

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

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Legislative Document

No. 2406

H.P. 1742

House of Representatives, March 5, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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 Speaker MARTIN of Eagle Lake.

Cosponsored by President PRAY of Penobscot, Representative ANDERSON of Woodland and Representative MICHAUD of East Millinocket.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

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An Act Regarding Squa Pan Stream.

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(AFTER DEADLINE)

(EMERGENCY)



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

Whereas, the Maine Public Service Company owns and operates the Squa Pan Hydro Project, hereinafter "the Squa Pan Dam," located on the Squa Pan Stream in the Town of Masardis, Aroostook County, approximately 3 miles from the confluence of that stream with the Aroostook River; and

Whereas, the Squa Pan Dam, which has been owned and operated by Maine Public Service Company continually since 1927, consists of on-site generation of approximately 1.4 megawatts and provides impoundment for off-site generation of approximately 1.7 megawatts, or total generation of 3.1 megawatts of peaking capacity; and

Whereas, the Maine Public Service Company operates the Squa Pan Dam pursuant to a water power project license, under the Federal Power Act, which will expire on December 31, 1990; and

Whereas, the Federal Energy Regulatory Agency can not issue the license for the Squa Pan Dam unless the Maine Public Service Company obtains from the Board of Environmental Protection a certificate, under the Federal Clean Water Act, Section 401, that the project will comply with applicable state water quality standards. These standards are set forth in the standards for the water quality antidegradation policies of the Maine Revised Statutes, Title 38, section 464 and the classification of fresh surface waters in Title 38, section 465; and

Whereas, it is not possible under any circumstances or with any modifications to operate this existing hydro project for its current purpose as a peaking power facility or to alter its operation for other power generation and still satisfy the applicable state water quality standards for the approximately 3 miles of the Squa Pan Stream affected by its operation; and

Whereas, this hydroelectric project has been in existence for 75 years and is providing an indigenous, renewable source of power; 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:**

**Sec. 1. 38 MRSA §467, sub-§15, ¶C, as amended by PL 1987, c. 192, §22, is further amended to read:**

C. Aroostook River Drainage.

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- 4 (1) Aroostook River, main stem.
- 6 (a) From the confluence of Millinocket Stream and  
Munsungan Stream to its confluence with the  
Machias River - Class AA.
- 8 (b) From its confluence with the Machias River to  
10 the Sheridan Dam - Class B.
- 12 (c) From the Sheridan Dam to its confluence with  
14 Presque Isle Stream, including all impoundments -  
Class B.
- 16 (d) From its confluence with Presque Isle Stream  
18 to a point located 3.0 miles upstream of the  
intake of the Caribou water supply, including all  
20 impoundments - Class C.
- 22 (e) From a point located 3.0 miles upstream of  
24 the intake of the Caribou water supply to a point  
located 100 yards downstream of the intake of the  
26 Caribou water supply, including all impoundments -  
Class B.
- 28 (f) From a point located 100 yards downstream of  
30 the intake of the Caribou water supply to the  
international boundary, including all impoundments  
- Class C.
- 32 (2) Aroostook River, tributaries.
- 34 (a) All tributaries of the Aroostook River  
36 entering above the confluence with St. Croix  
Stream which are not otherwise classified - Class  
A.
- 38 (b) Limestone Stream from the Long Road Bridge to  
40 the international boundary - Class C.
- 42 (c) Little Machias River and its tributaries -  
Class A.
- 44 (d) Little Madawaska River and its tributaries,  
46 including Madawaska Lake tributaries above the  
Route 161 bridge in Stockholm - Class A.
- 48 (e) Machias River, from the outlet of Big Machias  
50 Lake to the Garfield Plantation-Ashland boundary -  
Class AA.
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- 2 (f) Machias River tributaries entering above the  
Garfield-Ashland boundary - Class A.
- 4 (g) Millinocket Stream, from the outlet of  
6 Millinocket Lake to its confluence with Munsungan  
Stream - Class AA.
- 8 (h) Munsungan Stream, from the outlet of Little  
10 Munsungan Lake to its confluence with Millinocket  
Stream - Class AA.
- 12 (i) Pattee Brook (Fort Fairfield) and its  
14 tributaries above the dam just upstream of the  
Route 167 bridge - Class A.
- 16 (j) Presque Isle Stream and its tributaries above  
18 its confluence with, but not including, the North  
Branch of Presque Isle Stream - Class A.
- 20 (k) St. Croix Stream from the outlet of St. Croix  
22 Lake to its confluence with Hall Brook in T.9,  
R.5, W.E.L.S. - Class A.
- 24 (l) St. Croix Stream from its confluence with  
26 Hall Brook in T.9, R.5, W.E.L.S. to its confluence  
with the Aroostook River - Class AA.
- 28 (m) St. Croix Stream tributaries - Class A.
- 30 (n) Salmon Brook, from the dam immediately above  
32 Washburn to its confluence with the Aroostook  
River - Class C.
- 34 (o) Squapan Stream and its tributaries above the  
36 B&A Railroad bridge - Class A.

38 (i) The Legislature recognizes that at  
 40 certain times the waters of Squa Pan Stream  
 42 may not meet either the antidegradation  
 44 standards of section 464, subsection 4,  
 46 paragraph F, or the water quality  
 48 classification standards of section 465 or  
 50 due to the operation of the Squa Pan Hydro  
 52 Project as a generator of hydroelectric  
peaking power. The Legislature further finds  
that there are currently no available  
modifications or alterations to the operation  
of this existing hydro project that would  
allow water quality standards to be met while  
allowing the Squa Pan Hydro Project to  
continue as a source of peaking power or to  
be altered and otherwise used as a source of

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power. Accordingly, the board may not consider the impact to the waters of the Squa Pan Stream caused by the operation of the Squa Pan Hydro Project in the production of hydroelectric power in determining whether those waters satisfy any designated uses of water quality standards set forth in section 464, subsection 4, paragraph F or section 465. As used in this subdivision, "operation of the Squa Pan Hydro Project" means the actual, established use of that project's operation since January 4, 1965.

(p) Unnamed Stream (Presque Isle) near Vining Station on Washburn Road - Class C.

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

**STATEMENT OF FACT**

This bill prohibits the Board of Environmental Protection, in determining whether the Squa Pan Stream satisfies any designated uses of water quality standards, from considering the impact to the waters caused by the operation of the Squa Pan Hydro Project.