

## STATE – TRIBAL NPDES MEETING

Tuesday, February 19, 2002 2:00-4:30

Bangor City Hall Council Chambers  
Bangor City Hall, 73 Harlow Street

PARTICIPANTS: State – Gov. Angus S. King, Jr.  
Attorney General G. Steven Rowe  
Commissioner of Environmental Protection Martha Kirkpatrick  
Assistant Attorney General Carol Blasi  
Assistant Attorney General Jerry Reid  
Evan Richert, Director of State Planning  
Deputy Comm. of Environmental Protection Brooke Barnes  
Wayne Douglas, Chief Legal Counsel to the Governor  
Dave Wilby, Policy Advisor to the Governor

Tribes – Chief Barry L. Dana, Penobscot Indian Nation  
Governor Richard Stevens, Passamaquoddy Tribe, Indian Township  
Governor Richard M. Doyle, Passamaquoddy Tribe, Pleasant Point  
Rep. Donna M. Loring, Penobscot Tribal Representative  
Rep. Donald G. Soctomah, Passamaquoddy Tribal Representative  
John Banks, Director of PIN Department of Natural Resources  
Deirdre Whitehead, Passamaquoddy Department of Natural Resources  
(Pleasant Point)  
Trevor White, Passamaquoddy Department of Natural Resources (Indian  
Township)  
Dan Kusnierz, PIN Department of Natural Resources  
Kaighn Smith, Jr., tribal attorney, Drummond Woodsum & MacMahon  
Richard Spencer, attorney, Drummond Woodsum & MacMahon

### AGENDA:

- 2:00 Opening prayer – Chief Dana  
Introductions – All participants
- 2:05 Opening comments – Chief Dana, Gov. King, Gov. Doyle, Gov. Stevens
- 2:20 Concepts for NPDES resolution – Tribal representatives
- 2:40 State reaction – Gov. King and Attorney General Rowe
- 3:00 General discussion – All participants
- 4:10 Future action steps – All participants
- 4:20 Closing comments – Tribal and state leaders

## Basic Premises of the tribes

- Clean water is everyone's goal
- Tribes have special relationship w/ water / unique historic & cultural relationship time immemorial / water is life blood
- gov to gov relationship betw tribes + states  
state & recognize how tribes are gov  
unique gov to gov relationship
- willingness to recognize and trust relationship w/ tribes

Find a way to ensure the state will equally prosper trust relationship

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Model Trust Relationship is foundation of this relationship  
How are presently work w/ EPA / process

- Consultation / review + comment before general public
- EPA has Indian policy
- They are bound to respond to them w/ explanation
- we'd have on final response to their logic

ex: Bad Edge protection / Lincoln pulp + paper (Dixie)

Tribe's use of resources in development contain

recognize tribal uses as factor in issuing permit in absence of a trust relationship. to demonstrate state's recognition  
(Tribal settlement between partners)

- total uses
- special standards
- enforcement of standards that are in place

### Elements of an Agreement for the Tribes:

1. Agree, as well as truly believe, that the overall GOAL of NPDES and the Clean Water Act is clean water for all Tribal and Maine citizens for the many generations not yet born.
2. Acknowledge the unique relationship between the Tribes and the rivers. *- to consider doing more for water protection.*
3. Agree to address all issues regarding NPDES of the Tribe and the Nation in a manner consistent with Government-to-Government relations.
4. Agree to broaden the NPDES program to include consideration of Tribal water uses and cultural practices and adopt a more extensive ecosystem approach.
5. Acknowledgement of the Tribes' existing Federal trust relationship and concerns regarding NPDES permitting as legitimate.
6. Agreement to develop a partnership between the State and the Tribe and the Nation in regards to NPDES permitting authority on Tribal Territory, to include:
  - a. Development of Clean Water Standards that are scientifically defensible, that demonstratively protect water quality, and meet Tribal needs.
  - b. Defining the content of permits issued that impact or have potential to impact Tribal Territories.
  - c. Defining the content of permits issued that impact or have potential to impact Tribal Territories.
  - d. A method of officially and legally including the Tribes in issuance, amendment and enforcement of NPDES permits that impact or have potential to impact Tribal Territories.
  - e. Concurrent and equal decision authority. *- veto?*
  - f. Shared responsibility for monitoring permits that affect Tribal Territories.
  - g. Review and development of a NPDES enforcement policy and authority to include Tribal participation.