

Wabanaki Forest Lands in Maine:

An Evolving Story

by Lloyd C. Irland

ABSTRACT

The Wabanaki Nations' homelands have been whittled down to less than 300,000 acres, a tiny fraction of their original 12 million acres. Only one tract, Indian Township (Motahkomikuk) in eastern Maine, has been in continuous tribal ownership since 1820. Much Wabanaki forest land was in industrial ownership and managed for timber as recently as 30–40 years ago. This article sets forestry issues into the context of larger debates over tribal sovereignty and provides a short historical introduction and overview of the forest management issues. The timing is significant because of the release of the Indian Forest Management Assessment Team IV report and a new Secretary of Interior who will pursue priorities different from his predecessor.

With the newspaper coverage of disputes in Augusta, Maine, and Washington, DC, over tribal sovereignty and eligibility for federal programs, it may interest readers to learn the unusual history of the Wabanaki lands in Maine.¹ This article summarizes a long, complex, and contentious history. Because the lands and waters are so closely tied, the complex histories of fishing rights, fish restoration, wildlife management, and control over water quality, are part of the context, but are not examined here and issues are not unique to Maine. Resentments continue over the inability of the Wabanaki Nations and the state to come to agreement on whether, how, and where to allow tribal casinos and enable full access to many federal programs available to other Indigenous Nations.² These also will not be treated here, but they are briefly noted to show why forest issues have not received the attention they might. (See Pawling [2025] for more discussion.)

CENTURIES OF DISPLACEMENT AND THE 1980 SETTLEMENT

The first century of colonial occupation of Maine brought tragic population losses to the Wabanaki people and other New England natives in a wave of epidemics now known as “The Great Dying.”³ This began the process of displacement and elimination of traditional uses of the land while severely reducing the ability

of the Wabanaki Nations to defend their interests. During the years 1643 to 1666, Greenleaf (1829: 394–395) reports that a number of Wabanaki deeds gave rise to legal titles in southern Maine, amounting to a total of 540,000 acres. These amounts were ascertained in an 1820 inventory upon statehood.

During the 18th century, the Wabanaki retained power in the lands of northern New England that they had occupied and used for millennia. They could muster significant forces. They knew the land and routes of travel, so they were

sought as allies in a succession of European imperial conflicts. In seeking these alliances, promises were made by all combatants concerning land rights and uses, most of which were later ignored or forgotten as promises made by the losers were no longer recognized by the winners.

The British Crown authorized military officers to enter into treaties with Indian tribes. This process established the legal principle that the tribes were independent nations. The Royal Proclamation of 1763 was intended, among other things, to protect the interests of the Native Nations west of the Appalachians as a means of supporting continued British control and trade. These acts banned colonists from settling there, which infuriated numerous propertied interests (including George Washington) as well as ordinary land seekers. For context, it is important that the early French settlements were based on the fur trade, which rested on keeping the pattern of landscape together. In contrast, the English settlers foresaw a future with 100-acre farms.

During the American Revolution, the infant Continental Army and Navy and the small Massachusetts militias could not sustain a foothold in Maine east of the Penobscot River. So, continued diplomacy by the rebellious colonials was necessary to bind the Wabanaki Nations to their side. Later, Congress passed the 1790 Nonintercourse Act, which banned anyone but the federal government from making treaties or gaining land cessions with the tribes. Eastern Maine was a long way from

Washington, DC. Leaders of the District of Maine and the state (after 1820) of Maine were not amenable to federal interference in their land policies.⁴ The Wabanaki Nations were left to local officials, who were happy to accommodate land seekers, speculators, and lumber operators.

Maine's population grew rapidly from the end of the Revolutionary War to the Civil War. It increased from ~65,000 in 1780 to ~298,000 and then more than doubled by 1860 (~628,000).⁵ This northerly shift of white settlement severed traditional Wabanaki hunting lands and summer occupation sites of northern and central Maine from the winter settlements near the coast, which came to be their tiny remaining footholds by the mid-19th century (Pawling 2016). With few exceptions, the Penobscot Nation's officially recognized settlements shrank to tiny patches on the islands in the Penobscot River near Old Town (Prins 2013). For the Passamaquoddy Tribes, tribal land was reduced to small holdings around Passamaquoddy Bay.

On late 19th-century maps, Wabanaki place names were shown alongside new place names conferred by the mapmakers. Many traditional native names are in use to this day. The long history is nicely summarized in Hornsby and Judd (2015: plate 75).

When Thoreau traveled in northern Maine in the 1840s, his Penobscot guides knew the country well, navigating to his astonishment without the aid of maps. For the shabby history of dealings with the Wabanaki Nations since then, see Ferland (2007), Permanent Commission (2022), Urquhart (2021), and Woodard (2014).

In the late 1970s, the Nonintercourse Act reappeared as the basis for Wabanaki land claims suits against Maine that gained regional and national attention (Brimley 2004; Hornsby and Judd 2015: Plates 61 and 75; Rolde 2004). A succession of legal and political disputes, accompanied by actions by Maine officials that could charitably be termed *unworthy*, ended in the Maine Indian Claims Settlement Act of 1980 (hereafter Settlement Act), brokered by the federal government. With federal funds totaling \$80 million, the Wabanaki Nations were to purchase land from willing sellers⁶ (see sidebar). Any compromise of this sort leaves behind loose ends and resentments, some of which persist to this day (MITSC 1997). The Settlement Act did not include the Mi'kmaq Nation, which received

OUTLINE OF THE SETTLEMENT OF 1980

(Excerpted directly from MITSC 1997: 7)

The Maine Indian land claims case was exceedingly complex and had tremendous social, economic, and legal implications for the State of Maine and its citizens. The claim covered 60% of the State with 350,000 people living in the disputed area. After four years of negotiations, the Maine Indian Claims Settlement Agreement of 1980 was reached. The Penobscot Nation and the Passamaquoddy Tribe approved the Maine Implementing Act and a draft of the proposed federal legislation. Maine Governor Joseph Brennan signed the Maine Act on April 3, 1980, and President Jimmy Carter signed the federal Maine Indian Claims Settlement Act on October 10, 1980. This was the largest settlement of its kind in the country at the time and the first to include provisions for the reacquisition of land. The Settlement affected the Wabanaki in four ways:

- Passamaquoddies and Penobscots. The Passamaquoddy Tribe and Penobscot Nation received \$80+ million. To receive this federal award, the Tribes gave up their claim to 12.5 million acres and gave back some of the powers of self-government that recently had been recognized in the courts. The Settlement established a special relationship between the State of Maine and these two Tribes. It also was agreed that these Tribes would have authority over their own internal matters on the reservations and would continue the trust relationship with the Federal Government that had been recognized during the 1970s. The State was not required to provide any land or money, even though it gained greater jurisdiction over the Tribes.
- Houlton Band of Maliseets. The Settlement provided \$900,000 and first-time federal recognition for the Houlton Band of Maliseets but did not define a special relationship with the State of Maine.
- Mi'kmaqs and Other Maliseets. The Aroostook Band of Mi'kmaqs and Maliseet People who were not members of the Houlton Band also had claimed title to parts of what is now Maine. However, by the terms of the Settlement, under which they received no land or money, their claims were extinguished.
- The Maine Department of Indian Affairs, which had acted as an advocate and liaison with other state agencies, was abolished. Thus, those ignored by the Settlement also lost services that had been provided by the State. In late 1991, the Aroostook Band of Mi'kmaqs won federal recognition.

federal recognition in 1991 and a cash settlement of \$900,000 to acquire land.

The current US Census (2023) population of the Wabanaki Nations in Maine is estimated at 9,187. Population levels before the Great Dying have been estimated as high as 25,000. Seeking information on populations requires care. The 2020 US Census of Population records 7,885 Indians in Maine, some of whom are non-Wabanaki. These numbers are based on self-reported ethnicity and do not include individuals who self-reported more than one ethnicity. Census figures may differ from tribal enrollment information, which is often not publicly available. Additionally, members of the Wabanaki Nations may live on or off reservation, and nontribal members may be living on some reservations.

RECENT LEGISLATION AND POLITICAL ISSUES

To understand the situation concerning the Wabanaki lands, it is useful to place the issues in the wider context of legislative activity. The Penobscot Nation and Passamaquoddy Tribes traditionally had representatives in the state legislature, a practice that predated Maine statehood. Because the Wabanaki Nations had relinquished many aspects of sovereignty in negotiating the 1980 Settlement Act, tribal-state relations have been contentious. Penobscot representatives joined the Maine legislature as early as 1823, and Passamaquoddy representatives, in 1842. Maine is the only state to have native representation in the legislature, but their prerogatives varied over the years. Tribal representatives can't vote but can sponsor bills and address the session. The Houlton Band of Maliseet Indians and the Penobscot Nation have withdrawn their representatives in protest over the loss on the sovereignty bill. The principal issues did not directly involve forest management, yet the issues drew attention away from internal management issues.⁷

In 2022, Governor Janet Mills announced plans to revive the Tribal-State Commission (Office of Governor 2022). A major task force issued a detailed report covering a wide range of issues and recommendations (OPLA 2020). In the 2022 legislative session, several bills concerning these matters were considered. A major reform bill, LD 1626 (An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act), arose from the task force report. Several acts did pass in 2022, however, including one legalizing sports betting and granting the

Wabanaki Nations control over revenues from mobile betting (total of \$4 million net revenue expected) and another enabling Passamaquoddy Tribes at Motahkomikuk and at Sipayik to manage local water supplies for themselves and to make certain revisions to tax laws for three of the Wabanaki Nations (Office of Governor 2022). In yet another related action, LD 1034 (An Act to Provide Funding to Support the Permanent Commission on the Status of Racial, Indigenous and Maine Tribal Populations) was passed. This commission is likely to attend to land and use rights in the future.

LD 1907 (An Act to Review State Lands and Waterways That Have Sacred, Traditional or Other Significance to the Wabanaki Tribes) would create a task force to examine state-owned lands that may have significance for the Wabanaki Nations to explore ways of returning them to individual nations. This bill did not pass in 2022, but was reintroduced in 2023 as LD 1349, which was carried over to the next session (LD 1482).

In 2023, policies concerning the Wabanaki Nations again occupied legislative attention: of 12 such bills that were introduced, 4 were passed and 5 were carried over; the rest died. Two, however, are of particular interest for the future. The failed LD 1665 (An Act to Amend an Act to Implement the Maine Indian Claims Settlement Concerning Land Acquisition and Criminal Jurisdiction) carried over to 2023 and became LD 2004. The bill was complex, but it was designed to ensure that the tribes would be treated under federal laws in exactly the same manner as other Indian tribes in the United States. This is especially important when addressing eligibility for grants. This bill was the subject of a series of addresses by the Wabanaki chiefs (Clarissa Sabattis, chief of the Houlton Band of Maliseet Indians; Edward Peter Paul, chief of the Mi'kmaq Nation; William Nicholas, chief of the Passamaquoddy Tribe at Motahkomikuk; Rena Newell, chief of the Passamaquoddy Tribe at Sipayik; and Kirk Francis, chief of the Penobscot Nation) to the legislature in March 2023, reported in full on public television (Whittle 2023). All speakers described the history of the tribes before the Revolutionary War and the need to become fully related to the federal government as other tribes are. The moment was unique and powerful. In a climactic moment, the bill passed the legislature but was then vetoed by the governor in early summer 2023 (Office of Governor 2023).

Concurrently, the sovereignty issue was raised in Washington, DC. In February 2022, Maine Representative Jared Golden introduced the Advancing Equality for Wabanaki Nations Act (HR 6707). This sought to prepare the

ground for whatever the Maine Legislature might enact. The governor's office opposed this bill, as did many other groups. The bill passed the House in 2022, but failed in the Senate in 2023. In sum, the efforts to fully replace the 1980 provisions failed although ground was gained. What is the status of the lands themselves? We must first digress to describe how different Maine is from western states.

WHAT MAKES MAINE DIFFERENT FROM THE WEST?

Maine's history has led to a different relationship between the Wabanaki Nations and the federal government compared with the federal-tribal relationships in the rest of the country. First, at statehood in 1820, there were no federal lands in Maine.⁸ Apart from small forts and lighthouses, some of which became popular parks and historic sites, no significant federal land ownership existed in Maine until Acadia National Park of 1916, which was followed by acquisitions for several wildlife refuges, and the White Mountain National Forest after passage of the Weeks Act of 1911 (Irland 2018). Also, Wabanaki leaders had never signed treaties with the federal government and never had any formal relationship with the federal government until 1976 when Passamaquoddy Tribes and Penobscot Nation received federal recognition.⁹

Elsewhere in the East the story has varied. Massachusetts has a few tiny reservations. Connecticut has two, which have become the site of casinos. In New York, there are several reservations, and all are looking to expand, the largest being the 53,000-acre Seneca Reservation. In the South, native people were fairly thoroughly eliminated including by relocation, but the region contains 200,000 acres of Native land. Examples include the Cherokees in North Carolina and the Mississippi Band of Choctaws. Oklahoma contains remnants of these tribes in a scattered series of tiny reservations and an unusual zone consisting of 43 percent of the state where native people are governed by tribal law (Kickingbird 2023). This zone is the territory of the "Five Tribes" (Cherokee, Chickasaw, Choctaw, Muscogee, and Seminoles), all of whom were deported to Oklahoma from the East. The midwestern states contain about 1.4 million acres of tribal trust land, with the largest being the 844,000-acre Red Lake reservation in Minnesota followed by the Menominee reservation in Wisconsin of roughly 200,000 acres. The Chippewa Reservation (Minnesota) was in fact still public domain when created. Texas never had any federal public domain

lands—the National Forests were purchased lands. Texas has a program supporting number of tiny reserves for surviving tribes.

For the western Nations, most reservations were carved out of the immense public domain. The lands were often remote, which made it straightforward for Congress to dedicate that land to the tribes. It was quite different politically for the federal government to acquire private land in the East for the benefit of any given tribe.¹⁰ This western land was then placed into trust under which the federal government managed the land for the benefit of the tribes living there. "Trust lands are lands owned by the federal government and held in trust for the benefit of the tribe communally or tribal members individually. Today, lands typically are brought into trust through the land-into-trust process, either when Congress directs the Secretary [of the Interior] to bring land into trust or when the Secretary administratively brings land into trust" (Murray 2021: ii). Over time, many tribes were able to take management of the trust lands into their own hands. In many instances, "reservations" encompassed wide areas within which the tribes owned only a portion of the area (Glendenning et al. 2023).

WABANAKI LANDS IN MAINE

The Maine Indian Claims Settlement Act of 1980 enabled the Penobscot Nation and the Passamaquoddy Tribes at Motahkomikuk and at Sipayik to purchase significant acreages of private lands from willing sellers.¹¹ Four specific factors concerning the lands acquired under the Land Claims Settlement Act affect forests and their management: past federal law, the Settlement Act, changing ownership patterns in Maine's forests, and the spruce budworm outbreak.

First, previous history of Indian law had created three categories of tribal land: (1) reservation land; (2) fee land held directly by the tribes themselves, and (3) trust land, which is held in trust by the federal government for the benefit of each tribe. For example, the Penobscot Nation in January 2023 held 4,866 acres of reservation land, 93,775 acres of trust lands, and 28,707 acres of fee lands.¹² This does not include the 31,000 acres acquired late in the year, which will be fee land pending decisions about moving it into trust status (Oxendine 2023).

Second, under the Settlement Act, the land purchased was only available at the option of private owners, which explains why the acquired lands were scattered over a wide area and not near the reservations (Flanagan 1980),

TABLE 1: **Wabanaki Lands, All Categories, as of Early 2023**

	Total
Penobscot Nation	127,348
Passamaquoddy Tribes	133,667
Houlton Band of Maliseet Indians	1,441
Mi'kmaq Nation	2656
Total	265,112

and as of late 2023, the full 300,000 acres provided for in the Settlement Act have not been acquired. Compared to most other tribes in the United States, Wabanaki Nation ownerships are far more dispersed. The large distances between these lands are a distinct disadvantage when it comes to management: high operating costs for travel and a high ratio of boundary lines to land area. The scattered pattern, however, confers some small advantage of diversification against market or weather risks. Ownership of large tracts in northern Maine also enables Wabanaki Nations’ citizens to continue a longstanding subsistence and cultural tradition of moose hunting in their own forests. Significantly, the lands are all in the Unorganized Territories where no local government exist.

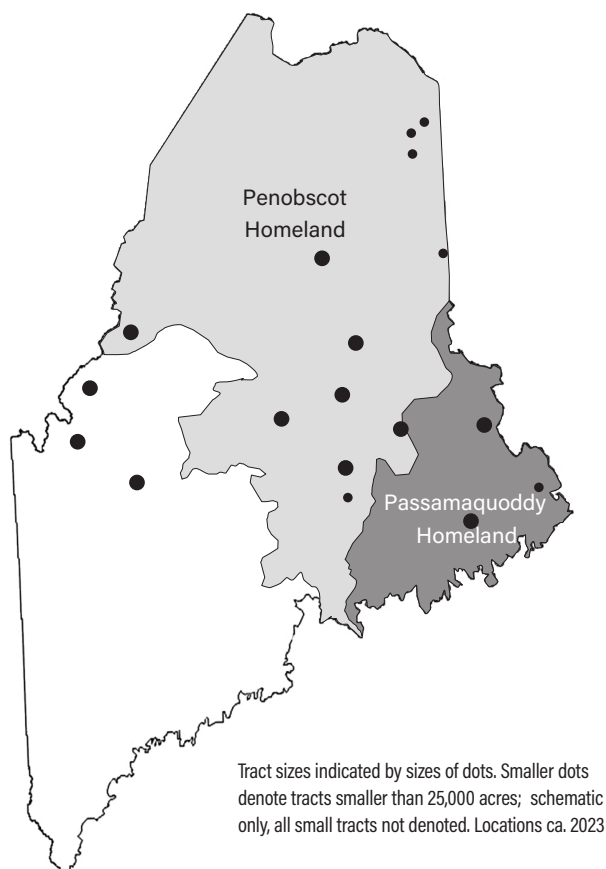
Third, the acquired lands had long histories of management for timber production and income. Available forest inventory and other information was suited to the time, but not always to modern multiple-use forestry. To understand this period of tribal land recovery, it’s important to place it in the context of the emerging dynamism among the formerly stable private ownerships. From the 1980s to the early 2000s, there was a significant shifting of ownerships and roles in Maine’s forests (Irland 2023a, b, c). Paper companies merged; owners worked to unwind fractional ownerships that they felt hindered management. Later, more and more paper industry land was sold to investment groups and successful tycoons (Irland et al. 2011). After the mid-1970s, owners were engaged in land exchanges with the state to settle longstanding differences over the so-called public lots (see Barringer et al. [2020]; Urquhart [2021]). Finally, there were several land booms in which liquidators and speculators bought large tracts and stripped and subdivided them. Throughout this time, significant tracts of forestland were acquired by non-governmental organizations and public agencies, and conservation easements protected additional lands from subdivision and development.

Fourth, the spruce budworm outbreak of the late 1960s to the mid-1980s threatened spruce-fir resources across the state including those at Motahkomikuk (Indian Township). This outbreak increased a sense of uncertainty among big wood users about future supplies. By the time the Wabanaki Nations bought their lands, the outbreak had subsided, but its effects on the timber inventory would be felt for years to come. All this was occurring at a time of unusually high demand for wood by the industry, and optimism—which proved in retrospect to be misplaced—about the future.

According to Bureau of Indian Affairs’ (BIA) data, Wabanaki Nation’s trust lands totaled 223,223 acres in 2019 (BIA data supplied to Indian Forest Management Assessment Team IV). Most of this land is forested, as one would expect in Maine. Maine is roughly 20 million acres, and ancestral tribal homeland (Figure 1) was roughly 12 million acres. So, the trust lands today amount to less than 1 percent of what was once Wabanaki homeland in the United States prior to European settlement (Wabanaki land in Canada is not estimated). Land areas owned by the Wabanaki Nations have changed over time as the Nations made further acquisitions. Additionally, land type definitions may differ, and BIA only keeps track of trust lands. Some Wabanaki Nations are shifting lands from fee into trust status. Others are making additional acquisitions. The BIA is now working to clarify and reconcile land boundaries and ownership for the trust lands only (John Smith, BIA, personal communication, August 29, 2023).

The BIA’s role is to support tribes in managing their forests while ensuring that federal trust obligations are met, which it does through arrangements that vary from tribe to tribe. BIA services include land transaction work, forest inventory and management planning, road building and other practices funded by grants, and others (IFMAT 2023, see Appendix 1 for statutory authorities). The agency assists a total of 310 tribes with more than 18 million acres of forest land—slightly larger than the total area of forest in Maine (BIA 2020). In fiscal 2019, the BIA supplied \$757,000 to three of the Wabanaki Nations, and none to the Houlton Band of Maliseet Indians. Additionally, the Natural Resources Conservation Service (USDA) supplied \$120,000 to the Penobscot Nation (data supplied in 2021 to IFMAT by BIA). Applied to 223,000 acres of land, this would be \$4.97 per acre. The IFMAT found that on average federal outlays for Native land were two-thirds of what they were on government land.

FIGURE 1: **Wabanaki Lands within the State of Maine**



Source: Schematic, redrawn from Natural Resources Department, PIN, and HAM

Until federal recognition of the Penobscot Nation and Passamaquoddy Tribes in 1976, and the 1980 Alaska Native Claims Settlement, BIA had little activity in Maine. It would be fair to say that nationally the relationships between the tribes and the BIA have been fraught. The heritage of a very sad past cannot be shaken off entirely. Tensions are inevitable when an understaffed BIA has to manage trust lands but lacks the funding and policy flexibility to adapt well to changing tribal needs. Arrangements with federal neighbors such as the US Park Service and the US Forest Service, as well as funding agencies like the NRCS and others, have somewhat mitigated these tensions. Many of these agencies have tribal liaison staff at regional and local unit levels. In contrast to parts of the West and Great Lake States, neighboring federal partners like these are absent in Maine.

INDIVIDUAL WABANAKI NATIONS

Penobscot Nation Lands

As discussed earlier, the Penobscot Nation (as of 2023) holds 4,866 acres of reservation land, 93,775 acres of trust lands, and 28,707 acres of fee lands. On completion of the major land acquisitions in the 1980s and with assistance from the BIA, the Penobscot Nation established an organization to manage the land, conduct inventories, and write management plans. Plan revisions are in progress. The Penobscot Nation generates significant revenue from timber sales, and the council appropriates funds annually for management. Forestry is part of the Nation's Department of Natural Resources. The department maintains a geographic information system (GIS) for its land and forest data. Cutbacks in demand for wood from sawmills and paper mills have hindered forest management (IFMAT memos in author possession). Among citizens of the Penobscot Nation, aesthetics is a major concern. Adapting to future climate change is being discussed, but it is not a major management priority compared to the issues already noted. In 2023, the Trust for Public Land acquired 31,367 acres in parcels in the Katahdin region, with plans to return approximately 30,000 acres to the Penobscot Nation, reviving a historic connection to that area.¹³ This purchase will also protect 53 miles of rivers and streams.

Four upper townships, two near the confluence of the West Branch of the Penobscot River and the two at the confluence of the Mattawamkeag and Penobscot Rivers were secured to the Penobscot Nation by an 1818 treaty (for location, see Hornsby and Judd 2015: Plate 23). Through one scheme or another, the state sold these parcels by 1833, leaving the Penobscot Nations with their river islands in Old Town, Maine (Ferland 2007; Urquhart 2021: 43–45). As a riverine tribe, the Penobscot Nation focuses on water quality to protect the safety of subsistence fishing and to assert rights water rights on the river.¹⁴ Their water quality monitoring played a significant role in the Penobscot River Restoration Project that removed two dams and improved fish passage past a third in this section of the river (Taylor 2020).

Passamaquoddy Tribal Lands

Since the 19th century, the Passamaquoddy Tribes have retained a forest tract at Motahkomikuk (Indian Township), which is still recognized as reservation land. From statehood, the Passamaquoddy people lived, among

other places, in Motahkomikuk and Sipayik (Indian Township and Pleasant Point, respectively) in Washington County.¹⁵ By the early 20th century, state officials viewed Motahkomikuk as a tract of “State Forest” even though it was not designated in any specific way as trust land (Tower 1906).¹⁶ Despite pieces being sold off, the bulk of the land was retained in state ownership with management under state control, and apparently with little consideration of the views of the residents.

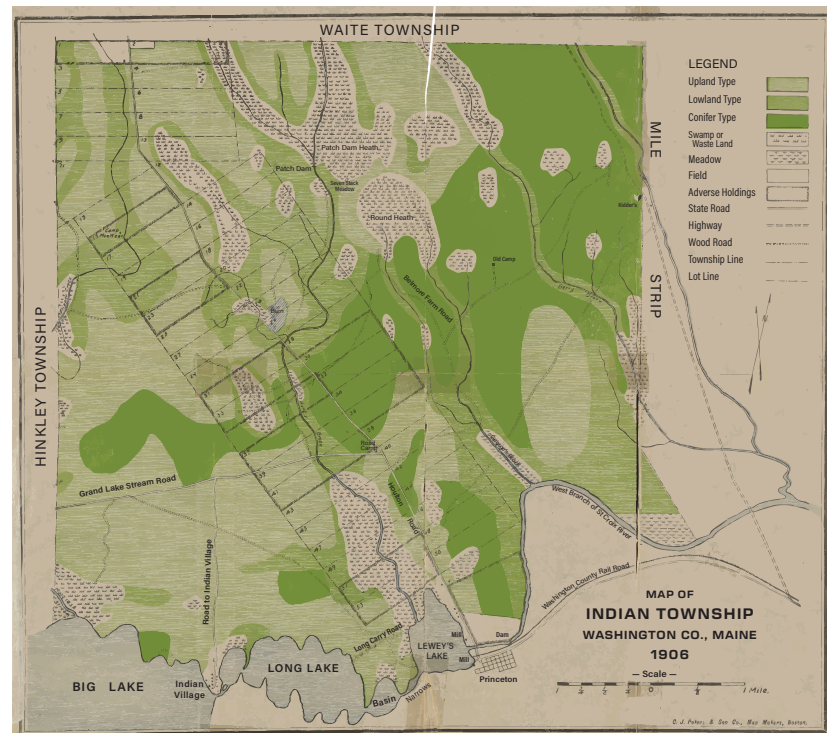
Estimates of the area of the township have varied over the years, which may have to do with additional acquisitions. A late 1990s management plan listed the township’s total acreage in federal trust at 28,526 acres, of which 21,827 acres were forested. Estimates of the total acres in trust have changed over time as well, for similar reasons. A late 1990s management plan put the total Passamaquoddy trust acres at 133,677 acres, 108,369 of which was forest (undated excerpt in author’s possession). This total includes both purchased lands and the original Motahkomikuk lands.

Since the Settlement Act, the Downeast Lakes Land Trust and the New England Forestry Foundation have protected 335,000 acres near Motahkomikuk from development through easements and fee ownership.¹⁷ “Strategically situated between 600,000 acres of conservation land in New Brunswick and 200,000 acres of state, federal, and Native American lands in Maine, the project contributes to the protection of more than 1 million acres across an international boundary.”¹⁸ These protected areas include 1,500 miles of river and stream shorelines and 445 miles of lakeshore, as well as 54,000 acres of wetlands, all key subsistence and cultural assets for Native people. The land is now well protected from subdivision and development. In 2021, the Passamaquoddy Tribes acquired 143 acres on Pine Island, a significant cultural feature in Big Lake; it was aided by funding from conservation groups (Hutton 2021).

Mi’kmaq Nation

The Mi’kmaq Nation declined to sign the 1980 land settlement. Later, in 1990, they received federal funds for land acquisitions. According to the Nation’s website,

FIGURE 1: 1906 Map of Motahkomikuk (Indian Township)



“Finally, after a long struggle the Micmacs achieved Federal Recognition on November 26, 1991....The Tribe was awarded \$900,000 for land claims to purchase property.”¹⁹ Mi’kmaq Nation lands are widely scattered. The largest single tract is a 658-acre tract on the former Loring Air Force Base, which has long been closed as an active military base. Their total reservation area was 2,656 acres in 2019 (BIA). The Mi’kmaq Nation website displays a map showing four lots smaller than 100 acres, three lots between 100 and 300 acres, in addition to the 658-acre lot. The lots span a distance of 60 miles, and many are not primarily forested.²⁰

Houlton Band of Maliseet Indians

According to their website, the Houlton Band of Maliseet Indians own 1,440.5 acres, with 1,263 acres placed in trust and 177.5 acres of fee land. They are working to acquire 5,000 acres as a land base for the tribe.²¹ As of February 2025, the Maliseet people have just acquired 1,327 acres along the North Branch of the Meduxnekeag River. The tribe worked for two years with conservation groups—the Conservation Fund, The Nature Conservancy, and the First Light Learning Journey—to

FINDINGS OF INDIAN FOREST MANAGEMENT ASSESSMENT TEAM IV

Tribal Forest Management and BIA Programs

- Self-government by the Wabanaki Nations is increasing
- The management focus is increasingly on forest stewardship
- A wide range of nontimber forest product benefits come from these forests, sustaining traditional lifeways
- Climate change is a significant challenge for the future
- Funding has tended to favor nonrecurring project grants rather than stable funding that would enable upgraded management and capacity-building
- Tribal staff are fully engaged with ongoing operations and unable to take on new initiatives
- Road systems, a joint BIA tribe responsibility, are often in poor condition, jeopardizing forest protection, water quality, and active forest management
- Forest inventory work, a BIA responsibility, is lacking, yet needed for modern planning
- Wabanaki Nations are increasingly acquiring fee land, some of which is brought into trust; this land is often beyond reservation boundaries.

acquire the parcel, which is now the largest of the tribe's woodlots (Tomaselli 2025). The Band has an interest in salmon restoration in the Meduxnekeag River, a tributary of the St. John River, where native salmon runs have been virtually extinguished by a series of mainstem dams downstream. Several active programs are underway (US EPA 2022). The tribe's Natural Resources Department works on a number of projects, including riparian buffer strip plantings, tree and shrub plantings around housing units, a medicinal plant nursery, and a firewood and fir tip permit system. As are the other Wabanaki Nations, the Houlton Band of Maliseet Indians is part of the Ash Protection Collaboration Across Wabanakik (APCAW), which works to prevent the spread of the invasive emerald ash borer, a threat to the trees that supply wood for traditional basketmaking crafts.²²

FOREST MANAGEMENT

Compared to tribes with larger reservations and far larger areas of contiguous timberlands, such as Menominee (Wisconsin), Confederated Tribes and Bands of the Yakama Nation (Washington), and Confederated

Tribes of the Warm Springs Reservation of Oregon, the Wabanaki Nations have had little time to develop mature forestry programs in the traditional forestry sense. Also, their natural resources departments deal with wildlife management, fire control, water resources, and land uses in addition to forest management issues. At this point, Wabanaki citizens are working to incorporate a modern forest management approach into their management plans.

The acquired forest lands were managed by previous private owners who focused on income and volume production. These objectives are at variance with current tribal views for their future forests. Further, under BIA policy, lands are managed to produce sustained yields of timber to generate revenue, return overcut lands to productivity, and supply employment for tribal members. These basic activities have been hindered by limited funding, turnover of management staff, delays in services from federal agencies, and, since 2006, poor markets for wood. For these reasons, annual harvest levels have been declining, which increases the likelihood that the forests slowly come to resemble a more mature condition in future decades. Convenient summaries of management activities are available in the Department of Interior's annual status reports (2019 is the most recent available at this writing) (BIA 2020).

Carbon sequestration is currently an important dimension of forest management. The concept is that "sustainable forestry practices can increase the ability of forests to sequester atmospheric carbon while enhancing other ecosystem services, such as improved soil and water quality....Harvesting and regenerating forests can also result in net carbon sequestration in wood products and new forest growth." As a way to reduce overall carbon dioxide emissions, "carbon is now a priced environmental commodity in the global marketplace."²³ The Passamaquoddy Tribes have made a large carbon credit sale, but the dimensions and impact of carbon sequestration are controversial. The Penobscot Nation is currently studying the subject. It is possible that the effects of carbon sequestration may be especially valuable on lands formerly in industrial ownership that had faced heavy cutting.

Citizens of the Wabanaki Nations are increasingly interested in restoring forests to more *natural* conditions and managing for a wider range of values than just timber production (IFMAT 2023). Several of the issues identified by IFMAT on a national level also are generally applicable to Maine (sidebar). It is hoped that these IFMAT recommendations and other work in Washington, DC, will lead

to better funding mechanisms and future improvement on these and other issues.

Tribal relationships with state government on fire control programs and taxation are unavoidable, but they are less of a current focus because sovereignty dominates the agenda in Maine. Tribal lands are exempt from the commercial forestry excise tax, which funds a portion of total costs of fire protection. In most jurisdictions, initial attack of a forest fire is a local responsibility. Maine Forest Service (MFS) has agreements with the Wabanaki Nations outlining relative roles in fire control. Motahkomikuk has a fire station and its own crew, for both structural fires and wildfires. In the case of a large wildfire of long duration, MFS expects that BIA aid would be available. Other arrangements and plans are regularly under discussion. (Robby Gross, MFS, personal communication, September 20, 2022). The acquired lands to the north and west are mostly in Unorganized Territory, where trust lands are not subject to property tax, but fee lands are.

CONCLUSION

As a case study in evolving public policy, the forests of the Wabanaki Nations in Maine are of considerable interest, at least to specialists in forestry and land-use issues. I reviewed a range of issues not obviously related to forestry to show why attention has been drawn away from managing the forests. The communities depend on federal support to sustain programs across all natural resource areas. As IFMAT IV showed, these programs are significantly underfunded. This need will only increase as the Nations continue to address challenges posed by more ecologically oriented forest management, climate change, and the addition of parcels that are important to their cultural traditions. Under present trends, the Wabanaki Nations lands are likely to become an important part of the future forest: these lands will exhibit more mature traits, such as large trees and more natural composition, than they do at present.

In 2004, Chief Barry Dana of the Penobscot Nation wrote of the need for a new relationship, to sovereignty that has been long in coming (Dana 2004). For the future management of the acquired lands, I see two basic needs. First, settlement of the longstanding sovereignty issues will enable tribal leaders to spend more time on overseeing natural resource management issues. Second, a funding mechanism that provides predictable and adequate funds for land management in general and doesn't demand overheads spending on grant applications for

individual projects, is needed. Given that Deb Haaland, a member of Laguna Pueblo in New Mexico, has overseen the Department of the Interior, it should have been a good time for such a shift to occur at the federal level. Now, with the new administration having just taken the reins, all bets are off. The staff of the new Trump administration will show us whether movement toward a new relationship can begin. The man proposed for Secretary of the Interior has identified his dominant priority as increasing the production of oil and gas on the federal lands.

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NOTES

- 1 This article originated as a briefing memo for members, consultants, and experts serving on Indian Forest Management Assessment Team (IFMAT), a group formed to review and report to Congress issues relating to BIA programs for forestry on tribal lands (IFMAT 2023). This author was a technical consultant for this project.
- 2 Those interested in the details of these disputes can review LD 1568 (Maine Legislature 2023)—for a summary see <https://legislature.maine.gov/doc/4364>. Kalt et al. (2022) provide a valuable discussion, also Paterson (2012), Dana (2004), and Maine Indian Tribal-State Commission (1997). Information on hunting and fishing regulations can be found at: <https://www.maine.gov/ifw/fishing-boating/fishing/laws-rules/tribal-waters.html>.
- 3 This section relies on Baker et al. (1994), Judd et al. (1995); for the regional and national picture, see Blackhawk (2023), and Hämmäläinen (2022). Brooks (2008) recounts dispossession in southern New England in detail, giving a sense of how it likely evolved in Maine. Traditional lifeways are well described by Pawling (2016). For the Great Dying, see Plates 7, 8 in Hornsby and Judd (2015).
- 4 Blackhawk (2023) gives a valuable portrait of just how weak federal authorities were in governance. He argues that dealing with Native tribes as sovereign nations trained the young United States in the practice of treaty-making with foreign empires.
- 5 From "Population since 1751," Maine an Encyclopedia: <https://maineencyclopedia.com/population-since-1741/>.
- 6 A detailed timeline through 2022 can be found at <https://www.maine.gov/legis/lawlib/lldl/indianclaims/index.html>.
- 7 For quick summaries, see Brimley (2004), Dana-Sacco (2020), and Tomer (2021). To dive deeper, see MISTC (1997), Rolde (2004), and Schwartz et al. (2023). On cultural significance, see Besaw (2007). In spring 2022, Governor Mills avoided vetoing LD 1626 (An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act), which she had opposed. Information on hunting and fishing regulations can be found at <https://www.maine.gov/ifw/fishing-boating/fishing/laws-rules/tribal-waters.html>. On fishing rights, see Gribbin (2015) addressing disputes over regulation of the eel fishery; Watts (2012) with extensive detail on

- alewives; and Dussias (2019) on water quality. Destruction of fish runs by dams gradually eliminated key subsistence resources for Wabanaki Nations and inland settler communities.
- 8 The history of the federal land is unfamiliar to most Mainers as there were no federal lands in the state, as noted in text. Gates (1965, esp. p. 33 ff) is considered an authoritative source though it only briefly covers Indian matters; see also Hensen (2008, ch. 6). Over most of the 20th century, works on the history of the public lands mention Indian cessions only in passing.
 - 9 Of interest to foresters: because of this lack of relationship, US Forest Service Forest Inventory reports of the state never noted the existence of the Wabanaki Nations' lands in its reports.
 - 10 It was done widely in the East, but usually in settlement of a treaty or documented right, neither of which existed for the Wabanaki Nations.
 - 11 Early in the negotiations, it had been suggested that the lands come from Maine's public lands, but this proposal was rejected by the state (Urquhart 2021: 211).
 - 12 arcgis.penobscotnation.org/portal/app/sites, dated January 2023
 - 13 <https://www.tpl.org/our-work/wahsehtekw>
 - 14 In April 2022, the US Supreme Court declined, without comment, to consider an appeal from a District Court ruling that denied the tribe's claim to regulate water quality over the entire river (*Penobscot Nation v. Mills*, 861 F.3d 324 [1st Cir. 2017]).
 - 15 The land is governed by the two tribes, the Passamaquoddy Tribe at Motaikomikuk and the Passamaquoddy Tribe at Sipayik. The overall Grand Council of the tribes is considered here as the owner. A third Passamaquoddy group is based in New Brunswick.
 - 16 See the Appendix for further discussion: <https://digitalcommons.library.umaine.edu/mpr/vol34/iss1/>.
 - 17 <https://newenglandforestry.org/land-conservation/conservation-successes/downeast-lakes-forestry-partnership/>
 - 18 <https://newenglandforestry.org/land-conservation/conservation-successes/downeast-lakes-forestry-partnership/>
 - 19 <https://micmac-nsn.gov/about-our-logo/>
 - 20 <https://micmac-nsn.gov/tribal-land/>
 - 21 <http://naturalresources.maliseets.com/programs/#forestry>
 - 22 <https://umaine.edu/apcaw/>
 - 23 <https://www.fs.usda.gov/ecosystemservices/carbon.shtml>
- ## REFERENCES
- Baker, Emerson W., Edwin A. Churchill, Richard S. D'Abate, Kristine L. Jones, Victor A. Konrad, and Harald E. L. Prins. 1994. *American Beginnings: Exploration, Culture, and Cartography in the Land of Norumbega*. Lincoln, NE: University of Nebraska Press.
- Barringer, Richard, Lee Schepps, Thomas Urquhart, and Martin Wilk. 2020. "Maine's Public Reserved Lands: A Tale of Loss and Recovery." *Maine Policy Review* 29(2): 65–79. <https://doi.org/10.53558/WJHN6967>.
- Besaw, Bridget. 2007. *Wildness Within Wilderness Without: Exploring Maine's Thoreau–Wabanaki Trail*. Atkinson, ME: Besaw Publishing.
- BIA (Bureau of Indian Affairs). 2020. *Report on the Status of Indian Forest Lands Fiscal Year 2019*. Washington DC: US Department of Interior. <https://www.bia.gov/service/status-indian-forest-lands>.
- Blackhawk, Ned. 2023. *The Rediscovery of America: Native Peoples and the Unmaking of U.S. History*. New Haven, CT: Yale University Press.
- Brimley, Stephen. 2004. "Native American Sovereignty in Maine." *Maine Policy Review* 13(2): 12–26. <https://digitalcommons.library.umaine.edu/mpr/vol13/iss2/4>.
- Brooks, Lisa. 2008. *The Common Pot: The Recovery of Native Space in the Northeast (Indigenous Americas)*. Minneapolis, MN: University of Minnesota Press.
- Dana, Chief Barry. 2004. "Native American in Maine: Toward a New Relationship." In *Changing Maine 1960–2010*, edited by Richard Barringer, 295–314. Gardiner, ME: Tilbury House.
- Dana-Sacco, Gail. 2020. "Indigenous Voices Charting a Course Beyond the Bicentennial: Eba gwedji jik-sow-dul-din-e wedji gizi nan-ul-dool-tehigw (Let's try to listen to each other so that we can get to know each other)." *Maine Policy Review* 29(2): 7–16. <https://doi.org/10.53558/FRZU4054>
- Dussias, Allison M. 2019. "Water Quality and (In)Equality: The Continuing Struggle to Protect Penobscot Sustenance Fishing Rights in Maine." *Connecticut Law Review* 424. https://opencommons.uconn.edu/law_review/424.
- Ferland, Jacques. 2007. "Tribal Dissent or White Aggression?: Interpreting Penobscot Indian Dispossession Between 1808 and 1835." *Maine History* 43(2): 124–170. <https://digitalcommons.library.umaine.edu/mainehistoryjournal/vol43/iss2/3>.
- Flanagan, D. T. 1980. "Memo to Lloyd C. Irland on Sewall's Indian Land Appraisals, with Discussions on Status of Negotiations." Dated April 28, 1980. Irland personal files.
- Gates, Paul W. 1965. *History of Public Land Law Development*. Washington, DC: Public Land Law Review Commission.
- Glendenning, Audrey, Martin Nie, and Monte Mills. 2023. "(Some) Land Back...Sort of: The Transfer of Federal Public Lands to Indian Tribes since 1970." *Natural Resources Journal* 63(Summer): 200–282. <https://digitalrepository.unm.edu/nrj/vol63/iss2/3>.
- Greenleaf, Moses. 1829. *A Survey of the State of Maine in Reference to Its Geographical Features, Statistics, and Political Economy 1829*. Portland, ME: Shirley and Hyde. http://digitalmaine.com/moses_greenleaf_papers/9
- Gribbin, Joseph O. 2015. "The Glass Eeling: Maine's Glass Eel and Elver Regulations and Their Effects on Maine's Native American Tribes." *Ocean and Coastal Law Journal* 20(1): 83–110. <http://digitalcommons.maine.gov/oclj/vol20/iss1/4>
- Hämäläinen, Pekka. 2022. *Indigenous Continent: The Epic Contest for North America*. New York: Liveright Publishing.
- Hensen, Eric C. 2008. *The State of the Native Nations: Conditions Under U.S. Policies of Self-Determination*. The Harvard Project on American Indian Economic Development. New York: Oxford University Press.
- Hornsby, Stephen J., and Richard W. Judd, eds. 2015. *Historical Atlas of Maine*. Orono, ME: University of Maine Press.
- Hutton, Alice. 2021. "Native American Tribe in Maine Buys Back Island Taken 160 Years Ago." *Guardian*, June 4, 2021.
- IFMAT (Indian Forest Management Assessment Team). 2023. *Assessment of Indian Forests and Forest Management in the United States: The Fourth Indian Forest Management Assessment Team for The Intertribal Timber Council*. Portland, OR: The Intertribal Timber Council.
- Irland, Lloyd C. 2018. "Maine's Public Estate and Conservation Lands: Brief History and Assessment." *Maine Policy Review* 27(2): 11–29. <https://doi.org/10.53558/GYBZ2646>.
- Irland, Lloyd C. 2023a. "Changes in Maine's Forestland Ownership." *Maine Woodlands* (April): 10–12.

- Irland, Lloyd C. 2023b. "From Large Forest Ownership to Small Tracts." *Maine Woodlands* (July): 10–11.
- Irland, Lloyd C. 2023c. "Forest Industry Empires in the North: Where Did They Go?" *Northern Logger* (May): 13–15.
- Irland, Lloyd C., John Hagan, and Jack Lutz. 2011. *Large Timberland Transactions in the Northern Forest 1980–2006*. Yale GISF Research Paper 011. New Haven, CT: Yale University. https://yff.yale.edu/sites/default/files/files/Northern_Forest_Land_Transactions.pdf.
- Judd, Richard W., Edwin A Churchill, and Joel W. Eastman. 1995. *Maine: The Pine Tree State from Prehistory to the Present*. Orono, ME: University of Maine Press.
- Kalt, Joseph, Amy Besaw Medford, and Jonathan B. Taylor. 2022. *Economic and Social Impacts of Restrictions on the Applicability of Federal Indian Policies to the Wabanaki Nations in Maine*. Cambridge, MA: Harvard Kennedy School.
- Kickingbird, Kirke. 2023. "The Jurisdictional Landscape of Indian Country after the McGirt and Castro-Huerta Decisions." *Human Rights Magazine*, July 26. <https://www.americanbar.org/groups/crsj/resources/human-rights/archive/jurisdictional-landscape-indian-country-after-mcgirt-castro-huerta/>.
- Maine Indian Tribal-State Commission. 1997. *At Loggerheads: The State of Maine and the Wabanaki. Final Report of the Task Force on Tribal-State Relations*. Indian Tribal-State Commission Documents 7. https://digitalmaine.com/mitsc_docs/7.
- Murray, Mariel. 2021. *Tribal Land and Ownership Statuses: Overview and Selected Issues for Congress*. Congressional Research Service R46647. <https://crsreports.congress.gov/product/pdf/R/R46647>.
- Office of Governor Janet T. Mills. 2022. "Governor Mills Signs Historic, Three-Part Tribal Legislation into Law." News release, May 2. <https://www.maine.gov/governor/mills/news/governor-mills-signs-historic-three-part-tribal-legislation-law-2022-05-02>.
- Office of Governor Janet T. Mills. 2023. "Why I Vetoed LD 2004." Radio address, July 7. https://www.maine.gov/governor/mills/news/radio_address/why-i-vetoed-id-2004-2023-07-07.
- OPLA (Office of Policy and Legal Analysis). 2020. *Task Force on Changes to the Maine Indian Claims Settlement Implementing Act*. Augusta, ME: OPLA.
- Oxendine, Chez. 2023. "Trust for Public Land Initiates Historic Land Return, Aims to Restore 31,000 Acres to Penobscot Nation in Maine." *Tribal Business News*, November 4. <https://tribalbusinessnews.com/sections/real-estate/14518-penobscot-landback>.
- Paterson, John M.R. 2012. "The Maine Indian Land Claim Settlement: A Personal Recollection." *Maine History* 46(2): 195–225. <https://digitalcommons.library.umaine.edu/mainehistoryjournal/vol46/iss2/5>.
- Pawling, Micah. 2016. "Wabanaki Homeland and Mobility: Concepts of Home in Nineteenth-Century Maine." *Ethnohistory* 63(4): 621–643. <https://doi.org/10.1215/00141801-3633232>.
- Pawling, Micah A. 2025. "Wabanaki Forests: Identity, Cultural Connections, and a Call for New Collaborations" *Maine Policy Review* 34(1) forthcoming.
- Penobscot Nation. 2023. Penobscot Nation Family Census List.
- Permanent Commission on Racial, Indigenous, and Tribal Populations. 2022. *Land Access for Indigenous and African American Farmers in Maine*. Report to the Joint Standing Committee on Agriculture, Conservation and Forestry. Augusta.
- Prins, Harald. 2013. "The Penobscot Nation's Reservation of the Penobscot River Accompanying Its Reservation Islands in the Penobscot River in the 1796 and 1818 Treaties with Massachusetts and in the 1820 Treaty with Maine." Prepared for the Penobscot Nation in *Penobscot Nation v. Mills, et al.*, Civil Action No.1:12-cv-00254-GZS. https://www.researchgate.net/publication/328412614_The_Penobscot_Nation%27s_Reservation_of_the_Penobscot_River_in_the_1796_and_1818_Treaties.
- Rolde, Neil. 2004. *Unsettled Past, Unsettled Future: The Story of Maine Indians*. Gardiner, ME: Tilbury House Publishers.
- Taylor, Peter, ed. 2020. *From the Mountains to the Sea: The Historic Restoration of the Penobscot River*. Yarmouth, ME: Islandport Press.
- Tomaselli, Kathleen Phalen. 2025. "Houlton Band of Maliseet Indians Acquires 1,327 Acres." *The County*. <https://thecounty.me/2025/02/21/houlton/houlton-band-of-maliseet-indians-acquires-1327-acres/>.
- Tomer, Katie. 2021. "The Importance of Education and Trust Building for Wabanaki Self-Governance." *Maine Policy Review* 30(1): 54–59. <https://doi.org/10.53558/WCZL9289>.
- Tower, Gordon. 1906. "Report of an Investigation Made on a Tract of State Forest Land in Eastern Maine. In *Sixth Report of the Forest Commissioner of the State of Maine 1906*, by Edgar Ring, 65–138. Augusta: Kennebec Journal Print. (Map in pocket part).
- Urquhart, Thomas. 2021. *Up for Grabs: Timber Pirates, Lumber Barons, and the Battles Over Maine's Public Lands*. Portland, ME: Downeast Books.
- US EPA (Environmental Protection Agency). 2022. "Working with Tribal Partners to Restore Fisheries in Northern Maine." *Science Matters*, January 3. <https://www.epa.gov/sciencematters/working-tribal-partners-restore-fisheries-northern-maine>.
- Watts, Douglas. 2012. *Alewife: A Documentary History of the Alewife in Maine and Massachusetts*. Augusta, ME: Poquantic Press.
- Whittle, Patrick. 2023. "Maine Tribes Make Sovereignty Call in First Address in More than 20 Years." *NewsCenter Maine*, March 16. <https://www.newscentermaine.com/article/news/politics/maine-politics/maine-tribes-make-sovereignty-call-in-first-address-in-years-politics/97-7ccfc6d3-859b-4f4b-ac38-27bf4fd1638e>.
- White, Robert H. 1990. *Tribal Assets: The Rebirth of Native America*. New York: Henry Holt.
- Wilkins, Austin. 1963. *Report on Public Reserved Lots*. Augusta, ME: Maine Forestry Department. (With excellent maps in pocket part).
- Woodard, Colin. 2014. "Unsettled: Triumph and Tragedy in Maine's Indian Country." *Portland Press Herald*. <https://www.pressherald.com/unsettled/>.

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