

# Town of Carrabassett Valley

1001 Carriage Road  
Carrabassett Valley, ME 04947  
207-235-2646  
207-235-2645

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## **TESTIMONY FROM THE TOWN OF CARRABASSETT VALLEY BOARD OF SELECTMEN REGARDING L.D. 1568 and L.D. 1626 'An Act to Implement the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act'**

May 2021

### The Town's Relationship with the Penobscot Indian Nation:

First and foremost, the Town of Carrabassett Valley (CV) values our relationship with the Penobscot Indian Nation (PIN) which owns 24,000 acres or almost one-half of the land base in our community. We wish to see the Nation succeed and have a bright future. We have continually asked representatives of the Nation to meet with us to discuss our relationship and how we can work together for our mutual benefit and how we can help with any projects or initiatives they or tribal members are interested in here in CV. Our community leaders have worked hard over the past forty years to maintain this relationship.

### History of Settlement Act in Carrabassett Valley:

The Town of Carrabassett Valley is comprised of approximately 54,000 acres, of which, 24,000 acres or almost one-half of our municipality's land base are owned by PIN. Without getting into a lot of specifics of the Indian Land Claim Settlement Act, this land was transferred to PIN as "Fee Land" from Dead River Co. in 1980. Alder Stream Township, an Unorganized Territory, approximately twenty miles north of Carrabassett Valley was part of the Dead River Lands transactions and this land was placed into Federal Trust. We believe the rationale at the time was that Trust Lands should not be located in Organized Towns and Cities (and Dead River Company would not sell the Alder Stream property without also selling the Carrabassett Valley land). The sole purpose of this distinction was not to subvert the Town and State standards of zoning, environmental protection agencies and land use ordinances. Thus, the PIN land in Carrabassett Valley has remained Fee Land.

**Our Issues with L.D. 1568 and L.D. 1626:** Our community is unique with respect to this legislation and we have significantly more impacts in terms of our land base affected by this legislation (24,000 acres) than any other town in Maine. While there are many concerns with this legislation including the potential for significant legal challenges due to erroneous legal assumptions and very ambiguous language in this legislation that should be amended, the following are our primary concerns (referring to L.D. 1626):

Section 5. 6205 (6)—page 10: The most concerning and impactful change to the Settlement Act is the change that states “acquisition of trust land is not subject to approval by the State or any local government within the State”. This is a significant infringement of municipal Home Rule in Maine. A “Nation” with 24,000 acres or one-half of our Town’s land base would be created within our Town with no vote of our citizens. We would ask the members of the Judiciary Committee how the voters of their respective communities would react to one-half of their Town’s land base being converted to Federal Trust land without your voter’s approval!

Section 5. 6205 (2) B-1:—page 8: Why does this paragraph, relating to Indian territory, pertain only to six counties in Maine? This seems like political expediency that exempts the entire Southern Maine (if section 5. 6205 (6)—page 10. Acquisition of additional trust land is removed).

Section 5. 6205 (2) B-1 (2) (a)---page 8: The Indian tribe and the municipality must enter into an agreement under which: (1) They make an annual payment in lieu of property taxes on the land that equals the amount of taxes levied on that land prior to the date on which they acquire the land (1980?) or (2) is mutually agreeable to the tribe and the town or that is established by an arbitration panel. At the very least, this section needs to be amended to reflect an amount of the current taxes plus some form of annual inflationary increase. It also raises the question of how the Town is to collect this “payment in lieu of taxes” if the payment is not made.

The potential loss of property taxes and related Tree Growth Tax law reimbursement to our Town on these 24,000 acres is not huge but it is important. This proposed legislation takes away the ability of municipalities to tax tribal trust lands and gives the tribes the right to tax tribal members or tribal entities on these lands within our community. A question has been raised as to who is responsible for paying for educating students who reside on Trust Lands? Is the “payment in lieu of taxes” adequate to pay for other municipal services? Is the State going to reimburse the towns for this loss of tax revenue?

Section 5. 6205 (2) B-1 (2) (c-page 8): Regarding Land Use Regulation: This indicates that land use must be consistent with land use provisions prior to the Indian Nation acquiring the land (that’s 1980 and we have enacted additional land use regulation since that time) or is consistent with existing uses of land occurring within our Town. Which is it? And this is determined by an arbitration panel? Our Town is a progressive mountain resort community dependent upon strict guidelines for development. This is too important to leave to an arbitration panel as opposed to a vote our citizens.

In addition to a potential loss of State or Town wood harvesting regulations on these lands, a casino, a wind tower project or other projects could conceivably be built with no Town approval process. In our community, hundreds of our home owners whose properties abut PIN land would lose the protection of the Town’s Zoning Ordinance which they now have.

Even more concerning to us is Section 5. 6205 (6)—page 10. Acquisition of additional trust land: Because the 24,000 acres of Indian Land in Carrabassett Valley is currently “Fee Land” and not “Trust Land” this legislation would allow acquiring in trust the lands in Carrabassett Valley and this “acquisition of trust land is not subject to approval by the State or any local government with the State”. All of the so-called agreements mentioned above would then not be required and the Town would be left with no ability to collect a payment in lieu of taxes and with no land use requirements in place on this land. This provision would allow the tribes to acquire Trust Lands anywhere in the State with no approval or property tax or land use regulation requirements in place, as long as it isn’t “territory”.

This legislation is very ambiguous and could be subject to extensive litigation. As explained in detail in our lawyer's testimony on these bills. Copies of L.D. 1568 and L.D. 1626 have just recently been available to the public (about a week prior to this public hearing). We understand that this legislation is similar to legislation introduced in the 129th Legislature. Unfortunately, the Legislative Task Force that was created in 129th legislature that led to this legislation was poorly formed with absolutely no municipal representation. We ask that this process allow for additional input and consideration by all affected parties including municipal representation.

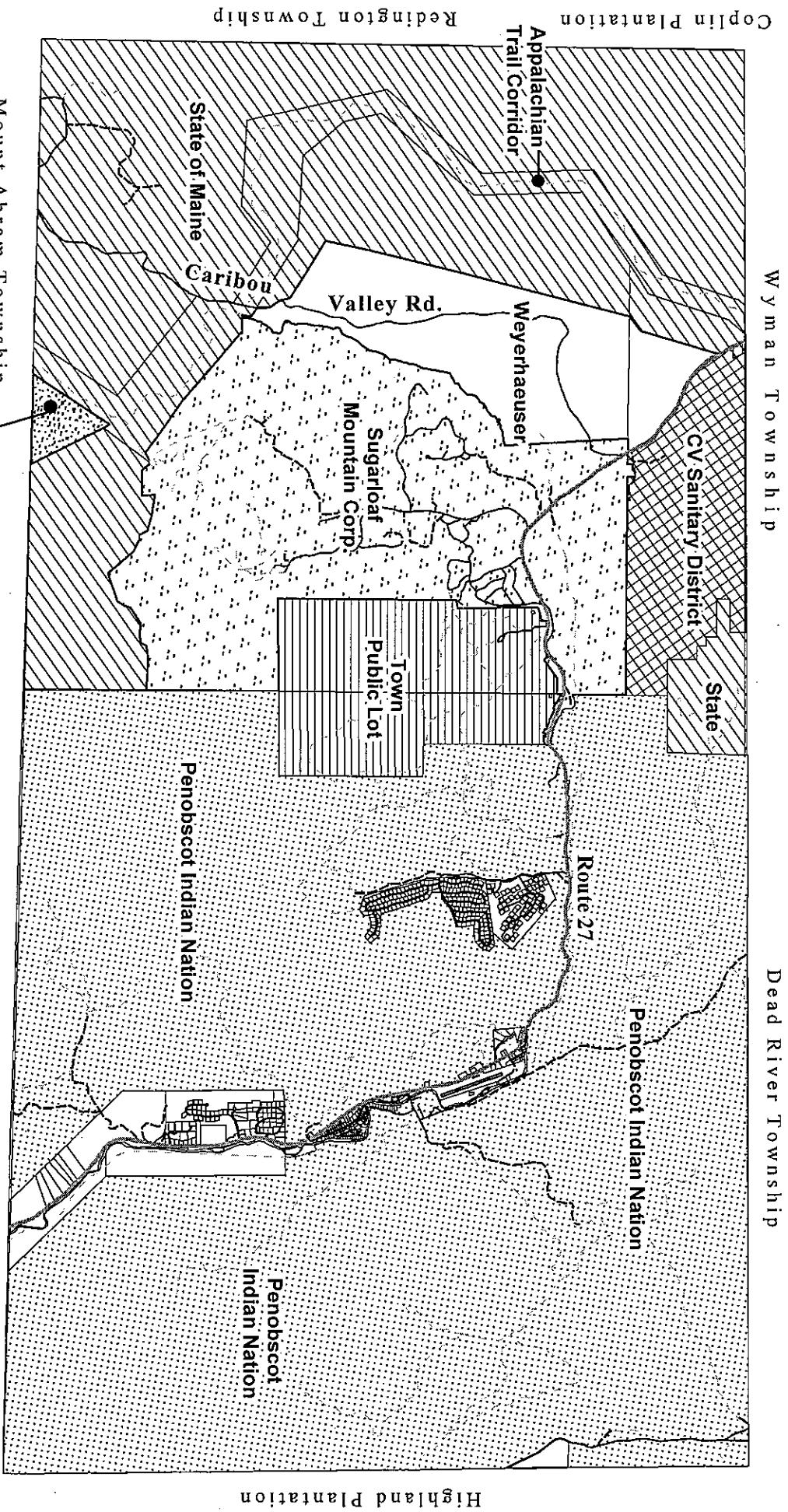
Changes to the Indian Land Claims Settlement Act may have very serious consequences. The original Settlement Act has stood for over 40 years and is well understood. These bills will result in re-starting the litigation that has resulted in those understandings.

While there may be cause for improving the Tribes rights to Sovereignty, this legislation unfairly places much of burden on the Town of Carrabassett Valley as we are singularly impacted in terms of our land base. We are however, very serious about meeting with Penobscot Indian Tribal Leaders to work together to come up with ideas and solutions for our mutual benefit. That includes negotiating the conversion of their Carrabassett Valley lands into Trust Land designation. We are committed to working to make that happen if given the opportunity but we need to be able to negotiate this in good faith and allow our citizens to participate (vote) in this process.

Thank you for listening to our concerns. Please let us know if you have any questions.

Respectfully Submitted,

Board of Selectmen  
Town of Carrabassett Valley



# Large Landowners

## Carrabassett Valley, Maine

2019

