfred and Sanford)~~ --Class-G.

2 ~~(3) -- Unnamed Brook, entering the East Branch of Shaker~~
3 ~~Breek from the west just below Waterboro Village --~~
4 ~~Class C.~~

6 **Sec. 4. 38 MRSA §467, sub-§7, as amended by PL 1987, c. 192,**
7 **§18, is repealed and the following enacted in its place:**

8 **7. Penobscot River Basin.**

10 **A. Penobscot River, main stem.**

12 (1) From the confluence of the East Branch and the
13 West Branch to the confluence of the Mattawamkeag
14 River, including all impoundments - Class C.

16 (2) From the confluence of the Mattawamkeag River to
17 the confluence of Cambolasse Stream - Class B.

18 (3) From the confluence of Cambolasse Stream to the
19 confluence of the Piscataquis River, including all
20 impoundments - Class C.

22 (4) From the confluence of the Piscataquis River,
23 including the Stillwater Branch, to the Veazie dam,
24 including all impoundments - Class B.

26 (5) From the Veazie dam, but not including the Veazie
27 dam, to the Maine Central Railroad bridge in
28 Bangor-Brewer - Class B. Further, the Legislature
29 finds that the free-flowing habitat of this river
30 segment provides irreplaceable social and economic
31 benefits and that this use must be maintained.

34 (6) From the Maine Central Railroad bridge in Bangor
35 to a line extended in an east-west direction from the
36 confluence of Reeds Brook in Hampden - Class C.
37 Further, the Legislature finds that the free-flowing
38 habitat of this river segment provides irreplaceable
39 social and economic benefits and that this use must be
40 maintained.

42 **B. Penobscot River, East Branch Drainage.**

44 (1) East Branch of the Penobscot River, main stem.

46 (a) Above its confluence with Grand Lake
47 Mattagamon - Class A.

48 (b) From the dam at the outlet of Grand Lake
49 Mattagamon to a point located 1,000 feet
50 downstream from the dam - Class A.

2 (c) From a point located 1,000 feet downstream
3 from the dam at the outlet of Grand Lake
4 Mattagamon to its confluence with the West Branch
5 - Class AA.

6 (2) East Branch of the Penobscot River, tributaries -
7 Class A unless otherwise specified.

8 (a) All tributaries, any portion of which is
9 located within the boundaries of Baxter State Park
10 - Class AA.

11 (b) Sawtelle Brook, from a point located 1,000
12 feet downstream from the dam at the outlet of
13 Sawtelle Deadwater to its confluence with the
14 Seboeis River - Class AA.

15 (c) Seboeis River, from the outlet of Snowshoe
16 Lake to its confluence with the East Branch -
17 Class AA.

18 (d) Wassataquoik Stream, from the boundary of
19 Baxter State Park to its confluence with the East
20 Branch - Class AA.

21 (e) Webster Brook, from a point located 1,000
22 feet downstream from the dam at the outlet of
23 Telos Lake to its confluence with Webster Lake -
24 Class AA.

25 C. Penobscot River, West Branch Drainage.

26 (1) West Branch of the Penobscot River, main stem.

27 (a) From the dam at the outlet of Seboomook Lake
28 to a point located 1,000 feet downstream from the
29 dam - Class A.

30 (b) From a point located 1,000 feet downstream
31 from the dam at the outlet of Seboomook Lake to
32 its confluence with Chesuncook Lake - Class AA.

33 (c) From Ripogenus Dam to a point located 250
34 feet below McKay Station - Class A.

35 (d) From a point located 250 feet below McKay
36 Station to its confluence with Debsconeag
37 Deadwater - Class AA.

38 (e) From its confluence with Debsconeag Deadwater
39 to the outlets of Ferguson and Quakish Lakes -
40 Class A.

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(f) From the outlet of Ferguson Lake and Ouakish Lake to its confluence with the East Branch of the Penobscot River, including all impoundments - Class C.

(2) West Branch of the Penobscot River, tributaries - Class A unless otherwise specified.

(a) Those segments of any tributary which are within the boundaries of Baxter State Park - Class AA.

(b) Those tributaries above the confluence with the Debsconeag Deadwater, any portion of which is located within the boundaries of Baxter State Park - Class AA.

(c) Millinocket Stream, from the railroad bridge near the Millinocket-T.3 Indian Purchase boundary to its confluence with the West Branch Canal - Class B.

(d) Millinocket Stream from the confluence of the West Branch Canal to its confluence with the West Branch of the Penobscot River - Class C.

D. Mattawamkeag River Drainage.

(1) Mattawamkeag River, main stem.

(a) From the confluence of the East Branch and the West Branch to the Kingman-Mattawamkeag boundary - Class B.

(b) From the Kingman-Mattawamkeag boundary to its confluence with the Penobscot River - Class AA.

(2) Mattawamkeag River, tributaries - Class B.

E. Piscataquis River Drainage.

(1) Piscataquis River, main stem.

(a) From the confluence of the East Branch and the West Branch to the Route 15 bridge in Guilford - Class A.

(b) From the Route 15 bridge in Guilford to the Maine Central Railroad bridge in Dover-Foxcroft - Class C.

2 (c) From the Maine Central Railroad bridge in
4 Dover-Foxcroft to its confluence with the
6 Penobscot River - Class B.

8 (2) Piscataquis River, tributaries - Class B unless
10 otherwise specified.

12 (a) Except as otherwise provided, East and West
14 Branches of the Piscataquis River and their
16 tributaries above their confluence near Blanchard
18 - Class A.

20 (b) East Branch of the Piscataquis River from
22 1,000 feet below Shirley Pond to its confluence
24 with the West Branch - Class AA.

26 (c) Pleasant River, East Branch and its
28 tributaries - Class A.

30 (d) Pleasant River, West Branch, from the outlet
32 of Fourth West Branch Pond to its confluence with
34 the East Branch - Class AA.

36 (e) Pleasant River, West Branch tributaries -
38 Class A.

40 (f) Sebec River and its tributaries above Route 6
42 in Milo - Class A.

44 (g) West Branch of the Piscataquis River from
46 1,000 feet below West Shirley Bog to its
48 confluence with the East Branch - Class AA.

50 F. Penobscot River, minor tributaries - Class B unless
52 otherwise specified.

54 (1) Alamoosook Lake tributaries - Class A.

56 (2) Cambolasee Stream (Lincoln) below the Route 2
bridge - Class C.

(3) Great Works Stream (Bradley) and its tributaries
above the Route 178 bridge - Class A.

(4) Kenduskeag Stream (Bangor) below the Bullseye
Bridge - Class C.

(5) Mattanawcook Stream (Lincoln) below the outlet of
Mattanawcook Pond - Class C.

(6) Olamon Stream and its tributaries above the bridge
on Horseback Road - Class A.

(7) Passadumkeag River and its tributaries - Class A.

(8) Sourdabscook Stream and its tributaries above the
dam of the Hampden Water District - Class A.

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(9) Sunkhaze Stream and its tributaries - Class AA.

G. The Legislature recognizes that certain hydropower projects presently exist on river segments classified in this subsection. In adopting the classifications for these segments, the Legislature does not intend to impose any requirements beyond those imposed by the classification prior to adoption of this subsection nor does the Legislature intend to adversely affect the operation of these projects and finds that continued operation of these projects, including necessary repair, replacement and maintenance, meets the classification assigned to the respective river segment pursuant to this subsection.

Sec. 5. 38 MRSA §467, sub-§8, as enacted by PL 1985, c. 698, §15, is amended to read:

8. Pleasant River Basin.

A. Pleasant River, main stem.

(1) From the outlet of Pleasant River Lake to a point located 1,000 feet above tidewater the Maine Central Railroad bridge - Class B AA.

(2) From a point located 1,000 feet above tidewater the Maine Central Railroad bridge to tidewater - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

B. Pleasant River, tributaries - Class A unless otherwise specified.

(1) All tributaries entering below the Maine Central Railroad bridge - Class B.

(2) Bog Stream (Deblois) - Class B.

(3) Beaver Meadow Brook (Deblois) - Class B.

Sec. 6. 38 MRSA §467, sub-§9, ¶A, as enacted by PL 1985, c. 698, §15, is amended to read:

A. Presumpscot River, main stem.

(1) From the outlet of Sebago Lake to its confluence with Dundee Pond - Class A.

(2) From the outlet of Dundee Pond to a point located below the Village of South Windham Sacarappa Falls - Class B.

(3) From a point located below the Village of South Windham Sacarappa Falls to tidewater - Class C.

2 **Sec. 7. 38 MRSA §467, sub-§9, ¶B**, as enacted by PL 1985, c.
698, §15, is repealed and the following enacted in its place:

4 B. Presumpscot River, tributaries - Class A unless
6 otherwise specified.

8 (1) All tributaries entering below the outlet of
 Sebago Lake - Class B.

10 (2) Crooked River and its tributaries, excluding
12 existing impoundments and excluding that area of the
 river previously impounded at Scribners Mill - Class AA.

14 (3) Stevens Brook (Bridgton) - Class B.

16 **Sec. 8. 38 MRSA §467, sub-§10, ¶B**, as enacted by PL 1985, c.
18 698, §15, is amended to read:

20 B. Narraguagus River, tributaries - Class A unless
 otherwise specified.

22 (1) All tributaries entering above below the river's
24 confluence with the West Branch - Class A B.

26 (2) West Branch of the Narraguagus River and--its
 tributaries - Class A B.

28 **Sec. 9. 38 MRSA §467, sub-§11, ¶B**, as enacted by PL 1985, c.
30 698, §15, is repealed and the following enacted in its place:

32 B. Royal River, tributaries - Class B.

34 **Sec. 10. 38 MRSA §467, sub-§12, ¶A**, as enacted by PL 1985, c.
36 698, §15, is amended to read:

38 A. Saco River, main stem.

40 (1) From the Maine-New Hampshire boundary to its
 confluence with the impoundment of the Swan's Falls Dam
 - Class B A.

42 (2) From its confluence with the impoundment of the
44 Swan's Falls Dam to a point located 1,000 feet below
 the Swan's Falls Dam - Class B A.

46 (3) From a point located 1,000 feet below the Swan's
48 Falls Dam to its confluence with the impoundment of the
 Hiram Dam - Class B AA.

50 (4) From its confluence with the impoundment of the
52 Hiram Dam to a point located 1,000 feet below the Hiram
 Dam - Class B A.

2 (5) From a point located 1,000 feet below the Hiram
4 Dam to its confluence with the Little Ossipee River -
Class B AA.

6 (6) From its confluence with the Little Ossipee River
8 to its confluence with Thatcher Brook - Class B A.

10 (7) From its confluence with Thatcher Brook to
12 tidewater - Class C B.

14 **Sec. 11. 38 MRSA §467, sub-§12, ¶B**, as enacted by PL 1985, c.
16 698, §15, is repealed and the following enacted in its place:

18 B. Saco River, tributaries, those waters lying within the
20 State - Class B unless otherwise specified.

22 (1) All tributaries entering above the confluence of
24 the Ossipee River lying within the State and not
26 otherwise classified - Class A.

28 (2) Wards Brook (Fryeburg) - Class C.

30 **Sec. 12. 38 MRSA §467, sub-§13**, as amended by PL 1987, c. 192,
32 §20, is repealed and the following enacted in its place:

34 **13. St. Croix River Basin.**

36 A. St. Croix River, main stem.

38 (1) Except as otherwise provided, from the outlet of
40 Chiputneticook Lakes to its confluence with the
42 Woodland Lake impoundment, those waters lying within
44 the State - Class A.

46 (2) Those waters of the Grand Falls Flowage between
48 Route 1 (Princeton and Indian Township) and Black Cat
50 Island - Class B.

52 (3) Woodland Lake impoundment - Class C.

(4) From the Woodland Dam to tidewater, those waters
lying within the State, including all impoundments -
Class C.

B. St. Croix River, tributaries, those waters lying within
the State - Class B unless otherwise specified.

(1) All tributaries entering upstream from the dam at
Calais, the drainage areas of which are wholly within
the State - Class A unless otherwise classified.

2 **Sec. 13. 38 MRSA §467, sub-§14**, as enacted by PL 1985, c. 698,
§15, is repealed and the following enacted in its place:

4 **14. St. George River Basin.**

6 **A. St. George River, main stem.**

8 (1) From the outlet of Little Pond to the confluence
10 with Stevens Pond, from the outlet of Stevens Pond to
12 the confluence with Trues Pond, and from the outlet of
 Trues Pond to the confluence with Sennebec Pond - Class
 AA.

14 (2) From the outlet of Sennebec Pond to Route 90,
 excluding segments that are great ponds - Class A.

16 (3) From Route 90 to tidewater - Class B.

18 **B. St. George River, tributaries - Class A unless otherwise**
20 **specified.**

22 (1) Quiggle Brook (Warren, Union, Hope) - Class B.

24 (2) All tributaries entering downstream of Route 90 in
26 Warren - Class B.

28 **Sec. 14. 38 MRSA §467, sub-§15**, as amended by PL 1987, c. 192,
§§21 and 22, is repealed and the following enacted in its place:

30 **15. St. John River Basin.**

32 **A. St. John River, main stem.**

34 (1) From the confluence of the Northwest Branch and
36 the Southwest Branch to a point located one mile above
 the foot of Big Rapids in Allagash - Class AA.

38 (2) From a point located one mile above the foot of
40 Big Rapids in Allagash to the international bridge in
42 Fort Kent, those waters lying within the State,
 including all impoundments - Class A.

44 (3) From the international bridge in Fort Kent to the
46 international bridge in Madawaska, those waters lying
 within the State, including all impoundments - Class B.

48 (4) From the international bridge in Madawaska to
50 where the international boundary leaves the river in
 Hamlin, those waters lying within the State, including
 all impoundments - Class C.

2 B. Allagash River Drainage.

4 (1) Allagash River, main stem.

6 (a) From Churchill Dam to a point located 1,000
feet downstream from Churchill Dam - Class A.

8 (b) From a point located 1,000 feet downstream
from Churchill Dam to its confluence with Gerald
10 Brook in Allagash - Class AA.

12 (c) From its confluence with Gerald Brook in
Allagash to its confluence with the St. John River
14 - Class A.

16 (2) Allagash River, tributaries - Class A unless
otherwise specified.

18 (a) Allagash Stream, from the outlet of Allagash
20 Lake to its confluence with Chamberlain Lake -
Class AA.

22 (b) Chemguasabamticook Stream, from the outlet of
24 Chemguasabamticook Lake to its confluence with
Long Lake - Class AA.

26 (c) Musquacook Stream, from the outlet of Third
28 Musquacook Lake to its confluence with the
Allagash River - Class AA.

30 C. Aroostook River Drainage.

32 (1) Aroostook River, main stem.

34 (a) From the confluence of Millinocket Stream and
36 Munsungan Stream to its confluence with the
Machias River - Class AA.

38 (b) From its confluence with the Machias River to
40 the Sheridan Dam - Class B.

42 (c) From the Sheridan Dam to its confluence with
Presque Isle Stream, including all impoundments -
44 Class B.

46 (d) From its confluence with Presque Isle Stream
to a point located 3.0 miles upstream of the
48 intake of the Caribou water supply, including all
impoundments - Class C.

50 (e) From a point located 3.0 miles upstream of
52 the intake of the Caribou water supply to a point

2 located 100 yards downstream of the intake of the
3 Caribou water supply, including all impoundments -
4 Class B.

6 (f) From a point located 100 yards downstream of
7 the intake of the Caribou water supply to the
8 international boundary, including all impoundments
9 - Class C.

10 (2) Aroostook River, tributaries, those waters lying
11 within the State - Class A unless otherwise specified.

12 (a) All tributaries of the Aroostook River
13 entering below the confluence of the Machias River
14 that are not otherwise classified - Class B.

16 (b) Little Machias River and its tributaries -
17 Class A.

20 (c) Little Madawaska River and its tributaries,
21 including Madawaska Lake tributaries above the
22 Route 161 bridge in Stockholm - Class A.

24 (d) Machias River, from the outlet of Big Machias
25 Lake to the Garfield Plantation-Ashland boundary -
26 Class AA.

28 (e) Millinocket Stream, from the outlet of
29 Millinocket Lake to its confluence with Munsungan
30 Stream - Class AA.

32 (f) Munsungan Stream, from the outlet of Little
33 Munsungan Lake to its confluence with Millinocket
34 Stream - Class AA.

36 (g) Presque Isle Stream and its tributaries above
37 its confluence with, but not including, the North
38 Branch of the Presque Isle Stream - Class A.

40 (h) St. Croix Stream from its confluence with
41 Hall Brook in T.9, R.5, W.E.L.S. to its confluence
42 with the Aroostook River - Class AA.

44 D. Fish River Drainage.

46 (1) Fish River, main stem.

48 (a) From the outlet of Mud Pond to its confluence
49 with St. Froid Lake - Class AA.

50 (b) From the outlet of St. Froid Lake to its
51 confluence with Eagle Lake - Class A.

2 (c) From the outlet of Eagle Lake to its
4 confluence with Soldier Pond - Class A.

6 (d) From the outlet of Soldier Pond to its
8 confluence with the St. John River - Class B.

10 (2) Fish River, tributaries - Class B unless otherwise
12 specified.

14 (a) All tributaries entering above the Route 11
16 bridge - Class A.

18 E. Meduxnekeag River Drainage.

20 (1) Meduxnekeag River, main stem.

22 (a) From the outlet of Meduxnekeag Lake to the
24 international boundary - Class B.

26 (2) Meduxnekeag River, tributaries - Class B unless
28 otherwise specified.

30 (a) North Branch of the Meduxnekeag River and its
32 tributaries above the Monticello - T.C, R.2,
34 W.E.L.S. boundary - Class A.

36 F. St. John River, minor tributaries, those waters lying
38 within the State - Class A unless otherwise specified.

40 (1) Except as otherwise classified, all minor
42 tributaries of the St. John River entering below the
44 international bridge in Fort Kent, those waters lying
46 within the State - Class B.

48 (2) Baker Branch, from a point located 1.5 miles below
50 Baker Lake to its confluence with the Southwest Branch
52 - Class AA.

(3) Big Black River, from the international boundary
 to its confluence with the St. John River - Class AA.

(4) Northwest Branch, from the outlet of Beaver Pond
 in T.12, R.17, W.E.L.S. to its confluence with the St.
 John River - Class AA.

(5) Prestile Stream from its source to Route 1A in
 Mars Hill - Class A.

(6) Southwest Branch, from a point located 5 miles
 downstream of the international boundary to its
 confluence with the Baker Branch - Class AA.

2 **Sec. 15. 38 MRSA §467, sub-§16, ¶B** is enacted to read:

4 B. Salmon Falls River, tributaries, those waters lying
6 within the State - Class B.

8 **Sec. 16. 38 MRSA §467, sub-§17**, as enacted by PL 1985, c. 698,
§15, is amended to read:

10 **17. Sheepscot River Basin.**

12 A. Sheepscot River, main stem.

14 (1) From its origin in Montville to ~~tidewater~~ Route 17
16 - Class B. Further, the Legislature finds that the
18 free-flowing habitat of this river segment provides
 irreplaceable social and economic benefits and that
 this use must be maintained.

20 (2) From Route 17 to tidewater - Class AA.

22 B. Sheepscot River, tributaries - Class B unless otherwise
24 specified.

26 (1) West Branch of the Sheepscot River, main stem,
 from the outlet of Branch Pond to its confluence with
28 the Sheepscot River - Class B AA.

30 **Sec. 17. 38 MRSA §467, sub-§18**, as enacted by PL 1985, c. 698,
§15, is repealed and the following enacted in its place:

32 **18. Union River Basin.**

34 A. Union River, main stem.

36 (1) From the outlet of Graham Lake to tidewater -
38 Class B.

40 B. Union River, tributaries - Class A unless otherwise
 specified.

42 (1) Tributaries entering below the outlet of Graham
44 Lake - Class B.

46 (2) Outlet of Green Lake (Ellsworth) - Class B.

48 **Sec. 18. 38 MRSA §468, first ¶**, as enacted by PL 1985, c. 698,
§15, is amended to read:

50 All surface waters lying within the boundaries of the State
52 which that are in basins having a drainage area less than 100
 square miles which that are not classified as lakes or ponds and

2 which are not otherwise classified in this section are ~~Class B~~
waters.

4 **Sec. 19. 38 MRSA §468, sub-§§1 to 9**, as enacted by PL 1985, c.
698, §15, are repealed and the following enacted in their place:

6 **1. Cumberland County.** Those waters draining directly or
8 indirectly into tidal waters of Cumberland County, with the
exception of the Androscoggin River Basin, the Presumpscot River
10 Basin, the Royal River Basin and tributaries of the Androscoggin
River Estuary and Merrymeeting Bay, entering above the Chops -
12 Class B unless otherwise specified.

14 **A. Freeport.**

16 (1) Frost Gully Brook - Class A.

18 **B. Portland.**

20 (1) All minor drainages unless otherwise specified -
Class C.

22 (2) Stroudwater River from its origin to tidewater -
24 Class B.

26 **C. Scarborough.**

28 (1) All minor drainages - Class C unless otherwise
specified.

30 (2) Finnard Brook - Class B.

32 (3) Stuart Brook - Class B.

34 **D. South Portland.**

36 (1) All minor drainages - Class C.

38 **2. Hancock County.** Those waters draining directly or
40 indirectly into tidal waters of Hancock County, with the
exception of the Union River Basin - Class B unless otherwise
42 specified.

44 **A. All brooks, streams and segments of those brooks and**
streams that are within the boundaries of Acadia National
46 Park - Class AA.

48 **B. Blue Hill.**

50 (1) Carleton Stream, main stem, between First Pond and
Second Pond - Class C.

2 (2) Carleton Stream, main stem, from the outlet of
4 First Pond to tidewater at Salt Pond - Class C.

6 C. Orland.

8 (1) Alamoosook Lake, tributaries - Class A.

10 3. Knox County. Those waters draining directly or
12 indirectly into tidal waters of Knox County, with the exception
14 of the St. George River Basin - Class B unless otherwise
16 specified.

18 4. Lincoln County. Those waters draining directly or
20 indirectly into tidal waters of Lincoln County entering above the
22 Chops, with the exception of the Sheepscot River Basin and
24 tributaries of the Kennebec River Estuary and Merrymeeting Bay -
26 Class B unless otherwise specified.

28 5. Penobscot County. Those waters draining directly or
30 indirectly into tidal waters of Penobscot County, with the
32 exception of tributaries of the Penobscot River Estuary entering
34 north of a line extended in an east-west direction from the
36 outlet of Reeds Brook in the village of Hampden Highlands - Class
38 B unless otherwise specified.

40 6. Sagadahoc County. Those waters draining directly or
42 indirectly into tidal waters of Sagadahoc County entering above
44 the Chops, with the exception of tributaries of the Androscoggin
46 River Estuary, the Kennebec River Estuary and Merrymeeting Bay -
48 Class B unless otherwise specified.

50 7. Waldo County. Those waters draining directly or
52 indirectly into tidal waters of Waldo County - Class B unless
54 otherwise specified.

56 A. Ducktrap River from the outlet of Tilden Pond to
58 tidewater - Class AA.

60 8. Washington County. Those waters draining directly or
62 indirectly into tidal waters of Washington County, with the
64 exception of the Dennys River Basin, the East Machias River
66 Basin, the Machias River Basin, the Narraguagus River Basin and
68 the Pleasant River Basin - Class B unless otherwise specified.

70 A. Jonesboro.

72 (1) Chandler River and its tributaries above the
74 highway bridge on Route 1 - Class A.

2 B. Whiting.

4 (1) Orange River and its tributaries above the highway
bridge on Route 1 - Class A.

6 9. York County. Those waters draining directly or
indirectly into tidal waters of York County, with the exception
8 of the Saco River Basin, the Salmon Falls River Basin and the
Mousam River Basin - Class B unless otherwise specified.

10 A. Kennebunk.

12 (1) Branch Brook - Class A.

14 B. Sanford.

16 (1) Branch Brook - Class A.

18 (2) Merriland River - Class A.

20 C. Wells.

22 (1) Branch Brook - Class A.

24 (2) Merriland River - Class A.

26 **Sec. 20. 38 MRSA §469, sub-§1, ¶A, as enacted by PL 1985, c.
28 698, §15, is amended to read:**

30 A. Cape Elizabeth.

32 (1) Tidal waters of the Spurwink River system lying
34 westerly north of a line beginning at Portland Head
Light and running northerly to the southernmost point
of land on Cushing Island at latitude 43°-33'-44" N. -
36 Class SG SA.

38 **Sec. 21. 38 MRSA §469, sub-§1, ¶E-1 is enacted to read:**

40 E-1. Scarborough.

42 (1) Tidal waters of the Scarborough River system lying
44 north of a line running easterly from a point where the
old Boston and Maine Railroad line intersects the marsh
46 at latitude 43°-33'-06" N, longitude 70°-20'-58" W to a
point of land north of Black Rock at latitude
48 43°-33'-06" N, longitude 70°-19'-25" W, excluding those
tidal waters of Phillips Brook lying upstream of a
point 500 feet south of U.S. Route 1 - Class SA.

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2 (2) Tidal waters of the Spurwink River system lying
3 north of a line extending from Higgins Beach at
4 latitude 43°-33'-44" N. to the town line - Class SA.

6 **Sec. 22. 38 MRSA §469, sub-§1, ¶G**, as enacted by PL 1985, c.
698, §15, is repealed.

8 **Sec. 23. 38 MRSA §469, sub-§2, ¶I** is enacted to read:

10 I. Winter Harbor.

12 (1) Tidal waters lying south of a line running west
13 from the northernmost tip of Frazer Point to longitude
14 68°-05'-00" W. and east of longitude 68°-05'-00" W. -
15 Class SA.

16 **Sec. 24. 38 MRSA §469, sub-§3-A** is enacted to read:

18 3-A. Lincoln County.

20 A. Boothbay.

22 (1) Tidal waters lying south of the northernmost point
23 of Damariscope Island and west of longitude 69°-36'-00"
24 W. - Class SA.

26 **Sec. 25. 38 MRSA §469, sub-§5, ¶B** is enacted to read:

28 B. Phippsburg.

30 (1) Tidal waters east of longitude 69°-50'-05" W. and
31 west of longitude 69°-47'-00" W. - Class SA.

34 **Sec. 26. 38 MRSA §469, sub-§6, ¶C**, as enacted by PL 1985, c.
698, §15, is amended to read:

36 C. Searsport.

38 (1) Tidal waters located within a line beginning at
40 the southernmost point of land on Kidder Point and
41 running due east to the Searsport-Steekton-Springs
42 boundary; ~~thence~~ running southerly along the
43 Searsport-Steekton-Springs boundary western shore of
44 Sears Island to the southernmost point of Sears Island;
45 thence running due south to latitude 44°-25'-25" N.;
46 thence running due west to latitude 44°-25'-25" N.,
47 longitude 68°-54'-30" W.; thence running due north to
48 the shore of Mack Point at longitude 68°-54'-30" W.;
49 thence running along the shore in an easterly direction
50 to point of beginning - Class SC.

2 Sec. 27. 38 MRSA §469, sub-§7, as enacted by PL 1985, c. 698,
3 §15, is repealed and the following enacted in its place:

4 7. Washington County.

6 A. Beals.

8 (1) Tidal waters lying east of the line extending from
9 the westernmost point of Three Falls Point to the
10 easternmost point of Crumple Island; thence south along
11 longitude 67°-36'-47" W. - Class SA.

12 (2) Tidal waters lying south of a line extending from
13 the easternmost point of the southern shore of the Mud
14 Hole; thence extending along latitude 44°-29'-00" N. to
15 the town line - Class SA.

18 B. Calais.

20 (1) Tidal waters of the St. Croix River and its tidal
21 tributaries lying westerly of longitude 67°-14'-28" W.
22 - Class SC.

24 C. Cutler.

26 (1) All tidal waters except those waters in Machias
27 Bay and Little Machias Bay north of a line running from
28 the town line due east to the southernmost point of
29 Cross Island; thence running northeast to the
30 southeasternmost point of Cape Wash Island; thence
31 running northeast to the westernmost point of Deer
32 Island; thence running due north to the mainland; and
33 those waters lying northeast of a line running from the
34 easternmost point of Western Head to the easternmost
35 point of Eastern Knubble - Class SA.

36 D. Eastport.

38 (1) Tidal waters lying southerly of latitude
39 44°-54'-50" N., easterly of longitude 67°-02'-00" W.
40 and northerly of latitude 44°-53'-15" N. - Class SC.

42 E. Edmunds.

44 (1) All tidal waters - Class SA.

46 F. Lubec.

48 (1) Tidal waters, except those lying within 500 feet
49 of West Quoddy Head Light, south of a line beginning at
50 a point located on the northern shore of West Quoddy
51 Head at latitude 44°-49'-22" N., longitude 66°-59'-17"
52

2 W. and running northeast to the international boundary
3 at latitude 44°-49'-45" N., longitude 66°-57'-57" W. -
4 Class SA.

6 (2) Tidal waters west of a line running from the
7 eastermost point of Youngs Point to the eastermost
8 point of Leighton Neck in Pembroke - Class SA.

10 G. Milbridge.

12 (1) Tidal waters south of a line running from the town
13 line along latitude 44°-27'-39" N. to the northernmost
14 point of Currant Island; thence running southeasterly
15 to a point 1,000 feet from mean high tide on the east
16 shore of Bois Bubert Island; thence along a line
17 running 1,000 feet from mean high tide along Bois
18 Bubert Island to the southernmost point of the island;
19 thence running due south - Class SA.

20 H. Pembroke.

22 (1) Tidal waters west of a line running from the
23 eastermost point of Leighton Neck to the eastermost
24 point of Youngs Point in Lubec - Class SA.

26 I. Steuben.

28 (1) Tidal waters southeast of a line beginning at
29 Yellow Birch Head at latitude 44°-25'-05" N.; thence
30 running to longitude 67°-55'-00" W.; thence running due
31 south along longitude 67°-55'-00" W. - Class SA.

32 (2) Tidal waters southwest of a line beginning at a
33 point located south of Carrying Place Cove at latitude
34 44°-26'-18" N., longitude 67°-53'-14" W.; thence
35 running along latitude 44°-26'-18" N. east to the town
36 line - Class SA.

38 J. Trescott.

40 (1) All tidal waters - Class SA.

42 K. Whiting.

44 (1) Tidal waters of the Orange River - Class SA.

46 Sec. 28. 38 MRSa §469, sub-§8, as amended by PL 1987, c. 192,
48 §23, is repealed and the following enacted in its place:

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8. York County.

A. Biddeford.

(1) Tidal waters of the Saco River and its tidal tributaries lying westerly of longitude 70°-22'-54" W. - Class SC.

B. Kennebunk.

(1) Tidal waters of the Little River system lying north of latitude 43°-20'-10" N. - Class SA.

C. Kittery.

(1) Tidal waters of the Piscataqua River and its tidal tributaries lying westerly of longitude 70°-42'-52" W., southerly of Route 103 and easterly of Interstate Route 95 - Class SC.

(2) Tidal waters lying northeast of a line from Sisters Point; thence south along longitude 70°-40'-00" W. to the Maine-New Hampshire border; thence running southeast along the Maine-New Hampshire border to Cedar Ledge beyond the Isles of Shoals, except waters within 500 feet of the Isles of Shoal Research Station - Class SA.

D. Old Orchard Beach.

(1) Tidal waters of Goosefare Brook and its tidal tributaries lying westerly of longitude 70°-23'-08" W. - Class SC.

E. Saco.

(1) Tidal waters of Goosefare Brook and its tidal tributaries lying westerly of longitude 70°-23'-08" W. - Class SC.

(2) Tidal waters of the Saco River and its tidal tributaries lying westerly of longitude 70°-22'-54" W. - Class SC.

F. Wells.

(1) Tidal waters of the Little River system lying north of latitude 43°-20'-10" N. - Class SA.

2 G. York.

3 (1) Tidal waters lying southwest of a line from Seal
4 Head Point east along latitude 43°-07'-15" N. - Class
5 SA.

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8 **STATEMENT OF FACT**

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11 This bill completes the reclassification of the State's
12 waters begun in 1986 with the passage of the new water
13 reclassification program. This bill considers assignment of
14 classifications for all waters except those in the Kennebec and
15 Androscoggin basins which were reclassified in the First Regular
16 Session of the 114th Legislature. The proposed classifications
17 are based on actual water quality data, water quality model
18 projections after completion of treatment facilities and public
19 comments received at a series of statewide public hearings which
20 provided information on present and potential use. These
21 proposals are recommended by the Board of Environmental
22 Protection in accordance with the Maine Revised Statutes, Title
38, section 464, subsection 2 and subsection 4, paragraph F.

NAME	TOWN/AFFILIATION	FAVOR	OPPOSE	NEUTRAL
1. Rep Lord	Sponsor			
2. Dean Marriott	Commissioner, DEP	✓		
3. Timothy Lucas	Pen. Nation of Natural Resources	✓		
4. John Porter	Atlantic Salmon Assoc	✓		
5. John Porter	field Whitewater Rafting	✓		
6.	URC/Rafter	✓		
7. Arthur Taylor	Me Cncl Atlantic Salmon	✓		
8. Julie Kellogg		✓		
9. Charles Dibner, Pres.	Trout Unlimited	✓		
10. Christopher Smith, Coner	Outdoor Photographer	✓		
11. Karin Tilberg	Audubon	✓		
12. Rupert Neily	Boothbay Harbor	✓		
13. Dale Phenicie	Great Northern		✓	
14. Alice Knapp	MCCI		✓	
15. Bill Ellington		✓		
16. Gilbert Lee	Personal	✓		
17. Greg Jones	Trout Unlimited	✓		
18. Steve Keene	Health Teacher, Telstar	✓		
19. Matthew Olstein	Whitewater	✓		
20. Ron Kriesman	NRC	✓		
21. T. O'Brien		✓		
22. Fran Teen		✓		
23. Terry McGovern, DEP	representing himself	✓		
24. Steve Duran	SAM	✓		
25. Wendy Porter	James River	✓		
26. Heron Hutchings	Brewer	✓		
27. Bill Hayward	Bangor Hydro C.M.B.			✓

TESTIMONY OF DEAN C. MARRIOTT

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SPEAKING IN SUPPORT OF L.D. 2244

AN ACT TO RECLASSIFY SURFACE WATERS
OF THE STATE

BEFORE THE JOINT STANDING COMMITTEE
ON ENERGY AND NATURAL RESOURCES

SPONSORED BY: REPRESENTATIVE LORD

CO-SPONSORED BY: REPRESENTATIVE GOULD, REPRESENTATIVE DEXTER
AND REPRESENTATIVE JACQUES

DATE OF HEARING: FEBRUARY 13, 1990

SENATOR KANY, MEMBERS OF THE ENERGY AND NATURAL RESOURCES COMMITTEE, I AM DEAN
C. MARRIOTT, COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION,
SPEAKING IN SUPPORT OF L.D. 2244

I AM DEAN C. MARRIOTT, COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION SPEAKING IN FAVOR OF LD 2244. THIS BILL CONTAINS THE RECOMMENDATIONS OF THE BOARD OF ENVIRONMENTAL PROTECTION AS VOTED AT ITS DECEMBER 16 BOARD MEETING. THE PROCESS LEADING UP TO THIS RECOMMENDATION HAS BEEN LONG, REQUIRING THOUSANDS OF HOURS OF STAFF TIME TO INVESTIGATE THE STATUS OF MAINE'S WATERS. THIS BEGAN IN 1983 IN PREPARATION FOR THE REVISION OF CLASSES AND STANDARDS WHICH THE LEGISLATURE PASSED IN 1986. THAT REVISION OF STANDARDS REQUIRED THAT THE STATE ALSO REVISE THE CLASSIFICATIONS OF MANY WATERBODIES TO BE CONSISTENT WITH THE NEW STANDARDS. MORE IMPORTANTLY THOUGH, THE WATER QUALITY OF MANY WATERS HAS IMPROVED DRAMATICALLY IN THE LAST 15 YEARS AND THE RECLASSIFICATION IS A REFLECTION OF THAT INVESTMENT AND ACHIEVEMENT. LAST YEAR, THE LEGISLATURE RECLASSIFIED THE ANDROSCOGGIN AND KENNEBEC RIVER BASINS. THIS BILL COMPLETES THE RECLASSIFICATION PROCESS INCLUDING ALL OTHER FRESHWATER BASINS AND OUR COASTAL WATERS.

IN PREPARING ITS RECOMMENDATION TO THE LEGISLATURE THE BOARD CONDUCTED SIX HEARINGS THROUGHOUT THE STATE AND COLLECTED COMMENTS OVER A THREE MONTH PERIOD. THE STAFF CONDUCTED A NUMBER OF MEETINGS WITH ENVIRONMENTAL, INDUSTRIAL, DEVELOPMENT AND MUNICIPAL INTERESTS. WE HAVE TRIED TO BE SENSITIVE TO ALL THESE INTERESTS, ALWAYS BEARING IN MIND OUR MISSION TO RESTORE AND MAINTAIN THE QUALITY OF THE STATE'S WATERS. TO THIS END I BELIEVE WE HAVE BEEN HIGHLY SUCCESSFUL. AT THE TIME OF THE FINAL BOARD MEETING TO VOTE ON THIS PROPOSAL THERE REMAINED ONLY A FEW OUTSTANDING QUESTIONS WHICH I WILL NOTE TO YOU AS I SPEAK.

FIRST, I WOULD LIKE TO EXPLAIN THE BASIC DESIGN THAT HAS GONE INTO THIS PROPOSAL. AS YOU REALIZE THERE HAS NOT BEEN A COMPREHENSIVE RECLASSIFICATION OF WATERS SINCE THE 1960'S. OBVIOUSLY WATER QUALITY HAS CHANGED DRAMATICALLY SINCE THAT TIME AS HAVE THE USES THAT WE MAKE OF THOSE WATERS.

THEREFORE THERE IS NO TRUE HISTORICAL PRECEDENT VALID FOR TODAY'S MANAGEMENT. AS A MATTER OF CONVENTION, WE EVALUATED ALL WATERS TO SEE, FIRST, IF THEY ACHIEVED THE STANDARDS OF THEIR PRESENT CLASS AND THEN TO DETERMINE IF A HIGHER CLASS WAS APPROPRIATE. WE CONSIDERED DOWNGRADES ONLY IN SITUATIONS WHERE WATERS WERE NOT ATTAINING THEIR CURRENTLY ASSIGNED STANDARDS AND WHERE THERE WAS LITTLE EXPECTATION THAT IMPROVEMENT COULD BE EXPECTED BY APPLYING ANY REASONABLE TREATMENTS. GEOGRAPHY PLAYED A ROLE IN OUR FOCUS. FOR EXAMPLE, WE LOOKED SHARPLY FOR WATERS IN SOUTHERN MAINE FOR UPGRADE TO CLASS A AND CLASS AA BECAUSE SO FEW WATERS OF THESE HIGHER DESIGNATIONS OCCUR IN THIS AREA.

CHANGES IN CLASSIFICATION CAN BE CATEGORIZED AS FOLLOWS:

1. UPGRADES TO CLASS AA ARE RECOMMENDED FOR CERTAIN RIVER SEGMENTS RECOGNIZED FOR THEIR OUTSTANDING ECONOMIC, RECREATIONAL, OR ECOLOGICAL VALUE IN THEIR NATURAL STATE. THESE INCLUDE SEGMENTS LISTED IN THE MAINE RIVERS ACT WHICH DO NOT HAVE SIGNIFICANT UPSTREAM DISCHARGES AND OTHER SEGMENTS WHICH THE PUBLIC NOTED IN THEIR TESTIMONY AS WORTHY OF THIS HIGH LEVEL OF PROTECTION.
2. UPGRADES TO CLASS SA ARE RECOMMENDED FOR MANY COASTAL WATERS LOCATED ADJACENT TO PUBLICLY-OWNED LANDS AND LANDS MANAGED BY THE NATURE CONSERVANCY AND THE MAINE COAST HERITAGE TRUST IF THERE ARE NO EXISTING DISCHARGES.

3. UPGRADES ARE SUGGESTED WHERE ACTUAL QUALITY IS KNOWN TO EXCEED THE WATER QUALITY STANDARDS OF THE NEXT HIGHEST CLASS AS REQUIRED IN SECTION 464 OF THE WATER CLASSIFICATION LAW.
4. UPGRADES ARE ALSO RECOMMENDED FOR WATERS WHICH DO NOT MEET THE NEXT HIGHEST CLASS BUT WHERE THERE IS AN EXPECTATION THAT PLANNED TREATMENT FACILITIES AND THE IMPLEMENTATION OF NONPOINT SOURCE CONTROLS WILL RESULT IN ACHIEVING THOSE HIGHER STANDARDS IN THE NEAR FUTURE.
5. DOWNGRADES ARE ONLY SUGGESTED FOR TWO WATERS. ALEWIFE BROOK IN CAPE ELIZABETH IS A SMALL CLASS A WATER IN A RESIDENTIAL AREA WHICH DOES NOT ATTAIN STANDARDS. AN UNNAMED STREAM IN BRUNSWICK WOULD ALSO BE DOWNGRADED FROM CLASS A BECAUSE IT IS UNCLEAR IN THE PRESENT LAW JUST WHICH STREAM IT IS.

I WILL NOW BRIEFLY HIGHLIGHT SOME OF THE MORE SIGNIFICANT CHANGES WHICH WE ARE RECOMMENDING:

SOME OF THE MOST SIGNIFICANT UPGRADES WHICH WE ARE RECOMMENDING ARE FOUND IN THE PENOBSCOT BASIN. MAJOR SEGMENTS OF THE EAST AND WEST BRANCHES OF THE RIVER ARE RECOMMENDED FOR UPGRADE TO CLASS AA. THE PROPOSED UPGRADE TO CLASS AA FOR THE SEGMENT INVOLVING THE FORMER BIG A DAM PROPOSAL HAS GENERATED CONTINUED DEBATE, NOT BECAUSE OF ITS EFFECT ON A NEW DAM PROPOSAL BUT RATHER ON THE PREMISE THAT THE UPGRADE MIGHT JEOPARDIZE THE CONTINUED OPERATION OF EXISTING FACILITIES ON THE RIVER. IT HAS BEEN SUGGESTED THAT

BECAUSE OF EXISTING FLOW REGULATION ON THE RIVER THAT THIS SEGMENT WOULD NOT ATTAIN THE FREE-FLOWING DESIGNATION OF THIS CLASS. THE DEPARTMENT FEELS THAT THERE IS NO CONFLICT AND THAT THE FREE-FLOWING DESIGNATION ONLY APPLIES TO THE SPECIFIED SEGMENT. WE SUGGEST THAT THE LEGISLATURE LISTEN CAREFULLY TO THE COMMENTS WHICH I AM SURE YOU WILL HEAR, AND IF YOU FIND IT APPROPRIATE, CHANGE THE LAW TO MAKE IT CLEAR THAT CLASS AA SEGMENTS ARE FITTING IN RIVERS WHERE FLOW REGULATION IS PRACTICED UPSTREAM OF THOSE SEGMENTS. THIS TROUBLING AMBIGUITY IN THE LAW APPLIES TO A NUMBER OF WATERBODIES IN ADDITION TO THE WEST BRANCH.

MOVING DOWNRIVER, WE ARE RECOMMENDING THAT SEGMENTS OF THE MAINSTEM BETWEEN MATTAWAMKEAG AND LINCOLN, AND ENFIELD AND BANGOR BE UPGRADED TO CLASS B. THIS UPGRADE IS A DRAMATIC EXPRESSION OF THE ACHIEVEMENTS THAT HAVE BEEN MADE IN WATER QUALITY. THIS PROPOSAL, HOWEVER, HAS CREATED ANOTHER QUESTION WHICH SHOULD BE CONSIDERED. IF THIS SEGMENT IS RAISED TO CLASS B, IT IS POSSIBLE THAT IT WILL NOT ACHIEVE THE BACTERIA STANDARD FOR CLASS B IN PORTIONS OF THE LOWER RIVER BECAUSE OF COMBINED SEWER OVERFLOWS. THESE OVERFLOWS WILL BE REMOVED IN THE FUTURE. A QUESTION HAS BEEN RAISED AS TO WHETHER THE DEPARTMENT CAN ISSUE WASTEWATER DISCHARGE LICENSES OR WATER QUALITY CERTIFICATIONS FOR FACILITIES IN A NONATTAINMENT SEGMENT EVEN IF DISCHARGES FROM THESE FACILITIES DO NOT AFFECT THE PARAMETER CAUSING NONATTAINMENT, IN THIS CASE BACTERIA LEVELS. THE DEPARTMENT FEELS THAT IT IS APPROPRIATE TO ISSUE LICENSES WHICH DO NOT RELATE TO THE PARAMETER OF CONCERN AND THEREFORE THAT AN UPGRADE OF THIS SEGMENT SHOULD NOT EFFECT FACILITIES WHOSE DISCHARGES ARE UNRELATED TO BACTERIA LEVELS. LANGUAGE TO CLARIFY THIS AREA OF THE LAW MAY BE APPROPRIATE.

IN THE ST. JOHN BASIN WE ARE PROPOSING AN UPGRADE TO CLASS AA FOR MUCH OF THE UPPER RIVER, CONSISTENT WITH THE MAINE RIVERS ACT, AND TO CLASS A FOR THE SEGMENT FROM ALLAGASH TO FORT KENT. I WOULD LIKE TO NOTE ALSO, THE PROPOSED UPGRADE OF MOST OF PRESTILE STREAM TO CLASS A. I AM SURE SOME OF YOU CAN RECALL WHEN THIS STREAM GAINED INTERNATIONAL NOTORIETY FOR ITS DEPLORABLE WATER QUALITY.

WE ARE PROPOSING THAT THE ST. CROIX RIVER, AN IMPORTANT INTERNATIONAL BOUNDARY, BE UPGRADED TO CLASS A ABOVE WOODLAND.

WE ARE PROPOSING THAT THE PLEASANT RIVER IN WASHINGTON COUNTY BE UPGRADED TO CLASS AA.

WE ARE RECOMMENDING THAT THE MAIN BRANCHES OF THE UNION RIVER BE UPGRADED TO CLASS A AND THAT THE LOWER MAINSTEM BE UPGRADED TO CLASS B.

IN THE MIDCOASTAL AREA WE ARE RECOMMENDING THE UPGRADE OF THE ST. GEORGE RIVER TO CLASS AA IN THE UPPER REACHES AND CLASS A IN THE LOWER REACH, AND THE UPGRADE OF THE SHEEPSHOT RIVER TO CLASS AA ON THE LOWER MAINSTEM AND WEST BRANCH.

IN SOUTHERN MAINE WE ARE RECOMMENDING THE UPPER REACHES OF THE SACO RIVER BE UPGRADED TO CLASS AA AND MUCH OF THE LOWER REACHES UPGRADED TO CLASS A. WE ARE ALSO RECOMMENDING THE UPGRADE OF MANY SMALL COASTAL WATERSHEDS TO CLASS B FROM CLASS C.

IN OUR COASTAL WATERS WE ARE RECOMMENDING MANY UPGRADES TO CLASS SA FOR WATERS ASSOCIATED WITH STATE PARKS, THE RACHEL CARSON REFUGE, THE PETIT MANAN REFUGE, AND ACADIA PARK. ADDITIONALLY, WE ARE RECOMMENDING THE UPGRADE OF EXTENSIVE AREAS OF WATER AROUND THE ISLES OF SHOALS, OFF THE WASHINGTON COUNTY COAST BETWEEN CUTLER AND QUODDY, AND WATERS OF INNER COBSCOOK BAY WHICH ARE ECOLOGICALLY SIGNIFICANT FOR THE DIVERSITY OF MARINE LIFE THEY POSSESS.

I WOULD LIKE TO CLOSE BY SAYING THAT THIS RECLASSIFICATION PROPOSAL, WHILE IMPRESSIVE, DOES NOT REPRESENT A FINAL PLAN FOR THE STATE. WE STILL SEE POTENTIAL FOR IMPROVEMENT IN THE FUTURE AND WE WILL PRESENT OTHER RECOMMENDATIONS FOR UPGRADE AS THEY OCCUR. MY STAFF AND I WILL BE AVAILABLE TO DISCUSS ANY OF THE NUMEROUS RECOMMENDATIONS IN THIS PROPOSAL; TO PRESENT THE DATA, EXPLAIN THE WATER QUALITY MODELS USED, PRESENT THE PUBLIC TESTIMONY RECEIVED, AND MAKE ANY OTHER EXPLANATION OF WHAT WE KNOW ABOUT THESE WATERS.

DATE: February 13th, 1990

RE: ²²⁴⁴ House Bill 1622: An Act to Reclassify Surface Waters of the State

TO: Members, Committee on Energy and Natural Resources
State Legislature, State of Maine

From: John Porterfield
New England Regional Director
American Whitewater Affiliation
Orrington, Maine

I am testifying before your committee today out of concern for the future of the West Branch of the Penobscot River. I am on the Board of Directors of the American Whitewater Affiliation, a nationwide non-profit organization of over 1400 concerned private whitewater recreationalists and more than 50 local canoe and kayak club affiliates. As a Maine resident and an avid kayaker, I am very much interested in seeing the West Branch of the Penobscot designated a CLASS AA river. A copy of this prepared testimony will be provided to your committee.

For over a decade I have enjoyed the West Branch of the Penobscot's challenging whitewater. I have traveled from as far away as Connecticut, and many of the kayakers I paddle with have traveled from as far away as Pennsylvania to dip their paddles in the cool, clean water that flows out of the McKay Station tubes and down a boulder-filled riverbed, making whitewater. This summer a paddling club from North Carolina will venture to the North Woods to sample the West Branch and its tributaries - over a 20 hour drive. A significant drive to enjoy a significant river.

I enjoyed the West Branch of the Penobscot so much that I included the stretch between McKay Station and Debsconneag in a guidebook I coauthored. So significant was the experience that my co author and I dedicated the book to the West Branch of the Penobscot - the Place of the Descending Rocks.

My good friend and fellow author Ron Rathnow spent a month paddling, observing and documenting the nuances of this stretch of the West Branch of the Penobscot River. I talked with Ron last night, and he asked me to tell you, and I quote, "This is a wild and beautiful area. You will find few (areas) like it. Use it, but don't abuse it. Treat it well and maybe someday your children will be able to come and enjoy it also. I dedicated my guide to all of those people who will fight to keep the West Branch of the Penobscot flowing. The last thing this river needs is one more lousy dam." End Quote.

Last year I organized a series of clinics that taught squirt boating - a new exciting three-dimensional offshoot of kayaking - to kayakers from around New England. I brought in the best talent - Jeff Snyder from West Virginia - who is a pioneer in this new whitewater sport. In looking around New England for a location for this three day clinic, I looked for certain features: dependable clean

waterflow, significant whitewater and geological formations, access, natural beauty and a sense of ruggedness. Where did my search end up? It ended up at this stretch of the West Branch of the Penobscot.

Why does this Place of the Descending Rocks - as native Americans knew it - why does it have so much appeal? The West Branch is a whitewater mecca - not only for me - but for many many whitewater enthusiasts. The West Branch of the Penobscot has no whitewater equal in New England - perhaps no equal on the East Coast.

WHY? Here's a short list.

- The number of rapids (over 23 in 12.5 miles of river)
- The continuous pounding nature of the whitewater
- The difficulty of the rapids (CLASS IV—V in the International Rating Scale of Class I - VI)
- The accessibility of the whitewater run, with the Golden Road conveniently but unobtrusively running alongside
- The scenery: Mount Katahdin, sidestreams, abundant and evident wildlife, and the semiwilderness experience including riverside camping

In the past, the Maine Inland Fisheries and Wildlife Department has designated the stretch "a precious fishing resource".

The state Critical Areas Program listed the rapids between McKay Station and Big Ambejackmockamus Falls as of "greater than statewide significance"—with the CLASS V Cribworks as a "one-of-a-kind rapid".

Officials from the Maine Department of Parks and Recreation testified in the past that the West Branch of the Penobscot is the most intensively used multiple-use recreational river stretch in Maine, with over 35,000 boater user days per season. This is in addition to accolades from the National Park Service, the Audubon Society, and the Appalachian Mountain Club.

In West Virginia, the 21-day Gauley River boating season creates 28,600 boater user days which provided West Virginia's economy with over sixteen million dollars in direct and indirect income from commercial and private boaters.

In Maine, the West Branch of the Penobscot's six-month whitewater boating season creates at least 35,000 boater user days - including more than 20,600 commercial raft visits. That's in addition to thousands of private whitewater boater visits, and the thousands of fishermen, canoe outfitter customers, fishing guides, paddling schools, hikers and other outdoor recreationalists that come to see the open vistas afforded from the banks of the West Branch of the Penobscot River.

AWA also supports the CLASS DOUBLE-A reclassification for the following significant stretches of whitewater:

- The West Branch of the Penobscot, Seboomook Section
- The East Branch of the Penobscot, Grand Lake Mattagamon to confluence section
- The tributaries of the East Branch of the Penobscot, including Wassataquoik Stream
- The Mattawamkeag River, from Kingman-Mattawamkeag line to confluence
- The Piscataquis River Tributaries, including the East and West Branches, and the Pleasant River's West Branch
- The Allagash River, and its tributaries

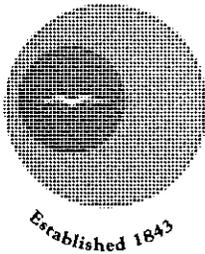
We urge you to cast aside arguments against reclassification of the West Branch of the Penobscot to Class DOUBLE-A. These arguments center on the imposition of Ripongen Dam in the freeflowing section. If further damage from closed system hydro generating schemes are to be prevented, this Class DOUBLE-A rating is sorely needed.

There's a passage from Ron Rathnow's "Great American Flip Map Series Guide to the West Branch of the Penobscot" that I would like you to think about. This passage focuses on the courage of the men that worked the West Branch of the Penobscot during the late 1800's.

"These Penobscot men were proud of their heritage and were not about to be outdone by anybody. An Indian riverman called Big Sebat (was) one of the best boatmen on the river...During a log drive in 1870 three crews of boatmen arrived at Nesowadnehunk Falls. Two of the boats had already been portaged..(but) Big Sebat..convinced his bowman that they could make it over the falls...Big Sebat shot the falls and made it. Being Penobscot rivermen and not about to be outdone, the two other crews carried their 32 foot long bateaus back over the dam and also ran the falls. They weren't as lucky..both boats were smashed to kindling and one man drowned. But dammed if they would ever let it be said that a Penobscot riverman backed down from a challenge.

Being a modern day Penobscot riverman who doesn't portage many falls including Nesowadnehunk, I cannot let this challenge of passing House Bill ~~1822~~ go past me. Please. Vote to save the West Branch of the Penobscot River from further harm. Vote yes on House Bill ~~1822~~. Thank you.

2244



MAINE AUDUBON SOCIETY

Gilsland Farm • 118 U.S. Route One • Falmouth, Maine 04105 • 781-2330

The responsible voice for Maine's environment and natural resources.

TESTIMONY OF KARIN R. TILBERG, MAINE AUDUBON SOCIETY
IN SUPPORT OF L.D. 2244
"AN ACT TO RECLASSIFY SURFACE WATERS OF THE STATE"
BEFORE THE ENERGY AND NATURAL RESOURCES COMMITTEE

Maine's water classification system is the engine that drives the entire water quality protection process. If a new discharge, either by itself or in conjunction with other discharges, would lower the receiving water body below its classification, the discharge is not permitted under state and federal laws. Thus, the legislative classification directs the future quality of every segment of our inland and coastal waters.

The proposed legislation should give all Maine people a reason to be proud. It upgrades many stretches of water to a higher classification, thereby preventing future pollution. As we all know, prevention of pollution is far less costly than after-the-fact efforts to reduce existing pollution. It is essential that we continue to upgrade rivers and marine waters to higher classifications before the "pollution" horse is out of the barn. This bill is a major step toward this goal.

Maine Audubon wishes to draw your attention to a few significant examples in the bill:

Numerous upgrades to SA (our highest classification) for estuarine and marine waters including areas near Rachel Carson Wildlife Refuge, areas of outstanding ecological importance such as for waterfowl, areas near Scarborough Marsh, the Popham Beach vicinity, waters off Schoodic Point in Winter Harbor, areas adjacent to Great Wass Island -- a place of unusual diversity and density of marine invertebrates, an outstanding stretch of water from Cutler to Quoddy Head, inner Cobscook Bay, and others.

Most of these coastal segments are associated with habitat for endangered species, are tern colonies or seabird nesting sites. Several are national historic landmarks, offer unique island habitats with exceptional biological characteristics or are of outstanding recreational value. All of these areas are state treasures, and the pristine quality of the associated estuarine/marine environment helps make them so.

Of special importance to Maine Audubon is the proposed upgrade to Class AA for the stretch of the West Branch of the Penobscot River beginning 250 feet below McKay Station

to its confluence with Debsconeag Deadwater. Class AA status is reserved for waters that are "outstanding natural resources and which should be preserved because of their ecological, social, scenic or recreational importance." 38 M.R.S.A. section 465(1)

The May 1984 issue of Habitat, the Society's publication, describes how amply this river segment attains the goals of Class AA:

At the edge of Baxter State Park, in the shadow of Mount Katahdin, lies a 21 mile stretch of Maine river which is like no other place in eastern North America. It offers wildwater for rafting and kayaking; pools and riffles for fishing; sanctuary for moose, eagles and wildflowers; gorges, beaches and spectacular scenery...

...The gorge contains a wide variety of geological features, including a major fault zone and a classic assemblage of Silurian marine fossils, plus the ideal habitat for such rare mist-loving plants as the fern, *Woodsia alpina*, and the purple clematis vine...

...But as much as anything else, fishing is what the West Branch is all about. The serene Big Eddy salmon pool is nothing short of legendary.

In short, Class AA waters are our best waters and would be well served by this section of the West Branch.

A question has been raised concerning the language in Class AA "the habitat shall be characterized as free flowing and natural." 38 M.R.S.A. section 465(1)(A) We do not think this language prevents river segments affected by impoundments upstream from being classified as AA. It means only that the segment classified as AA cannot have within it dams and impoundments, and that once it is granted Class AA status, new impoundments and discharges cannot be permitted within that section.

A second question has been raised about the Class AA requirement that "aquatic life, dissolved oxygen and bacteria content of Class AA waters shall be as naturally occurs." 38 M.R.S.A. section 465 (1)(B) Given the degree of humankind's influence on watersheds resulting from impoundments, acid deposition, alterations in weather patterns etc., we do not believe this language requires that any alteration to aquatic communities disqualify a segment from Class AA status. The DEP has appropriately construed "as naturally occurs" to mean that the river segment displays the overall characteristics of an unpolluted, unimpeded water body.



UNIVERSITY OF MAINE

COLLEGE OF FOREST RESOURCES

Department of Wildlife
240 Nutting Hall
Orono, Maine 04469-0125
207/581-2862

February 9, 1990

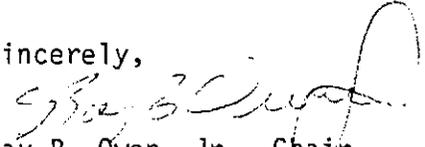
Dear Senator Kany, Representative Michaud and
Members of the Energy and Natural Resources Committee:

I am sorry that I could not make the Legislative Hearing on LD 2244, but I appreciate the opportunity to comment on the proposed water quality classifications. I did testify before the BEP when they conducted their public hearings on this matter. One of my concerns at that time was that tributaries to sections of the Penobscot River and other rivers proposed for AA classification should also be AA to maintain the integrity of the system. This has been done.

My other comment deals with the section of the Penobscot River below Ripoginous Dam of which I am sure that you will hear abundant testimony. In conducting the Big A hearings it became "painfully" apparent that this is the finest section of free running river in the State of Maine. Whether one is interested in fishing, canoeing, rafting, unusual geological formations, rare plants, wildlife, or just the outright grandure and scenic beauty of the area there are few, if any, rivers in the East that compare. It certainly deserves AA classification to ensure that these values remain for the people of Maine and the region.

Thank you for the opportunity to comment on this important task that you are undertaking.

Sincerely,


Ray B. Owen, Jr., Chair
Department of Wildlife

RBO,Jr:MH

TESTIMONY OF Terry A. McGovern

to the Joint Standing Committee on Energy and Natural Resources
on L.D. 2244 - An Act to Reclassify Surface Waters of the State

February 13, 1990

My name is Terry McGovern. I'm employed by the Department of Environmental Protection but today I'm here on my own time to offer the members of this committee my personal views on this classification bill. Maine's Water Classification Program is the master plan for management of the State's waters. The classification decisions made by this committee and the full Legislature will have profound consequences for waters of the State as well as the economic future of the people of Maine.

During the early 1980's, I served on a committee which laid the groundwork for Legislative action in 1986 which revised the classification system. One committee goal which was accomplished was to have the classifications represent an appropriate series of choices for Maine's various water resources and socioeconomic needs. Determining which choices are appropriate presents a far greater challenge to members of this committee than did revision of the classification system.

L.D. 2244 would upgrade the Penobscot River between Howland and Bangor from Class C to Class B. It is my understanding that the Penobscot River below Old Town does not attain the Class B

requirements contemplated under DEP's forthcoming regulations on the implementation of biological water quality criteria. If the upgrade is made, a water quality limited segment will be created where, even though discharges are meeting the technology-based performance standards of the Clean Water Act, further reductions in discharges must be made to meet the requirements of classification. The Penobscot River between Old Town and Bangor is already supporting the Clean Water Act's goal of "protection and propagation of fish, shellfish and wildlife." Upgrading this river segment to Class B would provide little environmental gain and might cause severe economic problems for James River Company and its employees. It is unclear at this time what pollutants would need more control or what extent of further reduction would be necessary to attain the Class B biological standard. I urge the committee to consider carefully any nonattainment situations which may be created by upgrades.

During the first session of this Legislature, a segment of the Kennebec River between Waterville and Augusta was upgraded from Class C to Class B. This created an eight mile long water quality limited segment due to dissolved oxygen levels. What costs must now be borne for the improvement of a river segment which was meeting Class C standards and the interim goals of the Clean Water Act? Three courses of action are possible: 1) discharges from the S.D. Warren Co. (and possibly production) could be reduced, 2) the Kennebec Sanitary District could be required to provide advanced secondary treatment and/or 3) the Edwards Dam could be removed.

Changing a letter from C to B can have far reaching consequences for the people of Maine. The habitat in this section of the Kennebec, however, will not be significantly improved by increasing dissolved oxygen to the Class B standard.

The Class C standard was designed to allow social and economic use of the full increment of water quality allowed the State by the Clean Water Act. The Class B standard can be viewed as a way to keep a water quality increment "in the bank" for future generations should they wish to use it. As such, I recommend that the Class B standard be applied only to those waters which are already meeting it or are expected to meet it through construction of municipal facilities.

Enactment of L.D. 2244, as amended, will be the completion of a two step process. The first step, revision of the classification system, was completed in 1986 after a seven year effort. The second step, Legislative review of all classification assignments will be completed this year. With that in mind, I would like to call the committee's attention to Title 38, Section 464(4)(F)(4).

"Where the actual quality of any classified water exceeds the minimum standards of the next highest classification, that water quality shall be maintained and protected. The board shall recommend to the Legislature that that water be reclassified in the next higher classification."

I think that this section of law has served as an interim measure necessary to protect water quality pending Legislative review of classification assignments and should now be repealed. If this section of law is retained it will only serve to confound Legislative intent. I will offer two brief examples of how this can occur. If a mill in a town like Mechanic Falls closes for an extended period, it is probable that river quality will rise to Class B levels and make it impossible to reopen the mill. Short-term economic problems for a mill should not be allowed to progress into long-term economic disaster for area residents due to a quirk in the water quality laws.

During the last session, the classification and future management of Spencer Stream was hotly debated by this committee. At issue was a proposed upgrade to Class A which might impair economic development in Somerset County. The committee decided to maintain the stream's Class B rating, leaving open the possibility of permitting a mining operation which could create hundreds of jobs. If this section of law is retained, there will never be large-scale mining in Maine. The streams and rivers in virtually all of Maine's forested watersheds meet Class A standards. Discharges from mining operations can meet Class B standards but cannot meet Class A standards.

I think the Legislature needs to make it unequivocal to the people and businesses of the State that when they assign a classification to a waterbody, the DEP is to manage for that

classification and no other.

Thank you. I'll be happy to answer any questions members of the committee may wish to ask.

LeRoy K. Hutchings
RFD # 2 Box 343
Brewer Me. 04412
[207] 989-2705

September 14 1989

Mr. Dean C. Marriott Commissioner
Department of Environmental Protection
State House Station 17
Augusta, Maine 04333

Dear Mr Marriott

Re: Water Quality The time it has taken to get information. I sent a letter to Mr Courtmarch dated May, 8 1989 [copy enclosed] for information, A little was sent.

So I went to the public hearings with out the information I wanted.

At the hearing I ask again, and was assured that I would get all of it [spoke to Mr. Mickey Kuhns] I was sent some more, BUT NOT WHAT I HAVE ASK FOR I can send you a list of all phone calls if you think it necessary.

My request for information, is most always flowled by statements that I want to much, to much work to get, or it will cost me [has been told from 10 to 25 cent per page]

This undercuts the right of the public to know.

This cost has been explained to me by Mr. Dana Murch, Mr Courtmarch, Mr Steven Groves and Deputy Commissioner Elizabeth A. Armstrong.

This is a part of a law passed in 1986

Information collected during these studies and investigations shall be made available to the public in an expeditious manner.

Over 5 months is not [in an expeditious manner].

This is a REQUEST for a EXTENSION in TIME to make written comments.

REQUEST NEW TIME to be 60 DAYS AFTER I RECEIVE all the information I requested.

Maybe I am not making my request clear so I will try again.

[1] State of Maine Water Quality assessment reports to Congress [section 305 [b] 1972 Federal clean water Act]

ALL REPORTS from 1972 to DATE [I have the 1988 report]

[2] ALL DATES of PLACES of the PUBLIC HEARINGS held under FEDERAL LAW 92-500 ;Sec. 303 [C][c][1].

[3] ALL DATA on the Penobscot river basin ALL STATIONS from 1980 to date. To enclosed the PH readings.

[4] ALL DATA on the Pleasant river Washington County and the

PH readings. From the year that the application for the dam No 4304

[5] A list of the aquatic life that would make up the biological community for each class of water.

[6] That portion of the hearing where I asked why a 1000 feet below some dams were being classed as [A] WATER I am asking for the copy of the transcript of the answer that was given to me.

[7] A copy of the application, all comments, and the licence Project No 4304 Pleasant river Columbia Falls, Maine.

[8] All copy of the application, all comments and the licence Project No 4202 Lowell Tannery Pumpkin Hill Hydro. Co. Passadumkeag River.

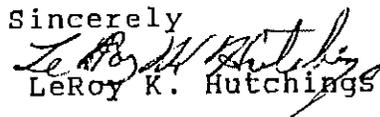
[9] All copy of the application, all comments, and the licence
The dam is on the Souadabscook Stream in the town of Hampden Maine. under Rt.1A.

[10] I would like the file on James River- Norwalk
L - 015728-34-A-N

I now would like to ask again if you or Governor John R. McKernan could set up a list of persons and organization that would like to be notified.

[I will pay for this information]

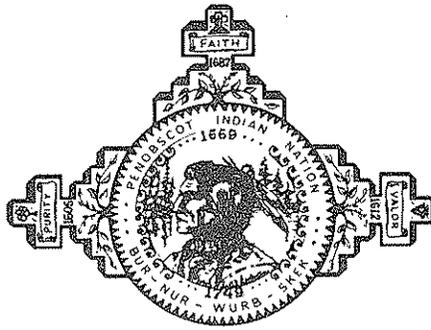
Sincerely


LeRoy K. Hutchings

cc: Senator Steve Bost
158 Main St.
Orono, Maine 04473

Rep. Mary R. Cathcart
120 Main St.
Orono, Maine 04473

PENOBSCOT NATION
DEPARTMENT OF
NATURAL RESOURCES



6 RIVER ROAD
INDIAN ISLAND
OLD TOWN, ME 04468
TEL: 207/827/7776

February 15, 1990

Energy and Natural Resources Committee
Maine State Legislature
Augusta, Maine 04333

RE: LD 2244

Dear Committee Member:

I would like to make available to you this typewritten copy of my testimony presented at the February 13 public hearing. For your convenience/use I have also included a summary of our tributary sampling data and a summary of our recommendations relative to Penobscot drainage classifications.

I would very much welcome the opportunity to provide additional assistance to the Committee in reviewing this bill.

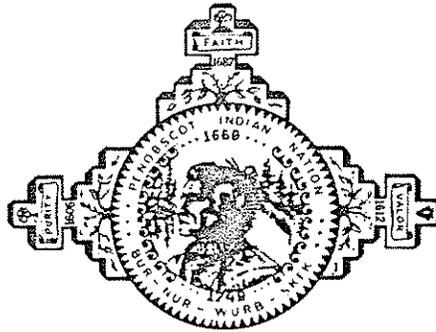
Respectfully,

A handwritten signature in cursive script that reads 'Tim Lukas'.

Tim Lukas
Fish & Wildlife Resources Manager

TL:mn

PENOBSCOT NATION
DEPARTMENT OF
NATURAL RESOURCES



6 RIVER ROAD
INDIAN ISLAND
OLD TOWN, ME 04468
TEL: 207/827/7776

TESTIMONY

to

THE ENERGY AND NATURAL RESOURCE COMMITTEE

on

LD 2244

AN ACT TO RECLASSIFY SURFACE WATERS OF THE STATE

Presented by:

Tim Lukas
Fish and Wildlife Resources Manager
Penobscot Nation
Department of Natural Resources

Ladies and gentlemen of the Committee, thank you for this opportunity to provide input into this most important legislative initiative. My name is Tim Lukas, and I am the Fish and Wildlife Resources Manager for the Penobscot Nation Department of Natural Resources. We are, of course, intensely interested in seeing the highest possible water quality protection afforded to the waters of the Penobscot River drainage. Tribal members live not only alongside the river, but in the case of reservation residents, are surrounded by it. As a group, tribal members represent a significant recreational user group who fish, swim, boat, canoe, hunt, trap, etc., within and on the waters of the Penobscot. We fully support the reclassification effort and all proposed upgrades. All such proposed upgrades are clearly justified and plainly in keeping with the current wishes of the majority of Maine's citizens.

I would, however, urge you to personally consider the possibility, as reflected in our earlier presentations to both the Board and the DEP staff, that additional upgrades are also justified and/or necessary.

While trying to be brief, I would like to make you generally aware of a few of our key recommendations which are not reflected in the recommendations of this bill.

One such issue, is the essentially blanket "B" classification affixed to mainstem, Piscataquis, and Mattawamkeag tributaries. It was obvious to us that many of these tributaries were worthy of higher classification, as they are often characterized by relatively little development and good quality cold-water habitat for trout and/or salmon. We recommended an "A" classification for all drainage tributaries, unless there is data or clear indications of non-attainment. When our recommendations were met with resistance by DEP staff, who cited a need for data to support an "A" classification, we quickly established an effort to provide some data. We selected seven representative tributaries and collected appropriate samples for dissolved oxygen and bacteria analysis. While time constraints at this point limited the magnitude of our sampling effort, the resulting data indicated that all seven tributaries were probably worthy of our recommended "A" classification.

In light of this, we are concerned, about, and ask you to consider the likelihood that the proposed "B" classification of the Penobscot, Piscataquis, and Mattawamkeag tributaries is likely to result in inadequate and inappropriate protection in a majority of the cases. We would request the bill be amended to correct this potentially damaging error.

The other key concern we have with the specific proposed classification of the Penobscot River, is the allowance for two rather substantial Class C sections. The first of these is that section from the confluence of the East Branch and the West Branch to the confluence of the Mattawamkeag River. The second such section lies from the confluence of the Cambolasse Stream to the confluence of the Piscataquis River, a rather substantial portion of the Penobscot mainstem. In both cases, the recommended "C" classification is based on a deficiency in only one of the three classification criteria. In the latter case in particular, it is our belief the deficiency is marginal, potentially correctable, and over-represented by the magnitude of the section proposed for "C" classification. The distressing effects of such classifications are already being felt within our water quality improvement initiatives. Discharge sources dismiss our requests for improvement efforts, even if feasible, by noting that Class C standards are being met. In effect, the status quo, disappointing as it may be, has been condoned, and there is a failure to establish a most necessary goal. Should classifications play a role in any eventual "color, odor, foam," bill, discharge sources responsible for any Class C designations would likely be "rewarded" by less stringent requirements. Ladies and gentlemen, why not be truly goal-oriented on this finest and most significant of Maine's major river systems, and amend this bill to provide for a "B" classification or better for all of the Penobscot and Piscataquis mainstem drainage sections, and an "A" classification for all but the most clearly degraded tributaries.

As I have suggested before, it is far more productive to have goals that are difficult to attain, than to establish goals which have already been met. The bill before you is admittedly voluminous in its content. This may tend to discourage the examination of specific deficiencies as we have requested of first the Board, and now of you legislators. This is, however, one of the most important and far reaching legislative actions likely to arise for quite some time. Time spent in reviewing this bill, and all of our recommendations as presented at department and/or board hearings and to a limited extent here today, will be time well spent in assuring the finest quality of life and outdoor recreation opportunities for Maine citizens. I wish you patience and perseverance in this talk. Thank you.

Table 1. Temperature, dissolved oxygen (D.O., mg/l and percent saturation) and E. coli bacteria levels measured in seven Penobscot River tributaries.

STREAM	TEMP ° C		D.O. mg/l		% SAT.		E. Coli/100 ml	
	RANGE	AVG.	RANGE	AVG	RANGE	AVG.	RANGE	G.MEAN
Birch	12.4-15.7	14.6	7.6-8.8	8.2	77-82	80	8 ¹ -120	41
Medunk- eunk	15.3-16.2	15.8	8.2-9.1	8.7	81-92	87	20-260	83
Matta- miscontis	13.1-15.7	14.4	9.0-9.2	9.1	85-93	89	70-450	164
Hoyt Br.	13.1-16.0	14.8	6.0-9.7	8.3	60-92	81	20-190	187
Sebeois	15.8-17.0	16.3	9.5-9.5	9.5	96-98	97	60-110	87
Schoodic	14.9-16.2	15.5	9.2-9.5	9.4	91-95	93	24-590	104
Kings- bury	16.1-22.5	18.9	8.5-9.5	9.1	96-99	98	60-430	122

The MAV standard for E. coli bacteria for Class B waters and three sampling events is 191.5/100 ml. The D.O. content shall not be less than 7 ppm or 75 % saturation, whichever is greater (Class A criteria for D.O. is the same).

¹ 50 ml sample.

Summary of Penobscot Nation Department of Natural Resources Recommendations
for D.E.P. Penobscot River Water Quality Reclassification*

<u>River Section(s)</u>	<u>Recommended Class</u>	<u>Comments</u>
Minor Tributaries (HP)	Class A with DEP noted C or AA exceptions	"Protection," and probable quality.
W. Branch Penobscot River from Ferguson/Quakish Lakes Outlets to E. Branch	Class B	Appropriate "goal"; already attains Class C.
Mainstem Penobscot River: E./W. Branch confluence to Mattawamkeag River (HP)	Class B	Class A combining with Class C should justify Class B; Class B attained below Mattaceunk.
Mattawamkeag River confluence to Cambolassee Stream (HP)	Class A	Water quality; aesthetic, recreational, and habitat value.
Cambolassee Stream to Passadumkeag River confluence, or, (although undesirable) separate out "east channel", from Lincoln discharges to foot of Mahockanock Island (Class C) (HP)	Class B	Only aquatic life limited; appropriate "goal"; recreational value/use of segment.
Passadumkeag River confluence to head of Freeze Island (HP)	Class A	Class A tributaries (Passadumkeag R. Olamon Stream, others) and significant aesthetic value and recreational value/use.
Veazie Dam to 1,000 feet below Bangor Dam	Class A	Recreational and habitat values.
Mattawamkeag River: Upstream of Kingman/Mattawamkeag boundary including tributaries except for <u>limited</u> discharge points (i.e. Patten, Oakfield, others?)	Class A	Existing water quality; habitat values; aesthetic and recreational values.
Piscataquis River: Upstream of Guilford dam including all tributaries	Class A	Existing quality; habitat, recreational, and aesthetic values; appropriate "goal".

*Only sections and/or classifications differing from DEP proposals are listed. Highest priority recommendations are noted by (HP).

<u>River Section(s)</u>	<u>Recommended Class</u>	<u>Comments</u>
Piscataquis River: From Guilford dam to Penobscot River	Class B	Existing quality; new facilities; appropriate "goal".
Pleasant River from E./W. Branch confluence to? (Sugar Island, Rt. 11 bridge, etc.?)	Class A	Existing quality; appropriate given E./W. Branch class and discharge points(?)
Passadumkeag River and all tributaries	Class A	Water quality; aesthetic, recreational, and habitat values.

Prepared by:

Tim Lukas
Fish and Wildlife Resources Manager, DNR
February 14, 1990

For additional narrative of these recommendations, refer to text of testimony presented to DEP on July 20, 1989.

TESTIMONY REGARDING L.D. 2244
AN ACT TO RECLASSIFY SURFACE WATERS OF THE STATE

BY: DALE K. PHENICIE
MANAGER OF ENVIRONMENTAL AFFAIRS
GREAT NORTHERN PAPER

SENATOR KANY, REPRESENTATIVE MICHAUD, MEMBERS OF THE COMMITTEE:
MY NAME IS DALE PHENICIE. I AM THE MANAGER OF ENVIRONMENTAL AFFAIRS FOR
GREAT NORTHERN PAPER. I AM TESTIFYING TODAY IN OPPOSITION TO L.D. 2244.

GREAT NORTHERN'S SPECIFIC CONCERN IS THE RECLASSIFICATION OF THE WEST
BRANCH OF THE PENOBSCOT TO "AA" AND "A". AS YOU ARE ALL AWARE, WE OPERATE AN
EXTENSIVE HYDROELECTRIC SYSTEM ON THIS SECTION OF THE RIVER. CONTINUED
OPERATION OF THIS SYSTEM, IN ITS CURRENT MODE, IS ESSENTIAL TO PROTECT THE
OPERATION AND RESULTANT JOBS AT THE GREAT NORTHERN MILLS.

THE REASON THAT THIS RECLASSIFICATION PROPOSAL THREATENS OUR HYDRO
SYSTEM OPERATION IS THAT IT WOULD PLACE CLASSIFICATION STANDARDS DESIGNED FOR
UNDAMMED AND UNREGULATED STREAMS ON A SECTION OF RIVER THAT, IN FACT, IS
HIGHLY REGULATED. IN FACT, IT IS THIS BENEFICIAL FLOW REGULATION PRACTICE
WHICH PROVIDES THE UNIQUE RECREATIONAL OPPORTUNITIES ON THE WEST BRANCH WHICH
HAVE BEEN THE SUBJECT OF SO MUCH DEBATE.

CLASS "AA" STANDARDS REQUIRE THAT "THE HABITAT SHALL BE CHARACTERIZED AS
FREE FLOWING AND NATURAL," THAT "AQUATIC LIFE...SHALL BE AS NATURALLY
OCCURS," THAT THERE SHALL BE NO DIRECT DISCHARGE OF POLLUTANTS..." (EMPHASIS
ADDED).

CLASS "A" STANDARDS, WHILE ALLOWING "HYDROELECTRIC POWER GENERATION" AS
A DESIGNATED USE, A PROVISION NOT CONTAINED IN CLASS "AA" STANDARDS, REQUIRES
THAT "THE HABITAT SHALL BE CHARACTERIZED AS NATURAL," THAT "THE AQUATIC
LIFE...SHALL BE AS NATURALLY OCCURS," THAT "DISCHARGES...SHALL BE ALLOWED TO
CONTINUE ONLY UNTIL PRACTICAL ALTERNATIVES EXIST." (EMPHASIS ADDED)

OBVIOUSLY IN A REGULATED STREAM, THE HABITAT CAN BE NEITHER "FREE FLOWING" NOR "NATURAL." THE AQUATIC LIFE WILL NOT BE "AS NATURALLY OCCURS." WHETHER OR NOT WATER RELEASED BY A HYDROELECTRIC PLANT SHOULD BE CLASSIFIED AS A "DISCHARGE" AND CONTAINS "POLLUTANTS" HAS BEEN A SUBJECT OF SEVERAL COURT CASES. AT SOME POINT IN TIME, THIS NEW INTERPRETATION COULD BE MADE.

IF A STRICT INTERPRETATION OF THESE CLASSIFICATION STANDARDS WAS APPLIED TO THE WEST BRANCH, OUR SYSTEM COULD NOT BE ALLOWED TO CONTINUE TO OPERATE.

WE HAVE BEEN TOLD THAT IT IS NOT THE INTENT OF THE DEPARTMENT OR THE BOARD TO INTERFERE WITH EXISTING HYDRO SYSTEM OPERATIONS THROUGH THIS RECLASSIFICATION INITIATIVE. WHILE WE APPRECIATE THIS INTENT, WE BELIEVE THAT TO GO FORWARD WITH THIS PROPOSAL WOULD SUBJECT OUR SYSTEM, AND OTHERS LIKE IT, TO AN UNACCEPTABLE RISK OF LEGAL CHALLENGE. THE CONSEQUENCES OF A SUCCESSFUL COURT CHALLENGE OF OUR CONTINUED CURRENT OPERATIONAL PRACTICES WOULD BE DISASTROUS. NOT ONLY WOULD OUR MILLS AND THE ASSOCIATED JOBS BE IMPACTED, BUT THE UNIQUE FISHING, RAFTING, AND ASSOCIATED RECREATIONAL ACTIVITIES WOULD BE DESTROYED. WE ASK YOU NOT TO RECLASSIFY THE WEST BRANCH.

WE HAVE ANOTHER CONCERN. THE PROPOSED UPGRADE OF RIVER CLASSIFICATION FROM DEBSKONEAG FROM "B" TO "A" WILL PLACE SEVERE LIMITATIONS ON THE PEOPLE OF THE KATAHDIN REGION TO TRY AND LOCATE NEW ECONOMIC OPPORTUNITIES IN THAT AREA. THE UPGRADE IN CLASSIFICATION FORECLOSES THE OPPORTUNITY OF TRYING TO ATTRACT ANY BUSINESS THAT MAY HAVE A NEED FOR JUST A MINIMAL DISCHARGE. PRESENT STATE LAWS AND REGULATIONS ENSURE THAT THE RIVER IN THIS AREA CANNOT BE DOWNGRADED IN WATER QUALITY. IT IS OUR HOPE THAT THIS COMMITTEE WON'T LOCK OUT THE FUTURE OF ECONOMIC DEVELOPMENT BY ESTABLISHING STANDARDS THAT WILL PLACE A FURTHER BURDEN ON AN AREA STRIVING TO POSITION ITSELF FOR THE 21ST CENTURY.

RELEVANT STATUTORY PROVISIONS

§ 414-A. Conditions of licenses

1. **Generally.** The board shall issue a license for the discharge of any pollutants only if it finds that:

A. The discharge either by itself or in combination with other discharges will not lower the quality of any classified body of water below such classification;

§ 466. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

2. **As naturally occurs.** "As naturally occurs" means conditions with essentially the same physical, chemical and biological characteristics as found in situations with similar habitats free of measurable effects of human activity.

5. **Direct discharge.** "Direct discharge" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

9. **Natural.** "Natural" means living in, or as if in, a state of nature not measurably affected by human activity.*

10. **Resident biological community.** "Resident biological community" means aquatic life expected to exist in a habitat which is free from the influence of the discharge of any pollutant. This shall be established by accepted biomonitoring techniques.

11. **Unimpaired.** "Unimpaired" means without a diminished capacity to support aquatic life.

12. **Without detrimental changes in the resident biological community.** "Without detrimental changes in the resident biological community" means no significant loss of species or excessive dominance by any species or group of species attributable to human activity.

§ 465. Standards for classification of fresh surface waters

The board shall have 4 standards for the classification of fresh surface waters which are not classified as great ponds.

1. **Class AA waters.** Class AA shall be the highest classification and shall be applied to waters which are outstanding natural resources and which should be preserved because of their ecological, social, scenic or recreational importance.

A. Class AA waters shall be of such quality that they are suitable for the designated uses of drinking water after disinfection, fishing, recreation in and on the water and navigation and as habitat for fish and other aquatic life. The habitat shall be characterized as free flowing and natural.

B. The aquatic life, dissolved oxygen and bacteria content of Class AA waters shall be as naturally occurs.

C. There shall be no direct discharge of pollutants to Class AA waters.

2. **Class A waters.** Class A shall be the 2nd highest classification.

A. Class A waters shall be of such quality that they are suitable for the designated uses of drinking water after disinfection; fishing; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; and navigation; and as habitat for fish and other aquatic life. The habitat shall be characterized as natural.

B. The dissolved oxygen content of Class A waters shall be not less than 7 parts per million or 75% of saturation, whichever is higher. The aquatic life and bacteria content of Class A waters shall be as naturally occurs.

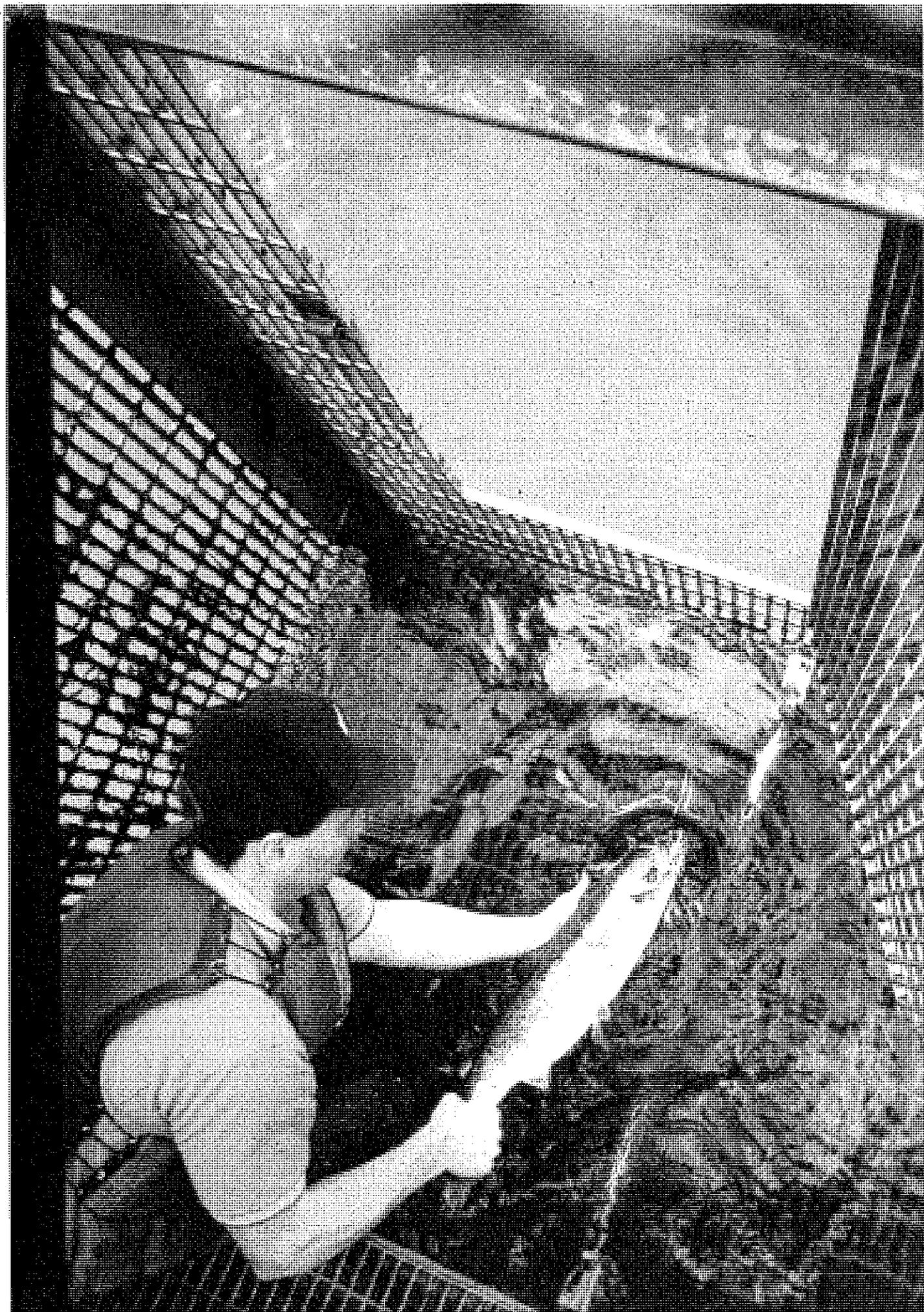
C. Direct discharges to these waters licensed after January 1, 1986, shall be permitted only if, in addition to satisfying all the requirements of this article, the discharged effluent will be equal to or better than the existing water quality of the receiving waters. Prior to issuing a discharge license, the board shall require the applicant to objectively demonstrate to the board's satisfaction that the discharge is necessary and that there are no other reasonable alternatives available. Discharges into waters of this classification which were licensed prior to January 1, 1986, shall be allowed to continue only until practical alternatives exist. There shall be no deposits of any material on the banks of these waters in any manner so that transfer of pollutants into the waters is likely.

3. **Class B waters.** Class B shall be the 3rd highest classification:

A. Class B waters shall be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; and navigation; and as habitat for fish and other aquatic life. The habitat shall be characterized as unimpaired.

B. The dissolved oxygen content of Class B waters shall be not less than 7 parts per million or 75% of saturation, whichever is higher, except that for the period from October 1st to May 14th, in order to ensure spawning and egg incubation of indigenous fish species, the 7-day mean dissolved oxygen concentration shall not be less than 9.5 parts per million and the 1-day minimum dissolved oxygen concentration shall not be less than 8.0 parts per million in identified fish spawning areas. Between May 15th and September 30th, the number of *Escherichia coli* bacteria of human origin in these waters may not exceed a geometric mean of 64 per 100 milliliters or an instantaneous level of 427 per 100 milliliters.

C. Discharges to Class B waters shall not cause adverse impact to aquatic life in that the receiving waters shall be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes in the resident biological community.



Submitted by:

Alice E. Knapp,
Maine Chamber of
Commerce & Industry

L.D. 2244
"An Act to Reclassify Surface Waters of the State"

Non-attainment upgrades proposed in anticipation of municipal waste water treatment facilities coming on-line within a year or two per Dave Courtemanch of the DEP Water Bureau:

1. pp 5 of L.D. 2244 Mattawamkeag River, tributaries -
(D)(2): currently a "C" proposed upgrade to "B" in anticipation of facility coming on-line in Town of Patton

- pp 6 of L.D. 2244 Piscataquis River tributaries from
(2): existing law currently classified as "C", proposed upgrade to "B" as follows:

2. current law 38 MRSA
SS 467 (E)(2)(b): Davee Brook - Dover Foxcroft due to come on-line, under construction

3. current law 38 MRSA
SS 467 (E)(2)(f): Pleasant Stream, main stem - - Brownville Junction under construction

4. current law 38 MRSA
SS 467 (e)(2)(i): Sebec River - Milo project due to begin construction

5. pp 10 of L.D. 224
(14)(A)(3): From Route 90 to tidewater - currently a "C", proposed upgrade to "B" in anticipation of Warren facility coming on-line - currently under construction

- (d) Sawtelle Brook, from a point located 1,000 feet downstream from the dam at the outlet of Sawtelle Deadwater to its confluence with the Seboeis River—Class B.
- (e) Seboeis River, from the outlet of Snowshoe Lake to its confluence with the East Branch—Class B.
- (f) Wassataquoik Stream, from the boundary of Baxter State Park to its confluence with the East Branch—Class B.
- (g) Webster Brook, from a point located 1,000 feet downstream from the dam at the outlet of Telos Lake to its confluence with Webster Lake—Class B.

C. Penobscot River, West Branch Drainage.

- (1) West Branch of the Penobscot River, Main Stem.
 - (a) From the dam at the outlet of Seboomook Lake to a point located 1,000 feet downstream from the dam at the outlet of Seboomook Lake—Class B.
 - (b) From a point located 1,000 feet downstream from the dam at the outlet of Seboomook Lake to its confluence with Chesuncook Lake—Class B.
 - (c) From Ripogenus Dam to the T.3, R.11, W.E.L.S.—T.3, R.10, W.E.L.S. boundary—Class B.
 - (d) From the T.3, R.11, W.E.L.S.—T.3, R.10, W.E.L.S. boundary to its confluence with Ambajejus Lake—Class B.
 - (e) From the outlet of Elbow Lake to the outlet of Ferguson and Quakish Lakes—Class B.
 - (f) From the outlet of Ferguson and Quakish Lakes to its confluence with the East Branch of the Penobscot River, including all impoundments—Class C.
- (2) West Branch of the Penobscot River, tributaries.
 - (a) All tributaries and segments of the West Branch of the Penobscot River which are within the boundaries of Baxter State Park—Class AA.
 - (b) All tributaries entering above the dam at the outlet of Seboomook Lake—Class A.
 - (c) Millinocket Stream, from the railroad bridge near the Millinocket-T.3 Indian Purchase boundary to its confluence with the West Branch of the Penobscot River—Class C.

D. Mattawamkeag River Drainage.

- (1) Mattawamkeag River, main stem.
 - (a) From the confluence of the East Branch and the West Branch to the Kingman-Mattawamkeag boundary—Class B.
 - (b) From the Kingman-Mattawamkeag boundary to its confluence with the Penobscot River—Class B.
- (2) Mattawamkeag River, tributaries.
 - (a) Baskahegan Stream, from the narrows in Crooked Brook Flowage approximately one mile above the village of Danforth to its confluence with the Mattawamkeag River—Class C.
 - (b) Fish Stream, from a point 0.25 mile upstream of the Route 11 bridge in Patten to its confluence with the West Branch of the Mattawamkeag River—Class C.
 - (c) Mattakeunk Stream (Lee) from the outlet of Mattakeunk Pond to its confluence with Dwinal Pond—Class C.
 - (d) Webb Brook (Patten) and its tributaries—Class C.
 - (e) West Branch of the Mattawamkeag River (Island Falls) from a point 100 feet upstream of the railroad bridge at Island Falls to its confluence with Upper Mattawamkeag Lake—Class C.

E. Piscataquis River Drainage.

- (1) Piscataquis River, main stem.

- (a) From the confluence of the East Branch and the West 1 Abbot-Guilford boundary—Class B.
 - (b) From the Abbott-Guilford boundary to its confluence with the Pleasant River—Class C.
 - (c) From its confluence with the Pleasant River to the dam at Howland—Class B.
 - (d) From the dam at Howland to its confluence with the Penobscot River—Class C.
- (2) Piscataquis River, tributaries.
- (a) Carleton Stream (Sangerville) from its mouth to the crossing of Route 23—Class C.
 - (b) Davee Brook below North Street, Dunham Brook below Forest Street and Fox Brook below Grove Street in Dover-Foxcroft—Class C.
 - (c) East and West Branches of the Piscataquis River and their tributaries above their confluence near Blanchard—Class A.
 - (d) Phillip Brook, Monson, from Lake Hebron to the junction with Monson Stream—Class C.
 - (e) Pleasant River, East Branch and its tributaries—Class A.
 - (f) Pleasant River, main stem, from the end of Maple Street in Brownville Junction to its confluence with the Piscataquis River—Class C.
 - (g) Pleasant River, West Branch, from the outlet of Fourth West Branch Pond to its confluence with the East Branch—Class AA.
 - (h) Pleasant River, West Branch tributaries—Class A.
 - (i) Sebec River, from the dam at Main Street in Milo to its confluence with the Piscataquis River—Class C.
 - (j) Sebec River and its tributaries above the outlet of Monson Stream—Class A.
- F. Penobscot River, minor tributaries.
- (1) All minor tributaries entering from the west between Pushaw Stream and the outlet of Reed Brook in Hampden which are not otherwise classified—Class C.
 - (2) All minor tributaries entering from the east between Blackman Stream and a line extended in an east-west direction from the outlet of Reed Brook in Hampden which are not otherwise classified—Class C.
 - (3) Alamoosook Lake Tributaries—Class A.
 - (4) Cambolasee Stream (Lincoln) below the Route 2 bridge—Class C.
 - (5) Great Works Stream (Bradley) and its tributaries above the Route 178 bridge—Class A.
 - (6) Kenduskeag Stream (Bangor) and tributaries below the Bullseye Bridge—Class C.
 - (7) Mattanawcook Stream (Lincoln) below the outlet of Mattanawcook Pond—Class C.
 - (8) Olamon Stream and its tributaries above the bridge on Horseback Road—Class A.
 - (9) Passadumkeag River and its tributaries above Grand Falls—Class A.
 - (10) Sourdabscook Stream and its tributaries above the dam of the Hampden Water District—Class A.
 - (11) Sunkhaze Stream and its tributaries—Class A.
8. Pleasant River Basin.
- A. Pleasant River, main stem.
 - (1) From the outlet of Pleasant River Lake to a point located 1,000 feet above tidewater—Class B.
 - (2) From a point located 1,000 feet above tidewater to tidewater—Class B.
9. Presumpscot River Basin.
- A. Presumpscot River, main stem.

13. St. Croix River Basin.

A. St. Croix River, main stem.

(1) From the outlet of Chiputneticook Lakes to the Grand Falls Dam, those waters lying within the State—Class B.

(2) From the Grand Falls Dam to the Woodland Dam, those waters lying within the State, including all impoundments—Class C.

(3) From the Woodland Dam to tidewater, those waters lying within the State, including all impoundments—Class C.

B. St. Croix River, tributaries.

(1) All tributaries which have portions of their drainage area in Maine and portions in New Brunswick, those waters lying within the State—Class B.

(2) All tributaries entering upstream from the dam at Calais, the drainage areas of which are wholly within the State—Class A.

14. St. George River Basin.

A. St. George River, main stem.

(1) From the outlet of Lake St. George to tidewater—Class C.

B. St. George River, tributaries.

(1) All tributaries and segments of the St. George River which are not otherwise classified—Class C.

(2) All tributaries entering above the outlet of Lake St. George—Class B.

(3) Crawford Pond Outlet and Crawford Pond tributaries—Class B.

(4) Fuller Brook and its tributaries—Class B.

(5) North and South Pond tributaries and outlet to the St. George River—Class B.

15. St. John River Basin.

A. St. John River, main stem.

(1) From the confluence of the Northwest Branch and the Southwest Branch to a point located one mile above the foot of Big Rapids in Allagash—Class B.

(2) From a point located one mile above the foot of Big Rapids in Allagash to the Frenchville-Madawaska boundary, those waters lying within the State, including all impoundments—Class B.

(3) From the Frenchville-Madawaska boundary to where the international boundary leaves the river in Hamlin, those waters lying within the State, including all impoundments—Class C.

B. Allagash River Drainage.

(1) Allagash River, main stem.

(a) From Churchill Dam to a point located 1,000 feet downstream from Churchill Dam—Class A.

(b) From a point located 1,000 feet downstream from Churchill Dam to its confluence with Gerald Brook in Allagash—Class AA.

(c) From its confluence with Gerald Brook in Allagash to its confluence with the St. John River—Class A.

(2) Allagash River, tributaries.

(a) All tributaries of the Allagash River which are not otherwise classified—Class A.

(b) Allagash Stream, from the outlet of Allagash Pond in T.9, R.15, W.E.L. S. to its confluence with Chamberlain Lake—Class AA.

(c) Chemquasabamticook Stream, from the outlet of Chemquasabamticook Lake to its confluence with Long Lake—Class AA.

(d) Musquacook Stream, from the outlet of Third Musquacook Lake to its confluence with the Allagash River—Class AA.

C. Aroostook River Drainage.

(1) Aroostook River, main stem.

(a) From the confluence of Millinocket Stream and Munsungan Stream to its confluence with the Machias River—Class AA.

Amendments to Water Reclassification Bill, LD 2244

1. To solve **Great Northern's** concerns that two phrases in the "AA" classification -- "free flowing" and "as naturally occurs" -- could be used to drastically alter, if not remove their existing hydropower facilities.
-

A. **Modify the term "free flowing":**

38 MRSA §466 is amended by adding the following:

13. Free flowing. Free flowing means that the downstream movement of water will not be impeded by a dam or dike. Flow rates within an area of free flowing habitat may be regulated by structures upstream of that habitat.

B. **Clarify the meaning of "natural" habitat and "aquatic life" that is "as naturally occurs":**

38 MRSA § 465(1) and (2) are each amended by adding the following:

D. For waters downstream of an existing storage or hydropower generating dam, there may be alterations to the aquatic community and habitat caused by the operation of the dam, so long as all reasonable measures have been taken to minimize these alterations and to achieve naturally occurring habitat and aquatic life. In no case may there be impairment of habitat or adverse impact to aquatic life.

- B. To solve **Bangor Hydro's** concern that under 38 MRSA §464(F)(3) it will not be able to receive a water quality certification because it is discharging into waters that do not meet their classification due to the presence of bacteria from combined sewer overflows, over which Bangor Hydro has no control.
-

1. Amend 38 MRSA §464(F)(3) to read:

The board may only issue a discharge license pursuant to section 414-A or approve water quality certification pursuant to the United States Clean Water Act, Section 401, Public Law 92-500, as amended, if the standards of classification of the water body and the requirements of this paragraph will be met. A discharge license or

a water quality certification may be issued for a project affecting a water body in which the standards of classification are not met so long as the project does not cause or contribute to the failure of the water body to meet the standards of classification.

file: biga.3

Proposed Amendments to LD 2244

AN ACT to Reclassify Surface Waters of the State.

Sec. 1. §465, Standards for classification of fresh surface waters is amended by adding the following paragraph:

5. Impoundments satisfy the habitat/aquatic life standards for Class A, B and C waters if the chemical water quality is sufficient to support the aquatic life which would be present in the riverine environment and the impoundment will support aquatic species which could be expected to exist in an impoundment within the applicable classification. If the applicant demonstrates that the habitat/aquatic life standards are met above and below the impoundment, it shall be presumed that the impoundment meets this standard unless the water in the impoundment thermally stratifies.

Sec. 2. 38 M.R.S.A. §414-A(1) (A) is amended as follows:

A. The discharge either by itself or in combination with other discharges will not lower the quality of any classified body of water below such classification. If, however, the water quality of the classified waterbody is below the classification, the discharge may be licensed as long as it has no impact on the standard or pollutant which is causing the waterbody to be below its classification.

Sec. 3. 38 M.R.S.A. §464(4)(F)(3) is amended as follows:

(3) The board may only issue a discharge license pursuant to Section 414-A or approve water quality certification pursuant to the United States Clean Water Act, Section 401, Public Law 92-500, as amended, if the standards of classification of the waterbody and the requirements of this paragraph will be met. If, however, the water quality of the waterbody is below the classification, the board may issue a discharge license or water quality certification as long as the discharge or project has no impact on the standard or pollutant which is causing the waterbody to be below its classification.

Submitted by: Bangor Hydro-Electric Company and
Maine Public Service Company

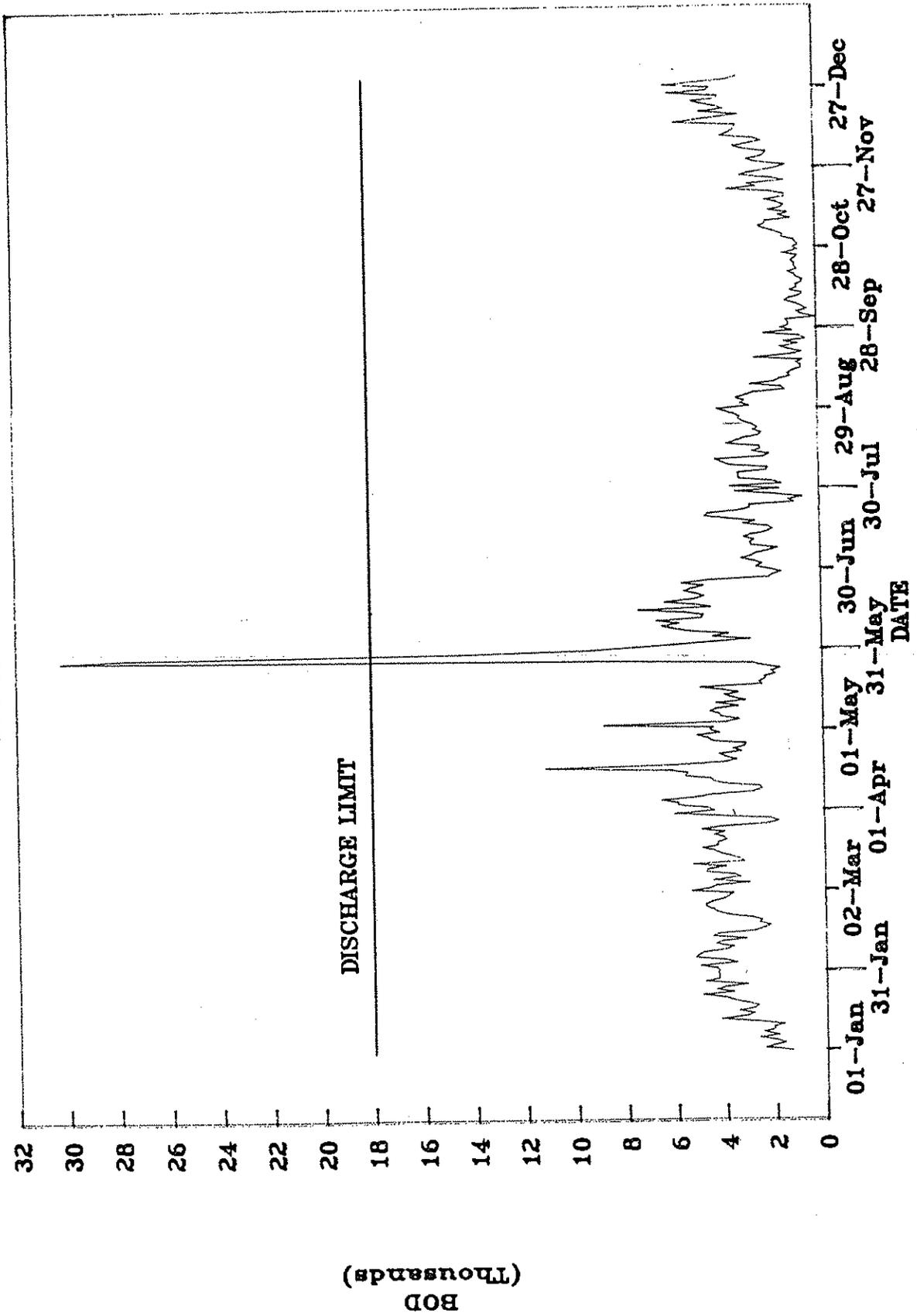
Dated: February 13, 1990

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Wendy Porter.

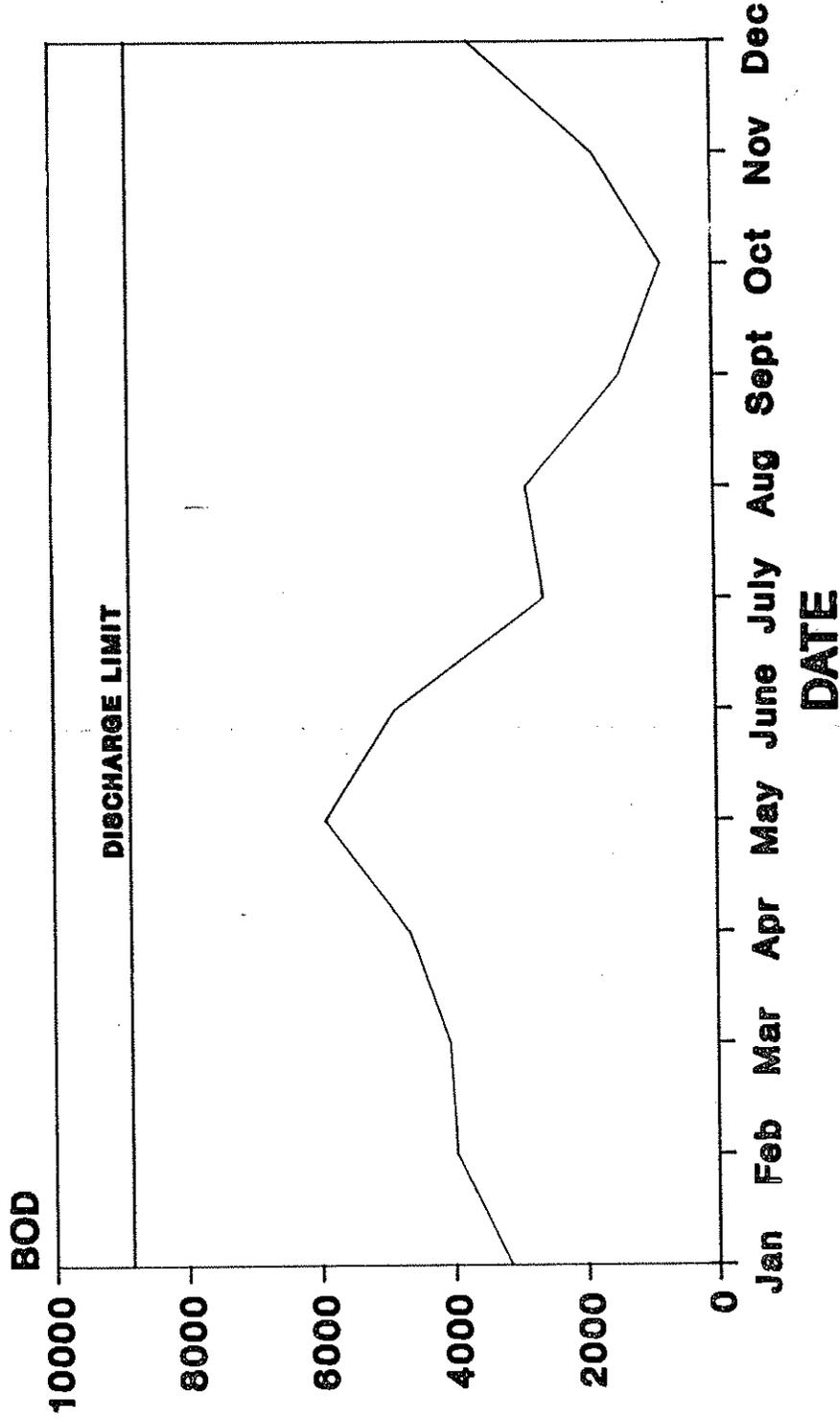
JAMES RIVER CORPORATION

BOD DAILY VALUES



C

JAMES RIVER CORPORATION BOD MONTHLY AVERAGE



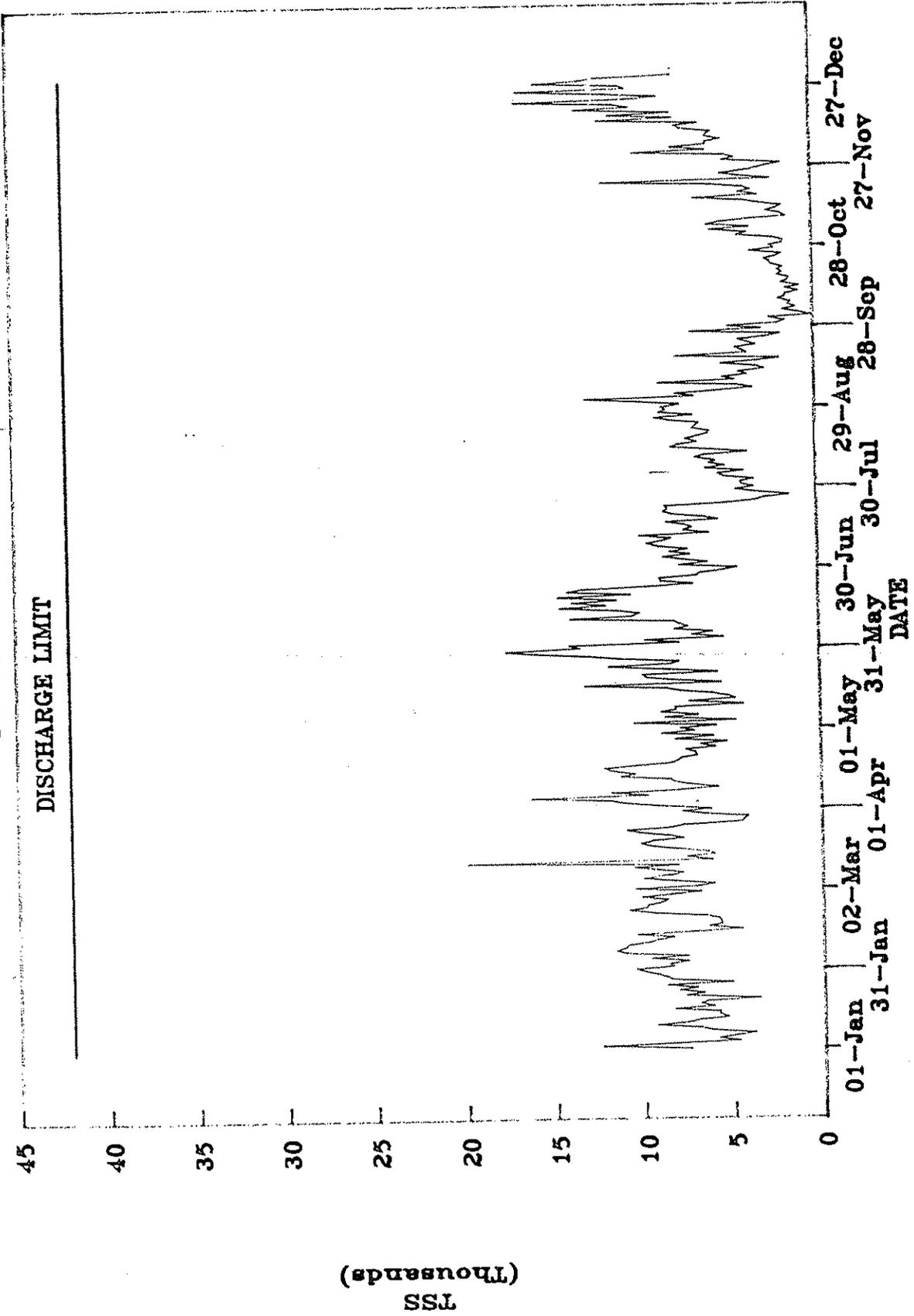
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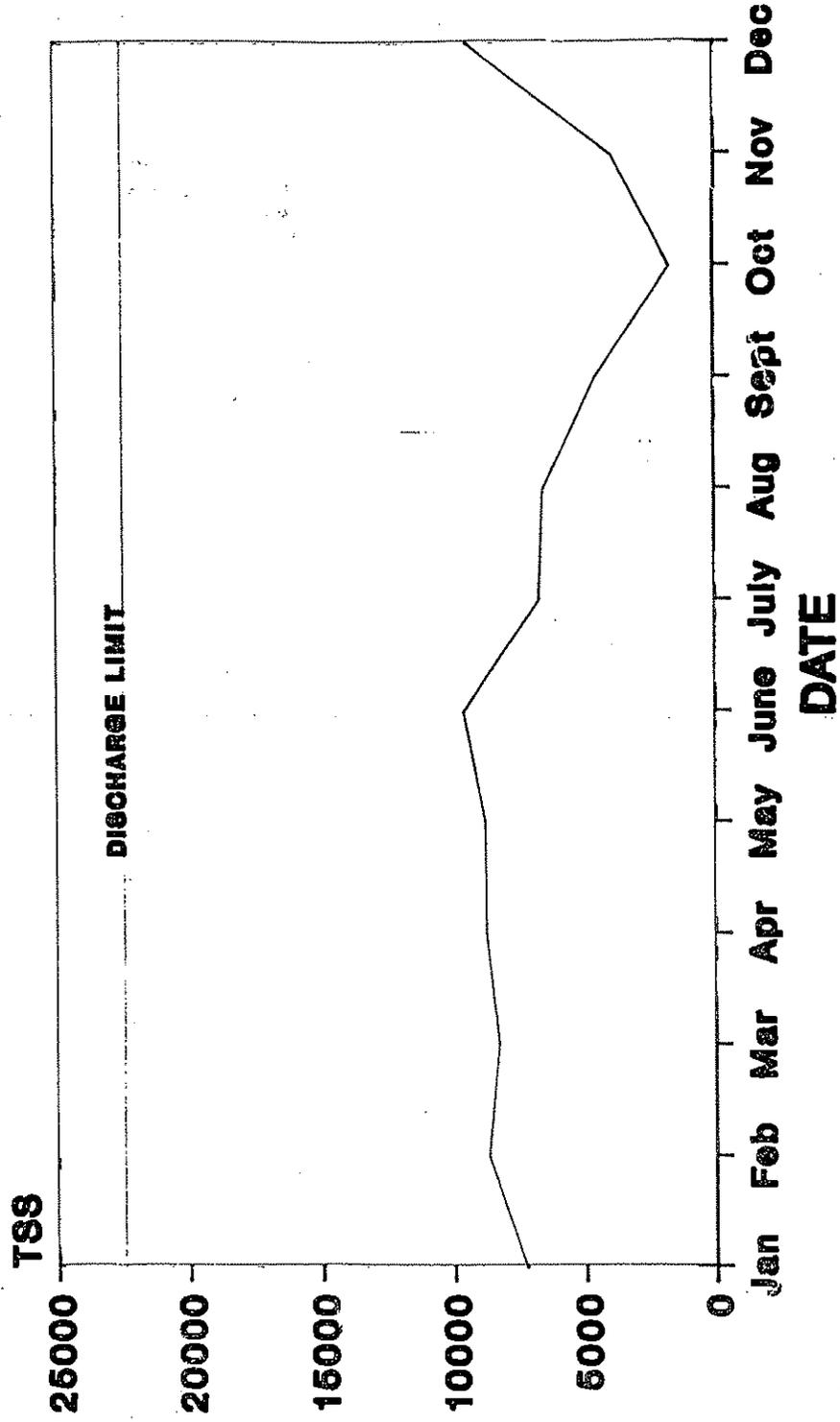
TSS DAILY VALUES

DISCHARGE LIMIT



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JAMES RIVER CORPORATION TSS MONTHLY AVERAGE

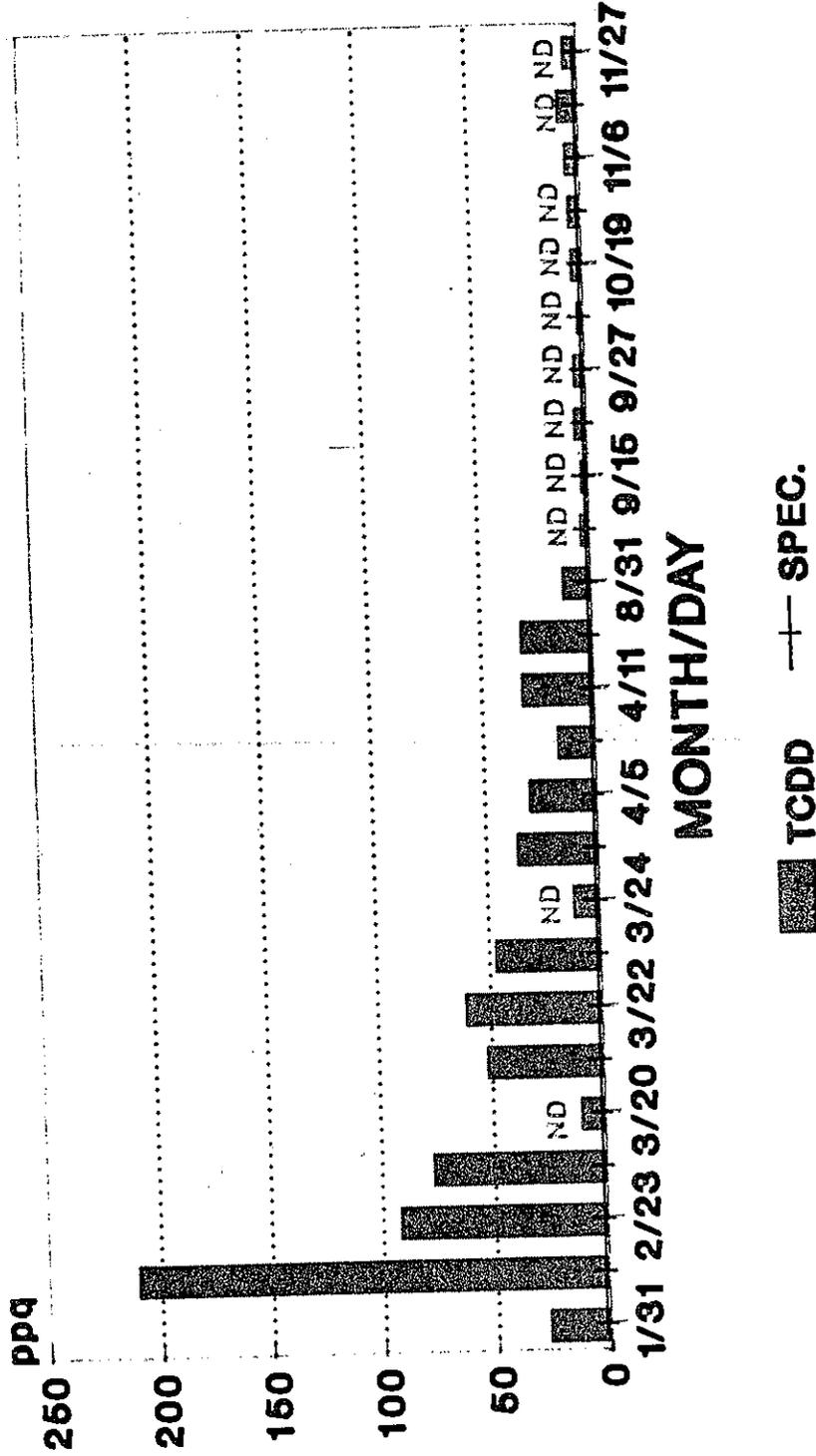


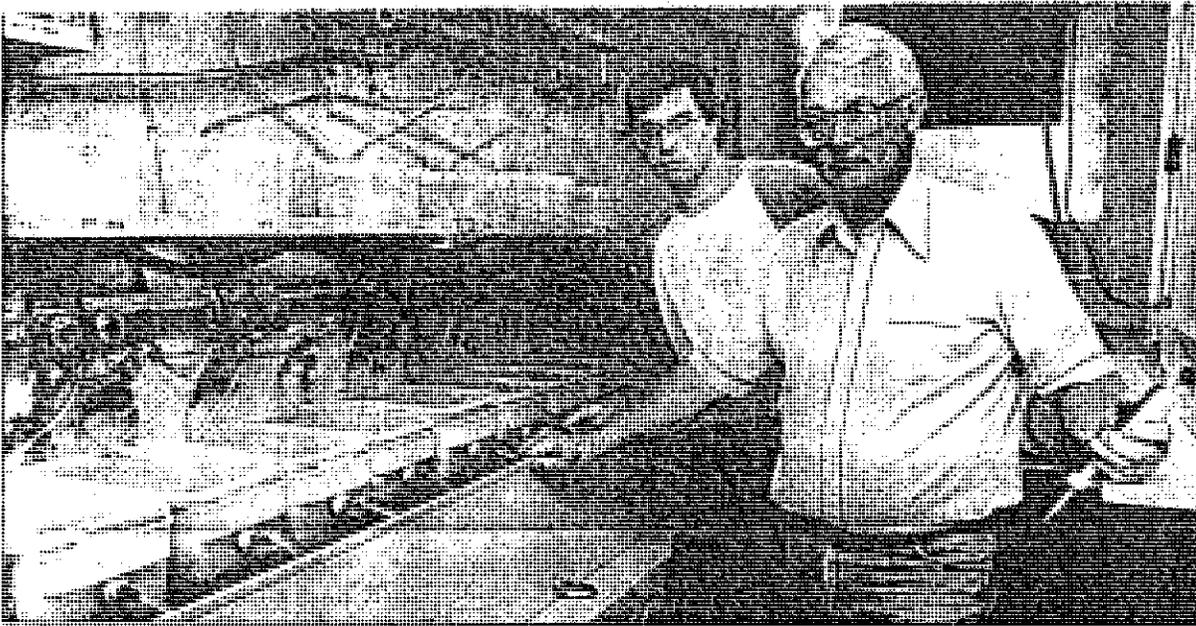
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OLD TOWN MILL DIOXIN DATA

EFFLUENT: ppq





IN A TRAVELING laboratory outside the James River Corp.'s paper mill in Old Town Monday, biologists Jerry Kraus (right) and Bob Clausung explain the operation of the biomonitoring system for water quality toxicity testing of mill effluent. The scientists are seeking to establish the effects of the effluent on animal life in the Penobscot River. (NEWS Photo by Marc Blanchette)

Paper mill in Old Town employs new tool for testing Penobscot River water quality

By Nancy Remsen
Senior Writer

OLD TOWN — On July 20, the Department of Environmental Protection will hold a hearing in Bangor on a proposal to raise the standards for the quality of the water in the Penobscot River.

The cleanliness of the river water has improved dramatically since the days when raw sewage and toxic chemicals drained directly into the Penobscot. As a result of these improvements and as required by a 1986 law, the state is in the process of reclassifying waters throughout the state.

To insure that improvements continue, state and federal environmental regulators are turning to new scientific tools to determine the effect of discharges into the river. One of those tools, toxicity testing, already is employed at James River Corp.'s paper mill in Old Town.

This week two scientists from the James River Technical Center in Jenah, Wis., have been camped in a traveling laboratory next to the mill's waste water treatment plant. Their task has been to conduct toxicity tests, which they called biomonitoring, to determine how the millions of gallons of waste water from paper production might be affecting animal life in the river.

"James River believes that biomonitoring is the only means to determine the effects of effluent on the receiving water," said Jerry Kraus, a veteran scientist with the company. Kraus has been to Old Town five times since the mill was acquired by James River Corp. in 1983, each time testing to see what the

"James River believes that biomonitoring is the only means to determine the effects of effluent on the receiving water."

—biologist Jerry Kraus

waste water from the mill is doing to life in the Penobscot River.

He and Bob Clausung, also a biologist, place water fleas, fat-head minnows and young brook trout in individual containers with varying concentrations of waste water from the mill's treatment plant and water from the Penobscot River.

Kraus and Clausung aren't looking to see if a high concentration of waste water kills the fleas, minnows or trout. They are looking at what levels of effluent seem to affect growth and reproduction in the three species.

In a refrigerated section of their traveling laboratory, Kraus and Clausung have 12 buckets each with 10 two-inch trout, three to four months old, swimming in concentrations of effluent — 100 percent, 75 percent, 56 percent, 32 percent and 10 percent. There also are two aquariums where trout swim in plain river water.

For 14 days, the fish are provided with an abundance of food, ideal water temperature and oxygen. The only variable is the concentration of waste water in the buckets. At the end of the two weeks, the trout are measured and weighed so that growth comparisons can be made.

Similarly, minute minnows live for seven days in jars with the same range of effluent concentrations. These, too, are weighed at the end of

the experiment to see if the amount of waste water affected their growth.

James River raises minnows for the biomonitoring studies the company conducts at sites throughout the country, Kraus said. He'd like to be able to prove that the minnows are just as good a barometer for water conditions as brook trout.

Barry Mower, a biologist with the Department of Environmental Protection, prefers brook trout, a sensitive species that is native to the Penobscot and other Maine rivers. He admits, however, that the fish are more difficult to use because they don't reproduce year-round the way the minnows do. Toxicity tests using trout can only be conducted in the summer months, while tests with minnows can be conducted throughout the year.

The tiny water fleas, whose reproductive success over seven days is evaluated in the experiments, are the most sensitive of all the species, according to Mower.

In each of the experiments conducted by James River's scientific team, the aim is to find the concentration level at which the effluent effects growth or reproduction. The concentration level just below the point at which effects result — a level where no effect is found — becomes the upper limit for the

concentration of effluent that should be allowed in the river, the scientists explained.

This upper limit is compared to a calculation of the maximum concentration of effluent expected to occur in the river even in dry years when the water level is below normal.

The data from James River suggests that the concentration of its effluent in the Penobscot River is less than 1 percent. The concentrations of the mill's effluent that affect water fleas, minnows and trout range from 30 to 75 percent.

All the monitoring results conducted by Kraus over the last six years have shown that the mill's effluent has no observed effect on aquatic life at concentrations many times higher than are ever found in the Penobscot River.

Mower at DEP agreed that the waste water from paper companies hasn't been considered particularly toxic to aquatic life. That's why effluent toxicity testing, such as that carried out this week at James River, hasn't been required of paper companies until recently. For the first time, the drafts of renewed licenses for waste-water discharges from three mills contain requirements for toxicity testing, using fleas and trout, Mower said.

Other industries, however, such as textile mills, tanneries and electroplating plants, already have had to carry out toxicity testing to get waste water discharge licenses in Maine, he said.

The federal government also has decided to make toxicity testing a requirement of municipalities when they renew their licenses for waste treatment plants, Mower said.

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L.D. 2244

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1622, L.D. 2244, Bill, "An Act to Reclassify Surface Waters of the State"

Amend the bill by inserting before section 1 the following:

'Sec. 1. 38 MRSA §464, sub-§4, ¶F, as amended by PL 1989, c. 309, §2, is further amended by amending sub-¶(3) to read:

(3) The board may only issue a discharge license pursuant to section 414-A or approve water quality certification pursuant to the United States Clean Water Act, Section 401, Public Law 92-500, as amended, if the standards of classification of the water body and the requirements of this paragraph ~~will-be~~ are met. The board may issue a discharge license or approve water quality certification for a project affecting a water body in which the standards of classification are not met if the project does not cause or contribute to the failure of the water body to meet the standards of classification.

Further amend the bill by inserting after section 1 the following:

'Sec. 2. 38 MRSA §467, sub-§1, ¶D, as repealed and replaced by PL 1989, c. 228, §1, is amended to read:

D. Androscoggin River, minor tributaries - Class B unless otherwise specified.

(1) All tributaries of the Androscoggin River that enter between the Maine-New Hampshire boundary in Gilead and its confluence with the Ellis River and that are not otherwise classified - Class A.

(2) Bear River - Class AA.

COMMITTEE AMENDMENT " " to H.P. 1622, L.D. 2244

2 (3) Sabattus River ~~---Class-B~~ from Sabattus Lake to
4 limits of the Lisbon urban area - Class C.

6 (4) Webb River - Class A.'

8 Further amend the bill by inserting after section 3 the
following:

10 'Sec. 4. 38 MRSA §467, sub-§6-A is enacted to read:

12 6-A. Narraguagus River Basin.

14 A. Narraguagus River, main stem.

16 (1) From the outlet of Eagle Lake to the confluence
18 with the West Branch of the Narraguagus River in
Cherryfield - Class AA.

20 (2) From the confluence with the West Branch of the
Narraguagus River in Cherryfield to tidewater - Class B.

22 B. Narraguagus River, tributaries - Class A unless
24 otherwise specified.

26 (1) All tributaries entering below the river's
28 confluence with the West Branch - Class B.

30 (2) West Branch of the Narraguagus River - Class AA.'

32 Further amend the bill by striking out all of section 4 and
inserting in its place the following:

34 'Sec. 4. 38 MRSA §467, sub-§7, as amended by PL 1987, c. 192,
36 §18, is repealed and the following enacted in its place:

38 7. Penobscot River Basin.

40 A. Penobscot River, main stem.

42 (1) From the confluence of the East Branch and the
West Branch to the confluence of the Mattawamkeag
44 River, including all impoundments - Class C.

46 (2) From the confluence of the Mattawamkeag River to
the confluence of Cambolasse Stream - Class B.

48 (3) From the confluence of Cambolasse Stream to the
confluence of the Piscataquis River, including all
50 impoundments - Class C.

2 (4) From the confluence of the Piscataquis River,
including the Stillwater Branch, to the Veazie dam,
4 including all impoundments - Class B.

6 (5) From the Veazie dam, but not including the Veazie
dam, to the Maine Central Railroad bridge in
8 Bangor-Brewer - Class B. Further, the Legislature
finds that the free-flowing habitat of this river
10 segment provides irreplaceable social and economic
benefits and that this use must be maintained.

12 (6) From the Maine Central Railroad bridge in Bangor
to a line extended in an east-west direction from the
14 confluence of Reeds Brook in Hampden - Class C.
Further, the Legislature finds that the free-flowing
16 habitat of this river segment provides irreplaceable
social and economic benefits and that this use must be
18 maintained.

20 B. Penobscot River, East Branch Drainage.

22 (1) East Branch of the Penobscot River, main stem.

24 (a) Above its confluence with Grand Lake
Mattagamon - Class A.

26 (b) From the dam at the outlet of Grand Lake
28 Mattagamon to a point located 1,000 feet
downstream from the dam - Class A.

30 (c) From a point located 1,000 feet downstream
32 from the dam at the outlet of Grand Lake
Mattagamon to its confluence with the West Branch
34 - Class AA.

36 (2) East Branch of the Penobscot River, tributaries -
Class A unless otherwise specified.

38 (a) All tributaries, any portion of which is
40 located within the boundaries of Baxter State Park
- Class AA.

42 (b) Sawtelle Brook, from a point located 1,000
44 feet downstream from the dam at the outlet of
Sawtelle Deadwater to its confluence with the
46 Seboeis River - Class AA.

48 (c) Seboeis River, from the outlet of Snowshoe
Lake to its confluence with the East Branch -
50 Class AA.

COMMITTEE AMENDMENT " " to H.P. 1622, L.D. 2244

2 (d) Wassataquoik Stream, from the boundary of
Baxter State Park to its confluence with the East
4 Branch - Class AA.

6 (e) Webster Brook, from a point located 1,000
feet downstream from the dam at the outlet of
8 Telos Lake to its confluence with Webster Lake -
Class AA.

10 C. Penobscot River, West Branch Drainage.

12 (1) West Branch of the Penobscot River, main stem.

14 (a) From the dam at the outlet of Seboomook Lake
to a point located 1,000 feet downstream from the
16 dam at the outlet of Seboomook Lake - Class B.

18 (b) From a point located 1,000 feet downstream
from the dam at the outlet of Seboomook Lake to
20 its confluence with Chesuncook Lake - Class B.

22 (c) From Ripogenus Dam to the T.3, R.11, W.E.L.S.
- T.3, R.10, W.E.L.S. boundary - Class B.

24 (d) From the T.3, R.11, W.E.L.S. - T.3, R.10,
26 W.E.L.S. boundary to its confluence with Ambajejus
Lake - Class B.

28 (e) From the outlet of Elbow Lake to the outlet
30 of Ferguson and Quakish Lakes - Class B.

32 (f) From the outlet of Ferguson and Quakish Lakes
to its confluence with the East Branch of the
34 Penobscot River, including all impoundments -
Class C.

36 (2) West Branch of the Penobscot River, tributaries -
38 Class A unless otherwise specified.

40 (a) Those segments of any tributary that are
within the boundaries of Baxter State Park - Class
42 AA.

44 (b) Those tributaries above the confluence with
the Debsconeag Deadwater, any portion of which is
46 located within the boundaries of Baxter State Park
- Class AA.

48 (c) Millinocket Stream, from the railroad bridge
50 near the Millinocket-T.3 Indian Purchase boundary
to its confluence with the West Branch Canal -
52 Class B.

2 (d) Millinocket Stream from the confluence of the
3 West Branch Canal to its confluence with the West
4 Branch of the Penobscot River - Class C.

6 D. Mattawamkeag River Drainage.

8 (1) Mattawamkeag River, main stem.

10 (a) From the confluence of the East Branch and
11 the West Branch to the Kingman-Mattawamkeag
12 boundary - Class B.

14 (b) From the Kingman-Mattawamkeag boundary to its
15 confluence with the Penobscot River - Class AA.

16 (2) Mattawamkeag River, tributaries - Class B.

18 E. Piscataquis River Drainage.

20 (1) Piscataquis River, main stem.

22 (a) From the confluence of the East Branch and
23 the West Branch to the Route 15 bridge in Guilford
24 - Class A.

26 (b) From the Route 15 bridge in Guilford to the
27 Maine Central Railroad bridge in Dover-Foxcroft -
28 Class C.

30 (c) From the Maine Central Railroad bridge in
31 Dover-Foxcroft to its confluence with the
32 Penobscot River - Class B.

34 (2) Piscataquis River, tributaries - Class B unless
35 otherwise specified.

38 (a) Except as otherwise provided, East and West
39 Branches of the Piscataquis River and their
40 tributaries above their confluence near Blanchard
41 - Class A.

42 (b) East Branch of the Piscataquis River from
43 1,000 feet below Shirley Pond to its confluence
44 with the West Branch - Class AA.

46 (c) Pleasant River, East Branch and its
47 tributaries - Class A.

50 (d) Pleasant River, West Branch, from the outlet
51 of Fourth West Branch Pond to its confluence with
52 the East Branch - Class AA.

- 2 (e) Pleasant River, West Branch tributaries -
3 Class A.
- 4
- 5 (f) Sebec River and its tributaries above Route 6
6 in Milo - Class A.
- 7
- 8 (g) West Branch of the Piscataquis River from
9 1,000 feet below West Shirley Bog to its
10 confluence with the East Branch - Class AA.
- 11
- 12 F. Penobscot River, minor tributaries - Class B unless
13 otherwise specified.
- 14
- 15 (1) Cambolasse Stream (Lincoln) below the Route 2
16 bridge - Class C.
- 17
- 18 (2) Great Works Stream (Bradley) and its tributaries
19 above the Route 178 bridge - Class A.
- 20
- 21 (3) Kenduskeag Stream (Bangor) below the Bullseye
22 Bridge - Class C.
- 23
- 24 (4) Mattanawcook Stream (Lincoln) below the outlet of
25 Mattanawcook Pond - Class C.
- 26
- 27 (5) Olamon Stream and its tributaries above the bridge
28 on Horseback Road - Class A.
- 29
- 30 (6) Passadumkeag River and its tributaries - Class A.
- 31
- 32 (7) Sourdabscook Stream and its tributaries above the
33 dam of the Hampden Water District - Class A.
- 34
- 35 (8) Sunkhaze Stream and its tributaries - Class AA.'

36 Further amend the bill by striking out all of section 8.

37

38 Further amend the bill in section 10 in paragraph A in
39 subparagraph (6) in 2nd line (page 9, line 7 in L.D.) by striking
40 out the following: "Thatcher Brook" and inserting in its place
41 the following: 'Thateher-Breek Swan Pond'

42

43 Further amend the bill in section 10 in paragraph A in
44 subparagraph (7) in first line (page 9, line 9 in L.D.) by
45 striking out the following: "Thatcher Brook" and inserting in
46 its place the following: 'Thateher-Breek Swan Pond'

47

48 Further amend the bill in section 14 in subsection 15 in
49 paragraph D in subparagraph (1) in division (c) in the last line
50 (page 13, line 3 in L.D.) by striking out the following: "Class
51 A" and inserting in its place the following: 'Class B'

COMMITTEE AMENDMENT " " to H.P. 1622, L.D. 2244

2 Further amend the bill by renumbering the sections to read
consecutively.

4

6

STATEMENT OF FACT

8 The amendment revises the general licensing provisions by
allowing the licensing of projects on waters that do not meet
10 water quality standards as long as the project does not cause or
contribute to the failure of the water body to meet its
12 classification standard. This amendment makes a variety of
technical corrections to the original bill. The amendment revises
14 certain classifications proposed in the original bill.

VOTING TALLY SHEET

Committee: ENERGY & NATURAL RESOURCES

Date: 2-22-90

Question: LD 2244 River Reclassification

Motion by: Michaud / Dexter OTPAM

SENATORS		Yea	Nay	Absent	Abstained
1	Senator Judy Kany	✓			
2	Senator Edgar Erwin	✓			
3	Senator Margaret Ludwig	✓			
REPRESENTATIVES					
1	Representative Michaud	✓			
2	Representative Jacques	✓			
3	Representative Mitchell	✓			
4	Representative Coles	✓			
5	Representative Hoglund	✓			
6	Representative Gould	✓			
7	Representative Simpson	✓			
8	Representative Dexter	✓			
9	Representative Lord	✓			
10	Representative Anderson	✓			
TOTAL		13			

HOUSE REPORT

THE COMMITTEE ON

ENERGY AND NATURAL RESOURCES

to which was referred the Bill

"An Act to Reclassify Surface Waters of the State"

Use Bills

H.P. 1622 L.D. 2244
have had the same under consideration, and ask leave
to report that the same

Ought to Pass as Amended

by Committee Amendment

" "

This form to be used ONLY in reporting House Bills


Rep. Anderson For the Committee.
Woodland

Town

LAWS

OF THE

STATE OF MAINE

UST in SLZ - 1558
 SUPP. BUDGET - 1739, 2075
 DEP BUDGET - 1564

BACT CONTRACTORS (CFCs) - 1633

AUTO AIR (CFCs) - 1636

DREDGING - 1655

NOISE EXEMPT - 1637

WATER RECLAIM - 1821

CLUSTER DEV. - 1835

OBD FEES - 1897

NRPA - TRANSPORT - 1906

MANURE HANDLING - 1943

NRA - FORESTRY/LOT - 1948

TOWERS (POLLUT) - 1980

WATERBORN DEBRIS - 1988

NOX TREATMENTS - 2006

COF - 2012

VST - 2013

WEL SPILLS - 2041

BEACHS + SOLED - 2044

BEACHS + CLOSURE - 2054

METAL MOVING FEES - 2063

LEADS AND BATT - 2188

BDW BILL - 2239

COASTAL WATERSHEDS - 2334

KE, CASE, BUI, TRAY - 2338

TANKS - 2390

BOUNDS

- WW CONST - 2465

- UC SITES - 2468

- WW CONST - 2482

LAKE STUDY RESULTS - 2524

THIS VOLUME CONTAINS

Public Laws

Chapters 591-936

Private and Special Laws

Resolves and Constitutional Resolutions

AS ENACTED BY THE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

FIRST SPECIAL SESSION

AUGUST 21, 1989 TO AUGUST 22, 1989

AND

SECOND REGULAR SESSION

JANUARY 3, 1990 TO APRIL 14, 1990

Sec. 3. 30-A MRSA §4404, sub-§17 is enacted to read:

17. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

Sec. 4. Application. Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Act applies to any pending application for subdivision approval.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 30, 1990.

CHAPTER 763

H.P. 1635 - L.D. 2268

An Act to Conform Maine Antifouling Paint Law to Federal Standards

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Legislature established a standard to restrict the amount of tributyltin in antifouling paints prior to action by the United States Congress establishing a different standard; and

Whereas, antifouling paint conforming to the State's standard is not available for use by Maine boatyards; and

Whereas, Maine boatyards are losing business to their competitors without any benefit to the environment; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §419-A, sub-§1, ¶A, as enacted by PL 1987, c. 474, is repealed and the following enacted in its place:

A. "Acceptable release rate" means a measured release rate equal to or less than 4.0 micrograms per square centimeter per day at steady state conditions determined in accordance with federal Environmental Protection Agency testing proce-

dures on tributyltin in antifouling paints under the Federal Insecticide, Fungicide and Rodenticide Act. This paragraph is repealed September 1, 1992.

Sec. 2. 38 MRSA §419-A, sub-§1, ¶A-1 is enacted to read:

A-1. "Acceptable release rate" means a measured release rate equal to or less than 3.0 micrograms per square centimeter per day at steady state conditions determined in accordance with federal Environmental Protection Agency testing procedures on tributyltin in antifouling paints under the Federal Insecticide, Fungicide and Rodenticide Act. This paragraph takes effect September 1, 1992.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

See title page for effective date.

CHAPTER 764

H.P. 1622 - L.D. 2244

An Act to Reclassify Surface Waters of the State

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §464, sub-§4, ¶F, as amended by PL 1989, c. 309, §2, is further amended by amending sub-¶(3) to read:

(3) The board may only issue a discharge license pursuant to section 414-A or approve water quality certification pursuant to the United States Clean Water Act, Section 401, Public Law 92-500, as amended, if the standards of classification of the water body and the requirements of this paragraph ~~will be~~ are met. The board may issue a discharge license or approve water quality certification for a project affecting a water body in which the standards of classification are not met if the project does not cause or contribute to the failure of the water body to meet the standards of classification.

Sec. 2. 38 MRSA §467, first ¶, as enacted by PL 1985, c. 698, §15, is amended to read:

All surface waters lying within the boundaries of the State ~~which that~~ are in river basins having a drainage area greater than 100 square miles ~~which that~~ are not classified as lakes or ponds and are ~~not otherwise~~ classified in this section are ~~Class B~~ waters.

Sec. 3. 38 MRSA §467, sub-§1, ¶D, as repealed and replaced by PL 1989, c. 228, §1, is amended to read:

D. Androscoggin River, minor tributaries - Class B unless otherwise specified.

(1) All tributaries of the Androscoggin River that enter between the Maine-New Hampshire boundary in Gilead and its confluence with the Ellis River and that are not otherwise classified - Class A.

(2) Bear River - Class AA.

(3) Sabattus River ~~Class B from Sabattus Lake to limits of the Lisbon urban area~~ - Class C.

(4) Webb River - Class A.

Sec. 4. 38 MRSA §467, sub-§§2, 3 and 5, as enacted by PL 1985, c. 698, §15, are amended to read:

2. Dennys River Basin.

A. Dennys River, main stem.

(1) From the outlet of Meddybemps Lake to the Route 1 Bridge bridge - Class AA.

(2) From the Route 1 bridge to tidewater - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

B. Dennys River, tributaries - Class A unless otherwise specified.

(1) All tributaries entering ~~above~~ below the Route 1 bridge - Class ~~A B~~.

3. East Machias River Basin.

A. East Machias River, main stem.

(1) From the outlet of Pocomoonshine Lake to a point located 0.25 miles above the Route 1 bridge - Class AA.

(2) From a point located 0.25 miles above the Route 1 bridge to tidewater - Class ~~C B~~. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

B. East Machias River, tributaries - Class A unless otherwise specified.

(1) All tributaries entering ~~above~~ below the Route 191 bridge in Jacksonville - Class ~~A B~~.

5. Machias River Basin.

A. Machias River, main stem.

(1) From the outlet of Fifth Machias Lake to ~~its confluence with the~~ a point 100 feet upstream of the Route 1A bridge in Whitneyville Mill Pond - Class AA.

(2) ~~From the outlet of the~~ a point 100 feet upstream of the Route 1A bridge in Whitneyville Mill Pond to the site of the low dam opposite the ends of West Street and Hardwood Street in Machias to tidewater - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

~~(2) From the site of the low dam opposite the ends of West Street and Hardwood Street in Machias to tidewater~~ - Class C.

B. Machias River, tributaries - Class A unless otherwise specified.

(1) All tributaries entering ~~above the river's confluence with the~~ below Route 1A in Whitneyville Mill Pond ~~which are not otherwise classified~~ - Class ~~A B~~.

(2) Mopang Stream, from the outlet of Mopang Second Lake to its confluence with the Machias River - Class AA.

(3) Old Stream, from the outlet of First Lake to its confluence with the Machias River - Class AA.

(4) West Branch of the Machias River, from the outlet of Lower Sabao Lake to its confluence with the Machias River - Class AA.

(5) New Stream, in Northfield and Wesley - Class AA.

Sec. 5. 38 MRSA §467, sub-§6, ¶B, as enacted by PL 1985, c. 698, §15, is amended to read:

B. Mousam River, tributaries - Class B.

~~(1) East Branch of Shaker Brook from the Route 4 bridge to the Alfred Waterboro boundary~~ - Class C.

~~(2) Hay Brook (Alfred and Sanford)~~ - Class C.

~~(3) Unnamed Brook, entering the East Branch of Shaker Brook from the west just below Waterboro Village~~ - Class C.

Sec. 6. 38 MRSA §467, sub-§6-A is enacted to read:

6-A. Narraguagus River Basin.A. Narraguagus River, main stem.

(1) From the outlet of Eagle Lake to the confluence with the West Branch of the Narraguagus River in Cherryfield - Class AA.

(2) From the confluence with the West Branch of the Narraguagus River in Cherryfield to tidewater - Class B.

B. Narraguagus River, tributaries - Class A unless otherwise specified.

(1) All tributaries entering below the river's confluence with the West Branch - Class B.

(2) West Branch of the Narraguagus River - Class AA.

Sec. 7. 38 MRSA §467, sub-§7, as amended by PL 1987, c. 192, §18, is repealed and the following enacted in its place:

7. Penobscot River Basin.A. Penobscot River, main stem.

(1) From the confluence of the East Branch and the West Branch to the confluence of the Mattawamkeag River, including all impoundments - Class C.

(2) From the confluence of the Mattawamkeag River to the confluence of Cambolasse Stream - Class B.

(3) From the confluence of Cambolasse Stream to the confluence of the Piscataquis River, including all impoundments - Class C.

(4) From the confluence of the Piscataquis River, including the Stillwater Branch, to the Veazie dam, including all impoundments - Class B.

(5) From the Veazie dam, but not including the Veazie dam, to the Maine Central Railroad bridge in Bangor-Brewer - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

(6) From the Maine Central Railroad bridge in Bangor to a line extended in an east-west direction from the confluence of Reeds Brook in Hampden - Class C. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

B. Penobscot River, East Branch Drainage.(1) East Branch of the Penobscot River, main stem.

(a) Above its confluence with Grand Lake Mattagamon - Class A.

(b) From the dam at the outlet of Grand Lake Mattagamon to a point located 1,000 feet downstream from the dam - Class A.

(c) From a point located 1,000 feet downstream from the dam at the outlet of Grand Lake Mattagamon to its confluence with the West Branch - Class AA.

(2) East Branch of the Penobscot River, tributaries - Class A unless otherwise specified

(a) All tributaries, any portion of which is located within the boundaries of Baxter State Park - Class AA.

(b) Sawtelle Brook, from a point located 1,000 feet downstream from the dam at the outlet of Sawtelle Deadwater to its confluence with the Seboeis River - Class AA.

(c) Seboeis River, from the outlet of Snowshoe Lake to its confluence with the East Branch - Class AA.

(d) Wassataquoik Stream, from the boundary of Baxter State Park to its confluence with the East Branch - Class AA.

(e) Webster Brook, from a point located 1,000 feet downstream from the dam at the outlet of Telos Lake to its confluence with Webster Lake - Class AA.

C. Penobscot River, West Branch Drainage.(1) West Branch of the Penobscot River, main stem.

(a) From the dam at the outlet of Seboomook Lake to a point located 1,000 feet downstream from the dam at the outlet of Seboomook Lake - Class B.

(b) From a point located 1,000 feet downstream from the dam at the outlet of Seboomook Lake to its confluence with Chesuncook Lake - Class B.

(c) From Ripogenus Dam to the T.3, R.11, W.E.L.S. - T.3, R.10, W.E.L.S. boundary - Class B.

(d) From the T.3, R.11, W.E.L.S. - T.3, R.10, W.E.L.S. boundary to its confluence with Ambajeius Lake - Class B.

(e) From the outlet of Elbow Lake to the outlet of Ferguson and Quakish Lakes - Class B.

(f) From the outlet of Ferguson and Quakish Lakes to its confluence with the East Branch of the Penobscot River, including all impoundments - Class C.

(2) West Branch of the Penobscot River, tributaries - Class A unless otherwise specified.

(a) Those segments of any tributary that are within the boundaries of Baxter State Park - Class AA.

(b) Those tributaries above the confluence with the Debsconeag Deadwater, any portion of which is located within the boundaries of Baxter State Park - Class AA.

(c) Millinocket Stream, from the railroad bridge near the Millinocket-T.3 Indian Purchase boundary to its confluence with the West Branch Canal - Class B.

(d) Millinocket Stream from the confluence of the West Branch Canal to its confluence with the West Branch of the Penobscot River - Class C.

D. Mattawamkeag River Drainage.

(1) Mattawamkeag River, main stem.

(a) From the confluence of the East Branch and the West Branch to the Kingman-Mattawamkeag boundary - Class B.

(b) From the Kingman-Mattawamkeag boundary to its confluence with the Penobscot River - Class AA.

(2) Mattawamkeag River, tributaries - Class B.

E. Piscataquis River Drainage.

(1) Piscataquis River, main stem.

(a) From the confluence of the East Branch and the West Branch to the Route 15 bridge in Guilford - Class A.

(b) From the Route 15 bridge in Guilford to the Maine Central Railroad bridge in Dover-Foxcroft - Class C.

(c) From the Maine Central Railroad bridge in Dover-Foxcroft to its confluence with the Penobscot River - Class B.

(2) Piscataquis River, tributaries - Class I unless otherwise specified.

(a) Except as otherwise provided, East and West Branches of the Piscataquis River and their tributaries above their confluence near Blanchard - Class A.

(b) East Branch of the Piscataquis River from 1,000 feet below Shirley Pond to its confluence with the West Branch - Class AA.

(c) Pleasant River, East Branch and its tributaries - Class A.

(d) Pleasant River, West Branch, from the outlet of Fourth West Branch Pond to its confluence with the East Branch - Class AA.

(e) Pleasant River, West Branch tributaries - Class A.

(f) Sebec River and its tributaries above Route 6 in Milo - Class A.

(g) West Branch of the Piscataquis River from 1,000 feet below West Shirley Bog to its confluence with the East Branch - Class AA.

F. Penobscot River, minor tributaries - Class E unless otherwise specified.

(1) Cambolasse Stream (Lincoln) below the Route 2 bridge - Class C.

(2) Great Works Stream (Bradley) and its tributaries above the Route 178 bridge - Class A.

(3) Kenduskeag Stream (Bangor) below the Bullseye Bridge - Class C.

(4) Mattanawcook Stream (Lincoln) below the outlet of Mattanawcook Pond - Class C.

(5) Olamon Stream and its tributaries above the bridge on Horseback Road - Class A.

(6) Passadumkeag River and its tributaries - Class A.

(7) Sourdabscok Stream and its tributaries above the dam of the Hampden Water District - Class A.

(8) Sunkhaze Stream and its tributaries - Class AA.

Sec. 8. 38 MRSA §467, sub-§8, as enacted by PL 1985, c. 698, §15, is amended to read:

8. Pleasant River Basin.

A. Pleasant River, main stem.

(1) From the outlet of Pleasant River Lake to a point located 1,000 feet above tidewater the Maine Central Railroad bridge - Class B AA.

(2) From a point located 1,000 feet above tidewater the Maine Central Railroad bridge to tidewater - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

B. Pleasant River, tributaries - Class A unless otherwise specified.

(1) All tributaries entering below the Maine Central Railroad bridge - Class B.

(2) Bog Stream (Deblois) - Class B.

(3) Beaver Meadow Brook (Deblois) - Class B.

Sec. 9. 38 MRSA §467, sub-§9, ¶A, as enacted by PL 1985, c. 698, §15, is amended to read:

A. Presumpscot River, main stem.

(1) From the outlet of Sebago Lake to its confluence with Dundee Pond - Class A.

(2) From the outlet of Dundee Pond to a point located below the Village of South Windham Sacarappa Falls - Class B.

(3) From a point located below the Village of South Windham Sacarappa Falls to tide-water - Class C.

Sec. 10. 38 MRSA §467, sub-§9, ¶B, as enacted by PL 1985, c. 698, §15, is repealed and the following enacted in its place:

B. Presumpscot River, tributaries - Class A unless otherwise specified.

(1) All tributaries entering below the outlet of Sebago Lake - Class B.

(2) Crooked River and its tributaries, excluding existing impoundments and excluding that area of the river previously impounded at Scribners Mill - Class AA.

(3) Stevens Brook (Bridgton) - Class B.

Sec. 11. 38 MRSA §467, sub-§11, ¶B, as enacted by PL 1985, c. 698, §15, is repealed and the following enacted in its place:

B. Royal River, tributaries - Class B.

Sec. 12. 38 MRSA §467, sub-§12, ¶A, as enacted by PL 1985, c. 698, §15, is amended to read:

A. Saco River, main stem.

(1) From the Maine-New Hampshire boundary to its confluence with the impoundment of the Swan's Falls Dam - Class B A.

(2) From its confluence with the impoundment of the Swan's Falls Dam to a point located 1,000 feet below the Swan's Falls Dam - Class B A.

(3) From a point located 1,000 feet below the Swan's Falls Dam to its confluence with the impoundment of the Hiram Dam - Class B AA.

(4) From its confluence with the impoundment of the Hiram Dam to a point located 1,000 feet below the Hiram Dam - Class B A.

(5) From a point located 1,000 feet below the Hiram Dam to its confluence with the Little Ossipee River - Class B AA.

(6) From its confluence with the Little Ossipee River to its confluence with ~~Fletcher Brook~~ Swan Pond - Class B A.

(7) From its confluence with ~~Fletcher Brook~~ Swan Pond to tidewater - Class B.

Sec. 13. 38 MRSA §467, sub-§12, ¶B, as enacted by PL 1985, c. 698, §15, is repealed and the following enacted in its place:

B. Saco River, tributaries, those waters lying within the State - Class B unless otherwise specified.

(1) All tributaries entering above the confluence of the Ossipee River lying within the State and not otherwise classified - Class A.

(2) Wards Brook (Fryeburg) - Class C.

Sec. 14. 38 MRSA §467, sub-§13, as amended by PL 1987, c. 192, §20, is repealed and the following enacted in its place:

13. St. Croix River Basin.

A. St. Croix River, main stem.

(1) Except as otherwise provided, from the outlet of Chiputneticook Lakes to its confluence with the Woodland Lake impoundment, those waters lying within the State - Class A.

(2) Those waters of the Grand Falls Flowage between Route 1 (Princeton and Indian Township) and Black Cat Island - Class B.

(3) Woodland Lake impoundment - Class C.

(4) From the Woodland Dam to tidewater, those waters lying within the State, including all impoundments - Class C.

B. St. Croix River, tributaries, those waters lying within the State - Class B unless otherwise specified.

(1) All tributaries entering upstream from the dam at Calais, the drainage areas of which are wholly within the State - Class A unless otherwise classified.

Sec. 15. 38 MRSA §467, sub-§14, as enacted by PL 1985, c. 698, §15, is repealed and the following enacted in its place:

14. St. George River Basin.

A. St. George River, main stem.

(1) From the outlet of Little Pond to the confluence with Stevens Pond, from the outlet of Stevens Pond to the confluence with Trues Pond, and from the outlet of Trues Pond to the confluence with Sennebec Pond - Class AA.

(2) From the outlet of Sennebec Pond to Route 90, excluding segments that are great ponds - Class A.

(3) From Route 90 to tidewater - Class B.

B. St. George River, tributaries - Class A unless otherwise specified.

(1) Quiggle Brook (Warren, Union, Hope) - Class B.

(2) All tributaries entering downstream of Route 90 in Warren - Class B.

Sec. 16. 38 MRSA §467, sub-§15, as amended by PL 1987, c. 192, §§21 and 22, is repealed and the following enacted in its place:

15. St. John River Basin.

A. St. John River, main stem.

(1) From the confluence of the Northwest Branch and the Southwest Branch to a point located one mile above the foot of Big Rapids in Allagash - Class AA.

(2) From a point located one mile above the foot of Big Rapids in Allagash to the international bridge in Fort Kent, those waters lying within the State, including all impoundments - Class A.

(3) From the international bridge in Fort Kent to the international bridge in Madawaska, those waters lying within the State, including all impoundments - Class B.

(4) From the international bridge in Madawaska to where the international boundary leaves the river in Hamlin, those waters lying within the State, including all impoundments - Class C.

B. Allagash River Drainage.

(1) Allagash River, main stem.

(a) From Churchill Dam to a point located 1,000 feet downstream from Churchill Dam - Class A.

(b) From a point located 1,000 feet downstream from Churchill Dam to its confluence with Gerald Brook in Allagash - Class AA.

(c) From its confluence with Gerald Brook in Allagash to its confluence with the St. John River - Class A.

(2) Allagash River, tributaries - Class A unless otherwise specified.

(a) Allagash Stream, from the outlet of Allagash Lake to its confluence with Chamberlain Lake - Class AA.

(b) Chemquasabamticook Stream from the outlet of Chemquasabamti

cook Lake to its confluence with Long Lake - Class AA.

(c) Musquacook Stream, from the outlet of Third Musquacook Lake to its confluence with the Allagash River - Class AA.

C. Aroostook River Drainage.

(1) Aroostook River, main stem.

(a) From the confluence of Millinocket Stream and Munsungan Stream to its confluence with the Machias River - Class AA.

(b) From its confluence with the Machias River to the Sheridan Dam - Class B.

(c) From the Sheridan Dam to its confluence with Presque Isle Stream, including all impoundments - Class B.

(d) From its confluence with Presque Isle Stream to a point located 3.0 miles upstream of the intake of the Caribou water supply, including all impoundments - Class C.

(e) From a point located 3.0 miles upstream of the intake of the Caribou water supply to a point located 100 yards downstream of the intake of the Caribou water supply, including all impoundments - Class B.

(f) From a point located 100 yards downstream of the intake of the Caribou water supply to the international boundary, including all impoundments - Class C.

(2) Aroostook River, tributaries, those waters lying within the State - Class A unless otherwise specified.

(a) All tributaries of the Aroostook River entering below the confluence of the Machias River that are not otherwise classified - Class B.

(b) Little Machias River and its tributaries - Class A.

(c) Little Madawaska River and its tributaries, including Madawaska Lake tributaries above the Route 161 bridge in Stockholm - Class A.

(d) Machias River, from the outlet of Big Machias Lake to the Garfield

Plantation-Ashland boundary - Class AA.

(e) Millinocket Stream, from the outlet of Millinocket Lake to its confluence with Munsungan Stream - Class AA.

(f) Munsungan Stream, from the outlet of Little Munsungan Lake to its confluence with Millinocket Stream - Class AA.

(g) Presque Isle Stream and its tributaries above its confluence with, but not including, the North Branch of the Presque Isle Stream - Class A.

(h) St. Croix Stream from its confluence with Hall Brook in T.9, R.5, W.E.L.S. to its confluence with the Aroostook River - Class AA.

D. Fish River Drainage.

(1) Fish River, main stem.

(a) From the outlet of Mud Pond to its confluence with St. Froid Lake - Class AA.

(b) From the outlet of St. Froid Lake to its confluence with Eagle Lake - Class A.

(c) From the outlet of Eagle Lake to its confluence with Soldier Pond - Class B.

(d) From the outlet of Soldier Pond to its confluence with the St. John River - Class B.

(2) Fish River, tributaries - Class B unless otherwise specified.

(a) All tributaries entering above the Route 11 bridge - Class A.

E. Meduxnekeag River Drainage.

(1) Meduxnekeag River, main stem.

(a) From the outlet of Meduxnekeag Lake to the international boundary - Class B.

(2) Meduxnekeag River, tributaries - Class B unless otherwise specified.

(a) North Branch of the Meduxnekeag River and its tributaries above the

Monticello - T.C. R.2, W.E.L.S. boundary - Class A.

F. St. John River, minor tributaries, those waters lying within the State - Class A unless otherwise specified.

(1) Except as otherwise classified, all minor tributaries of the St. John River entering below the international bridge in Fort Kent, those waters lying within the State - Class B.

(2) Baker Branch, from a point located 1.5 miles below Baker Lake to its confluence with the Southwest Branch - Class AA.

(3) Big Black River, from the international boundary to its confluence with the St. John River - Class AA.

(4) Northwest Branch, from the outlet of Beaver Pond in T.12, R.17, W.E.L.S. to its confluence with the St. John River - Class AA.

(5) Prestile Stream from its source to Route 1A in Mars Hill - Class A.

(6) Southwest Branch, from a point located 5 miles downstream of the international boundary to its confluence with the Baker Branch - Class AA.

Sec. 17. 38 MRSA §467, sub-§16, ¶B is enacted to read:

B. Salmon Falls River, tributaries, those waters lying within the State - Class B.

Sec. 18. 38 MRSA §467, sub-§17, as enacted by PL 1985, c. 698, §15, is amended to read:

17. Sheepscot River Basin.

A. Sheepscot River, main stem.

(1) From its origin in Montville to tidewater Route 17 - Class B. Further, the Legislature finds that the free-flowing habitat of this river segment provides irreplaceable social and economic benefits and that this use must be maintained.

(2) From Route 17 to tidewater - Class AA.

B. Sheepscot River, tributaries - Class B unless otherwise specified.

(1) West Branch of the Sheepscot River, main stem, from the outlet of Branch Pond to its confluence with the Sheepscot River - Class B AA.

Sec. 19. 38 MRSA §467, sub-§18, as enacted by PL 1985, c. 698, §15, is repealed and the following enacted in its place:

18. Union River Basin.

A. Union River, main stem.

(1) From the outlet of Graham Lake to tidewater - Class B.

B. Union River, tributaries - Class A unless otherwise specified.

(1) Tributaries entering below the outlet of Graham Lake - Class B.

(2) Outlet of Green Lake (Ellsworth) - Class B.

Sec. 20. 38 MRSA §468, first ¶, as enacted by PL 1985, c. 698, §15, is amended to read:

All surface waters lying within the boundaries of the State which ~~that~~ are in basins having a drainage area less than 100 square miles which ~~that~~ are not classified as lakes or ponds and ~~which are not otherwise classified in this section are Class B waters.~~

Sec. 21. 38 MRSA §468, sub-§§1 to 9, as enacted by PL 1985, c. 698, §15, are repealed and the following enacted in their place:

1. Cumberland County. Those waters draining directly or indirectly into tidal waters of Cumberland County, with the exception of the Androscoggin River Basin, the Presumpscot River Basin, the Royal River Basin and tributaries of the Androscoggin River Estuary and Merymeeting Bay, entering above the Chops - Class B unless otherwise specified.

A. Freeport.

(1) Frost Gully Brook - Class A.

B. Portland.

(1) All minor drainages unless otherwise specified - Class C.

(2) Stroudwater River from its origin to tidewater - Class B.

C. Scarborough.

(1) All minor drainages - Class C unless otherwise specified.

(2) Finnard Brook - Class B.

(3) Stuart Brook - Class B.

D. South Portland.

(1) All minor drainages - Class C.

2. Hancock County. Those waters draining directly or indirectly into tidal waters of Hancock County, with the exception of the Union River Basin - Class B unless otherwise specified.

A. All brooks, streams and segments of those brooks and streams that are within the boundaries of Acadia National Park - Class AA.

B. Blue Hill.

(1) Carleton Stream, main stem, between First Pond and Second Pond - Class C.

(2) Carleton Stream, main stem, from the outlet of First Pond to tidewater at Salt Pond - Class C.

C. Orland.

(1) Alamoosook Lake, tributaries - Class A.

3. Knox County. Those waters draining directly or indirectly into tidal waters of Knox County, with the exception of the St. George River Basin - Class B unless otherwise specified.

4. Lincoln County. Those waters draining directly or indirectly into tidal waters of Lincoln County entering above the Chops, with the exception of the Sheepscot River Basin and tributaries of the Kennebec River Estuary and Merrymeeting Bay - Class B unless otherwise specified.

5. Penobscot County. Those waters draining directly or indirectly into tidal waters of Penobscot County, with the exception of tributaries of the Penobscot River Estuary entering north of a line extended in an east-west direction from the outlet of Reeds Brook in the village of Hampden Highlands - Class B unless otherwise specified.

6. Sagadahoc County. Those waters draining directly or indirectly into tidal waters of Sagadahoc County entering above the Chops, with the exception of tributaries of the Androscoggin River Estuary, the Kennebec River Estuary and Merrymeeting Bay - Class B unless otherwise specified.

7. Waldo County. Those waters draining directly or indirectly into tidal waters of Waldo County - Class B unless otherwise specified.

A. Ducktrap River from the outlet of Tilden Pond to tidewater - Class AA.

8. Washington County. Those waters draining directly or indirectly into tidal waters of Washington County, with the exception of the Dennys River Basin, the

East Machias River Basin, the Machias River Basin, the Narraguagus River Basin and the Pleasant River Basin - Class B unless otherwise specified.

A. Jonesboro.

(1) Chandler River and its tributaries above the highway bridge on Route 1 - Class A.

B. Whiting.

(1) Orange River and its tributaries above the highway bridge on Route 1 - Class A.

9. York County. Those waters draining directly or indirectly into tidal waters of York County, with the exception of the Saco River Basin, the Salmon Falls River Basin and the Mousam River Basin - Class B unless otherwise specified.

A. Kennebunk.

(1) Branch Brook - Class A.

B. Sanford.

(1) Branch Brook - Class A.

(2) Merriland River - Class A.

C. Wells.

(1) Branch Brook - Class A.

(2) Merriland River - Class A.

Sec. 22. 38 MRSA §469, sub-§1, ¶A, as enacted by PL 1985, c. 698, §15, is amended to read:

A. Cape Elizabeth.

(1) Tidal waters of the Spurwink River system lying westerly north of a line beginning at Portland Head Light and running northerly to the southernmost point of land on Cushing Island at latitude 43°-33'-44" N. - Class SE SA.

Sec. 23. 38 MRSA §469, sub-§1, ¶E-1 is enacted to read:

E-1. Scarborough.

(1) Tidal waters of the Scarborough River system lying north of a line running easterly from a point where the old Boston and Maine Railroad line intersects the marsh at latitude 43°-33'-06" N., longitude 70°-20'-58" W. to a point of land north of Black Rock at latitude 43°-33'-06" N., longitude 70°-19'-25" W., excluding those tidal waters of Phillips Brook lying upstream of a point 500 feet south of U.S. Route 1 - Class SA.

(2) Tidal waters of the Spurwink River system lying north of a line extending from Higgins Beach at latitude 43°-33'-44" N. to the town line - Class SA.

Sec. 24. 38 MRSA §469, sub-§1, ¶G, as enacted by PL 1985, c. 698, §15, is repealed.

Sec. 25. 38 MRSA §469, sub-§2, ¶I is enacted to read:

I. Winter Harbor.

(1) Tidal waters lying south of a line running west from the northernmost tip of Frazer Point to longitude 68°-05'-00" W. and east of longitude 68°-05'-00" W. - Class SA.

Sec. 26. 38 MRSA §469, sub-§3-A is enacted to read:

3-A. Lincoln County.

A. Boothbay.

(1) Tidal waters lying south of the northernmost point of Damariscove Island and west of longitude 69°-36'-00" W. - Class SA.

Sec. 27. 38 MRSA §469, sub-§5, ¶B is enacted to read:

B. Phippsburg.

(1) Tidal waters east of longitude 69°-50'-05" W. and west of longitude 69°-47'-00" W. - Class SA.

Sec. 28. 38 MRSA §469, sub-§6, ¶C, as enacted by PL 1985, c. 698, §15, is amended to read:

C. Searsport.

(1) Tidal waters located within a line beginning at the southernmost point of land on Kidder Point and running due east to the Searsport-Stockton Springs boundary; thence running southerly along the Searsport-Stockton Springs boundary western shore of Sears Island to the southernmost point of Sears Island; thence running due south to latitude 44°-25'-25" N.; thence running due west to latitude 44°-25'-25" N., longitude 68°-54'-30" W.; thence running due north to the shore of Mack Point at longitude 68°-54'-30" W.; thence running along the shore in an easterly direction to point of beginning - Class SC.

Sec. 29. 38 MRSA §469, sub-§7, as enacted by PL 1985, c. 698, §15, is repealed and the following enacted in its place:

7. Washington County.

A. Beals.

(1) Tidal waters lying east of the line extending from the westernmost point of Three Falls Point to the easternmost point of Crumple Island; thence south along longitude 67°-36'-47" W. - Class SA.

(2) Tidal waters lying south of a line extending from the easternmost point of the southern shore of the Mud Hole; thence extending along latitude 44°-29'-00" N. to the town line - Class SA.

B. Calais.

(1) Tidal waters of the St. Croix River and its tidal tributaries lying westerly of longitude 67°-14'-28" W. - Class SC.

C. Cutler.

(1) All tidal waters except those waters in Machias Bay and Little Machias Bay north of a line running from the town line due east to the southernmost point of Cross Island; thence running northeast to the southeasternmost point of Cape Wash Island; thence running northeast to the westernmost point of Deer Island; thence running due north to the mainland; and those waters lying northeast of a line running from the easternmost point of Western Head to the easternmost point of Eastern Knubble - Class SA.

D. Eastport.

(1) Tidal waters lying southerly of latitude 44°-54'-50" N., easterly of longitude 67°-02'-00" W. and northerly of latitude 44°-53'-15" N. - Class SC.

E. Edmunds.

(1) All tidal waters - Class SA.

F. Lubec.

(1) Tidal waters, except those lying within 500 feet of West Quoddy Head Light, south of a line beginning at a point located on the northern shore of West Quoddy Head at latitude 44°-49'-22" N., longitude 66°-59'-17" W. and running northeast to the international boundary at latitude 44°-49'-45" N., longitude 66°-57'-57" W. - Class SA.

(2) Tidal waters west of a line running from the easternmost point of Youngs Point to the easternmost point of Leighton Neck in Pembroke - Class SA.

G. Milbridge.

(1) Tidal waters south of a line running from the town line along latitude 44°-27'-39" N. to the northernmost point of Currant Island; thence running southeasterly to a point 1,000 feet from mean high tide on the east shore of Bois Bubert Island; thence along a line running 1,000 feet from mean high tide along Bois Bubert Island to the southernmost point of the island; thence running due south - Class SA.

H. Pembroke.

(1) Tidal waters west of a line running from the easternmost point of Leighton Neck to the easternmost point of Youngs Point in Lubec - Class SA.

I. Steuben.

(1) Tidal waters southeast of a line beginning at Yellow Birch Head at latitude 44°-25'-05" N.; thence running to longitude 67°-55'-00" W.; thence running due south along longitude 67°-55'-00" W. - Class SA.

(2) Tidal waters southwest of a line beginning at a point located south of Carrying Place Cove at latitude 44°-26'-18" N., longitude 67°-53'-14" W.; thence running along latitude 44°-26'-18" N. east to the town line - Class SA.

J. Trescott.

(1) All tidal waters - Class SA.

K. Whiting.

(1) Tidal waters of the Orange River - Class SA.

Sec. 30. 38 MRSA §469, sub-§8, as amended by PL 1987, c. 192, §23, is repealed and the following enacted in its place:

8. York County.A. Biddeford.

(1) Tidal waters of the Saco River and its tidal tributaries lying westerly of longitude 70°-22'-54" W. - Class SC.

B. Kennebunk.

(1) Tidal waters of the Little River system lying north of latitude 43°-20'-10" N. - Class SA.

C. Kittery.

(1) Tidal waters of the Piscataqua River and its tidal tributaries lying westerly of longitude 70°-42'-52" W., southerly of Route 103 and easterly of Interstate Route 95 - Class SC.

(2) Tidal waters lying northeast of a line from Sisters Point; thence south along longitude 70°-40'-00" W. to the Maine-New Hampshire border; thence running southeast along the Maine-New Hampshire border to Cedar Ledge beyond the Isles of Shoals, except waters within 500 feet of the Isles of Shoals Research Station - Class SA.

D. Old Orchard Beach.

(1) Tidal waters of Goosefare Brook and its tidal tributaries lying westerly of longitude 70°-23'-08" W. - Class SC.

E. Saco.

(1) Tidal waters of Goosefare Brook and its tidal tributaries lying westerly of longitude 70°-23'-08" W. - Class SC.

(2) Tidal waters of the Saco River and its tidal tributaries lying westerly of longitude 70°-22'-54" W. - Class SC.

F. Wells.

(1) Tidal waters of the Little River system lying north of latitude 43°-20'-10" N. - Class SA.

G. York.

(1) Tidal waters lying southwest of a line from Seal Head Point east along latitude 43°-07'-15" N. - Class SA.

See title page for effective date.

CHAPTER 765

H.P. 1619 - L.D. 2241

An Act Providing for the 1990 Amendments to the Finance Authority of Maine Act

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA §969-A, sub-§8, as enacted by PL 1985, c. 344, §17, is amended to read:

8. Nonprofit entity. In accordance with the limitations and restrictions of this chapter, cause any of its powers or duties to be carried out by one or more