

REPORT ON

*THE REESTABLISHMENT OF PORTIONS
OF ALLAGASH PLANTATION AND THE TOWN
OF ST. FRANCIS, AROOSTOOK COUNTY
STATE OF MAINE*

DICKEY-LINCOLN SCHOOL LAKES PROJECT



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OCTOBER 1975

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PURPOSE

The purpose of this report is concerned primarily with the re-establishment of portions of the Allagash Plantation and the Town of St. Francis. It includes the number of people and year-round dwellings, some of which are marginal, that are to be relocated along the existing and proposed new State Highway Route 161 above the reservoir.

The report also describes the general area, the project and the site locations, and also refers to the problems, issues, statistics, construction and land acquisition schedules, as well as making certain determinations and recommendations relating to the relocation of portions of both communities.

GENERAL INFORMATION

The guide acquisition line for the Lincoln School Lake, Maine, is presently based on the reservoir full pool elevation of 610 feet mean sea level plus 300-foot horizontal distance or to elevation 615.0 feet whichever criterion requires the greater area. In addition to the area within the guide acquisition line, certain additional lands will be acquired based on requirements for operation, public use, and recreational area. Power scoping studies presently underway could result in raising the Lincoln School Pool to the 620 elevation. In that event, two additional residences would be acquired in Allagash, and one additional residence in St. Francis. Any such changes will be reflected in the Feature Design Memorandum on the Town relocations. The 610 and the 620 elevations are shown on attached EXHIBITS A-1 and A-2. If land is acquired at the higher elevation, then the Allagash School could be involved. Studies will be conducted for a definite determination.

It is also noted that studies are underway relating to location for construction of contractor's housing. Consideration will be given in the Feature Design Memorandum and the Real Estate Design Memorandum on any change that may be required to this Report and any effect on Real Estate to be acquired for the project.

In the Dickey-Lincoln School Lakes Project, there are 28 mobile homes in Allagash, and 7 in St. Francis, of which all are firmly attached with foundations, and would be considered real estate. These figures are included in the total of residences in the Report. Also, the Allagash Consolidated School has two headstart trailers that may have to be relocated due to their location in the reservoir.

1. AUTHORITY

The Dickey-Lincoln School Lakes Project was authorized by the 1965 Flood Control Act, Public Law 80-298, 89th Congress, dated 27 October 1965, substantially in accordance with the plans included in the August 1964 report, entitled "The International Passamaquoddy Tidal Power Project and Upper St. John River Hydroelectric Power Development."

2. LOCATION

Dickey Dam is located on the Upper Saint John River immediately above its confluence with the Allagash River in the Plantation of Allagash and 28 miles above Fort Kent in Aroostook County, Maine, adjacent to the Canadian border. The dam would be an earthfill structure impounding a reservoir with gross storage capacity of 7.7 million acre-feet for power, flood control, and recreation. The reservoir area would total 86,000 acres at maximum pool elevation of 910 feet mean sea level (msl). Three dikes would be located in saddle areas along the reservoir perimeter to prevent overflow into adjacent watersheds.

Dickey Dam would have a total length of 10,600 feet and a maximum height of 335 feet above streambed. Its outlet works consist of a 26-foot diameter concrete lined tunnel, 2,130 feet long. The power facilities include eight generating units at 95,000 kilowatts for a total installed capacity of 760,000 kilowatts. The project would be operated for peaking power purposes.

Lincoln School Dam is located in the Town of St. Francis on the Upper Saint John River, 11 miles downstream from Dickey Dam. It provides for an earthfill dam impounding a reservoir with useful storage capacity of 24,000 acre-feet for purposes of regulating discharges from Dickey Dam and for power generation. Its reservoir would encompass 2,150 acres at its maximum pool elevation of 610 feet msl and would affect both communities of St. Francis and Allagash.

3. GENERAL AREA DESCRIPTION

The Plantation of Allagash and the Town of St. Francis are the last inhabited areas in the St. John River Valley, Northern Aroostook County, Maine, adjacent to the Canadian border. They are about 28 miles and 17 miles, respectively, along State Highway Route 161 from Fort Kent, Maine. They are completely surrounded by mostly commercial timberlands, with some potato farms; except for the small inhabited portions.

4. DESCRIPTION OF PROJECT AND THE SITE

The Plantation of Allagash is affected by the Dickey Dam and both lakes, as is shown on the attached aerial photograph, EXHIBIT A-1. The current location and the proposed relocation of the State Highway Route 161 are also shown on the attached exhibit in relation to the current populated area of the Plantation and the proposed relocated town site. Almost all but a small percentage of the Plantation of Allagash is commercial woodlands. The Plantation owns a sizeable public lot that is crossed by both the current Route 161 and the proposed relocation, all of which are shown on the attached EXHIBIT A-1. Due to the topography, the officials of the Plantation propose that the relocation be made in the portion of the public lot shown hatched in red, as well as the adjacent area, also hatched in red, currently owned by the International Paper Company and other private interests. Town-owned facilities affected by the project are the school, which may require floodproofing and/or relocation of its septic facilities, two recreation sites, town dump, and town cemetery, all of which will be the subjects of separate studies and acquisition procedures. (See Photos Nos. 1 through 5, EXHIBIT E.)

5. PROBLEMS OR ISSUES

There is a social problem related to the displacement of individuals by the project. The affected residents of Allagash are mostly timbermen who descend from Scotch-Irish backgrounds with little intermarriage. The adjacent community of St. Francis, as well as the other communities down the St. John River valley, is almost entirely of French-Canadian extraction, with employment generally in the timber and potato industries. Because of sociological affinity and family ties, residents of Allagash tend to resist change and prefer to remain in their own community.

There are 133 resident-owned dwellings in both communities which will be acquired for the project. A recent staff survey indicates that 42 are marginal properties (low value), and that the marginal property owners will have insufficient funds to relocate into decent, safe and sanitary housing, notwithstanding the maximum benefits payable under Section 203, Public Law 91-646. While there is some individual housing being constructed in this section of the valley, there is no available replacement housing to accommodate the displacees. The construction schedule shown in paragraph 7 hereafter

will allow an orderly and timely evacuation of 72 landowners in the Dickey Dam area. Route 161 is the only highway leading into Allagash. A 4.5 mile section above the confluence of the Allagash and St. John Rivers will be cut off in June 1981, eliminating access to 72 properties. It is the desire of the vast majority of displacees to relocate along the remaining or relocated portions of Route 161 in Allagash. This will place them in a situation similar to their current existence and will cause the least disruption to their accustomed lifestyle. City block type relocation will not be acceptable to the residents of this wilderness community. Attached is EXHIBIT C which is the Attorney's Report and legal authority for the Plantation to re-establish at the new location.

6. STATISTICS

The project will displace a minimum of 75% of a current population of 450 in the Plantation of Allagash, or about 337 residents. Population has declined steadily since 1940. Presently, the rate of decrease has slowed down temporarily due to the return of many young natives who left Allagash to seek better economic opportunity in other locales which are now plagued with high unemployment. In 1960, Allagash had a total population of 557; in 1970, it dropped to 454.

Allagash's economy is essentially dependent on market demand for wood products. An estimated 60% of Allagash families were receiving welfare benefits in January 1975, which was due largely to an early curtailment of demand for pulpwood. Several paper mills in the region closed down during the winter due to excessive inventories. Except for some home gardens and livestock raising for family consumption, there is very little farming activity in Allagash.

The Plantation is shown outlined in red on attached EXHIBIT A-1 and comprises approximately 126 square miles. Amenities are minimal, consisting of essential services such as electricity and telephone. There are no public water and sewerage systems. A town office building was constructed in 1968 and will not be acquired as it is outside the project. (Photo No. 6, EXHIBIT E). If the portion of the community affected by the project can be completely re-established along relocated State Highway Route 161, there will be no requirement for relocating 10.34 miles of the existing Plantation roads within the project area.

Allagash Plantation was organized pursuant to Chapter 177 of

the 1875 Maine Private and Special Laws. Chapter 62 of the 1975 Private and Special Laws authorized the conversion of Allagash Plantation to the Town of Allagash. The Act will become effective upon a favorable referendum vote by the electorate prior to 1 April 1976. The change of status will have no effect on the procedure for re-establishing the subject portion of the community.

St. Francis was incorporated as a town under Chapter 9 of the 1967 Main Private and Special Laws. Prior thereto, St. Francis was a plantation which dated back to 1870. The Town is shown outlined in red on attached EXHIBIT A-2.

The project will displace approximately 20% of the current population of 1,000 in St. Francis, or about 200 residents. Like Allagash, the population has been steadily decreasing since 1940, but has recently experienced a slight upturn because of returning former residents. There has been a slight increase in population since the 1970 census count of 940.

Employment in St. Francis is not exclusively dependent on the timber-related industry. Only 50% of an estimated workforce of 300 are engaged in timber operations. The remainder are involved with potato farming, and wholesale and retail commercial employment in nearby Fort Kent. Approximately 35% of the families in St. Francis were receiving welfare assistance earlier this year.

7. CONSTRUCTION AND LAND ACQUISITION SCHEDULE

The following reflects the schedule of real estate acquisition in priority area above Dickey damsite and related major construction work. FY 1 denotes the initial fiscal year (October through September) in which land acquisition/construction funds are appropriated. (See Chart, EXHIBIT F.)

FY 1:

Oct. Initiate final appraisals and purchase negotiations.

May Initiate relocation of residences from priority area to select locations along existing Route 161.

July Initiate construction on sections of Route 161 to be relocated.

FY 2:

Nov. Initiate construction of diversion works.

July Complete initial phase of road relocation within Town-owned land and adjoining properties to permit re-establishment of remaining priority residences along new road. Initiate relocation of residences to new road.

FY 3:

Continue relocation of residences from priority area to new road.

FY 4:

June River diverted through outlet works. Re-establishment of priority area above damsite completed.

Based on current schedules the earliest possible construction/land acquisition start, i. e. , through Congressional aid, would be FY 1978. The earliest possible budgeted start would be FY 1979.

8. DETERMINATION

Allagash - The Dickey Dam and diversion tunnel will require severance of State Highway Route 161 from the Allagash River Bridge up river to its terminus. Since this is the only access road beyond the bridge, 72 resident owners will have to be relocated within a specified period.

The present construction schedule allows three years for evacuation of the 72 properties from the time that construction funds for the project are authorized. Appraisals and purchase negotiations for subject properties will be scheduled to allow three construction seasons for relocation of the 72 properties in the priority area.

In addition to the above owners, there will be a minimum of

11 resident properties and 5 non-resident properties which will be acquired for the Lincoln School Reservoir in Allagash. At least 75% of the improved properties in Allagash will be required for the project.

The resident owners were individually polled in July 1975 to determine their preference in the event construction funds are authorized for the project. Eighty-two percent of the resident owners and tenants responded to the petition. Of those who expressed a preference, 96% indicated they would elect to remain within the present limits of Allagash. Eighteen percent who did not express an opinion stated they would "wait and see" how the project develops before committing themselves despite Town Officials' assurance that a statement of preference did not constitute a firm commitment. It is the Town Officials' opinion that most of them will remain in Allagash if the project is constructed. The non-residents were not polled since they do not qualify for a replacement housing payment under Section 203, Public Law 91-646, nor are they within the purview of the procedure for re-establishment of a town, or portion thereof, under ER 1180-1-1, paragraph 73-603. Attached is copy of resolution of the Plantation at EXHIBIT B.

Of the 88 dwellings required for the project, 33 are marginal properties. Thirty-one are located in the priority area and are included in the 72 dwellings cited previously. The remaining are in the Lincoln School Reservoir area. These marginal property owners will not have sufficient funds to replace themselves in decent safe and sanitary housing after payment of the purchase price and benefits under Section 203, Public Law 91-646. Accordingly, replacement housing will have to be constructed under Section 206, Public Law 91-646.

It is further noted that many of the marginal property owners will not be able to afford normal maintenance costs associated with the replaced dwelling. Higher heating costs, taxes and utilities will financially strain those property owners accustomed to low property taxes, and use of wood, as opposed to oil, for heating fuel. The residents either own woodlots or have ready sources of supply. Many owners have expressed a desire to continue using wood as a fuel source. It is felt that this practice will satisfy the standards of decent, safe and sanitary housing; if not, the standards should be relaxed to allow wood burning stoves as a source of heat for the replaced dwellings.

Since this survey was initiated in April 1975, most of the marginal property owners are now coming forward to pay taxes in arrears,

and in some cases, to redeem their properties after tax foreclosure. It now appears that the sums realized for the purchase of these marginal dwellings will not be substantially diminished by payments for back taxes. Typical marginal dwellings are shown--Photos Nos. 7 through 10, EXHIBIT E.

Churches shown on Photos Nos. 17 through 20, EXHIBIT E, will have to be relocated in the re-established portion of the community. The Baptist and Catholic Churches cannot be moved to the new portion of the community because of the narrow bridge spanning the Allagash River. The Pentecostal Church could be moved to the new site if structurally sound. The churches apparently do not qualify for benefits under Public Law 91-646, and the amount of the purchase price (based on actual cost of reproduction minus depreciation) will be insufficient to rebuild the structures. The churches also serve as focal points for social activities sponsored by various youth groups and the senior citizens of the community. Because their congregations include mostly low income families, church officials will have considerable difficulty raising the necessary monies to make up the difference between the replacement cost of new churches and the amount realized for existing churches.

It is assumed that the parsonages will qualify for benefits under Section 203 or 204, since they are used as principal places of abode by the ministers. There is no resident pastor for the Catholic Church, which is serviced by the pastor in the adjoining community of St. Francis. When interviewed, the clergymen stressed a continuing need for the churches. The church cemeteries will be relocated under procedure established in ER 1180-1-1. The project area includes a summer bible camp directed by the local Baptist minister for non-resident visitors.

There are eight commercial operations within the project taking area. They include five sawmills, one general store with gas pumps, a logging business (Guy Kelly & Sons), and sporting camps. When interviewed, all commercial operators indicated they will remain in Allagash in the event that their properties are acquired for the project. Kelly's logging operation employs approximately 50 people during peak periods. The sawmills employ four to six people each when they operate. Sawmill operations fluctuate according to the market demand for lumber. There was only one mill operating when our survey was conducted in late April 1975. Based on our study, project costs will be

confined to moving expenses under Section 201 (a), Public Law 91-646. We do not anticipate business displacement payments in lieu of moving expenses under Section 201 (c). The foregoing businesses are shown at EXHIBIT E, Photos Nos. 11 through 16.

Special consideration should be given to two businesses which are outside the project taking area, but which, nevertheless, will be affected by the relocation of Route 161. One is primarily a service station located in Allagash, and the other is a general store-restaurant with gas pumps situated in St. Francis. The continued existence of these businesses depend largely upon their location on the main highway. The affected owners have expressed concern that the proposed relocation of Route 161 will isolate them from the mainstream of traffic and that many of their customers will not go out of their way to patronize their business establishments. The subject businesses are shown at EXHIBIT E, Photos Nos. 23 and 24.

St. Francis

The Lincoln School Dam and relocation of State Highway Route 161 will potentially affect 67 improved properties within the Town of St. Francis. Fifty-one are residents of the community, and the remainder are non-residents who utilize the properties on a seasonal basis. The resident owners include 50 single-family residential units and an auto repair garage. They were individually polled and every one indicated a preference to remain in St. Francis if the project is authorized for construction. The non-residents were not included in the survey, since they do not qualify for housing replacement payment under Section 203, Public Law 91-646, and apparently are excluded from consideration under procedure set forth in ER 1180-1-1, paragraph 73-603.

Although there is a lack of available replacement housing in St. Francis, the voters recently authorized the Town to negotiate for acquisition of a 100⁺ acre lot which will provide a minimum of 125 homesites (Photo No. 21, EXHIBIT E). Also see EXHIBIT A-2. Town Officials reported that there is additional privately owned land available for building sites. There are no town facilities in the project taking area.

The St. Francis Chamber of Commerce operates a recreational

campsite at Rankin Rapids on the St. John River (Photo No. 22, EXHIBIT E). This campsite is not eligible for relocation as a publicly owned facility. The former Lincoln School is privately owned and is currently utilized for potato storage (Photo No. 25, EXHIBIT A). The Daigle Potato Seed Farm may be subject to a partial taking, although it appears that the improvements and most of the acreage will be exempted (Photo No. 26, EXHIBIT E). Following discussions with Town Officials, it is our conclusion that the residents of St. Francis who will be displaced by the project will be able to relocate within the present limits of St. Francis and that the construction schedule will allow the displaced landowners sufficient time to move their dwellings to a new site or build a new home.

Our survey indicates that there are nine marginal properties within the taking area in St. Francis. The owners will be unable to replace themselves in decent, safe and sanitary housing after their existing dwellings have been acquired and benefits are paid under Section 203, Public Law 91-646. As in Allagash, special consideration will have to be extended to the marginal property owners. Although time is not of the essence, replacement housing will have to be provided under Section 206, Public Law 91-646. See Chart at EXHIBIT G for breakdown of improved properties within the project area in Allagash and St. Francis to be relocated.

9. RECOMMENDATIONS

Our study indicates that 42 landowners representing 30% of the resident displacees in both communities will be unable to replace themselves in decent, safe and sanitary housing after payment for acquisition of their existing homes and maximum benefits allowable under Section 203, Public Law 91-646. A concerted and uniform effort will be required by the Corps and Town Officials in order to relocate the displaced residents in the Dickey Dam area located in the Allagash and the remaining marginal property owners in both communities who will be affected by the Lincoln School Dam and Reservoir. In addition to the marginal property owners, there are 41 owners in the priority area (Dickey damsite) who will have sufficient funds to replace themselves, but who must be phased out and relocated by June 1981, when the St. John River is diverted and Route 161 is cut off.

There are approximately 25 homebuilders within a 75 mile radius of the project. There is one in St. Francis and three or four in nearby Fort Kent. It is the current opinion of the Town Officials that local builders have the capability of satisfying replacement housing requirements in Allagash and St. Francis. Officials add that some of the displaced owners will personally build their own replacement dwellings. Several existing homes in the area are self-constructed.

Re-establishment of a portion of Allagash cannot be considered adequate compensation if limited to relocation of roads and utilities in the area. Accordingly, we recommend that the Government acquire the privately owned land for eventual transfer to Allagash, consisting of approximately 100 acres along relocated Route 161, in order to re-establish the affected portion of the community, and that adequate replacement housing be constructed by the Government under Section 206, Public Law 91-646, for the 42 marginal property owners located in Allagash and St. Francis.

A preliminary estimate of the additional Federal costs for re-establishment of the affected portion of Allagash is \$310,500. The amount includes the cost of the replacement land and the differential sum needed to replace 33 marginal property units after deducting purchase price and maximum amount allowable under Public Law 91-646 for the replacement housing. Total costs for replacement dwellings in Allagash is not available, since our survey was limited to replacement requirements for the 33 marginal property owners located in Allagash. Our investigation did not extend to the replacement requirements for the remaining 41 owners located in the priority area.

The probable Federal costs for replacing nine marginal property owners in St. Francis is \$84,500.

The amount includes the cost of the replacement land and the differential sum needed for the nine replacement dwellings after payment of purchase price and maximum amount allowable under Public Law 91-646 for replacement housing.

In order to maintain proper administrative controls for the

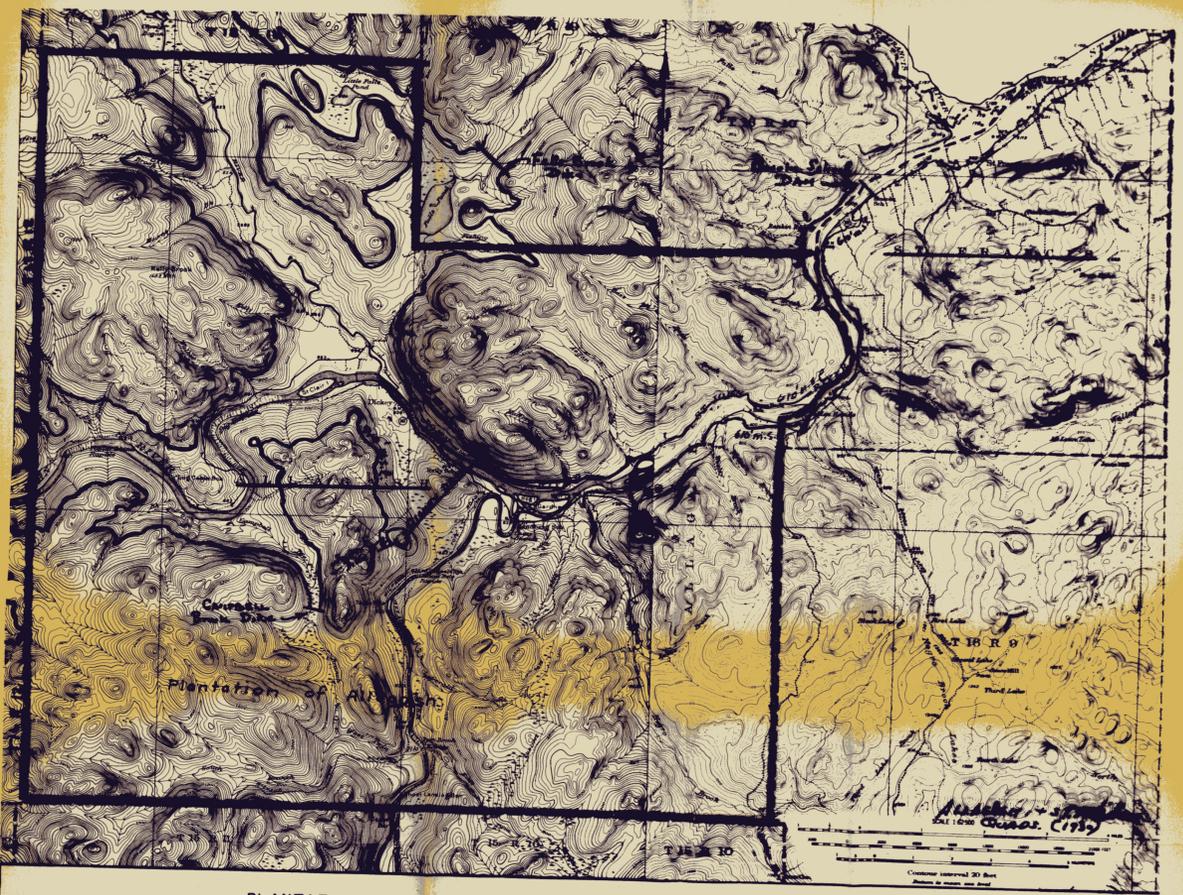
replacement housing program, it may be desirable to consummate a separate agreement with the affected landowner at the time of the purchase which will insure that the proceeds of the sale and benefits payable under Public Law 91-646 are deposited in an escrow account. Upon completion of the replacement dwelling, the amount held in escrow can be credited toward the final cost of the new dwelling. It is further recommended that NED be authorized to provide such housing at the specified additional total costs of \$395,000 for both towns.

Your review and comments are requested on the foregoing recommendations and possible alternate methods of proceeding with the replacement housing program.



PHOTO LEGEND

- 1 ALLAGASH HIGH/ELEMENTARY SCHOOL
- 2A WAGNER BROOK CAMPSITE
- 2B RECREATION AREA
- 3 INN ROAD RECREATION SITE
- 4 TOWN DUMP
- 5 ALLAGASH PUBLIC CEMETERY
- 6 TOWN OFFICE BUILDING
- 7 ELBERT OLEARY
- 8 MIKE HAFFORD
- 9 DONALD MCBREAIRTY
- 10 HARLEY KELLY
- 11 GUY KELLY SR. SAWMILL
- 12 GUY KELLY JR. SAWMILL
- 13 MCBREAIRTY SAWMILL
- 14 LOUIS PELLETIER SR. SAWMILL
- 15A GUY KELLY SR. GROCERY STORE
- 15B GUY KELLY SR. LOGGING EQUIPMENT AND STORAGE
- 16 ROY GARDNER SPORTING CAMPS
- 17A CATHOLIC CHAPEL
- 17B CATHOLIC CEMETERY
- 18A BAPTIST CHURCH
- 18B BAPTIST CEMETERY
- 19 BIBLE CAMP
- 20 PENTECOSTAL CHURCH
- 24 MCBREAIRTY'S SERVICE STATION



PLANTATION OF ALLAGASH & TOWN OF ST FRANCIS

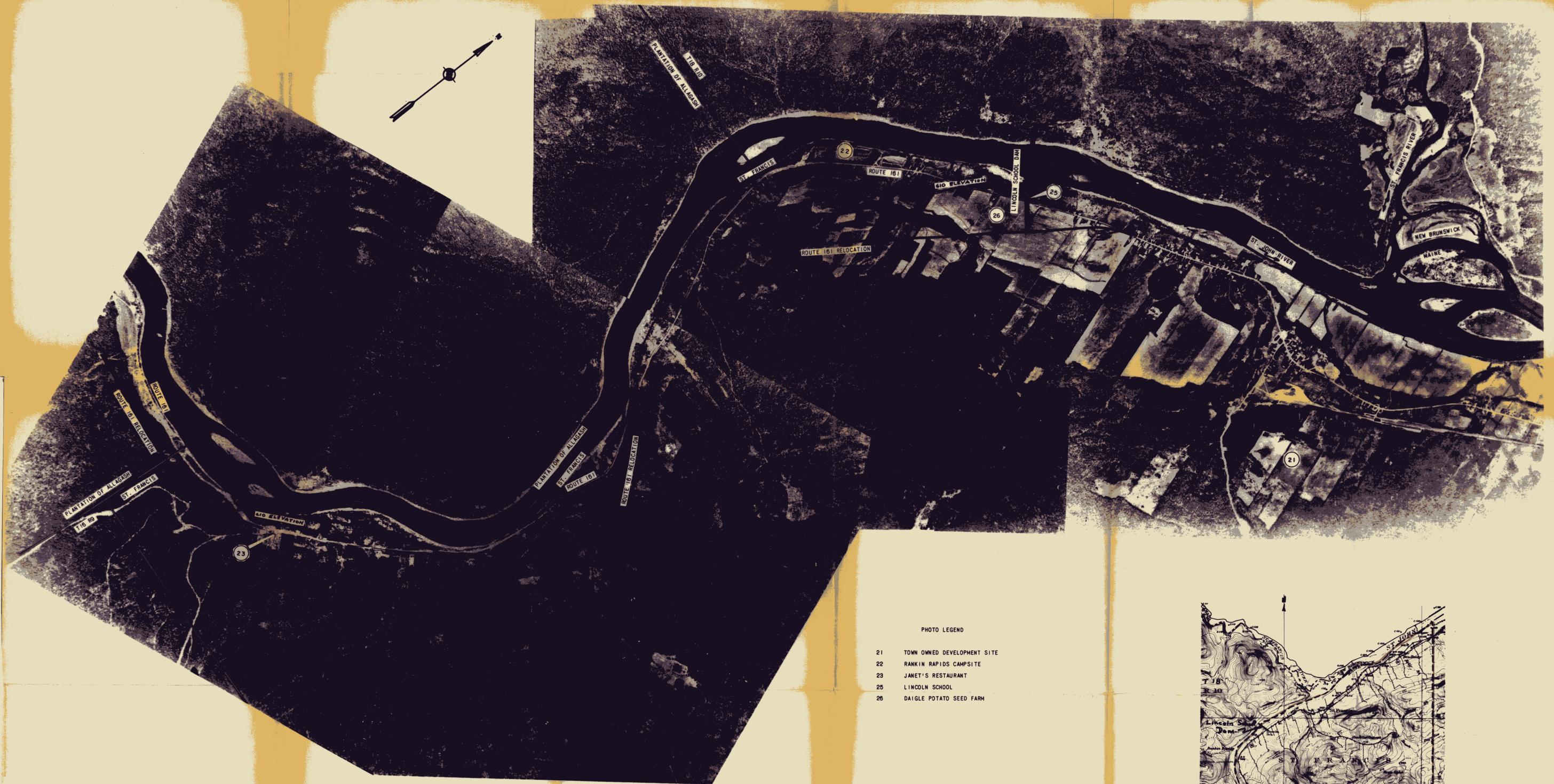
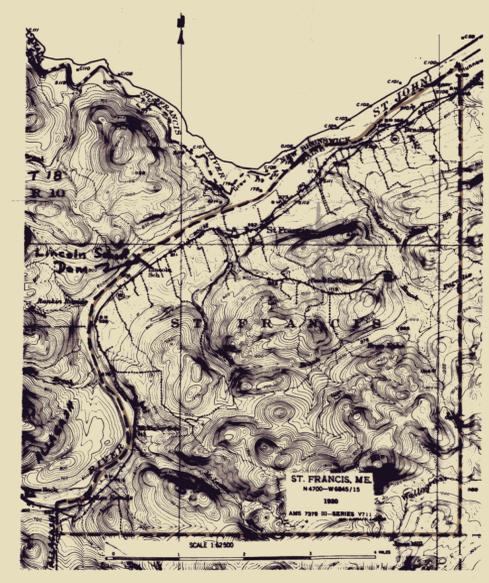


PHOTO LEGEND

- 21 TOWN OWNED DEVELOPMENT SITE
- 22 RANKIN RAPIDS CAMPSITE
- 23 JANET'S RESTAURANT
- 25 LINCOLN SCHOOL
- 26 DAIGLE POTATO SEED FARM



PLANTATION OF ALLAGASH

RESOLUTION OF THE BOARD OF ASSESSORS

WHEREAS, the Dickey-Lincoln School Lakes Project was authorized by Flood Control Act of 1965, Public Law 89-298, 89th Congress, October 27, 1965; and

WHEREAS, a portion of the Plantation will be acquired for said project upon Congressional appropriation of Construction funds.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ASSESSORS: That the affected portion of the Plantation be reestablished at a new site along relocated State Highway Route 161 which will be acquired from International Paper Company when legislation authorizing construction funds for the said project is approved by Congress and signed by the President.

ADOPTED: August 5 1975

PLANTATION OF ALLAGASH

Ray Gardner Chairman

Esther L. Gardner Assessor

Daniel Pelletier Assessor

Attest Thelma M. Boudry
Town Clerk.

Incl. 1

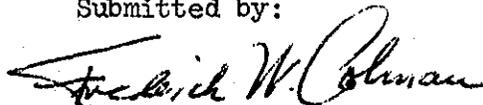
EXHIBIT "B"

DICKEY-LINCOLN SCHOOL LAKES PROJECT, MAINE

EXHIBIT C

REPORT - CONCERNING RELOCATION OF TOWNS
AND OTHER FACILITIES AT PROJECT SITE

Submitted by:



FREDERICK W. COLMAN
Attorney - Advisor

EXHIBIT "C"

ATTORNEY'S REPORT AND DETERMINATION OF LEGAL LIABILITY AND FACTS

Within the Dickey-Lincoln Project area there are two local governments; the Allagash Plantation and the Town of St. Francis, that will be affected by the construction and real estate requirements for this project. It is presently estimated that 88 dwellings and several miles of local roads under the jurisdiction of Allagash will interfere with the project and require acquisition and/or relocation. The Town of St. Francis has approximately 50 dwellings, that will interfere with the project and which will be acquired. There are no public roads in St. Francis that interfere with the project.

In addition, in the Allagash Plantation there is a town dump, school, electric and telephone utilities and several cemeteries that will also require relocation as the forementioned will interfere with the project requirements. Also required will be the relocation of approximately 10 miles of state highway #161 which is within the project area. There is no water, sewage or drainage facilities provided by either of these local governments.

Preliminary studies conducted within the project area indicate that approximately 88 houses within the Allagash Plantation will be acquired for project purposes. The matter is further complicated as there are no replacement dwellings available presently, nor is it expected that there will be any available by the time real estate acquisition gets underway. Most of the residents affected are desirous of remaining

in this area. This region of the State of Maine is primarily wilderness and the Towns are small with the people tending to be reluctant to leave a particular area.

The Town of St. Francis, also within the project area, will result in the acquisition of approximately 50 dwellings. This is not anticipated to present a problem due to the fact that construction will not occur until the later phases of the project. In addition, it is anticipated that local construction forces should be able to satisfy the replacement needs of the displaced inhabitants of this town.

LEGAL ISSUE

The basis for re-establishment of a town must be considered from two distinct viewpoints. First, does the town under existing state law have the authority whereby it can accomplish re-establishment, either partially or completely. Second, does the Government (Corps of Engineers) have any legal responsibility to assist a town in re-establishment. And if so, the basis for this action. It is the purpose of this report to answer the above questions based upon existing law and regulations. As the project planning is currently being formulated, this report is written to highlight some of the anticipated problems and provide a legal basis upon which decisions can be rendered.

CONCLUSIONS AND DETERMINATION OF LEGAL LIABILITY

The basis for relocations is the case holding in Woodville, Okl. vs U.S., 152 F 2d 735 (1946). Dicta in this case indicates that had Woodville been a relocation, rather than a newly incorporated town, the case holding would have been different. The factual situation at Dickey-Lincoln

is, however, different from those in the Woodville case. At the Allagash it is not anticipated a new town will be required. Only a part of the existing town will be displaced by the project. Thus, a new entity, town, or plantation would not be required. The most that would be required would be a partial relocation, that will be accomplished within its existing boundaries.

There is no legal impediment under the laws of Maine to a town or municipal corporation re-establishing a whole or a part of itself within its existing boundaries. In effect this is not actually a re-establishment, but a physical change in location. It would require nothing more than a vote of approval from the town legislative body. If this solution is possible at the Allagash Plantation, the question remains as to whether the Government should participate by giving financial assistance.

The court in the Woodville Case stated "that just compensation for the taking of municipal streets is not measured by the ordinary standards of value, i.e. market value of land taken. The municipality is entitled to the cost of providing the necessary substitute therefore and if a substitute is not necessary they have suffered no financial loss and are entitled to nominal damages." This case has been cited numerous times in cases involving the taking of public streets and has been upheld to the present time. The Supreme Court in the case of U.S. vs Virginia Electric, 365 U.S. 624 (1961) adopted the same rationale. In speaking of just compensation it stated its purpose was re-imbusement to the property owner for the interest taken. "he is entitled to be put in as good a position pecuniarily as if his property had not been taken....."

In many cases this principle can readily be served by the ascertainment of fair market value. But this is not an absolute standard nor an exclusive method of valuation. The rule requiring the payment of the cost of substitute facilities is an application of these principles not an exception to them. It enables the court or jury to award the amount required as just compensation in situations where market value or other standards of valuation cannot rationally be applied or where their application would not put the owner in as good a position as if his property had not been taken.

With the enactment of PL 91-646, the Uniform Relocation Assistance and Policies Act of 1970, a new dimension has been added to real estate acquisition by a Government Agency. This legislation allows government agencies a wider latitude in this area and in so doing obviate any adverse effects that might result from the Woodville case and the statement contained in ER 1180-1-1, Par. 73-601.

Under section 206a, the head of the Federal agency involved in a project may take such actions as is necessary to provide replacement housing, by the use of project funds. In conjunction with the aforementioned section, section 206b provides that no person shall be required to move from his dwelling on account of a project unless the Federal agency head is satisfied replacement housing is available. The Act (91-646) also authorizes a Federal agency to make loans for housing under limited conditions for replacement housing. (See Section 215). Also, the Administrator of the General Services is authorized to make available to the states for replacement housing any surplus property of the Government. (See Section 218).

As the Uniform Relocation and Assistance Act of 1970 is a relatively new enactment there is little legal precedent to rely upon for guidance or interpretation. Many provisions of the law are similar to the Federal Highway Act of 1968, but the Act (91-646) is broader in scope and significant changes were embodied in it. There has been some court interpretation but not enough to allow conclusions of any import. In the case of Keith vs Volpe, 352 FS 1324 (1972), a controversy arose over the State of California building a 17 mile freeway in southern Los Angeles. Among other issues, a question arose over the Federal Highway Act of 1968 (23 U.S.C. 501-511). The wording of the aforementioned statute and section of the Act (91-646) are similar and contain the same basic requirements. The State Highway Department in this case had prepared detailed studies in the area of replacement housing and had also constructed new apartments and remodeled older homes for sale to displaced persons. The court in this case required the state to provide additional housing availability studies.

The case although dealing with only one section of the Act, and is a singular interpretation, indicates that the courts are going to require strict compliance with the terms of the legislation. This compliance will effect not only the state but Federal agencies as well. In addition the Act (91-646) is going to play a vital role in any projects and a new dimension has been added to real estate acquisition. In view of this legislation and the conditions that exist at the Allagash Plantation

it is the opinion of this writer that the Federal Government (Corps of Engineers) has the legal responsibility to assist in providing replacement housing at the Allagash section of the project, especially because of the existence of considerable substandard units that even with the payment of fair market value and additional benefits up to \$15,000.00 will not cause the displacees to be relocated into decent, safe and sanitary housing. The problem posed by an existing town or plantation re-establishing a section of itself to a new location is not considered a geographical problem with this project. There are vast areas of land available and unused within the boundaries of both local governments which should allow these instrumentalities to re-establish within existing limits. Moreover, existing statutory law, Title 30, section 4151, allows townships to reserve up to 1000 acres of land for the exclusive benefit of each town. Both of the local governments involved have such reserves at present.

The State of Maine has a wide range of local governmental forms. In addition, they have entities that are incorporated, organized, unorganized and deorganized. The forms vary from townships, villages, places plantations and towns. The statutes setting up these aforementioned forms are in many respects vague, with custom and usage being the basis for many of the practices utilized by these governmental units. However, the statute dealing with public lots apparently makes a distinction between incorporated towns and other forms of local government. In the former, title to the land vests with the town when incorporated. In the latter,

title vests with the state and authority over this land is delegated to the State Forest Commissioner. He has limited authority as there are no provisions in the statute authorizing him to sell a fee interest. He is able to sell the timber and minerals under certain conditions. It is presumed that a town having title to this land can sell it or utilize it as the town deems necessary. In the case of an organized plantation or other forms of local government, this would not be possible as they do not have title to these lands. It is the opinion of this writer that enabling legislation would be required from the State Legislature before this could be accomplished by a plantation such as Allagash. As St. Francis is an incorporated town, this would not be required.

Should it become necessary for either of these entities to acquire land beyond its limits, there are no statutes covering this point, either prohibiting or authorizing this type of action. There is legislation existing authorizing towns to acquire land for a variety of purposes. Title 30, section 4001, allows municipal officers to take land for parks, public buildings or as public libraries. Title 30, section 3751 allows cities and towns to acquire land for forestation. Title 30, section 4101 allows municipal officers to take land for dumps. However, a review of the Maine Statutes did not reveal any statutes dealing with towns re-establishing themselves outside its existing boundaries. There is, however, precedent dealing with authority of a municipal corporation

in general. The Maine Supreme Court in the Case of 96 Me. 539 (1902) stated in relation to the authority of a municipal corporation, "that not only do they have the powers granted by their charter, or by implication, but also such as are incidental to the powers expressly granted and essential to the purposes of the corporation."

In so far as an incorporated town is concerned, any re-establishment outside its existing boundaries would require enabling legislation from the Maine Legislature. This would be applicable to St. Francis as it was established by special act of the legislature 1967. (Special Acts of 1967 Chap. 9) A somewhat different solution is called for at the Allagash Plantation. Organized plantations in Maine are analagous to an incorporated town. They have many of the powers and responsibilities of towns. (See Title 30, section 5607). A notable difference, however, is that they are not incorporated by the legislatures, but very simply by the inhabitants of the area. (See Title 30, section 5603 and 5604). Following organization the plantation notifies the Secretary of State of the proceedings and in so doing advises the Secretary of the limits of the plantation. In this case a change in the geographical limits would need only approval of the Town meeting and following this, notification to the Secretary of State.

However, the Maine State Legislature in 1875, by Special Act, Chap. 177, authorized the county commissioners of Aroostook to organize Allagash Plantation. It is to be noted that a search of the general statutes of Maine revealed no basis for this action. It is the opinion of this writer,

that it is a practice developed through custom rather than it being a legal requirement to organize a plantation.

Local officials at Allagash have recently advised this office that by Special Act of the Maine Legislature (Chapter 62 of 1975), a bill has been approved converting Allagash from a plantation to a town. Under the terms of the Act, it shall become effective after a town election accepting the act. The legislation requires the election to be held before April 1, 1976. If accepted by the voters, it shall take effect at the annual town meeting, in April of 1976. It is the opinion of the local officials that the voters will approve this act when the election is held.

In any event, whether the Allagash is a plantation or a town, it would be able to re-establish itself as outlined above. Only the method or avenue of effecting this change would differ. In the case of a town re-establishing itself outside its existing boundaries, this would require a special act of the Maine Legislature. In the case of a plantation, a town meeting approval would be required. Where either of the two entities were to relocate its facilities within its existing boundaries, rather than re-establish itself to a new location outside of existing boundaries, a town meeting approval would be required.

In addition to the above there are several other municipal facilities that will require relocation as a result of the project. The Allagash

Regional School which consists of one building and 2 trailer-type classrooms is within the project area. It will not be necessary to relocate the facility, but some type of protection must be provided for the building to be water-proofed and the septic facilities need to be relocated. The school is under the jurisdiction of the Allagash Plantation and its School Committee Title 20, section 3562 of the Maine Statutes gives the school committees the power of eminent domain and section 3561 gives the committee the authority to discontinue or change the location of a school. In view of the foregoing it would appear that the authority for a relocation of said facility would be with the local school committee.

A town dump located within the Allagash Plantation is also within the project area. Under Title 30, section 4101 of the Maine Statutes, and municipality may by action of its legislative body direct its officers to take suitable land for public dumping grounds. It is not established until it has been accepted, as laid out by the legislative body of the municipality. The law further provides that these dumping grounds may be disposed of in the same manner as other lands owned by the municipality. In view of the foregoing there is ample authority in the plantation for relocating said dump.

There are several roads under the jurisdiction of the local community that will interfere with the project and which will require relocation. A standard relocation agreement pursuant to ER 1180-1-1 could be entered

into with the respective town or plantation. Under Maine Statutes, both towns and plantations have the authority to lay out, alter and widen town ways under Title 23, section 3001. Organized Plantations, of which Allagash is one, have the powers and are subject to like liabilities and penalties as towns respecting ways. (See Title 23, section 2001). In view of the foregoing there would be nothing to prevent either local government from entering into a standard relocation agreement for the roads required for this project.

State Highway #161 for a length of approximately 10 miles will also require relocation due to its being within the reservoir area. Under Maine Statutes, Title 23, section 651, the Highway Commission may alter, widen or change the grade of any state or state aid highway, and may lay out, establish, and open new highways. It is also under the same section given the authority to discontinue any highways. In addition, under Title 23, section 61, the Commission may vacate any land to the abutters that is not required for highway purposes, or the Governor and council on the advise of the Commission may sell and convey on behalf of the state, the interests of the state in property taken or acquired and no longer necessary. In view of this information the Highway Commission, now under the jurisdiction of the Department of Transportation has the legal authority over highway #161 to enter into a relocation agreement for the relocation of said highway.

SUMMARY & CONCLUSION

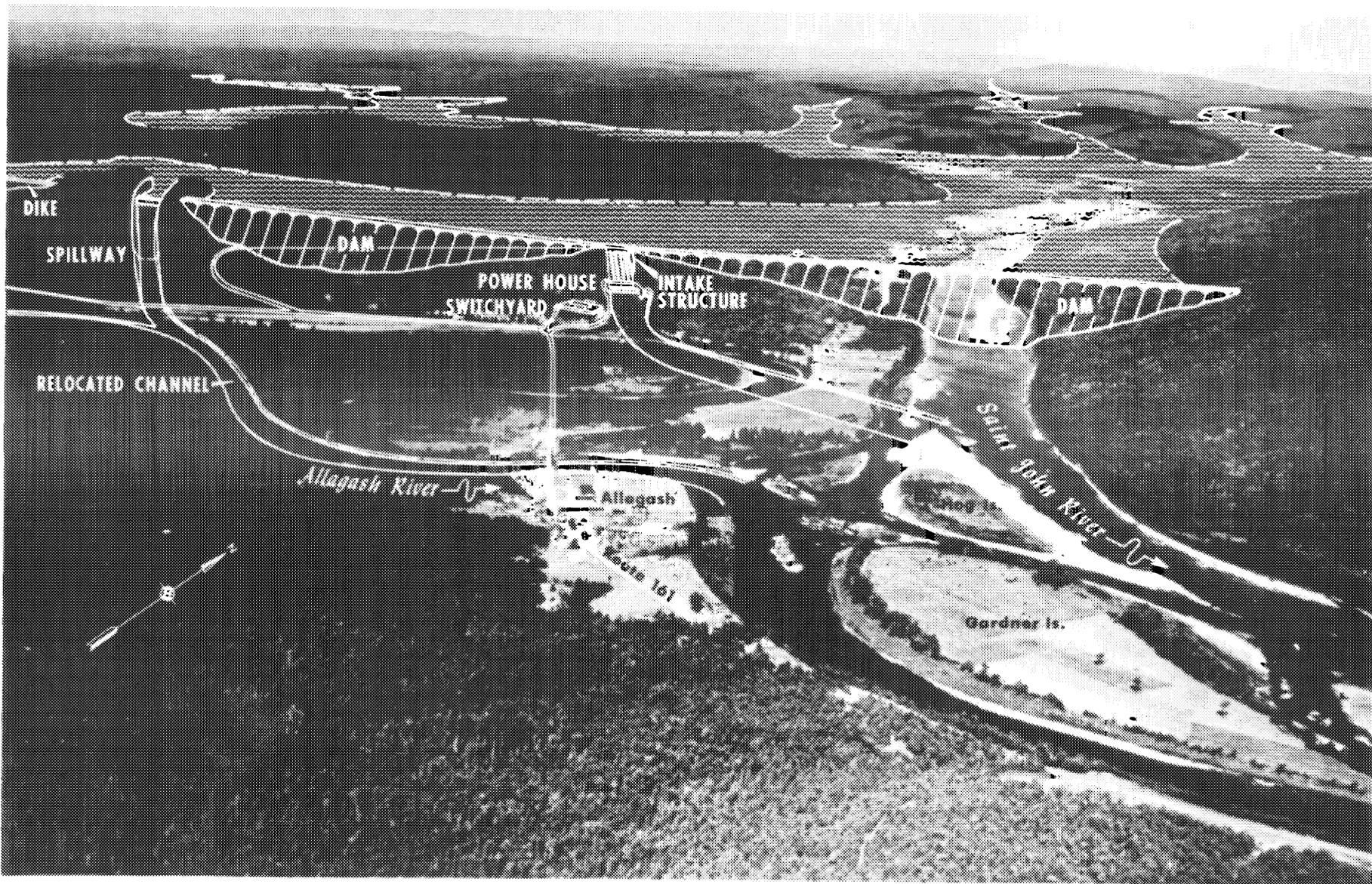
From the analysis of the various data gathered to date from the project and surrounding areas, there is no available replacement dwelling property either for sale or lease. This entire area of Maine is mostly wilderness with little commerce or industry. The population is small, but consists of families anxious to remain within their respective areas. This problem is most acute in the Allagash where dwellings will be displaced and where presently there is no replacement housing available or expected. With the enactment of PL 91-646, especially section 206a, it was the intent of Congress to allow a Federal Agency involved in this type situation and project, to provide replacement housing. In fact section 206b states that a displaced person shall not be required to move unless replacement housing is available.

In addition, there may be a requirement for re-establishment of a part of the Allagash Plantation. The Town of St. Francis will be involved to the extent that additional supplemental payments must be made on many units to be acquired so the displacees will be relocated into decent, safe and sanitary housing. It is expected that replacement housing can be constructed in time and within the present boundaries of the Town of St. Francis. The Allagash re-establishing itself within boundaries is not considered to present any legal problems.

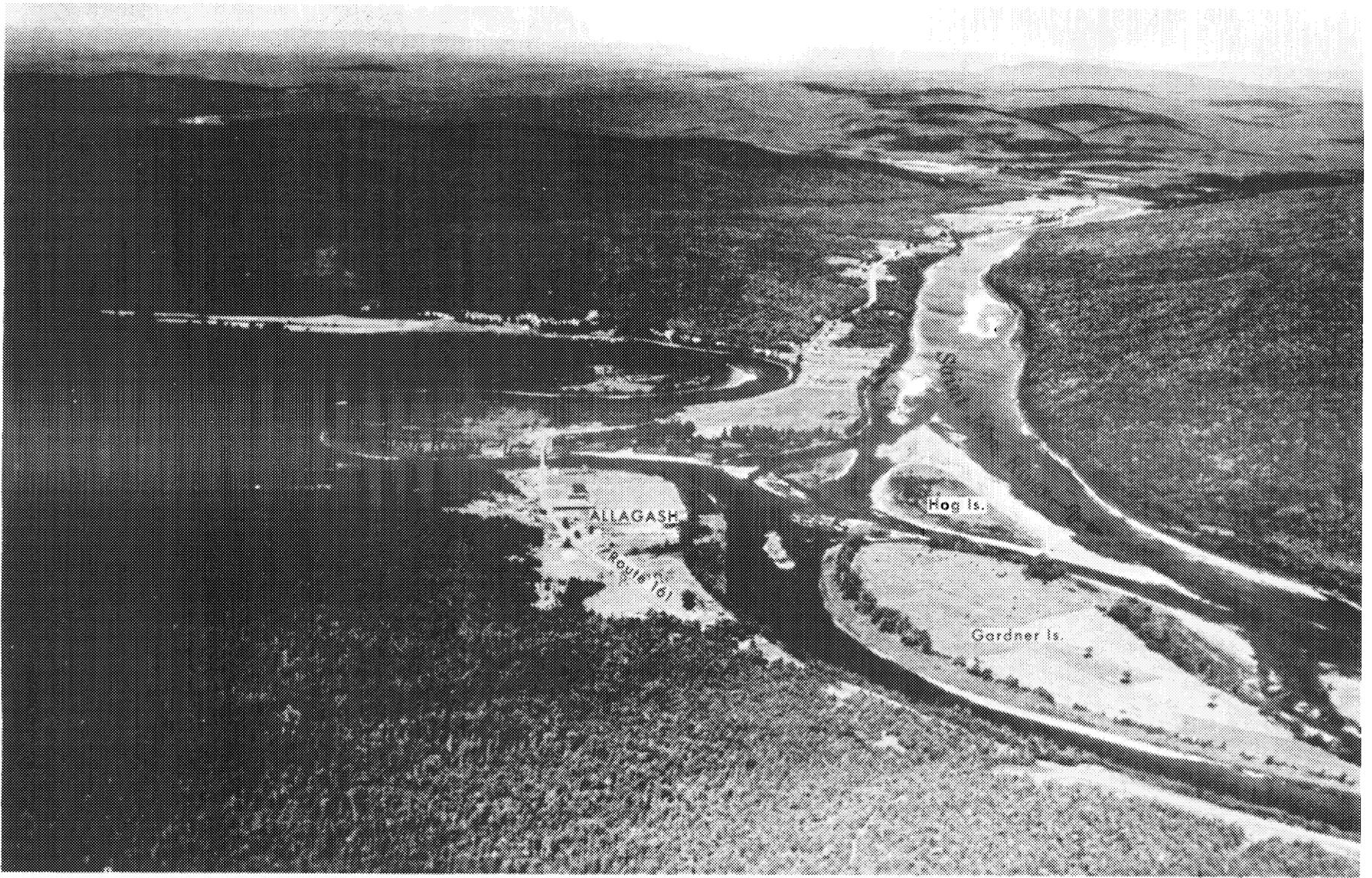
Were it necessary to re-establish outside its present boundaries, then certain prior legal requirements would have to be accomplished.

It is believed that the local town meeting could accomplish this fact. As this type of government is originated without legislative approval, it is believed legislative approval from the state would not be required.

The remaining relocations necessitated by the project will be accomplished under standard agreements as outlined in ER 1180-1-1. They will be dealt with in detail in the attorney report submitted with the relocations design memo. They would consist of roads, utilities, public facilities and cemeteries that are within the project area and that will interfere with the project. The cemeteries involved with the project will be the subject of a separate design memo.



Artist's Conception Dickey Dam and Reservoir Upper St. John River Water Resources Development



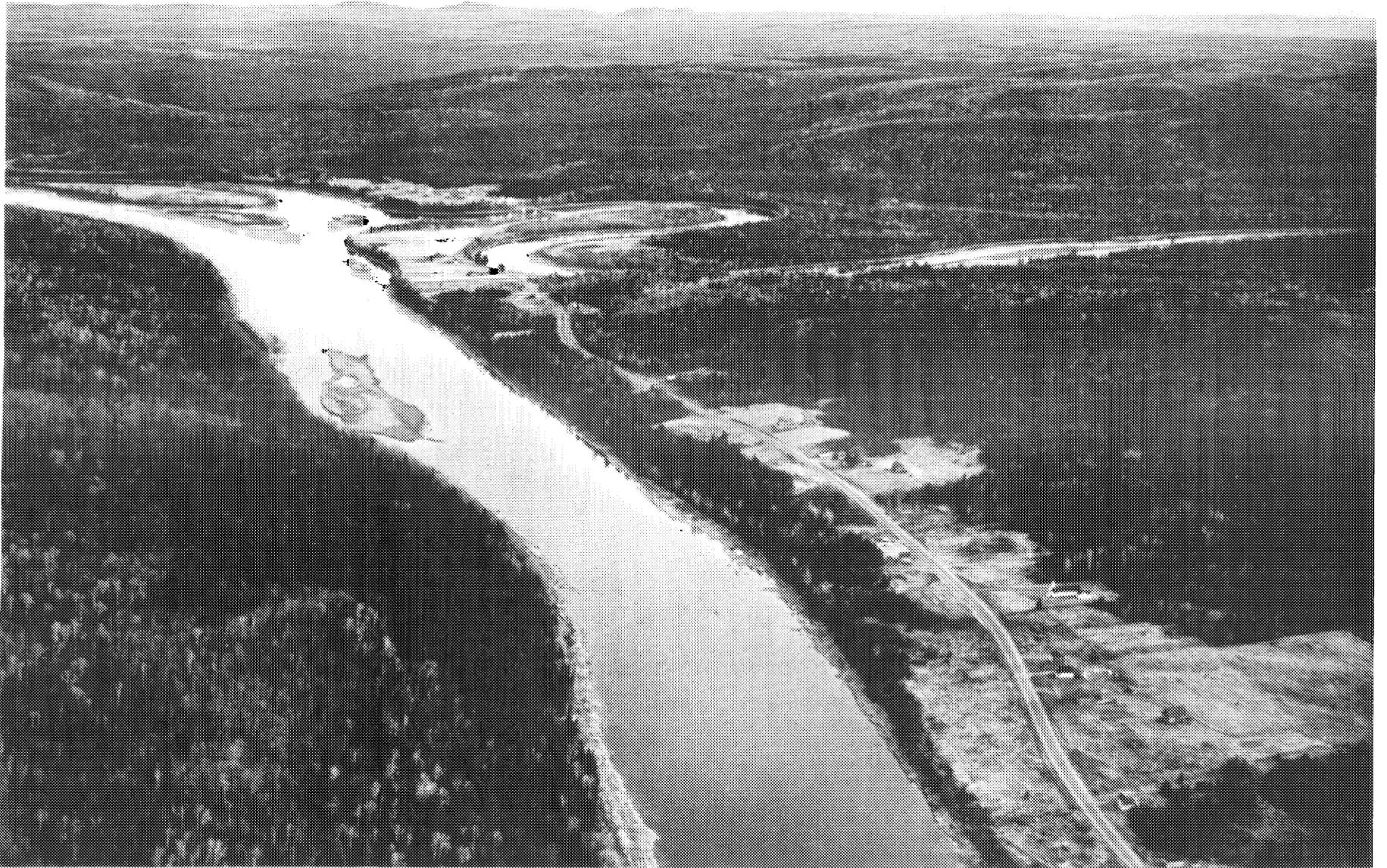
Looking upstream toward the confluence of the Allagash and St. John Rivers.



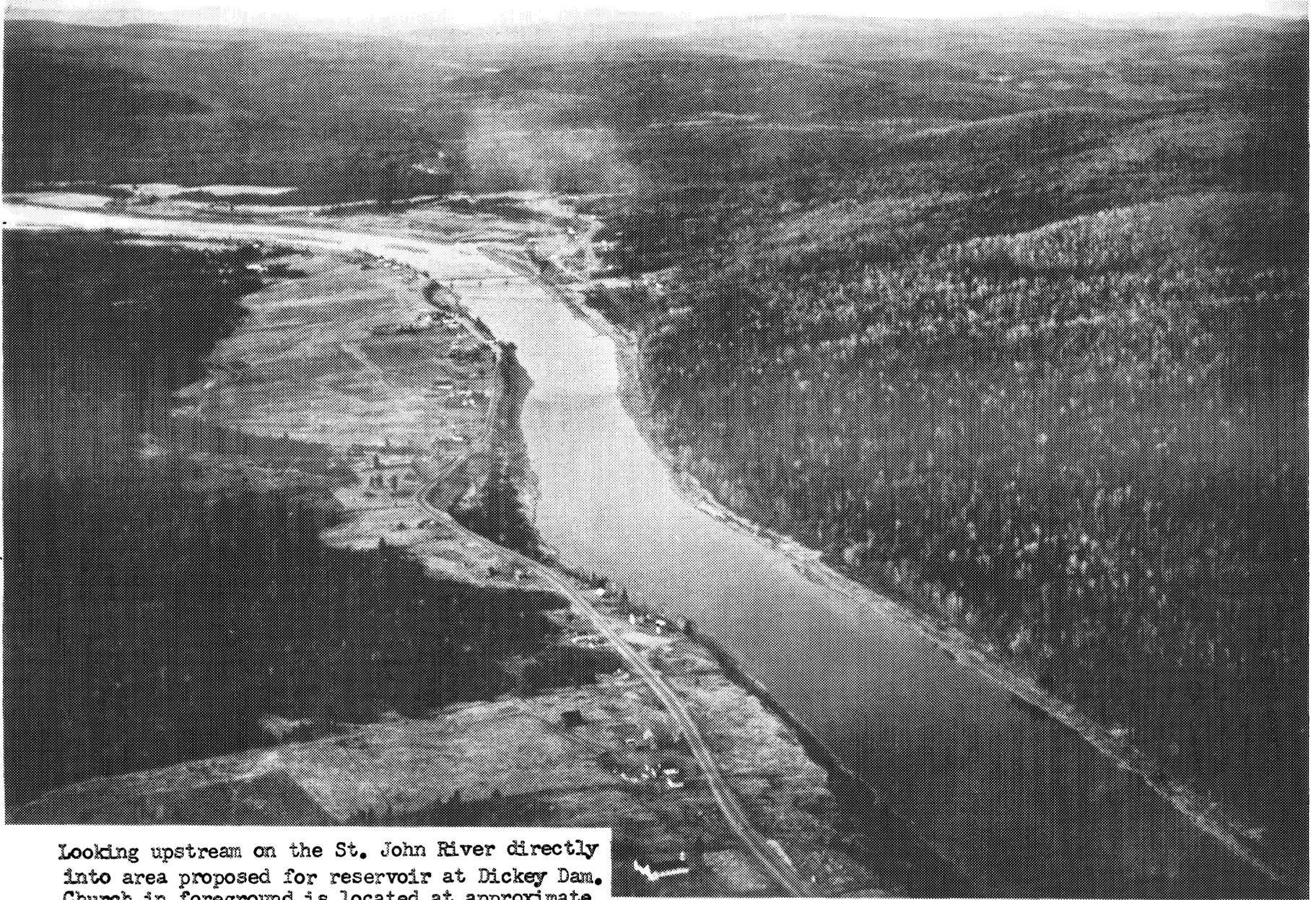
Town of Dickey, Maine. Aerial photo looking downstream along St. John River from a point directly over (2000 ft. altitude) town of Dickey, toward the confluence of the Allagash and St. John Rivers. Area immediately behind confluence is the town of Allagash. Dickey Dams proposed location upstream of the confluence would not interfere with natural state of the Allagash.

EXHIBIT "D"

EXHIBIT "D"



Dicky, Maine Damsite. Damsite in foreground looking downstream to Allagash River



Looking upstream on the St. John River directly into area proposed for reservoir at Dickey Dam. Church in foreground is located at approximate centerline of proposed Dickey Dam.

EXHIBIT "D"



Dicky, Maine Damsite. St. Francis, Me., looking downstream from over damsite

EXHIBIT "D"

EXHIBIT "D"



Dicky, Maine Damsite. Looking downstream to Lincoln School damsite and St. Francis, Me.

EXHIBIT "D"



Dicky, Maine Damsite. Looking upstream from over damsite to Lincoln School reservoir area



1

EXHIBIT "E"



2 A



2 B

EXHIBIT "E"

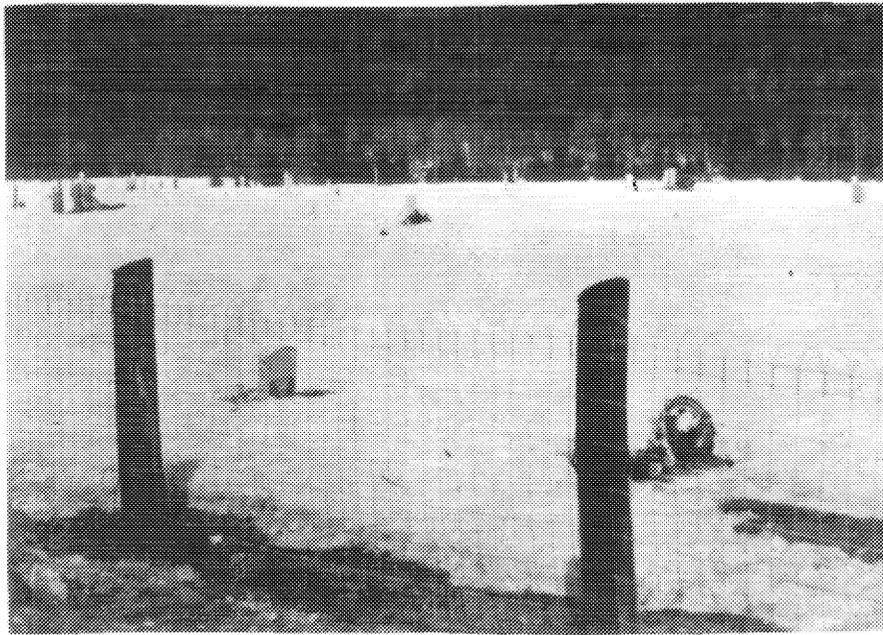


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EXHIBIT "E"

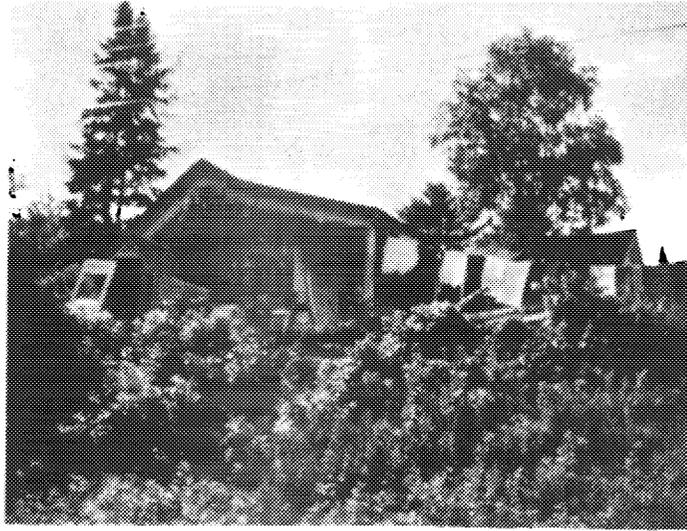


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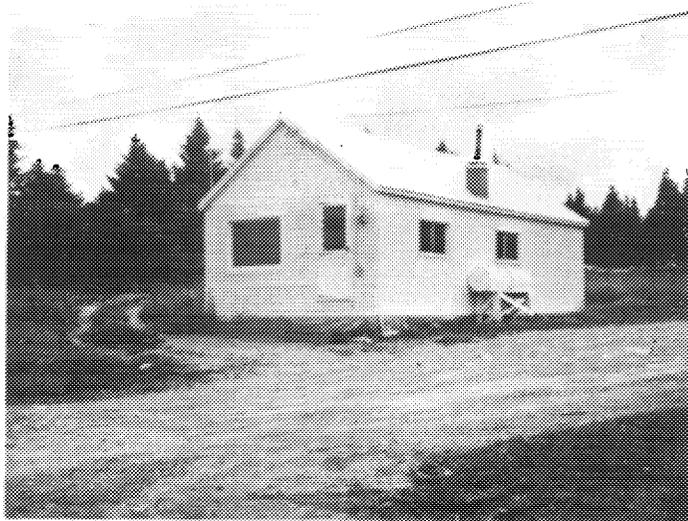


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EXHIBIT "E"



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EXHIBIT "E"



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EXHIBIT "E"

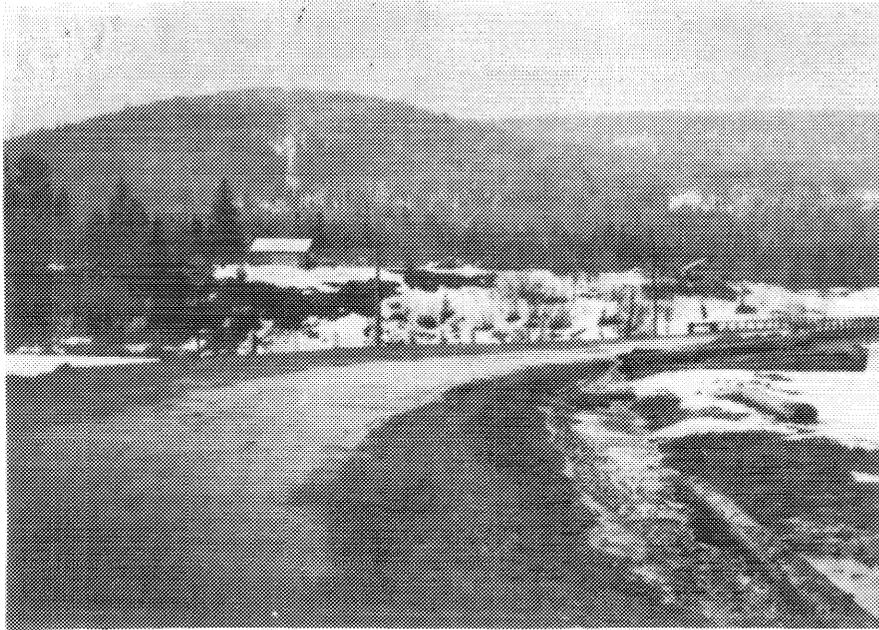


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EXHIBIT "E"



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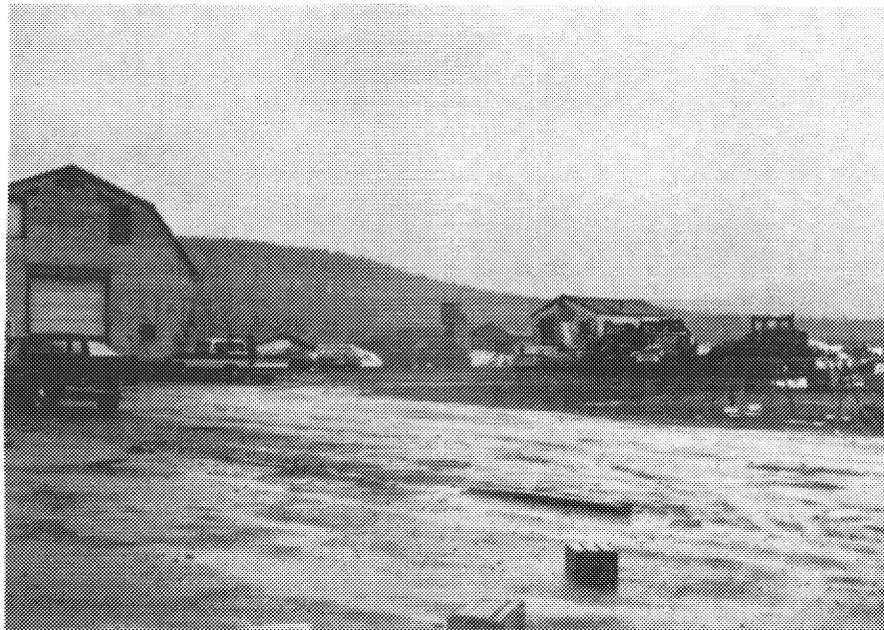


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EXHIBIT "E"



15A

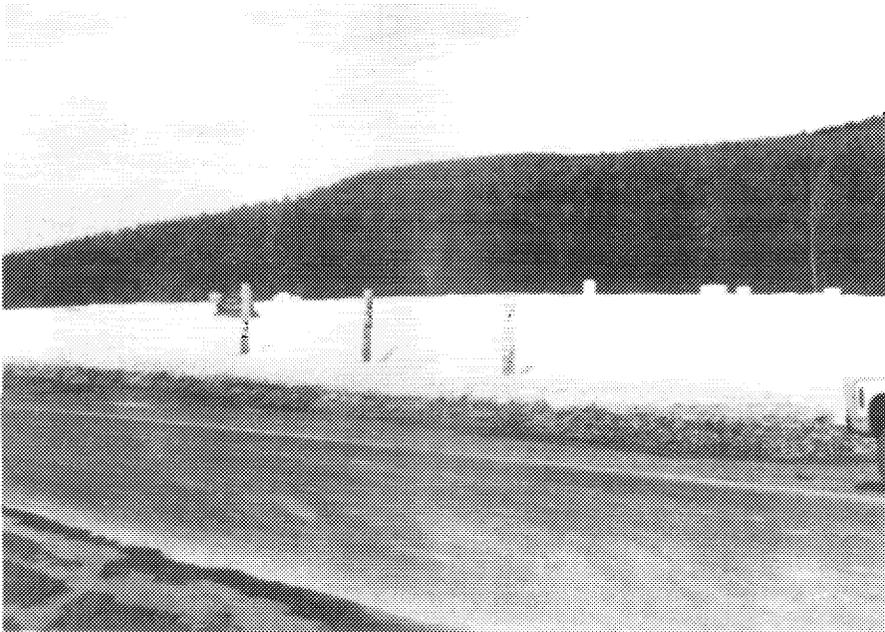


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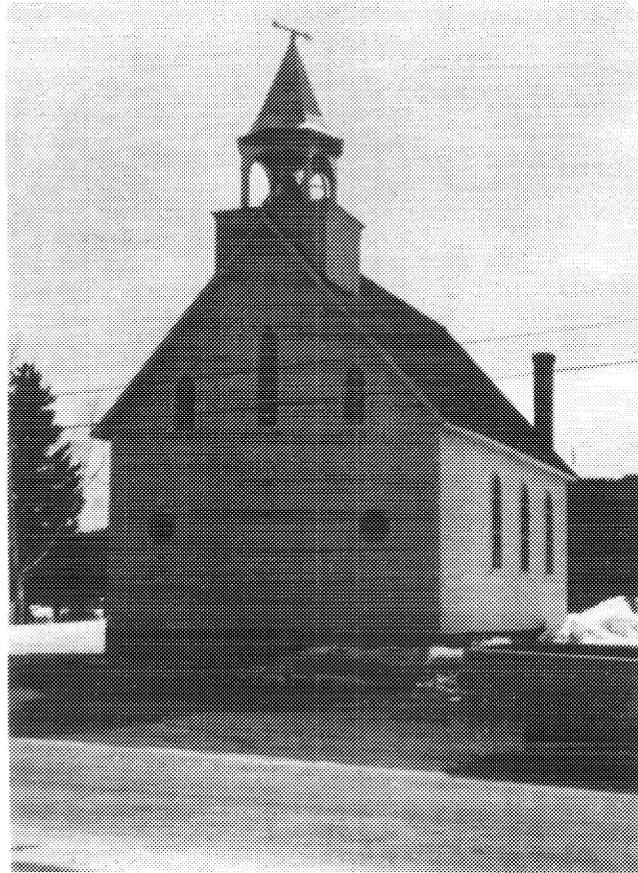




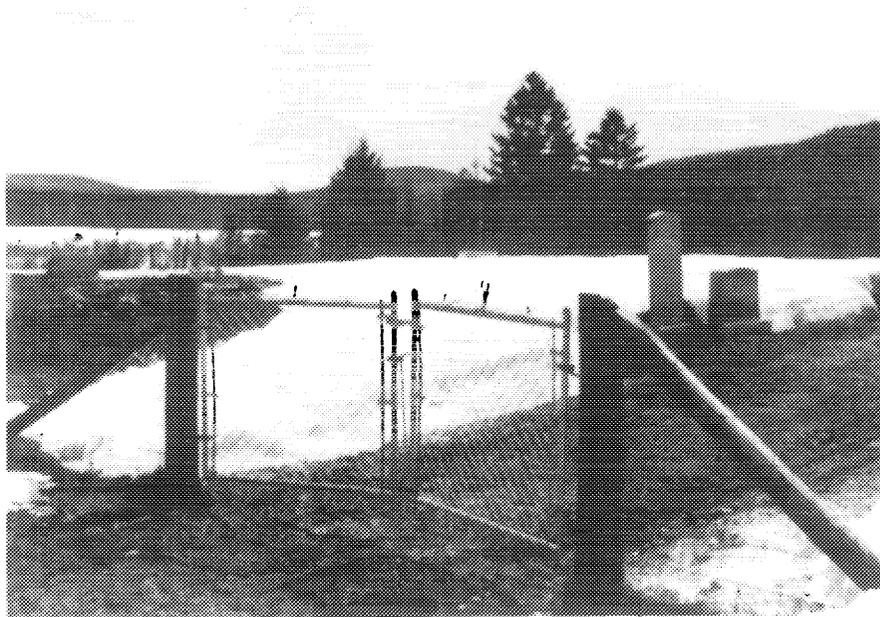
17A



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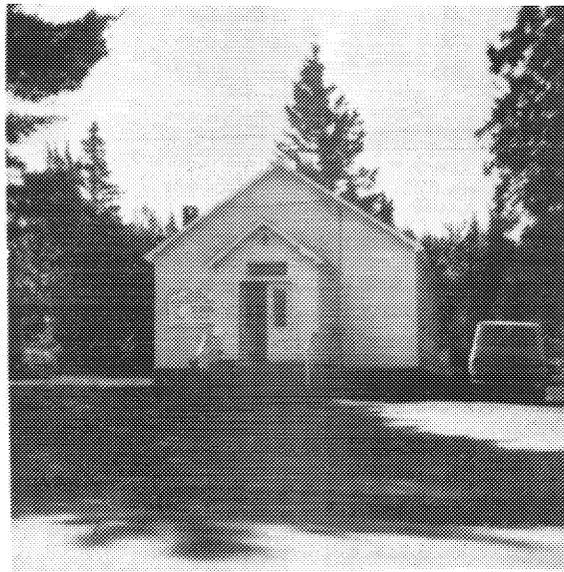


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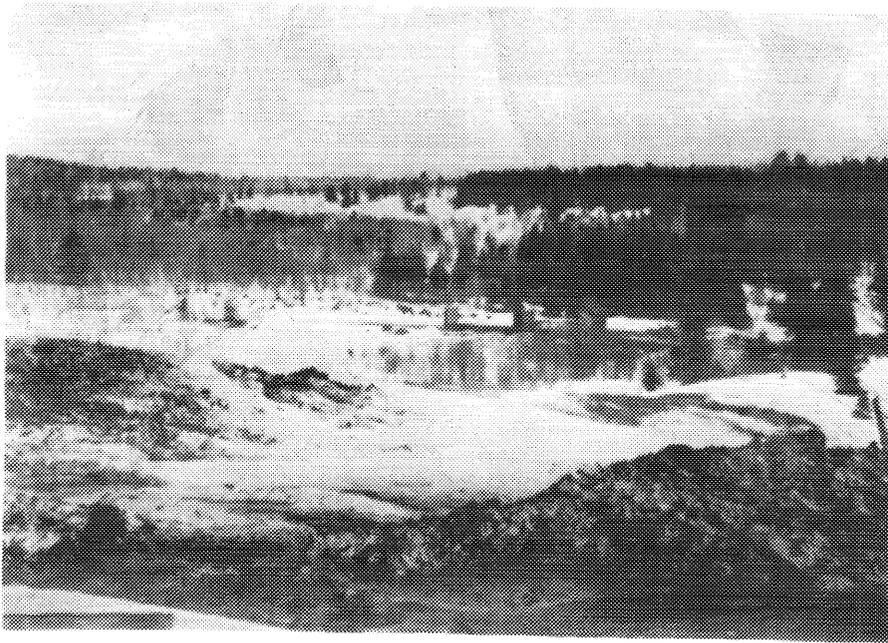


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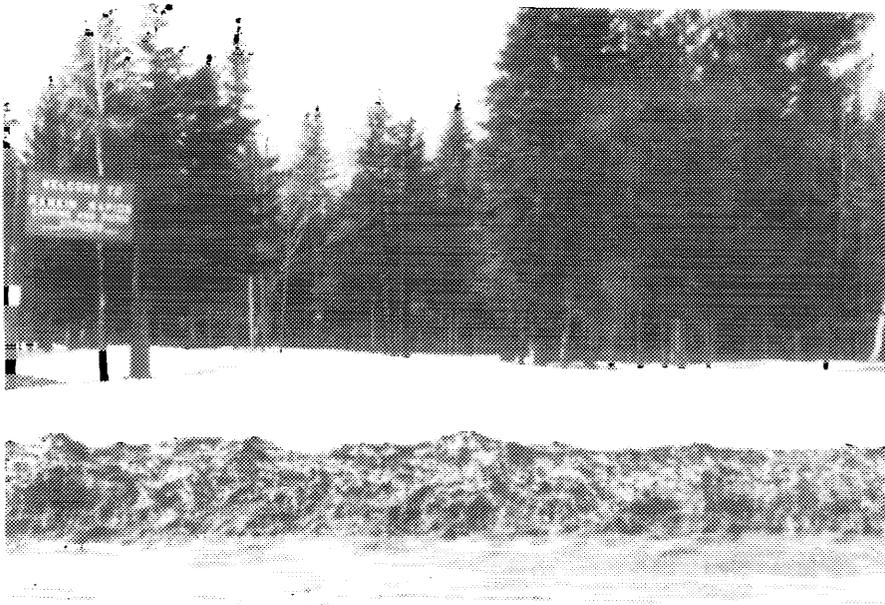


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EXHIBIT "E"



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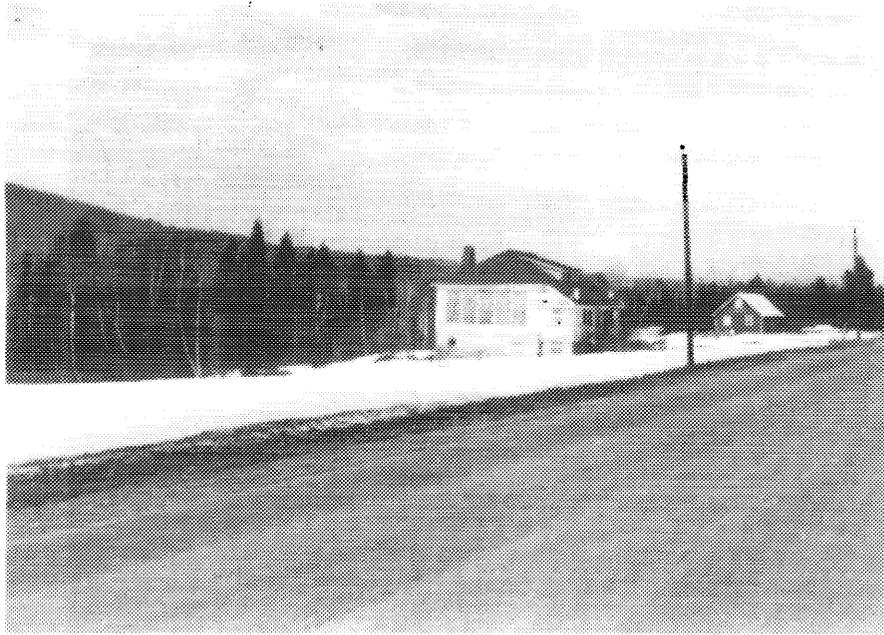


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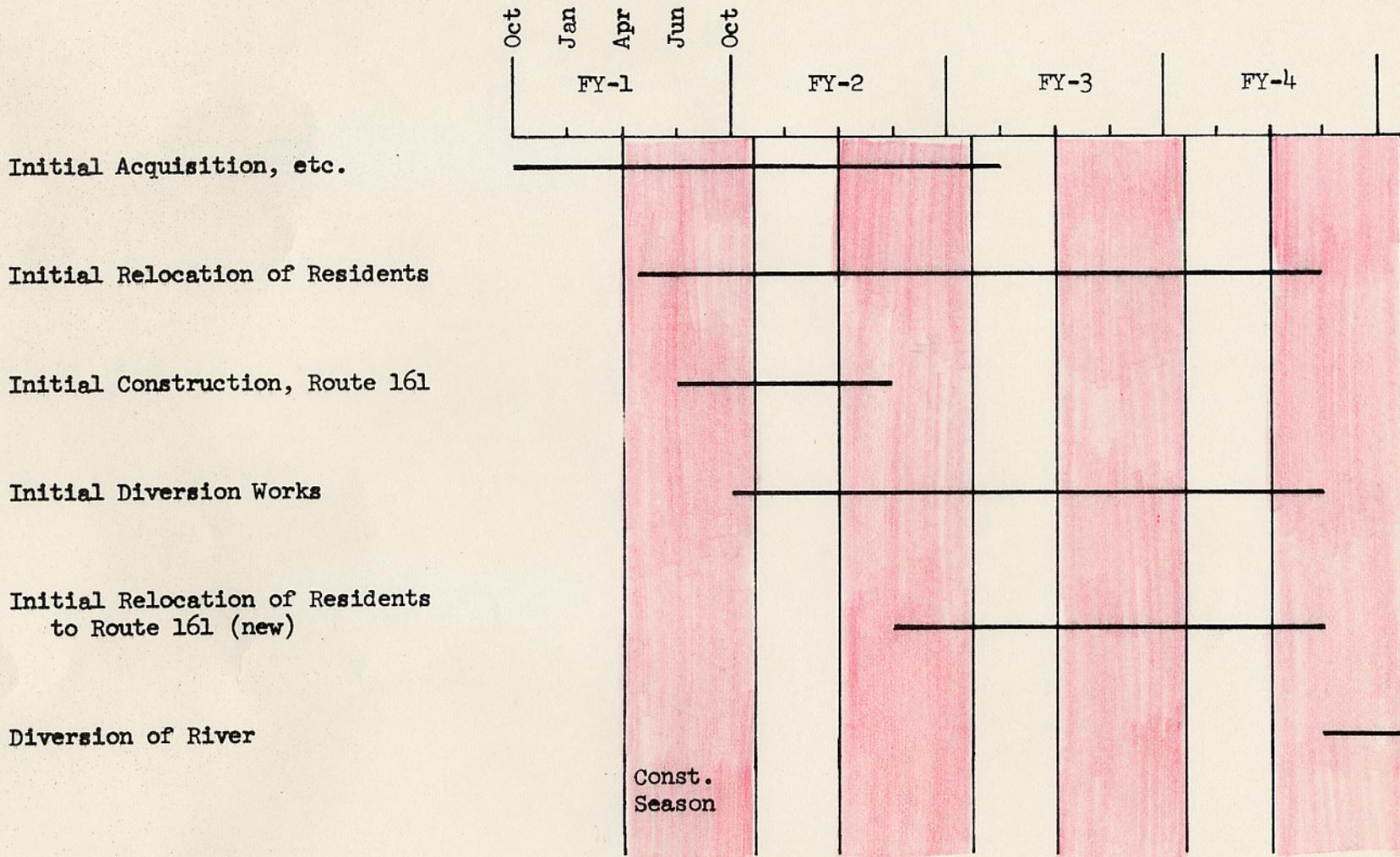


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EXHIBIT "E"



Construction and Land Acquisition Schedule

IMPROVED PROPERTIES WITHIN PROJECT TAKING AREA
TO BE RELOCATED

RESIDENT-OWNED PROPERTIES

	<u>ALLAGASH</u>		<u>ST. FRANCIS</u>	
	<u>Residential</u>	<u>Commercial</u>	<u>Residential</u>	<u>Commercial</u>
Priority	72 (31)*Dickey	8	-	-
Other	<u>11 (2) Lincoln</u> School Res.		50 (9)	1
Sub Total	83 (33)	8	50 (9)	1
Total Project**	133 residential (42 marginal) 9 commercial			

* No. in parenthesis indicates marginal properties

** In addition 21 non-resident properties require acquisition