

**130th Maine Legislature  
Joint Standing Committee on Judiciary  
February 17, 2022**

**Testimony of Gerald D. Reid  
Legal Counsel, Governor Janet T. Mills, neither for nor against L.D. 906  
*An Act to provide Passamaquoddy Tribal Members Access to Clean Drinking Water***

Senator Carney, Representative Harnett, members of the Judiciary Committee, my name is Jerry Reid, I am Chief Legal Counsel to Governor Mills, and I am here today to testify on L.D. 906, a bill that would amend various statutes, including those within the *Maine Implementing Act*, 30 M.R.S. 6201 *et seq.*, to address concerns about the quality of the drinking water at the Pleasant Point Reservation. This is an issue that I am familiar with and very much want to see resolved to the Tribe's satisfaction.

When I was serving as Commissioner of the Maine DEP in 2019, I visited the Pleasant Point Reservation to meet with Tribal leaders and learn about the issues that were most important to them. They immediately identified the quality of the drinking water as one of their leading frustrations. Although DEP does not directly regulate drinking water, I pledged to do whatever I could to make sure this important issue received the attention that it should.

When I returned to my office, I called the Tribe's attorney, Corey Hinton who provided me with more background. Attorney Hinton and I agreed to organize a meeting with all the people who would be required to make progress. As part of that I called the Regional Administrator of EPA in Boston, as well as Mike Abbott of the Maine Drinking Water Program, both of whom were eager to do what they could to help. We all gathered for another meeting at Pleasant Point, with Tribal leaders, representatives of the Passamaquoddy Water District, and engineers. That began an on-going search – described in more detail in testimony from the Drinking Water Program on this bill – for the best solution to the problems Tribal and non-Tribal customers of the Water District have experienced with their drinking water. My hope is that collective tribal-state-federal effort will conclusively resolve the problem, and knowing the commitment of those involved, I expect that it will.

As for L.D. 906, we agree that Sections 1 (regarding property taxes) and Section 2 (regarding changes to the Implementing Act's land acquisition provisions) are appropriate responses that will help in addressing the water quality challenges. Our concern with the bill as drafted is with sections 3 through 7 of the bill, which would amend the Implementing Act in ways that could allow the Tribe to become the primary regulator of the Passamaquoddy Water District. As noted in other testimony, that Water District is a non-tribal entity that serves not only the Pleasant Point Reservation, but also the neighboring towns of Perry to the west and Eastport to the east. We do not believe it would be practical or appropriate for this Water District to be simultaneously regulated by two entities – the Tribe within the Reservation and the State in the adjacent towns. The Water District uses the same water and integrated piping and infrastructure to serve all its customers, Tribal and non-Tribal. Its operations are supported by a base of ratepayers that include both the Tribe and customers in the neighboring towns. Its integrated operations should be regulated by a single entity.

We also believe a jurisdictional change would not advance the effort to solve the water quality problem. This is not a case of lax or incompetent regulators; it's an engineering challenge presented by the current water source. It's also not clear whether the Tribe could be approved for primacy to administer the Safe Drinking Water Act and regulate a part of an integrated water district that also serves nearby towns. To the extent necessary, we urge the Committee to seek legal guidance from the Attorney General's office on that question.

For these reasons we support sections 1 and 2 of the bill, which we believe will help solve the drinking water issues in these communities, but do not support sections 3-7, which we believe would not be helpful and could be counterproductive. We are also eager to work with the sponsor on the underlying issue the legislation addresses.

Thank you and I would be happy to answer any questions you may have.