

MAINE STATE LEGISLATURE

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Taking of Marine Resources by Passamaquoddy and
Penobscot Tribal Members

Report to the Joint Standing Committee on Marine Resources,
119th Maine Legislature, by the Maine Indian Tribal-State
Commission Pursuant to Public Law 1997, Chapter 708

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The New Law

During the 118th Legislature, Passamaquoddy Tribal Representative Fred Moore introduced LD 2145, "An Act Concerning the Taking of Marine Resources by Members of the Passamaquoddy Tribe." On April 3, 1998, Governor Angus King signed the legislation into Maine law as PL 1997, Chapter 708. The new law specifies a process for regulation by the Passamaquoddy Tribe of the taking of marine organisms by tribal members. It also states the following:

The Maine Indian Tribal-State Commission shall study any question or issue regarding the taking of marine resources by members of the Passamaquoddy Tribe and the Penobscot Nation. The commission shall report any findings and recommendations to the Joint Standing Committee on Marine Resources by December 15, 1998.

Over the years, the Maine Indian Tribal-State Commission (MITSC) has had some discussion about, but very little involvement with, issues involving marine resources. This is because a major focus of the Maine Indian Claims Settlement Act of 1980 is on the regulation of inland fish and wildlife within Indian Territory. As a result of the new law, MITSC is becoming more active in the area of marine resources.

The Commission

MITSC offers a forum where the State and the Tribes can discuss issues about which they have differing views. With an annual operating budget of \$45,000 (50% state revenues and 50% tribal revenues), MITSC operates on a part-time basis. Created by the Maine Indian Claims Settlement Act, MITSC is an inter-governmental entity with five statutorily specified responsibilities:

- To continually review the effectiveness of the Act and the social, economic, and legal relationship between the Passamaquoddy Tribe and the Penobscot Nation and the State. 30 MRSA §6212(3)

- To make recommendations about the acquisition of certain lands to be included in Passamaquoddy and Penobscot Indian Territory. 30 MRS §6205(5)
- To promulgate fishing rules on certain inland waters. 30 MRS §6207(3)
- To study and make recommendations about fish and wildlife management policies on non-Indian lands, to protect fish and wildlife stocks subject to regulation by either Tribe or MITSC. 30 MRS §6207(8)
- To review petitions by the Tribes for designation as an "extended reservation." 30 MRS §6209(5)

The People

Four of MITSC's members are appointed by the State, two by the Passamaquoddy Tribe, and two by the Penobscot Nation. The ninth, who is the chairperson, is selected by the eight appointees. Attachment A is the list of MITSC members.

With the death of MITSC Chair Richard Cohen on April 13, 1998, MITSC worked hard to find strong new leadership. After contacting and interviewing several excellent candidates, MITSC unanimously voted on May 27, 1998 to offer the position of MITSC Chair to Cushman D. Anthony, Esq. The principal in the Portland firm of Cushman D. Anthony Dispute Resolution Services of Maine, Mr. Anthony specializes in divorce and family law mediation. A State Representative in the Maine Legislature from 1986-1992, he was a member of the Judiciary Committee, the Committee with jurisdiction over the Settlement Act.

New Committee

To carry out its new charge specified in Chapter 708, MITSC established a Marine Resources Ad Hoc Committee to make recommendations to the full Commission on marine resource issues. Attachment B is the list of Ad Hoc Committee members.

The Ad Hoc Committee met for the first time on November 23, 1998, and learned that, the week before, the Joint Tribal Council of the Passamaquoddy Tribe had enacted an ordinance, setting forth procedures for the tribal issuance of marine harvesting licenses, as provided Chapter 708. At the meeting, Ad Hoc Committee members agreed to ask the Tribes what they consider to be "the outstanding questions and issues in relation to marine resources" on which MITSC should focus and concerning which the Ad Hoc Committee should formulate recommendations for MITSC's consideration.

Issues and Questions

The Ad Hoc Committee has written to ask the Passamaquoddy and Penobscot Tribal Councils to formulate a list of issues and questions. The Committee will discuss these issues and questions, undertake any research required, and bring forward the issues and questions as agenda topics for meetings of MITSC. MITSC will share any findings and recommendations with the Joint Standing Committee on Marine Resources and the Tribal Councils.

Attachment A

Maine Indian Tribal-State Commission

Chair

Cushman Anthony, Esq.
120 Exchange Street, Suite 208
Portland, Maine 04101

State Appointees

Alan Brigham, Director
Policy and Planning
Department of Economic and
Community Development
59 State House Station
Augusta, Maine 04333-0059

Mike Hastings, Director
Maine Aquaculture Center
141 North Main Street
Brewer, Maine 04112

Frederick Hurley, Jr.
Deputy Commissioner
Department of Inland Fisheries
and Wildlife
41 State House Station
Augusta, Maine 04333-0041

Evan Richert, Director
State Planning Office
38 State House Station
Augusta, Maine 04333-0038

Passamaquoddy Appointees

Eric Altvater, Tribal Member
Pleasant Point
PO Box L
Eastport, Maine 04631-0913

Robert Newell, Tribal Member
Indian Township
PO Box 848
Princeton, Maine 04668

Penobscot Appointees

John Banks, Director
Department of Natural Resources
Penobscot Nation
6 River Road
Indian Island, Maine 04468

Mark Chavaree, Esq.
Tribal Counsel
Penobscot Nation
6 River Road
Indian Island, Maine 04468

Executive Director

Diana Scully
MITSC
PO Box 87
Hallowell, ME 04347

Attachment B

Subcommittee Members

Chair:

Michael Hastings, MITSC Member, State of Maine
(Executive Director, Maine Aquaculture Center)

Members:

Eric Altvater, MITSC member, Passamaquoddy Tribe at Pleasant Point

John Banks, MITSC member, Penobscot Nation

Wane Loring, Penobscot Nation,

Ed Nicholas, Passamquoddy Tribe at Pleasant Point;

Marge Peacock, a teacher at the Beatrice Rafterty School, Pleasant Point

Allen Talbot, Sergeant, Maine Marine Patrol