

MAINE STATE LEGISLATURE

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July 5, 1967

Raeburn W. Macdonald, Chief Engineer

Water Improvement Commission

Phillip M. Kilmister, Assistant

Attorney General

Proposed discharge of treated sewage into Long Lake.

FACTS:

A school district proposes to construct a sewage treatment facility which will discharge adequately treated sewage into Long Lake, a body of water classified as "B-1" by the Legislature. The waters of Long Lake flow into Sebago Lake, a "Class-A" body of water. It is the belief of the licensor, the Water Improvement Commission, that the proposed waste discharge will not lower the water quality standards of either Long Lake or Sebago Lake.

QUESTION:

May the Water Improvement Commission license the discharge of adequately treated sewage into Long Lake, a body of water having a B-1 classification and which flows into Sebago Lake, a class A body of water?

ANSWER:

Yes, provided that no sewage flows into Sebago Lake.

The law clearly states that there shall be no discharge of sewage or other wastes into Class-A waters. An opinion of this office dated November 8, 1962 held that the discharge of sewage into a class-A body of water is prohibited even when said discharge is indirect. We adhere to this position.

The waters of Long Lake into which the proposed discharge of sewage will take place may be utilized for such a purpose however, provided the waste or sewage to be discharged is adequately treated.

38 M.R.S.A. § 363 Class B-1 reads in part as follows:

"There shall be no disposal of sewage or industrial wastes in such waters except those which have received adequate treatment to prevent lowering of the standards for this classification, nor shall such disposal of sewage or waste be injurious to aquatic life or render such dangerous for human consumption." (Emphasis supplied)

When two bodies of water are contiguous and are classified as B-1 and as A by the Legislature, a proposed discharge into the B-1 water must be analyzed in order to determine whether said discharge will lower the standards of the contiguous body of water having the higher classification. If a proposed discharge of sewage will not lower the B-1 classification of the receptive body of water, but, because of a lack of dilution or any other reason, such a discharge will indirectly flow into the waters of the more remote body of water having an A classification, then licensure must be denied. A factual determination must be made in regard to the effect of the proposed sewage discharge on both the immediate receptive body of water, and the more remote body of water.

If it is determined by the Commission that the proposed sewage discharge will lower neither the B-1 classification of the immediate receptive body of water nor the quality of the more remote "A" body of water, then licensure should be granted.

38 M.R.S.A. § 414 provides in part as follows:

"If after hearing the commission shall determine that such discharge, either of itself or in combination with existing discharges to the waterway, will not lower the classification of any stream, river, pond, lake or other body of water, or watercourse or tidal waters, it shall issue such license to the applicant upon payment of the sum of \$50."

Raeburn W. Macdonald

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In your memorandum you state that the flow of treated sewage from the proposed school sewage facility will not lower either the water quality standards of Long Lake (B-1) or Sebago Lake (A). This important factual determination having been made, it would appear that a waste discharge license should be granted to the applicant in question.

Phillip M. Kilmister
Assistant Attorney General

PMK/slf