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Testimony

LD 489 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to a Healthy Environment

*Presented by Representative Rena Newell, Passamaquoddy Tribe to the
Environment and Natural Resources Committee, Tuesday, March 8, 2021.*

Good morning Senator Brenner, Representative Tucker, and other distinguished members of the Joint Standing Committee on Environment and Natural Resources Committee. I am Tribal Representative Rena Newell from the Passamaquoddy Tribe at Sipayik.

Thank you for the opportunity to present for this committee's consideration of LD 489 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to a Healthy Environment. I also extend thankful greetings to Senator Maxmin and all others that have brought us here today.

Although, the Passamaquoddy Tribal Citizens are guaranteed to exercise their protected rights to enjoy life, liberty, and happiness, as other Maine citizens under the state constitution.

For the past 18 months, I have been working with others to remediate the unsafe drinking water conditions of the Passamaquoddy Tribe at Sipayik.

I have included in my testimony, written articles of reference that can expand upon what I have just mentioned.

["Tribal leaders seek to end decades-long ordeal, bring clean water to Pleasant Point"](#)

["Dirty water causes our communities to lose sight that they are worthy of clean water"](#)

Passamaquoddy Tribe

In addition, as a result of the limitations set upon the tribes under the Maine Implementing Act to exercise our sovereign rights to access and provide clean water to the Passamaquoddy Tribal Citizens of Sipayik from the lands we own has threatened our right to living healthy within our environment.

It is from the above-mentioned experience, that I ask for you to accept this testimony *in full support* of this resolution that proposes to amend the Constitution of Maine. Thus, to grant all humans, regardless of race, ethnicity or income to have the same rights to clean water, air and healthy environments.

At this time, I'll be happy to answer any questions that members of the committee may have.

Woliwon.

Tribal leaders seek to end decades-long ordeal, bring clean water to Pleasant Point

 mainebeacon.com/tribal-leaders-seek-to-end-decades-long-ordeal-bring-clean-water-to-pleasant-point

Robby Lewis-Nash

September 24, 2020



On windy days, the water that comes out of the taps on the Passamaquoddy reservation at Pleasant Point runs greenish brown. On a particularly bad day, it can be nearly black.

“It’s been a long time that we haven’t been able to drink our water here on the reservation,” said Denise Altvater, a Passamaquoddy tribal council member.

Over the past 40 years, there have been many attempts to address the water quality issues and find a new source to supply Pleasant Point and neighboring communities, but little has changed.

One major stumbling block is the unique legal arrangement between the State of Maine and the tribes of the Wabanaki Confederacy. For generations, tribal governments in Maine have been prevented from controlling natural resources on tribal land.

Now, a group of Passamaquoddy leaders have renewed efforts to work with local, state and federal officials to resolve some of the problems that have denied them clean water: from the rural district’s lack of funds to jurisdictional restrictions tied to limitations on tribal sovereignty.

More than 40 years of problematic water

The public water supplied to Pleasant Point—or Sipayek in Malecite-Passamaquoddy—and Eastport is provided by the Passamaquoddy Water District (PWD), a quasi-municipal water utility formed by an emergency act of the Maine Legislature in 1983 to take over operations of the failing Eastport Water Company.

“[T]he present water system is inadequate and in need of immediate improvement and repair to protect the quality of the water service...an adequate supply of pure water is essential to the health and well-being of the customers of the Eastport Water Company,” the 1983 act reads.

Long before the emergency action, Pleasant Point residents were skeptical of the water then provided by the Easport Water Company, but contamination was officially recognized after the passage of the 1974 federal Safe Drinking Water Act, which required water utilities nationwide to dramatically increase testing and monitoring.

“I remember the notices started coming around, that tests were coming back with high rates of— I don’t know what you would call that— and we were scared. But we were already not drinking the water, it was already in the community that you didn’t drink the water,” Altvater said, reflecting on her childhood, now more than 50 years ago.

Today, water quality violation notices continue to arrive at households served by PWD as periodic contamination events occur.

“LEVEL OF TOTAL TRIHALOMETHANES IN THE DRINKING WATER EXCEEDS FEDERAL DRINKING WATER STANDARD,” reads a notice sent to area residents in September 2019. “Some people who drink water containing trihalomethanes in excess of the MCL [Maximum Contaminant Level] over many years could experience liver, kidney, and central nervous system problems and an increased risk of cancer.”

Corey Hinton, a lawyer and member of the Passamaquoddy Tribe, said that many of the circumstances that prompted the legislature’s emergency action in 1983 “are pretty much applicable today.” He said, “The engineers that have looked at this, I think, generally agree that PWD is failing infrastructure.”

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DRINKING WATER NOTICE
(with Certification)

PASSAMAQUODDY WATER DISTRICT (PWSID# ME0090510)
LEVEL OF TOTAL TRIHALOMETHANES IN THE DRINKING WATER
EXCEEDS FEDERAL DRINKING WATER STANDARD
for the period 4/1/2019 to 6/30/2019

Water tests recently conducted show that the average level of total trihalomethanes in the water system at this facility is **83.6** parts per billion (ppb). This is above the maximum contaminant level (MCL) allowed for total trihalomethanes in drinking water which is **80 ppb (0.080 ppm)**.

What You Should Do:
There is nothing that you need to do at this time other than to be aware that the water has total trihalomethanes above the allowable level and to take any precautions your doctor advises if you have specific health problems.

Possible Health Effects:
Some people who drink water containing trihalomethanes in excess of the MCL over many years could experience liver, kidney and central nervous system problems and an increased risk of cancer.
Consult your doctor if you have any specific health concerns.

What is Being Done:
Corrective Action: To correct the problem we are going to:
We are looking at alternative treatment methods and possibly a new source of supply.

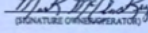
We anticipate resolving the problem by asap. We will inform you when this problem has been corrected.

For more information, please contact:
Mark McCluskey (PRINT PWS CONTACT NAME)
207-873-5164 (PHONE #)
A.T. Rodason Engineers (LOCATION/ADDRESS)

**Please share this information with all other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing this notice in a public place or distributing copies by hand or mail.*

CERTIFICATION: By signing below, you certify and attest that you have notified consumers about the above listed violation in accordance with the delivery, content, format requirements, and deadlines, as specified in 40 CFR 141, Subpart Q and 22 M.R.S. § 2615.

Method Used: Mail Hand-deliver Newspaper Postings (cannot be sole method of distribution)


(SIGNATURE OF OPERATOR) (DATE NOTICE DISTRIBUTED)

*Return a copy of this completed/signed notice to the Maine DWP at the following address:
Maine Drinking Water Program, 11 State House Station, Augusta, ME 04333-0011

Drinking Water Program • www.mdeq.com • Phone (207) 287-2070 • TTY Users: Dial 711 (Maine Relay) • Fax (207) 287-4172



Watch Video At: <https://youtu.be/lQXCDPYUke8>

PWD sources its water from Boyden Reservoir, which is located in Perry and is fed by Boyden Lake (a source that PWD inherited from the Eastport Water Company). Unlike groundwater sources, lakes and reservoirs contain varying quantities of organic matter, such as leaves and other natural debris that can fall into the water throughout the year. When water containing organic matter is disinfected for public use, a group of chemicals called trihalomethanes (THM) can form. THM are toxic to humans in large doses and are widely considered to be carcinogenic, though the severity of their impact on human health is disputed and not fully understood.

THM content is low in most municipal water supplies, but because both Boyden Reservoir and Boyden Lake are shallow bodies of water containing relatively large quantities of organic matter, THM concentrations in PWD water can fluctuate dramatically with weather events.

In 2018 and 2019, PWD water had THM concentrations above the MCL for three quarters of each year, according to data from the EPA Safe Drinking Water Information System.

In addition to spikes in THM, PWD has also had problems with water clarity, also known as “high turbidity,” discoloration and odor. It’s not uncommon for water coming from the taps serviced by PWD to be brown or yellow, according to multiple Pleasant Point residents. A particularly severe example of this occurred on June 16 of this year, when a power outage suspended activity at the PWD treatment plant and multiple residents reported black and brown water pouring into their sinks.

“During windy and wet weather periods the shallow lake stirs up bottom sediments and the outlet stream is flushed causing Boyden Reservoir’s water quality to be turbid and contain high levels of dissolved organics,” according to a statement from the Maine Center for Disease Control and Prevention, which oversees the Maine Drinking Water Program (MDWP).

These fluctuations tend to be the most dramatic in the summer when water levels are at their lowest and the reservoir and lake are more susceptible to disturbance by wind, rain, and other weather events.

“The [PWD] water treatment plant is one of the hardest plants to run, not because of the plant but because of the source,” Mark McCluskey of A.E. Hodson Engineers of Waterville, which consults for the PWD, told the *Quoddy Tides* in January 2019. “Similarly designed plants elsewhere in the state do not have these problems.”

“You add that to the fact that we live in the poorest county in the state, that on the reservation unemployment is even higher than in surrounding towns, and that we live in such a remote area. You add that all to the mix, and it just intensifies the unacceptableness of all of this,” said Altvater.

Regulators say that in-between these contamination events the water provided by PWD is safe to drink and in compliance with federal drinking water standards, but years of notices of contamination and persistent problems with color and odor have led many people at Pleasant Point to avoid using the tap water completely.

For some residents, this means purchasing bottled water at the store. For others who can’t afford store-bought water, a spring in nearby Robbinston has long provided an alternative source where containers can be filled and brought home. Because of the ongoing drought, however, that spring nearly dried up this summer, leaving many residents to rely on bottled water donations from Wabanaki Public Health or, when those aren’t available, to drink the water from the tap.

“At this point in time, as we experience a global pandemic, what we know is that people need fresh clean water to bathe in, and to drink,” said Lisa Sockabasin, director of programs for Wabanaki Public Health. “And at this time, we can’t guarantee that the water that’s coming through the faucet is fit to do either one of those things.”



Denise Altvater at her home in Pleasant Point. | Andrew Clark, Beacon

Financial strain; a rural utility and unique tax structure

In addition to the specific difficulties associated with treating Boyden Lake water, operating rural utilities like PWD is generally challenging, in part due to a limited customer base.

While named after and initially funded by the Passamaquoddy tribal government, PWD was formed to continue to supply three communities with clean water: Pleasant Point, Eastport and Perry. Although PWD no longer serves customers in Perry, it is still managed by a board of five representatives: three from Pleasant Point, one from Eastport, one from Perry.

The populations of Pleasant Point and Eastport both hover around 1,000 people and, according to Ann Bellefleur, PWD's business manager, the utility has only 840 connections.

PWD's customer base has shrunk since its formation in 1983, as all Perry residents previously connected to its services now obtain water from private wells. In an overhaul of water mains and delivery infrastructure in the 1990s, PWD decided to end services for their remaining customers in Perry and to dig them private wells instead as a cost-saving measure, according to Richard Clark, who has been a member of PWD's board for over 30 years.

Some of these private wells have also have quality issues, with a 2018 study by MIT finding that 15 percent of Perry wells exceed EPA standards for arsenic.

“We had to make decisions around what’s cost-effective,” said Clark, explaining why the PWD processes lake water. “They’ve looked into aquifers, and other things, but the money for these kinds of projects isn’t there.”

On top the financial constraints due to PWD’s small customer base, the utility also has a unique tax structure. Every other water utility in Maine is tax exempt, but PWD is taxed by the towns in which it operates, Eastport and Perry. The taxes were challenged by the Passamaquoddy in 1998 in a case that went to the Maine Supreme Judicial Court, where they were upheld.

“There were challenges made to the fact that this district was being treated differently, unequally from all other water districts. And the court essentially said that’s how it was set up; to be treated differently,” said Hinton. “I cannot discern a single policy rationale for that because the reason that water districts and utilities like this tend to be exempt from taxes is because their ability to deliver services in rural places with few customers is very, very challenging from a resource perspective.”

PWD, said Hinton, “needs that money to pay for clean water, and here they don’t have that.”

While Bellefleur says the district is financially stable and will continue “providing safe, clean, drinking water,” tribal leadership says that PWD’s revenue is insufficient to fund the kind of infrastructure upgrades that could resolve the contamination issues permanently — such as locating a municipal supply of groundwater.

Hinton estimates that such a project would cost \$10-20 million, “the sort of money that could only come from Congress,” he said.



The water tower at Pleasant Point. | Andrew Clark, Beacon

Restrictions on sovereignty stand in the way of clean water

Two fundamental circumstances underlie the water crisis: a lack of funds to address inadequate public infrastructure in a low-income, rural area; and Maine’s limited recognition of tribal sovereignty.

Under current law as defined by the 1980 Maine Indian Claims Settlement Act, tribes in Maine are treated more like municipalities than sovereign nations and have limited authority to utilize natural resources on tribal lands, including the groundwater below them.

Vice Chief Maggie Dana of the Passamaquoddy at Pleasant Point explained during an Aug. 17 information session that previous efforts to secure an alternative source of municipal water have been hampered by the Tribe’s current legal standing with the state.

“As far as sovereignty, the state doesn’t want to recognize our sovereignty. And this in particular is about water sovereignty. We have solutions, and every time that we’ve tried to resolve our own problems — and that’s what sovereignty is — we get blocked from the state or restricted,” said Dana.

For example, most tribal governments in the U.S. have the ability to regulate and permit use of water resources on tribal lands without state government oversight; this is not the case for tribes in Maine. The Pleasant Point tribal government recently dug a well to be equipped with

a hand pump on tribal lands in an effort to provide immediate relief to residents most impacted by the dirty water. Because Maine requires a permitting process for such a well, this is slated to take months. Pleasant Point residents say that with the historic drought this summer, they need clean water now, but lack the autonomy to access it.

These same restrictions on well regulation have also prevented safe groundwater from being accessible to Pleasant Point's elementary and middle schools. There has long been a policy that students cannot drink the PWD water and bottled water has been provided in its place. With the recent construction of a new school, a well has been dug to provide the new facility's water fountains and kitchen with groundwater. However, state regulations again have prevented the tribal government from independently testing and permitting that well, effectively blocking its use for the time being.

In 2014, the Tribe had nearly secured an alternative municipal water supply by drilling a well on tribal lands, which fall within the boundary of neighboring Perry. However, a test of that well negatively impacted some of the surrounding private wells, leading to the town passing a municipal ordinance limiting well activity; a local ordinance that may not have had jurisdiction over tribal actions if Maine fully recognized tribal sovereignty.

The relationship between the State and the tribes is under renewed scrutiny as the Maine Legislature is set to consider a bill that would expand Maine tribes' governing power through a series of changes to the 1980 Maine Indian Land Claims Act. However, it remains uncertain whether legislators will reconvene for an emergency session this fall, or if the bill will have to be reintroduced next year. Republicans have repeatedly refused to attend a special session and Gov. Janet Mills has not exercised her executive authority to compel them to return.



Vice Chief Maggie Dana of the Passamaquoddy Tribe at Sipayik speaking in support of LD 2904 on February 19, 2020. | Sunlight Media Collective

“I think it’s long been understood that there’s a split in the relationships between the Tribe and the state of Maine,” said Passamaquoddy state Rep. Rena Newell, who added that over the past 18 months there’s been “a lot of time, a lot of effort, a lot of dedication and resources” to educate people about why tribal sovereignty is so critical.

“Water is our way of life, it’s necessary to live, and it has a direct tie-in to what we’re talking about when we talk about [this bill] and the components and those recommendations,” Newell said.

The Maine Department of Environmental Protection has not responded to questions about how well permitting would be impacted by passage of the legislation.

Tribal leaders including Dana are concerned that further delay of an emergency session in Augusta could jeopardize LD 2094’s passage. They say they need to have their rights recognized in order to take significant action on the water crisis and other challenges facing the tribes.

“We’re thankful that the state is working with us —but just in my opinion — it’s not enough,” said Dana. “They’re going after the small, low-hanging-fruit type of feel-good changes... but the hard issues are not being addressed.”

“We do all this work with the state for a couple of years, and then to get this far and see what’s going on at the State House, that they don’t want to come back into session...it’s very frustrating,” Dana said.

Investigating solutions

In February, Passamaquoddy leadership convened the first of many government stakeholder meetings to address the water crisis at Pleasant Point. In attendance were representatives from PWD, the Maine State Drinking Water Program (MDWP) and the U.S. Environmental Protection Agency (EPA). They began attempting to identify short, medium, and long-term solutions to the water crisis.

Short-term solutions include increasing testing of PWD water throughout the delivery system to gather data, which would help the utility apply for grants to help pay for upgrades. This information would also be used to keep residents better informed about contamination events. Previously, testing was only performed at the PWD treatment plant and a location in Eastport.



On August 17, Pleasant Point resident Sandra Lewey cleaned and filled a pool so her grandchildren could cool off. The water came out brown. | Courtesy of Sandra Lewey

The group has also identified a series of relatively small infrastructure upgrades that would help in the medium-term. PWD plans to install new treatment equipment at the Pleasant Point standpipe, which is anticipated to reduce THM content by 30-40 percent. This project will be partially funded by a MDWP grant from the new Imminent Risk to Public Health State Grant Fund, that “will allow Community Public Water Systems (PWS) serving a population of 3,300 or less to apply for a grant to mitigate imminent risks to public health,” according to the MDWP. PWD has been invited to “pilot” the new funding source to address the ongoing THM contamination.

Passamaquoddy leadership is also working to dig and permit a well on tribal land where a small pump could be installed to provide groundwater on the reservation. This well would not be a municipal source of water, but a location like the Robbinston spring where residents could fill water vessels for personal and household use.

The possible long-term solutions the stakeholder group have discussed focus on the central question: how can a source of clean, municipal water be brought to the district? The EPA is working with the Tribe to fund a feasibility study to consider three different solutions: tapping a groundwater source in neighboring Pembroke, tapping a groundwater source on tribal lands in Perry, or a major overhaul of the current PWD infrastructure.

A similar feasibility study was conducted between 2010 and 2014, and culminated in the drilling of the well on tribal lands in Perry, the 2014 stress test raising water level and quality concerns and the subsequent municipal ordinance blocking well development without town oversight.

Discussions on the new feasibility study have acknowledged that the historic tensions with Perry must be addressed if a groundwater source on tribal lands within the town is to be pursued. Tribal leaders hope to identify a source that could bring clean water to everyone within the district, including Perry residents.

“It’s absolutely necessary that we work together, that we communicate and we collaborate to find resolution to the issues. Our neighbors are in Eastport, our neighbors are in Perry, these are our neighbors. But more importantly, across the whole entire state of Maine, we’re all neighbors,” said Rep. Newell.

For Hinton, the issue with the abandoned well comes back to tribal sovereignty.

“If the Tribe was able to put that land in trust and use that well, the way that it was developed and built to be used, we could have had clean drinking water five, six, seven years ago,” he said.

While the scope of the tribal sovereignty legislation is broad, tribal leaders believe that its passage would have significant implications for the water crisis at Pleasant Point, and possibly bring solutions within reach.

“When the water you consume relates to the health impacts or the longevity of a people, that’s a big statement. I keep thinking of systematic oppression, and it keeps coming back to that. And it’s very tough that when we have these problems and we want to fix them, we keep running into walls or restrictions,” said Dana.

“We need to do more than say words,” Dana added. “We need action.”

‘Dirty water causes our communities to lose sight that they are worthy of clean water’

 mainebeacon.com/dirty-water-causes-our-communities-to-lose-sight-that-they-are-worthy-of-clean-water

Robby Lewis-Nash

October 12, 2020



This is the second story in our two-part series on the water crisis on the Passamaquoddy reservation at Pleasant Point. You can read the first installment [here](#).

“How safe is the Passamaquoddy Water District (PWD) water?” reads a 1987 headline in Eastport’s *Quoddy Tides*. The article reports that water testing between 1977 and 1981 “showed levels of trihalomethanes (THMs), a potential human carcinogen, as high as three to four times the tolerable level in the district’s water.”

To this day, the question of whether the water is safe to drink continues to trouble residents of the Passamaquoddy Pleasant Point reservation. The PWD water that pours from the taps at Pleasant Point has suffered routine discoloration and odor for decades, all while public notices of THM contamination have continued to arrive.

Concern about whether the water is contributing to the high rates of cancer and other health disparities at Pleasant Point is both widespread and unknown. But the fact that the Passamaquoddy community has lived with this situation for so long may have had additional impacts on their well-being.

Lisa Sockabasin, director of programs at Wabanaki Public Health, the public health district serving tribes in Maine, said it’s important to consider what “is done psychologically to communities when they are ignored, when they are provided dirty water to come out of their faucet.”

“Those are the aspects,” she said, “that I think we are missing when we only examine cancer clusters, or when we only examine the physical harm something is actually doing in the community, rather than, ‘What is that emotional impact? What is that emotional harm?’”

“Oftentimes, we tend to blame the people for having problems, and then those problems result in disparities,” Sockabasin continued. “This is not a personal responsibility issue for the people experiencing this disparity and this inequity and injustice. This is a problem with society, and how we ignore — or choose to address—the issues we choose to address.”

Some troubling signs

Despite numerous upgrades to the district’s water treatment and delivery infrastructure since the PWD was formed in 1983, the utility continues to supply the communities of Eastport and Pleasant Point with water that suffers from sporadic THM contamination. In 2018 and 2019, quarterly testing showed the district’s water exceeded the federal THM limit of 80 parts per billion for three quarters of each year, according to public drinking water data from the U.S. Environmental Protection Agency.

In addition to THM contamination, PWD has violated legal limits for turbidity, a measure of water clarity.

When water quality violations occur, customers of the water district receive notices describing the potential health impacts of the contamination, and what action will be taken to resolve it.

“Some people who drink water containing trihalomethanes in excess of the MCL [Maximum Contaminant Level] over many years could experience liver, kidney, and central nervous system problems and an increased risk of cancer,” reads a notice from Sept 2019. “We are looking at alternative treatment methods and possibly a new source of supply...We anticipate solving the problem by ‘asap’. We will inform you when this problem has been corrected.”

Residents of Pleasant Point and Eastport have received these notices sporadically since 1979. Over the past 20 years, public notices of water quality and monitoring non-compliance have been issued 49 times — 22 of these notices were for THM and a similar group of organic



Entering Sipayik, or Pleasant Point. | Kylie Tompkins

chemicals called haloacetic acids. These notices, in addition to persistent problems with discoloration and odor, have led much of the community at Pleasant Point to avoid drinking the tap water at all costs.

“We don’t know what the health impacts are. We just know that PWD sends us notices saying, ‘Yeah, our water could be killing you,’” said Corey Hinton, a lawyer who is Passamaquoddy and working to resolve the ongoing water crisis.

There is limited scientific consensus on the severity of the health impacts caused by THMs. These chemicals are often classified as “possible” or “potential” human carcinogens. Yet recent studies have suggested THMs pose more significant health hazards than previously thought.

In addition to the warnings about THMs, the discoloration and odor issues serve as regular reminders that the water quality is far from ideal. And despite the persistence of these quality issues, the combination of private and government entities tasked with addressing the problem have failed to find a lasting solution.

The story of THM

THM regulations were first imposed as a result of the 1974 Safe Drinking Water Act. At the time, data on the chemical make-up of public water supplies was lacking, leading the U.S. Environmental Protection Agency, which is charged with regulating and protecting public water supplies, to conduct a nation-wide investigation.

“A comprehensive national survey was conducted, and we learned that every water supply that was chlorinated has at least some trihalomethanes (THM), and some has quite a lot...So that was really the first new drinking water regulation,” said Dr. Joe Cotruvo, director of the EPA Standards Division at the time, in an oral history of the 1974 SDWA.

By the end of the 1970s, the water supplied to Pleasant Point was identified as one of these sources with “quite a lot” of THMs.

When chlorine is added to a water supply as a disinfectant, it neutralizes the microorganisms that cause water-borne diseases like typhoid or cholera; because of this, chlorination of water has largely been heralded as the most influential public health innovation of the 20th Century. However, chlorine will also react with organic matter in a water supply, causing a class of hundreds of chemicals called disinfection-by-products (DPB) to form. THMs are a kind of DPB, and are monitored in water supplies world-wide “as indicator chemicals for all potential harmful compounds formed by the addition of chlorine to water,” according to the U.S. Centers for Disease Control and Prevention (CDC).

The content of organic matter in water supplies varies, but in general, surface water supplies such as lakes and reservoirs contain substantially more organic matter than groundwater. The water provided to Pleasant Point comes from Boyden Reservoir, a surface source with

high organic matter content, which leads to sporadic spikes in the treated water's THM concentration.

Since THMs were first identified in 1974, many studies have been conducted to assess their impacts on health. Some have demonstrated that high doses of THM are toxic to humans, causing liver and nervous system damage; other studies have shown high doses of THM in animals to be carcinogenic.

Further studies have also demonstrated that *drinking* THM contaminated water isn't the only means of environmental exposure. THM can vaporize at room temperature and "inhalation and dermal absorption in the shower accounts for more exposure to THMs than drinking water," according to the CDC.

What remains unknown are the human health impacts resulting from chronic, long term exposure to small quantities of THM, like the quantities that can arise from chlorination of a water supply. "Human health effects from DBPs at low environmental doses or at biomonitored levels from low environmental exposures is unclear or unknown," reads the CDC website.

Most scientific literature reviews of the chemicals' health impacts acknowledge that much is still unknown, and stress the importance of regulating and continuing to study THM.

However, a 2020 study of European water supplies conducted by the Barcelona Institute for Global Health suggests that nearly five percent of all cases of bladder cancer across Europe are attributable to long-term exposure of THM in drinking water.

"[O]ur results suggest that current THM exposures in the European Union may lead to a considerable number of bladder cancer cases that could be avoided by optimizing water treatment, disinfection, and distribution, among other measures, without compromising the microbiological quality of drinking water," concluded the authors.



*Brown water fills a sink at a house on Pleasant Point. |
Kylie Tompkins*

While the implications of this study are serious, it takes years for such findings to be incorporated into broader scientific consensus and regulatory policy. And, given the importance of disinfecting water, many countries like the U.S. continue to permit low levels of THM in drinking water.

However, some countries with sufficient public resources have imposed stricter regulations on THM. In Denmark and the Netherlands, THM content is limited to 25 parts per billion; in Germany, Hungary, and Luxembourg, THM are limited to 50 parts per billion.

The U.S. EPA holds that water with THM concentrations below 80 parts per billion has no known health impacts on the people who consume it.

These European policies reflect what is known as the “precautionary principle,” a concept used in public health and environmental science that says that in situations of scientific uncertainty, environmental and health hazards should be limited *before* there is proof of harm. In the case of THM regulation, precautionary policies establish lower limits on THM in drinking water and call for alternate methods of water disinfection in order to avoid exposure to these chemicals until they are better understood or proven to be safe.

Many factors determine a community’s health

At Pleasant Point, many members of the community have expressed suspicions that the PWD water has contributed to unusually high cancer rates on the reservation.

However, the lack of scientific consensus on the health impacts from THM exposure and the general lack of public health data on tribal populations in Maine make it difficult to determine if there is a causal relationship between the PWD water and health disparities among the Pleasant Point community.

“[T]he places where we live, work and play, income, wealth and poverty, social networks, racism and many other factors determine our health as a population,” reads a 2010 community health profile of the Passamaquoddy published by Wabanaki Public Health. Pleasant Point is one of two Passamaquoddy reservations in Maine, and both are located in Washington County.



A kiddie pool filled with brown water.

According to the report, the Passamaquoddy population experiences disparities in multiple measures of community health when compared to the overall Maine population, including higher rates of cardiovascular disease, diabetes and hypertension.

At the same time, income and employment levels are significantly lower for Passamaquoddy people. Mean annual household income among the Passamaquoddy population in 2010 was \$16,250 compared to \$35,147 in Eastport and \$43,818 in Washington County.

Sockabasin said these disparities must be considered in a broader context if their causes are to be identified.

“When you see a problem and poverty together, and lack of political capital, you need to ask the question: Is this just an infrastructure issue?” said Sockabasin, referring to the water crisis. Throughout the summer, Wabanaki Public Health has been donating and delivering bottled water to Pleasant Point to ensure residents have access to clean water.



A woman fills up jugs of water at a well site in Robbinston, which is located 9 miles from Pleasant Point. Passamaquoddy tribal members have depended on this well for their clean water for many years. It has not run consistently since spring, leaving community members to seek clean water elsewhere. | Kylie Tompkins



Community members unload a donation of bottled water from Hannaford, which was coordinated by Erika Farnlof of Wabanaki Public Health. | Kylie Tompkins

Sockabasin holds that while it is difficult to measure the precise health impacts of PWD water, or to quantify THM potency as cancer causing agents, the water contamination still has negative impacts on the community's health.

“Our people are bathing in smelly water; they’re dirtier when they come out of the water. What does that do? I would never want to be in a position where I had no choice. And that’s what we’re putting people in,” said Sockabasin. “When you have communities that are experiencing great levels of disparity — generational disparities, holding generational trauma — there are so many factors in that community or in that individual that can contribute to poor health outcomes.”

Densie Altvater, a Pleasant Point resident and tribal council member, described her mother warning her to not drink the water nearly 50 years ago. Altvater said that many of her friends and neighbors have had cancer and that many in the Pleasant Point community have long wondered, “Is our water harming us?”

“Is it common for an individual to have known so many people that die in so short of a period of time?” asked Altvater. “Good, best friends. My mother just died from cancer two years ago.”

A history of abuse and distrust

Health disparities in tribal populations have persisted, in part, because of policy bias in the collection of public health data. For years, indigenous people and other racial and ethnic minority groups have been under-represented in data from state administered public health surveys.

“What our systems are really good at doing is making vulnerable communities invisible,” said Sockabasin. “So just like we usually set up our structures and our programs in government to be made for the general population, and not people of color, our data systems do the same thing.”

Traditional health surveys administered by the state are usually conducted over the phone. Sockabasin said that when state surveyors call, it is their job to ask for sensitive personal health information. However, indigenous people or people of color may be reluctant to provide this information for reasons of historical significance.

A well known example is the exploitation of African American men by the U.S. Public Health Service in the syphilis study at Tuskegee University, also known as the Tuskegee Experiment. Similar practices have been carried out by the U.S. government on indigenous people, such as the forced sterilization of indigenous women in the 1960s and 70s. In Maine specifically, the removal of Wabanaki children from their families as a result of the 1978 Indian Child Welfare Act was found to amount to cultural genocide, according to the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission.

Recognizing the distrust of government and the reluctance of tribal communities to participate in public health surveys, as well as the need for improved data collection on tribes in Maine, Wabanaki Public Health completed its first tribal health assessment in 2010. This survey relied on in-person interviews to collect data, a method that proved exceptionally successful as it earned a 95 percent participation rate, “which is unheard of in survey science,” said Sockabasin.



Sunset at Pleasant Point. | Kylie Tompkins

The need for self-determination to build a healthy future

When the water crisis at Pleasant Point was officially recognized by the Maine Legislature in 1983, it was before the PWD existed. Prior to 1983, the district's water utility was privately owned and operated by the Eastport Water Co., which had supplied the area with water from Boyden Lake for over 100 years.

At the time, it was thought that the construction of a water treatment plant and an overhaul of the utility's water mains and pipes would resolve the water contamination issues. This project was estimated to cost nearly \$2.5 million (\$9 million today when adjusted for inflation), which was approximately five times the utility's estimated value. Instead of investing in upgrades, the owners of the Eastport Water Co. decided to sell, leaving the small, rural communities it supplied in a predicament: invest millions to purchase and upgrade the utility, which was sure to be a less-than lucrative investment, or lose the area's water supply altogether.

The City of Eastport considered buying the utility for years but eventually declined to do so. Ultimately, the Passamaquoddy tribal government funded the purchase of the water utility and the PWD was created as a quasi-municipal corporation by the Maine Legislature to own and operate it.

At the time, the Pleasant Point tribal government had funds from the 1980 Maine Indian Claims Settlement Act, which were being used to construct much of the buildings and tribal infrastructure that stands today. According to Hinton, the Tribe's purchase of the water

utility “was essentially an investment for the greater good and not really an investment just for the Passamaquoddy community.”

Jeff Jenks, an engineer with Maine Department of Health and Human Services, told the *Quoddy Tides* back in 1987, “One can’t take years of neglect and turn it around in a few months. The PWD was set up by people when no one else would. They have had the public spiritedness to take over a difficult task.”

By many accounts, completion of the PWD treatment plant in 1989 and the overhaul of the utility’s water delivery infrastructure did notably improve the water quality — but just not enough.

In the years since its formation, the PWD has continued to pursue projects to improve the district’s water, utilizing upwards of \$14 million in state grant funds, according to the Maine Drinking Water Program. While many of these upgrades were expected to resolve the water quality issues, THM contamination, yellow and brown discoloration, and sulfurous smells continue to plague the water.

“Water is a way of life in order to survive,” said Passamaquoddy state Rep. Rena Newell, who noted that water isn’t just for drinking. “Showering, doing the dishes, doing your laundry, rinsing your foods...as much as you can bring bottled water in to drink, you still have to use the water in a sense.”

In recent years, the Pleasant Point tribal government has made further attempts to resolve the water crisis. In conversations with government representatives and other stakeholders, they have identified possible solutions from the small scale — digging of a well equipped with a hand-pump so residents can access groundwater on tribal lands — to identifying and sourcing a new municipal supply of groundwater. However, restrictions on tribal sovereignty imposed by the state have limited the Tribe’s ability to pursue these solutions.



Samaqanihkuk, the Passamaquoddy locative word for water, is the name of the new well site for the Passamaquoddy Tribe at Pleasant Point. The water well site will serve as a Transient Public Water System and is awaiting permit approval from the state. | Kylie Tompkins

As the Tribe’s efforts continue, a recent report from the state’s Commission on the Status of Racial, Indigenous and Maine Tribal Populations highlighted the importance of racial and ethnic minority communities wielding the autonomy to address the physical, social, and economic health disparities that impact these groups disproportionately.

“Racial, Indigenous, and Maine tribal populations are the best deliverers of our/their own livelihood and healing,” the Commission’s report reads. “Structural racism has undoubtedly limited the ability of these communities to build the institutions and infrastructure that exist for white Mainers. In order to begin to change that, the State must invest directly in these communities’ self-determination. Racial, Indigenous, and Maine’s 16 tribal populations must lead the way in developing the infrastructure we/they need to heal and rebuild.”

For Sockabasin, granting tribes and other communities of color the autonomy to address institutional infrastructure problems will allow more than physical and economic health to improve; it could begin to heal the emotional harm caused by the PWD water, and perhaps even the centuries-long deterioration of trust between Wabanaki communities and the state of Maine.

“Dirty water causes our communities to lose sight that they are worthy of clean water, that our children need, deserve, and will receive clean water,” she said.

“You socialize communities to scarcity. You socialize communities to a place of emotional harm,” Sockabasin continued. “How does that impact our ability to dream and see a different future for our children, for our elders, for ourselves, for the generations that come after us? And that’s what this water issue is doing, it’s stomping on the dreams of the people to be able to have a healthy future not just for ourselves but for the generations that come after.”

Top photo: Community members sort donations of bottled water to the Passamaquoddy Pleasant Point reservation. | Kylie Tompkins

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