

**STATE OF MAINE
LAND USE PLANNING COMMISSION**

IN RE: PICKETT MOUNTAIN MINE REZONING APPLICATION

Applicant: Wolfden Mt. Chase LLC

Location: T6R6 WELS

Commission Application Number: ZP 779A

PETITION TO INTERVENE

**Penobscot Nation, Houlton Band of Maliseet Indians,
Natural Resources Council of Maine and Conservation Law Foundation**

The Penobscot Nation, Houlton Band of Maliseet Indians, Natural Resources Council of Maine, and Conservation Law Foundation (collectively petitioners) petition to intervene as parties in Wolfden Mt. Chase LLC’s (Wolfden) rezoning application proceeding before the Land Use Planning Commission (Commission or LUPC), in which Wolfden seeks to rezone 374 acres in T6R6 WELS from General Management (M-GN) to Planned Development (D-PD) in order to develop and operate a metallic mineral mine on the site. Petitioners seek leave to intervene as full participants in this proceeding, including cross-examination of the applicant's witnesses at the hearing, submission of evidence, submission of post-hearing statements and argument, and possible judicial appeals. This petition is submitted pursuant to Chapter 5, Section 5.03 of the Commission’s rules, which requires the Commission to grant intervention to any petitioner who “is or may be substantially and directly affected by the proceeding.” Each of the proposed petitioners easily satisfies this standard.

INTRODUCTION

Wolfden seeks to develop a mine in one of the most beautiful, ecologically rich areas of Maine—an area with great historical and cultural importance to the Tribal petitioners and exceptional natural resources that are used, enjoyed, and highly valued by all petitioners’ members.

The Pickett Mountain site is near the Maliseet Riverside Village in Houlton and the Penobscot Nation’s trust land on Grand Lake Matagamon, as well as Baxter State Park and Katahdin Woods and Waters National Monument. It contains and is surrounded by wetlands and clear streams that feed nearby lakes and ponds designated as Maine Heritage Fish Waters, representing some of the best native brook trout and landlocked salmon waters in the region. It is set in the headwaters of the West Branch Mattawamkeag River—designated critical habitat for federally endangered Atlantic Salmon—which flows into the Penobscot River, the location of the Penobscot Nation’s reservation. Wolfden’s proposal threatens to severely degrade these vital lands and waters.

In addition to the mine itself, Wolfden’s proposed project also requires a concentrator for processing ore and a tailings management facility to store permanently the ore processing waste products. These facilities pose severe risks to natural resources in the area, but Wolfden has not determined, or at least not disclosed, the location of these facilities. Without information on the location and site-specific design of these facilities, it is impossible for petitioners to know which additional lands, waters, wildlife, and infrastructure will be put in harm’s way. Because Wolfden presumably will attempt to locate these facilities in relatively close proximity to the mine itself (Wolfden notes that the nearby towns of Hersey, Patten, and Staceyville are potential locations), these facilities, too, threaten the area’s unique and irreplaceable natural resources.

Petitioners are substantially and directly affected by this proceeding, and the Commission should grant the petition to intervene.

THE PETITIONERS

I. Penobscot Nation

The Penobscot Nation, *penawahpkekeyak*, the people of the place of the white rocks, is a federally recognized Indian Tribe located in northeastern Maine. Wolfden’s proposed mine would

be located in Penobscot Nation ancestral territory, in part of a vast area of interconnected katónkəkanal, or traditional hunting territories.

The Penobscot Nation Reservation includes the Penobscot River. The seat of Tribal government and its primary population center is located on Indian Island on the banks of the Penobscot River. There are more than 2,400 enrolled members of the Penobscot Nation. The Penobscot Nation's territory includes more than 4,900 acres of reservation land, including 200 plus islands in the Penobscot River. In addition, the Penobscot Nation protects and manages in excess of 90,000 acres of trust land in nine locations throughout Maine. The Penobscot Nation is one of the oldest continuous governments in the world.

The Penobscot Nation has trust land on Grand Lake Matagamon, near the site of the proposed mine. This trust land is an important ceremonial, hunting, fishing, guiding, and cultural area for Tribal members. In addition, Tribal members use the area for observing culturally important bald eagles and gathering food and materials for making traditional baskets and birch bark canoes. This trust land borders Katahdin Woods and Waters National Monument, which is an International Dark Sky Sanctuary. It is one of only a few places on the east coast of the United States where the sky can be viewed without the impacts of light pollution. Tribal members hold ceremonies and pass on traditional stories and teachings about the stars and celestial objects at Matagamon, which is designated by the Penobscot Nation as a ceremonial area.

The archeological assessment of the proposed Wolfden project site included with Wolfden's application identified five archeologically sensitive locations in, or partially within, the project area. An additional archeologically sensitive location is located only 250 meters off the project site. Archeologists indicated a high probability of more sites, including habitation sites. These areas are the home of Penobscot and Wabanaki ancestors.

The Penobscot are river people with their culture and society rooted in their relationship to the river. The river habitat is a source of food, medicine, connection, and spirituality for Penobscot people who engage in and pass down the ancient practices of fishing, hunting, gathering, and traveling on the same river that has sustained them for thousands of years. The Penobscot world view is that they do not own the lands or waters or resources, but that they are part of an interconnected web. Consistent with this worldview, the Penobscot Nation approved the Penobscot River as a citizen in 2019. When one part of the web is out of balance, all suffer. In that way, pollutants in the river impact the wellbeing of the Penobscot Nation.

As a result, the Penobscot Nation has implemented initiatives to protect and restore the Penobscot River. The Penobscot River Restoration Project is widely acclaimed as one of the nation's most innovative restoration projects and is an unprecedented collaborative effort focusing on fisheries restoration. The Penobscot Nation has been instrumental in this project, helping to form the Penobscot River Restoration Trust, a nonprofit organization that worked with a variety of state and federal agencies to implement the restoration project. As a result of the Penobscot Nation's efforts, thousands of miles of habitat along the Penobscot and its tributaries have been re-opened for 12 native species of sea-run fish. So far in 2023, more than 5 million river herring and 1,100 Atlantic salmon have returned to Reservation waters.

The Penobscot Nation's efforts to preserve the Penobscot River are threatened by Wolfden's proposal. Wolfden's proposed mine would be set in the headwaters of the West Branch Mattawamkeag River, which flows into the Penobscot River. The Penobscot Nation is deeply concerned that Wolfden's proposed mine would adversely impact the Penobscot River and the resources it contains, which include fish that tribal members rely upon. Tribal members also exercise their sustenance fishing rights in the Mattawamkeag River, which is directly threatened

by Wolfden's mine. Environmental harm and degradation caused by Wolfden would forever alter tribal members' ability to maintain their relationship to the land. The Penobscot Nation will be substantially and directly affected by this proceeding and should be granted intervention.

II. Houlton Band of Maliseet Indians

The Houlton Band of Maliseet Indians (HBMI, or the Band), *Metahksoniqewiyik*, the people of the Meduxnekeag River, is a federally recognized Tribe located in northeastern Maine and a band of the Maliseet Nation, a transboundary Tribal Nation living in its ancestral homeland. Pre-contact, the Band occupied much of what is now considered the eastern border line between the U.S. and Canada in northern New England. The Band currently has approximately 2,000 members. The proposed Wolfden mine site is located near Maliseet Riverside Village, in Houlton, Maine and the Band's tribal trust lands along the Meduxnekeag River. Tribal citizens engage in traditional practices including sustenance fishing in areas near the proposed mine and would be directly and substantially impacted if the proposed mine were built, changing the character of the region and threatening to contaminate the surrounding waters, imperil the fish, and harm the ecosystem.

The Maliseets are *Wolastoqewiyik*, or "People of the Beautiful, Flowing River." Maliseets continue to traditionally fish, trap, hunt, and gather in the *Wolastoq*, or St. John River basin, of which the Meduxnekeag is a tributary. The Meduxnekeag River flows through Maliseet Tribal Lands and is prized for its brook trout populations. Much of HBMI's land borders the Meduxnekeag River, which is a critical link in preserving tribal practices, traditions, and history. The Band is actively working to restore the watershed of the Meduxnekeag River to bring back Atlantic salmon and other sea-run fish.

A critical Band priority, and its Natural Resources Department's mission, is to maintain the natural environment that supports the fish, animals, and plants on Maliseet lands and territories to preserve and protect the culture and traditions or "common welfare" of the Tribe. The Maliseets are renowned birch bark canoe builders. Maliseet homelands, filled with productive soils that now grow potatoes, once grew the biggest and best canoe birches. With these light, flexible, sturdy craft, Maliseets traveled the rivers and streams of the Wolastoq watershed to reach hunting and fishing grounds and portaged to streams and rivers in other watersheds, a tradition that continues today. Band members want to continue traditional activities such as sustenance fishing, gathering fiddleheads and medicines, and making baskets sustainably without fear of contamination.

Many HBMI citizens fish to feed themselves and their families, and to share with elders and others who can no longer fish. Gathering aquatic plants remains an important cultural tradition, as well. For instance, the HBMI government sets aside a day every year for collecting fiddleheads (emerging ostrich fern), to prepare and freeze for the many traditional feasts hosted throughout the year.

Environmental protection for the Maliseets equates to cultural survival. Maliseet language, history, legends, tradition, and culture are deeply rooted in nature. Maliseets believe that all of creation is important, nature must be in balance, and that we all suffer when we disturb that balance. Tribal culture and tradition require the Band to manage, protect, and enhance the environment so that the web of life will continue to support future generations.

The gift of water is one of the essential teachings of the Maliseets. Water not only signifies a crucial component of all life, it also honors the spirit. In the Maliseet language, water—*samaqan*—is a living entity. Therefore, *Peskotomuhkati Wolastoqewik Latuwewakon*, a Passamaquoddy-Maliseet dictionary, lists 55 different words for water. Maliseets are a people who

have lived in their homeland since the beginning of creation. Tribal people believe that all creation—the animals, plants, rocks, and elements—have spirits and are their relations. Maliseet people refer to the land as Mother Earth and refer to the rocks and stones as ancestors, those who have been here since the dawn of creation.

Many Maliseet stories reflect this belief. According to Maliseet tradition, the Maliseet people were created from the brown ash tree. Many tales speak of animals turning into humans and humans turning into animals. Noxious insects come into being when the troublesome shaman Poktcinskwes, upon dying, turns herself into bees, hornets, flies and mosquitos. Water is also central to Maliseet tradition, as reflected in many tales about the Maliseet culture-hero, Gluskap. In one tale, for example, Gluskap helps a band of Indians whose water had become fouled by the serpent Akwulabemu. Gluskap kills Akwulabemu and “straight away the springs and brooks filled with water that was clean and pure.”

The Maliseets have been fighting to retain, rebuild, and protect their ancestral ways for over 400 years. Maliseet people are the last bastions of the unique language, history, traditions, stories, ceremonies, and spiritual beliefs that make up Maliseet culture. When contamination and habitat degradation make it impossible to hunt, fish, or gather plants and medicines or to engage in ceremonial practices in accordance with their traditions, the Band cannot pick up its trust lands and move them away from the sources of pollution. When a natural resource is adversely impacted or damaged by influences beyond the Band’s control, a vital part of the Band’s cultural link is forever broken. Preservation and protection of natural resources is preservation and protection of tribal culture.

Accordingly, the Houlton Band of Maliseet Indians will be substantially and directly affected by this proceeding and should be granted intervention.

III. Natural Resources Council of Maine

The Natural Resources Council of Maine (NRCM) is a nonprofit corporation dedicated to protecting, restoring, and conserving Maine's environment, now and for future generations. NRCM is Maine's largest environmental advocacy group with more than 25,000 members and supporters.

Since its establishment in 1959, NRCM has advocated to protect Maine's outstanding natural resources in Maine's legislature, in the courts, and before state agencies, including the Commission. NRCM has intervened and participated in multiple prior Commission proceedings, including the Fish River Chain of Lakes Proposed Concept Plan proceeding (ZP 768) and the proceeding for Plum Creek's proposed Concept Plan for Moosehead Lake (ZP 707), among others. NRCM was also heavily involved in the six years of legislative and regulatory proceedings that resulted in the 2017 Maine Mining Law and the current Chapter 200 mining rules.

NRCM has followed Wolfden Resources' proposed Pickett Mountain mine since the company first announced its intention to purchase the area to mine. NRCM commented extensively on its initial rezoning petition, which the company withdrew after LUPC staff recommended its denial.

NRCM also has a longstanding interest in the Katahdin region, where the proposed mine would be located. NRCM was involved in the campaign to create the Katahdin Woods and Waters National Monument and in the successful effort to incorporate Katahdin Lake into Baxter State Park. NRCM has members who reside, hunt, fish and hike in the area, and they care deeply about conserving its outstanding lands, waters, and wildlife.

In addition, NRCM was a founding partner of the Penobscot River Restoration Trust. The Penobscot Project, on which the Trust worked, became a globally significant river restoration

success, with the removal of two dams and the building of a nature-like fishway around a third dam. In addition, NRCM has played a key role in the regulatory and legal processes that resulted in the upgrade of the entire freshwater main stem of the Penobscot River from Class C to Class B over the course of more than a decade, thereby greatly increasing water quality protections for this section of the river. NRCM is committed to continuing to protect the Penobscot River and believes that Wolfden's proposed mine would be a major threat to its headwaters.

Accordingly, NRCM will be substantially and directly affected by this proceeding and should be granted intervention.

IV. Conservation Law Foundation

Founded in 1966, the Conservation Law Foundation (CLF) is a non-profit advocacy organization with 5,000 members across New England, including approximately 500 in Maine. CLF works to solve the environmental problems threatening the people, natural resources, and communities of New England. CLF advocates use law, economics and science to design and implement strategies that conserve natural resources, protect public health, and promote vital communities in the region. CLF members live, work, fish, hunt, canoe and hike in the area surrounding the location of Wolfden's proposed mine and other areas that would be impacted by it, including in, on, or around the Penobscot and Mattawamkeag Rivers and their headwaters, Baxter State Park, and the Katahdin Woods and Waters National Monument.

CLF has intervened in matters before the Commission previously, including the proceeding for Plum Creek's proposed Concept Plan for Moosehead Lake (ZP 707) and the Site Location of Development Law Certification for the New England Clean Energy Connect Project (SLC-9). CLF was engaged in the legislative and regulatory proceedings that resulted in the 2017 Maine Mining

Law and the current Chapter 200 mining rules. CLF also engaged in and supported the efforts to create the Katahdin Woods and Waters National Monument.

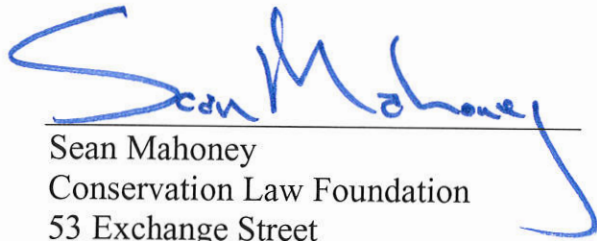
CLF is committed to protecting this unique habitat that forms the headwaters of Maine's most iconic river treasured by generations of Maine citizens. The mining operation proposed by Wolfden Resources is a clear and present risk to that habitat. Accordingly, CLF's interests will be substantially and directly affected by this proceeding and should be granted intervention.

CONCLUSION

Petitioners respectfully request that the Commission grant their petition to intervene.

Dated: June 28, 2023

Respectfully Submitted,



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*Attorneys for Penobscot Nation, Houlton
Band of Maliseet Indians, and Natural
Resources Council of Maine*

VERIFICATION

I, Mark Chavaree, being first duly sworn, affirm that:

I have reviewed the annexed Petition to Intervene filed in this proceeding before the Land Use Planning Commission regarding Wolfden Mt. Chase LLC's Pickett Mountain Mine Rezoning Application, ZP 779A. The facts set forth in the Petition with respect to the Penobscot Nation are true based on my personal knowledge or that of Tribal representatives with whom I have consulted. I am authorized to execute this verification on behalf of Penobscot Nation.

Dated: 6-27-23

Mark A. Chavaree
Mark A. Chavaree, Legal Analyst
[Sign above, print name/title below]

Subscribed and affirmed before me this 27th day of June 2023, at Indian Island, Maine, by Mark A. Chavaree.

Faye A. Lawson

Signature of Notary Public

Name of Notary Public: Faye A Lawson SEAL

Notary Public, State of Maine

Faye A. Lawson
Notary Public, State of Maine
My commission expires February 5th, 2028

VERIFICATION

I, Sharri Venno, being first duly sworn, affirm that:

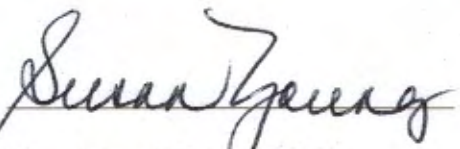
I have reviewed the annexed Petition to Intervene filed in this proceeding before the Land Use Planning Commission regarding Wolfden Mt. Chase LLC's Pickett Mountain Mine Rezoning Application, ZP 779A. The facts set forth in the Petition with respect to the Houlton Band of Maliseet Indians are true based on my personal knowledge or that of Tribal representatives with whom I have consulted. I am authorized to execute this verification on behalf of the Houlton Band of Maliseet Indians.

Dated: June 27, 2023



Sharri Venno
Environmental Planner
Houlton Band of Maliseet Indians

Subscribed and affirmed before me this 27th day of June, 2023, at Houlton, Maine, by Sharri Venno.



Signature of Notary Public

Name of Notary Public: SUSAN YOUNG

SEAL

Notary Public, State of Maine

My commission expires: 6/4/26



VERIFICATION

I, Nick Bennett, being first duly sworn, affirm that:

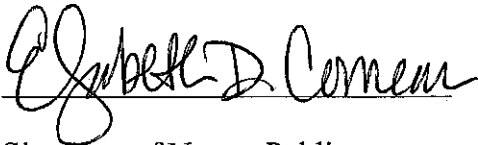
I have reviewed the annexed Petition to Intervene filed in this proceeding before the Land Use Planning Commission regarding Wolfden Mt. Chase LLC's Pickett Mountain Mine Rezoning Application, ZP 779A. The facts set forth in the Petition with respect to the Natural Resources Council of Maine are true based on my personal knowledge or that of other Natural Resources Council of Maine staff with whom I have consulted. I am authorized to execute this verification on behalf of the Natural Resources Council of Maine.

Dated: 6/28/23



Nick Bennett
Staff Scientist
Natural Resources Council of Maine

Subscribed and affirmed before me this 28th day of June, 2023, at Augusta, Maine, by Nick Bennett.

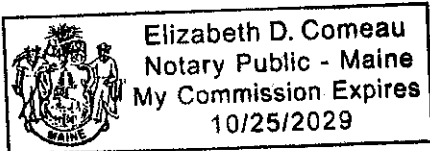


Signature of Notary Public

Name of Notary Public: Elizabeth D. Comeau SEAL

Notary Public, State of Maine

My commission expires: 10/25/2029



VERIFICATION

I, Sean Mahoney, being first duly sworn, affirm that:

I have reviewed the annexed Petition to Intervene filed in this proceeding before the Land Use Planning Commission regarding Wolfden Mt. Chase LLC's Pickett Mountain Mine Rezoning Application, ZP 779A. The facts set forth in the Petition with respect to the Conservation Law Foundation are true based on my personal knowledge or that of other Conservation Law Foundation staff with whom I have consulted. I am authorized to execute this verification on behalf of the Conservation Law Foundation.

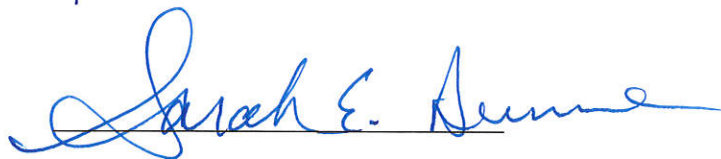
Dated: 6/28/23



Sean Mahoney
Vice-President and Senior Counsel
Conservation Law Foundation

Subscribed and affirmed before me this 28th day of June, 2023, at

Portland, Maine, by Sarah E. Dunne



Signature of Notary Public

Name of Notary Public: Sarah E. Dunne SEAL

Notary Public, State of Maine

My commission expires: 3/26/2026

SARAH E. DUNNE
Notary Public, State of Maine
My Commission Expires 3/26/2026