

12/17/98

Scott Tunnicliffe

in Mass for 1st week

508-372-6055

back by the 29th

he will leave Statamut under
my don if it's not done by
the end of the day.

P.O. 220 Bowdoin

04008

Donald M. Zillman, Dean

115 LAW Building

Portland, ME

X 4344

us - Mr. Rep
Statamut

Dear Dean Zillman,

I am writing to you as the legislative
representative of the Penobscot Nation.
Penobscot Nation has historically sent
delegates to the Maine State Legislature
^{over} since before Maine became a state. The
delegates would travel to Massachusetts.
Our delegate serve in the Maine House

representing

~~of representatives as delegates from the~~
~~Penobscot Nation.~~ Representing the interests
of the Penobscot Nation. ~~we are~~

In the house Chamber and allowed
to speak - we are also allowed

expected

1/1/51

~~There~~ There is one ~~tribally~~ ~~delegated~~ ~~representative~~ representative for the Penobscot Nation and one for the Passamaquoddy Tribe. Our delegates are given all the rights and privileges ~~of a delegate~~ ~~set~~ ~~two~~ other delegates are given with one exception. We are not allowed to vote - in any issue. We are allowed to sit in a Joint Standing Committees, ~~but~~ we can voice our opinions ~~in~~ during committee meetings but are not allowed to vote.

I would like to enlist your assistance as Dean of the law school to perhaps assign an interested student to do some research on the question "What must the Penobscot Nation do to be able to vote?" Perhaps the student could work under the

Severin Belevand of Preti, ^{Supervisor of} FLAHERTY, BELEVANT & PACHIOSE has expressed interest in helping us find an answer. Severin suggests I call you.

Please let me know if you can assist us in this endeavor and what ~~the~~ ~~cost~~



* retain Trust Responsibility

3/25

8/25/85 Feds

Nepdes - Companies discharge directly into reservation waters / we want to retain Fed Nepdes auth. ex: Lincoln

Others not discharging directly into reservation waters but affecting our resources - Fed gov cannot delegate Trust responsibility to the State / James River & Holtra Chem memorandum of understanding is NOT Good Enough!

establish necessary standards to protect users.

STATE

Need to recognize our "unique usage" or "designated usage" based on Tribal cultural and Traditional Activities.

in an agreement of first binding the State to recognize, ~~and~~ support and set potentially higher standards - protect those uses such as Swimmable / fishable.

State is not enforcing existing standards }!

ex: Holtra Chem

Consider our fish consumption rates when setting standards

3/02

Mr. Sullivan



3/25/98

Mr. Sullivan spoke w/ me Sullivan and
 + requested him to write a
 letter stating a good faith effort
 by his department in recognizing
 and preserving our
 cultural traditions in any
 decision making process - he
 said he didn't know if he had
 done that - I stated if
 he had not then there was a
 problem.

STATE

Need to recognize our unique values
 a "desirable" values based on
 Tribal cultural and traditional activities
 is an agreement of spirit
 binding on state to recognize and
 support and not potentially hinder
 standards - protect these values
 as a business / people.

State is not a party to the
 agreement
 consider our own constitution
 when setting standards

EPA / No position for agent

- resources to agents properly
- mechanism in memorandum letter
- MOA btw EPA & SDO
day to day operation
build in to program
Not totally delegated
in accordance w/ MOA
all requirements of Clean Water Act.
State can't issue permit -
Safe guards in memo
↳ say in comment /

CWA Act (actual water quality)
Standards made more stringent
delegated by State or EPA
EPA Standards - through process
petition to State to change water
Class B to Class A
what Class B has to meet
Independent water delegated or /
EPA / ~~approves~~ water quality standards
revising
wouldn't change w/ delegation
- ~~pendents~~ - Jurisdictional case
for I.J. work
push claim - delegation
force fed gov to make

State apply includes
River / Title
on by will be asserted
if they want to pursue
+ hold delegation until
claim is settled
and claim is made
one side will litigate

Part of study by Clin
not make an issue on
dis.

not all a delegate/
EPA = in bill passes

(Sunstein
Question) - write to DOJ attorney
Solicit from DOJ on
opinion is to who has
Jurisdiction.

DOJ initial opinion
litigation - holdup delegation

Independent member
EPA / Attorney General's
delegation

member of staff of delegate
Theodore - jurisdiction on

for DOJ work
given claim - delegation
from fed on to state

EPA - taking back Jurisdiction

unless State delegates by Congress

last clause did not give State authority
in environmental areas

→ internal

Sec 5 - H Fed Act
Mandates + Administrator to certain
tribes set by Tribe

not delegating authority to States
where it impacts Tribes

≡ Must go forward ≡

if process we may have to challenge
exclude discharge or resolution
Exemption from EPA

Felner Case 1st Circuit Appeal

Status of case

Case - opt. Tol w/ CA

- 5th Cir State Ct case

- Internal Tribal matter

or S w/ us first of Ct.
brief.

- Brady issued 1st decision
No Internal Tribal matter

- Higher level - 1st Cir Ct
of Appeals try to set it 1st.
Dists at every level - No real
legal issue

- Now Appellate Ct

Alkins decision - Fed Top

law principals - judge Brady
reversed

- Dept of Labor (China) - Affirmative
Action case - Fed Admin does

- McHinn Rights Act

Judge Madden - Cultural

Hist significance to tribes

is Internal Tribal matter

quest before Fed Ct before

Brady.

Case w/ Dept of Labor

State Ct case on hold.

to wait Brady's decision

- Best piece of evidence letter
for purchase

Some kind of standards not
applied to Indian people
if comparison can be made
by the way /

Complaint by community members

- being on site investigation
Dept given no impression
on res. office.

Independent documentation by
Admin law judge

Fed contracts did not apply.

Cont to assist

Look at records + interview
people

Case we are assisting is
Jurisdictional

Supreme Ct matter - Supreme
Ct would not take case

if law can be passed in
State Ct. State court then
decide when internal tribal
matter is.

Employee claims of T.C.
Concerning T.C. Employees as
Internal Tribal members.

State Ct judge Sup No

we said no employee per but
not of T.C.

pos held by employees was cultural of
historical

- Community Health Care Nurse not
possibly a IAT Tribal matter.

If we lose in appeals at
State or low jurisdiction.

Alkie case - a case of Fed law
of Int Tribal matter.

Ind preference

executive order

Human Rights Commission

State - A.G.

Main State law

D.O.F.

- Indian preference
culture & tradition

factual arguments in the court

- did not argue Ind preference
to him not to terminate

- D.O.L - administrative action (choose
pretrial court is to be prison

- ~~ind~~ pos court - employee of
Tribal gov decision making process

Should not be gov under scrutiny of State law

legislate what is an
internal Title Matter //

"Enter Civil Rights Act claim"

right to make & enforce their
own laws //

(equal protection clause)

focus was too narrow !!!

Dio J Amicus brief

Ed Cohen - effort request
in behalf of Sec of Ind

LIT2 - new Act

3 Judge panel in appeal

in Federal level - legislation -