



THE HISTORICAL CONTINUUM: WE ARE ALL PARTICIPANTS IN AN AGE-OLD CLASH OF CULTURES

By Maria Girouard – Penobscot historian.

Panawapskewi (“Penobscot people”) are the indigenous people of this territory, and have nurtured a relationship with and maintained a presence on the Penobscot River for thousands of years. We are an ancient riverine people who have survived enormous losses as a result

of colonization – displacement of our ancestors, destruction of our fisheries, degradation of the Water, deforestation of traditional hunting grounds, and disruption in our traditional form of governance.

A Colonial Agreement: In exchange for Penobscot alliance in the revolutionary war, colonial government agreed to protect Penobscot territory from encroachment and to preserve Penobscot aboriginal territory for their perpetual use so that traditional sustenance lifeways could be maintained. (*Perpetual: meaning forever, never to be changed*). This agreement is recorded in the *1775 Congressional Resolves*. Following the war, there was a large war debt. Abundant Penobscot resources proved too tantalizing to resist.

Treaties were negotiated: Treaties are nation-to-nation agreements negotiated between sovereigns. The Treaty of 1796 and the Treaties of 1818 and 1820, ceded portions of Penobscot territory but the river and the fisheries were never relinquished. Historical records reveal multiple pleas on deaf ears about destruction of the fisheries and decimation of hunting grounds leading to Penobscot starvation.

Treaties were broken: An 1801 petition to colonial government declared, The Penobscots “feel themselves and their Tribe greatly wronged and injured by a Mr. Winslow and his two sons of Portland erecting a sawmill at the Falls in Penobscot ... when the government secured to their Tribe and their descendants the aforesaid island with other islands in the Penobscot River with all their natural rights and privileges, the Fishery was esteemed the most important advantage attached to their island and which no individual could deprive them of – they would therefore humbly request your excellent and honor in your wisdom to prevent an Evil so great as would be the total ruin of the tribe.”

In the 1940s, Penobscot Elder Florence Nicola Shay spoke out against the state and broken treaty promises – “The treaties are merely useless pieces of paper today as all promises have been broken... we are a segregated, alienated people and many of us are beginning to feel the weight of the heel that is crushing us to nothingness. We are still in slavery, we are dictated to, and we are made to feel that we do not own our own souls.”

A major turning point in tribal-state history: In the 1970s Penobscot & Passamaquoddy tribes sued the State of Maine for theft of aboriginal territory which had left them displaced and impoverished. The 1794 Trade and Non-Intercourse Act, a federal law aimed at curbing massive land grabs, had been ignored. The law required any and all land transactions with an Indian person or tribe be ratified by Congress. Since Maine had become a state in 1820, no land transactions were ratified; therefore, all were null and void. Following a tumultuous decade riddled with overt racial hostility and fear-mongering played out in the press, the State of Maine, the Penobscot Nation and the Passamaquoddy tribes negotiated a settlement agreement resulting in the federal 1980 Maine Indian Claims Settlement Act. The Settlement Act was intended to stop the further taking of Indian Territory and to strengthen tribal sovereignty and tribal-state relations, but like all agreements that preceded it, it, too, was broken and little was settled.

Territorial takings are not a thing of the past: In August 2012, Penobscot Chief and Council received a letter from state government asserting an Attorney General's opinion - that the Penobscot Indian Reservation did not include any portion of their ancestral River. An opinion with which Penobscot Nation could never agree. Interestingly, this new opinion was contrary to a previous Attorney General's opinion (AG James Tierney, 1988) which stated that the Penobscot River was reservation territory (!?)

Penobscot Nation v. Mills, is a current U.S. district court case to protect Penobscot fishing rights. It has a large cast of characters! The Penobscot Nation, Maine Attorney General Janet Mills, the United States Department of Justice, and 17 intervening towns and industries up and down the River. Until recently, the case had 18 interveners, but on April 1, 2015, in an amazing act of humanity, the Town of Orono filed a motion to withdraw from the case. After deliberation, their town council admitted to knowing very little about how they got involved; they concluded that their participation was unnecessary, and decided that they did not wish to be in contentious litigation against the Penobscots. The remaining interveners are: the City of Brewer, Town of Bucksport, Covanta Maine, LLC, Town of East Millinocket, Great Northern Paper Company, LLC, Guilford-Sangerville Sanitary District, Town of Howland, Kruger Energy (USA) Inc., Town of Lincoln, Lincoln Pulp and Tissue LLC, Lincoln Sanitary District, Town of Mattawamkeag, Town of Millinocket, Red Shield Acquisition LLC, True Textiles, Inc., Veazie Sewer District, and Verso Paper Corp. Led by Pierce Atwood attorney, Matt Manahan, these interveners are asking a judge to determine that the Penobscot reservation does not include any portion of the Water. The U.S. Department of Justice intervened on behalf of the Penobscots, viewing this as an attempted territorial taking by the State of Maine which they have a duty to protect against.

Confusing an already complex issue: Happening alongside *Penobscot Nation v Mills*, is a battle between the State and the federal Environmental Protection Agency over water quality in Indian Territory. Last summer, the State of Maine sued the EPA demanding jurisdiction over water quality in Indian Territory. In February 2015, the EPA agreed that according to the Maine Indian Claims Settlement Act, the State of Maine did in fact have jurisdiction over water quality, but since Penobscots retained an inherent right to sustenance fish, the water quality in their reservation had to be sufficient to safely consume fish. The State has again sued the EPA and stated that they have no intention of complying with the order to clean up the Penobscot.

Gaining Support: Penobscot Nation has gained thousands of allies but could use more! This case has gained the interest and support of numerous social justice and environmental organizations who agree that Maine must cease and desist its aggression. Maine priorities should be elsewhere – not in continued territorial takings and suing for the right to pollute. Together, we are writing our Grandchildren's history (and protecting their Drink). Let's make it a history that will make both them and the ancestors proud!

Let your voices be heard: Call on our state to stop its hostilities and respect tribal fishing rights.

- Attorney General Janet T. Mills, 6 State House Station, Augusta, Maine 04333
- Governor Paul LePage, Office of the Governor, #1 State House Station, Augusta, ME 04333
- Find (and write!) your legislators at <http://legislature.maine.gov/>



"The Penobscots believe that the God of Nature gave them their fisheries, and no man alive has the right to take that away from them..." (historical petition to Massachusetts Colonial Government)