

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
LEGISLATIVE RESEARCH COMMITTEE

**Reports  
to the  
*ONE HUNDRED AND FOURTH LEGISLATURE*  
Volume Two**

*January, 1969*

Legislative Research Committee

Publication 104-20 (Vol. II)

## LEGISLATIVE RESEARCH COMMITTEE

Senator Horace A. Hildreth, Jr., Falmouth, Chairman  
 Resigned August 14, 1968  
 Senator Kenneth P. MacLeod, Brewer, Chairman  
 Elected September 19, 1968  
 Representative Samuel A. Hinds, Vice Chairman

## From the Senate:

Sam A. R. Albair, Caribou  
 Armand Duquette, Biddeford  
 Harvey Johnson, Smithfield  
 Carlton D. Reed, Jr., Woolwich  
 Appointed October 20, 1967  
 Joseph Sewall, Old Town  
 Appointed August 16, 1968  
 Roger V. Snow, Jr., Falmouth  
 Resigned October 18, 1967  
 J. Hollis Wyman, Milbridge

## From the House:

Ethel B. Baker, Orrington  
 David B. Benson, Southwest Harbor  
 Albert E. Cote, Lewiston  
 William E. Dennett, Kittery  
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 Emilien A. Levesque, Madawaska  
 Harrison L. Richardson, Cumberland Center  
 Raymond M. Rideout, Jr., Manchester  
 Rodney E. Ross, Jr., Bath

## Ex Officio:

Joseph B. Campbell, Augusta  
 President of the Senate  
 David J. Kennedy, Milbridge  
 Speaker of the House

## Office of Legislative Research:

Samuel H. Slosberg, Gardiner, Director  
 David S. Silsby, Augusta, Assistant Director

## Office of Legislative Finance:

Frederick W. Kneeland, Augusta, Finance Officer  
 Resigned July 12, 1968  
 William H. Garside, Augusta, Finance Officer  
 Appointed July 17, 1968  
 Samuel A. Hinds, Assistant Finance Officer  
 Appointed November 20, 1968; Effective, January 1, 1969

## LETTER OF TRANSMITTAL

January 15, 1969

To the Members of the 104th Legislature:

As Chairman of the Legislative Research Committee of the 103rd Maine Legislature it is with great pride and pleasure that I present a cumulation of findings and recommendations that we as a Committee have developed on our assigned subjects during the past biennium.

This, the second of three volumes, designated as Legislative Research Committee publication 104-20 (Vol. II), combines in a single publication the findings and recommendations developed in nine specific areas of study which are individually reported in committee publications numbered 104-11 through 104-19.

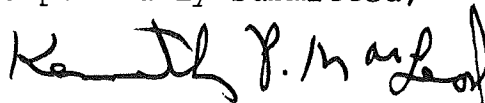
On behalf of the Committee and myself, I would like to take this opportunity to extend our grateful appreciation to Horace A. Hildreth, Jr., formerly our Committee Chairman, to Roger V. Snow, Jr., a former member of the Committee and to Frederick W. Kneeland, the former Legislative Finance Officer, each of whom resigned during the interim after having so faithfully served this Committee.

I also extend, on behalf of the entire Committee, our sincere gratitude and appreciation to the Committee, staff, to the news media and to the many private citizens, organizations and employees of the State, without whose endless cooperation and dedicated

service the Committee could not have reached its conclusions.

The members of the Committee further wish to express their appreciation for being chosen to participate in these assignments and sincerely hope the reports contained herein will prove of benefit to the Members of the Legislature and the people of the State of Maine.

Respectfully submitted,

A handwritten signature in black ink, reading "Kenneth P. MacLeod". The signature is written in a cursive style with a large, stylized initial "K".

KENNETH P. MACLEOD, Chairman  
Legislative Research Committee

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STATE OF MAINE  
LEGISLATIVE RESEARCH COMMITTEE

REPORT ON  
MARINE GROWTH  
to  
ONE HUNDRED AND FOURTH LEGISLATURE

JANUARY, 1969  
Legislative Research Committee  
Publication 104-15



## SUBCOMMITTEE ON MARINE GROWTH

CHAIRMAN - David B. Benson

VICE CHAIRMAN - Harrison L. Richardson

Ethel B. Baker

William E. Dennett

Rodney E. Ross, Jr.

Carlton D. Reed, Jr.

Joseph Sewall

Horace A. Hildreth, Jr., Ex Officio

Kenneth P. MacLeod, Ex Officio

WHEREAS, an abundance of sea moss, algae, kelp and other marine growth exist along our coast, the harvesting and processing of which represents an industry of vast potential and wealth; and WHEREAS, these untapped natural resources are many and varied and require long-range legislation to properly and adequately conserve and develop them for the benefit of all of the people; now, therefore, be it

ORDERED, the House concurring, that the Legislative Research Committee is directed to conduct a comprehensive study of our marine resources, including their regulation and control, and the subject matter of the Bill: "An Act Relating to Leases of Right to Take Marine Algae on Submerged Lands," Legislative Document No. 1559, introduced at the regular session of the 103rd Legislature, to determine whether the best interests of the State would be served by the enactment of such legislation; and be it further

ORDERED, that the Committee submit a report of its findings together with any necessary recommendations and implementing legislation to the 104th Legislature.

The Legislative Research Committee has studied many areas of marine growth and is pleased to report first that as a result of the Committee's early study and recommendations reported at the Second Special Session of the 103rd Legislature suitable legislation was enacted under chapter 527 of the public laws of 1967 providing for research in Irish Moss. (Appendix I) Approximately 8 months have lapsed since this legislation became effective on April 26, 1968, during which time one of the principal corporate manufacturers indicates the following activity:

"With regard to the leasing privileges which were passed by the Special Session of the 103rd Legislature, we were unable to make an application for research areas until June 21st of this year. Since that time, we have initiated a vigorous program near Stonington on a leased area in which we are very carefully studying the ecology of Irish moss as well as other organisms which grow in the same vicinity. We are also testing various types of harvesting methods in the hope that we will come up with improved methods which will enable us to pay sufficient commissions and/or wages to compete with other industries in the State. From this work, which is being done in cooperation with the Sea and Shore Fisheries personnel, we expect to be able to prove that harvesting red seaweeds does not harm lobsters or any other wild life on the ocean bottom.

Frankly, we have not yet had enough time to develop good scientific data with the specially leased area. We feel

that it will take us at least another season to do this. However, we are working hard and feel we are making excellent progress."

"Our experiences in trying to get the fishermen to accept a licensing concept during the past session convinced us that we should have carefully developed scientific evidence that Irish moss harvesting in no way affects lobsters and other shellfish. We feel that we must complete the developments of a harvester suitable for the Maine sub-marine environment. We hope that the completion of these two projects will give us sufficient information which, if properly presented, will convince the fishermen and the Legislature that leasing will be mutually beneficial to all members of the fishing community, the manufacturer and the State of Maine."

"Without the leasing privileges it would have been most difficult for us to conduct this research work on a scientific and systematic basis. We appreciate very much what the 103rd Session did for us and feel that the special leasing privileges will automatically lead to an increasing involvement of Marine Colloids, Inc. in marine activities in Maine."

After the Second Special Session Report the Legislative Research Committee continued its study of marine growth by holding a public hearing March 14, 1968, at the State House, on problems in connection with the lobster industry. Mr. Robert L. Dow, Director, Marine Research, Department of Sea and Shore Fisheries, offered the

Committee evidence of his research showing that the recent decline in lobster landings was not the result of overfishing but is associated with a period of declining water temperatures. (Appendix II) The theory of this being that lower water temperatures slows a lobster's metabolism and therefore retards their growth and reproduction. Director Dow indicated that the current decline in temperatures began in 1954 at a level above the optimum for lobsters and has continued to decline through 1968. Long-range forecasts indicate low water temperatures for many years to come which will possibly lead to artificial environments for rearing lobster. Testimony was also offered to show that with the decline in lobster landings and the lowering of water temperature there was a corresponding increase in the shrimp harvest. As Maine is at the southernmost end of the shrimping range, and shrimp like cool water, the lowering of water temperatures have greatly increased the shrimping activities and amount of catch in Maine.

Dr. George Ridgeway, Acting Director of the U. S. Bureau of Commercial Fisheries, Boothbay Harbor Station, also attended the Committee hearing and testified on research in connection with offshore lobsters. The results of their studies, thus far, indicates that no relationship exists between inshore lobsters and offshore or deep water lobsters. Although they appear the same, they are quite independent of each other. Research in this area is still going on.

Another area of the Legislative Research Committee study was directed towards oceanographic research and education. On May 22, 1968, Dr. James A. Storer, Dean of Faculty at Bowdoin College

and a Director of the Research Institute of the Gulf of Maine, appeared before the Committee on behalf of the President, David R. Fink, Jr., to speak on the Research Institute of the Gulf of Maine. TRIGOM, as it is called, was organized at the University of Maine, Portland, on April 30, 1968, as a nonprofit corporation exclusively for educational, scientific and charitable purposes. The corporate purposes indicate its broad overall scope and objectives. They are: To establish a consortium of institutions of higher learning and other entities; to perform scientific research which will be in the public interest, basic or applied; to carry on educational projects with emphasis on programs most effectively advanced on a cooperative basis; to provide educational and research facilities of a character which can be at the disposal of all member institutions; to act as a focal point for liaison of faculty and students in any and all academic disciplines; and to foster intellectual pursuits in order to secure information and help disseminate such information so that a free exchange of knowledge is available for the benefit of mankind.

The educational institutions which have united in this corporate effort are Bates College, Bowdoin College, Colby College, Gorham State College, Nasson College, Southern Maine Vocational Technical Institute, St. Francis College and the University of Maine.

Having just been organized at the time of the Committee hearing, Dean Storer's talk centered on background information used in developing the TRIGOM program.

As its final project the Legislative Research Committee studying marine growth reviewed the State's progress in offshore oil and gas exploration.

Often referred to as "the sleeping giant" oceanography has been predicted to awake and fulfill its promise in the 1970's. This, however, "will depend on the degree of cooperation between Government and private industry." The United States continental shelf is estimated by one source to be one million square miles in size or comparable to the Louisiana Purchase of 1803 and is said to contain enormous wealth awaiting prospecting. United States oil companies are reported to have paid more than four billion dollars to Federal and State Governments for offshore oil and gas drilling rights.

Although no wells have been drilled yet off the East Coast one oil spokesman said "there are certain things from a geological standpoint which lead us to believe that the Atlantic province has potential."

Exploration of the Gulf of Maine for oil began in August of 1967 by eight major oil companies, namely Chevron, Continental, Gulf, Mobile, Pan American and Union. The results of their survey have not yet been made available.

Then on April 30, 1968, the State of Maine recorded the mining claims of King Resources Company of Denver, Colorado (Appendix III) and placed in escrow the sum of \$333,760 as the filing fee for such claims (Appendix IV) pending a final judicial determination that the State of Maine has sovereignty over the areas in which the company proposes to explore. (Appendix V) The Attorney General's office reported in order to support its claim in the

courts, the State will in part rely on the ancient charters granted by the Kings of England to the Massachusetts Bay Colony and others, the Act of Separation of 1820, separating Maine from Massachusetts at the time of the Missouri Compromise and the Act of Congress admitting Maine to the Union, 3 Stat. 544 (1820). In summary, the Attorney General's office expects to advance and maintain the proposition that at the time Maine became a State, its boundary was fixed by the laws and charters then in force. (See United States vs Louisiana, 363 U. S. 1, 38, 80 S. Ct. 961, 983 (1960), where the Supreme Court stated: "The only relevant inquiry is what boundry was fixed . . . by virtue of the Congressional action admitting (the State in question) to the Union . . .") and that since that time Maine has not abandoned her claim of sovereignty flowing from such laws and charters. Assistant Attorney General Robert G. Fuller, Jr., assigned to this matter also indicated that the office is aware of problems posed by section 2 (b) of the Submerged Lands Act of 1963 and at this point their research is not yet complete.

The Department of the Interior, on June 5, 1968, notified the State of Maine and King Resources that the Federal Government protests the issuance of the exploration permit claiming no legal basis exists for any claims by the State to submerged lands extending from eleven miles to eighty miles seaward of the three mile limit under a colonial charter (Appendix VI).

As title to the submerged lands can only be resolved by the U. S. Supreme Court, cases are now in the process of being prepared.



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

Sec. 1. R. S., T. 12, § 3703, amended. Section 3703 of Title 12 of the Revised Statutes is amended to read as follows:

§ 3703. Research by private interests

Any person or corporation interested in scientific research relating to shellfish, or other fish over which the commissioner has supervision, or in the cultivation and development of the shellfish industry or the seaweeds, including but not limited to Irish moss, for economic purposes, may apply to the commissioner setting forth the desire to make experiments relative to the cultivation and conservation and harvesting of particular marine species or seaweeds. Upon receipt of the application by the commissioner, the following procedure must be followed:

1. **Commissioner to be satisfied certain requirements are met before notice of hearing.** The commissioner shall give notice of a hearing on the application if he is satisfied that all the following provisions are met:

- A. That the application contains sufficient information to show that the applicant is entitled to the certificate provided in this section;
- B. That information contained in the application is true;
- C. That the applicant either owns, or has consent, so far as the same can be granted, from the owner of the flats, shore rights or waters where the work is to be undertaken; and
- D. That the granting of the certificate provided in this section will not unreasonably interfere with navigation.

2. **Notice of hearing; how; contents.** The commissioner shall then give notice of the hearing as follows:

- A. The commissioner shall cause the notice to be published once a week for 2 consecutive weeks in some newspaper published in the county where the proposed location is situated.
- B. The commissioner shall state in the notice the time and place of the hearing, the name of the applicant and the general area where the work is to be undertaken.

3. **Commissioner may issue certificate to set area apart upon hearing.** If, upon hearing, the commissioner is satisfied that the interests of the State will be promoted by the experiments, he shall issue a certificate setting apart so much of such shores, flats and water privileges, not exceeding one acre in extent to any one applicant, for such length of time, not exceeding a period of 6 years, as in his judgment may be necessary and proper to accomplish the ends sought. The commissioner may set aside areas on the submerged lands or reefs within the jurisdiction of the State, for experiments with the cultivation, conservation and harvesting of seaweeds, including Irish moss. No one applicant shall be entitled to more than 3 such areas and no single area shall exceed more than one square mile, but any areas so set aside shall not be closer to the low water mark on the adjacent shore than 25 feet, and all of said areas for such experiments shall be east of 69° 45' west longitude. The total area set aside for all applicants for experiments with seaweed shall not exceed, at any one time outstanding, 10 square miles; width of any area shall be not less than ¼ mile.

4. **Applicant to record certificate.** The applicant shall record the certificate in the registry of deeds of each county where the flats or waters are located.

5. **Applicant to give public notice of certificate.** The applicant shall cause public notice of the issuance of the certificate by publishing the certificate ~~once in a newspaper published in the county~~ once in a daily newspaper of general circulation in the county and once in a weekly newspaper of general circulation in the county where the area to be used is located, by posting a copy of the certificate in a conspicuous place near that area and by recording a copy of the certificate with the clerk of the municipality where the area is located.

6. **Applicant to mark area.** The applicant shall place stakes or other monuments upon the adjoining upland so as to designate the area set apart as specified by the commissioner in the certificate.

7. **Revocation.** The commissioner may revoke the certificate so granted, after notice and hearing to the holder thereof, for the following reasons: The holder has not within the year last passed conducted any experiments in said area or the experiments conducted have been injurious to the marine species in said area.

Sec. 2. R. S., T. 12, § 3704, amended. Section 3704 of Title 12 of the Revised Statutes is amended to read as follows:

§ 3704. Interference or unlawful taking

It is unlawful for any person, during the period that any shores, flats or waters are taken or used under this chapter, for scientific research relating to shellfish or other fish, to take, dig, fish or in any manner destroy any marine species within the area used or taken, or to interfere with the shores, flats and waters so used or taken.

It shall be unlawful for any person, during the period that any shores, flats or waters are taken or used under this chapter for the cultivation, conservation or harvesting of seaweeds, to take, dig or sever or in any manner destroy any seaweeds, within the area used or taken, but it shall be lawful for any person to take, dig, fish or in other manner take marine species, in said area, provided it is lawful to do so.

1. **Penalty.** Whoever violates any provision of this section shall be punished by a fine of not less than \$50 nor more than \$100 for each offense, or by imprisonment for not more than 90 days.

Maine Seawater Temp.  
(Boothbay Harbor)

PRODUCTION OF AMERICAN LOBSTERS BY AREAS  
(millions of pounds)

<u>YEAR</u>	<u>NFLD.</u>	<u>MAINE</u>	<u>N. S.</u>	<u>N. B.</u>	<u>P.E.I.</u>	<u>N. H.</u>	<u>QUEBEC</u>	<u>MASS.</u>	<u>R. I.</u>	<u>CONN.</u>	<u>N.Y.</u>
46.6 1942	2.137	8.404	12.724	7.043	6.398	.292	1.783	2.254	.433	.409	.130
45.3 1943	1.900	11.468	15.385	6.447	5.970	1.141	1.652	2.519	.292	.230	.180
46.4 1944	2.293	14.057	17.211	7.016	6.613	.686	2.203	2.741	.234	.280	.162
47.1 1945	2.330	19.129	18.877	7.528	8.098	.824	2.427	2.869	.267	.292	.119
47.3 1946	2.790	18.776	18.719	9.289	8.584	--	2.367	3.282	.360	.398	.278
48.6 1947	3.406	18.277	16.583	7.579	5.878	.520	2.305	3.671	.393	.450	.393
46.7 1948	3.718	15.923	18.344	8.386	6.523	.401	2.394	3.211	.383	.293	.195
50.1 1949	5.040	19.272	19.891	9.399	6.843	.416	2.073	3.561	.355	.378	.275
49.3 1950	5.060	18.351	21.978	11.332	9.098	.613	2.278	3.112	.250	.221	.114
51.4 1951	4.320	20.756	24.278	10.565	8.342	.511	2.388	3.718	.211	.311	.128
50.2 1952	3.724	20.033	23.065	10.379	8.375	.411	2.314	3.496	.91	.279	.259
52.0 1953	4.477	22.294	23.646	8.630	6.998	.611	2.646	3.774	.122	.231	.365
50.3 1954	5.242	21.644	23.248	8.023	7.358	.775	2.804	3.458	.190	.206	.251
50.0 1955	5.509	22.711	22.945	9.039	8.329	.850	2.747	3.504	.222	.224	.207
48.6 1956	4.824	20.537	22.250	11.532	9.701	.765	3.653	3.252	.200	.182	.204
48.8 1957	4.197	24.401	18.169	10.450	8.534	.910	3.088	3.307	.261	.182	.172
47.4 1958	4.697	21.308	17.932	9.663	7.969	.820	2.689	3.120	.261	.182	.188
47.0 1959	3.746	22.323	21.061	9.333	8.396	.855	3.178	3.458	.408	.236	.269
47.9 1960	4.508	24.005	19.936	11.913	10.138	.935	3.552	3.300	.455	.237	.234
47.3 1961	3.921	20.910	19.828	10.873	9.511	.823	3.414	2.852	.387	.207	.253
46.6 1962	4.154	22.075	20.004	9.355	8.711	.725	4.228	3.132	.260	.249	.174
47.9 1963	4.494	22.804	20.224	8.450	7.376	.747	3.829	3.046	.168	.251	.144
46.9 1964	4.510	21.413	19.113	7.260	7.824	.850	3.168	3.754	.210	.290	.247
45.8 1965	3.736	18.862	18.541	6.113	8.838	.765	3.293	3.832	.386	.468	.318
45.7 1966	3.481	19.916	15.995	6.122	7.855	.807	3.743	3.175	.521	.562	.460

APPENDIX II



STATE OF MAINE

MAINE MINING BUREAU

APPLICATION TO RECORD THE STAKING OUT OF A CLAIM

I, King Resources Company, 57 Exchange Street, Portland, Maine  
(Locator's legal name and address as shown on Prospector's Permit)

holder of Prospector's Permit No. 68-33, dated April 9, 1968, as herewith exhibited, hereby make application to record the staking out of a claim in accordance with the provisions of the Maine Mining Law. The claim is composed of the lands shown on the sketch attached hereto, and more particularly is described as follows:

- 1. Claim No. 1 through 166,880 ~~XXXXXX~~ Offshore Maine ~~XXXXXX~~
- 2. Description of minerals sought: Oil, gas, and other minerals.
- 3. Description of location of claim with reference to township boundaries, natural objects or permanent monuments: The location of the claims is offshore Maine, designated by latitude and longitudes as described in the attached sheet with reference points as defined in the attached sheets so designated. (See attached Exhibits A, B, & C.)
- 4. Drawing(s) of claim area showing claim corners with distances, bearings, and corner markings, applicable witness points, permanent monuments, ponds, streams, dams, coastline, roads, bridges, power lines, buildings and other such objects as will identify the claim location (attach drawing(s) to application).

(See appended Coast & Geodetic Charts #305, #311, & #315.)

I certify that the claim was staked out and boundary lines marked or pickets placed thereon as required by law on the 26th day of April, 1968. The claim is to be recorded in the name of King Resources Company, 57 Exchange Street, Portland, Maine  
(Legal name and address as shown on Prospector's Permit)

who is holder of Prospector's Permit No. 68-33, dated 4-9-68, as herewith exhibited.

April 26, 1968  
Date

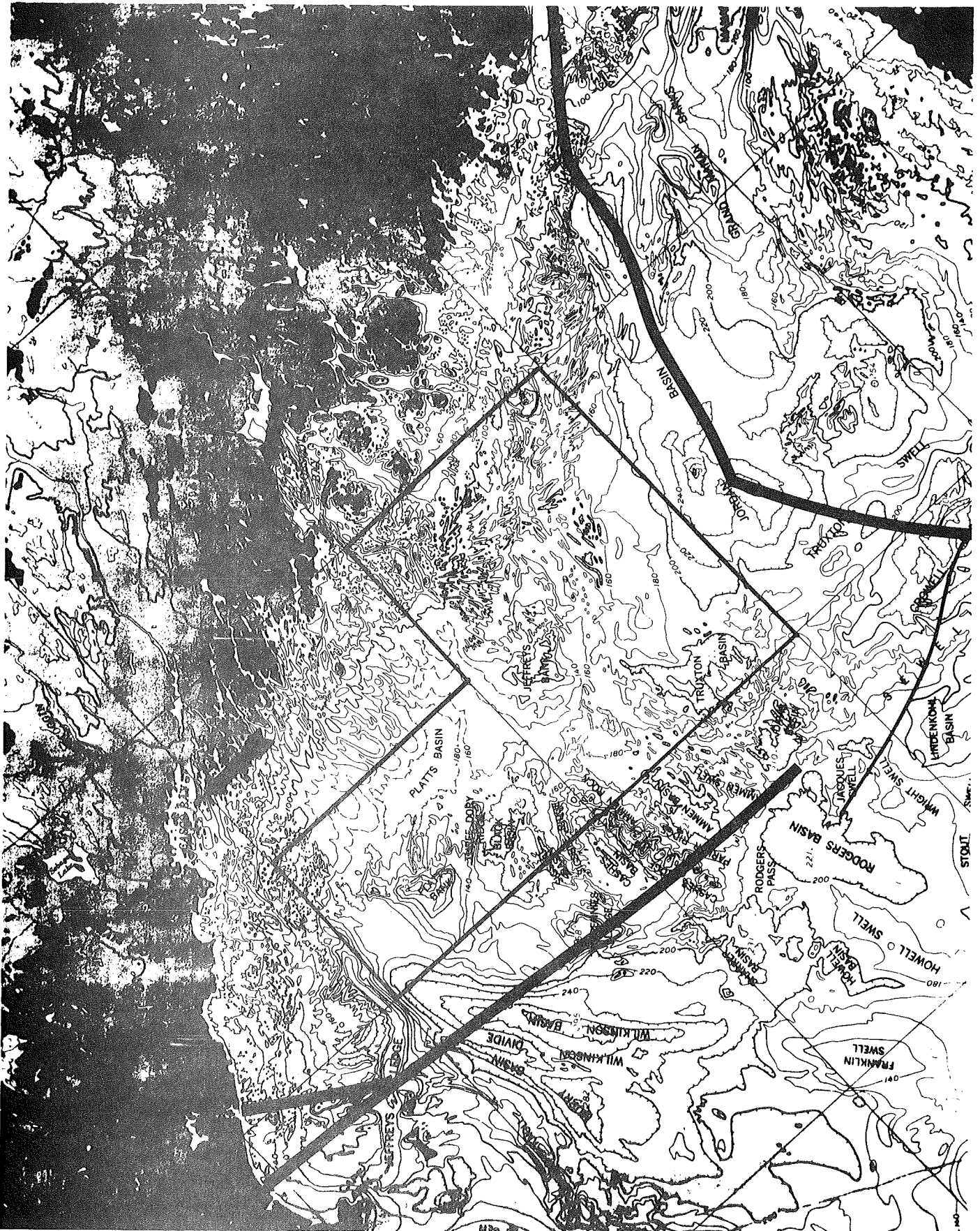
[Signature]  
Signature of applicant

Claim No. \_\_\_\_\_ will be in effect until midnight, December 31, 1968.

[Signature]  
Name of Recorder

First filing \_\_\_\_\_ Renewal \_\_\_\_\_

April 30 1968 @ 11:43 AM EDT  
Date and time of recording



## APPENDIX V

First National Bank of Portland  
Portland  
Maine

We, King Resources Company, a Maine corporation, with an office in Denver, Colorado, and the Maine Mining Bureau by its Administrator, Robert Doyle, have placed with you in escrow \$333,760.00 subject to the following terms and conditions:

1. Said funds represent filing fees paid to the Maine Mining Bureau on 166,880 mining claims filed with the Mining Bureau of the State of Maine on the 30th day of April, 1968.

2. It is the intention of King Resources Company to explore, develop and mine oil, gas and mineral resources on property, the title of which could be in question.

The conditions of this escrow agreement are as follows:

a. In the event that a court of final jurisdiction shall determine that the State of Maine is the owner of said property and the oil, gas and mineral rights thereunder, or legislation shall have been passed so determining such ownership, then said funds shall be paid over to the Maine Mining Bureau, together with interest thereon at a rate to be determined as set forth in paragraph 3 hereof.

b. In the event that a court of final jurisdiction shall determine that the State of Maine is not the owner of said property and the oil, gas and mineral rights thereunder, or legislation shall have been passed so determining such ownership, then said funds shall be paid over to King Resources Company, together with interest thereon at a rate to be determined as set forth in paragraph 3 hereof.

c. Said filing fees are for the year 1968. It is the intent of King Resources Company to timely apply for a license to mine on the acreage designated in said mining claims for 1969 and subsequent years thereafter and further, it is the intent of King Resources Company to apply for a mining lease from the Maine Mining Bureau at such time as it shall determine, and in the event that the said Maine Mining Bureau shall not grant to King Resources Company such license to mine, or mining lease, for any reason whatsoever, then said funds shall be paid over to King Resources Company, together with interest at a rate to be determined as set forth in paragraph 3 hereof.

-2-

It is further understood and agreed that, if the application is timely filed, the annual fee for a license to mine said acreage in subsequent years (after 1968) shall be Five Hundred Dollars (\$500.00) as set forth in the statute pertaining to mining law in the State of Maine.

It is further understood and agreed that said mining lease shall provide for a term of twenty (20) years, which term shall be renewable for an additional twenty (20) year term upon request and application by King Resources Company, providing that King Resources Company shall at the time be exploring, mining or developing the aforesaid claim.

The failure to comply with any of the foregoing, by the State of Maine, through its Mining Bureau (or such other agency or department of the State as may at the time have authority over the same), will require that said funds be paid over to King Resources Company, together with interest thereon at a rate to be determined as set forth in paragraph 3 hereof.

d. In the event that (i) King Resources Company shall abandon its attempt to locate oil, gas or minerals in said acreage for a period of five (5) years, or (ii) King Resources Company shall give written notice to the Maine Mining Bureau of its intent to abandon said claims, then said funds shall be paid over to the Maine Mining Bureau, together with interest at a rate to be determined as set forth in paragraph 3 hereof.

e. It is understood and agreed that this escrow agreement shall not terminate for a period of ten (10) years from the date hereof unless:

(1) A court of final jurisdiction (U. S. Supreme Court) shall have made a determination upon the matter of ownership of said property and the oil, gas and mineral rights thereunder;

(2) Legislation shall have been passed determining the rights as relate to the State of Maine and the United States of America with regard to the ownership of said property and the oil, gas and mineral rights thereunder; or

(3) King Resources Company shall fail to apply for a license or receive the same under section 2105, Title 10 of the Revised Statutes of Maine, 1964, as amended, or if the Maine Mining Bureau shall not grant a mining lease as aforesaid.

f. And further provided that in the event that litigation

(for the determination of the rights as hereinbefore defined) is still pending at the end of such ten (10) year period, then this escrow agreement shall continue until a final judicial or legislative determination is made.

3. It is understood and agreed that King Resources Company shall have the right to furnish First National Bank of Portland, Maine, as Escrow Agent, with an indemnity bond with an adequate surety company (the form and content of said bond and said surety company being subject to the approval of the Maine Mining Bureau by its Administrator) for which said Bank will, upon thirty (30) days' prior written notice, deliver said funds, together with interest thereon at the stated rate or rates of interest on regular savings accounts at First National Bank of Portland, Maine, which were in effect during the period said funds were held in escrow subject to this agreement, to King Resources Company. The terms of said bond shall require that, in the event that said funds shall be determined payable to the Maine Mining Bureau, King Resources Company shall immediately pay over to said Bank said funds, together with interest thereon at a rate determined as hereafter set forth. The rate of interest on said funds shall be the stated rate or rates of interest on regular savings accounts at First National Bank of Portland, Maine, which were in effect during the period of this escrow agreement. If said Bank has delivered said funds, together with interest thereon as aforesaid, to King Resources Company pursuant to this paragraph 3, in the event that it shall thereafter be determined that said funds are payable to King Resources Company, it is understood and agreed that said Bank is under no further obligation to pay over to King Resources Company said funds, together with interest thereon as aforesaid, but shall be deemed to have complied with all of the terms and conditions of this escrow agreement.

Dated at Augusta, this 30th day of April, 1968.

WITNESS:

Robert H. Schwan

E. P. Osgood

Robert H. Schwan

KING RESOURCES COMPANY

By [Signature]  
Its  
MAINE MINING BUREAU

By [Signature]  
Its Administrator

FIRST NATIONAL BANK OF PORTLAND,  
as Escrow Agent

By [Signature]  
Its [Signature]



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR  
WASHINGTON, D.C. 20240

E-68-2165.4357

Hon. James S. Erwin  
Attorney General  
State of Maine  
Augusta, Maine 04330

JUN 5 1968

Dear Mr. Erwin:

Thank you for forwarding to us a copy of King Resources Company's Application to Record the Staking Out of a Claim covering a large area of submerged lands in the Atlantic Ocean offshore the State of Maine. We understand that the permit referred to in the application purports to grant exclusive oil and gas exploration and exploitation rights to approximately 3.3 million acres of these submerged land areas extending from points approximately eleven miles seaward of the coast of Maine to points over eighty miles into the ocean.

This is to constitute official notice to the State of Maine, and to King Resources Company, that the Federal Government protests the issuance of the permit, and the exercise of any rights thereunder by the permittee, to the extent that it covers areas of the outer continental shelf subject to the exclusive jurisdiction and control of the United States, under the Outer Continental Shelf Lands Act of 1953 (67 Stat. 462; 43 U.S.C. Secs. 1331-1343). It is our position that the rights of the State of Maine to the submerged lands adjacent to its coast are limited to a distance of three miles from its coastline, as provided in the Submerged Lands Act of 1953 (67 Stat. 29; 43 U.S.C. secs. 1301-1315). Consequently, we are of the opinion that the permit issued by the State of Maine is invalid as a matter of law to the extent that it purports to grant rights of any sort in the submerged lands of the Atlantic Ocean seaward of a line three miles from the "coast line," as that term is defined in section 2(c) of the Submerged Lands Act (43 U.S.C. sec. 1301(c)).

In United States v. California, 332 U. S. 19 (1947), the Supreme Court held that paramount rights over the submerged lands of the marginal sea adjacent to the coasts of the United States are an attribute of national rather than state sovereignty. The court pointed out that at the time the United States won its independence there was no settled international law or custom regarding ownership

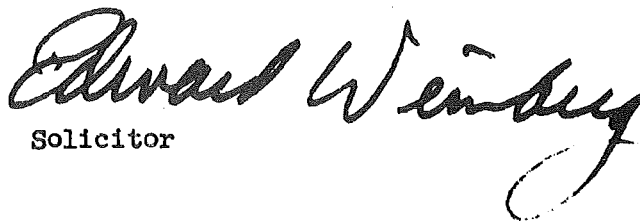


of a marginal sea, and that neither the English charters granted to this nation's settlers, nor the treaty of peace with England, showed a purpose to set aside an ocean belt for colonial or state ownership (332 U. S. 19, 32). It therefore seems clear that the Supreme Court has already considered and decided the issue of whether coastal states may claim ownership of the submerged lands of adjacent seas based on colonial charter grants. For these reasons we feel there is no legal basis for any claim by the State of Maine to submerged lands seaward of its coast based on a colonial charter.

Over the years since the Congress enacted the 1953 continental shelf legislation this Department has enjoyed the cooperation of the coastal states in offshore development matters to insure that the mutual Federal-State interests in these water and land areas are protected. This cooperation has included consultations so as to preclude unilateral action by either government in granting permits or leases in any disputed area pending final resolution of the conflict. It is therefore suggested that a meeting be arranged so that we may discuss both the legal issues involved in the respective claims of the two governments and the immediate problems arising as a result of the permit granted to King Resources Company. If you will notify us of an acceptable date we will coordinate arrangements with representatives of the Department of State and the Department of Justice who will participate with us on behalf of the Federal Government.

We shall appreciate having a copy of Prospector's Permit No. 68-33, dated April 9, 1968, issued to King Resources Company, together with copies of all attachments, exhibits, maps and charts referred to in their Application to Record the Staking Out Of a Claim, recorded April 30, 1968. If there is any charge for copies of these documents, payment will be made upon receipt of your billing.

Sincerely yours,

  
Solicitor

Enclosure