

MASHPEE WAMPANOAG TRIBE
TALKING POINTS FOR FEE-TO-TRUST CONSULTATION
MAY 31, 2018
RAPID CITY, SD

INTRODUCTORY COMMENTS

- **I am Chairman of the Mashpee Wampanoag Tribe, a federally recognized Tribe that has existed in what is now southeastern Massachusetts since time immemorial. We are the Tribe that met and fed the Pilgrims at the first Thanksgiving.**
- **The United States failed to protect our land from encroachment in the nineteenth century despite federal laws which should have protected our land, and so we became a landless tribe.**
- **The Department finally took land in trust for Mashpee and proclaimed it our reservation in 2015. We had strong local support for the ^{re-}creation of our reservation. This ended decades of landlessness for my Tribe.**
- **Now the Administration has refused to defend the original decision to take our land in trust, and it has withdrawn from the appeal in that litigation.**
- **To us it appears that the Administration is poised to disestablish our reservation, take our land out of trust, and make us landless again. In its proposed regulations, the Department includes a provision that references taking land out of trust -- something that Interior has never tried to do before. We are concerned that our reservation is the Department's target.**

- **This would be the first time since the termination era that Interior has taken land out of trust and disestablished a reservation.** I hope everyone in Indian Country sees what is happening to us.
- **Bipartisan legislation, the Mashpee Wampanoag Tribe Reservation Reaffirmation Act,** has been introduced in the House and Senate to reaffirm the status of our reservation.
- **The House bill has strong support from both Republicans and Democrats,** including Rep. Tom Cole, Rep. Doug LaMalfa (Chairman of the House Indian Affairs Subcommittee), and Rep. Raul Grijalva.
- **The bill also has significant support throughout Indian country.** We currently have ten letters of support from individual tribes and tribal organizations, including USET and NIGA.
- **We humbly request that tribal leaders present here consider supporting the legislation.** If our reservation is taken out of trust it will set a bad precedent for all of Indian country. The legislation simply protects our existing reservation so that we can continue to exercise our sovereignty and provide for our members.

**I WANT TO MAKE THREE POINTS TODAY REGARDING THE
PROPOSED CHANGES TO THE FEE-TO-TRUST REGULATIONS**

- **Indian Country has not asked for these changes** to the fee-to-trust regulations that you have suggested.
- **What we *have* asked for is your help to relieve some of the serious damage that the *Carciere* decision has wreaked on many of the most needy and economically disadvantaged tribes in America.** It is incredible to us that the Department's ten questions do not even acknowledge the *Carciere* problem.
- **The current proposals appear to perpetuate the creation of "second class tribes" which has worsened since the *Carciere* decision was rendered.**

We are deeply concerned that this consultation was scheduled while we still have **no Assistant Secretary for Indian Affairs and no Deputy Solicitor for Indian Affairs.**

The onerous burdens the Department wishes to place on *Carciere* tribes are inconsistent with case law, with the spirit of the Indian Reorganization Act, with your trust responsibility, and with

common moral decency -- and, of course, they are inconsistent with the President's pledge to reduce regulatory burdens.

CONCLUSION:

The Mashpee Tribe urges the Department to cease this assault on fee-to-trust, to have more compassion for landless and land-poor tribes who have no access to your "on-reservation" rules, and to do everything you can to avoid being the first Administration since the termination era to take a reservation away from a federally recognized tribe.