

Amendment to LD 34
An Act To Create the Maine Forestry Operations Cleanup and Response Fund
Offered by Senator Dill
(for work session discussion)
February 23, 2021

Amend the bill in section 1 as follows:

Sec. 1. 12 MRS §8869-B is enacted to read:

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

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

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

Prior to any disbursement from the fund, the director shall use all reasonable efforts to notify the responsible party of the mitigation and remedial measures needed and to provide a reasonable timeframe for the responsible party to implement those measures. The director shall notify the responsible party that a lien may be imposed on real estate owned by the responsible party in accordance with this section.

2. Reimbursements to the fund. The following provisions govern reimbursements to the fund.

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

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

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

When the amount for which a lien has been recorded under this subsection has been paid or reduced, the director, upon request by any person of record holding interest in the real estate that is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate must be recorded in the registry in which the lien was recorded. Any action of foreclosure of the lien must be brought by the Attorney General in the name of the State in the Superior Court for the judicial district in which the real estate subject to the lien is located.

SUMMARY

This amendment clarifies that the Maine Forestry Operations Cleanup and Response Fund may be disbursed only for costs, including without limitation payments to contractors undertaking physical mitigation and remediation activities involved in the control of sediment and waterflow, the abatement of pollution and the implementation of remedial measures.

The amendment requires the director of the Bureau of Forestry to use all reasonable efforts to notify the responsible party of mitigation and remedial measures needed and to provide a reasonable timeframe for the responsible party to implement those measures. The amendment also requires the director to notify the responsible party that a lien may be imposed on real estate owned by the responsible party.