

Tribal chief on a mission for his heritage

BY RICK HARRISON REPUBLICAN-AMERICAN



Richard L. Velky, chief of the Schaghticoke Tribal Nation of Connecticut poses on a rock that has the tribal logo painted on it in Kent. Jim Shannon Republican-American

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KENT

Beyond the grass and tall weeds sprouting from a netless volleyball court, past an outhouse inhabited only by spiders, behind busted swings dangling from rusted chains and the remnants of fireworks strewn on the site of a burned-down pavilion, Richard Velky will find peace.

"My final resting place," said Velky, chief of the Schaghticoke Tribal Nation, gesturing to the location of his ancestral burial ground on Schaghticoke Road along the Housatonic River. "My last journey. Be with the people who brought us here."

But not yet.

As the U.S. Bureau of Indian Affairs considers changes to its regulations governing the process for the federal recognition of Native American tribes, Velky vows to continue fighting, no matter the

outcome. The latest round is part of a decades-long struggle against the state, its governor and its entire congressional delegation, with thousands of acres of land and millions of dollars at stake.

Despite the complexity and far-reaching impact, Velky describes the issue as a simple one.

"Right and wrong," he said. "That's what this is about. It's an injustice done to us."

Schaghticoke (pronounced SKAT-i-koke) Tribal Nation earned federal recognition in 2004, then lost the status on appeal, after the state and other Indian tribes objected. Federal recognition would grant the tribe a right to open a casino on its reservation and possibly place into federal trust about 2,100 acres of land the Schaghticoke claim as theirs. It would include property owned by the private Kent School, Connecticut Light & Power and the town of Kent. A federal judge denied those land claims in 2012.

LAST YEAR, THE FEDERAL ASSISTANT secretary of Indian affairs, Kevin K. Washburn, proposed changes to the tribal recognition process that could possibly allow the Schaghticoke to reapply for recognition — but only with the state's permission, a provision Velky views as an unconstitutional violation of due process.

"Those with money are still the ones with power," Velky said. "We all know that. And that's the way it's always going to be. But not with veto power. Come on!"

State officials oppose the recognition changes, but for different reasons. Attorney General George C. Jepsen believes the veto provision would trigger a new lawsuit and the uncertainties involved in any litigation. He would prefer tribes like the Schaghticoke and the Eastern Pequot of North Stonington — who received federal recognition in 2002 before also losing it on appeal — remain unrecognized by the federal government.

"From the state's perspective, this is a settled issue," Jepsen said in a written statement. "They are getting, very unfairly, another bite at the apple, and it's immensely frustrating to have played by the rules, fought and won, only to have all that hard work undone by a change in the rules."

In particular, state officials balk at a change that would shrink the period during which a tribe must prove social and political continuity. The current standard requires proof of continuity dating back to 1789; the new standard would require only going back to 1934.

In addition, another change would allow the federal agency to consider the continuity requirement fulfilled if a tribe had already been recognized by the state, as have the Schaghticoke, Eastern Pequot and the Golden Hill Paugussett of Colchester and Trumbull. The Schaghticoke were recognized by Connecticut in 1736 and the Paugussett were granted a reservation in 1659.

U.S. Sen. Richard Blumenthal, D-Conn., argues that there is no direct connection between the existence of a state reservation and the political influence and authority necessary to make a tribe worthy of federal recognition.

"The mere fact that you have a piece of real estate doesn't mean you have a tribe," Blumenthal said. "Federal regulation was supposed to mean something. They are now saying we are going to

decimate the criteria. We are going to delegate it to the states. If the states give you a reservation, we're going to give you a pass. Which I think is unlawful and illegal."

VELKY SEES IT DIFFERENTLY. "This is 2014 and we still hold a 400-acre reservation in the state of Connecticut, because they wanted to be good to us, or it was our land to begin with?" Velky asked.

Velky has amassed what he says are 5,000 pages of documents showing a viable community — currently with about 300 members — interacting with each other and the state for centuries, including meeting minutes, medical records and land maintenance records.

"Clearly we've always been a community, whether they like it or not," Velky said.

The federal courts upheld the reversal of the tribe's recognition, in part rejecting much of the evidence Velky wields. Blumenthal points to large gaps in the history and said the documents are not as substantial as those presented by the Mohegans when that tribe gained its recognition.

Velky argues that the state used political influence to reverse the Schaghticoke decision. He says that gaps in participation are simply a natural pattern in any family or small community and that the government should exercise a reasonable expectation while accounting for the group's ability to survive intact.

"If you're the same group of people that go into the tunnel and then you get out of the tunnel, you are still the same group of people," he said.

COMPLICATING THE ISSUE, another group of Schaghticoke calling themselves the Schaghticoke Indian Tribe, has also applied for federal recognition. Blumenthal argues that weakening federal requirements will make it easier for such factions to apply even when a larger, more established group has already lost its case.

Velky, who lives in Woodbury, dismisses concerns about his tribe's land claims in Kent, a worry that has fueled local opposition to tribal recognition. All but a small portion remains open space, with the ability to only build about 14 houses on sloped land that leads to the Appalachian Trail, he said. Currently, no members of his tribal faction live on the reservation. And he would look elsewhere to build a casino rather than in a town where they were not wanted.

"We always were a good neighbor," Velky said. "We'd like to continue to do that."

Velky said his tribe could offer something to the Mohegans and the Mashantucket Pequots to dispel their concerns about another group joining their current two-member club of federally recognized tribes with casinos in the state.

First, they need a seat at the table. And Velky sees no way other than a casino to help pay what he says has amounted to \$20 million in fees since 1994 in the quest for federal recognition.

"We need to make some money to pay our bills the state of Connecticut left us holding," he said, noting that the tribe had dealt with investors in the past but currently receives money only from donations.

FOR COLETTE KIMBALL, a teacher from Woodbury and a Schaghticoke Tribal Nation council member, federal recognition would mean a sense of pride and educational opportunities for her son, an eighth-grader who currently doesn't qualify for Native American scholarships.

"It's not about me," Kimball said. "It's about future generations."

Blumenthal, however, doesn't see why the Schaghticoke need or deserve all of the rights and privileges that come with federal recognition, including the ability to form a tribal police force and court system.

"These folks are citizens of the United States," Blumenthal said, noting that they own homes, have children in public schools, serve in the military and receive veterans' benefits. "They are not a disadvantaged class," he said.

CHARLES KILSON, A NEWTOWN RESIDENT and vice chairman of the Schaghticoke Tribal Nation Council, volunteers to mow the reservation grounds. His father grew up there. Kilson listened to stories of attempts to seek federal recognition dating back to the 1940s.

"It's like being in a boxing fight and you just keep getting knocked and pounded on," Kilson said. "But you keep coming back."

Last month, the BIA granted the state's request to extend a comment period deadline on the proposed changes from Aug. 1 to Sept. 30.

Amid a swarm of mosquitoes on a recent evening, Velky sat near the cemetery where his mother and father and sister and nephew are buried. He knows what they and all those who went before them would say to him today.

"Don't quit," Velky said. "You know it's ours. Don't quit. It's the only thing that keeps us going."

Contact Rick Harrison at rharrison@rep-am.com or on Twitter @RA_RickHarrison.

<http://www.rep-am.com/news/local/822083.txt>

FREEPRESS wrote on Aug 10, 2014 3:23 AM:

" Like I said: This has nothing to do with Federal recognition and everything to do with casinos. If it weren't for that factor alone, these tribes would never be bothered attempting to get recognition despite what they say. It's about the money plain and simple. We already have too many casinos in the area and they all have seen revenues drop. "

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bintdeeb wrote on Aug 10, 2014 10:57 AM:

" To Freepress: The Schaghticoke Tribal Nation didn't seek federal recognition in order to open a casino. The federal recognition regulations were enacted in 1978. In 1980, the Schaghticoke Tribal Nation filed its letter of intent to

petition for federal recognition -- that was eight years before the Indian Gaming Regulatory Act (IGRA) passed in 1988. And the only reason Congress passed IGRA was because the previous year the US Supreme Court ruled in the famous Cabazon case that Indian nations have an inherent right to conduct gaming on Indian land. IGRA was a way to control Indian gaming by requiring a gaming compact with the state and -- most importantly -- to make sure states got a cut of the revenues. Indian gaming is now a \$28 billion a year industry in this country providing nearly 700,000 jobs and billions more in spin off businesses. Our federally-recognized tribes in Connecticut have poured almost \$7 billion into the state coffers since they opened in the 1990's. The state economy would have been up the creek without a paddle without the 25% of slot revenues that Mohegan and Mashantucket have shared with the citizens of this state. Our state-recognized tribes have the right to seek federal recognition -- which, by the way, simply acknowledges that they are Indian nations with inherent sovereignty. But you sound angry about that and I wonder if you would feel the same way if it were some other people. "

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thor7363 wrote on Aug 10, 2014 12:36 PM:

" FREEPRESS --- stop hiding behind a "penname" and check your facts and dates before making your comments. STN filed for federal recognition in 1980. Long before the Indian Gaming Regulatory Act (IGRA) passed in 1988. The STN's reservation was granted in 1736 by the General Assembly of the Colony of Connecticut and is one of the oldest in the United States. They were recognized by the King before the USA gained independence. All they are fighting for are their rights as indigenous people of North America. "

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justice11 wrote on Aug 10, 2014 5:23 PM:

" The State of Connecticut is supposed to protect the tribes, not subject them to cultural genocide. In 1821, the Connecticut General Assembly passed "An Act for the protection of Indians and the preservation of their property, and to see that they are husbanded for the best interest of the INDIANS." Connecticut state statutes mirror Federal Acknowledgement.

To Sen. Richard Blumenthal and other Connecticut elected officials: Was this Act by the State of Connecticut unlawful and illegal? Was it unlawful and illegal for the state to appoint overseers by the courts to give bonds, settle tribal accounts and so on? And on failure thereof or for any neglect of duty, such county court may remove him from office, and appoint another in his place, and, at any time, call such an overseer to account.

The tribes no longer have overseers; the state itself is supposed to fill that role. At the last hearing Schaghticoke Tribal Nation (STN) Chief Velky asked the BIA to protect the state tribes because the State of Connecticut, as overseer, is not acting in the Tribes' best interest. This 1821 act was written to PROTECT the INDIAN tribes, a concept that eludes Sen. Blumenthal and the other elected officials.

To Attorney General Jepson: Exactly what rules did Connecticut adhere to back in 2004-2005 when then AG Blumenthal led the pack to overturn the Schaghticoke federal recognition? The Inspector General's investigation of the Schaghticoke found that the tribe played by the rules in its quest for federal acknowledgement in 2004. Connecticut, on the other hand, played DIRTY BACK DOOR politics, using tax payer money and, yes, my money to reverse the tribe's federal recognition -- working hard on ex parte meetings with the Interior Department, BIA, White House, working with lobbyists connected to the White House, and working hard on ex parte letters to the IBIA and Judge Dorsey. Even Judge Dorsey himself and former Gov. Jodi Rell exchanged ex-parte letters! Was that ethical or fair, Mr. Jepson? Was it ethical or fair of the BIA to bar STN from submitting additional evidence to support its claim?

Mr. Jepson, you also said, "They are getting, very unfairly, another bite at the apple" and "to have work undone by a change in the rules". But didn't the State of Connecticut have "another bite of the apple" when it launched its all-out attack on STN AFTER the tribe received a final determination granting federal recognition. It took over 30 years for Schaghticoke Tribal Nation to achieve their rightful Federal Recognition. By all accounts Connecticut has neglected its duties throughout its relationship with STN's -- a history that goes back to the 1600's -- and continues to the day.

May 5, 2004 United States House Government Reform Committee held a hearing on recognition. During the hearing, Theresa Rosier, Counselor to the Assistant Secretary Indian Affairs said this about the Schaghticoke and Eastern Pequot petitions for acknowledgment:

"I believe the requirement and recommendations as outlined in 25 C.F.R. Part 83 is that all seven criteria must be met, and the burden of proof is that it is the reasonable likelihood of the validity of the facts. That is my job and the staff's job, to ensure that of those 7 criteria, this burden of proof has been met."

"I cannot talk about specifics of those situations, since they are both at IBIA appeal and Schaghticoke is under an inspector general investigation. I can talk to the generalities. We feel that our petitions speak for themselves, and proposed findings gave opportunity to cure deficiencies, and they did that."

"For tribal recognition actually for the first element 83.7 (a) state recognition is explicitly stated for evidence."

"We have imposed an informal 60-day period proposed or final that the decision maker does not speak to interested parties or to the petitioning group. We are going to formalize that policy. I have not seen that type of impropriety [on the tribe's part] that has been alleged here. We have made decisions that we found to be good public policy." "

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daffodil17 wrote on Aug 11, 2014 1:39 AM:

" Why is the recognition of a Tribe of Native Americans by the federal government being reduced to an argument based on economics instead of one concerning respect and dignity for a group of Americans who have, all too often, been overlooked and marginalized? A refusal by the federal government to recognize the Schaghticoke Tribal Nation would be a sad commentary on the priorities of our country. "