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February 5, 2020

The Member of the House Committee on Natural Resources
Rep. Janet Ancel, Chair of House Committee on Ways and Means
Sen. Christopher Bray, Chair of Senate Committee on Natural Resources
Sen. Ann Cummings, Chair of Senate Committee on Finance
Vermont State House
115 State St.
Montpelier VT 05633

Re: Letter in Support of Free Hunting and Fishing Licenses for Vermont's
Recognized Tribes (H.716)

Dear Chairs and Committee Members;

It is time for Vermont to do more to honor and respect the peoples native to our land, and their deep and ancient connection to the resources of our natural world. I support providing free hunting and fishing licenses to citizens of Vermont's State-recognized Native American Indian Tribes,¹ as proposed in H.716.

In enacting Vermont's first law formally recognizing the Abenaki people, the General Assembly acknowledged in 2006 that Vermont was originally home to "several indigenous Native American peoples, now known as Western Abenaki tribes, who originally inhabited all of Vermont . . . for hundreds of years, beginning long before the arrival of Europeans."² The General Assembly also recognized that "carefully maintained oral tradition" shows that native peoples have long lived in the Champlain Valley, and that "ample archeological evidence" demonstrates that Abenaki people have farmed Vermont river floodplains since the 1100s A.D.³

As European colonization spread over what we now know as the northeastern United States, indigenous inhabitants repeatedly attempted to preserve their rights to hunt and fish without restriction, even as they entered into treaties and land sales.⁴ Some efforts to maintain

¹ 1 V.S.A. §§ 853a-856 (2006).

² 1 V.S.A. § 851(1) (2006).

³ 1 V.S.A. § 851(2) and (3)

⁴ *See, e.g.*, Wheelwright Deed of 1629; Robinhood Deed 2 of 1659; Treaty of Portsmouth of 1713; King Phillip's Deed of 1765.

unrestricted rights were successful, others were not. In 1992, for example, the Vermont Supreme Court ruled in *State v. Elliott* that Abenaki tribe members' historical connection to the land did not exempt them from state statutes that require a fishing license⁵. On the other hand, the Court did not say anything in *Elliott* that foreclosed the possibility that the Vermont General Assembly might later amend the licensing statutes themselves.

The Abenaki people today ask not for a complete exemption from fishing or hunting regulation, but only that the State no longer charge their citizens to obtain licenses that would enable them to fish and hunt in the tradition of their tribal ancestors. Tribal citizens would remain subject to all other hunting and fishing regulations that apply to any other Vermonter or visitor to our state. Moreover, the proposed free license would be available only to certified citizens of Vermont-recognized tribes — which have a history of self-organization and self-regulation⁶— and not simply to anyone claiming some degree of indigenous ancestry.

In recognizing this right, Vermont would follow in the footsteps of neighboring states that have taken similar actions. Most comparable to the proposed bill, Maine grants members of federally recognized tribes free hunting, trapping, and fishing licenses for life.⁷ Connecticut and Rhode Island allow native peoples to hunt and fish without licenses on their own tribal territories.⁸ By virtue of treaties with the federal government, tribes in Minnesota and Wyoming have access to hunting and fishing on ancestral territories.⁹

For these reasons, I ask the General Assembly to grant Vermont's State-recognized Native American Indian tribes access to free hunting and fishing licenses. In the face of longstanding historical wrongs, the request is modest, narrow, and reasonable. It is long past time for Vermont to act.

Sincerely,



T.J. Donovan
Attorney General

⁵ 159 Vt. 102 (1992).

⁶ See 1 V.S.A. § 853(b)(4) (2010) (For purposes of Vermont law governing tribal recognition process, the term,, “tribe” refers to “an assembly of Native American Indian people who are related to each other by kinship and who trace their ancestry to a kinship group that has historically maintained an organizational structure that exerts influence and authority over its members.”).

⁷ 12 M.R.S.A. § 10853(8).

⁸ C.G.S.A. § 47-65a; [Rhode Island Indian Claims Settlement Act](#), 25 U.S.C. 1702(b).

⁹ *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172 (1999); *Herrera v. Wyoming*, 139 S. Ct. 1686, 203 L. Ed. 2d 846 (2019).

Cc: Chair Amy Sheldon
Rep. Paul Lefebvre
Rep. Trevor Squirrell
Rep. Christopher Bates
Rep. Katherine "Kari" Dolan
Rep. Matthew Hill
Rep. James McCullough
Rep. Leland Morgan
Rep. Carol Ode
Rep. Harvey Smith
Rep. Thomas Terenzini
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Commissioner Louis Porter