

Talking Points on Jurisdictional Elements of L.D. 906
An Act to Provide Passamaquoddy Tribal Members Access to Clean Water

L.D. 906 is not about imposing new restrictions or standards on the Passamaquoddy Water District – it is about accessing and regulating new sources of drinking water on tribal lands— and **access to clean drinking water is a human right**.

It is an inherent attribute of sovereignty (whether it is state, tribal, or national sovereignty) that a government can decide to use resources within its own territory to benefit its people as needed.

- The Passamaquoddy Tribe is not seeking to regulate an off-reservation water district, nor would it have authority to do so under the Safe Drinking Water Act (SDWA). This seems to be a key concern of individuals opposing the jurisdictional aspect of the bill, but the concern is not based in fact.
- The jurisdictional provisions in the bill are about accessing and protecting sources of safe drinking water that are located entirely within Passamaquoddy Indian territory.
- Under the restrictive Maine Indian Claims Settlement Act, the Tribe currently has extremely limited capacity to regulate drinking water, regardless of whether the water is delivered from an on-Reservation source.
- Given the severity of this ongoing issue at Pleasant Point, it is critical for the Passamaquoddy Tribe to be able to access the same opportunities that all other federally recognized tribes in our country currently enjoy.

These provisions will simplify, rather than complicate, the existing jurisdictional framework.

- While the Governor’s office raised concerns that the jurisdictional provisions in L.D. 906 would do nothing but cause confusion, the opposite is true.
- The confusion faced in the recent past when attempting to utilize a new well to serve an on-reservation school is a perfect example.
- This school was built in the middle of the pandemic, replacing an older school that had a policy of not allowing the children to drink from the water fountains because the fountains had the municipal water that sometimes turned brown.
- When the new school was built, the Tribe wanted students to be able to actually drink from the water fountains. In order for this to be a reality, the school needed a clean source of water that they could always rely on.
- The Tribe determined the issue was an “internal tribal matter” not subject to state regulation and dug a well for the kids. The State then informed the Tribe that it needed State approval to use the on-reservation well.

- In this example, we are talking about the delivery of water entirely within tribal lands to serve schoolchildren at a brand new federally funded school on the reservation.
- If this is not a clear example of an “internal tribal matter” that should not be subject to state jurisdiction, then what is?
- To ensure safe water was available for the school children, the Tribe agreed to have the school well permitted by the State on an interim basis until the jurisdictional disagreement could be resolved.
- L.D. 906 would resolve this jurisdictional disagreement. If L.D. 906 became law, the school well would fall under EPA jurisdiction, as drinking water system on tribal lands across the country are typically regulated by the federal government.

L.D. 906 will create new opportunities and remove unnecessary roadblocks in order to end a public health crisis.

- If L.D. 906 passes, the Tribe will work directly with the federal EPA to utilize and regulate new sources of clean drinking water. The shift will bring undivided attention of EPA Region 1 to Passamaquoddy lands, in a way that is simply not possible currently. Dedicated resources would be made specifically available to deal with safe drinking water issues at Sipayik.
- The Tribe is in the process of completing a roadside well (located just across from the school), which will serve as a new public drinking supply on the reservation. The roadside well would be a second water system that would fall under EPA jurisdiction under the SDWA (the first being the school well).
- It is illogical to limit the potential impact of this human rights legislation based on vague hypotheticals.
- While the concerns over jurisdiction are hypothetical in nature, no one disputes that there is an issue with the quality of drinking water at Pleasant Point. There are clear benefits to passing this legislation with the jurisdictional components included. Not only will there be an immediate impact, but these provisions are critical to obtaining long-term solutions to the problem.
- The bottom line is this: the State should have no need to approve of how the Passamaquoddy Tribe uses tribally-owned water located on tribally-owned lands.