

**Testimony of John Dieffenbacher-Krall, Executive Director,  
Maine Indian Tribal-State Commission (MITSC),  
Concerning a Proposal to Change the Legal Status of Certain Penobscot Nation Land in  
Argyle from Trust to Reservation Status in  
LD 445, An Act To Improve Tribal-State Relations  
February 4, 2010**

Senator Bliss, Representative Priest, and distinguished members of the Joint Standing Committee on Judiciary; my name is John Dieffenbacher-Krall. I live in Old Town, Maine and work on a contractor basis as the Executive Director of the Maine Indian Tribal-State Commission (MITSC). I appear today to express MITSC's support for changing the legal status of Penobscot Nation land located in Argyle from trust to reservation.

MITSC, after consultation with the Attorney General's Office, considered this issue at its April 9, 2008 board meeting. MITSC Commissioners voted unanimously to endorse LD 2306, An Act To Amend the Definition of the Penobscot Indian Reservation.

Both in 2008 and this year some Committee members have cited Maine Implementing Act (MIA) §6209, sub-§5 titled "Future Indian communities" as an alternative method of achieving the objective of adding the Argyle parcel to the Penobscot Reservation. This section of MIA was identified during the Tribal-State Work Group process as poorly constructed and in need of revision. I urge any Committee members who might argue that the Penobscots should use the existing law to change the legal status of the Argyle land to reconsider their position.

The Future Indian communities provision for enlarging the Penobscot Reservation (and in a separate section the Passamaquoddy Reservation) requires 25 adult members of the Penobscot Nation to petition for extended reservation status. This provision assumes an existing Penobscot settlement which comprises many Penobscot families. The trust land that the Penobscot Nation wants to add to its existing Reservation contains no structures. No Penobscots live there to petition the Tribal Government.

Another problematic aspect of this provision of MIA is it undermines the Penobscot Government's ability to plan its residential communities. Instead of the Penobscot People collectively deciding through their elected government where they want to expand residential housing, 25 adult members could potentially decide the matter for the entire Tribe. Such an outcome would undermine the authority of the Penobscot Government.

In addition, the "Future Indian communities" provision charges MITSC with determining "that the petitioning tribal members constitute an extended reservation." Yet MIA provides no criteria which MITSC should apply to make such a determination. Sub-§5 also tasks MITSC with setting the boundaries for such an extended reservation. MITSC does not possess land surveying capability. The Commission would rely on the information provided by the Penobscot Government.

For all the reasons outlined, this provision of MIA is unworkable. These problems with sub-§5 compelled Governor Baldacci two years ago to submit LD 2306 for your consideration. The only practical and reasonable approach for the Legislature to pursue is to change the definition of the Penobscot Reservation instead of using the process outlined in §6209, sub-§5.