

## Appendix F

# Compensation Fee Mitigation Option For Eligible Lake Watersheds

As an alternative to project based off-site treatment mitigation, the Stormwater Management Law has set up the Compensation Fee Program which allows the developer to offset a portion of the phosphorus reduction required for the project to meet its phosphorus budget by paying a compensation fee. The Department, or an authorized local entity, accumulates compensation fee funds in accounts for each individual lake watershed, and uses these funds to provide long term solutions to priority chronic phosphorus sources within the watershed.

However, there are a number of lake watersheds where it is not appropriate. These include small, relatively undeveloped lake watersheds that happen to be in a region of high growth. In these cases there are few if any opportunities to address existing problems in the watershed. It may also include watersheds where a large amount of restoration work has already been performed and any problems remaining to be addressed are more expensive than the compensation rate can cover. Lastly, it includes areas where there are no local watershed management agencies (i.e. soil and water conservation districts, watershed districts, etc) interested in developing and implementing mitigation projects.

Developers should not assume that the compensation fee is an option until they have checked to be sure it is available in the lake watershed in which the proposed development is located. The lakes listed at the end of this Appendix have watersheds in which the Department is confident eligible mitigation projects can be found and implemented. The compensation fee option is available for all lakes on these lists, which will be updated on a regular basis. If the proposed development is in a lake watershed that is not on these lists, the developer may

check with the DEP Division of Watershed Management staff to see if the lake in question might be added to the list.

### Procedure and Limitations

This document is an update of guidance on use of the phosphorus compensation fee issued April 4, 2008 and addresses all the policy and program changes that have occurred during the past several years.

The Compensation Fee option is defined in Paragraph D.11 of the Stormwater Management Law (38 M.R.S.A. §420-D.11). It allows the Department to accept a compensation fee in lieu of meeting a portion of the parcel's phosphorus budget. Compensation fees are deposited in an account for the lake in whose watershed the development is located. Funds in the lake's account may then only be spent on addressing chronic phosphorus sources to the lake's watershed.

### Limitations on use of the compensation fee option

The compensation fee option is not available to all projects. In order for an applicant to use the compensation fee option the following conditions must be met:

- **The lake to which the project drains must be an eligible lake.** Because of the difficulty of finding viable, long term phosphorus mitigation projects in many lake watersheds, it is not appropriate to allow use of the compensation fee option in all lake watersheds. Lists of eligible lakes are provided later in this document.

- **The project must incorporate on site measures that reduce the project's phosphorus export by at least 60% (it was formerly 50%) before a project can be eligible to use the compensation fee option.** This means that in the summary worksheet of the phosphorus export analyses that the applicant will present the Post-Treatment Project Phosphorus Export must be less than or equal to 0.4 times the Pre-Treatment Project Phosphorus Export.

### Compensation Fee Rate

**The compensation fee rate is \$25,000 per pound of phosphorus export.** In 2008 the legislature passed the Lake Report Bill, one section of which raised the maximum compensation fee rate from \$10,000 per pound to \$25,000 per pound of phosphorus export. In September 2008 the new rate of \$25,000 per pound went into effect. The amount of the compensation fee is determined by subtracting the Project Phosphorus Budget (PPB, in lbs) from the Project Phosphorus Export (PPE, in lbs) and multiplying by \$25,000.

### Local Stormwater Administration Agencies

As authorized in the Stormwater Management Law (38 M.R.S.A. §420-D.11), the Department has entered into Memoranda of Agreement with six entities, called Stormwater Administration Agencies (York County Soil and Water Conservation District, Cumberland County Soil and Water Conservation District, Lakes Environmental Association (LEA) in Bridgton, Androscoggin County Soil and Water Conservation District, Kennebec County Soil and Water Conservation District, and Cobbosee Watershed District in Winthrop) to directly receive and manage compensation fees and the resulting compensation mitigation projects. For any

projects located in York, Cumberland, Androscoggin and Kennebec Counties, or in the towns of Denmark, Sweden and Waterford in Oxford County, any compensation fees will be paid directly to the local Stormwater Administrative Agency responsible for the lake watershed in which the project is located (see list of eligible lakes, below). The Department has developed a receipt form to be used to document the payment of the fee (see Attachment).

### Receipt for Stormwater Compensation Fees

The DEP's "General Guidance" document for the stormwater compensation program, now being prepared and to be made available in Spring 2009, describes use of the receipt form as follows:

When receiving stormwater compensation fees from developers Stormwater Administration Agencies are asked to support use of a standard receipt form and procedure designed by DEP to keep involved parties informed of such transactions (See attached receipt form). Involved parties for this purpose include the applicant (developer), the SA and the DEP staffer who is drafting the permit for the development for which the fee is being submitted (DEP Permit Manager...DPM). The procedure for using the receipt form is as follows:

- (a.) An electronic copy of the receipt form will be provided to the DEP Project Managers along with a copy of this written procedure;
- (b.) Upon receiving notice from a developer that the developer wishes to use the compensation fee option for a project in the watershed of an eligible lake, the DPM will complete PART I of the receipt form and send the form to the Applicant, asking that they complete PART II of the form and then send it along (with a check for the appropriate fee amount) to the SA;

(c.) Upon receiving the partially-completed receipt form from the Applicant the SA should complete PART III of the form, retain the original for the file and within 7 days of initial receipt provide a copy of the completed form to both the Applicant and the DPM (for the DEP permit file). The receipt process is considered complete when the DPM receives their copy of the completed receipt.

This effort will document for all parties that the required fee has been paid and provides the DEP Permit Manager with a ‘trigger’ for finalizing the permit process. Once the permit manager receives the completed receipt, he or she may issue the permit.

### **Eligible Lake Watersheds**

The six Stormwater Administrative Agencies have identified all the lake watersheds within their jurisdictions in which they are confident there will be opportunities for appropriate phosphorus mitigation projects. The compensation fee option is potentially available to any

Stormwater Law or Site Law proposals located within any of these lake watersheds. Lists of these lakes, by Stormwater Administrative Agency, are presented below. If a lake is *not* on any of these lists and is located within York, Cumberland, Androscoggin or Kennebec Counties, or in the towns of Denmark, Sweden or Waterford in Oxford County, proposals for projects in its watershed are *not* eligible for a compensation fee option. If a project proposal is located in a lake watershed that is within York, Cumberland, Androscoggin nor Kennebec Counties, or in the towns of Denmark, Sweden or Waterford in Oxford County, the project is probably not eligible for the compensation fee option, although there may be some exceptions to this on a case by case basis. In these instances DEP permit managers should check with Division of Watershed Management staff at the time of the pre-application meeting to determine if the lake watershed is eligible.

**Androscoggin County**

**Stormwater Administration Agency – Androscoggin County Soil and Water Conservation District**

**Lakes Eligible for Stormwater Compensation Fee Program**

<b>LAKE</b>	<b>MIDAS #</b>	<b>LOCATION</b>
LAKE AUBURN	3748	AUBURN
ALLEN POND	3788	GREENE
BRETTUNS POND	3608	LIVERMORE
CRYSTAL POND	3626	TURNER
PLEASANT POND	3822	TURNER
LITTLE WILSON POND	3784	TURNER
NO NAME POND	3802	LEWISTON
LOON POND	3806	SABATTUS
LOWER RANGE POND	3760	SABATTUS
NEQUASSET POND	5222	WOOLWICH
THOMPSON LAKE	3444	POLAND
SEWALL POND	9943	ARROWSIC
SABATTUS POND	3796	GREENE
TAYLOR POND	3750	MINOT
TRIPP POND	3758	POLAND
WORTHLEY POND	3764	POLAND
MIDDLE RANGE POND	3762	POLAND
UPPER RANGE POND	3688	POLAND

**Cumberland County (except Bridgton, Naples, Harrison)**

**Stormwater Administration Agency – Cumberland County Soil and Water Conservation District**

**Lakes Eligible for Stormwater Compensation Fee Program**

<b>LAKE</b>	<b>MIDAS #</b>	<b>LOCATION</b>
BONNY EAGLE L	5042	STANDISH
COFFEE P	3390	CASCO
COLLINS P	3728	WINDHAM
CRESCENT L	3696	RAYMOND
CRYSTAL L (DRY P)	3708	GRAY
DUCK P (LITTLE)	3730	WINDHAM
DUNDEE P	3732	WINDHAM
FOREST L	3712	WINDHAM
GORHAM P (NORTH)	9705	WINDHAM
HIGHLAND (DUCK) L	3734	FALMOUTH
PANTHER P	3694	RAYMOND
PARKER P	3388	CASCO
PETTINGILL P	3716	WINDHAM
PLEASANT POND	3446	CASCO
RAYMOND P	3690	RAYMOND
SABBATHDAY L	3700	NEW GLOUCESTER
SEBAGO L	5786	SEBAGO
SEBAGO L (LITTLE)	3714	WINDHAM
TARKILL P	3724	WINDHAM
THOMAS P	3392	CASCO
WATCHIC P	5040	STANDISH

**Cumberland County (Bridgton, Naples, Harrison) and Oxford County (Denmark, Sweden, Waterford)**

**Stormwater Administration Agency – Lakes Environmental Association**

**Lakes Eligible for Stormwater Compensation Fee Program**

<b>LAKE NAME</b>	<b>MIDAS #</b>	<b>TOWN</b>
BEAR POND	3420	WATERFORD
BEAVER POND	5582	BRIDGTON
BRANDY POND	9685	NAPLES
CRYSTAL LAKE	3452	HARRISON
FOSTER (INGALLS) POND	3188	BRIDGTON
GRANGER POND	3126	DENMARK
HANCOCK POND	3132	DENMARK
HIGHLAND LAKE	3454	BRIDGTON
HOLT POND	3370	BRIDGTON
ISLAND POND	3448	HARRISON
KEOKA LAKE	3416	WATERFORD
KEYES POND	3232	SWEDEN
LONG LAKE	5780	BRIDGTON
MCWAIN POND	3418	WATERFORD
MOOSE POND NORTH BASIN	3134-1	SWEDEN
MOOSE POND MIDDLE BASIN	3134-2	BRIDGTON
MOOSE POND SOUTH BASIN	3134-3	DENMARK
MUD POND	3422	WATERFORD
PAPOOSE POND	3414	WATERFORD
PEABODY POND	3374	BRIDGTON
SAND POND	3130	DENMARK
STEARNS POND	3234	SWEDEN
TRICKEY POND	3382	NAPLES
WOODS POND	3456	BRIDGTON

**Kennebec County (Cobbosee Stream Watershed Only)**

**Stormwater Administration Agency – Cobbosee Watershed District**

**Lakes Eligible for Stormwater Compensation Fee Program**

<b>LAKE</b>	<b>MIDAS #</b>	<b>LOCATION</b>
ANNABESSACOOK LAKE	9961	WINTHROP
CARLTON POND	5310	WINTHROP
COBBOSSEECONTEE LAKE	5236	WINTHROP
COCHNEWAGON LAKE	3814	MONMOUTH
JIMMY POND	5244	LITCHFIELD
LITTLE COBBOSSEE LAKE	8065	WINTHROP
MARANACOOK LAKE, NORTH	5312-1	WINTHROP
MARANACOOK LAKE, SOUTH	5312-2	WINTHROP
PLEASANT POND, UPPER	5254-2	RICHMOND
PLEASANT POND, LOWER	5254-1	RICHMOND
UPPER NARROWS POND	0098	WINTHROP
WILSON POND	3832	WAYNE
WOODBURY POND	5240	MONMOUTH

**Kennebec County (other than Cobbosee Stream Watershed)**

**Stormwater Administration Agency – Kennebec County Soil and Water Conservation District**

**Lakes Eligible for Stormwater Compensation Fee Program**

<b>LAKE</b>	<b>MIDAS #</b>	<b>LOCATION</b>
GREAT POND	5274	BELGRADE
THREEMILE POND	5416	CHINA
WEBBER POND	5408	VASSALBORO
CHINA LAKE	5448	CHINA
EAST POND	5349	SMITHFIELD
ECHO LAKE	5814	FAYETTE
FLYING POND	5182	VIENNA
LONG POND NORTH	5272-1	BELGRADE
LONG POND SOUTH	5272-2	BELGRADE
LOVEJOY POND	5664	FAYETTE
MCGRATH POND	5348	OAKLAND
MESSALONSKEE LAKE	5280	SIDNEY
PARKER POND	5186	MT. VERNON
PATTEE POND	5458	WINSLOW
SALMON LAKE	5352	OAKLAND
TOGUS POND	9931	AUGUSTA
NORTH POND	5344	SMITHFIELD
THREECORNERED POND	5424	AUGUSTA
ANDROSCOGGIN LAKE	3836	WAYNE

## York County

### Stormwater Administration Agency – York County Soil and Water Conservation District

#### Lakes Eligible for Stormwater Compensation Fee Program

LAKE	MIDAS #	LOCATION
ADAMS P (ROCK HAVEN)	3890	NEWFIELD
BALCH & STUMP PONDS	3898	NEWFIELD
BAUNEAG BEG L	3992	NORTH BERWICK
BUNGANUT P	3980	LYMAN
CURTIS P	3850	SANFORD
DEER P	5016	HOLLIS
ELL (L) P	119	SANFORD
ESTES L	7	SANFORD
GRANNY KENT P	3908	SHAPLEIGH
GREAT EAST L	3922	ACTON
HOLLAND (SOKOSIS) P	3942	LIMERICK
HORNE (PEQUAWKET) P	3408	LIMINGTON
KENNEBUNK P	3998	LYMAN
KNIGHTS P	3884	SOUTH BERWICK
LEIGH'S MILL P	117	SOUTH BERWICK
LONG P	9701	PARSONSFIELD
LOON P	9695	ACTON
MILL P	6793	SANFORD
MILLIKEN MILLS P	6859	OLD ORCHARD BEACH
MOUSAM L	3838	ACTON
NORTHEAST P	3876	LEBANON
NUMBER ONE P	3848	SANFORD
OLD FISHING P	3852	SANFORD
OSSIPEE FLOWAGE(LIT)	9715	WATERBORO
OSSIPEE L (LITTLE)	5024	WATERBORO
POVERTY P (BIG)	157	NEWFIELD
PROVINCE L	9887	PARSONSFIELD
ROBERTS & WADLEY PDS	5034	LYMAN
SHAKER P	3976	ALFRED
SQUARE P	3916	ACTON
WEST P	3186	PARSONSFIELD
WILSON L	3920	ACTON