

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2349

H.P. 1700

House of Representatives, February 23, 1990

Reference to the Committee on Judiciary suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative MARSH of West Gardiner.

Cosponsored by Representative CARTER of Winslow, Senator HOLLOWAY of Lincoln and Senator KANY of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

**An Act to Authorize the Atlantic Sea Run Salmon Commission to
Take the Edwards Dam by Right of Eminent Domain.**

(EMERGENCY)



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

Whereas, Atlantic sea run salmon represent an important natural resource in the State that must be enhanced and restored to further the people's interests in preservation and recreation; and

Whereas, the historic runs of the Atlantic sea run salmon can be restored in one of the State's great rivers by providing unobstructed passage to the salmon's spawning habitat in the Kennebec River Basin; and

Whereas, this unobstructed passage can be restored more effectively by removing the barrier commonly known as the Edwards Dam that currently prevents the natural and historic run of these salmon; 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:

12 MRSA §6252-A, sub-§5, as enacted by PL 1985, c. 481, Pt. A, §41, is amended to read:

5. Property. Subject to other applicable requirements of state law, the commission may acquire, install, construct, operate, manage, sell and convey interests in real and personal property, including, without limitation, lands, dams, buildings, facilities, structures, flowage rights, mill privileges, easements and rights-of-way, as it finds necessary to carry out its purposes, provided that prior right of municipalities are not affected by the requirements.

In addition to the powers granted in this section, the commission is authorized to take by right of eminent domain the real and personal property comprising or appurtenant to the dam, identified by the Federal Energy Regulatory Commission as project number 2389, located on the Kennebec River approximately one mile upstream of the Memorial Bridge in the City of Augusta. The Commissioner of Inland Fisheries and Wildlife and the Commissioner of Marine Resources are authorized to direct the negotiations necessary to effect the taking. In addition, the commissioners are authorized to use the assistance and resources of the departments and agencies of State Government to accomplish the purposes of this subsection.

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

STATEMENT OF FACT

Maine law currently empowers the Atlantic Sea Run Salmon Commission to acquire dams if necessary to restore the Atlantic sea run salmon in the State. This power currently enables the commission to acquire the Edwards Dam, but not by right of eminent domain. This bill delegates to the commission the power of eminent domain for the limited purpose of acquiring the Edwards Dam.