

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

| | | |
|---|---|-----------------------------------|
| STATE OF CONNECTICUT AND |) | |
| MASHANTUCKET PEQUOT TRIBE, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Civil Action No. 1:17-cv-02564-RC |
| |) | |
| RYAN ZINKE, in his official capacity as |) | |
| Secretary of the Interior, and the U.S. |) | |
| Department of the Interior, |) | |
| |) | |
| Defendants, |) | |
| |) | |
| and |) | |
| |) | |
| MGM RESORTS GLOBAL |) | |
| DEVELOPMENT, LLC, |) | |
| |) | |
| Defendant/Intervenor. |) | |
| |) | |

**PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF
MOTION FOR LEAVE TO AMEND COMPLAINT**

Plaintiffs the Mashantucket Pequot Tribe (Tribe) and the State of Connecticut submit this Notice of Supplemental Authority in support of their pending motion for leave to file an amended complaint (Dkt. 60) to inform the Court of recent developments supporting the factual allegations in the proposed amended complaint. Specifically, the Plaintiffs submit news articles from *The Washington Post* and political news website *Politico* detailing an ongoing Department of Justice (DOJ) investigation into whether former Secretary of the Interior Ryan Zinke – who recently resigned from office under a cloud of scandal related his personal conduct – violated the law by lying to his own agency’s inspector general investigators regarding his involvement in the dispute that is the subject of this litigation.¹

¹ The articles in question are attached hereto as Exhibits 1, 2 and 3 and are accessible as follows. Washington Post article here: <https://www.washingtonpost.com/world/national-security/justice-dept-investigating-whether-zinke-lied-to-inspector-general/2019/01/03/6c9dea06-0eac-11e9->

These articles and the DOJ investigation that they detail are of particular relevance to the plaintiffs' proposed Amended Complaint. Count II of the Amended Complaint alleges, *inter alia*, that the Department of the Interior's decision to not approve amendments to the Tribe's gaming procedures with the State of Connecticut was motivated in whole or in part by improper and undue political influences, pressures, and considerations directed at key decision-makers such as then-Secretary Zinke. Dkt. 60-2 ¶ 70. The revelation that Secretary Zinke is under DOJ investigation for lying to his own agency's investigators regarding his "involvement in reviewing a proposed casino project by Native American tribes in Connecticut," as the *Washington Post* reported, at the very least provides strong circumstantial evidence of exactly the sort of improper dealings alleged in the Amended Complaint. *See also* Politico ("[T]he casino matter now appears to be the primary subject of DOJ's interest."). And as the *Washington Post* further reported, the DOJ would not be investigating this matter unless federal prosecutors had determined that the former Secretary's account of his actions "was suspect and warranted further scrutiny."

The attached articles also confirm that then-Secretary Zinke was in Las Vegas, Nevada, on July 30, 2017. This reporting lends further support to the Amended Complaint's allegation that Mr. Zinke had an in-person meeting with Senator Dean Heller (R-NV) in Las Vegas on that date. *See* Dkt. 60-2 ¶ 43.

Finally, the *Washington Post* article provide further support that "Interior officials — including career staff and even some Trump appointees — had been poised to approve the agreement last summer, according to interviews with current and former employees and documents released under the Freedom of Information Act." This reporting lends further support

84fc-d58c33d6c8c7_story.html?utm_term=.787823f14f03. Politico article here: <https://www.politico.com/story/2019/01/03/ryan-zinke-ethics-problems-lying-congress-raul-grijalva-1059149>. Hartford Courant article here: <http://www.courant.com/politics/hc-pol-zinke-lied-connecticut-casino-20190103-skp4cjauxnbkdpd5bovu4uk4n4-story.html>. (last accessed Jan. 24, 2019).

to the Amended Complaint's averment that the Department intended to approve the amendments until a last-second change in course by Zinke. *See* Dkt. 60-2 ¶¶ 35-40, 50.

For the foregoing reasons, the attached articles support the allegations in the Plaintiffs' Amended Complaint and underscore the need for further proceedings to allow the Plaintiffs to prove the claims set forth therein.

Dated January 24, 2019.

Respectfully submitted,

/s/ Keith M. Harper

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CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2019, I electronically filed the foregoing Notice of Supplemental Authority with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

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Ryan Zinke: Justice Dept. investigating whether former Interior Secretary lied to inspector general - The Washington Post

 The Washington Post**National Security**

Justice Dept. investigating whether Zinke lied to inspector general

By [Matt Zapposky](#) ,
[Josh Dawsey](#) ,
[Juliet Eilperin](#) and
[Lisa Rein](#)

January 3

The Justice Department's public integrity section is examining whether newly departed Interior Secretary Ryan Zinke lied to his agency's inspector general investigators, according to three people familiar with the matter, a potential criminal violation that would exacerbate Zinke's legal woes.

Zinke, who left the Trump administration Wednesday, was facing two inspector general inquiries tied to his real estate dealings in his home state of Montana and his involvement in reviewing a proposed casino project by Native American tribes in Connecticut. In the course of that work, inspector general investigators came to believe Zinke had lied to them, and they referred the matter to the Justice Department to consider whether any laws were violated, the people familiar with the matter said.

The department's public integrity section has since been exploring the case, the people familiar with the matter said, speaking on the condition of anonymity to discuss an ongoing investigation. The extent of its work is unclear, though the inspector general had questioned witnesses in an apparent attempt to scrutinize Zinke's account, one of the people said.

A spokesman for Zinke said Zinke voluntarily participated in two inspector general interviews about the Connecticut tribal matter and "to the best of his knowledge answered all questions truthfully." The spokesman said Zinke had not been contacted by the Justice Department and that disclosures about the matter violated inspector general and Justice Department protocols.

On Wednesday, Zinke wrote a [farewell letter to staff](#) and posted a handwritten note on Twitter, but neither made mention of the ethics allegations that prompted his departure.

"When I was a Boy Scout, I was taught to leave the campsite better than I found it," he wrote to Interior's 70,000 employees. "I am confident that over the last 2 years, we have done that together for our public lands and the Department of the Interior."

A Justice Department spokesman declined to comment.

The Justice Department's interest in the matter is significant, signaling prosecutors felt Zinke's account was suspect and warranted further scrutiny. Department officials have not yet decided, though, whether he should face charges, people familiar with the matter said.

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Ryan Zinke: Justice Dept. investigating whether former Interior Secretary lied to inspector general - The Washington Post

The crime of making false statements can be difficult to prove because it requires investigators to show a person “knowingly and willfully” lied, rather than simply misstated a fact. Zinke’s resignation, too, could make him a less appealing target for prosecutors.

Several former Trump advisers have pleaded guilty to lying to investigators or to Congress, including his first national security adviser, Michael Flynn, his former personal lawyer Michael Cohen and a former campaign adviser, George Papadopoulos.

Zinke, who [submitted his resignation last month](#), had faced intense pressure to step down because of the probes into his conduct, though President Trump had soured on him for other reasons, too, according to one of the people familiar with the matter. In particular, this person said, Trump was upset Zinke would not challenge Sen. Jon Tester (D-Mont.) in last year’s election and over how Zinke handled the administration’s plan to expand offshore drilling.

Last January, Zinke flew to Florida and, without consulting the White House, announced in a news conference with then-Gov. Rick Scott (R-Fla.) that Interior would exempt the state from offshore drilling. The move raised ethics questions, along with an outcry from other governors whose coastal states were affected by the plan.

It was not clear precisely what Zinke is thought to have lied about, but two of the people familiar with the matter said it was not about a land deal Zinke struck with the chairman of oil services giant Halliburton in his hometown of Whitefish, Mont. Interior’s inspector general has been probing that as a possible conflict of interest.

The inspector general has also been exploring Zinke’s involvement in a dispute over a bid from two Native American tribes to operate a casino in East Windsor, Conn.

The feud over the Mashantucket Pequot and Mohegan tribes’ quest to jointly operate a gambling facility has sparked intense lobbying, since the outcome affects the flow of hundreds of millions in annual gaming revenue. The tribes allege Zinke succumbed to political pressure in not granting their application.

The two tribes sought federal approval to run the commercial casino off reservation land as part of an agreement with Connecticut officials, which required an amended agreement to ensure the new operation would provide 25 percent of its slot machine revenue to the state.

MGM Resorts International objected because the casino would compete with its gaming complex 12 miles away in Springfield, Mass., and could jeopardize its chances of opening a casino in Connecticut.

Interior officials — including career staff and even some Trump appointees — had been poised to approve the agreement last summer, according to interviews with current and former employees and documents released under the Freedom of Information Act. Politico first reported career staff’s support for the tribes’ petition. Ultimately, though, the department refused to sign off on the Mashantucket Pequot’s proposal, sparking a lawsuit from the tribe and the state of Connecticut.

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Ryan Zinke: Justice Dept. investigating whether former Interior Secretary lied to inspector general - The Washington Post

In September, U.S. District Judge Rudolph Contreras dismissed the tribe's initial claim. The Mohegan tribe withdrew from the litigation after Interior acknowledged the validity of its gaming agreement in June.


But the tribe — which was nearly wiped out four centuries ago by the English — has continued to press its case. It sought to amend its claim in October, arguing in court documents that Interior staff had “prepared draft approval letters” on Oct. 8, 2017, but then informed the tribes a week later it would take no action on the petition, stymieing the project. The tribe charged that “the Department ultimately buckled under undue political pressure” from two Republican members of Congress from Nevada, Sen. Dean Heller and Rep. Mark Amodei.

Heller, who has since left the Senate, having lost his reelection bid last year, could not be reached for comment. Amodei said in an October 2017 interview with newspaper columnist David Collins that he told Interior officials to “do their job” and was merely acting on behalf of a licensed gaming operator in Nevada.


The court filing alleges “Senator Heller directly pressured Secretary Zinke to do what was necessary to stop the Tribes’ joint venture casino project during a private dinner at a steakhouse in Las Vegas, on or about July 30, 2017.” Zinke’s official calendar shows he was in Las Vegas that day, before catching a late-night flight back to Washington, but it does not list his activities there.

With Zinke gone, Sen. Richard Blumenthal (D-Conn.) is trying to get his successor to approve changes to the tribal-state compact, so the East Windsor casino can proceed. Connecticut state lawmakers are also considering new legislation that would eliminate the requirement that the tribes receive approval from Interior before moving ahead with the casino.


Matt Zapotosky

Matt Zapotosky covers the Justice Department for The Washington Post's national security team. He has previously worked covering the federal courthouse in Alexandria and local law enforcement in Prince George's County and Southern Maryland. Follow 


Josh Dawsey

Josh Dawsey is a White House reporter for The Washington Post. He joined the paper in 2017. He previously covered the White House for Politico, and New York City Hall and New Jersey Gov. Chris Christie for the Wall Street Journal. Follow 

Juliet Eilperin

Juliet Eilperin is The Washington Post's senior national affairs correspondent, covering how the new administration is transforming a range of U.S. policies and the federal government itself. She is the author of two books — one on sharks and another on Congress, not to be confused with each other — and has worked for The Post since 1998. Follow 

Lisa Rein

Lisa Rein covers federal agencies and the management of government in the Trump administration. At The Washington Post, she has written about the federal workforce; state politics and government in Annapolis, and in Richmond; local government in Fairfax County, Va. and the redevelopment of Washington and its neighborhoods. Follow 

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Rep. Raul Grijalva (D-Ariz.) and now former Interior Secretary Ryan Zinke have traded barbs repeatedly over the last two years. | Susan Walsh, File/AP Photo

CONGRESS

Grijalva calls for Zinke testimony amid allegations of lying to investigators

By **NICK JULIANO** and **ANTHONY ADRAGNA** | 01/03/2019 05:10 PM EST

The House Democrat newly in charge of overseeing the Interior Department says he still wants former Secretary Ryan Zinke to appear for questioning about his ethics problems, despite his exit from the Trump administration.

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Grijalva calls for Zinke testimony amid allegations of lying to investigators - POLITICO

Arizona Rep. Raúl Grijalva, who took over Thursday as chairman of the Natural Resources Committee, told POLITICO in a brief interview that he plans to seek Zinke's testimony "at some point" this year. He did not elaborate.

Grijalva's comments come amid reports that the Justice Department is examining allegations that Zinke, who left his post Wednesday, lied to investigators with Interior's inspector general's office. The Washington Post reported on that probe, citing three sources familiar with the move.

Zinke resigned after less than two years in President Donald Trump's Cabinet, ending a turbulent tenure marked by numerous investigations into his conduct in office. The most serious probes were launched following POLITICO's reporting on his involvement in a land deal with the chairman of Halliburton, as well as Interior's unusual decision to block a tribal casino in Connecticut following lobbying by a rival casino operator.

Investigators interviewed Zinke twice about the casino matter and numerous times in the course of its other investigations, the former secretary told POLITICO via text message Thursday, but he said DOJ has not contacted him. He said he "answered truthfully to all matters," to the best of his knowledge, and said he has done nothing wrong.

"What is wrong is wasting 10s of thousands of tax payer dollars on false allegations and leak from [anonymous] sources," Zinke wrote.

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Grijalva and Zinke have traded barbs repeatedly over the last two years — most dramatically in December, when Zinke accused Grijalva of "drunken" behavior.

It was unclear what Zinke was suspected of lying about, but the casino matter now appears to be the primary subject of DOJ's interest. It was not the land deal with the Halliburton chairman, according to the Post.

Interior's IG began investigating the casino deal last spring, after Connecticut lawmakers asked for a probe into whether the decision was improperly influenced by lobbying from MGM Resorts International, which has since opened a rival casino 12 miles from where the the Mashantucket Pequot and Mohegan tribes had hoped to build theirs.

Political appointees at Interior made the decision to block the project at the 11th hour, overruling the recommendations of career officials in the department's Office of Indian Gaming, POLITICO reported last year. The move rested on a narrow interpretation of the Indian Gaming Regulatory Act that the tribes say amounted to

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an improper political favor to lobbyists and Nevada lawmakers who had advocated for Las Vegas-based MGM's position.

Zinke disputed the tribes' contention, writing to POLITICO that his position was that the nations "are sovereign and DOI should not take a position, either direct or implied, pertaining to Indian activities on non trust lands other than as obligated by law or treaty."

A federal judge has dismissed a lawsuit challenging Interior's decision, but the Mashantucket are attempting to revive the case based on additional allegations of improper political influence.

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By MATT ZAPOTSKY, JOSH DAWSEY and LISA REIN
WASHINGTON POST | JAN 03, 2019



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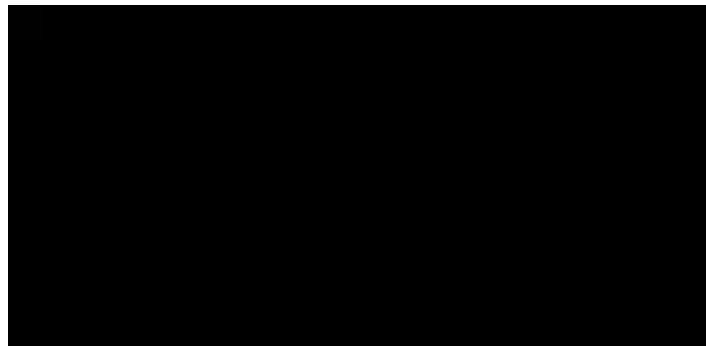


The Justice Department's public integrity section is examining whether newly departed Interior Secretary Ryan Zinke lied to his agency's inspector general investigators. (Michael Reynolds / EPA-EFE/REX)

Feedback

The Justice Department's public integrity section is examining whether newly departed Interior Secretary Ryan Zinke lied to his agency's inspector general investigators concerning a proposed casino in East Windsor, according to three people familiar with the matter.

Zinke, who left the Trump administration Wednesday, was facing two inspector general inquiries tied to his real estate dealings in his home state of Montana and his involvement in reviewing a proposed commercial casino project that would be run by the Mashantucket Pequot and Mohegan tribes. In the course of that work, inspector general investigators came to believe Zinke had lied to them, and they referred the matter to the Justice Department to consider whether any laws were violated, the people familiar with the matter said.



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The justice probe into Zinke's lying represents a potential criminal violation.

The department's public integrity section has been exploring the case, the people familiar with the matter said. The extent of its work is unclear, though the inspector general had questioned witnesses in an apparent attempt to scrutinize Zinke's account, one of the people said.

A spokesman for Zinke said Zinke voluntarily participated in two inspector general interviews about the Connecticut tribal matter and "to the best of his knowledge answered all questions truthfully." The spokesman said Zinke had not been contacted by the Justice Department and that disclosures about the matter violated inspector general and Justice Department protocols.

On Wednesday, Zinke wrote a **farewell letter to staff** and posted a handwritten note on Twitter but neither made mention of the ethics allegations that prompted his departure.

"When I was a Boy Scout, I was taught to leave the campsite better than I found it," he wrote Interior's 70,000 employees. "I am confident that over the last 2 years, we have done that together for our public lands and the Department of the Interior."

A Justice Department spokesman declined to comment.

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Feds investigating whether former Interior Secretary Zinke lied about East Windsor casino - Hartford Courant

Sen. Richard Blumenthal issued a statement late Thursday: “New information that former Interior Secretary Zinke may have lied to investigators – a federal crime – is serious and significant, opening a new phase in holding Zinke accountable for his improper conduct. The prosecutors in the Department of Justice’s Public Integrity Section bring criminal charges against lawbreaking officials and conduct trials and other proceedings – now a distinctly possible outcome for Zinke. The reason I called for the Inspector General’s investigation, which led to this inquiry, was Zinke’s possible conflicts of interest, improper favoritism, and other potential misconduct — which could give rise to charges of perjury and fraud, among others.”

The Justice Department’s interest in the matter is significant, signaling prosecutors felt Zinke’s account was suspect and warranted further scrutiny. Department officials have not yet decided, though, whether he should face charges, people familiar with the matter said.

The crime of making false statements can be difficult to prove because it requires investigators to show a person “knowingly and willfully” lied, rather than simply misstated a fact. Zinke’s resignation, too, could make him a less appealing target for prosecutors.

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In Connecticut, the feud over the Mashantucket Pequot and Mohegan tribes' quest to jointly operate a gambling facility has sparked intense lobbying, since the outcome affects the flow of hundreds of millions of dollars in annual gaming revenue. The tribes allege Zinke succumbed to political pressure in not granting their application.

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In September, U.S. District Judge Rudolph Contreras dismissed the tribe's initial claim. The Mohegan tribe withdrew from the litigation after Interior acknowledged the validity of its gaming agreement in June.

But the tribe — which was nearly wiped out four centuries ago by the English — has continued

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Heller, who has since left the Senate, having lost his reelection bid last year, could not be reached for comment. Amodei said in an October 2017 interview with newspaper columnist David Collins that he told Interior officials to “do their job” and was merely acting on behalf of a licensed gaming operator in Nevada.

The court filing alleges “Senator Heller directly pressured Secretary Zinke to do what was necessary to stop the Tribes’ joint venture casino project during a private dinner at a steakhouse in Las Vegas, on or about July 30, 2017.” Zinke’s official calendar shows he was in Las Vegas that day, before catching a late-night flight back to Washington, but it does not list his activities there.

With Zinke gone, Sen. Richard Blumenthal (D-Conn.) is trying to get his successor to approve changes to the tribal-state compact, so the East Windsor casino can proceed. Connecticut state lawmakers are also considering new legislation that would eliminate the requirement that the tribes receive approval from Interior before moving ahead with the casino.

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