



Mashpee Wampanoag Tribe
483 Great Neck Rd So. Mashpee, MA 02649
Phone (508) 477-0208 * Fax (508) 477-1218

TRIBAL COUNCIL RESOLUTION 2023-RES-041

EMERGENCY APPROVAL OF THE DECLARATION OF A STATE OF EMERGENCY – A DECLARATION OF THE RIGHTS OF HERRING

WHEREAS, the Mashpee Wampanoag Tribe (the "Mashpee Wampanoag" or "Tribe"), is a federally recognized Indian Tribe with a duly-enacted Constitution and the governing body of the Tribe is known as the Mashpee Wampanoag Tribal Council ("Tribal Council"); and

WHEREAS, Article V, § 2 of the Mashpee Wampanoag Tribal Constitution ("Constitution") vests Tribal Council with all the executive and legislative powers of the Tribe including the power to make and enforce Tribal law; and

WHEREAS, Article VI, § 2.A of the Constitution bestows Tribal Council with the responsibility to promote and protect the health, peace, morals, education, political integrity, economic security, and general welfare of the Tribe and members of the Tribe; and

WHEREAS, this meeting is an emergency meeting of the Tribal Council within the meaning of the Constitution that has been duly convened by the Chairperson of the Tribe; and

WHEREAS, pursuant to Article IX, Section 1(e)(1) of the Constitution a quorum for this meeting is seven (7) members of the Tribal Council; and,

WHEREAS, Tribal Council finds it is critical and necessary for the preservation or protection of the immediate health, peace, safety, or property of the Tribe within the meaning of 2009-ORD-003 and the Constitution to approve The Declaration of A

State Of Emergency – A Declaration Of The Rights Of Herring ;and

- WHEREAS,** the Mashpee Wampanoag acknowledge and affirm their ancestral rights to fishing and to exercise their sovereign power to make and enforce tribal laws that protect and secure their rights to abundant and healthy Herring population, of which the Mashpee have traditionally relied; and
- WHEREAS,** the Mashpee Wampanoag recognize that the Herring face a crisis of migration as their traditional migratory routes through certain rivers and streams leading to their mating ponds are significantly and unnecessarily obstructed by man-made “runs”, “fish bridges”, or “fish ladders” (hereinafter collectively referred to as “fish ladders”), which are artificial structures used to facilitate the Herring's natural migration and purport to enable fish to pass around the barriers by swimming and leaping up a series of relatively low steps; and
- WHEREAS,** the Commonwealth of Massachusetts failed to consult the Mashpee Wampanoag on the design, installation, construction and ongoing improvements of the subject fish ladders; and
- WHEREAS,** the Mashpee Wampanoag reaffirm their Traditional Ecological Knowledge (“TEK”) of their longstanding stewardship of herring requires natural fish ladders that support the Herring’s most successful journey to mate and return to the sea and thrive; and
- WHEREAS,** through TEK, practice, experience, and relationships with nature the Mashpee Wampanoag has an important role in defending and healing the natural environment; and
- WHEREAS,** the Mashpee Wampanoag reaffirm its oral history confirming that prior to the installation of the State-made fish ladders, that “the streams ran black” with abundant Herring with the use of natural fish ladders; and
- WHEREAS,** the Mashpee Wampanoag continue to monitor the Herring throughout each season and finds that the population has declined by approximately 95% as of 2023 creating a ***STATE OF EMERGENCY***; and
- WHEREAS,** the Mashpee Wampanoag recognize that the Herring are critical and essential to the livelihood of the Tribe and without a thriving Herring population, tribal citizens are denied their right to a sustainable livelihood selling, trading, or harvesting Herring for personal use; and
- WHEREAS,** the Mashpee Wampanoag, as original stewards of the Herring, recognize that the health and well-being of the Herring are critical and essential to the political integrity of the tribe -to continue to protect, preserve, and fish the Herring; and

WHEREAS, the Mashpee Wampanoag recognize that the Herring are critical and essential to the economic security, health and safety of the tribe because without a thriving Herring population, the tribe's aboriginal hunting, fishing, and gathering rights are violated; and

WHEREAS, the Tribe has never abdicated its sacred responsibilities and takes seriously both its stewardship of the natural resources of our historical homelands and governance of natural resources on its Reservation and tribal lands; and

WHEREAS, the Tribe remembers a time when the Mashpee Wampanoag people cared for and stewarded the waters for the Herring, even creating wooden malleable fish ladders to help the Herring make their journey despite settler developments; and

WHEREAS, the Tribe recognizes that the fish ladders built by the Commonwealth of Massachusetts, including, but not limited to the fish ladders located at Mashpee, Santuit, and Quashnet, are not suitable natural replacements for the former free-running fish ladders previously located on certain streams and rivers on which the Herring rely; and

WHEREAS, it is the duty and responsibility of the Mashpee Wampanoag to provide for the well-being of the community, its local environment, nature, and social systems; and

WHEREAS, the Tribe recognizes that all fish runs in Northeast woodlands are under Tribal jurisdiction and stewardship; and

WHEREAS, the state built fish ladders on the Santuit, Quashnet, Middleborough, and Mashpee ponds, are within the boundaries of the Mashpee Wampanoag Tribe's aboriginal territory; and

WHEREAS, the Tribe recognizes that the Herring shall require a capacitated and authorized legal guardian to restore the declining ecosystems and to naturalize the Herring's migratory routes; and

WHEREAS, the Tribe recognizes that the Herring have the right to migrate freely, procreate abundantly, and safely make their journey back to sea; and

WHEREAS, Tribal Council finds that the health and abundancy of the Herring directly impacts the health, peace, morals, education, political integrity, economic security, and general welfare of the Tribe and its Tribal citizens; and

WHEREAS, the Herring migration crisis has directly caused the following impacts on the Tribe, its Tribal citizens, and its Reservation and Tribal lands:

1. the death of numerous Herring trapped in the high-pressured waters of the current state made runs;

2. the death of numerous birds of prey who have been trapped in the high-pressured waters of the run;
3. the approximate loss of 95% of the Herring population, thereby reducing the availability of Herring as a valuable food source;
4. the reduced population of Herring has resulted in state-issued bans on collection for non-Indians leading to incidences of trespassing and unauthorized catching and seizure of Herring; and
5. the reduced Herring population creates ecological scarcity for the entire Mashpee ecosystem and endangers the delicate balance of life in the Sound.

WHEREAS, Tribal Council resolves that it must take immediate action to ensure that appropriate Tribal resources and authorized personnel are directed, capacitated and empowered to carry out a long-term initiative to protect and restore the Rights of the Herring; and

NOW, THEREFORE, BE IT RESOLVED, that Tribal Council, pursuant to its Constitutional authority, hereby declares a *STATE OF EMERGENCY* and further declares the Rights of Herring.

BE IT FURTHER RESOLVED, that the current *STATE OF EMERGENCY* and Declaration of the Rights of Herring directly compromises the Mashpee Wampanoag's rights to livelihood, political integrity, health, welfare, and economic security.

BE IT FURTHER RESOLVED, that Tribal Council hereby authorize the Tribal Council Chairman or, in his absence, other Tribal Council Officer to take the following emergency actions to effectuate and resolve this *STATE OF EMERGENCY*:

1. Adopt Tribal Law recognizing the Rights of Herring and designating the Tribe as the Herring's sole legal guardian;
2. Deputize the Tribe's Natural Resource Commission as the authorized regulatory agency to oversee the re-design and re-construction of the fish ladders at Quashnet, Santuit, and John's Pond; and
3. Petition the proper federal authorities to carry out their duties and obligations under their trust responsibilities on behalf of the Mashpee Wampanoag to commit support and resources to restore the Herring fish ladders to a more natural state.

BE IT FURTHER RESOLVED, Tribal Council hereby directs that a public advisory be immediately issued to educate the Tribe, its Tribal citizens and the town of Mashpee on the importance of the Herring and the Herring's migration crisis.

BE IT FURTHER RESOLVED, Tribal Council hereby directs Tribal operations to seek out and secure support, coordination, and funding from federal, state/local governments, and aligned nonprofits and allies to observe and execute this *STATE OF EMERGENCY*.

BE IT FURTHER RESOLVED, this *STATE OF EMERGENCY* shall remain in effect until such time as it is terminated by resolution by the Tribal Council only when these

emergency conditions so stated herein related the Herring's migration crisis have been substantially or fully resolved.


BE IT FINALLY RESOLVED, that the Tribal Council authorizes the Tribal Chairman or, in his absence, other Tribal Council Officer to take such other actions as are reasonable or necessary, including corresponding with federal agencies, state and local governments and allies in furtherance of the execution or performance of this Declaration.

All resolutions or parts of resolutions inconsistent with this resolution are repealed. This resolution is effective immediately and shall continue pursuant to the authority vested in the Tribal Council pursuant to Article VI, §§ 2.A. and D. of the Constitution.

CERTIFICATION

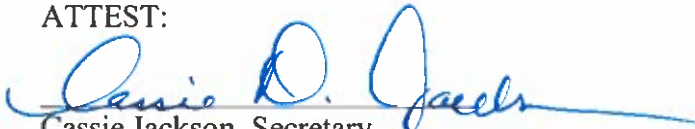
We, the undersigned Chairperson and Secretary of the Mashpee Wampanoag Tribal Council, do hereby certify that the Tribal Council is composed of 13 members of whom 8, constituting a quorum, were present at an emergency meeting thereof, duly called, noticed, convened, and held on the 26th day of April, 2023 and that the foregoing resolution was duly adopted by the affirmative vote of 7 members, with 0 opposing, and with 0 not voting.

DATED this 26th day of April, 2023.



Brian Weeden, Chairman
Mashpee Wampanoag Tribal Council

ATTEST:



Cassie Jackson, Secretary
Mashpee Wampanoag Tribal Council