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THE ALLAGASH WILDERNESS WATERWAY:

TIMBER HARVESTING

AND

SENSITIVE AREAS

Study of the Joint Standing Committee on
Energy and Natural Resources:

Members:

Sen. Judy C. Kany, Chair
Rep. Donald M. Hall, Chair

Sen. James A. McBreairty
Sen. Michael D. Pearson
Rep. Darryl N. Brown
Rep. Edward L. Dexter
Rep. Paul F. Jacques
Rep. Laurence L. Kiesman
Rep. Patrick K. McGowan
Rep. John M. Michael
Rep. Michael H. Michaud
Rep. James Mitchell
Rep. Vinton T. Ridley

Staff:

Martha E. Freeman, Legislative Counsel

Submitted to the Second Regular Session of the 111th Legislature



State of Maine
Office of Legislative Assistants
Room 101
State House--Station 13
Augusta, Maine 04333

January 1984

EXECUTIVE SUMMARY

The Joint Standing Committee on Energy and Natural Resources of the Maine Legislature undertook a study of the regulation of timber harvesting within the Allagash Wilderness Waterway. Summarized below are the findings and recommendations contained in the study report and transmitted to the Second Regular Session of the 111th Legislature. Members of the Committee present at the final meeting, and voting to accept this report, included: Sen. Judy Kany, Rep. Donald Hall, Sen. James McBairty, Rep. Paul Jacques, Rep. Laurence Kiesman, Rep. Patrick McGowan, Rep. John Michael, Rep. Michael Michaud, Rep. James Mitchell, and Rep. Vinton Ridley. Rep. Darryl Brown and Rep. Edward Dexter were not present at the final meeting, but voted in support of the substance of this report at a previous meeting.

Findings

The 102nd Legislature, which established the Allagash Wilderness Waterway in 1966, intended to authorize the State to control timber harvesting operations within the Waterway. The language of the current statute and the legislative history surrounding its enactment support this finding. However, the current statute provides insufficient standards to guide decisions of the Bureau of Parks and Recreation on proposals for timber harvesting within the Waterway.

The Allagash Wilderness Waterway should be as fully protected as possible from adverse effects of timber harvesting. The Bureau of Parks and Recreation should have authority to approve or disapprove proposed timber harvesting plans for sensitive areas within the Waterway. The wilderness character of the Waterway is important to the 8,000 people, including approximately 4,000 Maine residents, who use the area each year.

Recommendations

- I. Legislation clarifying the authority of the Bureau of Parks and Recreation to regulate timber harvesting operations in sensitive areas within the Waterway should be enacted. The legislation should include:
 1. A requirement for new types of information to be submitted in a timber harvesting plan for areas within the Waterway.
 2. A requirement for timber harvesting to be approved by the Bureau before cutting may proceed in areas within the Waterway visible from the watercourse north of Churchill Dam.
 3. Criteria for approval of timber harvesting plans by the Bureau.
 4. Deletion of the de novo appeals provision pertaining to timber harvesting orders by the Bureau.
 5. Revisions of the enforcement and penalty provisions in the current Allagash Wilderness Waterway statutes.

6. A requirement for the Bureau of Parks and Recreation to report to the Legislature in three years on any inadequacies in the law its experience under the clarified statute has uncovered.
- II. The Governor's task force currently negotiating exchanges of private land for public land as a result of the Oushing case should investigate the possibility of the State acquiring lands within the Allagash Wilderness Waterway.

INTRODUCTION

I. Genesis of the study

During the First Regular Session of the 111th Legislature the Joint Standing Committee on Energy and Natural Resources heard LD 371, AN ACT to Ban Clear Cutting Within the Allagash Wilderness Waterway. ID 371 proposed the banning of clear cutting timber anywhere within the Allagash Wilderness Waterway. The Committee, along with proponents and opponents of the legislation, worked to redraft the bill to more precisely address concerns about regulation of timber harvesting within the Waterway. At the same time, the Committee sought to address related concerns raised in a November 1981 memorandum from an Assistant Attorney General. The memorandum questioned the authority of the Bureau of Parks and Recreation to disapprove timber harvesting plans within the area of the Waterway outside the restricted zone (500 feet back from the shore) but within the zone extending one mile back from the watercourse. The memorandum concluded that while the current statutes can be read to authorize disapproval of these plans, the statutes do not supply sufficient standards to guide decisions upon approval or disapproval.

The Committee determined that the matter of timber harvesting within the Allagash Waterway needed further study before the Committee could recommend legislation.

During the summer and autumn of 1983, the Energy and Natural Resources Committee, with the approval of the Maine Legislative Council, undertook this study. The study included the identification of specific areas within the Waterway that might require special or limited harvesting. The Committee consulted with affected landowners and received assistance from the Bureau of Parks and Recreation in its work.

II. Conduct of the study

The study proceeded under the direction of a five-member subcommittee of the Energy and Natural Resources Committee. In September, the subcommittee visited the Allagash Waterway, canoeing a part of the river from which the results of clear cuts made several years ago could be viewed. On this site visit the subcommittee discussed timber harvesting operations within the Waterway with personnel from the Bureau of Parks and Recreation and with a representative of Great Northern Paper Company.

At its October meeting, the subcommittee viewed a videotape showing aerial photographs of timber harvesting along the Waterway. The Director of the Bureau of Parks and Recreation provided the subcommittee with a map of the Allagash indicating sensitive forest areas. These areas are designated sensitive because: the areas are along the river and not the large lakes in the Waterway, and therefore in greater proximity to those travelling the watercourse; the topography of the areas makes them highly visible to users of the Waterway; and, in some case, the areas are near campsites. Representatives of landowners along the Waterway attended this meeting and discussed their concerns with the subcommittee. The subcommittee directed the Bureau to continue negotiations with the landowners concerning protection of the Waterway and landowners' timber harvesting needs.

The final subcommittee meeting occurred in November. The subcommittee expressed interest in the State investigating the acquisition of sensitive areas, or perhaps all lands, within the Allagash Wilderness Waterway. The Bureau presented a proposal to clarify its authority to regulate timber harvesting within the Waterway. The subcommittee discussed this proposal with the landowners' representatives present, and suggested revisions in it. The subcommittee directed its staff to prepare draft legislation and a draft report presenting its recommendations to clarify the statutes and pursue land acquisitions within the Waterway.

In December of 1983 and January of 1984 the full Energy and Natural Resources Committee met to receive the subcommittee's report and finalize the Committee's recommendations to the Legislature. The findings and recommendations of the Committee's study of the Allagash are presented in the following report.

FINDINGS

I. Current authority to disapprove timber harvesting

The study addressed the issue of whether the Bureau of Parks and Recreation has authority under current statutes to disapprove timber harvesting plans within the one mile zone of the Allagash Wilderness Waterway. The study investigated legislative intent and the sufficiency of the authority delegated in answering this question.

A. Legislative intent

The face of the current statutes and their legislative history reveal an intent to provide the Bureau with the power to regulate timber harvesting within the Waterway. A provision of the statute, unchanged since its 1966 enactment, requires submission of a management plan for timber harvesting outside the restricted zone to the Bureau. The plan is to contain four types of information and is to be approved by the Bureau before cutting may begin. See 12 M.R.S.A. §670(2)(A). The face of the statute, then, appears to require Bureau approval, and thus permit disapproval, of timber harvesting within the one mile zone. See Nov. 16, 1981, Assistant Attorney General's memorandum.

The Legislature's debate in 1966 on the bill creating the Allagash Wilderness Waterway speaks generally about the Legislature's desire to maintain the wilderness character of the Waterway, and about concerns over activities that might occur within the Waterway in the future. The debate frequently refers to an Interim Legislative Committee, appointed during the Regular Session of the 102nd Legislature, which studied and recommended the Allagash legislation. See the Legislative Record, Special Session 1966, pp. 223-231.

The January 1966 report of the Interim Committee, at page 7, states that the State Parks and Recreation Commission (now the Bureau) "shall be empowered with authority to control activities of any nature on land and water within the Waterway.... Such authority should include control of the commercial use of the water and forest land as well as the recreational uses."

Speaking specifically about the outer, or one mile, zone the report, at page 8, declares "the intent of the plan [for preservation of the Waterway under State control] is as follows:

(a) Woods operation will be permitted under control of the Commission [now the Bureau]. A plan of all woods 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...."

Based on the language of the statute and its legislative history, the study concluded that the 102nd Legislature, which created the Allagash Wilderness Waterway, intended to empower the Bureau of Parks and Recreation to control timber harvesting within the one mile zone. The study next examined whether the Legislature translated this intent

into a proper delegation of authority.

B. Sufficiency of delegation of authority

The study's conclusion on this issue agreed with that reached by the Attorney General's Office: The current statute provides insufficient standards and guidelines to indicate the extent of the discretion delegated to the Bureau to regulate timber harvesting within the one mile zone. Such limits and guidance are constitutionally required. See Nov. 16, 1981 Assistant Attorney General's memorandum.

II. Future control over timber harvesting

The study lastly addressed the issue of what authority the State should have to regulate timber harvesting within the Waterway. The Committee concluded that the wilderness character of the Waterway should be protected as the 102nd Legislature intended, and as necessitated by the greater value the wilderness nature of the area has acquired since 1966. Since then, the Allagash has become a recreation area used by approximately 8,000 people per year. In recent years the number of Maine residents enjoying the Allagash has increased, so that, now, approximately fifty percent of the Waterway's users are Mainers. A questionnaire distributed during the summer of 1983 indicates objections among users of the Waterway to the impact timber harvesting operations within the area has on its wilderness quality.

Assessments by the Bureau of Parks and Recreation, and the experience of Committee members in viewing the Allagash, demonstrate that sensitive areas do exist within the one mile zone of the Waterway where uncontrolled timber harvesting could destroy its visible wilderness character. These sensitive areas are ones highly visible from the watercourse because they are located along the river rather than the large lakes; because of their topography; and because, in some instances, they are located near campsites. Included in these areas are 24,765 acres of privately owned land within the one mile zone. Committee members are also concerned about the effect certain timber harvesting and reforestation practices could have on soils, waters, and wildlife in the Waterway. The Committee learned from its discussion with Great Northern Paper Company representatives (Great Northern owns 12,000 acres of the sensitive area land) and others that landowners cannot assure the State that their future interests will not include, for example, clear cutting within sensitive areas.

For many reasons, then, the Committee concluded that timber harvesting within sensitive areas of the Waterway should be controlled. The question as to how this control should be secured remained, however.

RECOMMENDATIONS

I. Clarification of authority to regulate timber harvesting

The Committee agreed that as part of the clarification of the authority of the Bureau of Parks and Recreation the statutes should include a more extensive list of information the Bureau shall require from those proposing timber harvesting in the Waterway outside the restricted zone. Thus, a management plan, which must be submitted to the Bureau for all proposed cutting within the one mile zone, should include information on the composition, size, and health of the forest proposed for cutting; the expected date of re-entry; chemical use planned; and plans for mitigating evidence of harvesting.

The Committee further concluded that, when timber harvesting is proposed for areas within the Waterway and visible from the watercourse north of Churchill Dam, those proposing the cutting should be required to apply to the Bureau of Parks and Recreation for approval of their plans. Criteria for approval are to be placed in the statute. An application is to be reviewed by an experienced professional forester.

The Committee determined to delete the provision in current statute permitting a de novo appeal from Bureau orders concerning timber harvesting within the Waterway. A de novo appeal permits a court to rehear the matter appealed and make an original decision, rather than requiring the court to review the agency decision for abuse of discretion or error of law. This type of appeal can be time consuming, costly, repetitive, and a dilution of agency authority. With new standards placed in the statute to guide the Bureau's decision, the safeguard of a de novo appeal from a timber harvesting order is unnecessary.

Finally, the Committee approved of certain changes in the enforcement and penalty provisions of the current Allagash Wilderness Waterway statutes.

Recommendation: The Energy and Natural Resources Committee recommends the passage of legislation clarifying the authority of the Bureau of Parks and Recreation to regulate timber harvesting within the Allagash Wilderness Waterway. The legislation should include:

1. A requirement for new types of information to be submitted in a timber harvesting plan for areas within the Waterway.
2. A requirement for timber harvesting to be approved by the Bureau before cutting may proceed in areas within the Waterway visible from the watercourse north of Churchill Dam.
3. Criteria for approval of timber harvesting plans by the Bureau.
4. Deletion of the de novo appeals provision pertaining to timber harvesting orders by the Bureau.

5. Revisions of the enforcement and penalty provisions in the current Allagash Wilderness Waterway statutes.
6. A requirement for the Bureau of Parks and Recreation to report to the Legislature in three years on any inadequacies in the law its experience under the clarified statute has uncovered.

II. Acquisition of waterway land

At the outset of the Allagash study, Committee members recognized that the Allagash Waterway would receive the most protection if the land within its boundaries belonged to the State. Committee members also recognized that the cost of acquisition of this land would be prohibitive. However, throughout the Allagash study reference to the current land exchange negotiations between the State and certain private landowners occurred. As a result of the decision by the Maine Supreme Judicial Court in Cushing v. State, 434 A.2d 486(1981), declaring private interests in grass and timber rights on public reserved lands to have ended, the one-time private owners of those rights are trading lands with the State in settlement of the State's claim. Among those involved in the exchanges are owners of land within the Allagash Wilderness Waterway.

A task force, appointed by the Governor, is negotiating the Cushing land swaps on behalf of the State. Proposed exchanges negotiated by the task force are submitted to the Legislature for approval. The task force is operating under guidelines developed after public hearing. The mandate of the exchanges is to increase the contiguous landbase held as public reserved lands. Public reserved lands are, by statute, managed under principles of multiple use, sustained yield of products and services, prudent business practices, and sound planning. See 30 MRSA §4162.

Recommendation: The Energy and Natural Resources Committee recommends that the task force currently negotiating public land exchanges investigate the possibility of acquiring lands within the Allagash Wilderness Waterway. These lands are of outstanding natural significance, and the State's ownership of them would assure protection of the wilderness character of the Waterway. Inclusion of these lands in the public reserved lands holdings would be consistent with the statutory principles under which those lands are managed.

MF1

APPENDICES

The appendices, other than the legislation, were prepared by the Bureau of Parks and Recreation.

Acreage Summary by Ownership
Sensitive Areas in AWW

<u>Location</u>	<u>Acres</u>	<u>Owner</u>
T9-R12	720 acres	G.N.P.
T11-R13	3,050 acres	I.P.
T12-R12	1,000 acres	G.N.P.
T12-R13	2,700 acres	I.P.
T13-R12	7,040 acres	G.N.P.
T13-R13	1,510 acres	Griswold
T14-R11	150 acres	Pingree (7 islands)
T14-R11	920 acres	390 I.P. 530 G.N.P.
T15-R10	1,640 acres	I.P.
T15-R11	4,940 acres	1,270 G.N.P. 3,005 Pingree (7 islands) 665 G.N.P.
T15-R12	330 acres	G.N.P. - Pingree (7 islands)
Allagash	710 acres	G.N.P.
Total	24,765 acres	

G.N.P.	-	12,100
I.P.	-	7,780
Pingree (7 islands)-		3,315
Griswold (PC)	-	<u>1,570</u>
		24,765

Allagash User Survey Summary

August-September, 1983

Have you seen timber harvesting or cut-over areas as you traveled along the Waterway?

	<u>#</u>	<u>% of Responses</u>
Yes	30	48.4
No	25	40.3
Unsure	<u>7</u>	<u>11.3</u>
	62	100.0

If yes, which areas (or where)?

Round Pond Area	- 8
Long Lake	- 6
Churchill Dam/Lake	- 6
Umsaskis Lake	- 5
Priestly Tower Trail	- 4
Musquacook Deadwater/Five Finger Brook	- 3
River below Round Pond	- 2
Thoroughfare Bridge	- 1
Eagle Lake	- 2
Telos Lake	- 1
Chamberlain Lake	- 1
View Round Pond Tower	- 1
Carry to Allagash Lake	- 1
Thoroughfare Brook	- 1
Sweeney Brook	- 1
Several Hilltops	- 1

Did you find these areas or activities objectionable?

	<u>#</u>	<u>% of Responses</u>
Yes	29	51.8
No	20	35.7
No Opinion	<u>7</u>	<u>12.5</u>
	56	100.0

If yes, why?

Distraction/Disturbance To Wilderness Quality	- 9
Destroys Scenery, Nature, View, Beauty	- 7
Clearcuts Result in Ecological Damage	- 3
Couldn't find Priestly Trail/Too Open	- 3
Destroys Deer Yards	- 2
Detracts from Overall Experience	- 1
Sign of Industry	- 1
Destroys Solitude	- 1
Ruins Food Chain for Wildlife	- 1
Siltation of Streams	- 1
Want Some Areas Uncut	- 1

Have you heard timber harvesting as you traveled along the Waterway?

	<u>#</u>	<u>% of Responses</u>
Yes	53	85.5
No	8	12.9
Unsure	<u>1</u>	<u>1.6</u>
	62	100.0

If yes, which areas (or where)?

Churchill Lake/Dam, Scofield Point, Haxon Lake, Thoroughfare Brook	- 19
Umsaskis Lake/Dam, Chisholm Brook, Ledges, Sandy Point	- 12
Round Pond, Henderson Brook	- 6
Long Lake	- 3
Musquacook Deadwater, Five Fingers Brook	- 3
Eagle Lake, Priestly Point	- 3
Around Bridges/Trucks	- 3
Everywhere	- 2
Scattered Areas	- 2
Johnson Pond	- 2
Allagash Lake	- 2
Blanchette Bridge	- 1
Near Michaud Farm	- 1
Carry to Allagash Lake	- 1
Telos Lake	- 1

Did you find the sounds of timber harvesting objectionable?

	<u>#</u>	<u>% of Responses</u>
Yes	39	68.4
No	15	26.3
No Opinion	<u>3</u>	<u>5.3</u>
	57	100.0

If yes, why?

Distraction from Wilderness, Natural Surrounding	- 13
Noise Pollution, Spoils Solitude	- 8
Destroys Peace & Quiet, Tranquility	- 7
To Late At Night/Early in Morning, Can't Sleep	- 7
Annoying	- 2
Disturbs Birds/Wildlife	- 2
Can't Hear Loons/Moose	- 1
Commercialism	- 1
Outboard motors just as bad	- 1

If you are concerned with the visual and/or audible impacts on this private land, do you have any suggestions for mitigating these impacts?

No Logging

Within One-Mile Area	- 7
On Areas Visible from the Waterway	- 3
Within 1000 feet of Waterway	- 2
Within Two-Three Miles from Waterway	- 2
Within 1/2 mile of Waterway	- 1
Within 500-1000 yards of campsites	- 1
Cut Only between 8 a.m. & 5 p.m.	- 5
Buy a wider strip of land	- 5
Cut only	
In the Winter	- 3
Between October & June	- 1
Between November & May	- 1
Noise suppressors on equipment	- 3
No clearcutting (selective cuts only)	- 2
No clearcutting on areas visible from Waterway	- 1
Enforce the "One-Mile" limit	- 1
Fact sheet at registration on type of equipment and type of cutting going on	- 1
Use Horses	- 1
Limit speed of trucks near camping areas	- 1
More cooperation between rangers and timber managers on areas to cut	- 1
Ecological Habitat Survey	- 1
Wouldn't hassle timber companies!	- 1

Residence of Respondents

<u>Origin</u>	<u>#</u>	<u>% of Responses</u>
Maine	17	33.3
Massachusetts	15	29.4
New York	6	11.7
Pennsylvania	4	7.8
New Jersey	3	5.9
Connecticut	2	3.9
Texas	1	2.0
New Hampshire	1	2.0
Bulgaria	1	2.0
Chewonki Foundation	1	2.0
	<u>51</u>	<u>100.0</u>

Primary Recreation Activity in the Waterway

<u>Activity</u>	<u>#</u>	<u>% of Responses</u>
Canoe	29	41.4
Canoe and Fish	29	41.4
Picnic	4	5.8
Fish	3	4.3
Photography	2	2.9
Birding/Wildlife	1	1.4
Hunting	1	1.4
Foldboat	<u>1</u>	<u>1.4</u>
	70	100.0

prepared 10-19-83
by Thomas J. Cieslinski

Comments Based On Past Allagash User Surveys

This survey under-represents Maine users. Past surveys indicate that about 50% of total Allagash use is by Maine parties.

This survey under-represents fishing users. Past surveys indicate that about 30% of total Allagash use is by fishing parties. Canoeing use is about right while "canoe and fish" parties are over-represented.

AN ACT to Clarify the Timber Harvesting Provisions of the
Allagash Wilderness Waterway Statutes

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

Sec. 1. 12 MRSA §662, sub-§9-A and sub-§9-B are enacted
to read:

undebited
9-A. Timber harvesting operation. "Timber harvesting operation" means the cutting and removal of trees from their growing site, and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and winter haul roads, and the construction or creation of land management roads.

9-B. Visible from the watercourse. "Visible from the watercourse" means what a person at any point on the watercourse from Churchill Dam north can see without the aid of any magnifying devices.

Sec. 2. 12 MRSA §670, as last amended by PL 1973 c. 460 §17, is repealed and replaced as follows:

§670. Control of timber harvesting operations

undebited
1. Restricted zone. No timber harvesting operation shall be permitted within the restricted zone, except

A. By direction of the bureau for the purpose of maintaining healthy forest conditions; or

B. By direction of the bureau for the purpose of correcting situations arising from natural disasters.

2. Waterway outside restricted zone. No person shall commence a timber harvesting operation in the waterway outside of the restricted zone without consultation with or, when required under paragraph B, approval from the bureau.

A. Before a timber harvesting operation is commenced in

the waterway outside the restricted zone, a management plan shall be submitted to the bureau. The plan shall contain:

- (1) A plan of the proposed timber harvesting operation, setting forth the type of cutting proposed;
- (2) The amount of timber proposed to be removed;
- (3) The time of year of cutting and removal;
- (4) The location of principal haulroad and crossings in the waterway to be used in connection with the proposed timber harvesting operation;
- (5) The plan for reforestation;
- (6) A stand table indicating species composition, size class and health of the original and residual stands;
- (7) Expected date of re-entry;
- (8) Pesticide, herbicide or other chemical treatment planned; and
- (9) Proposed plans to mitigate evidence of harvesting.

When an application for approval is not required under paragraph B, the bureau shall seek cooperation from those submitting the management plan in addressing any concerns of the bureau.

B. Application for approval. When the bureau determines that the timber harvesting operation is proposed for an area in the waterway outside of the restricted zone and visible from the watercourse, the timber harvesting operation may commence only with approval from the bureau. Application forms for approval, provided by the bureau, shall be completed and signed by the applicant.

The provisions of this paragraph shall not be construed to excuse the applicant from requirements for other permits required by law.

C. Decision. The bureau shall, within 30 days of receipt of an application for approval, either approve the proposed timber harvesting operation, upon such terms and conditions as are appropriate and reasonable, or disapprove the proposed timber harvesting operation setting forth in writing the reasons therefor. If a decision is not made within the 30 days, the timber harvesting operation shall be considered approved under the provisions of the management plan submitted.

D. Criteria for approval. The bureau shall approve an application for a timber harvesting operation when it finds that the management plan provides for the silvicultural alternative which

(1) Produces the least adverse impact upon the natural character of the area in the waterway outside the restricted zone and visible from the watercourse for which the timber harvesting operation is proposed; and

(2) Is economically feasible

E. Removal of certain trees. Notwithstanding the provisions of paragraph D, the bureau shall not deny an application for the removal of trees that are dead, dying, or damaged by natural causes.

F. Review of application. Before disapproving an application or imposing terms and conditions under paragraph C, the bureau shall have the application and management plan reviewed by an experienced professional forester.

all underlined

3. Report to Legislature. The bureau shall report in January of 1987 to the First Regular Session of the 113th Legislature on its experience in controlling timber harvesting operations under subsection 2. The report shall indicate and describe any inadequacies the bureau has found in subsection 2, or in any other provision of this chapter, that have hindered its ability to control timber harvesting operations within the waterway so as to carry out the policy established in section 661.

Sec. 3. 12 MRSA §674, as last amended by PL 1973, c. 460, §17, is repealed and replaced as follows:

§674. Enforcement, inspection and penalties for violations

Rules, regulations and permits issued by the bureau under this chapter shall have the force and effect of law. No timber harvesting operation may be undertaken, except in conformance with this chapter.

For the purposes of inspection and to assure compliance with permits issued or adopted by the bureau, authorized bureau staff or consultant personnel may conduct investigations, examinations, tests and site evaluations deemed necessary to verify information presented to the bureau, and may obtain access to any lands and structures regulated under this chapter.

A violation of any provision of this chapter, rules promulgated or permit issued under it shall be punishable by a fine of up to but not more than \$1000 for each day of the violation. In addition, the bureau may, in the name of the State, institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation of this chapter or of the rules, regulations or permits issued under it. This

action may include, but is not limited to, proceedings to re-
voke or suspend any bureau permit or approval, taken before the
Administrative Court in accordance with Title 4, sections 1152
to 1157, or, notwithstanding the provisions of Title 4, sections
1151, subsection 2, or Title 5, section 10051, before the Su-
perior Court as part of an enforcement action brought by the
bureau.

A person who willfully or knowingly falsifies any statement
contained in a management plan or application under section 670
shall be punished by a fine of up to but not more than \$1000.

Sec. 4. 12 MRSA §680, as last amended by PL 1973, c. 460,
§17, is repealed and replaced as follows:

§680. Appeals

Any applicant for a timber harvesting permit aggrieved by
a decision of the bureau relating to timber harvesting opera-
tions may appeal therefrom in accordance with Title 5, chapter
375, subchapter VII.

STATEMENT OF FACT

The purpose of this bill is to clarify the authority of the
Bureau of Parks and Recreation to control timber harvesting
outside of the restricted zone but still within the boundaries
of the Allagash Wilderness Waterway.

Section 1 of the bill adds definitions of "timber harvesting
operation" and "visible from the watercourse" to current statutes.

Section 2 of the bill repeals and replaces the current sta-
tutory section concerning control of timber harvesting in the
waterway. The provisions concerning the restricted zone are
not changed from those in current law. A new subsection con-

cerning timber harvesting in the waterway outside of the restricted zone is added:

This subsection makes it clear that when timber harvesting is proposed for this area of the waterway, a management plan must be submitted to the bureau. This bill adds provisions for new types of information to be included in the management plan.

When timber harvesting is proposed for areas not visible from the watercourse the bureau is to seek cooperation from the landowner in addressing concerns of the bureau.

When timber harvesting is proposed for areas visible from the watercourse north of Churchill Dam, the bureau must approve the management plan before the operations may commence. The bureau may impose reasonable terms and conditions, or may disapprove the plan. The bureau is to approve the plan if it presents the silvicultural alternative which produces the least adverse impact upon the areas of the waterway visible from the watercourse, and is economically feasible.

If the bureau seeks to disapprove a plan or impose terms and conditions it must have the plan reviewed by an experienced professional forester.

Subsection 3 is added to require the Bureau of Parks and Recreation to report to the Legislature in 3 years on its experience in controlling timber harvesting in the waterway under the provisions of this bill. The report is to indicate any inadequacies the Bureau has founded in any relevant statutes.

Section 3 of the bill provides for enforcement of the chapter and changes the penalties for violations in current law.

Section 4 removes the de novo appeal provision in current law. Under this change, appeals from bureau denials of timber harvesting applications will be reviewed as are other administrative decisions. The court, then, will not rehear evidence presented to the bureau, but will review the bureau's decision for abuse of discretion or an error of law.