

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DAVID LITTLEFIELD, MICHELLE)
LITTLEFIELD, TRACY ACORD, DEBORAH)
CANARY, FRANCIS CANARY, JR.,)
VERONICA CASEY, PATRICIA COLBERT,)
VIVIAN COURCY, WILL COURCY, DONNA)
DEFARIA, ANTONIO DEFARIA, KIM)
DORSEY, KELLY DORSEY, FRANCIS)
LAGACE, JILL LAGACE, DAVID LEWRY,)
KATHLEEN LEWRY, MICHELE LEWRY,)
RICHARD LEWRY, ROBERT LINCOLN,)
CHRISTINA McMAHON, CAROL MURPHY,)
DOROTHY PEIRCE, DAVID PURDY, and)
LOUISE SILVIA,)

Plaintiffs,)

v.)

UNITED STATES DEPARTMENT OF)
THE INTERIOR; SALLY JEWELL,)
in her official capacity; BUREAU)
OF INDIAN AFFAIRS; LAWRENCE)
ROBERTS, in his official capacity,)
and UNITED STATES OF AMERICA,)

Defendants,)

and)

MASHPEE WAMPANOAG INDIAN TRIBE,)

Intervenor)
Defendant.)

CIVIL ACTION
NO. 16-10184-WGY

ORDER

YOUNG, D.J.

October 12, 2016

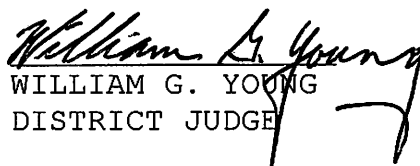
This case arises out of a decision of the Department of the Interior (the "Department") to take land into trust for the benefit of the Mashpee Wampanoag Tribe (the "Mashpees"). This Court entered judgment for the Plaintiffs on their first cause of action on July 28, 2016, and remanded the matter to the Secretary of the Department. Mem. and Order, ECF No. 87; J., ECF No. 88. The government now seeks partial reconsideration or clarification of that decision. United States' Mot. Partial Reconsideration or Clarification, ECF No. 99. The Court denies the government's motion for reconsideration, and makes the following clarification.

After reviewing the memoranda submitted in connection with this motion, the Court clarifies that it ruled that in order to qualify as eligible beneficiaries under the second definition of "Indian" set forth in the Indian Reorganization Act, 25 U.S.C. § 479, the Mashpees were required to have been "under federal jurisdiction" in 1934. The Secretary made no such finding in the Record of Decision, having concluded that the "under federal jurisdiction" phrase was not incorporated into the second definition. Nor did the government argue that the Mashpees were under federal jurisdiction in 1934. The Court's language stating the premise that the Mashpees were not under federal

jurisdiction is thus consonant with the parties' briefing of the first cause of action.

Having remanded this matter to the Secretary, it is no violation of the Court's order should the agency wish to analyze the Mashpees' eligibility under the first definition of "Indian" provided in Section 479, or to reassess the Mashpees' eligibility under the second definition consistent with the Court's ruling on the proper interpretation of that definition.

SO ORDERED.


WILLIAM G. YOUNG
DISTRICT JUDGE