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Legislative Document

No. 34

S.P. 42

In Senate, January 13, 2021

An Act To Create the Maine Forestry Operations Cleanup and Response Fund

Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

Received by the Secretary of the Senate on January 11, 2021. Referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator DILL of Penobscot.

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

2 **Sec. 1. 12 MRSA §8869-B** is enacted to read:

3 **§8869-B. Maine Forestry Operations Cleanup and Response Fund**

4 The Maine Forestry Operations Cleanup and Response Fund, referred to in this section
5 as "the fund," is established to be used by the bureau as a nonlapsing, revolving fund for
6 carrying out the purposes of this subchapter. The balance in the fund is limited to \$20,000.
7 To this fund are credited permit fees, civil penalties and other fees and charges related to
8 this subchapter. To this fund are charged expenses of the bureau incurred to mitigate and
9 remediate damages or potential damages to waters of the State created by violations of this
10 subchapter, including but not limited to costs of cleanup of discharges of pollutants to
11 waters of the State and the restoration of water supplies.

12 **1. Disbursements from fund.** Money in the fund may be disbursed only for costs,
13 including without limitation payments to contractors undertaking mitigation and
14 remediation activities and equipment expenses, involved in the control of sediment and
15 water flow, the abatement of pollution and the implementation of remedial measures,
16 including restoration of water supplies, related to the discharge of sediment and other
17 pollutants discharged or at risk of discharging to waters of the State by timber harvesting
18 activities.

19 **2. Reimbursements to the fund.** The following provisions govern reimbursements
20 to the fund.

21 A. For the use of the fund, the director shall seek recovery of disbursements from the
22 fund from the responsible party, unless the bureau finds the amount involved too small,
23 the likelihood of success too uncertain or that recovery of costs is unlikely due to the
24 inability of the responsible party to pay those costs.

25 B. Requests for reimbursement to the fund, if not paid within 30 days of demand, may
26 be turned over to the Attorney General for collection or may be submitted to a
27 collection agency or agent or an attorney retained by the department with the approval
28 of the Attorney General in conformance with Title 5, section 191, or the bureau may
29 file suit in District Court.

30 **3. Lien.** All costs incurred by the State to mitigate and remediate damages or potential
31 damages to waters of the State created by violations of this subchapter under subsection 1
32 and interest on those costs are a lien against the real estate of the responsible party. A
33 certificate of lien signed by the director must be sent by certified mail to the responsible
34 party prior to being recorded and may be filed in the office of the clerk of the municipality
35 in which the real estate is located. The lien is effective when the certificate is recorded
36 with the registry of deeds for the county in which the real estate is located. The certificate
37 of lien must include a description of the real estate, the amount of the lien and the name of
38 the owner as grantor.

39 When the amount for which a lien has been recorded under this subsection has been paid
40 or reduced, the director, upon request by any person of record holding interest in the real
41 estate that is the subject of the lien, shall issue a certificate discharging or partially
42 discharging the lien. The certificate must be recorded in the registry in which the lien was
43 recorded. Any action of foreclosure of the lien must be brought by the Attorney General

1 in the name of the State in the Superior Court for the judicial district in which the real estate
2 subject to the lien is located.

3

SUMMARY

4 This bill establishes the Maine Forestry Operations Cleanup and Response Fund, a
5 nonlapsing, dedicated revenue fund for the Department of Agriculture, Conservation and
6 Forestry, Bureau of Forestry to use to mitigate and remediate water quality violations that
7 result from timber harvesting activities and that require immediate action to prevent or
8 minimize further damage to waters of this State. The fund is replenished by financial
9 penalties, permit fees and other charges associated with timber harvesting, up to a limit of
10 \$20,000. The bill allows the bureau to recover costs incurred through the use of this fund
11 and to place a lien on a property when the responsible party is unwilling or unable to repay
12 such costs.