

MAINE STATE LEGISLATURE

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Inter-Departmental Memorandum Date February 6, 1979

To Frank W. Ricker, Executive Director
Soil and Water Conservation Comm. Dept.

From Allan A. Toubman, Asst. Atty. Gen. Dept. Attorney General

Subject 1975 Dam Registration

You have asked whether dams registered pursuant to 12 M.R.S.A. § 303 for the calendar year 1975 were properly registered, and, if not, what disposition should be made by the Soil and Water Conservation Commission with the fees that were collected for the calendar year 1975. Our answer is that registration was improper for 1975 under 12 M.R.S.A. § 303, and all fees collected under said statute for that year should be refunded to registrants.

In 1975, the Legislature enacted the Neglected Dam Act. It became effective on October 1, 1975. Constitution of Maine, Art. IV, Pt. 3, § 16. The registration requirements of the Neglected Dams Act, 12 M.R.S.A. § 303, provides:

Any person, other than State and Federal Governments, owning or operating any dam shall annually register with the commission, on forms provided by the commission, on or before the first day of January of each calendar year. Such registration shall require that the owner or operator provide to the commission such information as may be reasonably required by it to perform the duties required by this Act. The annual fee for such registration shall be \$10. Said fee to be used by the commission for administration of the Act. Any dam not registered pursuant to this section shall be deemed abandoned under chapter 5.

Where the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretations. Chase v. Edgar, 259 A.2d 30, 32 (Me. 1969).

According to § 303, a dam must be annually registered on or before the first day of January of each calendar year. Since the Act became effective on October 1, 1975, it would be impossible to register a dam on or before the first day of January of 1975. The first January after the Act became effective was January 1, 1976. Consequently, the first year for which dams were to be registered was the calendar year 1976. Registrations for the calendar year 1975 were not authorized by § 303. Any fees collected without statutory authority were improperly collected by the Commission.

Any fees which were collected by the Commission without authorization by statute should be returned to the registrants.

Allan A. Toubman