

§652. Proceedings on damage claims

1. Change of grade. Whenever the department changes the grade of any state or state aid highway, as provided in chapters 1 to 19, to the injury of an owner of adjoining land, that owner may apply, within 24 months after completion of the work according to the records of the department, to the department in writing for a determination and assessment of damages. If the department is unable to settle that damages at what it deems a reasonable amount, the department or interested parties may apply to the State Claims Commission in writing for a determination and assessment of the damages. The proceedings shall then be the same as in condemnation cases.

[PL 1987, c. 769, Pt. A, §83 (RPR).]

2. Private water supplies. In the event an owner of land adjacent to a state or state aid highway 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 a state or state aid highway or storing salt in a state-owned salt storage facility, the owner may apply in writing to the department for a determination of the alleged cause and assessment of the damage and, if the claim is founded on construction, the owner shall present the application within 24 months after the completion date of the work as that date appears in the records of the department.

The application 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 the water supply, a copy of the determination 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. [PL 2023, c. 367, §1 (AMD).]

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 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 that offers:

- (1) To replace the water supply;
- (2) To repair the damage to the water supply;
- (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. [PL 2023, c. 367, §1 (AMD).]

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. [PL 2023, c. 367, §1 (AMD).]

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 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 the land to any agency of this State, unless agreed to by the property owner. [PL 2023, c. 367, §1 (AMD).]

E. If the department is unable to settle at what it 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 are then the same as in condemnation cases. [PL 2023, c. 367, §1 (AMD).]

F. This subsection does not apply to private water supplies after June 26, 1969 where the location does not allow for or provide for adequate surface drainage. [PL 2023, c. 367, §1 (AMD).]

G. This subsection does not apply to private water supplies now located or hereafter located within the right-of-way limits. [PL 2023, c. 367, §1 (AMD).]

H. This subsection does not apply to any private water supply damaged by construction, reconstruction or maintenance 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 the contamination or pollution would have rendered it unfit for human consumption. [PL 2023, c. 367, §1 (AMD).]

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. [PL 2023, c. 367, §1 (NEW).]

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

[PL 2023, c. 367, §1 (AMD).]

3. Private water supplies within the right-of-way. In order to prevent undue hardship to properties served by water systems existing within the right-of-way of state and state aid highways prior to June 26, 1969, and which are the sole source of water supply to the property, and which are destroyed or altered, subsequent to the effective date of this Act, due to highway construction or reconstruction, the Department of Transportation is authorized to compensate the owners for such loss as may be determined equitable by the department.

[PL 1979, c. 140 (NEW).]

SECTION HISTORY

PL 1969, c. 435 (AMD). PL 1971, c. 593, §22 (AMD). PL 1973, c. 625, §132 (AMD). PL 1975, c. 2 (AMD). PL 1975, c. 293, §4 (AMD). PL 1979, c. 140 (AMD). PL 1987, c. 395, §§A105,A106 (AMD). PL 1987, c. 402, §§B18,B19 (AMD). PL 1987, c. 769, §§A83,A84 (AMD). PL 2003, c. 689, §B6 (REV). PL 2023, c. 367, §1 (AMD).

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