§3659. Protection of private water supplies

In the event a land owner believes that a private water supply on his land has been destroyed or rendered unfit for human consumption by a political subdivision constructing, reconstructing or maintaining a public highway under its jurisdiction, the owner may apply in writing to the political subdivision for a determination of the alleged cause and assessment of damages. [PL 1987, c. 491, §1 (NEW).]

1. Application presented within 2 years. If the claim is founded on construction or reconstruction, the owner shall present the application within 2 years after completion of the work as that date appears in the records of the political subdivision. The application shall set forth:

A. The name and address of the owner; [PL 1987, c. 491, §1 (NEW).]

B. The name and address of any lien holder; [PL 1987, c. 491, §1 (NEW).]

C. The owner's source of title; [PL 1987, c. 491, §1 (NEW).]

D. The location of the property; [PL 1987, c. 491, §1 (NEW).]

E. A description of the damage; and [PL 1987, c. 491, §1 (NEW).]

F. The cause to which the damage is attributed. [PL 1987, c. 491, §1 (NEW).]
[PL 1987, c. 491, §1 (NEW).]

2. Written response. Within 90 days upon receipt of the owner's application, the political subdivision shall forward a written response to the owner.
[PL 1987, c. 491, §1 (NEW).]

3. Offer of settlement. If the political subdivision determines that any damage to the privately owned water supply was caused by the political subdivision constructing, reconstructing or maintaining the public highway, the political subdivision shall set forth in its response an offer of settlement. The political subdivision in its response shall consider the necessity for the installation or replacement of piping, tanks, pumps, heating systems or other related fixtures. In its offer of settlement, a political subdivision may consider the following remedies:

A. Replacing the water supply; [PL 1987, c. 491, §1 (NEW).]

B. Repairing the damage to the water supply; [PL 1987, c. 491, §1 (NEW).]

C. Paying a designated sum of money; and [PL 1987, c. 491, §1 (NEW).]

D. Purchasing the realty served by the water supply. [PL 1987, c. 491, §1 (NEW).]
[PL 1987, c. 491, §1 (NEW).]

4. Action filed. If the landowner and political subdivision are unable to agree on the cause of the problem to the water supply or to the terms of settlement, the landowner may file an action in Superior Court in the county or counties where the land is located.

A. The complaint shall be filed within one year after receiving a written response by the municipality. [PL 1987, c. 491, §1 (NEW).]

B. The case shall be determined by a referee and the court shall appoint one or more referees pursuant to the Maine Rules of Civil Procedure. [PL 1987, c. 491, §1 (NEW).]

C. Damages to the property shall be based on the difference between the fair market value of the property before the water supply was destroyed or rendered unfit and the fair market value of the property after the water supply was destroyed or rendered unfit or based on the cost to cure the damage, whichever amount is less. [PL 1987, c. 491, §1 (NEW).]
[PL 1987, c. 491, §1 (NEW).]

5. Limitations on liability. A political subdivision shall not be liable:

A. If the private water supply is located within the right-of-way limits of the highway; [PL 1987, c. 491, §1 (NEW).]

B. If the location of the private water supply does not provide for adequate surface drainage, provided that surface drainage problems caused by the construction, reconstruction or maintenance of a public highway by the political subdivision do not relieve the political subdivision of liability under this section; or [PL 1987, c. 491, §1 (NEW).]

C. If the private water supply prior to the construction, reconstruction or maintenance was contaminated or polluted by another source to the degree that the contamination or pollution rendered it unfit for human consumption. [PL 1987, c. 491, §1 (NEW).]

[PL 1987, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 491, §1 (NEW).

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