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Title of lesson plan: Nation to Nation: Treaties and Legislation between the Wabanaki Nations and the State of Maine

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Content Areas: MHS Bicentennial Theme – Civics & Citizenship

- Career & Education Development
- English Language Arts
- Health Education & Physical Education
- Mathematics
- Science & Technology
- **Social Studies**
- Visual & Performing Arts
- World Languages

Strand and Standard: *See pages 23-24 for detailed strand & standard information*

- Social Studies, Grades 9-12: Civics & Government 1 - F1, F2, F3, D1, D2, D3; Civics & Government 2 – F1, F2, F3, D1, D2; Civics & Government 3 – F1, F2, D2; Personal Finance & Economics, Global Connections – D1; Geography 2 – D1; History 1 – F1, F2, F3, F4, D1, D2, D3, D4; History 2 – F1, F2

Duration: 15 days (3 weeks)

Grade Levels: 9-Diploma

Materials and Resources Required: computer, projector, internet access, map of Maine, Excerpts 1, 2, 3, 4, and 5 (included in packet, pages 25-29), Student Worksheets A, B, and C (included in packet, pages 30-33), optional evaluation (included in packet, page 34)

Summary/Overview: *What will students learn? What is the purpose? (ie. Objectives/Learning Targets)*

This lesson plan asks high school students to think critically about and look closely at documentation regarding the Nation-to-Nation relationship between the Wabanaki Tribes/Nations and the State of Maine. This lesson asks students to participate in discussions about morality and legislative actions over time. Students will gain experience examining and responding to primary and secondary sources by taking a close look at documents relating to the Maine Indian Claims Settlement Act of 1980 (MICSA) and the issues that preceded and have followed the Act.

- **Big Idea:** Wabanaki Tribes are sovereign nations, and ongoing legislation provides insight into the political relationship between Wabanaki communities and the State of Maine.
- **Essential Questions:**
 - o What is a sovereign nation and how does the Maine State status of Wabanaki reservation lands as “municipalities” infringe upon sovereignty?
 - o What is a “living document?”
 - o What is settler colonialism and how does it affect all Americans in the 21st century?
- **Objectives:**
 - o Students will demonstrate verbal and written understanding of the stakes driving Wabanaki activism over time.
 - o Students will take active part in discussions regarding historical and present-day primary and secondary documents and demonstrate verbal and written understanding of the effects these documents have/have had on Wabanaki communities.
 - o Students will discuss the importance of sovereignty and self-determination, and discuss how Wabanaki voices can be amplified in nation-to-nation discussions of sovereignty and stewardship.
- **Vocabulary:** *legislation, municipality, ratification, self-determination, self-governance, settler colonialism, sovereignty, stereotypes, Wabanaki*

Educator’s Note/Reading this Lesson Plan

MHS recommends reading fully through the content of this lesson plan, as well as the information in the Teacher Resources on pages 18-19 of this packet, prior to beginning the lesson. Bullet points within each step are provided as helpful scripted talking points and background information to share with your students as you progress through each day of the lesson. Should you have any questions, please contact education@mainehistory.org – our educators are happy to help you.

Steps:

I. Day 1: Introduction; Addressing Stereotypes; Defining Settler Colonialism as a Structure

a. Introduction

- i. *(If your classroom/school has a land acknowledgement, MHS recommends beginning this lesson with a land/water acknowledgement. More information in Teacher Resources at the end of this packet.)*
- ii. Throughout the course of this lesson, we are going to be taking a look at legal documentation as well as government relations between Wabanaki Tribal governments and the State of Maine. We'll be focusing on two major issues: land and water rights.
- iii. Before we begin looking at documentation, we need to address a few systems in place that impact Wabanaki communities, and address common issues and stereotypes.

b. Discussion: Who are the Wabanaki?

- i. The Wabanaki are the First Peoples of the region of this continent that includes what we now call Maine.
- ii. "Wabanaki" translates into English as "Dawnland," and Wabanaki people are the "people of the Dawnland."
 1. Why do you think this part of the continent might be called "Dawnland?"
 - a. This is the first part of the continent to see the sun rise in the morning.
- iii. "Wabanaki" is an overarching term for many Indigenous peoples of a large area of this part of the continent. "Borders" as they are depicted on maps you may be familiar with are boundaries inscribed by settler-colonial European and Euro-American societies, and the concept of "borders" is not as rigidly defined when it comes to determining exact Homelands of myriad Indigenous groups due to seasonal migrations and kinship ties; however, it is important to know today that what is now called Maine is part of Wabanaki Homelands. Wabanaki people live here and have been living here for more than 13,000 years.
- iv. Wabanaki people do not live only in Maine, and not all Native people living in Maine are Wabanaki. There are many Wabanaki people who live in Canada, other States, and other countries around the world, just as people living in Maine might be Diné, Mohawk, Anishinaabe, or from any other Native Nation. What we know today as the Canadian Maritimes north and northeast of Maine (New Brunswick, Nova Scotia, Prince Edward Island) are also Wabanaki Homelands, and the Homelands of other Indigenous First Nations peoples.
- v. There are four federally-recognized Wabanaki Tribes/Nations with reservation lands in Maine: the Houlton Band of Maliseets, the Aroostook Band of Micmacs, the Passamaquoddy Tribe at Motahkomikuk (Indian Township) and Sipyaiik (Pleasant Point), and the Penobscot Nation.
 1. Discuss: Do you recognize any of these names?

2. Look at the five locations on a map of Maine. (On a map of Maine, look for Houlton, Presque Isle, Indian Township, Pleasant Point, and Indian Island near Old Town and the land and water surrounding these areas.)
 - vi. It is important to remember that Wabanaki people living in Maine and Maine citizens who are not Wabanaki are neighbors today. Wabanaki people, just like citizens of Maine who are not Wabanaki, live in homes, drive, have many different kinds of jobs, vote, make art, scroll the Internet on their cell phones, and go to school. While it is important that many traditions that have survived for hundreds or even thousands of years are preserved and taught by Wabanaki people today, members of the community who are Wabanaki do not dress in traditional regalia in their daily lives and do not live in tipis. Indigenous people in what is now known as the United States wear the same types of clothing and live in the same types of houses that non-Indigenous people do.
- c. Discussion: Decolonization
- i. It is worth noting that while the term “Maine Native Americans” is often seen, one should not put the Wabanaki in possession of Maine, and instead refer to tribal groups by name/Nation and not as “Indians” or “Native Americans.” Some legal and organizational terms present an ongoing challenge of terminology.
 - ii. Throughout this lesson plan, the word “Indian” is frequently used in legal documentation. We should recognize that “Indian” is a legal term in the United States, and is used or dismissed in varying degrees by Indigenous peoples living in what is now the United States. For the purposes of this lesson plan, we will only be using the word as it pertains to legal documentation and not as a blanket descriptor of Wabanaki citizens.
 - iii. Part of the process of *decolonization* is to reflect upon systemic issues of settler colonialism that continue to impact people in the 21st century. There are several systems in place that may not be immediately perceptible to everyone, but we can begin to do our part by addressing terminologies – such as the legal use of the word “Indian” – and dismantling harmful pervasive stereotypes.
 - iv. As we continue with this lesson, we’ll be taking time for reflection every day. Some of these terms might be new to some students, or they might be incredibly familiar. Everyone will have their own experiences and ideas to contribute to class discussion. We should all try to take time to reflect when we learn about ideologies, histories, ways of knowing, and terms that might be new to us.
- d. Discussion: What is Settler Colonialism?
- i. Open question to students: What is *settler colonialism*? What do you think it is?
 1. Take time to collect and record student responses using a whiteboard/smartboard/large paper – keep your notes in some way so that the full class can refer back to them throughout the lesson.
 - ii. Definition of settler colonialism from Lisa Sockabesin (Passamaquoddy): The “removal and erasure of Indigenous peoples in order to take the land for use by settlers in perpetuity.”
 - iii. Additionally, “Settler Colonialism is an ongoing structure, not an historic event.”

- iv. Open discussion with students: In what ways do you think settler colonialism is an “ongoing structure, not an historic event”?
 - 1. When we talk about things like systemic racism, or any other *systemic* issue, it means that the issue is deep-seated and pervasive, and prevalent in such a way that it is all around us whether we notice it every day or not.
 - 2. The term “settler colonialism” can be recognized in the two words that make up the term: non-Indigenous people *settling* in this country to promote and profit from *colonialism*, or the domination over Indigenous peoples. Things like damming and deforestation are acts of settler colonialism. Indigenous voting rights, or lack thereof until the 20th century, have been consistently impacted by settler colonialism.
 - 3. Settler colonialism is a systemic issue that continues to privilege non-Indigenous people and perpetuate harmful stereotypes about Indigenous people.
 - a. Consider how Indigenous Nations have been severely and disproportionately impacted by the recent COVID-19 pandemic. Lack of resources and failure to address issues (such as reservations with limited access to water, or located in “food deserts”) are some examples of the ongoing structure of settler colonialism.
 - 4. We need to acknowledge that we are living on unceded Homelands, and that we live in a system in which we either benefit from or are negatively impacted by the persistence of settler colonialism.

e. Reflection

- i. Take some time for a reflection discussion with all students.
- ii. Discuss:
 - 1. Were any terms that we discussed today new to you?
 - 2. Were any terms that we discussed today familiar to you?
 - 3. Why do you think we began by talking about settler colonialism, decolonization, and addressing stereotypes?
 - 4. What more do you still wonder?
- iii. Discussions and reflections will continue throughout this lesson.

II. Day 2: Defining Sovereignty and Self-Determination; Review of Settler Colonialism

a. Review

- i. Take some time to discuss with students:
 - 1. What is settler colonialism?
 - 2. How does settler colonialism continue to impact Indigenous peoples today?

b. What is Sovereignty?

- i. Sovereignty is the right of a nation or peoples to be self-governing.
 - 1. Discuss: What do you think this means?
- ii. For Indigenous peoples in North America, *sovereignty* is the assertion of rights to live within and self-govern within their traditional, unceded Homelands.

1. Discuss: What does *unceded* mean?
 - a. *Unceded* land is land that is not given away voluntarily or without fully agreed-upon terms. Settler colonial societies have asserted ownership over Indigenous Homelands for hundreds of years, whether through misinterpreted or illegal colonial or early American treaties or through contemporary legal debates. We will continue to discuss the legal battles surrounding land, water, and sovereignty over the next several days.
- iii. In legal terms, sovereignty is also recognized by the federal US government for several Indigenous Nations. Tribal Nations with federal recognition maintain a nation-to-nation relationship with the US federal government, and a political relationship with the State adjacent to that Nation (for example, the Penobscot Nation and Maine – more about this will be discussed in days to come).
- iv. Discuss: Robert B. Pointer’s “Three elements of Indian Law” and the importance of oral tradition and oral history:
 1. In *Unsettled Past, Unsettled Future*, Neil Rolde, a former Maine legislator who was in state government during the 1970s-1980s, provides an overview of Robert B. Pointer’s (Seneca, Heron Clan) “three elements of Indian Law” as follows:
 - a. Indian Tribal Law: encompassing tribal constitutions, statutes and resolutions, judicial decisions, and unwritten tribal laws.
 - b. Federal Indian Control Law: American constitutions, treaties, statutes, regulations, etc.
 - c. International Law Governing Rights of Indigenous Peoples: laws seeking to define Indigenous rights worldwide.
 - i. It should be noted that Rolde’s book was published four years prior to the UN’s adoption of the Declaration of Rights for Indigenous Peoples (UNDRIP). Worldwide Indigenous rights extend (but are not limited) to Indigenous peoples in Canada, Australia, New Zealand, and throughout South America and Africa, who are similarly faced with the ongoing ramifications of the structures of settler-colonialism.
 - ii. The United States was one of the last countries to ratify and adopt UNDRIP.
 1. Discuss: What does this say about the continued structure of settler colonialism in the United States?
- c. What is Self-Determination?
 - i. Discuss: What do you think the term “self-determination” means?
 1. *Open to student discussion. Record answers.*
 - ii. Self-determination is the process of determining the ways by which people within a given nation are governed. Through self-determination, people declare

their rights, forms of government, and alliances. Through self-determination, citizens of Tribal Nations affirm how they are governed.

- d. Discussion: *Survivance*
 - i. Gerald Vizenor (Anishinaabe) has used the term *survivance* as a way of continuing Native stories as “renunciations of dominance, tragedy, and victimry. Survivance means the right of succession or reversion of an estate, and in that sense, the estate of native survivancy.” Vizenor states, “Native imagination, experience, and remembrance are the real landscapes of liberty...”
 - ii. Open discussion about the idea and importance of *survivance*.
- e. Review/open student-led discussion:
 - i. What have we learned so far about settler colonialism, self-determination, and sovereignty? How do these concepts connect?
 - ii. What are some ways, based on what we have learned so far, that Indigenous voices can be amplified regarding these issues and others?

III. Day 3: Wabanaki Governments in the 21st Century

- a. Review of Sovereignty & Self-Determination
 - i. What is sovereignty? What is self-determination?
 - ii. What is settler colonialism?
- b. Structure of Wabanaki Tribal Governments
 - i. Small-group discussion: What do you think you know about Wabanaki Tribal governments?
 - ii. Discussion: Wabanaki Tribal Governments
 - 1. Council, chief, and vice chief positions are elected positions, some without term limits. At the time when the first colonists came to New England, chief (sachem/sakom) was a hereditary role.
 - a. The Aroostook Band of Micmacs’ tribal government consists of a Tribal Chief, Vice-Chief, and seven-person Tribal Council that includes a Treasurer and Secretary. Tribal elections occur every two years; election years alternate between elections for Chief, Vice Chief, and top three council seats, and for the bottom four council seats.
 - b. The Houlton Band of Maliseets’ tribal government consists of a Tribal Chief and six-member Tribal Council. The Tribal Chief and Council members serve four-year, staggered terms, and are appointed by election.
 - c. The Passamaquoddy Tribe consists of two tribal governments, one at Pleasant Point (Sipayik) and one at Indian Township (Motahkomikuk). Each tribal government is made up of a Tribal Governor (Sakom), a Lieutenant Governor (Leptanet), and a six-member Tribal Council. The Passamaquoddy Tribe also elects a Tribal Representative to the Maine Legislature, alternating between the two tribal governments each term. In the 1990s, the two tribal governments of the Passamaquoddy Tribe established a Joint Council. A canoe journey from

Motahkomikuk to Sipayik occurs every year to reaffirm kinship ties and obligations.

- d. The Penobscot Nation's tribal government is comprised of a Tribal Chief, Vice Chief, and twelve-member Tribal Council; there is also one elected Tribal Representative to the Maine Legislature.
- iii. History of Wabanaki representation in Massachusetts & Maine legislature
 1. The Penobscot Nation and Passamaquoddy Tribe have been sending Tribal Representatives to the Maine (and, prior to 1820, Massachusetts) State Legislature for over 200 years.
 - a. Donna Loring (Penobscot) holds the position of Senior Advisor of Tribal Affairs for Governor Janet Mills' staff at the State level.
 - i. Loring, along with Donald Soctomah (Passamaquoddy), was instrumental in the passing of LD 291 in 2001, which ensured the teaching of Wabanaki studies in K-12 Maine curricula.
 2. We will continue to discuss the recent history (of the past 40+ years) and contemporary status of Wabanaki representation in Maine State government.
 - iv. Indigenous citizenship, federal recognition
 1. Indigenous peoples in the United States are citizens of their own Tribal Nations as well as the United States; they have dual citizenship and are the only citizens who do not have to rescind their national citizenship in order to have US citizenship.
 2. Not all Tribes/Nations in the United States are federally recognized by the US government; not all Tribes/Nations seek federal recognition. Federal recognition is a process that affirms sovereignty and self-determination for Tribal Nations within the eyes of the US federal government. This includes nation-to-nation political relationships between Tribal Nations and the US government.
 3. Wabanaki peoples are still stewards of their Homelands that have been determined through settler colonial institutions to exist within what is now the State of Maine. Despite forced (often violent) removals, illnesses, wars, and political promises not upheld by US and State agencies, the Maliseet, Micmac, Passamaquoddy, and Penobscot Tribes/Nations continue to inhabit their unceded Homelands. We will continue to discuss, in the coming days, some of the current issues impeding on Wabanaki citizens' rights, including the right to self-determination and sovereignty.
- c. Discuss:
 - i. What do you know right now about the political ties between Wabanaki Tribes/Nations and the Maine State government?
 - ii. What does it mean for land/water to be *unceded*?
 - iii. What more do you want to know?

IV. Day 4: Water Rights, Day 1

- a. Review of Sovereignty & Self-Determination, Wabanaki Tribal Governments
 - i. What is sovereignty?
 - ii. What is self-determination?
 - iii. What is settler-colonialism?
 - iv. How do Wabanaki Tribal Nations govern themselves today?
- b. Ways of Knowing, “Border” Issues
 - i. Indigenous peoples living in the region that now includes Maine have traditionally migrated to different locations – to visit family, to affirm inter-tribal relations, to trade, to hunt, and more. Migrations with the seasons shaped these communities’ understandings of the land and their idea of land use and management over thousands of years. Knowledge that developed through trial and error, and over years and generations, helped people utilize resources and practice agriculture, such as burning underbrush in forests to remove dead matter and promote new growth or learning the migratory patterns of game animals. If anything proved to be poisonous, dangerous, or otherwise harmful, that would be included in the knowledge that was then passed down orally to the next generation, and impacted further learning. The numerous rivers throughout Maine and the Canadian Maritimes have been used as highways for thousands of years. The development of what today is known as Traditional Ecological Knowledge (TEK)/Indigenous Knowledge (IK) came from generations of place-based understanding. “Borders” between Nations were less fixed and more malleable based on seasonal movement.
 - ii. As a group, look at the Native Land map: <https://native-land.ca/>
 1. Zoom in on the region around which you live.
 2. Discuss:
 - a. What do you notice?
 - b. What words and landmasses do you recognize? How do you recognize them?
 - c. How do “borders” appear on this map?
 - d. What more do you want to know after viewing this map?
 - iii. Review:
 1. What does it mean for land to be *unceded*?
 2. What is meant by the term Homelands?
- c. Introduction to legal documents and water rights issues
 - i. Watch the short documentary “Penobscot: A Fight for Ancestral Waters,” created by the Sunlight Media Collective (2016, run time 9m 24s).
 - ii. <https://www.sunlightmediacollective.org/index.php/our-projects/penobscot-a-fight-for-ancestral-waters>
 - iii. Discuss:
 1. What issues came to light in this video?
 2. How did this video address State-sanctioned complications to the Penobscot Nation’s right to sovereignty and self-determination?
 3. What else did you notice in this video?

4. What more do you want to know?

d. Review:

- i. How do Eurocentric ways of knowing affect maps and borders, and how do Indigenous ways of knowing affect maps and borders?
- ii. What are the issues brought to light in the documentary about the Penobscot River and the Penobscot people who live there? What are the differing ways of knowing addressed by this video?

V. Day 5: Water Rights, Day 2

a. Review:

- i. Summarize what was learned watching “Penobscot: A Fight for Ancestral Waters” on Day 4. What questions do you still have?
- ii. What is sovereignty?

b. Introduction to MICSA

- i. Beginning in the 1960s, the Passamaquoddy and Penobscot Tribes sought legal action against the State of Maine with regard to unceded lands. We will discuss more about what became the Maine Indian Claims Settlement Act (1980) in the coming days, but to begin, we will look at some of the contemporary ramifications of the vague language in the Act.
- ii. To begin in brief, MICSA was meant to recognize legal ownership on the part of the Passamaquoddy and Penobscot Tribes to millions of acres of their Homelands. However, language and multiple revisions on the part of the State of Maine and the federal US government that were not approved by the Tribes or the legal team representing them ended up leaving several terms vague and up to future debate and scrutiny on the part of lawyers hired by the State. All of these actions, including the (possibly blatant) misinterpretation of language in the federal Act and following Maine Implementation Act meant to uphold the federal decision, infringe upon Wabanaki self-determination and sovereignty.

c. Group discussion: *Penobscot Nation v. Mills*

- i. In 2016, the Penobscot Nation challenged a federal ruling barring Penobscot control of the wastewater discharges into the river, which had raised the mercury levels in the fish. The State ruling included classification, based on vague language in a federal ruling we will discuss starting in a couple of days, the Maine Indian Claims Settlement Act (MICSA), of “land claims” as “land” only; that “land” did not encompass the river.
- ii. This case was brought against Janet Mills, who was Maine’s Attorney General at the time; she ruled in favor of the state. Mills is now Governor of the State of Maine. During her gubernatorial campaign, she pledged to work with Tribal Councils.

d. Group activity: examining legal documents – *Penobscot Nation v. Mills*

- i. Students break out into small groups to read Excerpt 1 pertaining to *Penobscot Nation v. Mills*. Students respond to Student Worksheet A in small groups, preparing to bring back to full-group discussion.
- ii. Discuss as a full group:

1. How does *Penobscot Nation v. Mills* relate to self-determination and sovereignty?
 2. How does what you read in Excerpt 1 relate to what you saw in the documentary “Penobscot: A Fight for Ancestral Waters”?
- e. Tribal leaders and representatives are still fighting for sovereignty in Maine courts. The Maine Indian Claims Task Force convenes in Augusta in hopes to make changes to MICSA that will be less restrictive on Wabanaki sovereignty. We will begin taking a close look at MICSA and the current legal battles to change parts of it starting in a couple days.
- f. Reflection:
- i. What are the ramifications for the Penobscot Nation of the State of Maine defining “island” as it is defined in Excerpt 1?
 - ii. What are the differences between Indigenous ways of knowing, as represented on maps, and Eurocentric ways of knowing, as represented on maps?

VI. Day 6: Water Rights, Day 3; Review

- a. Review
- i. What is self-determination? What is sovereignty?
 - ii. What is settler colonialism?
 - iii. What differences have we seen in Indigenous ways of knowing, as represented on maps, and Eurocentric ways of knowing, as represented on maps?
 - iv. What is *Penobscot Nation v. Mills*? What issues are the Penobscot Nation facing with regard to the Penobscot River?
- b. Water Rights: Polin’s Protest
- i. We’ve been reading about contemporary water rights issues, and how Wabanaki Tribal communities such as the Penobscot Nation are addressing continued battles for sovereignty rights in their own Homelands.
 - ii. In 1739, Wabanaki leader Polin traveled by canoe to Boston from Maine, to protest the damming of the Presumpscot River. (Locate the Presumpscot river on a map.) He had to travel to Boston because at this time, according to Europeans, Maine was part of Massachusetts, so Boston was the capital. Polin agreed to continue to share resources, within reason, with European settlers if Governor Jonathan Belcher would agree to allowing passage for the fish that depended on the Presumpscot River. Although Governor Belcher agreed, and ordered that the dam’s builder, Colonel Thomas Westbrook, “leave open a significant passage for the fish... in the proper season,” but Westbrook defied the order and built what he wanted to be the largest dam in Maine. Wabanaki people tried to protect the fish and the river for several years, but were routinely displaced.
 - iii. Since 1992, an organization called the Friends of the Presumpscot River have been working on river and fish restoration, advocating for fish passages to be built into dams, protecting indigenous fisheries, dam removal, and improvement of water quality. They have successfully removed Colonel Westbrook’s dam. They dedicated a memorial to Chief Polin in 2018. Polin famously referred to the

Presumpscot River as “the river to which I belong,” and is known today as the “first advocate” of the Presumpscot.

- c. Water Rights: Penobscot River
 - i. Read the story “Restoring the Penobscot River,” by John Banks on Maine Memory Network, and view the artwork “Kaphse (sturgeon) drum” by James E. Francis, Sr. on Maine Memory Network. Read the description of the artwork.
 - 1. Restoring the Penobscot River: <https://www.mainememory.net/sitebuilder/site/2971/page/4660/display?popup=1>
 - 2. Kaphse Drum: <https://www.mainememory.net/artifact/104988>
 - ii. Both John Banks and James E. Francis, Sr. are citizens of the Penobscot Nation.
 - 1. What are the key takeaways from the story and the description of the drum?
 - 2. What similarities can you draw between the fight for water rights for the Presumpscot and Penobscot Rivers?
- d. Discussion: *Students should lead discussion and build upon discussion based on knowledge from Days 1-6.*
 - i. What was Chief Polin asking for in 1739, and how are we still seeing effects of what happened in the 2020s, almost 300 years later?
 - ii. How have things changed since Polin’s protest? What remains the same?
 - iii. How does the issue of the dam on the Presumpscot River relate to the issues in *Penobscot Nation v. Mills*?
 - iv. What are the issues the Penobscot River is facing, and how are these being addressed?
 - v. How are people making a difference? What are some ways Indigenous voices can be amplified when it comes to water rights issues?
- e. These discussions of water rights are a sampling of and introduction to larger issues Wabanaki communities are facing today and have been fighting to address for hundreds of years. We will expand on this discussion by next covering the Maine Indian Claims Settlement Act (MICSA) of 1980, and will read several examples of legislative documents that will help to contextualize the broad issues brought on by MICSA.

VII. Day 7: Land Claims, Day 1

- a. Review
 - i. What were some of your key takeaways from learning about water rights issues for the Penobscot and Presumpscot Rivers?
 - ii. What does it mean for land to be *unceded*?
 - iii. What is self-determination? What is sovereignty?
- b. What is the Maine Indian Claims Settlement Act? – Introduction
 - i. Overview of MICSA
 - 1. The Maine Indian Claims Settlement Act is an Act of Congress that was signed by President Jimmy Carter in 1980. The Act acknowledged treaties between the Passamaquoddy and Penobscot Tribes, as well as the Maliseet Tribe, and the State of Massachusetts. When Maine separated from Massachusetts in 1820, the State of Maine agreed to

uphold all treaties and responsibilities between and regarding Wabanaki Tribes. However, in 1924, Maine did not uphold the federal Indian Citizenship Act, and Wabanaki voting rights were suppressed by the State of Maine until 1967.

2. In the 1960s, documentation was uncovered to reveal that a 1794 land treaty between the Passamaquoddy Tribe and the Commonwealth of Massachusetts was never ratified by Congress. It was law at this time for all sales between non-Indigenous Americans and Indigenous peoples to be ratified by the US Congress. This unratified treaty provided grounds for the Passamaquoddy Tribe to sue the State of Maine (a territory of Massachusetts until 1820) for the remuneration of lands illegally bought, sold, and transferred by Massachusetts and later Maine.
- ii. Building up to MICSA – 1970s & 1980s
1. In 1968, the Passamaquoddy Tribe hired lawyer Don Gellers to represent them in court against the State of Maine. Soon after he filed a lawsuit on their behalf, he was charged with possession of marijuana and sentenced to prison. Young attorney Tom Tureen took over as the Tribe's representation.
 2. While represented by Tureen, the Passamaquoddy Tribe successfully won the case *Joint Tribal Council of Passamaquoddy Tribe v. Morton* in 1975, which set the stage for federal recognition for both Passamaquoddy Tribes (at Motahkomikuk and Sipayik) and for the Penobscot Nation in 1977. Federal recognition allowed for the Tribes to maintain a political relationship with the US federal government, which could interfere on their behalf in cases against the State of Maine.
 3. The Passamaquoddy Tribes and the Penobscot Nation, represented by Tureen, continued to seek remuneration for lands illegally transferred by Massachusetts/Maine and the return of their unceded Homelands. The Maine Indian Claims Settlement (note the lack of the word "Land" in the official federal title) was meant to uphold sovereignty and transfer ownership of the land in question back to the Tribes' purview. The Houlton Band of Maliseets were also written into the Act as it was brought into drafting before Congress.
 4. MICSA was written and rewritten multiple times. The final iteration of the Act that was brought before Congress, near to the deadline, had been amended by representatives for the State of Maine, and these changes were not brought before Tribal leaders prior to being approved and signed. Much of the vague language that is present in MICSA and the Maine Implementing Act that followed (which required the State of Maine to carry out details of MICSA) is a result of these rushed changes.
 5. The final, signed version of MICSA restored trust lands to the Maliseet, Passamaquoddy, and Penobscot Tribes by way of providing funding to each Tribe with which they could purchase those lands. In some cases, the lands approved by the government for sale were lands deemed no

longer desirable by corporate entities such as mills. Collectively, the Tribes were granted a settlement of \$81.5 million for land.

6. Despite the returning of land to Wabanaki Nations and people, the language of MICSA stripped many rights afforded to other Native Nations by the US government through federal recognition by instead designating Wabanaki Tribes as “wards of the State.” An infringement on sovereignty, many actions the Tribes wish to take today, such as river stewardship, must be approved by the State of Maine; in many cases, such as in *Penobscot Nation v. Mills*, the State declines appeals from Wabanaki Tribal Nations and justifies such actions through the vague language present in MICSA.
 7. The Aroostook Band of Micmacs later filed their own land claims settlement and received federal recognition in 1991.
- iii. MICSA today
1. MICSA was understood by Wabanaki leaders and partners involved, in the 1970s and in 1980, to be a living document. The Maine Indian Tribal-State Commission (MITSC) was created out of the Maine Implementing Act and was meant to keep conversations going between Wabanaki and State representatives.
 - a. Ask students to take some time to explore the MITSC website, <https://www.mitsc.org/> and take notes.
 - b. Coming back to the full group, ask students to lead a discussion:
 - i. What were some things that stood out to you about MITSC?
 - ii. What is your current understanding of MICSA, the Maine Implementing Act (MIA), and the current status of these Acts?
 - iii. What do you still wonder?

VIII. Day 8: Land Claims, Day 2

- a. Review
 - i. What is MICSA?
 - ii. How did MICSA (1980) impact a State ruling regarding stewardship and ownership of the Penobscot River in 2016?
 - iii. What is a living document?
 - iv. Is MICSA a living document? How do you know?
- b. Small groups: Read Excerpt 2 (Maine Indian Claims Settlement Act, 1980)
 - i. Students break out into small groups to read Excerpt 2 and fill out Student Worksheet A together.
- c. Full class discussion: Excerpt 2
 - i. What were some things that stood out to you in this Excerpt?
 - ii. What is your current understanding of MICSA? What has influenced your understanding?
 - iii. What is still unclear?

IX. Day 9: Land Claims, Day 3

- a. Review
 - i. What were some of your key takeaways from the excerpts we have read so far?
 - ii. What is MICSA and how is it affecting legislation regarding Wabanaki citizens and Nations now?
 - b. Small groups: Read Excerpt 3 (Maine v. Johnson, 2007)
 - i. Students break out into small groups to read Excerpt 2 and fill out Student Worksheet A together.
 - c. Full class discussion: Excerpt 3
 - i. How has the vagueness of language in MICSA affected rulings between Wabanaki Tribes and the State of Maine in the 21st century?
 - ii. What do you think can be done to change this?
 - iii. What are some ways Indigenous voices can be amplified with regard to State of Maine rulings that cite MICSA's language?
- X. Day 10: Land Claims, Day 4**
- a. Review
 - i. What has stood out to you in the Excerpts we have read thus far?
 - ii. What is sovereignty? What is self-determination?
 - b. Small groups: Read Excerpt 4 (Lewis Mitchell's Speech to 63rd Maine Legislature, 1887)
 - i. Students break out into small groups to read Excerpt 3 and fill out Student Worksheet A together.
 - c. Full class discussion: Excerpt 4
 - i. What stands out to you in this speech?
 - ii. What connections can you draw between this late 19th century speech and the late 20th and early 21st legislation and stories you have read and heard regarding land stewardship?
 - d. Video:
 - i. As a class, watch the following video: Representative Rena Newell reads Lewis Mitchell's 1887 speech to Maine Legislature, September 2019.
<https://www.facebook.com/RepresentativeNewell/videos/1006202909771315/>
 - ii. Discuss: How does watching this video change, challenge, contextualize, affirm, or raise questions about how you read Mitchell's speech excerpt on paper?
 - e. Reflection
 - i. What are some connections you can make between the Excerpts we have read so far?
 - ii. What stood out to you when reading Lewis Mitchell's speech, and hearing Rena Newell read it?
 - iii. What is the status of MICSA in the 2020s?
- XI. Day 11: Land Claims, Day 5**
- a. Review
 - i. What is MICSA and how is it affecting Wabanaki Tribes today?
 - ii. What stood out to you in Lewis Mitchell's 1887 speech?
 - b. Small groups: Read Excerpt 5 (Nonintercourse Act, 1790)
 - i. Students break out into small groups to read Excerpt 4 and fill out Student Worksheet A together.

- c. Full class discussion: Excerpt 5
 - i. What context for MICSA does reading the Nonintercourse Act of 1790 provide?
 - ii. Do you think that the federal documents you have read take Native voices into consideration? What makes you say that? What is different about the 20th and 21st century documents you have read? What is similar?
 - iii. Do you think that Massachusetts took this 1790 law into account when implementing the treaty from 1794 that the Passamaquoddy Tribe would later discover had been unratified? What makes you say that?

XII. Day 12: Land Claims, Day 6

- a. Review
 - i. What have the documents we have read and videos we have watched thus far provided for context into the Maine Indian Claims Settlement Act (MICSA) of 1980?
 - ii. How do you think MICSA is being addressed in the 2020s?
 - iii. What is sovereignty?
 - iv. What is a living document?
- b. Contemporary Articles
 - i. Students work in three groups to read the following articles from 2020:
 1. "Maine Lawmakers Consider Changes to Act that would Alter Tribal-State Relationship," by Susan Sharon, Maine Public (Feb. 2020): <https://www.maine-public.org/post/maine-lawmakers-consider-changes-act-would-alter-tribal-state-relationship>
 2. "Reconsideration of Parts of Maine's Indian Claims Settlement can Benefit Tribes and the State," by the BDN Editorial Board, Bangor Daily News (Feb. 2020): <https://bangordailynews.com/2020/02/12/opinion/reconsideration-of-parts-of-maines-indian-claims-settlement-can-benefit-tribes-and-the-state/>
 3. "Tribal-State Relationship Bills Endorsed," by Edward French, The Quoddy Tides (August 2020): <http://quoddytides.com/tribal-state-relationship-bills-endorsed.html>
 - ii. Return to full group to discuss:
 1. What were some key takeaways from your article? When was your article published?
 2. What is the current state of MICSA, based on what you have read?
 3. What more do you want to know?
- c. Small groups: Begin brainstorm – what needs changing, based on what you know?
 - i. Students work individually or break out into small groups to collect thoughts using Student Worksheet B. Students should be prepared to share thoughts and contribute to discussion tomorrow/Day 13.

XIII. Day 13: Land Claims, Day 7

- a. Review
 - i. What were some of your impressions from the news articles we read on Day 12? What stood out to you? What is the status of MICSA at 40?

- b. In a statement to MITSC on January 14, 2020, Penobscot Nation Chief Kirk Francis quoted a May 2019 letter written by all of the Tribal Chiefs in Maine to Maine House Speaker Gideon and Maine Senate President Jackson, who had asked for Tribal input on moving forward with better nation-to-nation relations between Wabanaki Tribal Nations and the State of Maine.
 - i. The letter read as follows: “The leadership of the Tribes have a consensus that for this process to work there must be a commitment to accomplish the following as to all Tribes: amendments to establish that the laws of the state shall not apply to the Tribes on their respective land, except as agreed to by the state and the Tribes or as provided by federal law, amendments to confirm that the Tribes shall exercise and enjoy the same rights, powers, privileges and immunities as other federally recognized Indian Tribes, except as agreed by the state and the Tribes, and amendments to confirm that acts of Congress intended to benefit federally recognized Indian Tribes in general apply to the Tribes in their lands, except as agreed to by the state and the Tribes.” (From MITSC transcript of 1/14/20 meeting, p. 4.)
- c. Full class discussion/brainstorm: What needs changing, based on what you know, what you have read, and what you still wonder?
 - i. Students share thoughts collected on Student Worksheet B and build upon ideas within full class discussion. Discussion should be mostly student-led (moderated by educator), and students should be prepared with citations as needed.
 - ii. Encourage full class to take notes or designate/ask for a volunteer to be a note-taker to distribute summaries to all students.

XIV. Day 14: Reflection

- a. Review Discussion:
 - i. How has systemic racism and disenfranchisement prolonged settler colonialism and impacted Wabanaki communities?
 - ii. What is a living document?
 - iii. What work still needs to be done? What do you still wonder?
 - iv. What are some ways to uplift and prioritize Indigenous voices?
- b. Introduce monthly check-in: Where is MICSA in the news?
 - i. The first iteration of this check-in should occur on Day 15. Students should find recent news articles and be prepared to share their thoughts with the group using Student Worksheet C. Once a month, students should look into the news again and report back with their findings and analysis. Students can use some of this class period to look for an article, news clip, or other recent source.

XV. Day 15: MICSA in the News

- a. Students share their findings from their first check-in assignment.
 - i. What stood out to you in the article you read/video you watched?
 - ii. What ties can you make to previous articles we have read/videos we have watched? How has MICSA affected the issue(s) discussed in your article/video?
 - iii. Are Wabanaki voices being amplified and/or acknowledged?

Teacher Background Materials – Lesson Plan: Nation to Nation

Tips for Acknowledging Indigenous Land/Water: Acknowledgement is a relatively recent practice, and is ideally practiced as a respectful way to address the Indigenous inhabitants of what is now North America, acknowledge human and non-human relatives, address the ongoing effects of the structure of settler-colonialism, emphasize the importance of Indigenous sovereignty and self-governance, and help students be aware and conscientious of the fact that we are living on unceded Native Homelands. Land/water acknowledgements are best developed through meaningful connections; acknowledge with respect and use a format that lets you speak from the heart. Making connections with neighbors of a Nation near to where you live is one of the best places to start when creating a land acknowledgement from the heart. Talk with your school administrators and colleagues about creating a land acknowledgement at the institutional level.

A great online resource with more information can be found here:

https://drive.google.com/file/d/0B_CAYH4WUfQXTXo3MjZHRC00ajg/view. For information about the Nations nearest where you live/teach, a good starting point is the map at: <https://native-land.ca>

What we know of as “Maine” today is part of the unceded Homelands of the Wabanaki peoples. “Wabanaki” translates into English as the “Dawnland,” with the Wabanaki peoples being the People of the Dawnland, meaning those who see and greet the first light of the day. They share common oral histories and belong to Algonquian/Algonkian language groups, but have unique languages.

About the Wabanaki: We encourage you and your school to reach out to the tribal communities in Maine to expand your learning. More information about the four federally-recognized tribal communities in Maine can be found here:

- The Aroostook Band of Micmacs: <http://www.micmac-nsn.gov/>
 - o Micmac Tribal Government: http://micmac-nsn.gov/html/tribal_government.html
- The Houlton Band of Maliseets: <http://www.maliseets.com/index.htm>
 - o Maliseet Tribal Government: <http://www.maliseets.com/government.htm>
- The Penobscot Nation: <https://www.penobscotnation.org/>
 - o Penobscot Tribal Government: <http://www.penobscotculture.com/index.php/8-about/81-tribal-facts>
- The Passamaquoddy Tribe
 - o Indian Township (Motahkomikuk): <https://www.passamaquoddy.com/>
 - o Pleasant Point (Sipayik): <http://www.wabanaki.com/>
 - o Passamaquoddy Tribal Government: http://www.wabanaki.com/wabanaki_new/chief_council.html
 - o Passamaquoddy Joint Tribal Council: http://www.wabanaki.com/wabanaki_new/joint_council.html

The Abenaki are the fifth Wabanaki tribe today; however, the Abenaki are not a federally-recognized tribe as of 2019. Not all Tribal Nations that exist in North America today have received federal recognition, and not all Native Nations seek federal recognition. There are no tribes in New Hampshire or Vermont that, as of 2019, have received federal recognition, but four tribes in Vermont have received state recognition. Federal recognition provides a federal relationship between Indigenous sovereign nations and the US government. Tribal Nations throughout North America are sovereign nations, and

actively work to maintain their self-governance. Federal recognition is not related to Tribal Nation sovereignty; it affords certain rights to Indigenous peoples within the laws of the United States.

It is important to recognize that not all Wabanaki people live in what is now Maine, and not all Indigenous peoples living in what is now Maine today are Wabanaki. Native and non-Native people alike live throughout Maine, the United States, Canada, and countries around the world. Maine as we know it today exists within unceded Wabanaki Homelands; the federally-recognized tribal communities in Maine own trust land throughout the state as presented through treaties.

About Sovereignty and Names/Terms

Read the Indigenous Environmental Network's (IEN) statement on Tribal Sovereignty and Indigenous Sovereignty: <https://www.ienearth.org/what-is-indigenous-sovereignty-and-tribal-sovereignty/>

It should be noted that "Indian" is a federal legal term in the United States. It is a word introduced and inscribed by settler-colonial societies and is used in varying ways by Indigenous people and federal entities today. When referring to Wabanaki people, it is best to refer to them as Wabanaki people, not as "Indians," and not as "Maine Native Americans." Please do not put humans or non-humans in possession of Maine, especially within the context of this lesson plan. Our educators and curators have consulted with Wabanaki partners during the development of this lesson plan, as well as for the creation of the MHS exhibit *Holding Up the Sky*, utilized throughout this lesson plan, and it is our intent and responsibility to incorporate their feedback, as well as to be mindful in our continued efforts to decolonize the work that we do. We intend for this lesson plan to be a living document, and to correct any of our own errors in as timely a manner as possible. Should you have any additional feedback or information with regard to this lesson plan, please reach out to us at education@mainehistory.org.

About Maine Historical Society: Maine Historical Society (MHS) is the third-oldest state historical society in the United States, following Massachusetts and New York, respectively. Founded in 1822, only two years after Maine separated from Massachusetts and became a free state as part of the Missouri Compromise, MHS today is headquartered at 489 Congress Street in Portland. The campus contains an office building and museum, the Brown Research Library (est. 1907), and the Wadsworth-Longfellow House, the childhood home of American poet Henry Wadsworth Longfellow. An enormous online database containing digitized images and objects from MHS's robust collection can be found online at Maine Memory Network: <https://www.mainememory.net/> Teachers can create free accounts on Maine Memory Network to save images to albums for classroom use.

MHS's mission: "The Maine Historical Society preserves the heritage and history of Maine: the stories of Maine people, the traditions of Maine communities, and the record of Maine's place in a changing world. Because an understanding of the past is vital to a healthy and progressive society, we collect, care for, and exhibit historical treasures; facilitate research into family, local, state, and national history; provide education programs that make history meaningful, accessible and enjoyable; and empower others to preserve and interpret the history of their communities and our state."

Teacher Resources

Video

Representative Rena Newell reads Lewis Mitchell's 1887 speech to Maine Legislature, September 2019.
<https://www.facebook.com/RepresentativeNewell/videos/1006202909771315/>

Sunlight Media Collective. "Penobscot: A Fight for Ancestral Waters." 2017.
<https://www.sunlightmediacollective.org/index.php/our-projects/penobscot-a-fight-for-ancestral-waters>

Articles/Books

Barnum, Cassandra. "A Single Penny, an Inch of Land, or an Ounce of Sovereignty: The Problem of Tribal Sovereignty and Water Quality Regulation under the Maine Indian Claims Settlement Act." University of California, Berkeley: *Ecology Law Quarterly*, Vol. 37, No. 4 (2010), pp.1159-1216.

Brooks, Cassandra and Lisa Brooks: "The Reciprocity Principle and Traditional Ecological Knowledge: Understanding the Significance of Indigenous Protest on the Presumpscot River." June 2010. Available at https://www.researchgate.net/publication/269874990_The_Reciprocity_Principle_and_Traditional_Ecological_Knowledge_Understanding_the_Significance_of_Indigenous_Protest_on_the_Presumpscot_River

Brooks, Lisa. *Our Beloved Kin: A New History of King Philip's War*. Yale University Press, 2018.

- A portion of the concepts of this book are available online:

<https://ourbelovedkin.com/awikhigan/index>

Brooks, Lisa. *The Common Pot: The Recovery of Native Space in the Northeast*. University of Minnesota Press, 2008.

Jarding, Lili Jones. "Tribal-State Relations Involving Land and Resources in the Self-Determination Era." Sage Publications, Inc., University of Utah: *Political Research Quarterly*, Vol. 57, No. 2 (June 2004), pp. 295-303.

Kolodny, Annette. "Saving Maine for the Indian: The Legacy of Joseph Nicolai's 'The Life and Traditions of the Red Man.'" Oxford University Press, MELUS, Vol. 34, No. 2 (Summer 2009), pp. 81-101.

Macdougall, Pauleena: *The Penobscot Dance of Resistance*. University of New Hampshire Press, 2004.

Malumphy, Christine and Randall Yates. "Muddying Tribal Waters: Maine v. Johnson, Internal Tribal Affairs, and Point Source Discharge Permitting in Indian Country." University of California, Berkeley: *Ecology Law Quarterly*, Vol. 35, No. 2 (2008), pp. 263-268.

Miller, Kevin. "Maine tribal leaders press for changes to 1980 settlement agreement." *Portland Press Herald*, July 22, 2019.

Neuman, Lisa K. "Basketry as Economic Enterprise and Cultural Revitalization: The Case of the Wabanaki Tribes of Maine." University of Minnesota Press, *Wicazo Sa Review*, Vol. 25, No. 2 (Fall 2010), pp. 89-106.

Newsom, Bonnie D. and Jamie Bissonette-Lewey. "Wabanaki Resistance and Healing: An Exploration of the Contemporary Role of an Eighteenth Century Bounty Proclamation in an Indigenous Decolonization Process." *Landscapes of Violence*: Vol. 2, No. 1 (2012).

Nicolar, Joseph. *The Life and Traditions of the Red Man*. Edited and with an introduction by Annette Kolodny, with contributions by Charles N. Shay (grandson of Joseph Nicolar). Duke University Press, 2007.

Rolde, Neil. *Unsettled Past, Unsettled Future: The Story of Maine Indians*. Tilbury House Publishers, 2004.

Senier, Siobhan, ed. *Dawnland Voices: An Anthology of Indigenous Writing from New England*. University of Nebraska Press, 2014.

Vizenor, Gerald. *Manifest Manners: Narratives on Postindian Survivance*. University of Nebraska Press, 1999.

Walstad, Whitney Austin. "Maine v. Johnson: A Step in the Wrong Direction for the Tribal Sovereignty of the Passamaquoddy Tribe and the Penobscot Nation." *American Indian Law Review*, Vol. 32, No. 2 (January 2008).

Woodard, Colin. "Disagreement over powers pollutes state, tribal relations." *Portland Press Herald*, July 20, 2014, updated January 9, 2015.

Online Resources

Court of Appeals: Maine v. Johnson:

https://scholar.google.com/scholar_case?case=3253019569880983266&hl=en&as_sdt=6&as_vis=1&oi=scholar

Court of Appeals: Penobscot Nation v. Mills: <http://media.ca1.uscourts.gov/pdf/opinions/16-1424P-01A.pdf>

Federal Register – Promulgation of Certain Federal Water Quality Standards Applicable to Maine by the Environmental Protection Agency: <https://www.federalregister.gov/documents/2016/12/19/2016-30331/promulgation-of-certain-federal-water-quality-standards-applicable-to-maine>

Indian Trade and Intercourse Act of 1790: https://avalon.law.yale.edu/18th_century/na024.asp

Inter Caetera via Papal Encyclicals: <https://www.papalencyclicals.net/Alex06/alex06inter.htm>

- *Educator's Note: While this document is not discussed in this lesson plan, I have chosen to include it in these resources for teacher and student access. Inter Caetera is the 1493 Papal Bull known in English as the "Doctrine of Christian Discovery and Domination," which gave European Christians (specifically Catholics, i.e. of Spain, Portugal, France, Italy) "permission" to "dominate" and colonize all non-Christian lands and peoples. England later introduced its own version of this doctrine granting permissions for Protestant domination and colonization. This document can be helpful for continued conversations into the system of settler colonialism. An excellent lesson plan is available from the Upstander Project, creators of the Emmy Award-winning documentary "Dawnland," and other documentaries addressing*

Wabanaki and other Indigenous issues. Their lesson plan is available here, and is presented in conjunction with their short documentary, "First Light":

<https://upstanderproject.org/firstlight/doctrine#:~:text=The%20Doctrine%20of%20Discover%20established,%E2%80%9CInter%20Caetera%E2%80%9D%20in%201493.>

Maine Department of Environmental Protection – Permits, Licenses, and Certifications Official Webpage: <https://www.maine.gov/dep/permits/index.html>

Maine State Legislature – Maine Indian Claims Task Force: <http://legislature.maine.gov/maine-indian-claims-tf>

Maine State Legislature History Collections – Maine Indian Claims Settlement: <https://www.maine.gov/legis/lawlib/lldl/indianclaims/index.html>

Maine Statutes – Maine Indian Claims Settlement: <http://legislature.maine.gov/statutes/30/title30ch601sec0.html>

Morris, Amanda. "What is Settler-Colonialism?" *Teaching Tolerance* online, January 22, 2019. <https://www.tolerance.org/magazine/what-is-settlercolonialism>

Native Land Interactive Map: <https://native-land.ca/>

- Native Land Teacher's Guide, with information about acknowledgement: https://native-land.ca/wp/wp-content/uploads/2019/03/teacher_guide_2019_final.pdf

US District Court for the State of Maine: State of Maine DEP v. US EPA: https://www.epa.gov/sites/production/files/2017-02/documents/denver-485985-v1-maine_amended_complaint.pdf

Villeneuve, Marina. "Judge lets EPA rework standards for rivers fished by tribes." Associated Press, December 7, 2018. <https://apnews.com/c9cc559e6c0d420e9567b8ffc822f926>

Strand and Standard Information:

- **Social Studies – Civics & Government, 9-Diploma:** Students draw on concepts from civics and government to understand political systems, power, authority, governance, civic ideals and practices, and the role of citizens in the community, Maine, the United States, and the world:
 - **Civics & Government 1:** *Students understand the ideals, purposes, principles, structures, and processes of constitutional government in the United States and in the American political system, as well as other forms of government in the world by: (F1) Explaining that the study of government includes the structures, functions, institutions, and forms of government. (F2) Explaining how and why democratic institutions and interpretations of democratic ideals and constitutional principles change over time. (F3) Describing the purpose, structures, and process of the American political system. (D1) Evaluating and comparing the relationship of citizens with government in the United States and other regions in the world. (D2) Evaluating current issues by applying democratic ideals and constitutional principles of government in the United States, including checks and balances, federalism, and consent of the governed as put forth in the founding documents. (D3) Comparing the American political system with examples of political systems from other parts of the world.*
 - **Civics & Government 2:** *Students understand the constitutional and legal rights, the civic duties and responsibilities, and roles of citizens in a constitutional democracy and the role of citizens living under other forms of government in the world by: (F1) Explaining the relationship between constitutional and legal rights, and civic duties and responsibilities in a constitutional democracy. (F2) Evaluating the relationship between the government and the individual as evident in the United States Constitution, the Bill of Rights, and landmark court cases. (F3) Evaluating how people influence government and work for the common good, including voting, writing to legislators, performing community service, and engaging in civil disobedience. (D1) Comparing the rights, duties, and responsibilities of United States citizens with those of citizens from other nations. (D2) Analyzing the constitutional principles and the roles of the citizen and the government in major laws or cases.*
 - **Civics & Government 3:** *Students understand political and civic aspects of cultural diversity by: (F1) Explaining basic civic aspects of historical and/or current issues that involve unity and diversity in Maine, the United States, and other nations. (F2) Describing the political structures and civic responsibilities of the diverse historic and current cultures of Maine, including Maine Native Americans. (D2) Analyzing the political structures, political power, and political perspectives of the diverse historic and current cultures of the United States and the world.*
- **Social Studies – Personal Finance & Economics 9-12:** Students draw from concepts and processes in personal finance to understand issues of money management, saving, investing, credit, and debt; students draw from concepts and processes in economics to understand issues of production, distribution, and consumption in the community, Maine, the United States, and the world.
 - **Global Connections:** *Students understand economic aspects of unity and diversity in Maine, the United States, and the world, including Maine Native Americans, by: (D1) Analyzing multiple views on how resource distribution has affected wealth, poverty, and*

other economic factors and present an argument as to the regional, international, and global organizations that are engaged in economic development.

- **Social Studies 9-Diploma – Geography:** Students draw on concepts and processes from geography to understand issues involving people, places, and environments in the community, Maine, the United States, and the world.
 - **Geography 2:** *Students understand geographic aspects of unity and diversity in Maine, the United States, and the world, including Maine Native American communities by: (D1) Summarizing and interpreting the relationship between geographic features and cultures of Maine Native Americans, and historical and recent immigrant groups in Maine, the United States, and the world.*
- **Social Studies 9-Diploma – History:** Students draw on concepts and processes using primary and secondary sources from history to develop historical perspective and understand issues of continuity and change in the community, Maine, the United States, and the world.
 - **History 1:** *Students understand major eras, major enduring themes, and historic influences in United States and world history, including the roots of democratic philosophy, ideals, and institutions in the world by: (F1) Explaining that history includes the study of the past based on the examination of a variety of primary and secondary sources and how history can help one better understand and make informed decisions about the present and future. (F2) Analyzing and critiquing major historical eras: major enduring themes, turning points, events, consequences, and people in the history of the United States and the implications for the present and future. (F3) Tracing and critiquing the roots and evolution of democratic ideals and constitutional principles in the history of the United States using historical sources. (F4) Developing individual and collaborative decisions/plans by considering multiple points of view, weighing pros and cons, building on the ideas of others, and sharing information in an attempt to sway the opinions of others. (D1) Analyzing and critiquing varying interpretations of historic people, issues, or events, and explain how evidence from primary and secondary sources is used to support and/or refute different interpretations. (D2) Analyzing and critiquing major historical eras: major enduring themes, turning points, events, consequences, and people in the history of the world and the implications for the present and future. (D3) Tracing and critiquing the roots and evolution of democratic ideals and constitutional principles in the history of the world using historical sources. (D4) Making a decision related to the classroom, school, community, civic organization, Maine, United States, or international entity by applying appropriate and relevant social studies knowledge and skills, including research skills, ethical reasoning skills, and other relevant information.*
 - **History 2:** *Students understand historical aspects of unity and diversity in the United States, the world, and Native American communities by: (F1) Identifying and critiquing issues characterized by unity and diversity in the history of the United States, and describing their effects, using primary and secondary sources. (F2) Identifying and analyzing major turning points and events in the history of Native Americans and various historical and recent immigrant groups in the United States, making use of primary and secondary sources.*

Excerpt 1 – Penobscot Nation v. Mills, 2017¹

Our holding that the term "island" does not refer to the surrounding water itself or to the land submerged by the surrounding water is also compelled by other text within the Settlement Acts. See, e.g., *Henson v. Santander Consumer USA Inc.*, No. 16-349, 2017 WL 2507342, at *4 (U.S. June 12, 2017) (confirming plain meaning reading by "[l]ooking to other neighboring provisions in the [statute]"). When the Settlement Acts mean to address the various topics of water, water rights, or submerged land, they do so explicitly and use different language. See, e.g., 25 U.S.C. § 1721(b)(2) ("It is the purpose of this subchapter . . . to clarify the status of . . . natural resources in the State of Maine."); id. § 1722(b) (defining the phrase "land or natural 1997, 2003 (2012). It is clear what the ordinary meaning of "land" is from the fact that all of the dictionaries cited above define it primarily as excluding water, while none ranks a definition inclusive of water higher than third. See id. "Were the meaning of ['land'] that [the dissent] advocates truly common or ordinary, we would expect to see more support for that meaning." Id. - 13 - resources" in the MICSA as "any real property or natural resources . . . including . . . water and water rights"); 30 M.R.S.A. § 6203(3) (defining the phrase "land or other natural resources" in the MIA as "any real property or other natural resources . . . including . . . water and water rights"); 25 U.S.C. § 1722(n) and 30 M.R.S.A. § 6203(13) (including "natural resources" as things that can be "transferred" as that word is used in the Settlement Acts); 30 M.R.S.A. § 6207 (discussing regulation of "waters"); id. § 6207(1)(B) (addressing regulation of "[t]aking of fish on any pond in which all the shoreline and all submerged lands are wholly within Indian territory," and using the term "territory" rather than "Reservation" (emphasis added)).

¹ Accessed from <http://media.ca1.uscourts.gov/pdf.opinions/16-1424P-01A.pdf>

Excerpt 2 – Maine Indian Claims Settlement Act (MICSA), 1980²

§6204. Laws of the State to apply to Indian Lands

Except as otherwise provided in this Act, all Indians, Indian nations, and tribes and bands of Indians in the State and any lands or other natural resources owned by them, held in trust for them by the United States or by any other person or entity shall be subject to the laws of the State and to the civil and criminal jurisdiction of the courts of the State to the same extent as any other person or lands or other natural resources therein. [1979, c. 732, §§ 1, 31 (NEW).]

§6206. Powers and duties of the Indian tribes within their respective Indian territories

1. General Powers. Except as otherwise provided in this Act, the Passamaquoddy Tribe and the Penobscot Nation, within their respective Indian territories, shall have, exercise and enjoy all the rights, privileges, powers and immunities, including, but without limitation, the power to enact ordinances and collect taxes, and shall be subject to all the duties, obligations, liabilities and limitations of a municipality of and subject to the laws of the State, provided, however, that internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections and the use or disposition of settlement fund income shall not be subject to regulation by the State. The Passamaquoddy Tribe and the Penobscot Nation shall designate such officers and officials as are necessary to implement and administer those laws of the State applicable to the respective Indian territories and the residents thereof. Any resident of the Passamaquoddy Indian territory or the Penobscot Indian territory who is not a member of the respective tribe or nation nonetheless shall be equally entitled to receive any municipal or governmental services provided by the respective tribe or nation or by the State, except those services which are provided exclusively to members of the respective tribe or nation pursuant to state or federal law, and shall be entitled to vote in national, state and county elections in the same manner as any tribal member residing within Indian territory. [1979, c. 732, §§ 1, 31 (NEW) .]

2. Power to sue and be sued. The Passamaquoddy Tribe, the Penobscot Nation and their members may sue and be sued in the courts of the State to the same extent as any other entity or person in the State provided, however, that the respective tribe or nation and its officers and employees shall be immune from suit when the respective tribe or nation is acting in its governmental capacity to the same extent as any municipality or like officers or employees thereof within the State. [1979, c. 732, §§ 1, 31 (NEW) .]

3. Ordinances. The Passamaquoddy Tribe and the Penobscot Nation each shall have the right to exercise exclusive jurisdiction within its respective Indian territory over violations by members of either tribe or nation of tribal ordinances adopted pursuant to this section or section 6207. The decision to exercise or terminate the jurisdiction authorized by this section shall be made by each tribal governing body. Should either tribe or nation choose not to exercise, or to terminate its exercise of, jurisdiction as authorized by this section or section 6207, the State shall have exclusive jurisdiction over violations of tribal ordinances by members of either tribe or nation within the Indian territory of that tribe or nation. The State shall have exclusive jurisdiction over violations of tribal ordinances by persons not members of either tribe or nation.

² Accessed from <http://legislature.maine.gov/statutes/30/title30ch601sec0.html>

Excerpt 3 – Maine v. Johnson, 2007³

There is one pertinent and explicit exception to the Settlement Act's affirmations of state power, and our immediate task is to apply it to the present facts. The Maine implementing statute, ratified by Congress, says generally that the tribes have within their territories the rights and duties “of a municipality” (such as “to enact ordinances and collect taxes”) and are “subject to the laws of [Maine], *provided, however, that internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections and the use or disposition of settlement fund income shall not be subject to regulation by the State.*” 30 M.R.S.A. § 6206(1) (emphasis added).

The tribes read the italicized phrase broadly, as encompassing discharges into navigable waters within tribal boundaries, even by the nineteen non-Indian facilities located outside those boundaries. Maine denies that the phrase applies even to the two tribal facilities that discharge into tribal waters. And the EPA adopts a middle ground, treating the discharges by the two tribal facilities as an “internal tribal matter” because—given the size of the discharge plumes—they have no “substantial effect [] on non-members.”

The phrase “internal tribal matters,” taken wholly in the abstract, is assuredly vague. But the background rule is that Maine law on natural resources governs the tribes and their territories. Section 6204 says this explicitly and it is underscored by 25 U.S.C. § 1725(h), providing that “no law or regulation of the United States which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, shall apply within the State.”

[...] This court has only two decisions directly construing the phrase “internal tribal matters” as applied to Maine tribes. *Akins*, 130 F.3d 482; *Penobscot Nation v. Fellencer*, 164 F.3d 706 (1st Cir.1999), cert. denied, 527 U.S. 1022, 119 S.Ct. 2367, 144 L.Ed.2d 771 (1999). In the former, the right of a tribal member residing outside the territory to wood from Indian land was held not subject to due process and equal protection rules otherwise applicable to state action, *Akins*, 130 F.3d at 483-84, 490; in the latter, we said that a dismissed employee of the tribal government could not sue under state law claiming discrimination. *Fellencer*, 164 F.3d at 707.

In both those cases, unlike this case, Maine disclaimed any interest in regulation or superintendence. *Akins*, 130 F.3d at 488; *Fellencer*, 164 F.3d at 710-11. By contrast, in the present case, Maine affirmatively asserts authority as to both tribal and non-tribal land to regulate discharges into navigable waters. The Settlement Act provisions just quoted affirm that power. If the internal affairs exemption negated so specific a ground of state authority, it is hard to see what would be left of the compromise restoration of Maine's jurisdiction.

Thus, we readily uphold the position of the EPA and Maine that the nineteen non-Indian discharge sources draining into tribal waters can be regulated by the state. The only real question is the EPA's carve-out of the two source points that are on tribal lands and are owned by tribe entities; these do drain into navigable waters within what we assume to be tribal land. The EPA said that because the two sources have insignificant consequences for non-members, they are exempt from state regulation.

³ Accessed from <https://caselaw.findlaw.com/us-1st-circuit/1158930.html>

Excerpt 4 – Lewis Mitchell’s Speech to 63rd Maine Legislature, 1887⁴

Now I claim that the Passamaquoddy tribe is different from other tribes. Their origin is unknown to any white man. Their ancient laws, customs, and language give us a clear proof that it is a distinct tribe.

Now, in regard to their privilege of hunting, fishing and fowling.

In the treaties of 1725, 1794, and Governor Dummer’s treaty of 1727, and in the laws of Massachusetts and Maine at their separation, we were guaranteed the right to hunt and fish forever. In proof of this, reference is made to Vol. 3, Historical Records of Maine. Now, listen – the plain English words “forever,” and “as long as they remain as a nation.” To-day, Newell T. Lola is Governor of the Passamaquoddy Indians, and Thoma Dana Lieutenant Governor; population of the tribe or nation, five hundred and thirty souls. We remain as a nation yet. Now I claim that this privilege of hunting, with the Passamaquoddy Indians, has never been broken; because common sense will tell us that hunting is their chief dependence for living, and for this reason they cannot break their treaty or the treaty of Falmouth in 1749. You claim the before mentioned treaties have been broken by the St. Francis Indians and the Norridgewocks. We have nothing to do with their treaties. The Norridgewocks are passed out of existence; they don’t need any more hunting privileges. The laws of Massachusetts in 1775-6-7 even go so far that they give us exclusive rights to hunt, especially beaver hunting. They authorize us to seize all the furs, all the traps and arms from white hunters; even we were authorized, we threatened them in force of arms. Now, if the Passamaquoddy tribe gave up their rights, claims, title, interest, by the treaty of 1794, as you claim that they did, we see that must have been a great gift to the State; and that same treaty says to us, “the lands, islands, privileges, granted to the Passamaquoddy Indians and their heirs forever.”

Lands granted to the Passamaquoddy Indians by the Commonwealth of Massachusetts in 1794:

Such lands were granted to us: 50 acres at West Quoddy Carryingplace, township of 25,000 acres; islands on the St. Croix River, 15 in number, containing 160 acres of land. Now, the land at West Quoddy is occupied by white people (deeds given by Chase); the claim on the islands has been taken from us; part of the township has been leased a term of 999 years, a two mile strip the entire width of the township, eight miles; a mile strip, eight miles long, given to a rich man worth probably half a million dollars, for a road. When they send a petition for this purpose, they say this road is a benefit to the Indians. No Indians ever go through that road once in ten years. This man has a big farm back of this township; that’s why he asks for permission to build a road through our township. I think, the way I see, myself, (I am not a surveyor,) I think 50 feet is wide enough for any road, instead of one mile. Now I claim again, this is not right. If we only get a few dollars for it and the money placed in our fund, we will not feel so bad; but we see plainly that not even one cent do we ever get for that long strip of land, one mile wide and eight miles long. This land is to be taken from the poor Indians and granted to a rich man who is able to pay a good price for it. Now, if the State is guardian of the Indians’ property, it must seek information of the Indians there and then whether they need such a road or not.

⁴ Accessed from

[http://www.wabanaki.com/wabanaki_new/documents/Mitchell%20Speech%201887%20\(official%20reduced\).pdf](http://www.wabanaki.com/wabanaki_new/documents/Mitchell%20Speech%201887%20(official%20reduced).pdf)

Excerpt 5 – Nonintercourse Act, 1790, updated 1793⁵

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That no person shall be permitted to carry on any trade or intercourse with the Indian tribes, without a license under the hand and seal of the superintendent of the department, or of such other person, as the President of the United States shall authorize to grant licenses for that purpose; which superintendent, or person so authorized shall, on application, issue such license, for a term not exceeding two years, to any proper person, who shall enter into bond with one or more sureties approved of by the superintendent, or person issuing such license, or by the President of the United States, in the penal sum of one thousand dollars, payable to the United States, conditioned for the true and faithful observance of such rules, regulations and restrictions, as are or shall be made, for the government of trade and intercourse with the Indian tribes. The said superintendents, and persons licensed, as aforesaid, shall be governed, in all things touching the said trade and intercourse, by such rules and regulations, as the President of the United States shall prescribe.

SEC. 2. *And be it further enacted,* That the superintendent, or person issuing such license, shall have full power and authority to recall the same, if the person so licensed shall transgress any of the regulations or restrictions, provided for the government of trade and intercourse with the Indian tribes, and shall put in suit such bonds, as he may have taken, on the breach of any condition therein contained.

SEC. 3. *And be it further enacted,* That every person, who shall attempt to trade with the Indian tribes, or shall be found in the Indian country, with such merchandise in his possession, as are usually vended to the Indians, without lawful license, shall forfeit all the merchandise offered for sale to the Indians, or found in his possession, in the Indian country, and shall, moreover, be liable to a fine not exceeding one hundred dollars, and to imprisonment not exceeding thirty days, at the discretion of the court, in which the trial shall be: Provided, That any citizen of the United States, merely travelling through any Indian town or territory, shall be at liberty to purchase, by exchange or otherwise, such articles as may be necessary for his subsistence, without incurring any penalty.

SEC. 8. *And be it further enacted,* That no purchase or grant of lands, or of any title or claim thereto, from any Indians or nation or tribe of Indians, within the bounds of the United States, shall be of any validity in law or equity, unless the same be made by a treaty or convention entered into pursuant to the constitution; and it shall be a misdemeanor, in any person not employed under the authority of the United States, in negotiating such treaty or convention, punishable by fine not exceeding one thousand dollars, and imprisonment not exceeding twelve months, directly or indirectly to treat with any such Indians, nation ascribe of Indians, for the title or purchase of any lands by them held, or claimed: Provided nevertheless, That it shall be lawful for the agent or agents of any state, who may be present at any treaty, held with Indians under the authority of the United States, in the presence, and with the approbation of the commissioner or Commissioners of the United States, appointed to hold the same, to propose to, and adjust with the Indians, the compensation to be made for their claims to lands within such state, which shall be extinguished by the treaty.

⁵ Accessed from https://avalon.law.yale.edu/18th_century/na025.asp

Student Worksheet A – Excerpt Reflection

1. Excerpt examined: _____

2. What are the main points being made in this excerpt?

3. Write a brief reflection of this excerpt, based on your knowledge of the events preceding it and any other documents it may reference. You may include whether you agree or disagree with the points made within the excerpt, or whether you feel that the declarations have been upheld.

Student Worksheet C – MICSA in the News

1. Source examined: _____

2. What type of source is this? News article, news clip, documentary, essay, podcast, other?

3. Who is the author/who are the parties involved in creating the source?

4. What are the main points being made in this source?

5. Write a brief reflection of this source, based on your knowledge of the events preceding it and any other documents it may reference. You may include whether you agree or disagree with the points made within the excerpt, or whether you feel that Wabanaki voices are being heard/privileged.

Teacher Resources – Assessment Rubric

Did the student meet the expectations of the lesson?

Task	1 – Did Not Meet	2 – Partially Met	3 – Met	4 – Exceeded	Notes
Student can articulate understanding of the stakes driving Wabanaki currently and over time.					
Student can articulate the importance of sovereignty and self-determination.					
Student can make active connections between legislation and Tribal and Maine State economics.					
Student gave thoughtful responses to Worksheet(s).					
Student participated respectfully in small group and classroom discussion.					
Student demonstrated ability to analyze primary source documents.					

<p>Total Score and Notes:</p>
