

The Honorable Raul Grijalva
Chairman
Committee on Natural Resources
U.S. House of Representatives
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The Honorable Bruce Westerman
Ranking Member
Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515
ken.degenfelder@mail.house.gov

RE: Support for H.R. 6707, *Advancing Equality for Wabanaki Nations Act*

Dear Chairman Grijalva and Ranking Member Westerman,

I am writing in support of H.R. 6707, a bill sponsored by U.S. Rep. Jared Golden, D-Maine District 2, and co-sponsored by U.S. Rep. Chellie Pingree, D-Maine District 1, and Congressional Native American Caucus Co-Chair Rep. Sharice Davids, D-Kansas District 3. Thank you for this opportunity and for the work each of you are doing to improve the lives of all U.S. citizens, including Native Americans who were here for thousands of years before us.

I am a retired Maine journalist with 36 years of experience, including more than 20 years reporting on issues related to the Wabanaki tribes of Maine. Many of those stories dealt with frequent litigation and contentious relations between the state and tribes stemming from the 1980 Maine Indian Claims Settlement Act and the state law implementing it. In my retirement, I have been an active member of the Committee on Indian Relations of the Episcopal Diocese of Maine.

As four Wabanaki tribal chiefs have testified, H.R. 6707 addresses a significant failing of the 1980 Maine Indian Claims Settlement Act that put an asterisk (*) next to the federally recognized Wabanaki tribes in Maine. MICSA contained two particularly unusual provisions that have largely excluded the covered Wabanaki tribes from the application of federal Indian law:

- Section 6(h) of MICSA stated that any previously enacted federal laws for the benefit of Indians, Indian tribes, and Indian lands would not apply to the tribes in Maine if the federal law would affect state jurisdiction, with limited exceptions.
- Section 16(b) of MICSA stated that all future federal laws enacted for the benefit of Indians, Indian tribes, and Indian lands would not apply to the tribes in Maine if the federal law would affect the application of Maine state laws, unless the federal law explicitly stated that it would apply in Maine. This exclusion is unique to the tribes in Maine. No other federally recognized tribe is subject to such a sweeping exclusion from beneficial federal Indian laws.

Section 16(b)'s effect on the Wabanaki tribes is that they have been unable to take advantage of many beneficial federal Indian laws enacted by Congress since 1980 due to state claims that those federal laws would affect or preempt state law in some respect. For more than 40 years that's been the case — resulting in more than 150 beneficial federal Indian laws enacted since 1980 the Wabanaki tribes have been unable to benefit from.

A few examples cited by the tribes:

- Being denied access to Stafford Act funds that would address the opioid epidemic in their communities.

- Having to battle the state for years to use the federal Violence Against Women Act to enhance public safety in Wabanaki communities, efforts repeatedly blocked until a new state law was passed after time-consuming and costly negotiations between the tribes and state.
- Being prevented by the state from recruiting licensed medical professionals under the Indian Health Care Improvement Act, which was permanently authorized in 2010 as part of the Affordable Care Act.

As a Maine citizen I am appalled and ashamed that jurisdictional language inserted at the 11th hour into the 1980 Settlement Act has time and time again been used by the state to deny Wabanaki tribes access to federal programs, funds and initiatives that have benefited more than 570 other federally recognized tribes across the country. H.R. 6707, in my view, is a long-overdue correction of unfair inequalities resulting from Maine's application of section 16(b) to deny the Penobscot, Passamaquoddy, Mi'kmaq and Maliseet people their full rights as U.S. citizens who are members of federally recognized tribes.

Isn't it time for the tribes in Maine to have similar and equal footing to the other 570 federally recognized tribes in 49 other states? I stand with the Wabanaki tribes in asking the 117th Congress to remove the asterisk (*) that's been imposed upon them for more than 40 years under MICSA.

Your committee might reasonably wonder if other citizens of Maine share my unequivocal support of removing jurisdictional obstacles holding back the Wabanaki tribes from full self-governance for more than 40 years. Consider the following:

- More than [1,600 written testimonies](#) were submitted this year in support of LD 1626, a bill to enact 22 consensus recommendations issued by a bipartisan task force established by the Maine Legislature to address long-standing issues with MICSA and the state law to implement it. That might well be a record, according to longtime State House observers.
- More than 100 citizens testified orally in support of that bill during a daylong public hearing held by the Legislature's Judiciary Committee. Only one person spoke in opposition, the governor's chief legal counsel Gerald D. Reid.
- Just this week, on April 11, more than 300 Maine citizens rallied at the State House to support a bill giving the Passamaquoddy Tribe at Pleasant Point the right to regulate its own drinking water following 40 years of complaints about water quality. The [Maine Senate](#) passed the measure in a 21-11 vote on Wednesday, following a 103-35 tally in the House on Tuesday.
- Media clips gathered by the Wabanaki Alliance show that in the past two years more than 400 news articles, editorials, commentaries and letters-to-the-editor have been published about tribal sovereignty issues in Maine. Citizens from all regions of the state have weighed in on these issues, with most expressing support for restoring rights of sovereignty stripped from the Wabanaki tribes in the 1980 Maine Indian Claims Settlement Act.

I offer those examples as a counterpoint to the testimony you received from Patrick Strauch, executive director of the Maine Forest Products Council. I happen to know and respect Patrick,

who I've interviewed for several stories I reported in MaineBiz about the challenges and opportunities facing Maine's \$8 billion forest industry. He does his job extremely well in advocating for the landowners, loggers, truckers, paper mills, tree farmers, foresters and lumber processors and others comprising our state's forest products industry.

But with all due respect I take issue with concerns he expressed in his testimony about companies having to negotiate different environmental regulations on tribal and non-tribal lands if H.R. 6707 is enacted. That fear strikes me as an overstatement, given that the Wabanaki tribes own less than 1% of the 10.5 million acres in Maine's vast North Woods.

To close, I believe most Mainers will stand with the Wabanaki tribes and support this long-overdue legislation sponsored by our U.S. Reps. Jared Golden and Chellie Pingree. The changes called for in H.R. 6707 represent a significant step towards equalizing the federal treatment of Wabanaki tribes in Maine with that of tribes in the rest of the country. Equity and fairness are at the heart of this legislation.

Thank you for your time and consideration of my testimony.

Sincerely,

James McCarthy

cc: Rep. Jared Golden, aaron.sege@mail.house.gov
Rep. Chellie Pingree, evan.johnston@mail.house.gov