

ENR Commissioners' Statements on Tribal Relations Prior to Vote on Reid for DEP Commissioner

Chair, Senator Carson: Good afternoon. Again, we are going to reconvene the meeting of the Environment and Natural Resources Committee for purposes of any deliberations or comments from members of the committee prior to taking a vote on the governor's nomination of [Jerry Reid for Commissioner of the Department of Environmental Protection. We've heard all the testimony from the public. An we will be, then, after comments and discussion by the committee, we will be voting on a recommendation which will go to the president of the senate pursuant to Title 3 MRSA section 157 and the joint rules. Comments? Senator?

Senator ? : The motion on the table is to recommend confirmation of Gerald D. Reid, that is the motion pending in front of the committee at this time.

Chair, Senator Carson: Thank you for that reminder. We'll take comments. Senator Foley.

Sen. Foley: Yes, thank you very much, Senate chair. Before joining the legislature, I had the privilege of serving on the Board of Environmental Protection, and was the chairman for two years prior to resigning once I got elected to the legislature. I had the opportunity to work with Jerry Reid on a number of very difficult matters, along with his other members of the Attorney General's office. I do want to say that my work with Jerry Reid, I found him to be a very honorable man, and it was upsetting to hear some of the things I've heard today about him, and I feel sorry that people have that feeling of Jerry, but I can certainly say that, knowing Jerry, and having him listen to what we heard today, and having it, I'm sure, impacted him greatly. That Jerry will do everything in his power to make sure that he mends the fences that have been broken, both between himself and the Indigenous folks, and also for the state, and I think both of those things need to be happening. And I think

Jerry's in a perfect position. he's the perfect person to lead the department, from an environmental standpoint, but also to lead the department in healing those wounds that have been opened through a lot of it not of his own choosing.

I do not believe that Jerry Reid, the Jerry Reid I know, has a mean bone in his body towards Indigenous people, or anybody. I can't imagine in his heart that he would feel that way personally. But I do know that he is the type of person that, having heard what he heard, and knowing how he feels, that he will do everything he can to mend those fences from a position of being the Commissioner, being a part of the administration, working with administration, and helping to mend those fences. So, for that reason, and for his intellect and knowledge of the environmental laws, I'll voting to confirm him as commissioner, and urge him to start out as a good Representative (Gramlich) day one, to mend the fences that have been broken, and let the healing begin. Thank you, Mr. Chair .

Chair, Senator Carson: Thank you, Senator Foley. Representative [Fay 00:03:50].

Rep. Fay: Thank you, Mr. Chair. As Mr. Reid said, it was really hard not to be affected by what we heard today, and I think all the folks who testified really laid out a blueprint for how we can begin to have a conversation, and to start the really hard work of healing, and I hope that that has been noted, and I hope, like Senator Foley said, that we can begin that work, and, in as much as members of this committee, can be a part of that. I think many of us many of us will be... would like to be a part of that. So, I think making sure that we protect our environment in a way that benefits all of the people of Maine, and working to heal those relationships for all the people. It is something that's going to be important work going forward, so I just wanted to note that. Thank you.

Chair, Senator Carson: Thank you, Representative Fay. Representative Ziegler.

Rep. Zeigler: Thank you, Senator. I just want to say to the people in the room, that in talking with my fellow legislators, we heard what you said. We're aware of what you said. Governor Mills nominated Mr. Reid, and the irony in this, is that the conversation we had today, wouldn't have happened with any other nominee, and you've brought this conversation to us, and we have to deal with this. Going forward, if Mr. Reid is confirmed, he has now heard what you had to say. He is aware of what needs to be done, and we will be holding, as we should hold any nominee to task on that. Again, thank you for all coming. It's very important for us in the legislature to hear your voices, and let's hope that we can move forward.

Chair, Senator Carson: Thank you, Representative Ziegler. Others? Representative Campbell.

Rep. Campbell: Thank you. Though I've been around probably longer than most here, I haven't had the benefit of working with the candidate. I've found a lot of good things have occurred in the AG's office with his help. We all heard what happened in terms of the concerns of the day, and I sincerely believe that that will change. I've served under four administrations, and my point of view, having to go through this, yet, the administration generally directs, has proven itself to be both positive and negative in the past. So, my hope, and the thing I'm most pleased with, is that you have a relationship with the chief executive that probably none of the others have. And I believe that you have her ear, and I think the way the DEP ... the department is now arranged, we've got the best of all worlds. We've got the staff, and the appointments, including yourself, in a position of influence and effect, where it can work very well. And like I mentioned, I hope that you heard, I'm sure you did, but I'm also hopeful that the Chief Executive heard the concerns, and we'll see where it goes. With that, I will be in support of the nomination.

Chair, Senator Carson: Thank you, Representative Campbell. Others? Yes. Thank you, Representative.

Representative ?: (8:22) Thank you, Mr. Chair. The opposition here has been very effective today, but Mr. Reid, he's an advocate. That's what he does for a living. He doesn't necessarily need to agree with what he's advocating for, and especially now that he's working for the legislature, in a different role, he may again have to advocate for something that he doesn't agree with. And we need somebody that'll do that. But you've been very effective. We've learned a lot. We'll be watching for your concerns, what we heard today. I'll be voting to confirm. Thank you.

Representative Justin Chenette: (9:14) Thank you, Mr. Chair. I would just to say to all the folks that are not only here in the audience, but the folks that had to leave for other life duties, that I really do, and I think I share the sentiments of my colleagues, that we really do appreciate each and every one of you for showing up here today, and showing your passion, both for tribal issues, as well as the environment. You made a difference. You were heard. You are valued. And you are a vital part of of the Maine community. I think it's really important for you to hear that. On an environmental standpoint, some of the organizations that I look to regarding environmental concerns across the state, like Maine Conservation Voters, Nature Conservancy, Natural Resources Council of Maine, Environmental Health Strategy Center, and Maine Audubon, have all supported Mr. Reid's nomination, and that carries weight. I think that that's really important when we're going to be tackling some very important issues coming up. The governor ran on a platform of improving and protecting the environment, tackling issues like climate change, and rising sea levels, and coastal erosion, that impacts every single person in this state, regardless of what community they come from.

And that's a welcomed change that we've had. So, I think it's important to note that it's the governor's vision that's carried out through departments through commissioners. That commissioners on their own aren't making these decisions, and that committees of jurisdiction, like this committee, of Environment and Natural Resources, we're going to be

overseeing DEP. We're going to be making sure, and holding this administration accountable for what has been said, and what has been promised, to make sure that the promises that have been made, not just to the Indigenous people, but to the people of the state of Maine, are carried out. And that accountability rests with us.

I know in my other role as chairing of Government Oversight, that accountability piece is critical to a functioning government, and that we have a government that's of the people, by the people, and for the people, of all people. I think that's really important. So I will be supporting this nomination, but as a message to both Mr. Reid, and to this administration, know that we're going to be really watching very carefully, not just in the coming months, but as Representative Gramlich has said previously, in the coming days after the nomination, potentially goes through, that we're going to see how not only the tone changes, but the actions change. That we can't just talk about creating change, we actually have to make it happen. That's going to take every person, that's not on one commissioner, not on one department, that has to be something that is a mission across state government, across cultures, and across peoples, and I hope that that takes place, and we're going to try to be part of that conversation moving forward, post this nomination.

Chair, Senator Carson: Thank you. Senator Chenette.

Yes, Representative Skolfield?

Representative Thomas Skolfield: Thank you, Mr. Chair.

I agree wholeheartedly with my good friend Senator Chenette on my left, I think he made some very valid points, and very eloquently. I firmly believe that a Chief Executive should be able to surround themselves with people that they know, and people that they trust, and Governor Mills' selection of Mr.

Reid as the Commissioner of this department, I think, is a valid one. I think he's a good man, and I also believe, as has been represented here by so many before, that the folks here in this room have sent a message loud and clear, and that we have heard that message, Mr. Reid has heard that message, and Governor Mills has heard that message, and we will be keeping tabs on things.

Thank you.

And I'm just gonna say, I also will be voting in support.

Chair, Senator Carson: Thank you Representative Skolfield.

Representative Gramlich.

Representative Lori Gramlich: Thank you, Mr. Chair.

At the risk of sounding like I'm being redundant, the Chief Executive did run on a platform of climate change, and at her inaugural address, seems a million years ago now at this point, she led with talking about issues relative to the environment. And climate change was top on her list. I've been a life-long advocate in this building, some of you may know that, some of you may not. I've worked in and out of this building for 25 years as a social worker, fighting for issues relative to social justice, and I don't think it's any accident that I was selected to be on this committee, so that I'm in a position to continue to be that voice for people that do not otherwise have a voice at the table, and to be and advocate for environmental justice.

And I said it earlier, Mr. Reid, directly to you, and I presume that the Chief Executive is listening to this hearing, or her staff may be. It is my expectation that you, Mr. Reid, if confirmed, be a leader in mending this relationship. And it is not going to be easy, and it is not something that can happen next week or in the coming months, it has to happen on day one.

And I continue to have grave concerns about the relationship with the Tribes. I don't wanna make this an issue specifically

about our Tribal friends, but they are the true stewards of our earth, and we need to be inclusive as we have these conversations that are going to be impacting the decisions that we make, and we on this committee ... It's my expectation that we on this committee have the oversight to the Department of Environmental Protection. And I'm either going to be your new best friend or you're gonna get tired of hearing from me, and it'll probably be a mix of both.

But I ... it is my expectation that the work begins immediately, and for those of you that don't know me, I can be tenacious, shall we say, and I'm very determined. I just really wanna say out loud my unbiding respect for our indigenous people, and I will continue to always have your back.

Chair, Senator Carson: Thank you, Representative Gramlich.

Representative Tucker.

Chair, Representative Ralph Tucker: Good afternoon.

When the nomination was posted, I started my research as we face the future for the Department of Environmental Protection. And I usually approach these nominations in a three-fold way. First, I look at the competency of the person. Secondly I look at character. And thirdly, I look at policy or political differences or considerations.

And in going through my little checklist, it appeared to me that the competency has not been questioned by anyone, that this ... that Attorney Reid is highly competent in what he does. He has the skills and the experience. On the character issue, as the letters came in from people all across the state, the people who have actually worked with Attorney Reid, who have met him and worked with him over years, all attested to his good character, his honesty, and his reliability.

Many of the emails that I got were more critical, and cited the arguments in the court case and what happened in that court case, and I ... when I read the transcript a couple of times I got

a kick out of the way Judge Singal was harassing Attorney Reid and going after him, and, as judges often do, tried to put him in a box by trying to pin him down as to what the state's position was, and took his arguments and pushed them to the extreme so that it tried to make Attorney Reid look absurd.

And I can understand by people sitting in the audience in that day, in October of 2015, I can understand why people would think that perhaps Attorney Reid was saying that the Native peoples never fished on the river in canoes, but I ... in re-reading that transcript, that's not exactly what he said. He was simply responding to the hypothetical questions put by the judge as to what his position was and trying to put him in a contradiction. Actually, Attorney Reid had said, "I think historically they fished in both ways," meaning both from the shore and on the water. The question was, what did the Indian Land Claim mean, and how did these different sections work together within the Land Claims case?

So that criticism I did not put in the category of character, the arguments that happened there I put more in the category of disagreements over policy and political considerations, that there was a difference between the tribes and the state over what the law should be and how you interpret the statute. I don't think it was a matter of quality of character involved here, it was a matter of differences of opinion that reasonable people could have. And so, I've done what I should not have done, and I'm ... we should not be re-fighting these earlier battles, even though I just did.

The policy and political considerations that make a difference to me are, first of all, does the ... is this somebody that the Governor knows and trusts, and how can effectively utilize to advance the agenda for environmental improvement? And I would like to wipe the slate clean. We've had eight tough years, and now it's time for a new beginning, and I would rather look to the future rather than looking at my transcripts

and deciding who said what, when, and where. I would rather aim for the future.

I'm hopeful, and I find his promises and his intents to be highly credible. For that reason, I will be voting to confirm.

Chair, Senator Carson: Thank you, Representative Tucker.

Would you like to speak?

Representative Daniel Hobbs: Thank you, Mr. Chairman.

Chair, Senator Carson: Representative Hobbs.

Representative Daniel Hobbs: [crosstalk 00:08:36] Thank you, Mr. Chairman.

After hearing everybody speak here tonight, anything I say now would be just repeating a lot of what everybody's already said. However, I'm very pleased with our new administration having appointed Donna Loringas liaison to the Penobscot Nation, hopefully that can spread to the entire Wabanaki people: Penobscot, Passamaquoddy, Maliseet, and Mi'kmaq.

I notice that a lot of the hearings today were not so much on the character of the nominee, a lot of frustration that was being aired on the ... Hopefully it'll be taken care of by the liaison to our administration. I hope they ... that our nominee has heard this, I will be voting in the affirmative.

Chair, Senator Carson: (21:58) Thank you, Representative Hobbs.

There's an awful lot that could be said. The hour is late and I want to be brief, but I would like to offer a few thoughts.

Representative Tucker said that we've been through a tough eight years. I think for our Indigenous people, our Indian tribes, they've been through many, many tough decades. But things have begun to turn around, from the enactment of the Clean Water Act, to the reduction of pollution coming into our rivers, which are also their rivers, to the Penobscot River Restoration Project which many, including I, wondered if it was possible.

Dams producing hydroelectric actually being decommissioned, taken out, and fish runs, anadromous fish runs, actually being restored to territory where sea run fish hadn't been for a century or more. Those things have happened, so we have made a start.

But the language in the treaties and in other laws around sustenance fishing rights has, to put it very mildly, been hollow, because to have sustenance fishing rights, but to have fish that are so contaminated that it is not safe to eat those fish, really is no conveyance of rights at all. I think this committee is not equipped really to deal with sovereignty issues, perhaps some jurisdictional issues.

But this committee, and our Chief Executive and her nominee, Jerry Reid, are equipped to deal with a ... what I would call is a very core treaty right, legal right, and human right, and that is the right of the people who fish from the river, particularly Native peoples, not just the Penobscot but also the St. Croix, to fish from the rivers and to be able to take and consume those fish.

The history of that issue is, shall we say, not a good one, but I believe, beginning with my first conversations with many people interested in this nomination, and with Jerry Reid, I think we're gonna go that ... at that .And I personally, and I hear members of the committee, and I hear Mr. Reid, saying they are going to go at that very, very differently, and we are going to restore meaningful sustenance fishing rights through a restoration of human rights and the law to a place where it should be.

I hope our Chief Executive and at least some of her staff was listening today, as I believe they were. Governor told me in a meeting early this morning her day was gonna be largely consumed with listening to hearings on various nominees who's confirmation hearings were heard today, and I take her at her word.

So this ... We have a real opportunity against some bitter, difficult history, and I hear a real commitment,. I've already seen it among environmental organizations, one of which I've work for for many years and others who have advocated, for the restoration of sustenance fishing rights. In casting my vote in support of the Governor's nomination of Jerry Reid, that is an affirmative right in favor of restoring these rights, and of rebuilding or restoring a relationship with our four Native American tribes that ... into something that we will all hold with affection.

And I wanna thank you ... I wanna say thank you to everyone, Native peoples, citizens, representatives of organizations who came and testified today, and to members of this committee who have put enormous amount of time and energy into ... and effort into considering this nomination, and to arriving at the decisions that we will be ... We'll be voting very shortly on that, and those will be our decisions.

Are there any other comments from members of the committee before we take the vote? Okay, thank you. The committee clerk will call the roll.

The Committee Votes:

Clerk: Representative Johansen?

Representative Johansen: yes.

Clerk: Representative Johansen, yes.

Representative Skofield?

Rep. Skofield: Yes.

Clerk: Representative Skofield, yes.

Representative Devin, absent.

Senator [Chinette 00:12:44]?

Sen. Chinette: Yes.

Clerk: Senator Chinette, yes.

Senator Foley?

Sen. Foley: Yes.

Clerk: Senator Foley, yes.

Senator Carsen?

Sen. Carsen: Yes.

Clerk: Senator Carsen, yes.

Representative Tucker?

Rep. Tucker: Yes.

Clerk: Representative Tucker, yes.

Representative Campbell?

Rep. Campbell: Yes.

Clerk: Representative Campbell, yes.

Representative Lyford, absent.

Representative Gramlich?

Rep. Gramlich: Yes.

Clerk: Representative Gramlich, yes.

Representative Fay?

Rep. Fay: Yes.

Clerk: Representative Fay, yes.

Representative Hobbs?

Rep. Hobbs: Yes.

Clerk: Representative Hobbs, yes.

And Representative Zeigler?

Rep. Zeigler: Yes.

Clerk: Representative Zeigler, yes.

So that is 11 votes yes, and zero no. Two absent.