

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1236

H.P. 892

House of Representatives, April 19, 1989

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 COLES of Harpswell.

Cosponsored by Representative MICHAUD of East Millinocket, Senator ERWIN of Oxford and Representative ADAMS of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Clarify Those Waters of the State That Constitute
Outstanding National Resources.



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

3 **38 MRSA §464, sub-§4, ¶F,** as enacted by PL 1985, c. 698, §15,
5 is amended to read:

7 **F.** The ~~anti-degradation~~ antidegradation policy of the State
9 shall be governed by the following provisions.

11 (1) Existing in-stream water uses and the level of
13 water quality necessary to protect those existing uses
15 shall be maintained and protected. As used in this
17 paragraph, "existing in-stream water uses" means
19 significant, well-established uses that have actually
21 occurred on a water body on or after November 28,
23 1975. Factual determinations of what constitutes an
25 existing in-stream water use on a particular water body
27 and the extent of allowable impact on the existing use
29 shall be made on a case-by-case basis by the board.

31 (2) Where high quality waters of the State constitute
33 an outstanding national resource, that water quality
35 shall be maintained and protected. For purposes of
37 this paragraph, the term ~~"high-quality-waters"~~ means
39 following waters shall be considered outstanding
41 national resources: those water bodies in national and
43 state parks and wildlife refuges, public reserved lands
45 and those ~~river-segments-listed-in-Title-12, section~~
47 403 water bodies classified as Class AA and SA waters
49 pursuant to section 465, subsection 1; section 465-B,
51 subsection 1; and section 467.

 (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 met.

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

 (5) The board may only issue a discharge license
pursuant to section 414-A or approve water quality
certification pursuant to the United ~~State~~ States Clean
Water Act, Section 401, Public Law 92-500, as amended,
which would result in lowering the existing quality of
any water body after making a finding, following
opportunity for public participation, that the action

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is necessary to achieve important economic or social benefits to the State and when the action is in conformance with subparagraph 3 (3). That finding must be made following procedures established by rule of the board.

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STATEMENT OF FACT

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This bill makes consistent those waters determined by the Legislature to constitute outstanding national resources in the Maine Revised Statutes, Title 38, section 464, subsection 4, paragraph F, with those waters classified as outstanding national resources that should be preserved under Title 38, sections 465 and 465-B.