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July 15, 1980

Honorable Cecil D. Andrus  
Secretary  
Department of the Interior  
Washington, D.C. 20240

Attention: Timothy Vollmann, Esq.

Dear Mr. Secretary:

As you know, we represent the Houlton Band of Maliseet Indians. The purpose of this letter is to supply our comments on "Proposed Changes in S.2829," a document furnished by Mr. Vollmann at our July 10, 1980 meeting with representatives of the Administration, the State, the Senate Select Committee on Indian Affairs, and Maine's other two tribes.

A. Sec. 2

1. We agree that Secs. 2(a)(8) and 2(a)(9) should be deleted. Specifically, the parties have never executed a "Settlement Agreement" and the Houlton Band of Maliseets has never agreed to the Maine Implementing Act as presently constituted (in fact, the Act presently concerns only the relations between the State and the Passamaquoddy Tribe and Penobscot Nation).

2. We agree that Section 2(b)(3) should be deleted, and that Congress does not need specifically to ratify any state legislation.

3. We agree that Section 2(b)(4) is inconsistent with other portions of the Act. In our view, it should be deleted. Alternatively, the phrase "as provided herein" should be added at the end of the Section. As you know, we are now discussing alterations in the Act that to some extent exempt the Houlton Band from state laws, and these exemptions are an essential precondition to the Band's support for S.2829.

B. Sec. 3

4. We concur in your proposed modification of Section 3(a), and defer to the Passamaquoddy Tribe and Penobscot Nation as to the

Honorable Cecil D. Andrus  
July 15, 1980  
Page Two

balance of your revisions to Section 3, except that we agree that "Indian territory" should be defined in S.2829. It is essential that this definition should provide that "Indian territory shall include not more than 5,000 acres purchased in trust by the United States in eastern Aroostook County either for the benefit of the Houlton Band of Maliseets or for the benefit of the Passamaquoddy Tribe and Penobscot Nation for the benefit of the Houlton Band of Maliseet Indians." In this regard, we are willing to consider the "trust on a trust" concept, so long as the Passamaquoddy Tribe and Penobscot Nation irrevocably agree, with the Secretary's approval, that any laws, ordinances, or constitutional provisions of the Houlton Band of Maliseets pertaining to these lands shall without further action have the binding effect of laws of the Passamaquoddy Tribe and Penobscot Nation and cannot be modified without consent of the Houlton Band Council. The Senate Committee Report should so state. Also, we strongly oppose the cut off date of January 1, 1983 for acquisition of these lands, and believe that any definition of this nature in the state bill should be overridden by the federal definition.

C. Sec. 4

5. We interpose no objection to your changes to Section 4, and defer to the Passamaquoddy Tribe and Penobscot Nation on this matter.

D. Sec. 5

6. We defer to the Passamaquoddy Tribe and Penobscot Nation on your changes concerning Sections 5(a) and 5(b).

7. In Section 5(d)(1), we agree that a period should be placed after Indians, as you have proposed, and that the specific amount or type of lands to be purchased should be deleted. The section may also be charged to reflect the "trust on a trust" concept if we can agree with the State on this.

8. We strongly object to your deleting from Section 5(d) the requirement of tribal consent for all lands purchased. We also strongly except to the portion of the section giving the Secretary administrative authority to determine whether the Houlton Band has "cease(d) to exist." On this point, we have two alternative proposals.

(a) The section should read:

Honorable Cecil D. Andrus  
July 15, 1980  
Page Three

"If the Houlton Band of Maliseet Indians should at any time cease to hold the beneficial interest in lands purchased in trust for it, such lands shall thereafter be held in trust by the United States, one-half for the benefit of the Passamaquoddy Tribe and one-half for the benefit of the Penobscot Nation;" or

(b) If the "trust on a trust" concept is adopted, the equitable reversionary interest becomes automatic, and the sentence can be removed.

9. We agree with your proposed amendment to Section 5(e)(2).

10. We agree with your new Section 5(e)(3), with two minor additions. First, in the preamble, between "may" and "be," insert "with the consent of the affected tribe, nation or band." Second, delete subsection (vi), as sales should be strictly prohibited. Otherwise, we strongly support your consent applying general Indian law statutes to lands of the Houlton Band.

11. We agree that Section 5(f) should be deleted.

12. We agree with your changes to Section 5(g) so long as all purchases for the Houlton Band are consented to by it, and if you add the words "and shall be held for the benefit of the tribe, nation or band owning beneficial interest to the lands so taken."

#### E. Sec. 'Y'

13. We strongly support the purposes behind this new proposed Section. If your draft language is retained, "shall" should be replaced by "may" since adoption of a constitution is optional. Alternatively, the Section could just provide that the tribes are covered by the Indian Reorganization Act of 1934, 25 U.S.C. 461 et seq., since they did not vote to reject the provisions of that Act under 25 U.S.C. 478. We prefer the latter approach.

#### F. Sec. 6

14. We prefer the approach you have taken in Section 6(a) and 6(b) to the approach of S.2829, and will work with Mr. Vollmann at our next meeting to draft constructive technical changes.

Honorable Cecil D. Andrus  
July 15, 1980  
Page Four

15. If Section 6(c) of S.2829 is retained (or modified as you propose) we propose a specific amendment recognizing a governmental immunity for the Houlton Band of Maliseets. In the existing bill, this could be accomplished as follows:

Add at the end of the Section:

"Notwithstanding any other provision of law, the Houlton Band of Maliseet Indians shall make payments in lieu of taxes on all real and personal property within the lands held in trust by the United States for the Houlton Band of Maliseet Indians in an amount equal to that which would otherwise be imposed by a county, a district, the State, or other taxing authority on such real and personal property provided, however, that any real or personal property, within the lands held in trust by the United State for the Houlton Band of Maliseets used for governmental purposes shall be exempt from taxation to the same extent that such real or personal property owned by a municipality is exempt under the laws of the State."

*See Siletz  
Bill*

16. Section 6(d) should also recognize the authority of the Houlton Band of Maliseets to enter into agreements with the State, whether it is drafted as you have proposed or as provided in S.2829. At our meeting on July 10, both the Administration and State representatives agreed to this change.

17. We defer to the views of the Passamaquoddy Tribe and Penobscot Nation on Section 6(f).

18. We strongly support your approach to Section 6(g). Certain laws or types of laws should be excluded, instead of a blanket general exclusion of federal Indian law. We will be pleased to work with the Department in developing agreeable language at our July 17 meeting.

G. Sec. 7

19. The Houlton Band of Maliseets should be included in Section 7.

Honorable Cecil D. Andrus  
July 15, 1980  
Page Five

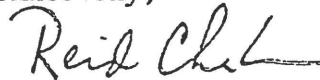
H. Secs. 10-12

20. We defer to the views of the Passamaquoddy Tribe and Penobscot Nation on these proposed changes.

We look forward to meeting again with your representatives on July 17 to discuss these matters, which are of the greatest importance to the Houlton Band. Mr. Terry Polchies, authorized spokesman for the Band, will accompany me at that meeting.

Kind personal regards,

Sincerely,

A handwritten signature in cursive script that reads "Reid Chambers". The signature is written in dark ink and is positioned directly below the word "Sincerely,".

Reid Peyton Chambers

RPC/cmt