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October 8, 2018

United South & Eastern Tribes, Inc.
Board of Directors
711 Stewarts Ferry Pike
Nashville, TN 37214

RE: H.R.5244 - "Mashpee Wampanoag Tribe Reservation Reaffirmation Act"

Dear Directors:

On behalf of the Wampanoag Tribe of Gay Head (Aquinnah) ("Aquinnah Wampanoag"), we write to express our concerns about H.R. 5244, "Mashpee Wampanoag Tribe of Reservation Act". We deeply sympathize with the current situation our cousins, the Mashpee Wampanoag Tribe, are in with their land-to-trust efforts. However, as drafted this legislation has the potential to have a serious adverse effect on our Tribe and our sovereign right to acquire additional lands in our shared Wampanoag Ancestral territory within the Commonwealth of Massachusetts. While we do not dispute the right of Mashpee Wampanoags to acquire trust land within the Town of Mashpee, or even within our shared territory, we must also protect our own right to our shared territory. We ask the Board to either support our proposed amendment or to remain neutral on the legislation and allow our tribes to work out our differences between ourselves.

I. AQUINNAH AND MASHPEE SHARE A HISTORIC CONNECTION TO SOUTHEASTERN MASSACHUSETTS

Since time immemorial, the relationship between all of the Wampanoag villages and tribute Tribes has remained close by virtue of the political alliances and intermarriage between them. The Wampanoag Confederacy and the individual bands therein were fluid and dynamic; locations change, names change, and affiliations change. "While in theory the Wampanoag were united into a single federation in which each local sachem owed allegiance to a more inclusive sachem, in practice centralized authority was merely symbolic and local communities were autonomous." Levitas, *"No Boundary is A Boundary,"* 1980.¹ This shared history is also

¹ Dr. Levitas' research is cited extensively throughout the Proposed Findings for Recognition for the Wampanoag Tribe of Gay Head (Aquinnah), therefore a bit of background on her research is merited. Her document is well over 600 pages long, documents the Tribe under "the hypothesis that the nature of a community's relationship with the wider society determines the behavior of its residents." *Levitas*, pp. ii.

present today, for example the Aquinnah Wampanoag and the Mashpee Wampanoag share the responsibility for repatriation in the region under the Native American Graves Protection and Repatriation Act (“NAGPRA”).

II. THE COMMONWEALTH RECOGNIZES THE SHARED TERRITORY

In 1939, in recognition to the significant numbers of tribal members residing within the area, in 1939, the General Court (Massachusetts State Legislature) authorized the establishment of a reservation (Wampanoag Reservation) with the Fall River-Freetown State Forest in southeastern Massachusetts. Act of 1939, C.384. In 1976, Governor Michael S. Dukakis issued Executive Order No. 126 designating the Wampanoag Aquinnah as one of the two tribes whose wishes as expressed by its governing body “shall be followed in the management and development of the Wampanoag Reservation within the Fall River-Freetown State Forest.”

III. AQUINNAH WAMPANOAG TRIBAL NEEDS TODAY

The Tribe is governed by the Tribal Council composed of a Chairperson, Vice-Chairperson, Secretary, Treasurer, and seven Council Members. Constitution, Article IV, Section 1. The Tribal government’s budget is primarily funded through grants from the United States government but is responsible for providing a full range of services to the Tribe’s members, including education, health, child and elder care, recreation, public safety and law enforcement, public utilities, natural resources management, economic development, and community assistance. The Tribe also entered into an agreement with the Town of Gay Head to jointly provide for the health, safety and welfare of persons on Tribal lands by providing the for the use of police, fire, and emergency medical personnel and resources in the event of disaster, disorder, fire or other emergencies arising on Tribal Lands.

But as noted above, the overwhelming majority of Tribal Members do not reside on Tribal Lands, in the town of Aquinnah (Gay Head) or on Martha’s Vineyard. The extremely high cost of living and lack of employment opportunities and affordable or even available housing has created an environment where it is financially impossible for tribal members to stay on the Island, never mind return to the Vineyard. While not currently possessing the financial wherewithal to purchase land on the mainland, acquiring land on the mainland remains one of the highest priorities for the Aquinnah Wampanoag Tribe. That land, if acquired, will provide much needed housing for tribal members and the ability to locate a medical facility, elders services as well as business enterprises in locations that can support economic development. Not only will these businesses provide employment for tribal members, they will provide employment for many non-tribal members and their families.

IV. CONCLUSION

Today, Tribes are routinely challenged with expensive and protracted litigation when attempting to place land into trust by non-tribal citizen groups or state and local governments attempting to block tribal growth. H.R. 5244 as drafted would resolve whether the Mashpee Tribe can benefit from the provisions of the Indian Reorganization Act. 25 U.S.C. § 5101 et seq. In other words, the legislation provides a *Carciere* fix for the Mashpee Tribe. However, both the Aquinnah

Wampanoag and the Mashpee Wampanoag Tribe are recognized by the United States as successor tribes to the Great Wampanoag Nation whose territory span from the Boston area, southwest to eastern Rhode Island, and eastward out to the outer continental shelf; including Cape Cod and the Islands of Martha's Vineyard and Nantucket. As the successors to the Wampanoag Nation, both Aquinnah Wampanoags and Mashpee Wampanoags are also the successors to *all* the territory of the Nation which encompasses *all* of southeastern Massachusetts. We stand firm on the principle that any legislation that affirms and declares one Tribe's rights to that territory, such as the proposed Mashpee *Carciere* fix, should apply equally to both Wampanoag Tribes.

Indeed, Congress itself has stipulated a desire for ensuring that Tribes are treated equally in rulemaking and administrative decisions.

Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq., 48 Stat. 984) as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.
25 U.S.C. § 5123(f).

It defies logic that Congress would not also apply this same principle when enacting legislation for the benefit of tribes. Therefore, we have requested Congress to include the following simple amendment in H.R. 5244: (additions in underline):

All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 5101 et seq.)), shall be applicable to the Mashpee Wampanoag Tribe of Massachusetts and Wampanoag Tribe of Gay Head (Aquinnah) and their Tribal Members.

This amendment is intended to provide fairness and parity to both tribes without favoring one nation over the other within our shared ancestral territory in the Commonwealth – a principle that USET has always supported. With this amendment, we will wholeheartedly support H.R. 5244.

In the alternative, we also would support an amendment to H.R. 5244 reaffirming the land in the Town of Mashpee only, and striking the *Carciere* fix language. While this is not the preferred amendment, it would maintain equity for both tribes who would then have to individually address challenges to their right to access the Indian Reorganization Act provisions outside of our home village townships.

Without either of these proposed amendments – which are solely intended to protect Aquinnah's right to acquire land in our shared Ancestral territory leaving both Tribes on equal footing – we will continue to strongly oppose the legislation. We ask USET to either (a) support our inclusion in the *Carciere* fix language; or (b) remain neutral.

In Balance, Harmony and Peace,

Chairwoman Cheryl Andrews-Maltais
The Wampanoag Tribe of Gay Head (Aquinnah)

Cc: USET Executive Director Kitcki Carroll



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August 7, 2018

The Honorable Doug LaMalfa
322 Cannon House Office Building
Washington, D.C. 20515

RE: Testimony Submission for H.R.5244 - "Mashpee Wampanoag Tribe Reservation Reaffirmation Act"

Dear Chairman LaMalfa:

On behalf of the Wampanoag Tribe of Gay Head (Aquinnah) (Aquinnah Wampanoag) ("Tribe), please accept this testimony on H.R. 5244 - "Mashpee Wampanoag Tribe Reservation Reaffirmation Act."

My Tribe, the Aquinnah Wampanoag, has previously communicated our concerns to you about this legislation and its potential to have a serious adverse effect on our Tribe and our sovereign right to acquire additional lands in our shared Wampanoag Ancestral territory within the Commonwealth of Massachusetts. While we do not dispute the right of Mashpee Wampanoags to acquire trust land within the Town of Mashpee, or even within our shared territory, we must also protect our own right to do the same.

I. AQUINNAH AND MASHPEE SHARE A HISTORIC CONNECTION TO SOUTHEASTERN MASSACHUSETTS

Once part of the greater Wampanoag Nation, Aquinnah Wampanoags and Mashpee Wampanoags and its ancestors claimed all of southeastern Massachusetts from Boston into Rhode Island including Plymouth (Pawtuxet). The estimated population of the Wampanoag Nation pre-contact numbers the Nation at approximately 15,000 consisting of approximately 65 villages under a shared leadership. Contact with Europeans proved to be devastating however, and thousands of Wampanoag people died as the result of disease and war. Today, the Aquinnah Wampanoag consists of approximately 1300 members, with less than 100 members living on the Tribe's lands and within the town of Aquinnah, located on the extremely most western end of the island. And less than one-third of the membership lives on the island of Noepe (or commonly known as Martha's Vineyard, Massachusetts). The overwhelming majority of Tribal Members

live on the mainland with the highest concentration living within the Ancestral Territory of southeastern Massachusetts and eastern Rhode Island. Although acknowledged by the British and Dutch Crowns as sovereign, then by United States and Massachusetts governments for centuries, it was not until April 11, 1987 that the Aquinnah Wampanoag received its formal federal acknowledgement from the United States Department of Interior through the federal acknowledgement process in 25 C.F.R. Part 83. 52 Fed. Reg. 4193 (February 10, 1987) with Mashpee Wampanoags following 20 years later.

Children's history books and college professors tell the tale of the mighty Massasoit Ousemequen (Yellow Feather) saving Plymouth Colony and of his alliance with the English negotiated by treaty in 1621. The Wampanoag Nation was composed of many tribute tribes and bands, included the Aquinnah, throughout what is now known as southeastern Massachusetts, from Boston to Rhode Island. These bands, as discussed below, travelled by mishoon, or canoe, from Martha's Vineyard, or Noepe (also known as Capawok), along the many estuaries, inlets, rivers and streams that connected the Atlantic Ocean to the large ponds and waterways inland. Utilizing the waterways for intra-tribal and inter-tribal trade and commerce, Tribal members fished, hunted and gathered fruits, berries, nuts herbs and medicinal plants along the banks of these rivers and inland lands, moving and sharing from one village site to another in preparation for the winter. As is within the custom of the Wampanoag People, in addition to sustenance, trade and commerce within and outside the Nation and its territory, upon the union of a man and woman, the men would move into their wife's village and become part of that community.

Since time immemorial, the relationship between all of the Wampanoag villages and tribute Tribes has remained close by virtue of the political alliances and intermarriage between them. Mittark, Sachem of the Gay Head Indians was in fact the nephew of the Massasoit Ousemequen (Yellow Feather), who assisted the pilgrims and signed the Peace Treaty of 1621. Epenow (also spelled as Appanow) of Capawak (also known as Noepe) was one of the 10 additional Wampanoag Sachem signatories on the Treaty. This was representative of the kinship that existed between all of the Tribes within the Wampanoag Nation. With the introduction, imposition and acceptance of Christianity, more and more "Gay Head" Indians traveled to and from the island to the mainland in search of religious/cultural freedom, educational and occupational opportunities. In fact, the first two Indians to have graduated from Harvard College in 1665 were both from the Island and Tribe, Caleb Cheeshahteumuck and Joel Iacoombs (Hiacoombs). Many a "Gay Header" became preachers of the gospel as traveling preachers and missionaries, to help convert other Wampanoag relatives to Christianity. In fact, the most predominant Indian Preachers were from the Island. While traveling to the mainland in search of opportunities and pursuing their occupational endeavors, close ties and their kinship to the Island and Aquinnah remained intact, particularly since Aquinnah is in the closest proximity to the mainland.

The Aquinnah Wampanoag Tribal lands are located in the town of Aquinnah (formerly known as Gay Head), a peninsular at the extreme western part of the Martha's Vineyard in the Commonwealth of Massachusetts. Martha's Vineyard, the largest island in New England lying in the Atlantic Ocean approximately five miles off the southern coast of Cape Cod. *Proposed Findings* at 1. The Tribe has an unbroken millennia-old pattern of migration to and occupancy of the area surrounding the parcels, including without limitation occupancy in New Bedford.

Indeed, there is a pattern of tribal members moving *en masse* to the mainland for subsistence whaling, subsistence fishing and gathering. The Tribe also moved as a result of their unique religious history.

Many non-Native historians have extensively documented the Wampanoag Tribe for centuries. There is even substantial documentation of individual bands of the Wampanoag, such as the Wampanoag at Gay Head (Aquinnah) – which is completely against the historical tendency of inaccurate historians that tended to blend Indian groups together. From time immemorial, the Aquinnah travelled freely from the Island to mainland, as did all of the other Wampanoag bands. After contact, tribal members would leave the Island for jobs such as whaling, commercial fishing and subsistence fishing. *See Spirit of the New England Tribes: Indian History and Folklore, 1620-1984*, William Scranton Simmons, pg. 25 (“Simmons”), (University Press of New England, 1986).

“...they [Gay Head Indians] had, at any rate, been making the journey across the sound for centuries and had established and maintained Indian networks in New Bedford and even as far away as Providence, Rhode Island.”

Gloria Levitas, “*No Boundary is A Boundary*,” 1980 (“Levitas Report”)

The population of the Gay Head community in the 1740s ranged between 113 and 165 souls, a dramatic reduction from the late prehistoric population which may have numbered as many as 10,000 for the entire island. Estimates of Gay Head (as well as Mashpee) in the historic period have always been approximate because of the many who were away for extended lengths of time working in whaling and other industries. *Simmons at 25*.

The Wampanoag Confederacy and the individual bands therein were fluid and dynamic; locations change, names change, and affiliations change. “While in theory the Wampanoag were united into a single federation in which each local sachem owed allegiance to a more inclusive sachem, in practice centralized authority was merely symbolic and local communities were autonomous.” Levitas, “*No Boundary is A Boundary*,” 1980.¹ Throughout the entire history of the Wampanoag people, the various bands within the Wampanoag Confederacy discuss this ever-changing nature when describing how things came to be. For example, in Aquinnah creation stories, the giant “Moshop”—like the rest of the Wampanoag—was fluid, always moving, always inextricably linked to the mainland. *See Simmons at pg. 194, Levitas at 6*. “Evidence suggests that the Wampanoag were divided into loosely allied confederation of sachemships. These were arranged hierarchically so that petty sachems paid tribute to greater ones and all paid tribute to their principal Sachem at Pokanoket. In 1666, the principle sachem at Pokanoket, Wamsutta sold the island in a deed recorded locally and at New York, of which it was then a part. Banks also records that Vineyard sachems were not always natives of the Vineyard, suggesting that island ties to mainland were strong. In fact, in 1666, the principle sachem at Pokanoket, Wamsutta sold the island in a deed recorded locally and at New York, of which it was then a part. Such loose alliances of territorial groups generally imply a fairly fluid

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system whereby men from one group may join with those of another under pressure of economic or political need for larger aggregations of hunters or warriors.” *Levitas* at 1.

In fact, Levitas concluded that it “seems reasonable to suppose that a traffic in goods, ideas and people followed the same route during the seventeenth and eighteenth centuries, using Indian networks remaining from the sixteenth century.” *Levitas Report* at 4. Also, “...prices for goods produced on the mainland were cheaper there than on the island. Whether Indians felt more comfortable in New Bedford than in Vineyard Haven is unclear; they had, at any rate, been making the journey across the sound for centuries and had established and maintained Indian networks in New Bedford and even as far away as Providence, Rhode Island.” *Levitas Report* at 5. There is strong historical evidence that the Gay Head Indians movement to the mainland went beyond being simply seasonal, but that Gay Head Indians established themselves on the mainland for business and religious reasons. See *Faith and Boundaries: Colonists, Christianity, and Community Among the Wampanoag Indians of Martha’s Vineyard, 1600-1871*, David J. Silverman, Cambridge University Press, 2005 (“Silverman”). Aquinnah travel to the mainland for business purposes.

As discussed above, the Aquinnah (as well as other Wampanoag in Massachusetts) were heavily dependent upon going to the mainland for business purposes such as whaling and fishing. (*Simmons*, 25). “The side streets of New Bedford, which by the early nineteenth century had superseded Nantucket to become the busiest whaling port in the world, contained what one magazine reporter described as “a greater variety of human species than is elsewhere to be found under the bright sun of Christian civilization. Europeans, there are of every flag and language; Native Yankees...Gay Headers ... ; aboriginals and Africans...” (*Silverman*, 227 citing “*A Summer in New England: Paper One*, Harper’s New Monthly Magazine 124 (June 1860), 9.) Levitas also notes the market for the Gay Head Indians’ fish. “The fishermen employed cat boats for shipping and for some kinds of fishing, and used dories or trap boats (heavier and more stable) to collect fish caught in their nets or to haul lobster from pots. The cat boats—sailing craft with a single mast set well forward on the bow—could carry from five to thirty barrels—each containing 150 pounds of fish. The boats from Gay Head sailed primarily to New Bedford to sell their cargo...Cat boats went to market every two weeks—some to Oak Bluffs but most to New Bedford. *Levitas* at 8. Moreover, those trade routes existed since before Europeans settled on to the continent. “...contact between Gay Head and...New Bedford...had it’s roots in pre-contact Wampanoag settlements there.” *Levitas* at 7.

Still, it is important to note that Gay Head Indians also frequented the mainland for more *domestic* business—not always simply to earn a living through fishing and whaling. *Levitas* at 9. There were some very regular “commuter” type of activities that indicated how accessible the mainland was for Gay Head Indians. *Id.* For example, Gay Head Indians went to New Bedford for such simple and mundane activities as “groceries.” *Id.* Or perhaps the Tribe’s “octogenarians” would go to supplement their finances by using Gay Head’s “cranberries for cash income.” *Id.* at 6. “Cranberrin’—that’s how we got our flour and molasses and all that. We’d pick cranberries and take ‘em over to New Bedford and sell ‘em and then we’d get a barrel of flour, a barrel of port, a keg of molasses, and that’d go all winter...we made a livin’.” *Id.* at 6. Sometimes the “business” would be social—for example, a Tribal member would go to the mainland to find a mate. *Earle Report of 1861* at 44. “A young woman of the tribe, for instance,

goes to service at New Bedford...and while there marries an inhabitant...After a lapse of years, the husband dies and then the widow, with a family of children, returns to Gay Head and claims support for herself and family of foreign children.” *Id.* Like the example above from the Earle Report, many Gay Head Indians went to the mainland to start families while still maintaining their roots at home. (*Silverman*, 178). “As a result, there is a substantial amount of overlap—Gay Head Indian names amongst the “mainland Wampanoag communities.” *Id.* Shared surnames between island and mainland Wampanoag communities suggest the opportunities for Indians to sell land in one place and move to another.

The Gay Head Indians’ residency and cultural ties to the mainland did not end in the eighteenth century. As further evidence of the Gay Head Indians’ immersion into the mainland, the *Earle Report* of 1861 which tracked the Massachusetts Indians identified 269 Gay Head Indians. *See generally, Earle Report.* Of that sum, 15 of the Gay Head Indians did not specifically identify a location, therefore reducing the list to 254 Gay Head Indians with a known residence. *Id.* 204 of the Gay Head Indians, or 80% of the Tribe, with a known address lived within Gay Head, on Martha’s Vineyard. *Id.* However, 23 Gay Head Indians, or nearly 10% of the Tribe, lived on the immediate mainland, including 21 in New Bedford, Westport and Mashpee. *Id.* The Earle Report numbers were actually conservative; the 1860 Indian Census of Gay Head (Aquinnah), Mass., (Senate No. 96 publication, March 1861), actually identified 46 Gay Head Indians living in the immediate mainland areas. *1860 Indian Census.* Of those 46 total Gay Head Indians living in the immediate mainland, the 1860 Census puts the total number of Gay Head Indians living in New Bedford at 43. *Id.*

The Gay Head Indians did not only commute to the mainland for business and social reasons — they also frequently went to the mainland for religious purposes. In fact, the Gay Head Indians are singularly responsible for much of the Massachusetts’ Tribes’ embrace of Christianity. A conspiracy of facts—the Gay Head Indians’ relative physical health (as compared to other Massachusetts Tribes), a strong message, and charismatic leadership—made circumstances perfect the Gay Head to spread Christianity to the other mainland tribes. After ministers John Cotton and Thomas Mayhew began to answer the Gay Head Indians’ questions about Christianity in the 1660’s in a satisfactory manner, they became zealous advocates for the Gospel. *Silverman* at 59, 60. “Christianity was filled with novel concepts, but applying Wampanoag names to them and then qualifying the definitions over and over again through face-to-face meetings had the potential to bring the Indians’ Christian knowledge into close—if not always exact—alignment with that of their English counterparts, all the while emphasizing that the faith belonged to them. *Silverman* at 60.

One Gay Head Indian, Momonaquem was identified as a “local elite,” a “Christian minister and teacher” in the seventeenth century. *Silverman* at 42. One account shows “[i]n the early 1650s, Thomas Mayhew Jr. and Momonaquem traveled to the mainland to preach and take the Lord’s Supper...” *Id.* at 62. During his travels, “[Momonaquem] took some time to discuss his spiritual beliefs with several colonists...” *Id.* Shortly thereafter, the Tribe began taking it to a much broader audience—traveling to other Wampanoag bands and converting them to Christianity. *Id.* at 60. “[Momonaquem’s] instruction had come only from other Indians, certainly his Vineyard tribesman, who began proselytizing in Dartmouth in the late 1670s. This might very well have been an exercise used to pass on Christian knowledge during the heyday of the island mission.”

Id. "...1647, Momanequem, a son of one of the principal Indians of Gay Head, who was living with his mother at Nunnepaug, converted and shortly began preaching to the up-island Indians...hence families in the down-island territories were related to those up-island—and the influence of Christianity was more widely disseminated." *Levitas* 2,3.

Momonaquem was not alone, however, soon, other Gay Head's, such as Mordacai Hiacoomes, began traveling deeper into the missionary field. By 1673 their efforts, combined with the Mayhews', were largely responsible for spreading Christianity to ninety Nantucket Indian families. Hiacoomes purchased land at Assawampsett and began preaching there from before 1716 into the 1720's. Plymouth County Deeds, Book 11, Page 209.) Several other Gay Head's joined with John Cotton Jr. to promote Christianity among mainland Wampanoags. Christianity was very attractive to mainland tribes suffering from disease, starvation and war who could "plainly see that the Vineyard had been spared disease ever since the first praying Indians gathered in 1645 and that Christianity had enabled island Wampanoags, though they shared many of Philip's grievances, to keep the peace with local colonists.... This comparison made taking up Christianity the only sensible choice. By the late seventeenth century, Wampanoags living north of Buzzard's Bay had organized into four Christian meetings run by Indian officers ordained by their Vineyard counterparts. Christianity had become the Wampanoags' common religion." *Indians, Missionaries and Religious Transaction: Creating Wampanoag Christianity in Seventeenth-Century Martha's Vineyard*, David J. Silverman, *The William and Mary Quarterly*, Third Series, Vol. 62, No. 2 (Apr., 2005), pp. 141-174 ("Silverman II").

Aquinnah Wampanoag Indians also went back and forth to the mainland for death ceremonies. This is illustrated officially through the repatriation of certain cultural items near Taunton, Massachusetts, that were connected to the Tribe. Those items are "reasonably believed to have been placed with or near individual human remains as part of the death rite or ceremony...." 64 Fed. Reg. 37906 (Tuesday, July 14th, 1998). Museum officials determined that "there is a relationship of shared group identity which can be reasonably traced between these items and the Wampanoag Repatriation Confederacy on behalf of the Wampanoag Tribe of Gay Head (Aquinnah)." *Id.* The fact that Aquinnah Indians have used this area for ceremonial purposes, including burial grounds, since time immemorial is not new information to the Tribe. Today, the Aquinnah Wampanoag and the Mashpee Wampanoag share the responsibility for repatriation in the region under the Native American Graves Protection and Repatriation Act ("NAGPRA").

Fall River, in southeastern Massachusetts has a very long history with the Wampanoag people—they were the original inhabitants—and the "falling" river that the name Fall River refers to is the Quequechan River (pronounced "quick-a-shan" by locals) which flows through the city, dropping steeply into the bay. Quequechan is a Wampanoag word believed to mean "Falling River" or "Leaping/Falling Waters." The subject area is unique to southeastern Massachusetts. It consists of several thousand acres of relatively pristine Native American ceremonial landscape that reaches from the Great Ponds of Lakeville/Freetown on the east to Assonet, Fall River and the Taunton River on the west. It preserves a collection of literally thousands of above-ground Traditional Cultural Properties among which are examples of every known Property type sacred to the local tribes. These include stone chambers, petroglyphs, monolithic and polyolithic effigies, as well as dramatically perched boulders, standing stones, and countless donation stone piles, many with quartz accents.

Woven mats and bark were commonly used in Wampanoag burials during the Late Woodland period and later... Officials of the Peabody Museum of Archaeology and Ethnology also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts. *Id.* There are other examples of the Aquinnah's funerary/ceremonial/burial grounds connection to the vicinity around the Project Site as well. 72 Fed. Reg. 12190 (Mar. 15, 2007). Repatriation efforts consistently show that the Aquinnah Wampanoag members were consistently buried on the mainland. *Id.* This written history can be verified by the oral history of the Tribe's members. The Federal Register mentions the "shared group identity" of human remains of two individuals found in Plymouth County with the Aquinnah people and museum officials determined "the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of the Peabody Museum of Archaeology and Ethnology also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts." 71 Fed. Reg. 70982 (Dec. 7, 2006).

A Taunton repatriation from 1998 and the Fall River repatriation from 2003 contain all of the elements that shows the profound strength of the connection that the Aquinnah Wampanoag Tribe has with this area, having enough common language and ceremony that they conducted their burial religious ceremonies with their sister bands of the Wampanoag; feeling comfortable enough to bury their dead here; and trusting their sister bands of the Wampanoag enough to bury valuable with their loved ones. These sites—where the Tribe has a Shared Group Identity—displays that their navigation was not simply limited to one small area on the mainland.

II. THE COMMONWEALTH RECOGNIZES THE SHARED TERRITORY

In 1939, in recognition to the significant numbers of tribal members residing within the area, in 1939, the General Court (Massachusetts State Legislature) authorized the establishment of a reservation (Wampanoag Reservation) with the Fall River-Freetown State Forest in southeastern Massachusetts. Act of 1939, C.384. In 1976, Governor Michael S. Dukakis issued Executive Order No. 126 designating the Wampanoag Aquinnah as one of the two tribes whose wishes as expressed by its governing body "shall be followed in the management and development of the Wampanoag Reservation within the Fall River-Freetown State Forest."

III. AQUINNAH WAMPANOAG TRIBAL NEEDS TODAY

The Tribe is governed by the Tribal Council composed of a Chairperson, Vice-Chairperson, Secretary, Treasurer, and seven Council Members. Constitution, Article IV, Section 1. The Tribal government's budget is primarily funded through grants from the United States government but is responsible for providing a full range of services to the Tribe's members, including education, health, child and elder care, recreation, public safety and law enforcement, public utilities, natural resources management, economic development, and community assistance. The Tribe also entered into an agreement with the Town of Gay Head to jointly provide for the health, safety and welfare of persons on Tribal lands by providing the for the use

of police, fire, and emergency medical personnel and resources in the event of disaster, disorder, fire or other emergencies arising on Tribal Lands.

But as noted above, the overwhelming majority of Tribal Members do not reside on Tribal Lands, in the town of Aquinnah (Gay Head) or on Martha's Vineyard. The extremely high cost of living and lack of employment opportunities and affordable or even available housing has created an environment where it is financially impossible for tribal members to stay on the Island, never mind return to the Vineyard. While not currently possessing the financial wherewithal to purchase land on the mainland, acquiring land on the mainland remains one of the highest priorities for the Aquinnah Wampanoag Tribe. That land, if acquired, will provide much needed housing for tribal members and the ability to locate a medical facility, elders services as well as business enterprises in locations that can support economic development. Not only will these businesses provide employment for tribal members, they will provide employment for many non-tribal members and their families.

IV. CONCLUSION

Today, Tribes are routinely challenged with expensive and protracted litigation when attempting to place land into trust by non-tribal citizen groups or state and local governments attempting to block tribal growth. H.R. 5244 as drafted would resolve whether the Mashpee Tribe can benefit from the provisions of the Indian Reorganization Act. 25 U.S.C. § 5101 et seq. However, both the Aquinnah Wampanoag and the Mashpee Wampanoag Tribe are recognized by the United States as successor tribes to the Great Wampanoag Nation whose territory span from the Boston area, southwest to eastern Rhode Island, and eastward out to the outer continental shelf; including Cape Cod and the Islands of Martha's Vineyard and Nantucket. As the successors to the Wampanoag Nation, both Aquinnah Wampanoags and Mashpee Wampanoags are also the successors to all the territory of the Nation which encompasses all of southeastern Massachusetts and any legislation that affirms and declares one Tribe's rights to that territory should apply equally to both Wampanoag Tribes.

Indeed, Congress itself has stipulated a desire for ensuring that Tribes are treated equally in rulemaking and administrative decisions.

Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq., 48 Stat. 984) as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.
25 U.S.C. § 5123(f).

It defies logic that Congress would not also apply this same principle when enacting legislation for the benefit of tribes. Therefore, we continue to request the following simple amendment: (additions in underline):

All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934

(25 U.S.C. 5101 et seq.), shall be applicable to the Mashpee Wampanoag Tribe of Massachusetts and Wampanoag Tribe of Gay Head (Aquinnah) and their Tribal Members.

This amendment is intended to provide fairness and parity to both tribes without favoring one nation over the other within our shared ancestral territory in the Commonwealth. In the alternative, we also would support an amendment to H.R. 5244 reaffirming the land in the Town of Mashpee only, and striking section (c) in its entirety. While this is not the preferred amendment, it would maintain equity for both tribes who would then have to individually address challenges to their right to access the Indian Reorganization Act provisions outside of our home village townships. Without this amendment, it is simply a matter of time before the Aquinnah Wampanoag are before you requesting the same legislation. We understand and appreciate the concern about taking land out of trust, however, without our proposed amendments which are solely intended to protect Aquinnah's right to acquire land in our shared Ancestral territory, leaving both Tribes on equal footing, we must strongly oppose the legislation.

Please feel free to contact me with any questions.

In Balance, Harmony and Peace,



Chairwoman Cheryl Andrews-Maltais
The Wampanoag Tribe of Gay Head (Aquinnah)

Cc: Congressman Ruben Gallego, Ranking Member House Natural Resources Committee –
Subcommittee on Indian, Insular and Alaska Native Affairs
Congressman William Keating, Massachusetts
Congressman Joseph P. Kennedy
Congresswoman Katherine M. Clark
Congressman Michael E. Capuano
Congressman Stephen F. Lynch
Congressman Gregory W. Meeks
Congressman Tom McClintock
Congressman Don Young
Congressman Carlos Curbelo
Congresswoman Niki Tsongas
Congressman Seth Moulton
Congressman John J. Faso
Congressman James P. McGovern
Congresswoman Norma Torres
Congressman Glenn Thompson
Congressman Raul Grijalva
Chris Fluhr, Staff Director, House Natural Resources Committee – Subcommittee on
Indian, Insular and Alaska Native Affairs