

**TESTIMONY OF
Patrick Keliher, Commissioner**

**The Department of Marine Resources (DMR) is testifying
In Opposition to**

**LD 1262, An Act To Authorize Tribal-state Memoranda
in the Eel and Elver Fisheries**

**Before the Committee on Marine Resources
Sponsored by Representative Dana
Date of Hearing: April 27, 2015**

Senator Baker, Representative Kumiega, and members of the Joint Standing Committee on Marine Resources, my name is Patrick Keliher, Commissioner for the Department of Marine Resources, and I am testifying on behalf of the Department in opposition to LD 1262.

This bill would authorize me to enter into a Memorandum of Agreement (MOA) with Maine's four federally recognized tribes regarding the commercial elver fishery, and authorize the Legislature to report out a bill that would implement the MOA. In 2014, the Passamaquoddy Tribe proposed an MOA to the State, asserting that an agreement of this nature was the appropriate vehicle to resolve the ongoing fisheries management issues between that tribe and the State. The draft MOA that was shared with DMR was contrary to Atlantic States Marine Fisheries Commission (ASMFC) Eel Fisheries Management Plan (FMP) and also was contrary to State law.

Maine's eel and elver fisheries are managed by the State under the ASMFC's FMP. The Legislature's statutory changes, and the Department's regulatory changes, are guided by specific species fisheries management plans so that the state remains compliant with ASMFC.

The Attorney General has consistently interpreted State law and legislative history that tribal members are subject to Maine's regulatory authority over marine resources to the same extent as any other Maine citizen. The Maine Indian Claims Settlement Act, a federal law, confirms the State's regulatory jurisdiction over marine resources. The courts have also affirmed state jurisdiction over marine fisheries.

The Department has shown a willingness to work with Maine's four Tribes as we have strived to control our elver fishery. I am committed to discussing issues with the Tribes as they arise. I believe that this is an appropriate way to consult on fisheries issues. Furthermore, if any party is not satisfied a bill could be brought forward to this body to rectify the problem.

Thank you for your time, and I would be happy to try to answer any questions you may have.