

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Bureau of Land Resources  
17 State House Station  
Augusta, ME 04333  
Telephone: (207) 287-7688

FOR DEP USE

#L-\_\_\_\_\_  
Date Received:\_\_\_\_\_

**PETITION FOR RELEASE FROM DAM OWNERSHIP  
AND WATER LEVEL MAINTENANCE**

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

**DAM INFORMATION**

Address (use "911 address, if available):\_\_\_\_\_

GPS Coordinates, if known:\_\_\_\_\_

Name of Impounded Water Body:\_\_\_\_\_

**DAM OWNER INFORMATION**

Name of Owner:\_\_\_\_\_

Mailing Address:\_\_\_\_\_

Name of Agent or Contact:\_\_\_\_\_

Telephone:\_\_\_\_\_

**CERTIFICATION OF FILING**

The undersigned hereby represents and avers that he/she or the organization represented is the owner of the dam described above.

By signing below, the petitioner or authorized agent certifies that this petition and all accompanying materials are complete and accurate to the best of his/her knowledge, and further certifies that he/she has complied with the public notice requirements of 38 MRSA § 901(2) & (3).

DATE: \_\_\_\_\_  
SIGNATURE OF PETITIONER

(IF SIGNATURE IS OTHER THAN  
PETITIONER, ATTACH LETTER OF PRINTED NAME OF PETITIONER  
AGENT AUTHORIZATION)

\_\_\_\_\_  
TITLE

**PETITION FOR RELEASE FROM DAM OWNERSHIP  
AND WATER LEVEL MAINTENANCE**

**GENERAL INFORMATION AND PROCEDURES**

1. By filing this petition, a dam owner is initiating proceedings to be released from dam ownership or water level maintenance. This process is governed by the provisions of 38 MRSA §§ 901-908.
2. Within 15 days of receiving a petition, the DEP will determine whether the petition complies with the provisions of 38 MRSA § 901. If the petition does not comply, it will be returned.
3. After filing a petition, a dam owner must consult with the persons and entities listed in 38 MRSA § 902(3) to determine whether any of them wish to assume ownership of the dam. See 38 MRSA § 902(1) for information on consultation requirements.
4. Within 60 days after being notified in accordance with 38 MRSA § 901, 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 38 MRSA § 908.
5. Within 180 days of filing a petition, a dam owner must either withdraw the petition or file a report with DEP fulfilling the requirements of 38 MRSA § 902(4) and § 902(4-A). At the request of the dam owner or a qualifying municipality, the reporting deadline will be extended for additional 180 days. See 38 MRSA § 902(1-A).
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 38 MRSA § 902(5).
7. If a new owner was not found during the consultation process and the dam owner's petition has been accepted, the DEP will notify the Department of Inland Fisheries and Wildlife, the Department of Conservation, and the Maine Emergency Management Agency to begin the process of evaluating 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 38 MRSA § 903.
8. If none of the identified state agencies assumes ownership of the dam, the DEP shall, after public notice, issue an order requiring the dam owner to release water from the dam in a manner that minimizes the impact of the release, including requirements for mitigation where appropriate. See 38 MRSA § 904 & 905.
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 38 MRSA § 906(1).
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 the land under the dam, title to equipment and other personal property normally located at the dam site, flowage rights and access rights. See 38 MRSA § 906(2).

**PETITION FOR RELEASE FROM DAM OWNERSHIP  
AND WATER LEVEL MAINTENANCE**

**REQUIRED INFORMATION**

The following information must be filed with this petition or the petition will be returned as incomplete.

- 1. MAP OF DAM LOCATION.** Provide a map showing the location of the dam and all impounded waters.
  
- 2. LIST OF AFFECTED TOWNS/COUNTIES/TRIBES.** Provide a list of:
  - 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. PLAN OF DAM.** Provide a plan of the dam, to scale if possible, showing the design and dimensions of the dam. The plan should include any gates, embankments, or other structures that are part of the dam or are necessary for the maintenance and operation of the dam.
  
- 4. DESCRIPTION OF DAM AND OPERATION.** Provide a description of the physical condition of the dam and how the dam has been operated over the past five or more years.
  
- 5. 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 38 MRSA § 902(1)].
  
- 6. NOTICE OF INTENT TO FILE.** Provide a copy of a completed Notice of Intent to File (a notice form is attached for your use).

**7. 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 from 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, 41 State House Station, Augusta, ME 04333. (207-287-5202)
- The Commissioner of Conservation, 22 State House Station, Augusta, ME 04333. (207-287-2211)
- The Director of the Maine Emergency Management Agency, 72 State House Station, Augusta, ME 04333. (207-626-4202)
- 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 any of the following Indian tribes or nations in whose territory a dam or impoundment is located:
  - Governor and Tribal Council, Passamaquoddy Tribe/Pleasant Point, PO Box 343, Perry, ME 04667. (207-853-2600)
  - Governor and Tribal Council, Passamaquoddy Tribe/Indian Township, PO Box 301, Princeton, ME 04668. (207-796-2301)
  - Governor and Tribal Council, Penobscot Indian Nation, Indian Island/6 River Road, Old Town, ME 04468. (207-827-7776)
  - Tribal Chief and Tribal Council, Aroostook Band of Micmac Indians, 531 D Street, Presque Isle, ME 04769. (207-764-1972)
  - Tribal Chief and Tribal Council, Houlton Band of Maliseet Indians, RR#3 Box 450, Houlton, ME 04730. (207-532-4273)

**NOTICE OF INTENT TO FILE**  
**PETITION FOR RELEASE FROM DAM OWNERSHIP AND**  
**WATER LEVEL MAINTENANCE**

Please take notice that \_\_\_\_\_  
(Name of Dam Owner)

of \_\_\_\_\_  
(Mailing Address)

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 Annotated, Sections 901 to 908.

The petition pertains to the dam impounding \_\_\_\_\_  
(Name of impounded water body)

and located at \_\_\_\_\_  
(Street Address of Dam)

in the town/city/unorganized township of \_\_\_\_\_

in \_\_\_\_\_ County.

The petition will be filed on or about \_\_\_\_\_  
(Anticipated filing 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)