

TESTIMONY OF TIMOTHY C. WOODCOCK ON BEHALF OF THE MAINE FOREST PRODUCTS COUNCIL ON L.D. 1626, “AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE TASK FORCE ON CHANGES TO THE MAINE INDIAN CLAIMS IMPLEMENTING ACT”

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My name is Timothy Woodcock, I am attorney with Eaton Peabody, P.A., and I am offering testimony on L.D. 1626, “At Act to Implement the Recommendations of the Task Force on Changes to the Maine Indian Claims Implementing Act.”

The Maine Forest Products Council represents the forest industry with over 30,000 direct and indirect jobs in the forest management and wood manufacturing business, with 8 million acres of forestland land in the state of Maine. In many areas of Maine, the Tribes are neighbors of Council members and fellow landowners, we are all part of a natural resources environment.

Over the last several decades, Council members have developed close relationships with the Tribes, sharing road, fighting fires, combatting insect infestation, and, protecting the environment. In the management of forest lands, the interests of Council members and the Tribes are intertwined. They have worked cooperatively to better manage this wonderful natural resource and its surrounding environment of which they - the Council members and the Tribes—are stewards.

It is with great reluctance, therefore, that the Council has reached the conclusion that it must oppose the jurisdictional sections of L.D. 1626 in their current form. At the same time, the Council supports the efforts the Governor's Office and the Tribes have made to find common ground in L.D. 585 and hopes those efforts will bear fruit.

L.D. 1626 would eliminate the current jurisdictional structure over land and natural resources. This is a system that has been in place for more than 40 years. It is well known to all in the forest products industry, the State, the Tribes, private landowners, and, forest products harvesters and wood product manufacturers.

The rules governing forest resources are, for the most part, issued by departments of the State of Maine. The State places high demands on the landowners and the Tribes in the management of these resources. The consistency and expertise of these officials provides a measure of predictability to our efforts which, in turn, allows us to grow the resource as well as our businesses and provide livelihoods for our employees, their families, and the communities in which they live.

L.D. 1626 would remove that system and replace it with one governed by "federal Indian law"—a term that lacks clear meaning and which would likely generate considerable litigation. This new and radically different

regulatory system would bring uncertainty and additional expense to the forest products industry. It could result in conflicting regulations—state, federal, and tribal—and raise questions as to which controls. For example, if differing water quality standards are established in a common watershed, which standards would prevail? And, how many years of litigation would it take to get the answer.

L.D. 1626 would enable the Tribes to impose environmental standards, equal in legal stature with that of the State, and, very likely even stricter. These standards would apply in all tribal lands which, in Maine, not all contiguous with the Tribes' reservations as is true a tribal lands in most states, but are spread all over northern and central Maine. This would bring great uncertainty to the environmental-regulatory framework that now governs Maine's forest lands.

L.D. 1626 would also allow the Tribes to acquire land in trust anywhere in the state. Neither the State nor the affected municipality would be able to prevent the government from taking land in trust, as they now can. As soon as the land took on "Tribal Land" status, it would also take on the new and uncertain jurisdiction structure that L.D. 1626 would make possible. It would place a cloud of uncertainty over all our ability to replace lost woods markets

and hamper our ability to attract modern, high quality natural resource businesses to Maine.

Of still further concern is that, under the terms of the federal portion of the settlement act, if the Legislature were to amend the Maine Implementing, which it can only do with the consent of the Tribes, and were later to conclude that some or all of the changes were not working, it could not unilaterally repeal or amend them. The consent that Congress gave to amend the Maine Implementing Act requires the Tribes' consent L.D. 1626 presents the very real risk that, if enacted into law, the State could find itself locked into statutory consequences it never intended; that is, Maine could effectively lose its ability to control rule-making not only for tribal lands, but any lands in that area or region. This is particularly true with respect to clean air and clean water standards where effects arising upstream or downstream or through the shifting impact of wind patterns could be profound.

All this uncertainty could be avoided if the Tribes had specific regulatory objectives they would like to achieve and we could all meet and discuss them before adopting them. If the Tribes were open to that process, the Council would gladly participate.

We understand that the Tribes have serious concerns about the jurisdictional and regulatory laws under the settlement acts. We also

understand that for most purposes the Legislature has the approval of Congress to change the Maine Implementing Act, if the State and the tribes agree. The Maine Forest Products Council supports efforts by State representatives and the Tribes to reach agreement on very particular changes to the Maine Implementing Act's jurisdictional framework and would review with great interest any such proposals.

In addition, the Council is more than willing to work with the Tribes and State representatives and the Legislature to address tribal and State concerns.

We stand ready to participate in an inclusive and searching review of the settlement acts as they now stand, listen in good faith to the Tribes' concerns, and, work with all concerned towards changes in the Maine Implementing Act that work for the Tribes and for us all.

I appreciate your consideration of these remarks.

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