

Overview of L.D. 906

An Act to Provide Passamaquoddy Tribal Members Access to Clean Water

This presentation was prepared on behalf of the Passamaquoddy Tribe at Pleasant Point



Background: Water Quality Issues

- For decades, the Passamaquoddy Tribe at Pleasant Point (Tribe) has suffered from a lack of access to clean drinking water
- The Tribe receives water from a state chartered public utility Passamaquoddy Water District (“PWD”), which also supplies water to the neighboring City of Eastport
- Currently, PWD sources water from the Boyden Reservoir – the depth of the lake has diminished significantly over the years and drinking water comes from the bottom of the lake
- Drinking water is consistently tainted by bad odor, poor taste, and discoloration; There are times during the year where the water appears greenish-brown, and on particularly bad days can be black
- Fluctuations in quality tend to be the most stark in the summer when water levels are at their lowest and the reservoir and lake are more susceptible to disturbance by wind, rain, and other weather events

For more information: <https://mainebeacon.com/tribal-leaders-seek-to-end-decades-long-ordeal-bring-clean-water-to-pleasant-point/>



Water Quality Issues: Continued

- Unlike groundwater sources, lakes and reservoirs contain varying quantities of organic matter, such as leaves and other natural debris that can fall into the water throughout the year
- When water containing organic matter is disinfected for public use, a group of chemicals called trihalomethanes (THM) can form
- THM are toxic to humans in large doses and are widely considered to be carcinogenic
- The Tribe delivers bottled water to households to reduce reliance on unsafe and unsightly drinking water
- The on-reservation school has a policy of not allowing students to consume municipal water supplied by PWD and has taken a variety of measures to ensure the availability of clean water to students and staff
- Maine's limited recognition of tribal sovereignty, combined with a lack of funds to fix inadequate public infrastructure in low-income, rural areas, has made it impossible to rectify this critical public health and safety issue



Efforts to Address Water Quality Issues

- Pursuing short, medium, and long term solutions in partnership with multiple stakeholders
- Developed a multifaceted health research project in collaboration with Maine Health and Wabanaki Public Health and Wellness (WPHW) to better understand the impacts water contamination has had on the Passamaquoddy people
- The Passamaquoddy Tribe continues to apply for and obtain grant funding from multiple sources to help support the PWD's efforts to improve water quality, by way of increased testing, data collection, studies to identify alternate supplies of water, development of new wells, and financing key infrastructure improvements
 - Obtained funding to order and install a Granular Activated Carbon filtration system, which is expected to temporarily address THM levels, as well as odor, color, and taste issues with PWD water. The system is expected to cost around \$800-900k. Funding is coming from a combination of state sources and from WPHW.
 - Environmental Protection Agency environmental justice grant to create a quality assurance testing plan and to fund additional filtration systems
- Internal meetings have been held on a regular basis since January 2020; multi-jurisdictional stakeholder meetings are held quarterly
- Introducing L.D. 906 to address jurisdictional roadblocks and provide for additional long-term solutions



Overview of the Legislation

- Provides a property tax exemption for Passamaquoddy Water District (to align with all other water districts across the state and provide additional revenue to address water quality issues)
- Protects access to alternate supplies of groundwater from tribally-owned lands in close proximity to the Pleasant Point Reservation
- Allows the EPA and the Passamaquoddy Tribe to exercise jurisdiction over safe drinking water within Passamaquoddy Territory
- Authorizes the Passamaquoddy Tribe to access protections under federal law like every other federally recognized tribe across the country




Property Tax Exemption

- Section 1 of the bill will repeal the following language in the Passamaquoddy Water District's Charter:

Sec. 15. Property not tax-exempt. The property of the district shall not be exempt from all taxation in the City of Eastport and the Town of Perry or in any other city or town where any part of its plant may be located.

- 36 M.R.S.A. § 651 currently provides a property tax exemption for all other water districts across the State of Maine – the PWD is the only exception because of the language that was initially included in its charter through Chapter 25 of the Private and Special Laws of 1983
- The repeal of the property tax will allow the PWD more resources to cover operating costs associated with water quality upgrades to be implemented in 2022



Accessing Alternate Supplies of Safe Drinking Water

- Section 2 and 3 of the bill provide opportunities to place land into trust – the addition of this land to the Passamaquoddy Indian Territory will not be subject to local approval
- The two parcels identified in the bill are already tribally owned fee land and in the immediate vicinity of the Pleasant Point Reservation
- Sources of groundwater on these parcels have been tested and verified as feasible supplies of community drinking water purposes, with appropriate monitoring, treating, and testing mechanisms in place (federal funding for feasibility study in 2010)



Regulation of Safe Drinking Water

- Sections 4-7 of the bill ensure that the Passamaquoddy Tribe will have jurisdiction over the regulation of safe drinking water
- Identifies the regulation of safe drinking water to be an internal tribal matter
- Authorizes the Tribe to adopt and enforce ordinances pertaining to the regulation of safe drinking water
- Allows for the Tribe to enter into inter-governmental agreements with the State of Maine to exercise concurrent jurisdiction over specific issues related to the safety of drinking water within the Passamaquoddy Indian Territory



Federal Law Protections

- Adds provisions in the Maine Implementing Act to allow the Passamaquoddy Tribe to work directly with the federal Environmental Protection Agency (“EPA”) to regulate drinking water on Passamaquoddy lands pursuant to the Safe Drinking Water Act, in a manner similar to how other tribes outside of Maine can exercise this jurisdiction in coordination with the EPA
- Passage of the bill will not mean that the Passamaquoddy Tribe automatically has exclusive jurisdiction over the regulation of safe drinking water in its territory; initially the tribe would work directly with the EPA and have the opportunity to apply for “treatment as a state” status in accordance with federal regulations



Questions?

