

The People Who Spear Pollock

The Passamaquoddy tribe in eastern Maine, US, are indigenous fishers who are trying to exercise sovereign rights to resources

Fred Moore III, a long-time representative, and sometimes controversial figure, of the Passamaquoddy tribe in eastern Maine, United States (US), likes to enlighten his listeners through questions.

“When you think of the Navajo, what do think of?” Fred asks with a knowing twinkle in his eye. “Sheep, weaving, deserts? When you think of the Lakota, you think of buffalo, horses and teepees. These are stereotypes. But when you think of the

native land, without any recompense for the tribes. The Passamaquoddy were relegated to several small reservations on the US-Canada border—Pleasant Point, a small peninsula between Cobscook and Passamaquoddy Bays, and Peter Dana Point, 30 miles up the St. Croix River among a network of lakes. “These reservations essentially amount to refugee camps in an occupied territory,” says Moore.

But the tribe’s position changed in 1980. After four years of litigation, the US government recognized Passamaquoddy treaty rights, and the US Congress passed the Land Claims Settlement Act, which awarded the Passamaquoddy tribe 150,000 acres of land in the State of Maine, and established a US\$12.5-mn dollar trust fund in compensation for the tribes’ previous losses. While the settlement extinguished any further land claims, the Passamaquoddy have always stressed their historical rights to the sea. “We were very clear,” says Moore. “We have always reserved our right to hunt and fish on the sea. Our connection to the sea has always sustained us, and it is our future.”

Traditional rights

Moore stresses that native people are not ‘given’ rights, but retain them from a time beyond memory. “Treaties are agreements between two sovereign nations,” he says. “We ceded certain rights to the State of Maine, but we reserved other rights for ourselves. We were the ones who gave the Europeans the right to fish here, and, considering what they’ve done, we’re thinking about taking that right back.”

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Passamaquoddy, what do you think of?”

“Every time I ask that question, I get silence. The answer should be fish. Passamaquoddy means ‘people who spear pollock.’ All the other Maine tribes were named according to the rivers they lived on. The Passamaquoddy were named according to what they do.”

For over 10,000 years—since the end of the last Ice Age—the Passamaquoddy tribe and its cultural predecessors have occupied the coastal regions and watersheds of what is now Maine and southwest New Brunswick, Canada. In the 17th century the tribe lost much of their land to French and English colonists; as late as the 20th century, the State of Maine continued to encroach on

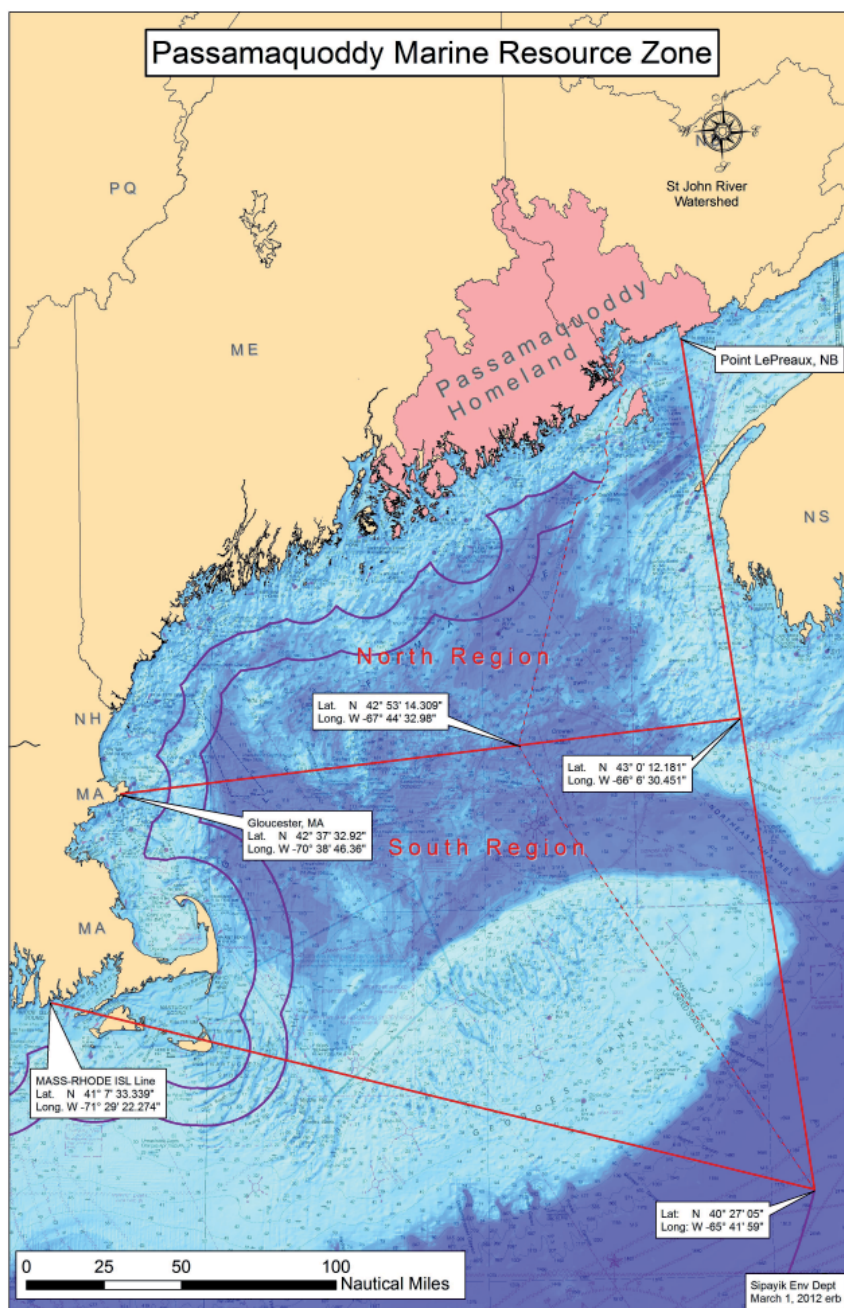
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In 1998 the Maine State legislature passed a bill, sponsored by Moore, that would recognize Passamaquoddy fishing rights and reconcile the tribe's fishing activity with State regulations. In the late 1990s, some legislators voiced vehement opposition to recognizing native rights, which prompted Moore to compare his tribe to the wolves that were being re-introduced in Maine at the time. Many people saw the wolves as a threat to the deer they wanted to hunt, resulting in a major 'No Wolves' campaign. "You see those bumper stickers that say 'No Wolves'? Moore asked. "That's us. We're the wolves of fisheries. Other people are afraid we'll impact their commerce."

Moore maintains the Passamaquoddy perspective that the fishery resource is a living being. "It's a living thing that we respect," he says, asserting that his tribe's cultural relationship with the sea includes harvesting seafood for consumption and trade. "Our people used to spear pollock and flounder in the shallows, and pick up scallops and lobsters at low tide, even when I was a kid," says Moore, now 51 years old. "We give away a lot of what we catch, but we sell some too—trade is part of subsistence."

At the 1998 Maine State legislative hearings, a senator pronounced that every Maine citizen has a right to a recreational lobster fishing licence that allows for the setting of five lobster traps. "I told her that she was not entitled to legislate my identity," says Moore, who regards such comments as efforts to assimilate his tribe. "I told her our people do not trap live animals for 'recreation'. They are our fellow beings; we trap them for food, and we treat them with respect. They have eyes, they look at you," says Moore, holding two fingers up to his own eyes.

He points to a fish hawk out over the water. "He's fishing. If you can convince him he needs a permit, I'll be right behind him; we get our fishing rights from the same place," says Moore. But as the local abundance of fishery resources decreased in the face of increased fishing pressure and



Source: Chiefs of the Passamaquoddy Tribe/Wabanaki

upstream pollution—a paper mill and two large towns dump sewage and toxic effluents into the St. Croix River—the tribe's fishers adopted the technology necessary to harvest resources farther and farther offshore. Despite the fact that offshore fishing is also part of the Passamaquoddy legacy, national borders and regulations have overlaid the tribe's traditional fishing areas.

Though the Passamaquoddy agreed to limit the initial number of lobster licences issued to tribal members, and work within State

regulations, for over a decade now, they have continued to exercise their rights to the point of provoking reactions. “We are a sovereign nation,” says Moore. “Sovereignty is a word that is easy to pull out of the air, but a little more difficult to exercise. Anybody can say they are sovereign on the reservation; what matters is how much we are respected off the reservation.”

Moore and his two sons, Kyle and Fred IV, fish for lobsters in both Canadian and US waters, in defiance of both countries' regulations. “We informed the Canadian government that we are fishing in Passamaquoddy Bay (in Canadian waters); after all, it has our name on it,” says Moore. “The Canadians asked the Maine Department of Marine Resources to arrest us.”

According to the local Maine enforcement officer, Russell Wright, Maine refused to take action. “We have no authority,” says Wright. “It would be up to Canada to take action.” But so far the Canadian authorities have not

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taken any action against Moore and his two sons, and the tribe continues to expand its reliance on the sea.

Other efforts to boost the tribe's economy—such as attempts to launch a casino in Maine—have failed. “I told the tribal council we have to think big—beyond Indian gaming”, says Moore. At the direction of the Passamaquoddy tribal council, Fred is developing a fisheries management plan that asserts the right to target resources in US and Canadian waters 200 miles or more offshore, and along the Canadian and US coasts—from Point LePreau, New Brunswick, to Gloucester, Massachusetts.

Moore envisions low-impact and enduring inshore fisheries, training programmes for tribal members,

and increased processing capacity supported by a longline fishery for groundfish and large-scale offshore scallop, lobster and crab fisheries. “We have established quotas which account for 50 per cent of any increase in the total allowable catch for scallops,” says Moore. “Some regulators are encouraging, but others such as Pat Kurkal, the National Marine Fisheries Service (NMFS) regional administrator, seem bent on telling us what the laws are.”

According to Moore, some of the regulators need to be reminded what the laws are. “We find ourselves asking these regional administrator types: Do you understand that we deal with your government as a sovereign nation? You have a responsibility to find out from the Department of Commerce what the secretary wants you to say to us, and relate that to us. Please do not address the Passamaquoddy tribal government, as you would a wayward scallop boatowner or pirate.”

Moore plans to market Passamaquoddy-landed products under a label, 'Native Harvest Seafood', which is an ecolabel of sorts. While organizations such as the Marine Stewardship Council (MSC) certify the sustainability of fisheries based on analysis of estimated stock size and landings—regardless of gear type or social conditions—the Native Harvest Seafood label represents a radically different approach that recognizes each tribal member's inherent birthright to sustainable fisheries.

Gradual increase

Moore takes a multi-level approach, fine-tuning the tribe's fisheries management plan to meet cultural, subsistence and economic needs. “Five per cent of what we catch is distributed among tribal members, particularly the elders,” says Moore. In the lobster fishery, where the number of licences is limited, Moore suggests a gradual increase in the number of fishers. “We're limited to 800 traps per licence. So as people go through an apprenticeship programme, we

decrease the number of traps per licence and increase the number of licences. It's the same number of traps we've agreed to with the State; we'll just distribute them in a way that more people can enter the fishery. We want more people fishing, not fewer"

The Passamaquoddy fisheries management regime is, in many ways, more conservative than State or federal plans. For instance, the minimum shell size for scallops is a half inch larger than under federal law, and many lobsters get returned to the sea, not just those with a V-notch cut in the tail as required by Maine law. "We don't V-notch. We are not interested in mutilating our fellow beings," says Moore. "And we're not going to have any bycatch; everything will get landed, everything will be used. Our management plans are more restrictive from a native cultural standpoint than State and federal plans."

The tribe continues to exert sovereignty over how resources are managed. "We don't recognize management plans that fail to protect the resources. We differentiate between what is legal and what is right. What we consider right isn't always legal, and what's legal isn't always right."

Passamaquoddy fishers have met some opposition from non-native fishers angered by the presence of the tribe's fishers on the water, particularly of token tribal members on board non-native boats trying to fish under an assertion of native rights. "This is not allowed under our plan. However, non-natives can participate as long as control of the vessel is at least 51 per cent Passamaquoddy. And we require extensive documentation to demonstrate operational control by a Passamaquoddy owner or lease holder."

While eager to get more people fishing, the tribal plan contains a zero-tolerance policy for fisheries regulation infractions. "If you're caught with undersized or egg-bearing lobsters, you lose all your licences. That's tribal law. Because



Kyle Moore filling bait bags with herring aboard *Ahkiq III* at the wharf at Pleasant Point, Passamaquoddy Reservation, Maine, US

you are stealing from everyone, we have codified Passamaquoddy values into regulations," says Moore. "Native Harvest Seafood represents those values."

"In times such as these, we are in need of nuance of language and subtlety of insight," according to Steven Newcomb, co-founder of the Indigenous Law Institute. For his part, Moore is ever alert for the discourse of systematic extinguishment that has overridden the fishing rights of indigenous peoples around the world. When a golf course developer in New Brunswick invited Moore over to talk about building a protective wall around Passamaquoddy shell middens near the town of St. Andrews, he surprised him with his response: "Let the middens wash away."

"But all that culture will be lost," he said. "Lost for whom?" I asked. "It's of no value to us; it's intended to be washed away. The beaches around are made up mostly of crushed shells from our middens. I told him he could put up a wall if he wanted, and a little plaque saying that at one point, native people ate here."

Flourishing culture

"And while you're at it", I said, "you can put one in that restaurant up there, because I'm about to go eat there too."

Moore does not engage in the elegiac celebration of his people's

culture that once flourished around Passamaquoddy Bay. “The easiest way for people to justify what they’ve done, and what they’re doing, is to always refer to native people in the past tense. They try to weaken our negotiating position by suggesting that we don’t have the same standing that we once had. That’s why I keep saying that our culture is as valid today as it has ever been. We’re still here!” he says. “Our survival is the essence of our identity.”

The accepted notion of ‘sustainability’ is that each generation enjoys the fruits of the earth—and sea—to the extent that it does not compromise the abilities of future generations to do the same. This amounts to intergenerational stability, as was the case prior to the arrival of European colonizers. Proponents of the dominant economic system have said that fishing with destructive gear, and forcing entire populations off the water, can be sustainable—some fisheries have MSC labels to prove it. All over the world, fishing cultures have given way to capital and technology; many have simply vanished without the ability to assert and exercise access rights, while others have surrendered claims to sovereignty in exchange for a slot at the trough—a job. Unlike most small-scale fishers, the Passamaquoddy, along with other tribes and well-defined groups such as Mexico’s *ejidatarios* and Chile’s *calejos*, have their rights to marine resources codified in law, if not always in practice. They have a place to stand—a position.

But Moore does not see this as any sort of victory. “For us, being able to harvest resources, and have access to resources isn’t special,” he says. “It’s normal. It’s what we have done forever, and will do forever. In our view, the resource belongs to everyone, and everyone has a right to it.”

Moore’s sons join us at the end of our discussion. Kyle sports a pair of headphones draped around his neck and while he and his brother both speak Passamaquoddy, neither claims fluency in the language.

“I understand sovereignty here,” says Fred IV, pointing to his head. “But I don’t really have it here yet,” he adds, pointing to his heart. “I get nervous when the patrol boats come by.”

“We do speak the language,” says Moore. “And when the patrol boats come, I tell them to be prepared. And as far as sovereignty goes, they are getting it, and it will become more internalized for them when they start to be responsible for outcomes.”

Moore left a prestigious prep school in his teens in order to return to the reservation. “I realized I was learning from books at a time when the people who could really teach me something—the elders—were here, and going into the ground when they die. I came back to learn from them, because I can’t take them out of the ground while books will always be there.”

Both of Moore’s sons have attended college, but they returned home to learn fishing. They may go back to school, they say, acknowledging that when their tribe’s exercise of sovereignty on the high seas begins to generate the ecological, cultural and financial returns their father hopes for, they will be studying ways to support those efforts, and strengthen their identity as the “people who spear pollock.”

For more

passamaquoddy.com

Passamaquoddy Tribe of Indian Township, Maine

quoddytides.com/tribe9-10-10.html

Tribe Ascertains Right to Fish in Federal Waters

wabanaki.com

Pleasant Point - Passamaquoddy Tribal Government