

**567—54.7(455B) Settlement procedures.****54.7(1) Settlement options.**

*a.* At the same time as notification prescribed in 54.6(2) “c” or upon notice to the applicant of verified well interference according to 567—subrule 50.14(2), the department will also advise the permittee or applicant of available settlement options, including the following:

- (1) Permanent permit modifications (e.g., reduced pumping rate or scheduled pumping).
- (2) Compensation to the complainant (see 54.7(3) and Technical Bulletin No. 23).

*b.* In situations where verified well interference occurs due to an existing permitted use, the permittee shall notify the department of the selected option within 30 days of notification.

**54.7(2) Compensation offer requirements.** If the compensation option is selected, the applicant or permittee shall submit a notarized offer to the complainant and the department. This offer shall be submitted by a permittee within 30 days of the notification prescribed in 54.6(2) and 54.7(1). An offer must include the following:

*a.* Written comments by a certified well contractor or licensed professional engineer detailing well improvements needed in order to provide the complainant with a sufficient water supply;

*b.* Itemized costs of the improvements by a certified well contractor with a breakdown of costs eligible for compensation (see 54.7(3) and Technical Bulletin No. 23);

*c.* A water quality analysis of the existing well water, if a new well is proposed. The analysis shall include, at minimum, determination of levels of nitrate, bacteria, iron, and hardness; and

*d.* A statement of what is being offered to the complainant and terms of the offer (e.g., timing, who will perform the work, or a completed work settlement).

**54.7(3) General criteria for cost liability.** The nonregulated well owner’s costs for well inspection and test pumping are eligible for compensation. All costs for remedial work necessary to resolve a verified well interference problem are eligible for compensation, except as noted below. Technical Bulletin No. 23 includes additional details on cost liability. The following costs are not eligible for compensation:

*a.* When the existing well does not comply with applicable well construction standards (567—Chapter 49), costs required to bring the well up to standards;

*b.* Costs for work requested by the nonregulated well owner that result in upgrading the nonregulated water supply;

*c.* Legal fees;

*d.* Operation and maintenance costs of the water supply system;

*e.* Well rejuvenation costs, unless the well still fails to provide a sufficient water supply after the well rejuvenation requested by the permittee is completed; and

*f.* Costs due to temporary loss of water for such things as hauling water or going to a laundromat, unless the permittee refuses to comply with an emergency order by the department.

**54.7(4) Complainant’s response to the compensation offer.** The complainant shall respond in writing to the department within 15 days of an offer receipt and indicate acceptance or rejection of the offer. If the offer is rejected, the complainant shall submit a counteroffer with the response. The counteroffer shall contain supporting information including an itemized cost estimate of needed improvements by a certified well contractor or licensed professional engineer, if appropriate.

**54.7(5) Department review of compensation offer and counteroffer.** The department will review the offer and counteroffer and determine if the offer is reasonable in accordance with Technical Bulletin No. 23.

*a.* If the offer is determined to be reasonable but is rejected by the complainant, the complainant will be given 15 days to reconsider the offer, after which the complaint will be dismissed and any suspension or restrictions on withdrawals by the permittee will be removed or, in the case of an application, the permit process will be continued. The complainant may appeal a dismissal as provided in 54.9(2).

*b.* If the offer is not found to be reasonable, the permittee will be given one opportunity to revise the offer in accordance with department determinations. If a revised offer is not received within 15 days or the department determines the revised offer is not reasonable, the department will determine appropriate compensation or withdrawal restrictions to resolve the well interference. This determination will be enforced through either the imposition of permit conditions, permit termination, or permit denial. For an

existing permit, the department will modify or terminate the permit as provided in 567—subrule 50.14(1). For a pending permit application, the department will either deny the application or approve it with appropriate conditions, pursuant to 567—50.8(455B).

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