

Meredith Sumner - conference ?

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Date: 5/1/2010 10:56 AM
Subject: conference ?
CC: <bsavage@leg.state.vt.us>

Hello all—

OK so the dead horse of recognition has stood up again, and here we are trying to give it mouth-to muzzle (is that the correct term?) resuscitation. So here goes.

I have not seen from Kate Webb exactly what passed the house, but if she is right, the ball is back in our court. I do not believe that we are at the one yard line, but we are close. We have power once again to do the right thing by our people without any Kesha Ram threats or “last minute, over the phone negotiation.” So we have time this weekend to breathe and think.

I would like to continue on the strategy that I sent Thu 4/29/2010 8:17 AM. (I append it in blue below) We are all agreed with it, and we have moved far forward from where we were on Thursday morning. I suggest that we follow Hinda’s advice sent on Thu 4/29/2010 8:25 PM and Fri 4/30/2010 2:38 PM to have Meredith Sumner work on the bill. I would like to have Meredith Sumner put in ALL THE CHANGES that we discussed to the bill from the house, including the last “by the side of the road cell-phone” negotiations that I had with Kate and Meredith yesterday. Meredith told me that she would do that, so she may be down the road on this one already. Also, I THINK that this is what Kate has said that the House has agreed to in her Fri 4/30/2010 4:41 PM e-mail and her discussions with Don reported in his Fri 4/30/2010 6:59 PM e-mail to me.

I think that the Commission section is greatly improved and if WE DECIDE TO APPLY TO RATHER THAN BOYCOTT THE WHOLLY NEW COMMISSION then it will be fair and equitable. The current commissioners (except Charlie Delaney and Jeanne Brink) have come out on the record as being against recognition of the four allied bands, without any data to back up their claims, and so have greatly diminished their chances for sitting on a new commission that will have to be impartial in their dealings with ALL Native people in VT. So I am happy with the commission, but if there could be a way of getting appointments into another process than governor appointing them, that would be good. The connections between the VT AG and the Governor’s office are too close to have me feel comfortable with direct governor appointees—given the choices made so far. Meredith Sumner said in a Fri 4/30/2010 12:12 PM e-mail that there exist other options—I would ask her to explore these.

Therefore, I suggest we continue the strategy that I laid out several days ago --as I see it there are ONLY three remaining sticking points, Direct Recognition, Minority Status and Genealogy.

Direct Recognition

Carolyn has been unsuccessful in her attempts to contact the IACB as of Friday.

I am not sure, after discussions with Meredith Sumner, that we should pursue direct recognition without a direct OK from the IACB to a member of the House. Without this information, I believe it would be politically risky in the House, which may (or may not—who can assess??) be turning against us, as well as PERHAPS shoot us in the foot with the IACB, if what I hear is true. Since the who point of this is to protect our students and artists, I think it may be best to forgo direct recognition and use criteria that are basically what we have answered already in our long negotiations with the Senate, and beefed up after our attacks from the House General... Committee. From what I have heard from the chiefs, there is

even more applicable data emerging that can be added to the narrative sections of the petitions. I cannot imagine any other scholar contesting these data, especially after they are converted from a general narrative to scholarly citation format, except perhaps Greg Sharrow, someone from the Historical Society or Giovanna Peebles, who are Odanak-centric or have other political issues that may affect their objectivity.

Also, I have officially approved for the alliance the version with all the changes that were to be made -- as the version to go to the Conference Committee from the House. Therefore, to back out and reinsert the direct recognition may be perceived as a betrayal on our part, and I do not want to go back on my word in so important an issue when given collective authority of the Alliance to deal directly with the House and Legislative Counsel. I will admit that we have been betrayed by others many times in the recognition process, but I **will not** betray my word as long as I am authorized to speak for the Alliance in matters of recognition.

Minority Status issue

I suggest that we look the over amended bill (with the results of all negotiations) , once we get it and deal with the minority status issue. I understand from Meredith Sumner that minority status in some way confuses the issue regarding FEDERAL recognition and tribal status. But as far as I know nobody is going for federal recognition, and if by some chance they do; they should have already had state recognition, and the issue would be moot. In addition, I talked to Jeff Benay yesterday afternoon, and he reiterated to me the statement from Robert Appell; that the Human Rights Commission could not take on the Abenakis without the minority status in the S.117 bill. The Human Rights Commission may have changed his mind on this but we have both Jeff's and my memories clear on Mr. Appell's considered opinion in the 2005/06 period. Therefore, I consider that covenant still operational.

- a. I suggest that Meredith Sumner insert the language below in the appropriate place, unless Mr. Appell and Meridith can find other words to say the same thing without betraying our students' legal status on their scholarship applications, and betraying our people's Human Rights Commission access.

" Any person of Native American descent residing in the state of Vermont, who is not enrolled in a federal or state recognized Indian tribe, shall be considered a minority for purposes of human rights law." Or some similar wording that does the same thing.

Genealogy Issue

We should look the amended bill over and deal with the genealogy issue. Genealogy must be only part of a package, not something that will kill a petition if not provided for all citizens. It would be impossible for scholars to evaluate every citizen's genealogy anyway, so examples or samples must be used instead. Also there are some bands who may not want to give out genealogical data. The problem with the Vermont genealogical situation is that except for very rare cases, such as the 1863 Alburgh "muster" rolls listing Indians, or the Eugenics records, there are few paper documents listing **individual** Vermonters as Indians until recently. However, there was intermarriage with other groups who were permitted an Indian identity, and so therefore can be listed on "official" records as Indian. For example, we already have Don's Carrolee Reynolds's and TK's genealogy in the Missisquoi Petition, parts of Luke's genealogy in the Nulhegan Petition, Nancy's Ramos' genealogy in the Koasek petition. I know that Vera Sheehan is getting improved genealogical data for Elnu, so they may add that data if they wish.

- a. I suggest wording such as this

"Examples of members' genealogy showing descendency from identified Vermont or regional native people, as well as multi-generational residency within the tribal homeland discussed in section XXX (the section referring to the community historical documentation)." Or some equivalent words that express the same thing; but worded so that its absence will not kill a petition by the statute. Scholars should be given the grace to make a judgment call. – this is

important. An abundance of other forms of data should be able to trump the lack of “paper Indians” in someone’s genealogy.

- b. All tribal roll and genealogical data MUST BE USED ONLY BY THE SCHOLARS PANEL and considered proprietary, so that the commission and the Attorney General will not be able to analyze it and then attack it in the open public hearing like Bill Griffin did in Vince’s open committee hearing—that was highly insulting and embarrassing for everyone in the room. That can happen again in genealogy is a defining criterion. Meredith said to me yesterday that this was already covered – great!

Others may have problems with individual sections and these may be able to be cleared up on Monday, assuming the negotiated changes are already being incorporated (?). Unfortunately, I will be at Johnson State all day in important “end of the semester” classes and meetings, but can receive e-mails and cell phone calls so I will not be entirely out of the loop. I would like to have an approved conference bill to go to both houses on Tuesday for floor votes. I am available on Tuesday before 2:00 to be in Montpelier. That gives us three days before the end of the session, and I think legislators are sick and tired enough that they will vote for anything that is fair—to get the Abenakis off their back. I think the legislature is learning about what we have had to deal with for many years.

So, if we have the time and the will -- we can get recognition done.

ASSUMING THIS THING PASSES---Over the summer and fall I will be available to any alliance or non-alliance band to help with the historical, geographic and anthropological narrative portion of their petition, so that they can get the process going this summer or fall with the new commission and scholars panel, so the Legislature can give final approval of the petitions next session. We need to send the final stature to Meredith Stanton of the IACB to see if it is OK, and we will be ready for next year, without any clouds of controversy over our heads. We will also have to have someone craft the amendments necessary for the legislature to accept various bands as recognized in statute – but I am getting ahead of myself.

I’m going to have breakfast and work cleaning up the snow damage outside, but will be more-or-less at 802-868-3808 today and tomorrow.

Those are my thoughts---Git-er done!

Fred

ORIGINAL STRATEGY WE AGREED TO WORK FROM—AS A REMINDER

Hello all-

OK this is where we are as of this morning with regards to the strategy.

1. Carolyn is calling the IACB
2. Don is rewriting the draft and will send to the chiefs and legislator friends ASAP
3. We now almost have a completed a rough draft of the compromise legislation based on Don’s and my “comments” version of yesterday, I have gone over it to add my thoughts and re-sent to him. I think it looks good. It reduces the role of the commission to that of bookkeeping, and lets the legislature have the authority to recognize or deny. This version does not give direct recognition. But the tribes can be easily added if necessary, depending on what Carolyn says the IACB’s position is. WE WILL NEED ALL CHIEFS AND LEGISLATIVE FRIENDS IN THE HOUSE AND SENATE -- TO LOOK OVER DON’S NEXT DRAFT AS SOON AS THEY GET IT TO MAKE SURE THAT IT DOES THE RIGHT THING BY THE TRIBES (AND LEGISLATURE), NOT ONLY OF THE ALLIANCE, BUT ANY OTHER GROUPS THAT COME TO THE PLATE

LATER. THIS IS IMPORTANT, BECAUSE WE DO NOT WANT ANY HARD FEELINGS IF THIS THING GOES THROUGH -- AND WE HAVE LITTLE TIME -- AND THAT BREEDS MISTAKES.

4. I have talked to just about everyone and they are all on board with the plan. I have the authority to speak for every band but Missisquoi, and If Jeff gets back to me, I may have that too, so we can expedite things.
5. Kesha wrote me and Don a long letter of reapproachment—I will not talk to her, so Don and/or Carolyn can take the compromise to her when we are ready—but not before.
6. I think that if you all get back to Don (and me) with the corrections, we can get the final version to Kesha this evening or tomorrow.
7. If and when we get the final corrections to the compromise put in the draft, I will let Hinda and Vince know that the alliance is on board with the compromise and they can make up their minds whether to participate in a conference meeting.
8. I think we are on schedule

Be well-
Fred