

Miccosukee Tribe of Indians of Florida

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May 20, 2015

Mr. Joe Watkins
U.S. National Park Service
Department of the Interior
Office of Tribal Relations and American Cultures
1201 Eye Street, NW
Washington, DC 20005

Re: RIN 1024-AD84: "Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for Traditional Purposes"

Dear Mr. Watkins,

On behalf of the Miccosukee Tribe of Indians of Florida ("Tribe"), I write to comment on the National Park Service ("NPS") proposed rule regarding "Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for Traditional Purposes," 80 Fed. Reg. 21674 (Apr. 20, 2015) (amending 36 C.F.R. pt. 2) (the "proposed rule").

"We must honor the earth, from where we are made," is not a slogan but a central tenet of the Miccosukee people. The Florida Everglades are our homelands. We have always sought to honor and protect our environment through responsible land stewardship and to protect our traditional ways of life in the Everglades. We are located in the heart of the Everglades, and our commitment to the Everglades and our way of life is unwavering. Our top priority is to protect our homelands and our culture and customs.

For hundreds of years, the Everglades have been our home. The forced removal of Indian people from the southeastern U.S. in the 1830's devastated the Tribe. Despite the U.S. Government's best efforts to remove and terminate our existence, we successfully fought removal and genocide by finding refuge in the Everglades, which is now our homelands. Our homelands include what became Everglades National Park (ENP) in 1934 and Big Cypress National Preserve (Big Cypress) in 1974. The U.S. forcibly removed us from ENP when the Park was created and then Big Cypress when it was created, taking these lands from us over our strong objections. The U.S. physically relocated us to a narrow strip of land north of ENP and this is where we continue to live today.

Even though we were forced from our homes, we continue to practice our culture and traditions in our homelands of ENP and Big Cypress.

Miccosukee's Ties to the Lands in Everglades National Park

ENP was established in 1934 by "An Act [t]o provide for the establishment of the Everglades National Park in the state of Florida and for other purposes." Ch. 371, 48 Stat. 816 (1934) (codified as amended at 16 USC § 410 et seq.) (ENP Act).

The ENP Act states, "Nothing in this Act shall be construed to lessen any existing rights of the Seminole Indians which are not in conflict with the purposes for which the Everglades National Park is created." As confirmed in a 1982 NPS report and other documents, "An Ethnohistory of Big Cypress National Preserve, Florida," the term "Seminole" refers to all of the Native Americans living in ENP then, which included Miccosukee Indians.

Congress officially designated the strip along the Tamiami Trail as the Miccosukee Reserved Area (MRA) in 1998, officially ending a Special Use Permit issued by the Department of the Interior to the Tribe in 1973. The MRA was created under the Miccosukee Reserved Area Act ("MRA Act"), Pub. Law. No. 105-313, 112 Stat. 2964 (1998), which included the following language:

(e) OTHER RIGHTS PRESERVED- Nothing in this Act shall affect any rights of the Tribe (defined as the Miccosukee Tribe) under Federal law, including the right to use other lands or waters within the Park (defined as Everglades National Park) including any additions to that Park for other purposes, including, fishing, boating, hiking, camping, cultural activities, or religious observances.

As we have for hundreds of years, the Miccosukee people continue to practice our traditions and customs in ENP. The language of the ENP Act, coupled with the Tribe's rights under the MRA Act, confirm our rights. These rights cannot be abrogated or otherwise impacted by agency action.

Miccosukee's Ties to the Lands in Big Cypress National Preserve

Big Cypress was established in 1974. The legislation creating Big Cypress acknowledges the deep connection of the Tribe to the Everglades, stating that "members of the Miccosukee Tribe of Indians of Florida . . . shall be permitted . . . to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve and the Addition, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials." P.L. 93-440; 16 U.S.C. § 698j (Big Cypress Enabling Act). We have maintained our usual and customary use and occupancy within Big Cypress and continue to exercise these rights today.

As with the ENP Act and the MRA Act, the Big Cypress Enabling Act clearly sets forth our rights in Big Cypress, our former homelands before the U.S. removed us from these lands, and these rights cannot be abrogated or impacted by agency action.

NPS Proposed Rule

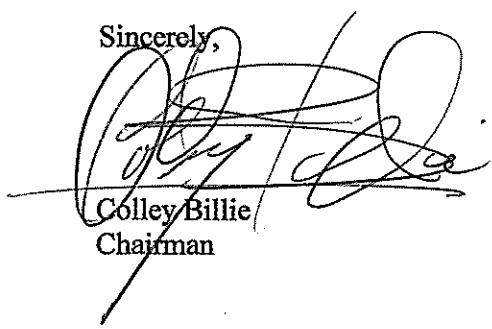
NPS's proposed rule seeks to amend 36 C.F.R. part 2 to create a process by which federally recognized tribes traditionally associated with specific NPS park units can enter into agreements with said parks for the collection of certain plants or plant parts. The proposed rule states that it would "have no effect on existing statutory . . . rights." As discussed above, the relationship of the Tribe with ENP and Big Cypress is governed by the ENP Act, MRA Act, and the Big Cypress Enabling Act. Accordingly, NPS's proposed rule does not apply to the Tribe and our gathering rights in ENP and Big Cypress. Because the Tribe has encountered difficulties in the past with the revolving door of superintendents at ENP and Big Cypress when we have exercised our rights in ENP and Big Cypress, we request clarifying language in the final rule to specify that the rule does not apply to the Tribe and its gathering rights in ENP and Big Cypress. Otherwise, we are concerned that, once the rule becomes final, future superintendents will try to impose the final rule on us regardless of the statutes that protect our gathering rights to these lands due to lack of understanding of our usual and customary use and occupancy in ENP and Big Cypress.

With that said, we would also like to make a comment about the proposed rule even though the proposed rule does not apply to the Tribe. We are concerned with the list of proposed information required for the NPS to make a determination on a request from a tribe. The proposed rule states that the types of plants, the identification of plant locations, and the methods for gathering and removal are among some of the requirements that would need to be outlined in order for NPS approval. Sharing these details of our cultural and ceremonial practices is counter to our customary practices.

In addition to requesting that the final rule specify that it does not apply to the Miccosukee Tribe under the ENP Act, MRA Act, and the Big Cypress Enabling Act, we further request that NPS engage in meaningful government-to-government consultations with the Tribe on the subject matter of this letter.

Thank you for your consideration of our comments and our requests. Please feel free to contact me with any questions.

Sincerely,



Colley Billie
Chairman