

WRITTEN TESTIMONY OF
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TOWN OF KENT, CONNECTICUT
TO
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES
107TH CONGRESS

September 25, 2002

INTRODUCTION

I am Dolores R. Schiesel, First Selectman of the Town of Kent, Connecticut. I am pleased to submit this written testimony to accompany my remarks in support of H.R. 992, a bill "To provide grants to local governments to assist such local governments in participating in certain decisions related to certain Indian groups and Indian tribes."

The seriousness of determining a particular group of tribal people so socially, culturally and politically distinct that it should be on a government to government relationship with the United States of America can not be taken too seriously. In these remarks I am addressing my support of this bill, while not addressing the issues concerning the process itself.

HISTORY

Kent is a rural town, with a population of about 2800, in the northwestern corner of Connecticut. It has 49 square miles of landmass and 66 miles of town roads. Within our boundaries are three private preparatory schools, two traffic lights, a small downtown, fourteen miles of dirt roads, one historic covered bridge, a section of the Appalachian Trail, three state parks, and a State Indian reservation.

The presence of the 400 acre Schaghticoke Reservation brings me before you to share with you the issues local governments face with Federal creation of sovereign nations within the boundaries of towns and why Federal support for the towns is necessary.

Kent was first populated by Europeans expanding from the Hartford area in the 1730's. It was incorporated as a Connecticut municipality on October 1739. In 1752, the State of Connecticut legislature reserved for Indian use land at Schaghticoke in Kent. The remains of that original set aside are about 400 acres of primarily wooded mountainside in the southwestern corner of Kent along the Housatonic River. It is currently home to a few families. In recent decades, the population on the reservation has varied from about 6 to 15 people. The town and residents of Schaghticoke live with each other and Schaghticoke has been little more than another neighborhood in town.

PETITION PROCESS IN KENT

When I took office in 1995, I was aware of the Federal recognition process and that the Schaghticoke had filed a petition for acknowledgment that was dormant for many years. I knew that the Indian Regulatory Gaming Act (IGRA) had changed the stakes for Indian groups around the country, and particularly in

Connecticut. I quickly moved that the town be granted intervener status in the petition review at the Bureau of Indian Affairs (BIA) so we could track the petition. At the time it was scheduled for consideration in eight to ten years.

Not long after taking office, I was told by a group calling themselves the Schaghticoke Tribal Nation ("STN") that it had resubmitted petition documents to the tune of 15,000 pages and was ready to make land claims in Kent. This group must be distinguished from the people that live on the reservation in Kent. The leadership of STN is not residents of Kent and has little to do with the residents of the reservation.

By 1998, the Town and other parties were sued in land claims brought in Federal Court under the Non-Intercourse Act of 1790. The land claims involved a town dirt road and 2000 acres, including about one-half of the Kent School campus. The primary defendants are the Town, by virtue of the road claim, Kent School, a private preparatory school, Connecticut Light & Power Company and Preston Mountain Club, a private hunting club. The goal of the land claims was clearly to put on enough pressure that it would accelerate the petition of the STN ahead of other groups.

Even more apparent and of much more concern, was my growing awareness of the financial backing the STN had. I knew the town was seriously undermatched when I learned the STN had retained as genealogist a former member of the Bureau of Indian Affairs staff, one Danbury law firm, two Hartford law firms, one Washington, DC law firm, one New York public relations firm and untold number of lobbyists. In 1998, the town's legal budget was \$8,000 per year. A Kent resident informed me that the PR firm would not even sit down to discuss representation for \$8,000. The STN will not confirm the source of the group's funding, but its leader has confirmed his interest in developing a gaming facility. It is fair to say that the backer(s) are casino developers.

Ultimately, the initiation of land claims was a successful legal maneuver and accelerated the petition review for the STN. From time to time during the legal back and forth, the financial backer did not seem happy with the slow timetable. Each time, more motions were filed and the town incurred more and more legal fees.

The defendants have now joined together to pool resources and retained a single team to do our research into the validity of the claim for recognition. The bureau staff is in the process of reviewing all submittals. The reservation residents, calling themselves the Schaghticoke Indian tribe ("SIT"), have tried to join in as much as possible. They do not seem to have financial backing from casino interests. In addition, members of a family long associated with the reservation have formally broken ties with the STN. They are proud of their heritage and say they wish to remain so.

FINANCIAL SUPPORT TO MUNICIPALITIES

The federal recognition process and particularly IGRA added stakes to Native American acknowledgment that can not be denied. When casino investors became the high stakes players, the local governments could not match the ante.

The introduction of gambling money took a review process that I believe was well intended and structured with western groups in mind -- groups that had lived in one area, stayed indigenous and could not break out of a cycle of poverty, and allowed eastern peoples, with none of those characteristics to take advantage of it. In the name of "economic investment opportunities" the true beneficiaries in the east are gambling investors, not the individuals who were raised, lived and worked in the towns, even states, far from their families' origins. The true impacts are on the communities which are now declared to have sovereign nations within their borders.

In Kent we talk a lot about "rural character". It is that indefinable quality that makes living, working and

visiting Kent so special. It is in part, the Southern gateway of green hills, including the one of the reservation, the leaves floating on the river, the shops on Main Street, owned and operated by local residents, the narrow roads and finally the independent spirit of our New Englanders.

I wish that I could claim Kent had enough sophistication and funding to meet the STN head on. I can not say so. There is no public relations firm. There is just a town attorney and a shared defense team. I sit before you, no attorney at my side, as the town's leader who seeks only the best for our town. We want only to be able to meet at the playing field fair and square so that a full review of the claims of the STN and SIT is done without political pressure and based on both sides' presentation of facts. Federal funds will help Kent and other towns in our situation bring out the facts.

Our town believes that if we can speak to the petition with resources such as STN has, then we will have been given a fair chance. Meanwhile, if we are to have a sovereign nation within our town, we want to be sure that we have done all we can to prove this nation belongs here. We however, come up hopelessly short in financing this endeavor against interests that are looking at millions of dollars of profit each year. I constantly have the sense that gambling millions will wear us down.

Our town budget is now \$6,000,000. In 1999, the town appropriated at a town meeting \$200,000 to support the STN litigation and related tribal issues. In 2002, it added \$100,000 to the amount to be spent. To date, the town has spent \$127,500 on attorneys and historians. The town has talked about the financial burden of continuing in the litigation and petition process at town meetings and is in full support. But for the other defendants and the Connecticut Attorney General, our community feels very much like it is going it alone in a process instituted by the Federal government.

ACKNOWLEDGMENT AND H.R. 922

The bill before you would allow some federal support to towns for participation in the acknowledgment process. The recognition process is the first step. As I explained in Kent, we are involved because we know what it could be like to have a sovereign nation in our borders. We have seen what happened to our neighbors in Southeastern Connecticut. I first thought that intervenor status would put the town fully in the mix. I was wrong. With the high stakes, the sheer numbers of groups seeking recognition, the funding and rules under which the BIA staff operates, more is needed.

To fully analyze the validity of a claim under the seven criteria, both sides of the story should be presented. The hard working staff at BIA should have a full record. They are not expected to generate that record, nor can they be expected to make this kind of momentous decision on what is presented by one side only. Through our full reading of the 15,000 pages of the STN petition documents and the historical record, we have learned that often times the STN omitted important details that refuted a premise. Thus they left the impression of one fact, when the other half of a given document disproved the fact. One example is a report of its own expert researcher that indicated the group failed to meet key criteria (Starna Report, available on request). The filling in of those omissions, by the intervenors and defendants, so the Bureau staff can base its decision on all the history, has been a major undertaking. Records and data must be accumulated, organized for content and meaning and presented in a coherent manner. The burden of the presentation, under current operations falls on the States and more so, on the municipalities. In the end, local communities are most affected by a positive finding. If they can not afford to participate in the process, a group not deserving could receive recognition.

Congress establishes the federal process of acknowledgment. Setting aside the question of its inherent fairness, I focus on its impact. Success in the process creates a government-to-government relationship between the United States of America and a tribe. The local government is not included once that relationship exists; not for zoning, not for environmental review, not for any of the levels of government

oversight we take for granted. A town should be in the review process from the start with full resources. It could actually facilitate the process. The acts of Congress and its agent the BIA, will change our town forever if a group is acknowledged to be a tribe. When first conceived, perhaps there was no clear understanding of how much gambling money would enter into the formula of acknowledgement. It can not be denied that money is in the game now. You can help the municipalities' research so those truly worthy groups are acknowledged not just those who have financial backing.

TRUST LAND AND H.R. 922

Recently, both before and after formal acknowledgement, groups and tribes have become involved in land claims to expand the borders of reservations. After acknowledgement, this taking into "trust" of adjacent or even distant land requires Federal government involvement. There is a review process requiring a showing of facts to support the need to annex the land. This too can be fact intensive and therefore costly for municipalities to join in the review.

It is related to the need for assistance in the recognition process in that it is costly and can be detrimental to towns. We well know, if it is key to a casino operation, the infusion of gambling money will outlast the municipality every time. The inclusion of this provision in the bill allows municipalities to also address the loss of land for gaming facilities. The addition of so-called trust land is a situation we in Kent have not had to address. But, in our town, if a tribe was to build a casino and then add more land to the reservation, it will mean lost taxes and development in a direction we would not choose to go. It also adds to the land not under local zoning and environment laws. The decision to allow trust land acquisition is done by the BIA, as agent for the Federal government. Local participation in that process, on a level playing field is a must. This bill could help provide that opportunity.

CONCLUSION

I respectfully request this committee's support of H.R. 922. Representative Nancy Johnson has proposed a bill designed to assist communities likely to be affected by tribal acknowledgment. Tribal Acknowledgment is not just an issue for Indian interests. The acts of the United States government will affect all citizens of this country. I am confident that support of this bill will only bring fairness and create a better process for Indian groups and municipalities.