

INDIAN NATION SUES FEDERAL GOVERNMENT FOR 15-YEAR DELAY ON TRUST LAND APPLICATION

The Cayuga Nation, a federally recognized sovereign Indian nation with a reservation in Upstate New York, has sued the federal government over its failure to act on the Nation's land-into-trust application, which has been pending since 2005.

The lawsuit, filed on June 16, 2020 in the United States District Court for the District of Columbia, names as defendants the United States Department of Interior; David L. Bernhardt, in his official capacity as Secretary of the Interior; and Tara Sweeney, in her official capacity as Assistant Secretary for Indian Affairs.

The Nation's complaint explains that the application to place the Nation's lands into trust is far-and-away the longest pending application. In the fifteen years it has been pending, the Department of Interior has issued final decisions on over 2,000 other trust applications.

"The failure or refusal on the part of the Department of Interior to render a decision on our trust application is not merely unreasonable, it is inexcusable," said Clint Halftown, the Cayuga Nation's federal representative. "It is a flagrant violation of the federal government's trust responsibility to Indian nations. We were informed as early as 2010 that the review process was complete and that a decision was imminent," he added. Halftown said that since that time, the Nation has been required to spend hundreds of thousands of dollars pursuing its application as a result of the government's delays, as well as hundreds of thousands of dollars more litigating the Nation's sovereign rights—most of which the Nation could have avoided absent the government's inexcusable violation of its duties.

The Nation's land-into-trust application includes four parcels of land in Cayuga County, within the Nation's 64,015 acre historic reservation, as recognized by the Treaty of Canandaigua.

The Nation operates a number of businesses on the properties, including an electronic gaming facility, a gas station, and a convenience store. Revenues from these businesses are used to fund services for the Nation's citizens. Once taken into trust, the lands would be titled in the name of the United States for the benefit of the Cayuga Nation.

The lawsuit alleges violations of the federal Administrative Procedure Act, arising from the Department of Interior's "unreasonable delay" and "unlawful withholding of an action required by law." It seeks to compel the Department of Interior to immediately issue a decision on the Cayuga's application.

Halftown also noted that a recent federal court decision by federal judge Paul Friedman involving the Mashpee Wampanoag Tribe, based in Massachusetts, further demonstrates the egregious failure on the part of the Department of Interior to act on trust applications in a fair and timely manner. Halftown said "the Mashpee Wampanoag spent some 30 years trying to get their lands into trust, and still Interior got it wrong." It took a court decision to force "Interior to do it correctly," and "the Cayuga Nation now finds itself in the same unfortunate situation," he added. "Echoing the words of Judge Friedman during oral argument in the Mashpee Wampanoag case, we are using this lawsuit to tell Interior to 'do your job.'"

Halftown said that multiple recent efforts to meet with Department of Interior officials to review the status of the application have been ignored. "We submitted this application fully in accordance with federal law and with all of the necessary information. We have repeatedly asked the federal government for a meeting to explain the reason for the delay and to act on our application. They have refused, and we cannot wait any longer—there is just too much at stake for our citizens."