

Department of Environmental Protection

Bureau of Land Resources
17 State House Station
Augusta, Maine 04333
Telephone: (207) 287-7688

For DEP Use Only

DEP L- _____
ATS # _____
Fees Paid _____
Date Received _____

**Petition for Release from Dam Ownership and Water Level Maintenance
Non-Hydropower Dams**

The undersigned hereby petitions the Department of Environmental Protection for release from dam ownership or water level maintenance for the dam described below.

All required fees must be paid before application processing begins. Please contact the DEP for current fee schedule information. Fees are payable to: Treasurer, State of Maine. Depending on the degree of review required, additional fees may be assessed. The Department will bill you if additional fees are needed.

(Please type or print)

Dam Owner Information

Name of Dam Owner: _____ Phone Number: _____

Mailing Address: _____

Name of Contact/Agent: _____ Phone Number: _____

Email Address: _____

Dam Information

Name of Dam: _____

Address (use "911" address, if available): _____

GPS Coordinates (if known): _____

Name of Impounded Water Body: _____

Municipality or Township: _____ County: _____

Required Information

1. Map of dam location and all impounded waters;
2. List of affected towns/counties/tribes:
 - a. Any municipality(ies) and unorganized territory(ies) in which the dam or the impoundment created by the dam are located;
 - b. Any county(ies) in which the dam or the impoundment created by the dam are located; and
 - c. Any Indian tribe or nation in whose territory(ies) the dam or the impoundment created by the dam are located;
3. Plans of the dam and appurtenant features and descriptions of the condition of the dam and recent operation of the dam, including for all associated features used for operation, maintenance, and water level management;
4. Documentation of the owner's title, right, or interest in the dam;
5. The location of or information regarding easements or deeded or contractual rights to the dam and appurtenant features or to water levels;
6. A record of all state inspections of and all repairs and maintenance activities conducted on the dam over the 10-year period prior to the submission of the petition, including a record of any dam safety orders for the dam issued pursuant to Title 37-B of M.R.S. §1119, [Dam Safety, Dam condition inspection](#) and information regarding any necessary remedial measures undertaken pursuant to such orders;
7. Operations and maintenance plans for the dam;
8. An emergency action plan for the dam if the dam is assigned a high hazard potential or significant hazard potential pursuant to Title 37-B M.R.S. §1118, [Dam Safety, Dam hazard evaluation](#);
9. Documentation of the scope of work and related costs incurred for the operation and maintenance of the dam over the 10-year period prior to the submission of the petition and of all estimates for necessary repairs to the dam that have not been completed;
10. A record of all federal, state, and local permits and approvals issued for or relating to the dam;
11. Documentation of insurance policies for all information and associated costs for risk management of the dam;

12. Documentation of property tax obligations for the dam and appurtenant features;
13. If requested by the department, engineering reports relating to the dam and related impoundment, including, but not limited to, any geotechnical borings, soil test data, recommendation reports, topographic survey data, stream and lake cross sections and bathymetric surveys upstream and downstream of the dam, and hydrologic and hydraulic studies and data;
14. If requested by the department, environmental reports relating to the dam and related impoundment, including, but not limited to, impact assessments relating to dam removal, dam configuration, or dam abandonment, failure, or breach;
15. Any other information necessary for the persons listed in Title 38 of M.R.S. §902(3), Release from Dam Ownership and Water Level Maintenance- [Consultation process, Parties to consultation](#) to determine whether to assume ownership of the dam; and
16. Any other information the department determines necessary for the purposes of this article.
17. Consultation. Provide evidence of:
 - a. A “good faith effort” to notify local, regional, and statewide private organizations interested in fisheries, wildlife, conservation, recreation, and environmental issues whose interests may be affected by the dam; and
 - b. Consultation with abutting property owners (this requirement may be satisfied by holding a public meeting as described in Title 38 of M.R.S. §902(1), Release from Dam Ownership and Water Level Maintenance- [Consultation process, Consultation required](#));
18. A completed Notice of Intent to File (attached below);
19. Public Notice. By signing this petition, the petitioner or authorized agent certifies that he or she has:
 - a. Published a completed Notice of Intent to File at least once in a newspaper circulated in the area in which the dam and impoundment are located within 30 days prior to the filing of the petition;
 - b. Sent a copy of a completed Notice of Intent to File by first-class mail to all persons who own property abutting the dam site, the impoundment, or the waterway immediately downstream of the dam;
 - c. Sent a copy of a completed Notice of Intent to File by certified mail or Certificate of Mailing to the Commissioner of Inland Fisheries and Wildlife, the Commissioner of Marine Resources, the Commissioner of Conservation, the Director of the Maine Emergency Management Agency, the municipal officers of any municipality and the county commissioners of any unorganized territories in which the dam or impoundment is located, representatives of the tribal governments of Indian tribes or nations in whose territory a dam or impoundment is located.

Attach additional sheet(s), if necessary

Provide all documentation necessary to support the proposed change. This documentation shall include as appropriate, revised site plans, construction drawings and technical data. (If you are unsure of what information to include, please contact the original DEP project manager, or the Division of Land Resource Regulation for assistance.)

Note: All supporting documents summarized above must be attached to this form and sent to the DEP Office located below:

Department of Environmental Protection

Bureau of Land Resources 17

State House Station

Augusta, ME 04333

Telephone: (207) 287-7688

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Signature of Applicant:

Date:

General Information and Procedures

1. A dam owner initiates the process to be released from dam ownership or water level maintenance by filing a petition with DEP. This process is governed solely by Maine law at Title 38 of M.R.S. §§901 - §§908, [Release from Dam Ownership and Water Level Maintenance](#), and only involves DEP at specific points in the process.
2. Within 15 days of receiving a petition, the DEP must determine whether the petition complies with the provisions of Title 38 of M.R.S. §901, Release from Dam Ownership and Water Level Maintenance- [Petition for release; public notice](#). If the petition does not comply, the DEP will return the petition to the dam owner.
3. After successfully filing a petition, a dam owner must consult with the persons listed in Title 38 of M.R.S. §902(3), Release from Dam Ownership and Water Level Maintenance- [Consultation process, Parties to consultation](#) to determine whether any of them want to take ownership of the dam:
 - a. Individuals and groups of persons, such as lake associations, who own property abutting the dam site, the water impounded by the dam or the waterway immediately downstream from the dam;
 - b. The Commissioner of Inland Fisheries and Wildlife, the Commissioner of Marine Resources, the Commissioner of Agriculture, Conservation and Forestry, and the Director of the Maine Emergency Management Agency;
 - c. The municipal officers of any municipality and the county commissioners of any unorganized area in which the dam or impoundment is located; and
 - d. Representatives of the tribal governments of Indian tribes or nations in whose territory a dam or impoundment is located.

See Title 38 of M.R.S. §902(1), Release from Dam Ownership and Water Level Maintenance- [Consultation process, Consultation required](#) for information on consultation requirements.

4. Within 180 days after being notified in accordance with Title 38 of M.R.S. §901, Release from Dam Ownership and Water Level Maintenance- [Petition for release; public notice](#), the municipal legislative body or county commissioners of any municipality or county, as appropriate, in which the dam or impoundment is located must hold a public meeting to consider and act on the issue of dam ownership. See Title 38 of M.R.S. §908, Release from Dam Ownership and Water Level Maintenance- [Municipal actions on dam ownership](#).

5. Within 210 days of filing a petition, a dam owner must either withdraw the petition or file a report with DEP that includes:
 - a. Evidence that the dam owner complied with notice requirements;
 - b. Names and addresses of persons notified;
 - c. Names and addresses of parties consulted;
 - d. The results of the consultations and whether a new owner has been located.

See Title 38 of M.R.S. §902(4), Release from Dam Ownership and Water Level Maintenance- [Consultation process, Report on notice compliance](#) and Title 38 of M.R.S. §902(4-A), Release from Dam Ownership and Water Level Maintenance- [Consultation process, Report on consultation process](#).

At the request of the dam owner or a qualifying municipality, the DEP will extend the reporting deadline for an additional 210 days. See Title 38 of M.R.S. §902(1-A), Release from Dam Ownership and Water Level Maintenance- [Consultation process, Extension of consultation period](#).

6. After reviewing the report, the DEP will either accept or reject the report or allow the dam owner a reasonable period of time to correct any deficiencies in the report. See Title 38 of M.R.S. §902(5), Release from Dam Ownership and Water Level Maintenance- [Consultation process, Evaluation of report](#).
7. If a new owner was not found during the consultation process, the DEP will notify the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Conservation, and the Maine Emergency Management Agency that they must each, sequentially, evaluate the public value of the dam. If any one of these agencies determines that the best interest of the public requires it to assume ownership of the dam, it must do so. See Title 38 of M.R.S. §903, Release from Dam Ownership and Water Level Maintenance- [Assessment of public value of dam](#).
8. If none of the identified state agencies assumes ownership of the dam, the DEP must, after public notice, issue an order requiring the dam owner to release the water from the dam in a manner that minimizes the impact of the release, including requirements for mitigation where appropriate. See Title 38 of M.R.S. §904, Release from Dam Ownership and Water Level Maintenance- [Notice of failure to locate new owner](#) and Title 38 of M.R.S. §905, Release from Dam Ownership and Water Level Maintenance- [Order for release of water](#). Please see the attached information sheet on appealing a DEP Order.

9. A dam owner is not prohibited from requesting that compensation be paid for any transfer of dam ownership. However, if the request for compensation prevents the transfer of the dam to a willing new owner, then the current owner is not entitled to receive a dam release order. See Title 38 of M.R.S. §906(1), Release from Dam Ownership and Water Level Maintenance- [Property transfer provisions, Compensation](#).
10. In transferring ownership of a dam under the petition process, the owner shall transfer all property rights necessary to maintain and operate the dam, to the extent held by the dam owner, including title to the dam and land under the dam, title to equipment and other personal property normally located at the dam site, flowage rights, and access rights. See Title 38 of M.R.S. §906(2), Release from Dam Ownership and Water Level Maintenance- [Property transfer provisions, Property rights transferred](#).

**Notice of Intent to File
Petition for Release from Dam Ownership and Water Level Maintenance**

Please take notice that:

Applicant's Name/Mailing Address: _____

Applicant's Phone Number/Email: _____

is intending to file a petition with the Maine Department of Environmental Protection for release from dam ownership or water level maintenance under the provisions of Title 38, Maine Revised Statutes, Sections 901 to 908.

The petition pertains to the dam impounding (water body) _____

And located at (street address) _____

In the town/city/unorganized township of _____

In _____ County.

The petition will be filed on or about (date) _____

and will be available for public inspection at the DEP's offices in Augusta during normal working hours. In the event that a new owner is not found for the dam, the DEP will issue an order requiring the dam owner to release the water from the dam.

A dam owner is not prohibited from requesting compensation for the transfer of the dam to a new owner. However, the DEP will not issue a water release order to a dam owner who has refused to transfer the dam to a person willing to assume ownership because that person refused to compensate the dam owner for the property.

(This form may be reproduced as necessary.)