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Wabanaki Experiences and Perspectives on “Our Shared Ocean”: Maine Indian Tribal-State Commission Special Report *Sea Run*

by Anthony Sutton, Judson Esty-Kendall, and Paul Thibeault

The theme for this issue of *Maine Policy Review*, “Our Shared Ocean,” captures the complex interconnectedness and shared histories of the people, species, and places along the coast of Wabanaki homeland and Maine. However, when terms like “fishing heritage” are used, it is generally without reference to Wabanaki heritage, which means resulting policymaking inadequately addresses Wabanaki rights to fisheries. For example, in the clam fishery, coastal access needs are generally conceptualized from a non-indigenous standpoint and do not address Wabanaki access needs to the coast or to fisheries in general.

To fill this gap, the Maine Indian Tribal-State Commission (MITSC) recently published a special report titled *Sea Run*,¹ which documents the impact of Colonial and Maine policies and activities on the quality and quantity of tribal fisheries spanning the time from first contact between Europeans and the Wabanaki Nations to today. This short essay highlights key details of *Sea Run* to draw the attention of citizens, researchers, policymakers, and managers of lands, water, and fisheries to how Wabanaki have been separated from the “Our” in “Our Shared Ocean.” This essay advances three ideas: (1) how different cultural understandings of the term sustenance shaped(s) policy interactions; (2) how Colonial and state policymaking intentionally separated Wabanaki from their fishing rights;

and (3) what efforts are being done to restore social and ecological harm.

The state of Maine views sustenance as a nonmonetary practice of physical nourishment for a single household. *Sea Run* weaves in Wabanaki linguists, tribal members, and historical research to illustrate a more dynamic understanding of this term. As Roger Paul states, “Wabanaki people don’t usually describe things that we need or want, we usually have words that describe our responsibility to others in creation.” Food sharing is one example where multiple responsibilities are demonstrated as people share food between families and communities as a form of food security, and at the same time, there are ceremonies that honor these relationships with these species, like fish. Fisheries policy, however, can restrict catch to an individual, which can limit food sharing for those who cannot harvest or trade for goods that they may not have access to. To be clear, pushing back against catch limits does not suggest Wabanaki are against management; rather it’s an example of policymaking that’s inconsistent with Wabanaki management that has worked for thousands of years.

Unlike other fishing heritages, Wabanaki people were intentionally separated from fisheries by Colonial and state policymaking. In the late 1600s, the Massachusetts Bay Colony governor knowingly acted against treaty rights to build military forts at key fishing

locations with the purpose of removing people through violence or starvation (Bennett 2017). After the Revolutionary War, these forts lost their purpose, but their legacy of occupation continued through policymaking supporting hydro-power and economic development of rivers. Noted in 1837, there were 250 sawmills (with milldams) on the Penobscot River and its tributaries alone (Opperman et al. 2011). By 1850, 95 percent of lake habitat for alewives had been reduced (Hall et al. 2010). Starting in 1867, policymaking set out to restore fisheries, but fish passage requirements for dams lacked proper enforcement mechanisms and industries like timber and paper maintained a powerful voice in regulating waters and land.²

Other Maine policies also restricted access to river and coastal fisheries. Historian Micah Pawling (2016) details decades of the state dictating where Wabanaki people could live, such as in 1857 the residents of Brewer complained about Penobscot camps and petitioned for their land to be sold. Similarly, Geo Neptune (2015) describes how in 1893 the city of Bar Harbor ordered Passamaquoddy people in town to leave. Both examples of forced relocations of Wabanaki people have important implications for fisheries access today as river fisheries are limited from pollution or physical access, while saltwater fisheries like clamming, have residency requirements that limit access to sustenance in these areas. Furthermore, this exclusion has also impacted Wabanaki voices and rights to sustenance in participatory and policymaking spaces, affecting not only the health of tribal members and tribal economies, but all the ecosystems that are an integral part of Wabanaki sustenance. Despite this, “the responsibility inherent

in creation” drives Wabanaki people to restore these species and ecosystems.

Wabanaki people have and continue to be stewards and leaders within river and ecological restoration efforts. *Sea Run* discusses collaborative efforts involving the Schoodic, Meduxnekeag, and Penobscot Rivers. In all these examples, tribal governments were lead partners in diverse collaborative efforts involving international, federal, state, municipal governments, and conservation groups. All three examples involved the relicensing of dams, although with different results. While major dams were removed on the Penobscot and Schoodic Rivers through these efforts, the Maliseets have much less voice on issues related to the Mactaquac dam on the St. John in Canada and consequently have focused their efforts on stream and habitat restoration to support the populations of fish that can reach them.

These efforts do not just benefit Wabanaki people, but the state of Maine, too. For example, these efforts have increased populations of alewives and consequently restored commercial fishing for this species as lobster bait. However, Wabanaki Nations have neither authority nor standing as to how this renewed fishery operates. In the long-term, rivers with robust populations of alewives attract nearshore ground fisheries, like haddock, which are species used in the Fisherman Feeding Mainers program. In light of the recovery work on rivers and desire to restore sustenance, *Sea Run* concludes with a series of diverse recommendations, ranging from fostering more collaboration between the Maine Department of Inland Fisheries and Wildlife and the Department of Marine Resources to increasing access for Wabanaki people to foods with lower pollution levels, such as clams. Finally, *Sea Run* provides a voice for tribal

members to describe what having robust fisheries would mean to their community. As one stated, “You know, I don’t look at fish as a problem for just the Passamaquoddy or the Wabanakis. I think it’s just people as a whole, and I think if we have a healthy population and sea-run fish, everyone and everything is going to benefit, including the environment.”

NOTES

- 1 <https://www.mitsc.org/news/mitsc-special-report-sea-run>
- 2 Maine Legislature, Acts and Resolves of the Forty-Sixth Legislature of the State of Maine 1867, http://ldc.mainelegislature.org/Open/Rpts/PubDocs/PubDocs1867v1/PD1867v1_H010.pdf.

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Judd Esty-Kendall has been a lawyer in Maine for 46 years, largely as regional managing attorney for Pine Tree Legal Assistance, including a stint as the director of Pine Tree’s Native American Unit. Now retired, he has focused on legal research for MITSC including issues around sea run fisheries and the language about Maine’s obligations to the Wabanaki nations, now no longer hidden, in Article X of the Maine Constitution.

Paul Thibeault was managing director at the Maine Indian Tribal-State Commission during the completion of the Sea Run report, a role he maintained since 2018. Prior to that time Paul had a long career as an Indian Legal Services attorney, primarily in Maine, Minnesota, and Nebraska.