



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO:

MAR 20 2013

The Honorable Cedric Cromwell
Chairman and President
Mashpee Wampanoag Tribe
483 Great Neck Road South
Mashpee, MA 02649

Re: Pending Mashpee Wampanoag Land into Trust Application

Dear Chairman Cromwell:

Thank you for your March 7, 2013, letter regarding the status of the *Carcieri* analysis for the Tribe's pending land-in-trust application. As you know, the Department's authority for taking land into trust is informed by the underlying policy of the Indian Reorganization Act (IRA). This sweeping policy is not only to remedy the negative impacts of the allotment era, but also to "establish machinery whereby Indian tribes would be able to assume a greater degree of self-government, both politically and economically." *Morton v. Mancari*, 417 U.S. 535, 542 (1974). A central component of the promotion of tribal self-governance is the acquisition of trust lands for Indian tribes set forth in Section 5 of the Indian Reorganization Act, 25 U.S.C. § 465.

The Supreme Court's decision in *Carcieri v. Salazar*, 555 U.S. 379 (2009), held that the Department is authorized under the IRA to acquire land-in-trust for those tribes that were "under federal jurisdiction" in 1934. The Court did not elucidate this phrase and, accordingly, the Department has utilized its expertise in interpreting and applying the temporal qualification. Since *Carcieri* was issued, the Department has taken more than 202,000 acres of land into trust for tribes. Each land-into-trust application has required the Department, based on advice provided by the Office of the Solicitor, to conduct an individualized legal analysis based on *Carcieri*. The Department has made positive fee-to-trust determinations in the aftermath of *Carcieri*.

The majority of *Carcieri* determinations require a comprehensive, fact-intensive analysis that can be time intensive and costly. The Office of the Solicitor considers the Mashpee *Carcieri* determination a top priority, is making substantial progress in its review, and will continue to actively consider the matter.

Please do not hesitate to have your counsel contact Mike Berrigan, Associate Solicitor, Division of Indian Affairs, in the Office of the Solicitor at (202) 208-6130 to address any of the Tribe's questions. Thank you for your patience and we will keep the Tribe apprised of our progress in this matter.

Sincerely,


Hilary C. Tompkins
Solicitor

cc: Kevin Washburn, Assistant Secretary- Indian Affairs
Arlinda Locklear, Esq.