



# Maine Forest Products Council

*The voice of Maine's forest economy*

## Testimony in Opposition to LD 1349

### **“An Act to Review State Lands and Waterways That Have Sacred, Traditional or Other Significance to the Wabanaki People”**

January 22, 2024

Patrick Strauch, Executive Director

Companies represented  
on the MFPC Board

A & A Brochu Logging  
American Forest Mgmt.  
Baskahegan Co.  
BBC Land, LLC  
Columbia Forest Prod.  
Cross Insurance  
Family Forestry  
Farm Credit East  
Fontaine Inc.  
H.C. Haynes  
Huber Resources  
INRS  
J.D. Irving  
Katahdin Forest Mgmt.  
Key Bank  
Kennebec Lumber  
LandVest Inc.  
Louisiana Pacific  
Maibec Logging  
ND Paper  
Nicols Brothers  
Pingree Associates  
Prentiss & Carlisle  
ReEnergy  
Richard Wing & Son  
Robbins Lumber  
Sappi North America  
Southern Maine Forestry  
Stead Timberlands  
St. Croix Tissue  
St. Croix Chipping  
TD Bank  
Timber Resource Group  
Timberstate G.  
Wadsworth Woodlands  
Wagner Forest Mgt.  
Weyerhaeuser  
Woodland Pulp

Good morning, Senator Ingwersen, Representative Pluecker and members of the Committee on Agriculture, Conservation and Forestry. I'm Patrick Strauch of Exeter, Maine. I am testifying before you today as the Executive Director of the Maine Forest Products Council in opposition to LD 1349, “An Act to Review State Lands and Waterways That Have Sacred, Traditional or Other Significance to the Wabanaki People.” While this legislation pertains to both lands and waterways, the Council is primarily concerned with the transfer of public water resources.

Before diving into our reasons for opposing this legislation, I would like to talk about what this legislation intends to do. First, it would establish a commission to review State-owned lands and waterways to identify ones that have sacred, traditional or other significance to Maine's tribes in order to develop a process to give ownership of these resources to the tribes (these records may be designated confidential). The commission would identify resources to fund the cost of transferring these lands and waterways to the tribes and examine the process used by the Federal Government to designate these resources as federal protected areas.

According to the Department of Agriculture, Conservation and Forestry's [website](#), most of the land that is covered by water in Maine is publicly owned. This structure of ownership gives everyone the right to use these waterways for “fishing, fowling (hunting), and navigation.” The website goes on to state that these “were considered essential public rights, and the State of Maine has retained these rights, and included public access and recreation.”

Publicly owned submerged lands include:

- **Coastal region:** All land from the mean low-water mark out to the three-mile territorial limit. (Impact on commercial fisheries, aquaculture, hunting, fishing, recreation?)
- **Tidal rivers:** All land below the mean low-water mark of tidal rivers upstream to the farthest natural reaches of the tides. (Impact on aquaculture/fisheries, hunting, fishing, recreation?)
- **Great ponds:** All land below the natural low-water mark of ponds that are 10 or more acres in size in their natural state. (Impact on private property owners, hunting, fishing, recreation?)

- **Boundary rivers:** Land lying between the banks of rivers that form Maine's border with Canada. (Impact on industry, private property owners, hunting, fishing, recreation, dams, border security?)

The State also holds public easements on nontidal navigable rivers and streams. (Impact on hunting, fishing, industrial uses, dams, recreation?)

Leases or easements are required on these lands for pipelines, utility cables, **outfall/intake pipes** and dredging. Not mentioned on the website, but also of great public value are the **dams** that are permitted to operate on Maine's rivers and waterways. Many of these dams are necessary for mill operations.

The transfer of these valued public resources would impact all residents of the State of Maine and could be problematic for our wood manufacturing facilities (i.e. Pulp and paper mills, biorefineries) and municipal treatment plants that obtain permits to operate on Maine's rivers. This would especially be true if the tribes continue to push for full sovereignty, which would include the right to set environmental regulations on public resources that move between ownerships (air, water and wildlife). If this were to happen, the tribes could achieve Treatment as a State Status, allowing them to bypass the state to work directly with the federal government in setting regulations that apply beyond the borders of their lands, and in this case, waters. These new standards may or may not be achievable for towns and manufacturers who would be excluded from the tribal regulatory process.

In addition to discharge permits, some mills rely on dams for their operations. Currently, two of the tribes outlined in this Legislation have successfully stalled the licensing process at FERC for the Shawmut dam, threatening the viability of Maine's largest pulp and paper mill. This is just a preview of what we fear would happen should the State transfer ownership of these water resources.

Before I conclude, here is a little bit of history that is important to understand as you consider this legislation. In the early 1970s, Passamaquoddy Tribe laid claim on nearly 12 million acres of Maine, resulting in litigation and eventually, recognition and an agreement between the State, the Passamaquoddy Tribe and the Penobscot Nation that ended the land dispute. This arrangement, which was agreed upon by all parties, was approved and ratified by Congress with the Maine Indian Claims Settlement Act of 1980.

The settlement provided significant benefits to the Penobscot and Passamaquoddy tribes, including:

- A fund of \$54.5 million (\$202 million when adjusted for inflation to today's dollar) for the acquisition of up to 300,000 acres of land;
- \$16 million in federal tax incentives to compel landowners to voluntarily sell land for inclusion in tribal land holdings;
- a \$27 million trust fund for Maine tribes.

When the Tribes agreed to the Settlement Acts, they effectively extinguished the tribe's claims to at least 12 million acres of land in Maine, so consideration of this bill before you today, we feel, is an attempt to alter the terms of the agreement in a way that would hurt Maine's economy.

The state holds public waterways in trust for all Maine people, so they should not be transferred to tribes who are only a part of the population that uses these resources. Transferring public lands and waters to tribes means they would be governed by tribal ownership rights, which will be different from public ownership rights.

For these reasons, the Maine Forest Products Council urges you to vote 'Ought Not to Pass' on LD 1349. I would be happy to answer any questions you may have.