



United States Department of the Interior

Office of the Assistant Secretary - Indian Affairs

Washington, DC 20240

Fact Sheet and Q&A:

December 22, 2021

Determination that the Secretary has Authority to Take Land in Trust for the Mashpee Wampanoag Tribe

Decision:

- On December 22, 2021, the Department of the Interior (Department) issued a decision confirming that the Secretary of the Interior (Secretary) had statutory authority to take land in trust in the Town of Mashpee, Massachusetts (approximately 151 acres) and the City of Taunton, Massachusetts (approximately 170 acres) (collectively, Parcels) for the benefit of the Mashpee Wampanoag Tribe (Tribe). The Department also confirmed that it will retain the Parcels in trust as the Tribe's reservation, and that the Parcels are eligible for gaming under the Indian Gaming Regulatory Act.

Background:

- The Tribe has used or owned in fee land in the Town of Mashpee for many years, primarily for tribal administration, preservation, and cultural purposes.
- The federal government may only take land into trust for the benefit of federally recognized tribes.
- In 2012, the Tribe submitted an application requesting that the Department take the Mashpee and Taunton Parcels in trust. The Department concluded its review in 2015 and issued a decision approving the Tribe's application and proclaiming the Parcels as the Tribe's reservation. The Department took the Parcels into trust for the Tribe in 2015.
- In 2015 Department's decision was challenged in federal district court in Massachusetts. The district court ruled that the Department lacked authority to take land in trust for the Tribe and ordered the Department to review its authority under a different statutory standard and issue a new decision addressing such authority. In response to the court's order, the Department issued a new decision in 2018 that concluded the Department lacked authority to take the Parcels in trust. The Department also developed new guidance documents regarding its authority to take land in trust generally.
- The Tribe then filed its own lawsuit in the federal district court in the District of Columbia challenging the Department's 2018 decision. In 2020, the D.C. district court ruled that the 2018 decision was arbitrary and capricious and ordered the Department to review its authority and newly developed guidance documents.

Status:

- The issuance of the December 22, 2021 decision confirming that the Secretary had statutory authority to take the Parcels in trust in Mashpee and Taunton concludes the Department's review.

Questions and Answers:

1. Question: Are the Mashpee and Taunton Parcels already in Trust?

Answer: Yes. The Parcels have remained in trust since November 10, 2015. The federal district court in D.C. ordered that they remain in trust pending the Department's review.

2. Question: What information does this decision contain?

Answer: The decision explains the evidence the Department relied to determine that the Secretary had the authority to take land in trust for the Tribe, and that the Tribe can conduct gaming activities on the Parcels.

3. Question: Is the Department's review of the Tribe's application complete?

Answer: Yes. The decision represents the conclusion of the Department's review of the Tribe's application.