

Wampanoag, who helped Pilgrims survive, win rights to tribal lands

By Dana Hedgpeth, Washington Post

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Four hundred years after the Mashpee Wampanoag in Plymouth, Mass., helped the Pilgrims from the Mayflower survive, they have been fighting to get their ancestral homeland back. Last week, they won a major victory in a ruling from the U.S. Department of the Interior that will give them substantial control of roughly 320 acres around Cape Cod.

The decision opens the door for the Wampanoag tribe to move forward on economic development projects — such as a casino resort or housing — that tribal leaders say will bring much-needed revenue to their community of roughly 2,800 members.

“This is a momentous day for the Mashpee Wampanoag, for Indigenous communities across the country and for defenders of justice,” said Brian Weeden, the tribe’s chairman. He said it will allow his tribe to “reclaim and protect our cherished land.”

The Wampanoag’s fight to keep their land is long and complicated. In the 1970s, the Mashpee Wampanoag sued to reclaim some of their land, but they lost, in part because a federal judge said they weren’t then officially recognized as a tribe.

The Mashpee Wampanoag filed for federal recognition in the mid-1970s, and more than three decades later, in 2007, they were granted that status. (The Gay Head Aquinnah on nearby Martha’s Vineyard are also federally recognized.)

In 2015, the Obama administration put about 320 acres in federal trust for the Mashpee Wampanoag, under a law that allows the Department of the Interior to acquire the title to property and hold it for the benefit of a Native American tribe. The process was created in 1934 as part of the Indian Reorganization Act to try to help tribes get back some of the millions of acres of their original homelands that were taken, in some cases with little or no compensation. Tribal land in federal trust is exempt from taxation and protected from being sold.

For the Mashpee Wampanoag, having their land in trust essentially gave them a reservation, although it is composed of separate parcels — one in Mashpee and another in nearby Taunton — and represents half of 1 percent of their original land. But President Donald Trump’s administration ordered that the land be taken out of trust, jeopardizing the Mashpee Wampanoag’s ability to develop it.

A federal judge blocked the administration’s move and sent the matter to the Department of the Interior for reconsideration. In February, the Biden administration withdrew the government’s appeal on the case. Mashpee Wampanoag officials then waited for months for a final decision on the status of their land from the Department of the Interior — now led by Deb Haaland, the first Native American to head the agency.

Last week, the department upheld the Obama administration's decision to keep the land in federal trust — a move that V. Heather Sibbison, a lawyer for the Mashpee Wampanoag tribe, called “an acknowledgment that this is their land.”

“They have sovereignty over that land and there's a legal structure to protect it,” she said. The U.S. government, Sibbison said, “interfered with their sovereignty and is now restoring something that never should have been taken from them.”

The Wampanoag, whose name means “People of the First Light” in their native language, trace their ancestry back at least 10,000 years to the Cape Cod area, a land they called Patuxet. They once numbered somewhere between 30,000 and 100,000, and their land stretched from southeastern Massachusetts to parts of Rhode Island. They had traded — and fought — with Europeans since 1524 and made contact with the Pilgrims months after they first landed on their shores. The actual history of how the Mashpee Wampanoag helped the Pilgrims survive and had a “first Thanksgiving” meal with them in 1621 has long been misrepresented and their history marginalized. For the tribe, it was the start of a long, slow genocide of their people and taking of their land.

Paula Peters, a Mashpee Wampanoag who is an author and educator on Native American history, said the Interior Department's decision last week was “huge” for her people.

“A lot of us were quietly holding our despair and not really trying to think about it,” Peters said. “We have been at this for so long.” She added, “I was a teenager when my father was then chairman of the tribe and filed suit to recover our land. We have been at this for nearly 50 years. It's kind of unbelievable when you look at what was promised to us and how it was taken.”

In its 55-page decision, the Interior Department cited several examples of how the tribe had long been under federal jurisdiction, one of the factors in deciding whether to keep its land in federal trust.

Bryan Newland, the Interior Department's assistant secretary for Indian affairs who wrote the decision, said the Mashpee Wampanoag's “historic and tenacious ties” to their land in New England were a part of the federal government's decision not to push them west of the Mississippi River in the 1800s as it displaced and eradicated Native Americans.

He also noted that the federal government used its authority “over the tribe by removing Mashpee children from their families and tribal community” between 1905 and 1918 and sending them to the Carlisle Indian School, a government-run boarding school where they were punished for speaking their native languages and practicing their traditional cultures.

“From the 1820s through 1934, federal officials took actions for or on behalf of the tribe and its members that establish federal obligations, duties, responsibility for, and authority over the tribe by the federal government,” Newland wrote, adding, “These actions, when viewed in concert, demonstrate that the Mashpee was [under federal

jurisdiction] in 1934.”Newland concluded that “based on the foregoing, acquisition of the parcels in trust for the benefit of the tribe is confirmed.”

Elizabeth Homer, a lawyer who is a member of the Osage Nation in Oklahoma and an expert on federal Indian policy, called Newland’s decision “great news” for the Mashpee Wampanoag. She said the tribe has “endured a long, torturous legal battle with Interior to acquire a relatively small, gaming-eligible parcel of land in their homeland.”

She added, “It rights an egregious wrong.”