

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 655 - L.D. 1019

**An Act Regarding Water Testing Related to Storage Facilities**

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

**Sec. 1. 23 MRSA §652, sub-§2**, as amended by PL 1987, c. 769, Pt. A, §84 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**2. Private water supplies.** In the event an owner of land adjacent to a state or state aid highway ~~conceives~~ or hydrogeologically downgradient from a state-owned salt storage facility suspects that a private water supply on that land has been destroyed or rendered unfit for human consumption by the department constructing, reconstructing or maintaining ~~the a state or state aid highway or storing salt in a state-owned salt storage facility~~, such the owner may apply in writing to the department for a determination of the alleged cause and assessment of the damage and, ~~if such the~~ if such the claim is founded on construction, the owner shall present ~~such the~~ the application within 24 months after the completion date of the work as that date appears in the records of the department.

The application ~~shall~~ must set forth the name and address of the owner, the owner's source of title, the location of the property, a description of the damage, the cause to which the damage is attributed and the name and address of any lien holder.

A. If the department determines that it did not cause the alleged damage to ~~such the~~ the water supply, a copy of the determination ~~shall~~ must be served by registered or certified mail or by personal service as required for service of a summons on a complaint in the Superior Court.

B. If the department determines that any damage to the privately owned water supply was caused by the department constructing, reconstructing or maintaining the highway or storing salt, a copy of the determination ~~shall~~ must be served by registered or certified mail or by personal service as required for service of a summons on a complaint in the Superior Court and the department shall set forth an offer of settlement ~~which shall be either~~ that offers:

- (1) To replace the water supply; ~~or~~
- (2) To repair the damage to the water supply; ~~or~~
- (3) To pay a designated sum of money; or

(4) To purchase the realty served by the water supply in the event the cost of repair or replacement of the water supply exceeds the appraisal value of the realty.

C. The department may issue rules and regulations in accordance with standards of the Department of Health and Human Services and the United States Department of Health and Human Services, Public Health Service regarding water potability for the determination of the degree of contamination, pollution or fitness for domestic use.

D. The department shall in its determination consider the necessity for installation or replacement of piping, tanks, pumps, heating systems or other related fixtures. ~~The Department of Transportation shall~~ department may not condition installation or replacement on the owner giving possession or title of any privately owned piping, tanks, pumps, heating systems or other related fixtures on ~~his~~ the land to any agency of this State, unless agreed to by the property owner.

E. If the department is unable to settle at what it ~~deems~~ determines to be a reasonable settlement, the department or owner may apply to the State Claims Commission in writing for a determination of the alleged cause and assessment of the damage. The proceedings ~~shall~~ are then ~~be~~ the same as in condemnation cases.

F. This subsection ~~shall~~ does not apply to private water supplies after June 26, 1969 where the location does not allow for or provide for adequate surface drainage.

G. This subsection ~~shall~~ does not apply to private water supplies now located or hereafter located within the right-of-way limits.

H. This subsection ~~shall~~ does not apply to any private water supply damaged by construction, reconstruction or maintenance ~~which~~ of the highway or the storage of salt that the department determines to have already been contaminated or polluted by another source to the degree ~~said~~ the contamination or pollution would have rendered it unfit for human consumption.

I. With respect to a private water supply located on land that is adjacent to a state or state aid highway or is hydrogeologically downgradient from a state-owned salt storage facility, the department, on the request of the landowner, shall arrange for and pay the cost of testing the private water supply for any contaminants that may derive from the department constructing, reconstructing or maintaining a state or state aid highway or storing salt in a state-owned salt storage facility.

For purposes of this subsection, "hydrogeologically downgradient" means that a location receives groundwater from another location.