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April 8, 2013

Jamie Bissonette Lewey, Chair
Maine Indian Tribal-State Commission
PO Box 241
Stillwater, ME 04490

Dear Chair Bissonette Lewey:

I am writing in response to your letter of March 26, 2013. I appreciate your taking the time to describe the Maine Indian Tribal-State Commission and its functions, which were included in the Maine Implementing Act (MIA) and are codified at 30 MRSA §6212.

Some background on the Stafford Act amendments, which appears to have prompted your letter, may be helpful. While I was serving on the Senate Committee on Homeland Security and Governmental Affairs, this issue was first brought to my attention because Senator Tester (D-MT) was hoping to have his bill, S. 2283, approved by the Committee. S. 2283, which applied nationally, would have authorized Indian tribes to bypass the governor of their states and petition the federal government directly for natural disaster status.

When the Committee's professional staff reviewed Senator Tester's proposed amendments, it was not clear whether they were consistent with the jurisdictional provisions of the MIA and the Maine Indian Claim Settlement Act.

In September 2012, my staff and I sought the input of Chief Francis on this proposed legislation when he was in Washington for the National Congress of American Indians (NCAI) Tribal Unity Week. Based on these conversations, it was my understanding that the Stafford Act amendments were not of significant concern to the Penobscot Tribe. Chief Francis raised other issues with which the Penobscot Indian Nation was deeply concerned such as the impact sequestration could have on programs that are part of the "trust obligation" to Native Americans.

The Committee's staff also discussed the proposed amendments with Rob McAleer, the head of the Maine Emergency Management Administration. Mr. McAleer indicated that the tribes had received a little more than \$130,000 in disaster relief since 1999 and that, in general, the tribes and MEMA worked well together.

After reviewing the proposed amendments with my staff, I understood their concerns that S. 2283 was unclear in its application and might create a point of friction between the State of Maine and the tribes. In your letter, you noted the unhappy history of litigation that has characterized the enactment of the MIA and its companion, the Maine Indian Claims Settlement, as well as the post-settlement act legislation for the Houlton Band of Maliseet Indians and the

Aroostook Band of Micmacs. I share your view that litigation tends to be divisive, consume great resources, create winners and losers, and establish lasting legal facts.

With this in mind, my staff contacted the Maine Attorney General's Office and asked for comment on the proposed Stafford Act amendments. The Attorney General's Office found a potential ambiguity in the amendments which, in turn, prompted my colloquy with Senator Tester during consideration of the Sandy Supplemental Appropriations bill.

Following the colloquy, I received a letter signed by all four Maine tribes expressing unhappiness with the colloquy. I was quite surprised to receive this letter because Chief Francis was the only tribal leader who had shared his views on the bill, and I had not heard concern from the other tribes leading up to this point. When I received this correspondence, I responded to all four tribes by letter dated January 14, 2013. In that letter, I explained my understanding of the Maine Implementing Act-Maine Indian Claims Settlement and my reasons for entering into the colloquy with Senator Tester. None of the tribes responded to this letter.

With the arrival of your letter, I have the opportunity to address this matter once again. First, as noted, I believe one of my responsibilities includes assessing federal legislation to determine whether, notwithstanding 25 USC §1735(b), it might introduce ambiguity into the jurisdictional relationship between the State of Maine and the tribes of Maine.

I appreciate your reference to Section 1735(b). I am familiar with the origins of this provision and its relationship to 25 USC §1725(h)(6). These revisions originated in the Senate version of the Maine Indian Claims Settlement Act, S. 2829, passed in 1980. The purpose behind and reasons for these changes were set forth at length in the report of the Senate Select Committee on Indians Affairs, Senate Report 96-957. As you note, over the years, Section 1735(b) and Section 1725(6)(h) have been interpreted by the First Circuit Court of Appeals.

Your letter appears to suggest that my office consulted only with the Attorney General's Office on the proposed Stafford Amendments, which is not accurate. In the future, if legislation is proposed which could raise jurisdictional or other significant questions about the various settlement acts, I would encourage the MITSC and each of the tribes of Maine to contact my office, and it would be most helpful if your analysis were in writing. This is not to say that oral discussions are not desired; they are, but written comments would go a long way toward avoiding any future misunderstandings.

My staff and I have frequent exchanges with tribal leaders and individual members, who often contact my office for assistance or to express their views on issues. For instance, the Penobscot Tribe sought and received my assistance when pursuing their 8(a) certification. A MITSC member often expresses his opinions to me regarding the Penobscot River Restoration project. Individual tribe members have contacted my state offices for help with the Veterans Administration, Social Security, and other benefits. Moreover, any member of a Tribe has a constitutional right to contact my office to express views on legislation without my contacting the MITSC to determine if the Commission agrees with those opinions. It would be inappropriate, and in the case of Native Americans seeking help with their individual problems, a

violation of their privacy, for my office to contact the Commission in such cases. I, of course, always welcome hearing MITSC's own views.

You recommend in your letter that I appoint a particular person on my staff to act as point person with the Commission. As you know, tribal needs and interests are as broad-ranging as any community of size. They include housing, healthcare, child welfare, education, the environment, infrastructure, law enforcement, economic development, and a host of other matters. These issues are far too numerous for a single person to handle, but I would suggest that the following senior staff are well-equipped to direct you to the right person: Aroostook State Office Representative Phil Bosse, Bangor State Office Representative Carol Woodcock, Legislative Director Betsy McDonnell, and Legislative Assistant Olivia Kurtz.

You may be assured that my door is open to the Maine Indian Tribal-State Commission, either as such or through its individual members. At the same time, the Penobscot and Passamaquoddy tribes and the Houlton Band of Maliseets and Aroostook Band of Micmacs and any member of them, is always welcome to bring questions, comments or initiatives to my attention or to that of my staff.

Thank you again for taking the time to share your views and to afford me the opportunity to address these important issues. I look forward to working with you in the future.

Sincerely,

A handwritten signature in black ink that reads "Susan Collins". The signature is fluid and cursive, with the first name "Susan" and last name "Collins" clearly distinguishable.

Susan M. Collins
United States Senator

CC: Chief Reuben Clayton Cleaves
Chief Brenda Commander
Chief Kirk Francis
Chief Richard Getchell
Chief Joseph Socobasin
Governor Paul LePage