

I'm often asked "What makes you any different from me?" when I try to explain my Tribe's inherent rights to hunt and fish our lands.

The Treaty of Watertown is what makes me different...

Brian Reynolds

Maliseet

Tribal Administrator, Houlton Band of Maliseet Indians

Hunting and Fishing Rights

Treaties are documents signed between two sovereign nations. All rights of a sovereign nation, including hunting and fishing rights, are retained unless specifically ceded in the treaty- any right not specifically abolished by treaty is retained by the sovereign.

Nationally:

Generally, American Indian people have been fiercely protective of their hunting and fishing rights, ensuring in treaties that these rights were not only recognized, but specifically protected. As time passed, the rights of Native people to hunt and fish in "all usual and accustomed grounds and stations" has been challenged or ignored (Article 3, Treaty of Medicine Creek, 1854, ensuring the tribes in Washington state maintained their rights to hunt and fish on ceded tribal territory).

In the early 1960s, tribes around the country began to assert their rights to hunt and fish through "fish-ins" and other non-violent protests. In some states the courts have confirmed Native claims to the natural resources upon which they depend. Today, as sovereign governments, many tribes work with federal fish and wildlife agencies, conservation groups, and sporting clubs to manage resources, access, and the health of wildlife populations and environmental conditions with great success.

Maine:

The Passamaquoddy and Penobscot tribes have the largest tribally controlled land base in the state, and employ game wardens to assist in wildlife management and to control access. Tribal members from all four tribes can receive lifetime hunting and fishing licenses from the state, excluding licenses awarded through lottery, and are subject to state game laws. The Passamaquoddy and Penobscot have their own game regulations on tribal land, and issue permits to non-tribal members for access to those lands. Subsistence permits for moose are available as well, creating an important cultural link to traditional foods and lifestyle. Elders are often given moose and other native game as part of this program.

The Penobscot River Restoration Project

The Penobscot River Restoration Project has received wide acclaim as one of the nation's most innovative restoration projects. The project is a collaborative effort to rebalance fisheries restoration with hydropower production in the largest watershed in Maine.

The collaborative effort for the Restoration project is unprecedented. Partners in the Penobscot River Restoration Project, including the Penobscot Indian Nation, American Rivers, Atlantic Salmon Federation, Maine Audubon, Natural Resources Council of Maine, and Trout Unlimited, working with the U.S. Department of Interior, the State of Maine, and PPL Corporation, the dam owners, negotiated a final agreement that will redefine the Penobscot River over the coming years. The Nature Conservancy joined as a full partner in 2006.

Project goals include:

- Restoration of self-sustaining populations of native sea-run fish, such as the endangered Atlantic salmon, through improved access to nearly 1,000 miles of historic habitat; and
- Renewal of opportunities for the Penobscot Indian Nation to exercise sustenance fishing rights.

The agreement will allow:

- The Penobscot River Restoration Trust (PRRT) to purchase three dams from Pennsylvania Power and Light (PPL) Corporation, and subsequently remove the two lowermost dams on the river (Veazie and Great Works)
- The PRRT to pursue construction of a state-of-the-art fish bypass around the third dam at Howland
- The PPL Corporation the opportunity to increase generation at six existing dams, which would result in maintaining essentially all of the current energy generation
- The PPL Corporation to improve fish passage at four additional dams.

"Penobscot River Restoration Trust." <http://www.penobscotriver.org/> (February 26, 2010)

Penobscot River Restoration Wabanaki Quote:

The management of off-reservation resources that are culturally important to the tribe creates an interesting challenge. The Penobscot River Restoration Project is a model for how the tribes, as sovereign nations, can partner with other agencies and organizations to manage something that is important to us, and how to deal with the resources that are not on tribal lands.

Darren Ranco

Penobscot

Associate Professor of Anthropology, Coordinator of Native American Research,
University of Maine

Trustee, Abbe Museum

A Foundation of Federal Indian Law

Federal law states that Congress must ratify treaties and oversee federal Indian policy. However, it has been federal and state courts that have shaped the current status of federal-Indian relations and Indian law, in Maine and throughout the United States.

In the early 19th century, Chief Justice John Marshall decided a series of cases that defines Indian law today. In 1828 Marshall ruled that the United States government had acquired free title to Indian land based on the principles established by the Doctrine of Discovery, a precedent set by European Nations allowing the taking of lands unoccupied by Christian people. Marshall ruled that American Indians could sell their lands only to the U.S. government, not to states or to individuals.

The next ruling, responding to the Cherokee Nation's fight against removal from their native lands, declared that Indian Nations were "domestic-dependent nations" – or a nation within a nation. This left the tribes' relationship to individual states ambiguous.

Marshall later clarified that Indian tribes "were like a ward to its guardian," but being wards did not reduce tribal sovereignty. Marshall said that Indians had a "protectorate relationship" with the United States, and did not give up their identity or sovereignty in this relationship. Most importantly, Marshall said, "protection did not imply destruction of the protected."

Hunting and Fishing Rights Newspaper Headlines:

Tribe claims authority over fishing: Passamaquoddy action angers Down East guides, sporting camp owners.

By Diana Graettinger

Bangor Daily News

April 7, 2000

The Passamaquoddy Tribe has left anglers dangling as they try to determine if tribal wardens can impose fines on fishermen who stray into reservation waters.

The Maine guides at the meeting wondered how the tribal wardens would impose the restrictions and fines. 'Let's tell them our concerns, our feelings and our fears, and let's hear theirs. Maybe we can come to some kind of compromise.' Guide John Speed suggested.

Passamaquoddy fishing rules plan angers anglers

By Diana Graettinger

Bangor Daily News

April 12, 2000

Fishermen are stocking up on ammunition rather than fishing gear, Bailyville resident Danny McPhee warned the Town Council Monday night. 'You got a lot of people going down to Wal-Mart stocking up on ammunition instead of fishing gear, and I'm serious.'

Fishing rights claim rejected: Opinion: Large water bodies beyond tribal jurisdiction

By Diana Graettinger
Bangor Daily News
April 14, 2000

The Passamaquoddy Tribe does not have jurisdiction over large lakes and rivers in eastern Washington County, a state Attorney General's Office opinion concluded Thursday. The Indian Land Claims Settlement Act is quite clear on this point. [The law] limits the tribe's exclusive authority regarding fishing to 'any pond in which all the shoreline and all submerged lands are wholly within Indian territory, and which is less than 10 acres in surface area.'

Hunting and Fishing Rights Wabanaki Quotes:

As the original stewards of the Penobscot River, we demand the right to care for its health.

James Eric Francis Sr.
Penobscot
Tribal Historian, Penobscot Indian Nation

We don't have control over hunting and fishing rights on tribal lands, but we want this control. The tribe doesn't employ a game warden yet. But we never signed away our hunting and fishing rights. There are two treaties from the 1700s that guarantee these rights.

Richard Dyer
Micmac
Housing Director, Aroostook Band of Micmacs

We have moose permits available for non-tribal members, but they need to hire one of our guides for the hunt. The revenue this generates goes to support tribal sustainability and pays our own people. The guides also create revenue that goes into the community. This is an important link between our traditions and who we are today.

Billy Nicholas
Passamaquoddy
Governor, Indian Township

Hunting and fishing are part of our traditions and part of who we are. We are expanding our hunting and fishing guiding efforts, setting up our own service and certifying our own guides - setting our own standards. This way we can get back to traditional techniques and values because we do things differently than other people. When using tribal guides, people don't care if they didn't get anything because they've learned something different, a different way to view the animals.

Billy Nicholas
Passamaquoddy
Governor, Indian Township

Our people purchased 1,200 acres from a U.S. Department of Agriculture grant, and will be able to use that land for hunting. Right now our people have to follow state hunting

and fishing rules and I don't think that's good, but we haven't had time to fight it in court.

Victoria Higgins

Micmac

Chief, Aroostook Band of Micmacs

We have certified guides who lead hunting and fishing trips on tribal lands. Our history goes back to Thoreau for guiding, so we have a long legacy of great guides. Now we are focused on providing hunts that bring people in to experience a Native hunt for moose or bear, and this has been very successful.

Kirk Francis

Penobscot

Chief, Penobscot Indian Nation

I'm often asked "What makes you any different from me?" when I try to explain my Tribe's inherent rights to hunt and fish our lands. The Treaty of Watertown is what makes me different. The agreement that was reached then, in 1776, was supposed to allow me and all my fellow Wabanaki to be able to provide for ourselves in our aboriginal homelands...including hunting and fishing. Besides, we just do things differently. Hunting is a very spiritual activity, one that I pass down to my sons.

Brian Reynolds

Maliseet,

Tribal Administrator, Houlton Band of Maliseet Indians

Pollution has had an impact on fish. They now have a high level of mercury because Maine is at the end of the pipeline from industry in the Midwest. We have a zero fish consumption policy right now until the levels go down. We have a lab that monitors these levels and keeps data on the health of the fish populations and water. We test water for anyone in the state, not just tribal members.

Richard Dyer

Micmac

Housing Director, Aroostook Band of Micmacs