Maine Forest Products Council

The voice of Maine's forest economy

Testimony in Opposition

LD 395, "An Act to Restore Access to Federal Laws Beneficial to the Wabanaki Nations"
LD 785, "An Act to Enact the Remaining Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act"

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Good afternoon, Senator Carney, Representative Kuhn and distinguished members of the Judiciary Committee. My name is Krysta West. I live in Readfield, and I respectfully submit testimony on behalf of the Maine Forest Products Council in opposition to LDs 395 and 785 because they would introduce substantial ambiguity on how to handle shared environmental resources. With that said, we view these bills as an opportunity to set the forest products industry and the Tribes on a new path of understanding and collaboration.

Since 1961, the Maine Forest Products Council has served as the voice of Maine's forest economy, representing hundreds of members from all facets of the forest products industry. Our members include pulp and paper mills, sawmills, secondary wood processors, foresters, loggers and truckers. We also represent commercial landowners sustainably managing more than 8 million acres of forestland. Our members are central to Maine's $8.3 billion heritage industry that sustains more than 29,000 jobs spread across all 16 counties.

Likewise, tribal members are landowners, loggers, foresters, conservationists, mill workers and a vital part of the fabric of the rural communities in which our industry operates. We share many of the same objectives and goals, and many of the same concerns. It is our hope that we can focus this discussion on policies that are mutually beneficial and agreed upon to encourage greater prosperity.

For example, the often cited Suffolk study highlights uncertainty about which beneficial federal laws apply to tribes in Maine as being a central problem that limits economic growth. MFPC sympathizes with the need for predictability to encourage investments. MFPC's concerns, which are narrowly focused on natural resources that flow freely between jurisdictions (air, water, wildlife), are similarly based on the need for regulatory certainty for manufacturers and forestry operators. Any changes to the current arrangement would subject landowners, manufacturers, municipalities and others to regulations set by a sovereign nation, enforced by the federal government, where participation in the process is limited and outcomes are unpredictable.

For this reason, while MFPC does not want to be perceived as an obstacle to this important discussion, the unique and still evolving patchwork of tribal lands in Maine elevates the importance of jurisdictional uniformity that is ensured by the Settlement Acts. Disputes, even under the decades old Settlement Acts, persist today. For example:

- In January of 2026, the Penobscot Nation joined with CLF in a successful bid to block the State of Maine from expanding Maine's largest landfill, which is nearing capacity. Even under the current arrangement, Maine's superior court favored the Penobscot's position due to the proximity of Indian Island, which is five miles downstream of the landfill.

- On June 13, 2025, the Penobscot Nation and the Houlton Band of Maliseet Indians joined the Kennebec Coalition's comments against Brookfield's Water Quality Certification Application with DEP, asserting their sovereign rights over the Kennebec River in written testimony. Brookfield has since withdrawn the WQC application after a long and drawn-out process. The 'overburdensome' process to achieve relicensing directly contributed to Brookfield's sale of the assets, which has put the state's $8.3 billion forest industry in a precarious position.
- **2012-2015 – *Penobscot Nation v. Mills*** – The Penobscot Nation unsuccessfully argued that the Tribe has the right to regulate the use of the Penobscot River by tribal members and non-tribal members alike. The US Department of Interior (DOI) intervened on behalf of the Penobscot Nation and covered the expense of this lawsuit against the State of Maine that took three years to resolve. Arguments included that "boundaries of the Penobscot reservation would extend to the threads of the channels surrounding the Penobscot Nation's reservation islands. According to the US DOI, "riparian rights" around the islands of the Main Stem create "halos" of water into which the reservation extends."[1]

    - While the argument did not prevail, it shows the Federal Government's clear interpretation that the Tribes should regulate air and, in this case water, well beyond the boundaries of tribal lands.
    - "If the court agreed with the Penobscot Nation that its reservation includes any portion of the Penobscot River, and if EPA then grants TAS to the Penobscot Nation, then all discharges into the Main Stem will be subject to the Penobscot Nation water quality standards. The tribal-DOI suit also could rewrite the territorial borders for some municipalities."
    - In 2015, US DOI and the Penobscot Nation filed post-judgement motions to pursue the DOI's "halos argument." That motion was swiftly denied.
    - "**If EPA grants TAS authority to the Penobscot Nation, then the state of Maine will be required to ensure that all nontribal discharges licensed by the state and that may affect Penobscot Nation waters-wherever these, waters may be-meet the Penobscot Nation's water quality standards, regardless of however stringent and inconsistent the Nation's standards may be in comparison with state standards.** The Penobscot Nation is not required to consider nontribal members' comments in adopting their standards, or to consider impacts to economic interests. So, for example, if the Penobscot River-the longest river located entirely in Maine, running through the middle of the state-were deemed to affect Penobscot Nation waters, then Maine towns and companies along its banks, already meeting some of the most stringent water quality standards in the country, could potentially be required to spend millions of dollars they do not have to meet these additional tribal standards."
    - Sovereignty would migrate with future tribal land acquisitions to new parcels and potentially other watersheds, and land acquisitions for the tribes are still expanding. According to a recent analysis by the Forest Society of Maine, $5.4 million in forestland sales have occurred for new Wabanaki lands between 2010-2025.

I have referenced MFPC's previous testimony on this issue for reference here as well.[2]

While we continue to highlight the importance of resolving environmental jurisdiction issues before advancing sweeping sovereignty legislation, MFPC does not want to stand in the way of progress for Maine's tribes. Our narrow focus on this isolated, yet consequential concern is highlighted by the fact that we have not engaged in a variety of tribal goals over the last few sessions including:

- LD 1164, An Act to Create Economic Opportunity for the Wabanaki Nations (iGaming) – Public law

[1] *Water, Tribal Claims, and Maine's Not-So-Settled Settlement Acts – Matthew D. Manahan and Catherine R. Connors 2016*
[2] https://maineforest.org/wp-content/uploads/2023/06/LD-2004-Opposed.pdf

- LD 585, “An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and To Authorize Casinos, Off-track Betting Facilities, Federally Recognized Indian Tribes and Certain Commercial Tracks To Conduct Sports Wagering.” – Public law
    - This new venture has already made over $100 million in gross revenue for the Passamaquoddy Tribe since the beginning of 2024.
- LD 958, “An Act to Prohibit Eminent Domain on Tribal Lands” - Dead
- LD 870, “An Act Regarding the Membership of the Maine Land Use Planning Commission” *We opposed the bill as presented, but took no issue with adding a designated seat for a tribal member*
- LD 1620, “An Act to Amend the Laws Governing the Mi’kmaq Nation” – Public law
- LD 1970, “An Act to Enact the Maine Indian Child Welfare Act” – Public law
- LD 2007, “An Act to Advance Self-determination for Wabanaki Nations” – Public law
- LD 766, “An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe's Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013" – Public law
- LD 1560, "Resolve, Authorizing the State To Convey to the Passamaquoddy Tribe the State's Interest in a Certain Parcel of Land in the Town of Meddybemps" – Public law
- LD 906, “An Act to Provide Passamaquoddy Tribal Members Access to Clean Drinking Water” – Public law
- LD 982, “An Act to Establish Equal Tax Treatment for the Mi’kmaq Nation” – Public law

As you can see from the extensive list of beneficial tribal bills that the Council has not engaged on in recent years, we remain narrowly focused on the need for uniform environmental regulations that are set and enforced by the State. Otherwise, every state-issued permit could potentially be subject to litigation backed by the federal government. That would be detrimental to investments that are needed to support the future of our heritage industry; investments that are critical to the economic health of rural communities both on and off tribal lands.

While we are opposed to these bills at this time, MFPC hopes that recent progress can be continued. We would welcome the opportunity to help craft policy that would allow for the timely review of beneficial federal laws to identify potential conflicts with the Settlement Acts so that, where environmental jurisdictions are not impacted, there can be quick resolution. Maine’s tribes, cities, towns, residents and businesses all deserve access to federally beneficial laws and clarity as to which laws and regulations apply.

Thank you for your consideration of our position. We would be happy to answer any questions you may have.