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Spring 2006

Service Connection

THE DRINKING WATER PROGRAM NEWSLETTER
"Working Together for Safe Drinking Water."



Published by the Maine
Center for Disease
Control and Prevention

Groundwater Rights in Maine

Andrews L. Tolman, Manager, Source Protection

Maine groundwater law is based on the English Common Law, which states that the flow of groundwater is mysterious and unknowable. Each individual property owner in Maine has the right to use groundwater as s/he pleases; the resource is seen as a property right, much as ownership of any "mineral" located on or under a piece of property. In contrast, much of the eastern part of the country has adopted the "reasonable use" rule, which still gives ownership of groundwater to the property owner, but balances the use of each owner when those uses conflict.



The Maine Legislature has passed a number of laws which restrict the rights of a landowner to contaminate "his" groundwater. These demonstrate the intent of the Legislature that groundwater be kept free from contamination and available for use as a water supply.



Both Site Location and Land Use Regulation Commission laws include assessment of the effect of large groundwater withdrawals on other uses like maintenance of streamflow and wetlands. These regulations are based on the "no unreasonable adverse impact" standard.

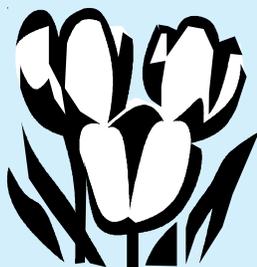
In 1987, an act was passed to create a right to private legal action for interference with a landowner's domestic use by a non-domestic use of ground water (38 MRSA §404). However, the courts have interpreted this right narrowly. In Maddox v. Giles (1999), the Law Court clearly refused to adopt the "reasonable use rule", partially based on the Legislature's failure to act on the recommendations of the Water Resources Management Board report of 1991, which had called for its adoption.

All of this history leaves groundwater use in an unsettled position. Large uses associated with Site Location projects in Unorganized Territories are required to not unreasonably interfere with others' use of the same resources, including streamflow and ecological uses. Bulk water transport applications are also reviewed against a standard of noninterference and no unreasonable environmental impact. Many other moderate to large uses do not require such a permit or have any assessment or regulation of withdrawal rates. Municipal, industrial, commercial, or cooling water withdrawals from ground water can be developed and continued without any evaluation of their impact on other uses.

What does this mean to a Public Water Supplier? You should buy land around your source to both protect it from activities that might contaminate it and to ensure that you will continue to have access to the water for your use. The DWP offers land acquisition loans and advice on how to keep your source available and safe.

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2005 Consumer Confidence Report

Scott Whitney, CCR Rule Coordinator

Reminder: All community water systems must prepare and deliver a Consumer Confidence Report (CCR) to their customers, by July 1st this year. Community water systems are public water systems that serve at least 15 service connections or at least 25 year round residents.

In order to comply with the regulations this year, a community water system must:

- Before July 1, 2006: Send a copy of its CCR to the Drinking Water Program (DWP) **and** distribute a copy of its CCR to all persons served by the water system.
- Before October 1, 2006: Send a Certification Form to the DWP that the CCR has been distributed and the information is correct.

Water systems are encouraged to send a preliminary (rough) draft of their 2005 CCR to the DWP to ensure that all of the content requirements are met, prior to distribution.

For a detailed description of the CCR Rule requirements, see the DWP's web site at www.medwp.com. If you need further assistance in preparing your CCR, contact Scott Whitney at the DWP, (207) 287-8487.

New DWP Staff

Carlton Gardner, Compliance Section Manager



The Maine Drinking Water Program is pleased to announce that Carlton Gardner has accepted the position of Compliance Section Manager. Carlton brings 15 years of training and technical assistance experience at Maine

Rural Water Association, working with all types of public water systems. Carlton formerly worked for the Maine Drinking Water Program, the Office of Dental Health as a Fluoridation Technician and the Lewiston Water Department analyzing water samples for the city.

Carlton has participated in several National Stake holders meetings pertaining to the Lead/Copper Rule.

He is a past recipient of the National Rural Water Association Training Specialist of the Year Award and EPA Region I's, New England Environmental Educator Award.

Carlton can be reached at 207-287-8403 or by e-mail at carlton.gardner@maine.gov. If you have questions about drinking water regulations, testing schedules and water quality issues, call Carlton or any of the other Drinking Water Program staff.

Service Connection

THE DRINKING WATER PROGRAM NEWSLETTER

The Department of Health and Human Services (DHHS) does not discriminate on the basis of disability, race, color, creed, gender, age, or national origin, in admission to, access to, or operations of its programs, services, or activities, or its hiring or employment practices. This notice is provided as required by Title II of the Americans with Disabilities Act of 1990 and in accordance with the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972 and the Maine Human Rights Act. Questions, concerns, complaints or requests for additional information regarding the ADA may be forwarded to DHS' ADA Compliance/EEO Coordinator, State House Station #11, Augusta, Maine 04333, 207-287-3488 (V), 207-287-4479 (TTY). Individuals who need auxiliary aids for effective communication in program and services of DHS are invited to make their needs and preferences known to the ADA Compliance/EEO Coordinator. This notice is available in alternate formats, upon request.

Published by the Drinking Water Program to provide technical and regulatory information on drinking water issues. Articles can be reprinted without restriction if credit is given to their source. To inquire about contributing to future issues or to be added to the mailing list, contact:

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Fluoride Rules

Roger Crouse, Assistant Director

The Drinking Water Program has begun the formal rule making process to revise the Rules Relating to the Fluoridation of Public Water Systems. Stake holders from several public water systems have provided input to make these changes. A public hearing will be held on June 20, 2006 on the 1st floor of 286 Water Street, in Conference Room 12 starting at 1:00 PM. A copy of the proposed rules can be found on the Drinking Water Program website, www.medwp.com. To request a paper copy of the proposed rules or for more information, contact Roger Crouse at 287-5684 or roger.crouse@maine.gov.



Collecting Water Samples Within a Compliance Period

Linda Robinson, Total Coliform Rule Coordinator



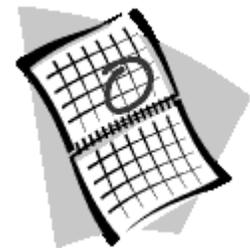
The Compliance Staff at the Maine Drinking Water Program reminds all public water systems to collect all compliance samples within the compliance period they are due.

Remember a month is a month and a quarter is a quarter.

If a water system is required to sample monthly but waits until the first day of the following month, the system will receive a failure to monitor violation and public notification must be conducted. The same holds true for quarterly sampling. If a system is required to sample in first calendar quarter (January, February, or March) but waits until April 1st to collect a sample, this action will be considered a failure to monitor violation.

Remember the water system is held responsible even if your lab does not send the bottles in a timely fashion. If this delay is happening to you, talk with your lab.

Systems are encouraged to sample as early in the compliance period as possible. EPA Regulations requires that systems report sample results for a compliance period by the 10th day of the following month. Samples collected late in a compliance period may make it difficult for reporting on time.



Some water tests may have an “annual” compliance period. Tests may be collected at any time during the calendar year. The exception is the Disinfection By-Product Rule and the Lead & Copper Rule. These annual samples are required to be collected in the warm (June – September) months. In all cases, the State Lab and Compliance Staff urge systems to collect samples as soon as possible after receiving sample bottles. This request is made for two reasons:

1. The work load for the laboratory personnel is scheduled according to bottles shipped. If systems wait to the end of a compliance period to submit samples, it may put an additional short term work-load on the lab and that strain can result in increased labor costs. Increased labor can result in an increased cost of laboratory analysis. Look at it as a possible cost savings.
2. Systems that put off collecting samples take a greater chance of misplacing the bottles, requiring that they reorder new ones (an additional cost) or completely forgetting the bottles and then consequently receiving a failure to monitor violation.

Reminder:

- ✓ Use your system’s annual required testing schedule to keep track of sampling. These sheets were mailed in February.
- ✓ Sample early in your compliance period.
- ✓ Keep track of when you sent your samples in and when you receive sample results from your lab.

If there are any questions, call the DWP Compliance Staff at 207-287-2070.



Pandemic Flu: Are You Ready?

Carlton Gardner,
Compliance Section Manager

“An influenza pandemic is a global outbreak of disease that occurs when a new influenza A virus appears or “emerges” in the human population, causes serious illness, and then spreads easily from person to person worldwide... pandemic outbreaks are caused by new subtypes, by subtypes that have never circulated among people, or by subtypes that have not circulated among people for a long time. Past influenza pandemics have led to high levels of illness, death, social disruption, and economic loss.”

From CDC website “Key Facts about Pandemic Flu”

We all hope there will not be a pandemic outbreak, but if it happens, are you prepared? If half of your staff is out with the flu or caring for sick family members, how will you supply safe drinking water? Who will fill the chlorinator? Do you have a backup operator or a board member(s) that can help out? If your billing staff is sick, can you keep revenues coming in?

Communications and written Standard Operating Procedures can be key. Find people within your community and show them what you do and how it is done. Enlist school nurses, health officers, town manager, fire chief or maybe your friend the mobile home park owner! Review and update your emergency response plan and let's hope you never have to put your plan into effect!

Check the DWP website, www.medwp.com, for links to pandemic flu information and planning tools.



Capacity Development Grants Reinstated

Bill Johnson, Capacity Development Coordinator



After a brief interruption in 2005, Capacity Development Grants are once again available to eligible community and non-profit, non-community water systems for engineering studies, plans or operations/management reviews.

Projects will maintain or improve water system technical, financial or managerial capacity and may consist of capital improvement plans, system master plans, hydraulic studies, disinfection by-product mitigation studies, new water source searches, etc. Once the projects are completed, grant money is available on a reimbursement basis for 50% of the project costs, up to a maximum amount of \$10,000.

If you are interested in applying for a capacity development grant, contact Bill Johnson at 287-5678.



Drinking Water Program Security Project

Bill Johnson, Security Coordinator

Phase one of the drinking water security project, conducted by Woodard & Curran engineers, is now complete. The first of four phases surveyed water systems and various agencies to discover their expectations of the Drinking Water Program's



(DWP) responsibilities in emergency response situations. DWP personnel and the Woodard & Curran engineers also met with select state agency representatives to discuss agency roles and communication in emergencies.

The findings of the survey showed varied expectations of the DWP role in an emergency. Based on the results of the survey and meetings with other agencies, the DWP's role is likely to be the technical advisor and communication link with the Maine Center for Disease Control and Prevention, formerly known as the Bureau of Health.

The next phases of the security project will involve developing a DWP emergency response plan and training DWP personnel in incident command and communication, practicing the ERP, and practicing emergency response in tabletop exercises around the state with public water systems.

What To Do When There Is A Boil Water Order: Guidance For the Public Water System

Nate Saunders, Field Services Manager



A Boil Water Order is placed on a Public Water System (PWS) when there is an imminent risk to public health related to the drinking water. The most common reasons for a Boil Water Order are the confirmed presence of e-coli bacteria in the water, the occurrence of zero or negative pressure in a water system, or the operational failure of a disinfection system.

What should a small Public Water System do when they receive a Boil Water Order?

- Notify consumers within 24 hours! The Drinking Water Program (DWP) will provide a Public Water System with a notice that includes the necessary language for notifying consumers of a Boil Water Order. For a PWS that includes a single or few buildings, post the notice provided by the DWP in conspicuous places and inform consumers verbally whenever possible.
- Use the notice provided by the DWP. The notice includes language that is required by the EPA for notifying consumers about a Boil Water Order.
- Fill in all information requested on the Boil Water Order notice. Describe what the PWS is doing to resolve the Boil Water Order and when the work will be completed. The PWS needs to include the name, telephone, and address of a contact person from the PWS for Boil Water Order questions.
- For schools, we highly recommend that parents are notified of a Boil Water Order immediately. As a parent, hearing about a Boil Water Order at your child's school on the day the order was issued is very important; delays in notification can be upsetting!



What should a large (e.g. municipal) Public Water System do when it receives a Boil Water Order?

- Notify consumers within 24 hours! If hand delivering the Boil Water Order notice is not practical, use the media to help get the message out. Major television and radio stations may read directly from the Boil Water Order notice provided by the DWP, ensuring the proper message is conveyed to consumers.
- Call critical facilities such as hospitals, nursing homes, critical care facilities, schools. For schools affected, we highly recommend that parents are notified of a Boil Water Order on the day it is issued by the DWP.
- Post the Boil Water Order in conspicuous places throughout the PWS's service area such as banks, grocery stores, and particularly the post office, where water system consumers go frequently.
- Use the notice provided by the DWP. The notice includes language required by the EPA for notifying consumers about a Boil Water Order.
- Fill in all information requested on the Boil Water Order notice. Describe what the PWS is doing to resolve the Boil Water Order and when the work will be completed. The PWS needs to include the name, telephone, and address of a contact person from the PWS for Boil Water Order questions.



- If feedback is received that people are not being notified in a timely manner of the Boil Water Order, consider recontacting the media and enlisting the assistance of the fire department, police department, or the sheriff to broadcast the Boil Water Order notification by public address systems on vehicles throughout the PWS area.

What should a small or large PWS do to resolve a Boil Water Order?

A Boil Water Order can be removed from a public water system when both the correction of a deficiency and satisfactory sampling are completed. Work directly with the DWP to determine the best way to resolve the Boil Water order. It is important to work with the DWP during the entire process to ensure that the resolution will meet

See **Boil Order**, page 7



Water Operators

Terry Trott, Operator Licensing Officer



ERG CLASSES

Operators taking Class II, III and IV exams have requested prep and review classes for many years. The Drinking Water Program is happy to announce that these classes are now funded through the Operator

Expense Reimbursement Grant. Maine Rural Water Association will be offering the courses for only \$20. This grant only has two more years of funding, so take advantage of this opportunity NOW. Check our training calendar online for dates and locations. Watch for other funded classes too!

OPERATOR UPDATES

Systems, please keep your designated operator information up to date. Operator changes in employment must be updated within 30 days. All operators in responsible charge as well as owners must sign and submit a Designated Operator Form (available on DWP's website). Call, email or fax to let us know if an operator leaves.

Operators, please keep your contact information up to date. Each year we get returned, undeliverable mail leading to inactivated or expired licenses.

INACTIVE LICENSES

As of March 2, 2006, nearly 100 operators had their licenses inactivated. What does this mean? An **inactive** operator cannot be in responsible charge of a public water system. Systems that do not have an adequate number of designated operators on file will receive notices of violation. To resolve this violation, the system must find and report a new licensed operator within 30 days. Don't let this happen to your system. Maine has many training opportunities. Look for classes applicable to what you need. If you don't find a topic offered, call Terry at 287-7485, Rebecca at 287-5295 or one of the many training organizations for help.

BOARD OPENING

Carlton Gardner has become a welcome and valued part of the Drinking Water Program. As the old saying goes though, "One man's loss is another man's gain". The Board of Licensure of Water System Operators now has a vacancy for an educator in the field of water supply or service. The Board thanks Carlton for 10 years of dedicated service since the Board's reestablishment in 1996. Educators interested in the Board position should contact Terry Trott at 287-7485 for more information.



DATES TO REMEMBER

April 4	Exam in Augusta Application due Feb 25	Sept. 21	Board Meeting DHHS - Augusta
April 6	Exam in Presque Isle Application due Feb 25	Oct. 17	Exam in Augusta Application due Sept. 9
June 15	Board Meeting Brunswick/Topsham Water District	Oct. 19	Exam in Presque Isle Application due Sept. 9
June 27	Exam in Augusta Application due May 13	Nov. 17	Board Meeting Brunswick/Topsham Water District
		Dec. 31	Even Numbered Licenses Expire



ABC Conference

Rebecca Reynolds, Water Operator Specialist



The 2006 Association Boards of Certification Conference was an opportunity to see how the State of Maine certification program measured up nationally. Better known as ABC, this organization provides programs, exams and professional development for water professionals in Maine and 44 other states.

Of national interest is New York State’s “On-site Assessment of the Water Operator”. Instead of the examination process, this program measures the operator skills, knowledge base and ability at the operator’s plant before being certified. This method provides an opportunity to identify operator training needs before certification.

ABC and State Certification Programs strive to advance the profession of operators by raising awareness of the important role they play in protecting public health. Maine’s Board of Licensure is in line with national standards and continues to look for ways to assist water operator professionals.



Boil Order, continued from page 5

the Maine Rules Relating to Drinking Water and DWP policies. Along with necessary sampling, resolutions to common deficiencies that result in a Boil Water Order are:

Deficiency	Corrective Action
1. Acute bacterial violation	Establish disinfection and maintain residuals or repair a significant system deficiency and disinfect system.
2. Turbidity MCL Violation	Turbidity drops to acceptable levels throughout system.
3. Unfiltered or unchlorinated surface water entering the system	Reestablish filtration and/or disinfection.
4. System without water or negative pressure	Reestablish service and maintain positive pressure. Shock chlorinate the system.
5. No chlorination on system required to submit monthly chlorine residual reports	Reestablish chlorination and maintain residuals.
6. Dead animals in groundwater source	Removal of remains and disinfection of the system.
7. Order used in lieu of sampling	Reestablish sampling.
8. Equipment failure	Repair or replacement of equipment.

Buying In or Selling Out?

Changes of Ownership Rules

Bill Johnson, Capacity Development Coordinator

In November 2004, two new drinking water rules were adopted to the State of Maine Rules Relating to Drinking Water. One is a reporting requirement rule that affects all public water systems. The second affects all community water systems (CWSs) and non-transient, non-community water systems (NTNCs). Both rules relate to water system ownership changes.

As a reporting requirement, owners of all water systems must notify the DWP of ownership changes sixty days prior to the transfer. Note that this rule applies to **all** public water systems and their owners.

CWSs and NTNCs changing ownership are required to demonstrate adequate technical, financial and managerial capacity and receive a General Operations Permit from the DWP before taking ownership of a water system. This applies to water systems selling to new owners as well as municipal systems changing forms of organization (districts becoming departments and vice versa). The “owner” of a publicly-owned water systems may be a district board of trustees, a city or town government, or school district. Most other water system owners are sole proprietors, partnerships or corporations. Please direct questions to Bill Johnson, 287-5678.



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