

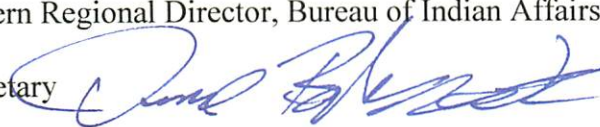


THE SECRETARY OF THE INTERIOR  
WASHINGTON

MAR 27 2020

Memorandum

To: Director, Bureau of Indian Affairs  
Eastern Regional Director, Bureau of Indian Affairs

From: Secretary 

Subject: *Littlefield v. Mashpee Wampanoag Indian Tribe*, 951 F.3d 30 (1st Cir. 2020)

On September 18, 2015, the Assistant Secretary – Indian Affairs issued a record of decision (Decision)<sup>1</sup> announcing the Department of the Interior’s (Department) determination that it would acquire land in trust for the Mashpee Wampanoag Tribe (Tribe) pursuant to section 5 of the Indian Reorganization Act of 1934 (IRA)<sup>2</sup> and proclaim such lands to be the Tribe’s reservation pursuant to section 7 of the IRA.<sup>3</sup> Thereafter, the Bureau of Indian Affairs (BIA) took several parcels of land into trust for the Tribe and issued a reservation proclamation.<sup>4</sup>

The Decision was appealed to the United States District Court for the District of Massachusetts (District Court), and on February 27, 2020, the United States Court of Appeals for the First Circuit (First Circuit) affirmed the District Court’s holding that the Secretary of the Interior lacked the statutory authority to acquire land in trust for the Tribe.<sup>5</sup> The Tribe did not petition for a panel rehearing or rehearing *en banc*. As such, on March 19, 2020, the First Circuit issued a formal mandate in accordance with its judgment pursuant to Federal Rule of Appellate Procedure 41(a) (Mandate).<sup>6</sup> With the Mandate now issued, the Department must take steps to rescind the Decision.

To ensure compliance with the First Circuit’s Mandate, I direct your office to rescind the Decision whereby the BIA accepted land into trust on behalf of the Tribe, and to revoke the reservation proclamation. In addition, clarification is necessary that removal of the Tribe’s lands from trust and revocation of the reservation proclamation annul the determination that such lands are eligible for gaming under the Indian Gaming Regulatory Act.<sup>7</sup>

If you have questions about the First Circuit’s Mandate or how to comply with this directive, please contact the Office of the Solicitor.

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<sup>1</sup> Bureau of Indian Affairs, Record of Decision: *Trust Acquisition and Reservation Proclamation for 151 Acres in the City of Taunton, Massachusetts, and 170 Acres in the Town of Mashpee, Massachusetts, for the Mashpee Wampanoag Tribe* (Sept. 18, 2015).

<sup>2</sup> Act of June 18, 1934, c. 576, § 5, 48 Stat.984, codified at 25 U.S.C § 5108.

<sup>3</sup> *Id.*, § 7, codified at 25 U.S.C. § 5110.

<sup>4</sup> 81 Fed. Reg. 948, *Proclaiming Certain Lands as Reservation for the Mashpee Wampanoag* (January 8, 2016).

<sup>5</sup> *Littlefield v. Mashpee Wampanoag Indian Tribe*, 951 F.3d 30 (1st Cir. 2020).

<sup>6</sup> *Littlefield*, No. 16-2484 (1st Cir. Mar. 19, 2020).

<sup>7</sup> Pub.L. 100-497, 25 U.S.C. § 2701 et seq.