

Summary of
LD 2094
and the
22 Consensus
Recommendations

MAINE INDIAN CLAIMS SETTLEMENT ACT TASK FORCE CHANGES

May 13, 2020
Hosted by Drummond Woodsum

AGENDA

1. Introduction by Toby McGrath
2. Presentation regarding the 22 Task Force Recommendations and LD 2094
3. Q&A with Penobscot Nation Ambassador Maulian Dana and Passamaquoddy Representative Rena Newell

RULES OF THE ROAD

1. All attendees will be on listen-only mode until the Q&A part of the agenda
2. Please submit questions directly to Toby McGrath via Zoom's chat feature at any point during the presentation.
3. You will be able to “raise your hand” to ask follow up questions after submitted questions are addressed during Q&A, time permitting.

REVISIONS TO THE MAINE IMPLEMENTING ACT

Task Force Subject Areas

- Criminal Jurisdiction
- Fish & Game
- Land Use and Natural Resources
- Taxing Authority
- Gaming
- Civil Jurisdiction
- Federal Law Provisions
- Trust Land Acquisition

Summary: In general, once approved by the State of Maine, the revisions will create opportunities for Tribes to exercise Tribal law over activities occurring on Tribal lands and to receive equal treatment under federal law.

Adoption Process: Each Tribe will have to adopt the revisions through a referendum of the Tribal membership. If approved, the Tribal Council will then have to create Tribal laws that implement those revisions.

HOW DID WE GET HERE?

- ***Joint a Tribal Council, of the Passamaquoddy Tribe v. Morton***, 528 F.2d 370 (1st Cir. 1975)
- 1980 Federal and State Settlement Acts
- Previous to 1980 Tribes in Maine were under federal laws
- **Example of repercussions:**
 - Tribes across the country can directly request FEMA funds for federal disasters. Tribes in Maine are not able to. That would have been useful during the 1998 Ice Storm. It would also probably be beneficial considering the Climate Change crisis.
 - Penobscot Nation HAD gaming on Indian Island. They had high stakes bingo. State of Maine sued, and they had to limit their gaming. Their gaming ultimately ended all together when Penn National opened Hollywood Slots.

WHAT ARE THE TRIBES IN MAINE ASKING FOR?

Fairness & Equity

The Tribes in Maine are only asking to be treated like the nearly 500 federally recognized tribes across the country. Since 1980 the tribes in Maine are unable to access what other benefits the federal government provides to tribes because of a provision in the federal Settlement Act. Maine Tribes must expressly be included in tribal law that is passed nationally. There are 151 laws since 1980 the tribes in Maine do not benefit from

CRIMINAL JURISDICTION

Task Force Recommendations Summary

- Recognize Tribal criminal laws and grant Tribal courts authority to enforce those laws against Indian and non-Indian criminals.
- Implement concurrent jurisdiction with state and federal courts.

Outcome

- Tribal law enforcement will be able to arrest criminals who commit offenses on Tribal lands and bring them into Tribal court to receive due process and a fair trial.

Method of Implementation

- Tribal Councils must create a criminal code of laws to define criminal offenses including juvenile offenses and crimes of domestic violence. A council will also have to create a judicial code for the Tribal court to ensure each alleged offender receives due process and a fair trial.

FISH AND GAME REGULATION

Task Force Recommendations Summary

- Recognize Tribal laws regulating hunting and fishing on Tribal lands.
- Allow State of Maine to continue regulating activities off Tribal lands consistent with Tribal treaty rights.

Outcome

- Non-members hunting and fishing on Tribal lands will be required to comply with Tribal law.

Method of Implementation

- Tribes can continue administer their existing fish and game ordinances regulating fishing and hunting permits.

LAND USE AND NATURAL RESOURCES

Task Force Recommendations Summary

- Restore and affirm Tribes' rights to regulate natural resources and land use on Tribal land.

Outcome

- Tribes will be able to regulate commercial, residential and other land uses on Tribal lands through zoning codes or natural resource regulations that will apply to Tribal members and non-members.

Method of Implementation

- Tribes can continue administer their existing land use and natural resource laws.

TAXING AUTHORITY

Task Force Recommendations Summary

- Recognize Tribal authority to tax Tribal members and entities on Tribal lands. In addition, recognize that those Tribal members and entities located on Tribal lands are exempt from state and local taxation including income, real property, and sales taxes.

Outcome

- Tribes will be able to tax sales, Tribal members, and businesses located on Tribal lands. Tribal members and businesses located on Tribal lands or sales occurring on Tribal lands, will not be required to pay state and local taxes unless they involve non-Indians.

Method of Implementation

- Tribal Councils will have to create and adopt a Tribal tax code.

GAMING

Task Force Recommendations Summary

- Apply the federal Indian Gaming Regulatory Act to Tribes in Maine

Outcome

- Tribes will be able to conduct gaming activities in accordance with federal law and allocate revenues to Tribal members and government programs.

Method of Implementation

- Tribal Councils will be required to develop gaming ordinances to regulate gaming enterprises. Tribes may enter into agreements with the State of Maine to conduct certain card and dice games.

CIVIL JURISDICTION

Task Force Recommendations Summary

- Restore exclusive Tribal civil jurisdiction over Indians and non-Indians on Tribal lands

Outcome

- Tribes will be able to pass laws protecting the health, safety, and welfare of the community that will be applicable to Indians and non-Indians located on Tribal lands. Tribal courts will be able to decide civil actions between Indians and non-Indians including contract disputes and family law matters.

Method of Implementation

- Tribal Councils will continue to pass civil regulatory laws and Tribal courts may revise their rules of civil procedure.

FEDERAL LAW PROVISIONS

Task Force Recommendations Summary

- Amend the Maine Implementing Act to allow federal laws that apply to Indian country to apply to Tribes in Maine.

Outcome

- Existing federal law that applies to Indian country including the Indian Gaming Regulatory Act and Violence Against Women Act will apply to Maine Tribes. Any new federal laws applicable to Indian country will also apply to Maine Tribes.

Method of Implementation

- If federal law requires specific action on the part of Tribes then Tribal Councils will have comply.

TRUST LAND ACQUISITION

Task Force Recommendations Summary

- Amend the Maine Implementing Act to enable Tribes to acquire lands and place them in federal trust land status. In addition, eliminate state and local veto power over trust land acquisitions.

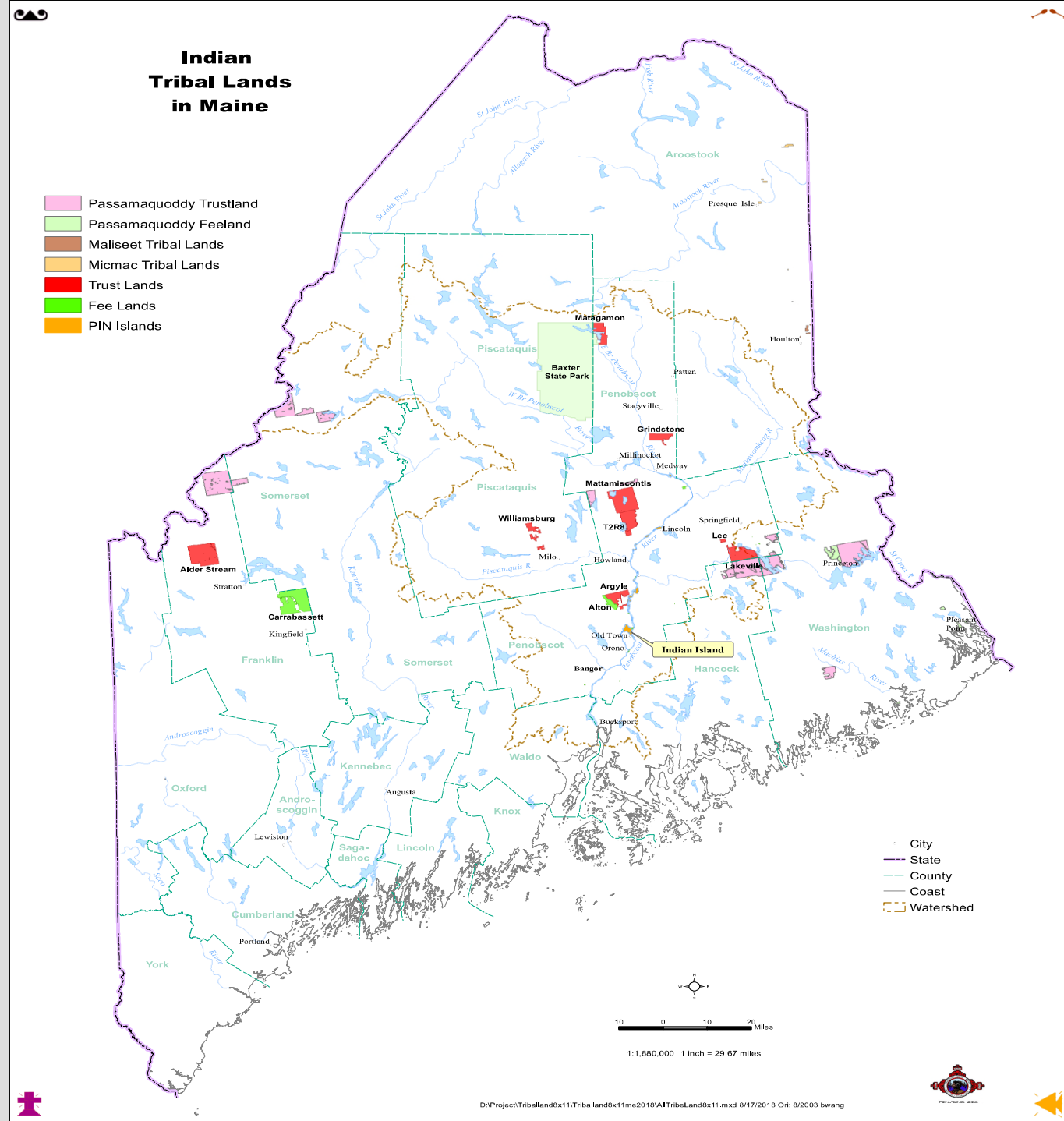
Outcome

- Tribes will be able to convert lands held in fee into federally protected trust land status. Trust lands will be exempt from state and local authority.

Method of Implementation

- Tribal Councils will have to pass resolutions requesting the Secretary of Interior to accept lands into trust status.

Where are the tribes' lands?



Questions?