

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 24 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

STATE OF ALASKA,

Plaintiff - Appellant,

v.

BRYAN NEWLAND, in his official
capacity as Assistant Secretary, Indian
Affairs, U.S. Department of the Interior;
UNITED STATES DEPARTMENT OF
THE INTERIOR,

Defendants - Appellees,

CENTRAL COUNCIL OF TLINGIT &
HAIDA INDIAN TRIBES OF ALASKA,

Intervenor-Defendant -
Appellee.

No. 24-5280

D.C. No.
3:23-cv-00007-SLG

MEMORANDUM*

STATE OF ALASKA,

Plaintiff - Appellee,

v.

BRYAN NEWLAND, in his official
capacity as Assistant Secretary, Indian
Affairs, U.S. Department of the Interior,

No. 24-5285

D.C. No.
3:23-cv-00007-SLG

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

UNITED STATES DEPARTMENT OF
THE INTERIOR,

Defendants,

CENTRAL COUNCIL OF TLINGIT &
HAIDA INDIAN TRIBES OF ALASKA,

Intervenor-Defendant -
Appellant.

Appeal from the United States District Court
for the District of Alaska
Sharon L. Gleason, Chief District Judge, Presiding

Argued and Submitted August 12, 2026
Anchorage, Alaska

Before: CALLAHAN, BEA, and BUMATAY, Circuit Judges.

The State of Alaska appeals the district court’s decision to vacate the Department of the Interior’s decision to take a 787-square-foot parcel of land in Juneau, Alaska, into trust. The district court vacated the Department of the Interior’s decision to accept the Juneau parcel into trust for the Central Council of Tlingit & Haida Indian Tribes of Alaska (the “Tribe”). In its decision, the district court concluded that the Department has the statutory authority to accept land into trust for Indian tribes in Alaska but that it relied on improper considerations. The district court then remanded to the Department for further proceedings.

The State appeals the district court’s ruling about the Department’s authority. The Tribe cross-appeals, asking us to reverse the district court’s vacatur-and-remand

order. The Department asked us to dismiss the State’s appeal for lack of appellate jurisdiction and explained that, given a change in the Department’s view of its own authority, it would not defend its decision to accept the Juneau parcel into trust.

While we assume appellate jurisdiction, *see Maverick Gaming, LLC v. United States*, 123 F.4th 960, 972 (9th Cir. 2024), given the Department’s change in position on appeal, we conclude appellate review is premature and remand without reaching the merits of the State’s or Tribe’s claims on appeal. When the Department accepted the Juneau parcel into trust, its official view was that the Secretary retained land-in-trust authority. Now, before this court, the Department no longer holds that view. *See Solicitor’s Opinion*, William L. Doffermyre, M-37087 (Feb. 24, 2026), <https://perma.cc/6QZ7-B9UN>. Indeed, the Department is now operating under a Solicitor Opinion’s recommendation not to accept *any* land-in-trust applications in Alaska.

Given the Department’s change in position, we exercise “the discretion afforded to appellate courts when fashioning remand remedies,” *see Blumberger v. Tilley*, 115 F.4th 1113, 1140 (9th Cir. 2024) (simplified), and remand to the district court to consider how the Department’s viewpoint change impacts the Administrative Procedure Act analysis, if at all. *See* 28 U.S.C. § 2106 (explaining that “court[s] of appellate jurisdiction” have authority to “remand the cause” and “require such further proceedings to be had as may be just under the circumstances”).

Based on the Department's decision not to defend the agency action at issue, we vacate the district court's ruling, including the ruling on the Secretary's authority to take land in trust for Native Tribes in Alaska. We leave in place the district court's vacatur-and-remand order while it reconsiders the issues presented by the parties. Neither the parties nor the district court should construe this order as taking a position on any issue.

REMANDED.