



RELATED PRACTICE AREAS

Native American Law and Policy

ALERTS

Mashpee Wampanoag Tribe Seeks Reservation Protection From Federal Court

April 22, 2020

The Mashpee Wampanoag Tribe, also known as the People of the First Light, has inhabited present-day Massachusetts and Eastern Rhode Island for hundreds, if not thousands, of years. The Mashpee Wampanoag were acknowledged as a federally recognized tribe in 2007, after an arduous process lasting more than three decades.

In 2015, the U.S. Department of the Interior (DOI) approved the Tribe's request to have over 300 acres of the Tribe's land taken into trust. The DOI also determined that the Tribe could pursue gambling on this land because the lands made up its "initial reservation" under the Indian Gaming Regulatory Act (IGRA).

However, in September 2018, the DOI told Tribal Chairman Cedric Cromwell that the Tribe didn't meet the [definition of a tribe under the Indian Reorganization Act \(IRA\)](#) after all. In February 2020, the [Tribe suffered another legal setback](#) when the U.S. Court of Appeals for the First Circuit held that the DOI had wrongly interpreted the IRA in 2015, and days later, the [DOI announced that the reservation would be disestablished and the land taken out of trust](#).

Litigation is also pending in D.C. The Tribe is seeking relief in the U.S. District Court for the D.C. Circuit, arguing that the DOI's decision to deny the land-into-trust request in September 2018 was arbitrary and capricious. The First Circuit's ruling does not affect this case because it deals with different language in the IRA and with different DOI decisions.

The Tribe recently filed a motion in the D.C. District Court seeking an injunction to maintain the status quo pending resolution of this civil action and any appeals. Specifically, the Tribe seeks to enjoin the Secretary of

the Interior from taking its land out of trust and from rescinding the 2015 reservation proclamation designating the trust land as the Tribe's reservation until this action can be decided. The DOI has agreed to stay its hand for 45 days while it responds to the injunction request.

To obtain more information regarding this alert, contact the Barnes & Thornburg attorney with whom you work or L. Rachel Lerman at 310-284-3871 or rachel.lerman@btlaw.com.

© 2020 Barnes & Thornburg LLP. All Rights Reserved. This page, and all information on it, is proprietary and the property of Barnes & Thornburg LLP. It may not be reproduced, in any form, without the express written consent of Barnes & Thornburg LLP.

This Barnes & Thornburg LLP publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer on any specific legal questions you may have concerning your situation.