

Congress of the United States

Washington, DC 20510

February 9, 2018

The Honorable Mary L. Kendall
Deputy Inspector General
Office of the Inspector General
U.S. Department of the Interior
1849 C Street, Northwest
Washington, D.C. 20240

Dear Ms. Kendall:

We write to request your investigation into the decision of the U.S. Department of the Interior (Interior) to take no action regarding the proposed amendments to the Tribal-State agreements between the Mohegan and Mashantucket Pequot Tribes and the State of Connecticut. This decision raises serious questions as to whether the Department of the Interior is properly carrying out its longstanding legal trust responsibilities regarding Native American Tribes. See generally, *Seminole Nation v. United States* 316 U.S. 286 (1942).

The United States has unique legal obligations to Indian Tribes. These obligations are grounded in the United States Constitution, treaties, federal statutes, and Supreme Court decisions. In part, these obligations are derived from cessions of hundreds of millions of acres of tribal homelands to the United States. In return, the Federal Government promised to provide for the general welfare of reservation residents. The Department of the Interior's mission is to foster the government-to-government relationship between the federal government and the federally recognized American Indian and Alaska Native Tribes—irrespective of economic considerations presented by parties with no immediate connection to Federal Government's trust responsibilities.

In the case of Interior's decision to take no action regarding the proposed amendments to the Tribal-State agreements between the Mohegan and Mashantucket Pequot Tribes and the State of Connecticut, ample evidence suggests that the Interior has failed to honor its legal trust responsibilities to the two Tribes. A February 1, 2018 *Politico* article, entitled "Zinke's Agency Held Up Indians' Casino After MGM Lobbying," outlines some of the factors that may have contributed to Interior's highly unusual action. The Nevada-based MGM has a direct economic interest regarding Interior's decision on the proposed amendments, as the casino that is the subject of the amendment could potentially compete with its newly constructed casino on the Connecticut-Massachusetts border. However, MGM has no connection to the legal trust responsibility Interior has to the Mohegan and Mashantucket Pequot Tribes. As such, the company's activities should have had no bearing on the question before the Department or on its decision regarding the proposed amendments.

Specifically, the *Politico* article raised issues of potential conflicts of interest and impartial decision making, noting that the Secretary refused to even talk with members of the Connecticut delegation about these Connecticut-specific amendments while “MGM and its allies had direct access to Interior.” Further, the article noted that Acting Assistant Secretary Black’s letter, which articulated the Interior’s decision to take no action relative to the proposed amendments, copied Nevada’s Congressman Amodei and U.S. Senator Heller, but not the Connecticut congressional delegation. Moreover, Secretary Zinke and Associate Deputy Secretary Cason were scheduled to meet with White House Deputy Chief of Staff Rick Dearborn the day prior to the issuance of the Black letter. These actions suggest that something other than the legal obligations to Indian Tribes was motivating the decision of the Department of the Interior.

In addition to this troubling catalog of events, Interior appears to have undermined the guidance of its own technical assistance letters to the Tribes, which the Tribes sought for the purposes of properly drafting the amendments to conform to Interior guidelines and regulations. Both Tribes received two technical assistance letters—one from the previous administration and one from the current administration—each confirming the opinion of Interior that the proposed amendments reflect the unique circumstances of the Tribes and the state. Further, the letters confirmed that the Tribes’ existing exclusivity agreement with the State of Connecticut would not be affected by a new commercial casino that would be jointly and exclusively owned by the Tribes. Despite these letters and the effort of the Tribes to consult with the Department with regard to the amendments, the Department rendered a highly unusual and highly unexpected decision to take no action and return the proposed amendments. Interior’s subversion of its own guidance—after multiple interventions by parties with no apparent connection to the Interior’s legal trust responsibilities to Indian Tribes—may suggest the department abrogated its duty to properly carry out its legal trust responsibilities regarding the two Tribes.

All of these events raise significant concerns about the propriety of Interior’s process for reviewing the proposed amendments which are magnified by the fact that, according to the *Politico* article, the Department of the Interior has only once before returned a proposed amendment without its statutorily required approval or rejection, and it did so very quickly after receiving the proposal—citing specific information that was lacking and therefore making it incomplete. In contrast, the Department took the entire statutory maximum amount of days and returned the amendments without any explanation of what information was lacking. Together, these events may suggest that the Department did not act in accordance with its legal trust responsibilities to the two Tribes.

We urge your investigation into this matter and look forward to your response.

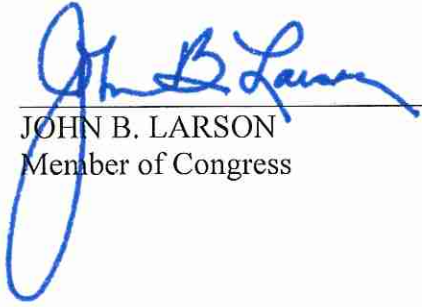
Sincerely,



RICHARD BLUMENTHAL
United States Senate



CHRISTOPHER S. MURPHY
United States Senate



JOHN B. LARSON
Member of Congress



JOE COURTNEY
Member of Congress