

MAINE STATE LEGISLATURE

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REPORT
to
SPECIAL SESSION
THE ONE HUNDRED AND SECOND LEGISLATURE

FINDINGS AND RECOMMENDATIONS
for
PRESERVATION OF THE
ALLAGASH WILDERNESS WATERWAY

by
ALLAGASH RIVER - ST. JOHN RIVER
102nd Legislature
Interim Joint Committee

January 1966

SEP 29 1986

STATE OF MAINE

IN SENATE June 2, 1965

WHEREAS, in order to assist in the industrial and commercial development of the State of Maine, thereby promoting the general welfare of the people of Maine, it is the belief of the 102nd Legislature that there should be full development of the resources of this State; and

WHEREAS, such development to be effective must include the construction of electric power generating facilities, and must also include the preservation, to the maximum extent possible, of the natural recreational resources and beauty of this State; and

WHEREAS, there is now pending before the 102nd Legislature a proposal to create a Maine Power Authority for the purpose of developing power generating facilities at Cross Rock on the Upper Saint John River, the construction of which would result in the flooding of the Allagash Riverway; and

WHEREAS, there is also pending before the 102nd Legislature a proposal to create a Maine Allagash Authority to preserve the Allagash Riverway within its present confines; and

WHEREAS, there is now pending before the Congress of the United States a proposal to construct electric generating facilities at Passamaquoddy Bay and at Dickey on the Upper Saint John River; and

WHEREAS, there is now pending before the Congress of the United States, a proposal to assist states interested in the preservation of "wild river areas" in cooperation with the Federal Government; now, therefore, for all these good and sufficient reasons, it is

ORDERED, the House concurring, that a special committee of the 102nd Legislature, consisting of 4 Senators, to be appointed by the President of the Senate, and 5 Representatives, to be appointed by the Speaker of the House, be created with full authority to study the specific proposals; to be given custody of all reports, documents and any other information concerning the subject presently in the files of the appropriate committees, namely, the Joint Public Utilities Committee and the Joint Natural Resources Committee; to hold further hearings if deemed necessary; to appoint advisory committees; to engage a professional consultant or consultants if useful; to confer when and if deemed appropriate with staff members of the Public Utilities Commission and other state departments, with staff and members of appropriate federal commissions, departments and agencies, and nongovernment research sources, for specific information; and to report the special committee findings, conclusions and recommendations for legislation to a special session of the 102nd Legislature or to the 103rd Legislature; and be it further

ORDERED, that the members of the committees shall serve without compensation, but shall be reimbursed for their expenses incurred in the performance of their duties under this Order; and be it further

ORDERED, that there is appropriated to the committee from the Legislative Appropriation the sum of \$5,000 to carry out the purposes of this Order.

Name: Violette - s/Elmer H. Violette

County: Aroostook

(S.P. #591)

Pursuant to the above Order, the following members were appointed by the President of the Senate - Senators Elmer Violette, Romeo Boisvert, Sidney Maxwell, and Richard Moore - and the following members were appointed by the Speaker of the House - Representatives Sumner Pike, Thomas Gillan, George Palmer, John Martin and William Eustis.

Senator Violette and Representative Pike were elected Chairman and Vice-Chairman, respectively, by the members of the Committee.

This interim joint committee of the 102nd Maine Legislature herewith submits its report on a study of the Allagash and St. John Rivers to the special session of the 102nd Legislature.

REPORT ON
PRESERVATION OF THE ALLAGASH WILDERNESS WATERWAY

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REPORT AND RECOMMENDATIONS
ALLAGASH RIVER - ST. JOHN RIVER
102nd Legislature
Joint Interim Committee

INTRODUCTION

The subject of preservation of the Allagash River and its lakes and tributaries, in their free flowing and natural setting, has received nationwide attention in the past decade. There has arisen a growing awareness that the wilderness character of this beautiful natural resource is threatened by increased incursions made by a fast growing population demanding more and more recreational facilities and by an increased harvesting of the vast forest products by the private owners of the land within the area. This awareness has led to studies on the state, federal and private levels with resulting reports and recommendation for the permanent protection of the Allagash wilderness area.

SUMMARY OF RECOMMENDATIONS

The federal proposals are embodied in a report issued in July, 1963, by the Bureau of Outdoor Recreation of the Department of the Interior. This report recommended the establishment of an Allagash National Riverway to be administered by the National Park Service. The report recommends that the area be acquired and administered by the Department of the Interior.

The area proposed to be acquired is not less than 400 feet and not greater than 2,600 feet from the water's edge, the final boundary to be determined after survey and remaining as close to 400 feet as necessary. The proposal recommends the acquiring of a scenic easement zone of not more than one-half mile beyond the final boundary of the Riverway. The scenic easement zone would permit the continued harvest of the timber. The report

contained further recommendations to preserve the area as a wilderness canoe water riverway.

The State of Maine has studied the many aspects of the subject for several years. In 1963, the 101st Legislature, acting upon the recommendation of the Legislative Research Committee of the 100th Legislature created the Allagash River Authority with authorization to formulate plans and proposals to preserve the Allagash Riverway. The legislative Act declared it the policy of the State of Maine "to provide for the preservation of the natural beauty and the wilderness character of the Allagash River Watercourse while utilizing the natural economic resources of the watercourse." In January, 1965, the Authority presented a proposal to the 102nd Legislature for State control of an Allagash Wilderness Waterway.

The State proposal would have created an Allagash Wilderness Waterway consisting of a watercourse of the Allagash Stream and River from the west boundary of T.18 R.14 downstream approximately 100 miles east and north to the confluence of the River with West Twin Brook. It would have included Allagash Lake, that part of Chamberlain Lake north of a line due west from Lock Dam, Eagle Lake, Churchill Lake, Umsaskis Lake, Long Lake, Harvey Pond, Round Pond (T.13 R.12), and all intervening and connecting bodies of water. The waterway would have included all land areas and all water within one mile of the high water mark of the shore lines of the aforesaid lakes and ponds and within one mile of the high water mark of the banks of the streams and rivers.

The Authority proposed to acquire control of a strip 300 feet wide from the high water mark of the river and stream banks and shores of lakes and ponds by leases with the landowners. It recommended ultimate acquisition of this strip. Within the 300 foot strip, no woods operation was to be allowed except for the purpose of maintaining healthy forest conditions, and

complete control was in the operating agency. Outside the 300 foot strip, and within the one mile waterway area, woods operation was allowed under control of the operating agency.

Administration of the area would have been under the State Park and Recreation Commission in such a way as to preserve the unique character and natural beauty of the Waterway, and the proposal gave regulating power to the Commission to carry out the intent of the Act.

The Authority proposed to set up an arbitration board with jurisdiction to arbitrate controversies between owners of land within the Waterway and the Commission arising from decisions of the Commission pertaining to timber-harvesting within the Waterway. The Authority proposed no appropriation for acquisition of land within the Waterway. It proposed an operating and small capital improvement budget.

The position of the private owners of the land in the Allagash Riverway is that the area has been well preserved in its wilderness state under their policy of protecting it from recreational and commercial development, from excessive cutting, and from excessive use by the public; and that administration for preservation of the area should be under the jurisdiction of a cooperative-type body rather than under a single state department. There has been a growing concern on the part of several landowners over the problems created by the increased use of their lands, roads and facilities by the public for fishing, hunting, boating and other recreational uses, and they are looking to the State of Maine for solutions to these problems. Most of the landowners have expressed a desire to cooperate with the State in working out a plan for a permanent preservation of the Allagash.

CONFLICTING PROPOSALS

There were submitted to the 102nd Legislature conflicting proposals for the use of waters of the Allagash River and of the Upper St. John River. One proposal was that of the Maine Allagash Authority to preserve the Allagash Riverway, as hereinbefore outlined. Another proposal was to create a Maine Power Authority for the purpose of developing power generating facilities at Cross Rock on the Upper St. John River, the construction of which would have resulted in flooding the Allagash. There was also pending before the Congress of the United States a proposal to construct electric generating facilities at Passamaquoddy Bay and at Dickey on the Upper St. John River. The Dickey site on the Upper St. John River is above the confluence of the St. John and Allagash Rivers and therefore that proposal was not a threat to flood the Allagash River. Also pending before the Congress of the United States was a proposal to give financial assistance to states interested in the preservation of wild river areas in cooperation with the federal government.

Because of these several proposals, the 102nd Legislature referred the Allagash Riverway and the "Cross Rock" proposals to this special study committee, with authorization to study the specific proposals, to hold hearings, confer with necessary state and federal agencies, and to specify committee findings, conclusions and recommendations for legislation to a special session of the 102nd Legislature or to the 103rd Legislature.

FINDINGS AND RECOMMENDATIONS OF STUDY COMMITTEE

Acting upon the foregoing stated authority, the Committee held public hearings on the Allagash issue at Portland, Presque Isle, Bangor and Augusta, and solicited written statements from all interested parties. It held sev-

eral executive sessions, including one with representatives of the Federal Bureau of Outdoor Recreation, Department of the Interior, and one with official representatives of the private landowners of the Allagash area. The Attorney General, as former chairman of the expired Allagash River Authority, and the Director of the State Park and Recreation Commission were consulted frequently on aspects of the Allagash matters pertaining to their respective departments. The Committee is very grateful for their assistance.

The Committee also held a hearing in Augusta on the Maine Power Authority proposal. This part of its study will be the subject of another report. The Committee has taken notice of the fact that the 89th Congress of the United States, in October of 1965, authorized the construction of the Dickey hydroelectric project on the Upper St. John River and made an initial appropriation of funds for the engineering work on the project.

TT The Committee gave careful and deliberate consideration to all testimony, opinions, reports and information presented on the Allagash issue, including a review of reports and recommendations of previous state and federal plans. It also gave attention to proposals by those interested in conservation and to the landowners' proposals. It carefully studied the private ownership aspect of the land and the relationship of private and public ownership of land in the Riverway area.

Based on this study, the Committee voted to make a report on the subject of preservation of the Allagash Riverway to the special session of the 102nd Legislature. This report recommends:

1. A plan for preservation of the Allagash Wilderness Waterway under control of the State of Maine.
2. A draft of proposed legislation for accomplishment of the plan; and
3. Recommendation for financing the plan.

RECOMMENDED PLAN
ESTABLISHMENT OF RIVERWAY

It is recommended that an Allagash Wilderness Waterway be established by the State of Maine in order to guarantee the permanent preservation of the unique wilderness character of this outstanding natural resource.

Because of the importance of the forest products in the area to the economy of the State, the plan proposes to protect this unique resource with a minimum of acquisition of land by the State and of interference in the harvesting of the wood products.

AREA

It is recommended that the area to be known as "The Allagash Wilderness Waterway" (hereinafter referred to as the Waterway) shall consist of a corridor of water and forest lands extending from Telos Lake Dam north to the confluence of West Twin Brook and Allagash River, a distance of approximately 85 miles.

Specifically, the Waterway shall consist of the watercourse of the Allagash Stream and River from the west boundary of T.8 R.14 downstream east and north to the confluence of the River with West Twin Brook. It shall also include Allagash Lake, Chamberlain Lake, Round Pond (T.6 R.11), Telos Lake, Eagle Lake, Churchill Lake, Umsaskis Lake, Long Lake, Harvey Pond, Round Pond (T.13 R.12), and all intervening and connecting small bodies of water. The Waterway shall also include all land area and all waters within one mile of the high water mark of the shores of the aforementioned lakes and ponds and within one mile of the high water mark of either banks of the rivers and streams. Excluded from the Waterway are two dam sites at Telos Lake Dam and Lock Dam at Chamberlain Lake. The total area of the Riverway is approximately 300,000 acres, which includes approximately

35,000 acres of lakes and 1,350 acres of rivers and streams. (Please refer to map, revised 1966, at the back of this report.)

ADMINISTRATION

It is recommended that the Waterway shall be administered by the State Park and Recreation Commission. Administration should be carried out under such policy as to preserve the unique character and natural beauty of the Waterway, primarily as a wilderness recreational experience which shall include such activities as canoeing, hunting, fishing, camping and similar outdoor activities, and to manage, control, protect, preserve and utilize the natural resources of the Waterway. The Commission shall be empowered with authority to control activities of any nature on land and water within the Waterway, except the authority over activities heretofore delegated by law to the Department of Forestry and the Department of Inland Fisheries and Game. Such authority should include control of the commercial use of the water and forest land as well as the recreational uses.

The Commission should be empowered to acquire, on behalf of the State, land or any interest therein, water and power rights within the boundaries of the Waterway or adjacent thereto, either by purchase or by gift.

LAND AREA

Restricted Zone

Within the one mile strip of land bordering the lakes, ponds, rivers and streams of the Waterway, it is recommended to establish a restricted zone ranging in width from 400 to 800 feet from the high water mark. The exact width would be determined only after survey by the Commission. It is intended that the zone should exceed 400 feet only when necessary to maintain the wilderness character of the Waterway.

It is considered imperative that the State acquire title to all lands and real estate interests within the restricted zone as soon as possible by purchase, by gift, or by eminent domain, with the exception of Telos Lake Dam and Lock Dam. Provisions should also be made to allow for negotiation of options and for leases where lengthy delays in acquisition of the land might arise.

Within this zone, the intent of the plan is as follows:

- (a) No new structures or expansion of existing ones shall be permitted except for those essential to State service agencies.
- (b) No woods operation except by the Commission or at its direction for purposes of maintaining healthy forest conditions and meeting emergencies of "natural disaster".
- (c) Crossings of Waterway for purposes of harvesting wood and transporting it to market will be allowed at places and under conditions determined by the Commission.

Outer Zone

It is recommended that all land areas of the Water outside of the restricted zone should remain in private ownership except additions to the restricted zone made by mutual agreement of the Commission and the landowners.

Within the outer zone the intent of the plan is as follows:

- (a) Woods operation will be permitted under control of the Commission. A plan of all woods harvesting operations showing species to be cut, amount to be removed, time of cutting, and major haul roads would be submitted to the Commission for approval before operation could proceed.
- (b) All trees to be cut within one-quarter mile of high water mark of the banks of rivers, streams, lakes and ponds of the Waterway would be marked in addition to the submission of a plan. By this method, watersheds would be protected and the Commission will have control over objectionable activities during recreational season.
- (c) Within the Waterway, no special forest fire tax would be levied against landowners. The Commission would pay

the Maine Forestry District for forest fire, insect and disease protection at the same rate per acre as the Commission pays the District for this protection in other State Parks within the District.

WATER AREAS

It is proposed that all water areas, excepting Telos Lake, Round Pond (T.6 R.11), and Chamberlain Lake, be maintained and developed as a primitive wilderness canoe area. In these waters, only watercraft known as canoes, including square sterns, would be allowed and no canoe would be propelled by a motor exceeding 10 h.p. On Telos Lake, Round Pond (T.6 R.11), and Chamberlain Lake a more liberal type of water activity would be allowed.

The Commission would regulate against any recreational or commercial use of the Waterway inconsistent with the intent of the establishment of the Waterway, such as waterskiing, competitive events, etc.

Aircraft equipped with either floats or skis would be limited to landing at four or five carefully selected sites. Exceptions would be made to allow for emergencies, necessary use by Governmental agencies, necessary use by landowners in the management of their lands, and when water areas are frozen over.

FLOWAGE RIGHTS

It is recommended that the State acquire all flowage rights on all waters and lands in the Riverway except Telos Lake, Round Pond (T.6 R.11), and Chamberlain Lake. This would include Churchill Dam.

With regard to water rights on Telos Lake, Round Pond (T.6 R.11), and Chamberlain Lake, the Committee is mindful of the important present down-river uses of these waters for sanitation, hydro-electric power generating facilities and industry. Accordingly, it would not recommend extinguishing

these rights unless the Commission were unable to acquire long-term binding agreements with the owners of the water rights to protect against the excessive fluctuation of the level of the waters which would adversely affect the intent of this plan.

ROADS AND ACCESS

The Commission should have sole control of access from any public road crossing or otherwise within the Waterway to the Waterway. Existing private roads within the Waterway would remain privately owned excepting that the Commission could direct the discontinuance and relocation of such portions of said roads as lie within the restricted zone. Such relocation would be at the expense of the Commission.

Access points, control stations and watercourse crossings would be located at such places as determined by the Commission.

OPERATION

It is recommended that the Commission be authorized to establish rules and regulations in order to administer the Waterway consistent with the intent of the plan. In addition to the foregoing recommendations, the following should be considered:

- (a) Campsites to be of a small and primitive nature and located in cooperation with the Maine Forestry District. A time limit of occupancy of a site by one party may be necessary.
- (b) Reasonable fees might be charged for use and enjoyment of the Waterway to help defray expenses of maintenance, supervision, and administration.
- (c) The number of people in the area at one time may have to be limited to prevent over use and maintain the wilderness character of the area. Only the experience of operation will ultimately determine the capacity of the Riverway.

- (d) Small parks might be established at some of the access points and control stations. At these points, such services as canoe rental, supply and equipment rental, and guiding services could be rendered. Concessions leased to private operators could furnish these and other services consistent with enjoyment of the Waterway within the intent of the plan.
- (e) Rangers would patrol the area to enforce Waterway rules and regulations; as Forestry and Fish and Game Wardens would continue to do for enforcement of laws of their departments.
- (f) Projects could be developed within the Waterway to interpret the early history of the area (Indian, logging, commercial, etc.).
- (g) An advisory group to the Commission on operation of the Allagash could be considered.
- (h) That part of the Waterway south of Lock Dam, and more specifically Telos Lake, Round Pond, and Chamberlain Lake, should lend itself to a more general character of recreational use than that for the strictly primitive canoe area from Lock Dam down-stream to the terminus of the Riverway.
- (i) The use of motor-driven snowsleds should be allowed on the Waterway as permitted by rule and regulation of the Commission.

ESTIMATE OF COST

It is estimated that the cost of acquiring the private land and rights recommended in this proposal, and to provide for basic physical improvement developments, would cost approximately \$3 million. This estimate is based on latest known transactions involving the sale of woodlands in the area. No reliable figures were available for estimating cost of securing rights other than the proposed land acquisition.

The Committee developed this proposal with a view of qualifying the project for federal participating funds. Based upon the conferences held between this Committee and officials of the Bureau of Outdoor Recreation, Department of the Interior, the proposal which has been outlined in this

report, if enacted into legislation, would qualify for matching federal funds. The Committee therefore anticipates that the State's share of the cost of \$3 million for acquisition and development would be \$1.5 million.

The estimated annual cost of operation and maintenance is approximately \$100,000.

CONCLUSIONS

On the basis of its findings and recommendations, the Committee will introduce legislation to the special session of the 102nd Legislature to implement the plan as set forth in this report.

102nd Maine Legislature
JOINT INTERIM STUDY COMMITTEE
ALLAGASH RIVER - ST. JOHN RIVER

Sen. Elmer Violette
Chairman

Rep. Sumner T. Pike
Vice-Chairman

Sen. Romeo Boisvert

Rep. Thomas F. Gillan

Sen. Sidney D. Maxwell

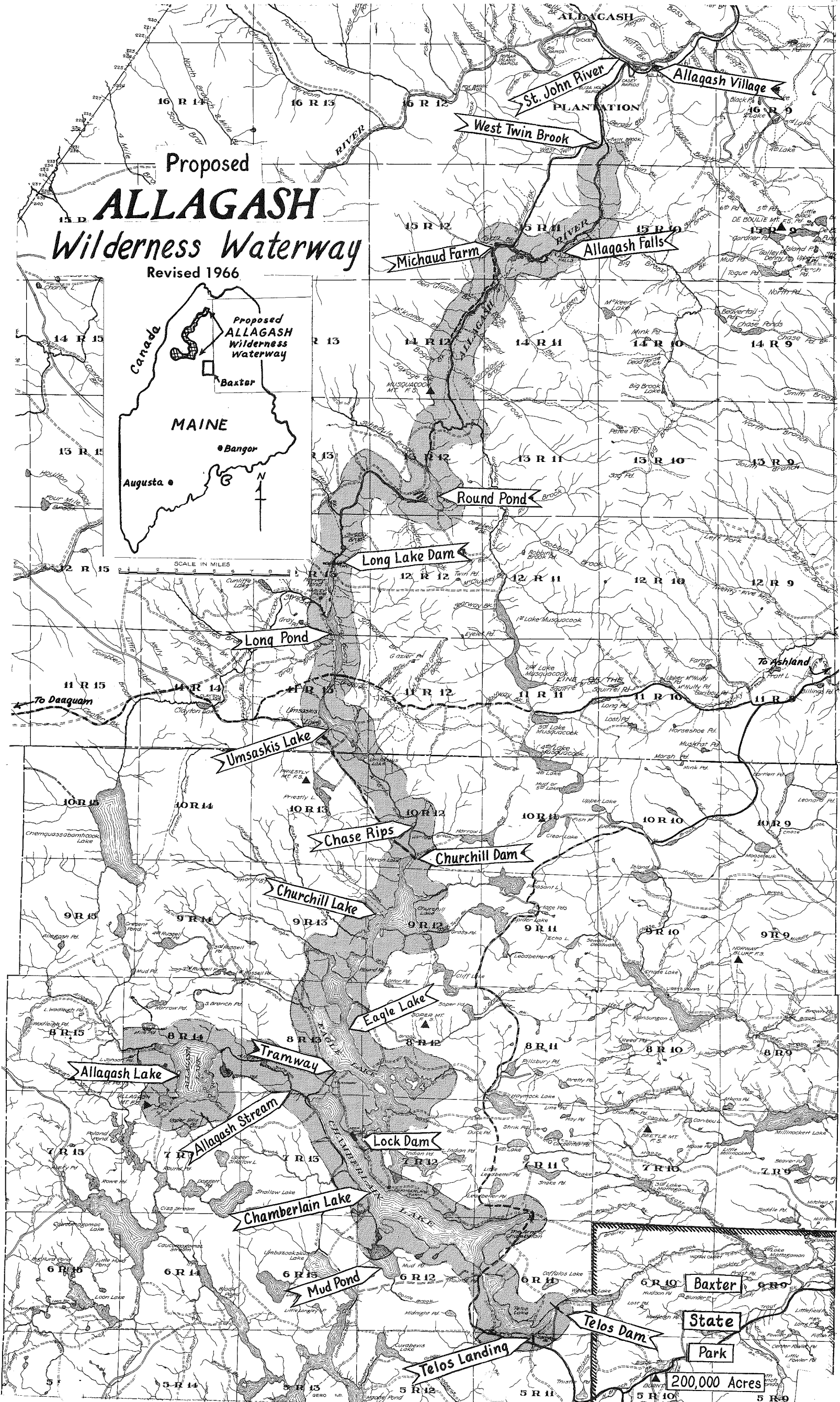
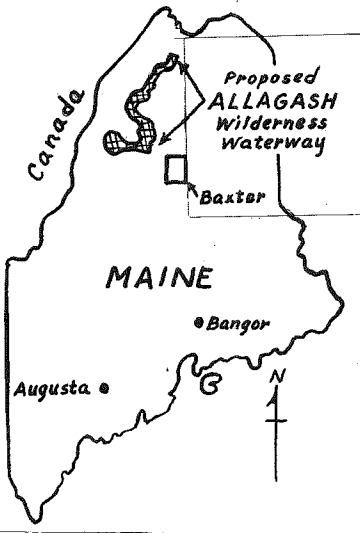
Rep. George A. Palmer

Sen. Richard C. Moore

Rep. John L. Martin

Rep. William W. Eustis

Proposed
ALLAGASH
Wilderness Waterway
Revised 1966



200,000 Acres