

RULE 80J. WARRANTS FOR SURVEYS AND TESTS

(a) Who May Apply. An official or employee of any State agency or any political subdivision of the State which agency or subdivision is authorized by law to acquire land through the exercise of eminent domain for the purpose of providing solid waste disposal facilities may apply to a District Court Judge in the division and district in which the land to be surveyed or tested is located for a warrant under 4 M.R.S.A. § 180 to survey and conduct tests upon particularly described premises which are under consideration for condemnation.

(b) Contents of Application. The application shall be in the form of a sworn affidavit and shall set forth:

(1) the statutory authority pursuant to which the agency or subdivision is authorized to acquire lands by eminent domain, and a description of the premises to be surveyed or tested;

(2) the facts sufficient to demonstrate a compelling need for such warrant, which need may be demonstrated by an allegation that acquisition of the land in issue is or may be necessary in order for the agency or municipality to comply with state law or regulations or for protection of the public safety, health or welfare;

(3) a statement that the applicant has requested permission from the owner of the premises to conduct such survey or test and such permission has been denied;

(4) a statement that the applicant has at least 3 days in advance of the presentation of the application given written notice to the owner and occupant of the land of the time and place at which the applicant intends to present the application to the court and the right of the owner and occupant to be present and to be heard thereat.

(c) Issuance. Upon a finding of compelling need the District Court Judge shall issue the warrant to the applicant.

(d) Contents. The warrant shall specify the grounds of compelling need, the land to be surveyed or tested, the methods to be employed and the persons authorized to conduct the same.

(e) Execution. The warrant shall be executed in compliance with the provisions of Title 4 M.R.S.A. § 180.

(f) Return. Not later than 60 days after execution of the warrant the person executing it shall file a return with the Court from which the warrant issued setting forth the date and time of the inspection and the results of the inspection.