

No. 22-5022

UNITED STATES COURT OF APPEALS
FOR THE D.C. CIRCUIT

WEST FLAGLER ASSOCIATES, LTD.,
Plaintiffs-Appellees,

v.

DEBRA HAALAND, ET AL.,
Defendants-Appellants.

Appeal from the United States District Court
for the District of Columbia
No. 1:21-cv-02192 (Hon. Dabney L. Friedrich)

STATEMENT OF ISSUES ON APPEAL

This appeal arises from plaintiff gaming facilities' challenge to the Department of the Interior's approval by operation of law of a tribal-state gaming compact submitted to the agency by the Seminole Tribe of Florida and State of Florida. Under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*, if the agency takes no action on such a submission within 45 days, the compact is "considered to have been approved by the Secretary, but only to the extent the compact is consistent with" that statute. 25 U.S.C. § 2710(d)(8)(C). Here, the agency took no action for 45 days and, consistent with the statute, subsequently

filed notice in the Federal Register that the compact had gone into effect. Dist. Ct. ECF No. 43 at 4. The gaming facilities then challenged the legality of the Interior's approval-by-operation-of-law. The district court denied the federal government's motion to dismiss the claims, entered summary judgment for the gaming facilities, and vacated the approval-by-operation-of-law. *Id.* at 8-25. The issue on appeal are:

- (1) Whether the district court erred in denying the federal government's motion to dismiss the challenges;
- (2) Whether the district court erred in holding the agency's action unlawful;
- (3) Whether the district court abused its discretion in selecting a remedy.

Respectfully submitted,

/s/ Rachel Heron

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CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2022, I electronically filed the foregoing certificate with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system.

The participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

/s/ Rachel Heron
RACHEL HERON