

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 445

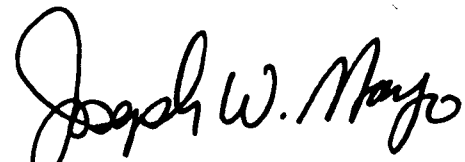
H.P. 324

House of Representatives, February 6, 1995

An Act to Change Certain Provisions of the Saco River Corridor Law.

(EMERGENCY)

Reported by Representative LEMKE for the Joint Standing Committee on Audit and Program Review of the 116th Legislature pursuant to the Maine Revised Statutes, Title 3, chapter 33.


JOSEPH W. MAYO, Clerk

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

4 **Whereas,** these provisions are immediately necessary to
6 streamline the regulation of the rivers within the Saco River
Corridor; and

8 **Whereas,** in the judgment of the Legislature, these facts
10 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
12 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

16 **Sec. 1. 38 MRSA §952, sub-§13,** as enacted by PL 1979, c. 459,
18 §1, is repealed.

20 **Sec. 2. 38 MRSA §952, sub-§15,** as enacted by PL 1979, c. 459,
22 §1, is amended to read:

24 **15. Public right-of-way.** "~~Public right-of-way~~ right-of-way"
is an improved roadway maintained for passage by motor vehicles
in which the owner of fee does not control the right of passage.

26 **Sec. 3. 38 MRSA §952, sub-§§15-A and 17-A** are enacted to read:

28 **15-A. Service drop.** "Service drop" means any utility line
30 extension that does not cross or run beneath any portion of a
water body as long as:

32 **A. In the case of electric service:**

34 (1) The placement of wires or the installation of
36 utility poles is located entirely upon the premises of
the customer requesting service or upon a roadway
38 right-of-way; and

40 (2) The total length of the extension is less than
42 1,000 feet; or

44 **B. In the case of telephone service:**

46 (1) The extension, regardless of length, is made by
the installation of telephone wires to existing utility
48 poles; or

2 (2) The extension requiring the installation of new
3 utility poles or placement underground is less than
4 1,000 feet in length.

6 17-A. Tributary stream. "Tributary stream" means a channel
7 between defined banks created by the action of surface water,
8 whether intermittent or perennial, that is characterized by the
9 lack of upland vegetation or presence of aquatic vegetation and
10 by the presence of a bed devoid of topsoil containing waterborne
11 deposits on exposed soil, parent material or bedrock, and that
12 flows to a water body or wetland.

14 **Sec. 4. 38 MRSA §953**, as enacted by PL 1979, c. 459, §1, is
15 amended to read:

16 **§953. Saco River Corridor established**

18 There is hereby created the Saco River Corridor, herein
19 referred to as the "corridor," which ~~shall include~~ includes the
20 Saco River from the ~~landward side of the rock jetty in Saco Bay~~
21 Cataract hydropower project, identified by the Federal Energy
22 Regulatory Commission license number 2528-036, to the New
23 Hampshire border; the Ossipee River from its confluence with the
24 Saco River to the New Hampshire border; and the Little Ossipee
25 River from its confluence with the Saco River to the New
26 Hampshire border at Balch Pond.

28 The corridor ~~shall also include~~ includes the lands adjacent
29 to these rivers to a distance of 500 feet as measured on a
30 horizontal plane from the normal ~~or mean~~ high water line of these
31 rivers or to the edge of the 100-year floodplain if that extends
32 beyond 500 feet, up to a maximum of 1,000 feet.

34 **Sec. 5. 38 MRSA §957-A, sub-§1, ¶E**, as enacted by PL 1979, c.
35 459, §1, is amended to read:

37 E. Land subject to easements or other restrictions ~~which~~
38 that limit permissible uses to those allowed within this
39 district; and

40 **Sec. 6. 38 MRSA §957-A, sub-§1, ¶F**, as enacted by PL 1979, c.
41 459, §1, is amended by amending subparagraph (5), division (c) to
42 read:

44 (c) More intensive development would result in
45 the total or partial destruction of the
46 educational or scientific value of the area; and

48 **Sec. 7. 38 MRSA §957-A, sub-§1, ¶G** is enacted to read:
49

50

2 G. Areas of 2 or more contiguous acres with sustained
3 slopes of 20% or greater.

4 **Sec. 8. 38 MRSA §957-B, sub-§3, ¶E**, as enacted by PL 1979, c.
5 459, §1, is amended to read:

6 E. ~~Single--family~~ Single-family residences and accessory
7 structures meeting all of the following performance
8 standards:

10 (1) The minimum lot frontage on the river measured at
11 the normal ~~ex-mean~~ high water line ~~shall-be~~ is 100 feet;

14 (2) The minimum setback of any building ~~from-the-river~~
15 ~~shall-be~~ is 100 feet from the normal ~~ex-mean~~ high water
16 line of the river and is 75 feet from the normal high
17 water line of any tributary stream;

18 (3) The combined river frontage and setback of any
19 building ~~shall-be~~ is not less than 500 feet;

22 (4) The structures and fill ~~shall~~ do not encroach on
23 the 100-year floodplain;

24 (5) Where there is an accepted road or public ~~right-of~~
25 ~~way right-of-way~~, as of March 19, 1974, within 500 feet
26 of the normal ~~ex-mean~~ high water mark of the river with
27 different land ownership on either side of the road or
28 public ~~right-of-way right-of-way~~, the landowner on the
29 far side of the road or public ~~right--of--way~~
30 right-of-way from the river ~~shall-have~~ has an aggregate
31 of setback from the river and frontage on the far side
32 of the road or public ~~right-of-way right-of-way~~ equal
33 to 500 feet;

36 (6) Where there is a recorded subdivision, as of March
37 19, 1974, "frontage," for the purposes of determining
38 compliance with this section, ~~shall--mean~~ means lot
39 frontage on the side of the lot nearest to and most
40 nearly parallel to the river; and

42 (7) Where a landowner, as of March 19, 1974, owns a
43 lot abutting land owned by a public utility, and ~~such~~
44 the public utility land lies between the abutting
45 ~~landowners~~ landowner's lot and the river, "frontage,"
46 for the purpose of determining compliance with this
47 section, ~~shall-mean~~ means the frontage on the side of
48 the lot abutting ~~such~~ that public utility land ~~which~~
49 that is nearest to and most nearly parallel to the
50 river;

2 **Sec. 9. 38 MRSA §957-C, sub-§2, ¶O**, as enacted by PL 1979, c.
459, §1, is amended to read:

4 O. Public utility structures, including service drops; and

6 **Sec. 10. 38 MRSA §962, sub-§1, ¶¶A and D**, as enacted by PL
1979, c. 459, §1, are amended to read:

8
10 A. No building ~~shall~~ may be located closer to the Ossipee,
12 Little Ossipee or Saco rivers than 100 feet from the normal
~~ex-mean~~ high water line, ~~not-shall~~ nor may any building in
14 the Limited Residential or Resource Protection Districts be
located less than 30 feet from any accepted road. Within the
16 Resource Protection and Limited Residential Districts there
~~shall~~ may be no construction or placement of residential
structures within the 100-year floodplain.

18 D. Agriculture.

20 (1) All agriculture practices ~~shall~~ must be in
22 conformance with existing state and federal laws and
regulations relating to the use of insecticides,
24 herbicides, fertilizers and cleaning agents, and with
state and federal laws and regulations to the placement
of disposal of wastes in waterways or on the banks
26 thereof.

28 (2) Where soil is tilled, an untilled buffer strip of
natural vegetation ~~shall~~ must be retained between the
30 tilled ground and the normal ~~ex-mean~~ high water line of
the river. The width of this strip ~~shall~~ must be a
32 minimum of 25 feet, measured directly from the normal
~~ex-mean~~ high water line of the river.

34 (3) Newly created fields and tillage and grazing
36 operations must be set back from the normal high water
line at least 75 feet.

38 **Sec. 11. 38 MRSA §962, sub-§1, ¶E**, as enacted by PL 1979, c.
40 459, §1, is repealed.

42 **Sec. 12. 38 MRSA §962, sub-§1, ¶E-1** is enacted to read:

44 E-1. Within a strip extending 100 feet inland from the
normal high water line, there may be no cleared opening or
46 openings, except for approved construction, and a
well-distributed stand of vegetation must be retained.
48 Selective cutting of no more than 40% of the trees 4 inches
or more in diameter, measured at 4 1/2 feet above ground

2 level, is allowed in any 10-year period, provided that a
3 well-distributed stand of trees and other natural vegetation
4 remains.

5 **Sec. 13. 38 MRSA §962, sub-§1, ¶F,** as enacted by PL 1979, c.
6 459, §1, is amended to read:

7 F. The following standards shall govern timber harvesting
8 within 250 feet of the normal ~~ex~~-mean high water line of any
9 water body within the corridor.

10 (1) Harvesting operations shall must be conducted in
11 such a manner that a well-distributed stand of trees is
12 retained.

13 (2) In any stand, harvesting shall may remove not more
14 than 40% of the volume of trees 6 inches in diameter
15 and larger, measured at 4 1/2 feet above ground level
16 in any 10-year period.

17 (3) No significant accumulation of slash shall may be
18 left within 50 feet of the normal ~~ex~~-mean high water
19 line of any water body within the corridor. At
20 distances greater than 50 feet from the normal ~~ex~~-mean
21 high water line of such water bodies extending to the
22 limits of the corridor, all slash shall must be
23 disposed of in such a manner that it lies on the ground
24 and no part thereof extends more than 4 feet above the
25 ground.

26 (4) Harvesting operations shall must be conducted in
27 such a manner and at such a time that minimal soil
28 disturbance results. Adequate provision shall must be
29 made to prevent soil erosion and sedimentation of
30 surface waters.

31 **Sec. 14. 38 MRSA §962, sub-§1, ¶¶G and H** are enacted to read:

32 G. The minimum lot size for each residential dwelling unit
33 is 40,000 square feet and the minimum lot size for any
34 principal commercial structure is 60,000 square feet.

35 H. Principal or accessory structures and expansions of
36 existing structures that are permitted in the Resource
37 Protection and Limited Residential Districts may not exceed
38 35 feet in height. This paragraph does not apply to
39 structures such as transmission towers, windmills, antennas
40 and similar structures having no floor area.

