

MAINE STATE LEGISLATURE

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March 6, 1958

To Roland H. Cobb, Commissioner of Inland Fisheries and Game
Re: Hearing, Lewis Industries, Inc.

We have your letter of March 3, 1958, in which you advise us concerning the public hearing held on March 3rd with respect to the dam on Pleasant River in the Town of Brownville.

You state that Lewis Industries, Inc., owner of the property, was properly notified of the hearing and failed to attend. You also enclose a copy of your order to Lewis Industries, Inc., as the result of the hearing. You state that the matter has been given to us for referral to a Justice of the Superior Court.

We would advise that the request that the matter be referred to the Superior Court is premature. It is only where the owner has refused or neglected to comply with your order that the matter may be presented to the Superior Court.

With respect to the presentation of any such case to the Superior Court, we would assume the following:

1) That proof of adequate service of notice upon the owner of the dam or obstruction, giving notice of the time and place of hearing, can be presented to the Court.

The best proof of such service would be a copy of the notice upon which is endorsed the return of the serving officer. We would point out that such proof of notice is an essential element in any action to enforce the order, without which proof an action to enforce could not be sustained.

2) That an examination of the minutes of the said hearing reveals that evidence was presented which justifies the Commissioner's request that the obstruction be removed or that a fishway be constructed or installed.

With respect to the order referred to, we would suggest that the order briefly set forth the results of the hearing which moved the Commissioner to issue the order.

James Glynn Frost
Deputy Attorney General

jgf/c