

***The Creator created the People of the Earth into the Land and gave us a Way of Life. This Sacred Way of Life has been passed down generation-to-generation since the beginning of the Creation of Life. The sanctity of this Way of Life has been violated and abused by people who are living without regard for the well-being of Mother Earth and our collective future.***

**May 20, 2015**

**Formal Statement to National Park Service Regarding the Proposed Rule:  
Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for  
Traditional Purposes  
Regulation Identifier Number (RIN) 1024-AD84**

*These comments reflect the wisdom of Elders and Medicine People from across this land coming together to collectively exercise, defend and protect their rights on matters impacting their Way of Life and the Natural World. As the Original Stewards of this Land, we are offended by the lack of sensitivity that is continually demonstrated to our position by federal agencies and we are discriminated against by having to respond in black and white with a foreign language that is not ours and does not convey the full depth of our concerns.*

**Indigenous Peoples are the Original Caretakers**

As the original stewards of this land, we are fully aware of our responsibility to care for the life of All Creation. We are committed to upholding our responsibility to maintain peace, balance and harmony with one another and the natural system of life. Since the beginning of Creation, we have lived in harmony with the natural world, preserving the balance required to uphold the natural systems that we all need to survive. We work to maintain our way of life in order to ensure that these natural systems are protected for the future generations of all peoples and All Life.

The proposed National Park Service (NPS) Rule fails to adequately respect and address the needs of Indigenous Peoples who are living their way of life. First, it promotes conflict within our communities and with other Indigenous Nations, by narrowly defining who is allowed to actively participate in the gathering of plants for traditional purposes. It takes away the right of Indigenous Peoples to fully participate in their cultural customs, by placing the authority over a key aspect of their way of life in the hands of others. To assume that some designated government agent has the knowledge or the authority to determine which uses are traditional is absurd, ignorant and disrespectful. Placing NPS staff, or a designated individual in charge of making those decisions is not only inappropriate, it represents a complete denial of the rights of individual Indigenous Peoples to fully live their way of life, which violates both domestic and international law. Indigenous Peoples from all Nations travel great distances to gather plants, ceremonial items and all that is necessary to live their way of life. To restrict access “to [only] those Indian tribes traditionally associated with specific park units” reveals that the National Park Service does not understand the Indigenous Peoples, nor do they grasp the deeply intricate sacred relationships necessary to uphold our way of life. In addition, the impacts of global climate change on plant location and availability was not taken into consideration.

The Proposed NPS Rule fails to meet the requirements of consultation under both domestic and international law. Holding listening sessions on a previous draft of the proposed policy is not consultation. Consultation involves face-to-face, open dialogue. It involves a two-way discussion and it requires the free, prior and informed consent of the people. Free, prior and informed consent provides a space for the peoples impacted to say “no”. The way that the United States has been conducting consultation is nothing more than an informational session and a form of dictatorship. It does not meet any of the requirements that have been clearly outlined by law. True consultation requires the Government to come to every Indigenous Nation and the peoples impacted by these decisions and have a face-to-face, open dialogue with them to ensure consensus before proceeding.

This Rule fails to acknowledge and consider the excessive burden the additional restrictions, including the illegal policies and procedures as written, places on Indigenous Peoples who do not speak English, or write in English, or those who will never relinquished their sacred responsibilities to a designated person. In this way, the United States has failed to adequately inform or include the traditional Indigenous Peoples who will be the most impacted by this Rule.

### **Indigenous Peoples are the sole authority on their own culture and way of life**

Determining the size and quantity of the plants or plant parts that may be gathered and removed, identifying the times and locations where the plants or plant parts may be gathered, and the traditional uses for these plants is not the role of the National Park Service. You cannot regulate the sacred. Our sacred relationship with these plants, and the ceremonies and customs connected to them, is an essential part of our spiritual way of life. It is at the heart of our relationship with the Creator and our sacred relationship with All Life. Every plant is sacred. We keep our sacred places and knowledge hidden, to protect them from exploitation or desecration. It is only when a sacred area, or our sacred way of life, is threatened or revealed will it be identified and interpreted by the Indigenous Elders and Medicine Peoples. When these places are threatened, we will come forward and provide direction to the federal agencies on how to conduct their activities to prevent damage, destruction and desecration. Those born into this way of life understand that it is our responsibility not to give away the inherited rights of our future generations to those who do not value and understand our way of life. The issue of having the Superintendent and then the Regional Director determine which practices are traditional is perhaps the most arrogant and egregious addition to this proposed rule. The Superintendent and/or Regional Director is not an expert on the traditional practices of every Indigenous culture. To assume that he or she has the ability or the authority to assume the role of medicine person or spiritual leader for every Indigenous culture is not only ridiculous but causes harm and is disrespectful and inappropriate. To place the Superintendent and/or Regional Director and/or designated person between the Creator and the Indigenous Peoples is a direct violation of our rights. We, Indigenous Peoples of this Land, are the sole authority on our own culture including the use of ceremonial objects or any part of the natural system that is under the Creator’s Natural Law.

**Aboriginal Indigenous Peoples have felt and seen first-hand the destructive impacts to our way of life and the natural environment caused by the National Park Service's decisions and actions**

The United States of America forcibly removed Indigenous Peoples from so-called National Park Lands and prohibited them from living their way of life, by making it illegal to hunt, gather food and medicines and conduct sacred ceremonies in the locations where these practices are held. These forced relocations, restrictions, prohibitions and limitations on access continue today. Indigenous Peoples were removed by military force under the threats of violence and death. These same threats continue to this day. The removal of the Indigenous Peoples, and the ongoing violations of treaties and other agreements have continuously allowed the illegal exploitation of the land and animals. This has been a constant practice since the newcomers arrived on this land. The United States has existed for only 239 years, but in that time they have destroyed much. An unending parade of laws and policies has continued to restrict and eliminate the rights of Indigenous Peoples to participate in their traditional and cultural way of life, and to live peacefully on their homelands. These federal actions have contributed to the genocide of the Indigenous Peoples, to the loss of culture, and the exploitation and degradation of the natural environment. The destruction of the land has been the result of mismanagement and over use by Industry, which has been sanctioned by the Federal Government. To assume that the NPS is better qualified to protect and manage these lands than Indigenous Peoples has no foundation or basis in fact. The actions of the Indigenous Peoples have not contributed to the destruction or overuse of these lands so to force restrictions on those who have protected these lands and maintained a balanced relationship with these lands, due to the destructive behavior of others is simply another imbalanced and misguided decision. The restrictions should be placed on the activities of the National Park Service and their contractors rather than Indigenous Peoples.

The steady violation of Indigenous cultural and human rights, through the forced restriction and regulation of our Indigenous way of life is a direct assault on our survival as Indigenous Peoples. The continuous taking, appropriation and misuse of our lands and the rise in violations on our cultural and traditional rights represent a return to Termination Era policies.

**Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals.  
-United Nations Declaration on the Rights of Indigenous Peoples, Article 24**

The current NPS Regulation, 36 CFR2, Resource Protection, Public Use and Recreation is out of date and out of step with the contemporary position on Indigenous Rights. Since the inception of the 1983 regulation, the United States has adopted a number of legal requirements to consult with and protect the rights of the Indigenous Peoples of this Land, under both domestic and international law. For example, The American Indian Religious Freedom Act states that: "it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to

sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites.” A critical part of providing these protections includes meaningful consultation with “native traditional spiritual leaders.” Additional statutory consultation and access requirements can also be found in the Archeological Resource Protection Act; the National Historic Preservation Act (16 U.S.C. 470, Section 110); Executive Order 13007; and, the Native American Graves Repatriation Act (25 U.S.C. 3002) as outlined in 43 CFR part 10 §§ 10.3, 10.4, 10.5, 10.6. In addition, to these domestic laws, the United States is bound by several international laws that require meaningful consultation with Indigenous Peoples prior to undertaking any action that may affect their rights and interests. For instance, Recommendation 23 of the Convention on the Elimination of All Forms of Racial Discrimination calls upon states to ensure that Indigenous peoples have equal rights in decisions directly relating to their rights and interests, requesting that no action be taken without the proper consultation and the free, prior and informed consent of the Indigenous peoples affected. Articles 1 and 27, of the International Covenant on Civil and Political Rights, afford these populations the right to self-determination, which includes the right to enjoy their own cultural and religious practices. Article 1,3,7,8,9,10,11,12,13,15,18,19,20,24,25,26,27,28,29,31,32,37, 38,40 of the United Nations Declaration on the Rights of Indigenous Peoples are all relevant legal obligations for instance Article 19: “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.” The National Park Service must consider and comply with these and all additional relevant legal obligations.

Indigenous Peoples have maintained their historical, cultural and spiritual relationship with the land since the beginning of Creation. The alleged goal of this new rule is to remove prohibitions placed on that relationship in order to allow resumed access. The goal to remove prohibitions is not served by creating new illegal regulations on those practices. This does not undue the earlier harm it only furthers the United States destructive actions to Indigenous Peoples and their way of life. **The appropriate step would be to remove the prohibitions placed on Indigenous Peoples completely**, not to create new rules that allow restricted access that defeats traditional purposes. And, there must be adequate training of all NPS staff to ensure that they understand the rights of Indigenous Peoples. We must be allowed to follow our way of life unrestricted, without harassment and disrespect from NPS staff and without so-called National Park Fees.

### **Indigenous Peoples have obligations and responsibilities that go beyond man-made domestic and international laws**

Protection of what we hold Sacred as Indigenous Peoples surpasses domestic and international laws; it also requires adherence to the Creator’s Law, a Law that is indivisible and creates the spiritual foundations for our Way of Life as Indigenous Peoples and Nations. We must adhere to the Creator’s Law and protect and maintain these sacred places and sacred holdings and honor their sacred purposes. The Creator’s Law does not change so our obligations and responsibilities have not and will not change.

**To legitimately include authentic indigenous knowledge is to include the Indigenous Peoples, who are the true keepers of that spiritual knowledge throughout the entire process especially when decisions are being made**

It is not prudent for Indigenous Peoples to provide federal agencies with information on sacred places, plants, minerals, medicines, knowledge and all other sacred holdings until a mutually acceptable and fully responsible system has been established. Our knowledge is for us to protect and not for federal agencies to control or abuse. By creating defined parameters and designated individuals, the Federal Government assumes control over those practices, by determining who is allowed to engage in a cultural way of life and what that way of life might be. This is illegal and unacceptable. This proposed rule creates restrictions on traditional usage by requiring designated individual(s) to determine what uses are appropriate. It also restricts access by requiring reliance on that individual to gather the plants and/or plant parts needed for those traditional uses, which may include the taking of traditional sustenance and subsistence foods.

**We will not be divided by terminology like federally recognized and federally non-recognized. We see this as a way of dividing the Indigenous Peoples**

There have been no provisions made in the rule for Indigenous Peoples from federally non-recognized nations, such as the Council of the Original Miccosukee Simanolee Nation Aboriginal Peoples, and other legitimate Aboriginal Indigenous Nations. The United States is obligated under several international instruments to provide for free religious practice for all Indigenous Peoples. Provisions have been made under NAGPRA and other federal instruments for recognizing the rights of Indigenous Peoples who are not federally recognized. This also needs to be done in regard to religious freedom. Limiting the practice to only federally recognized tribes is problematic. There are many Indigenous Nations in this country that are not recognized by the federal government, yet they retain their aboriginal and indigenous rights under International law, both written and common law. To deny them their traditional rights is a direct violation of law, and it is racist and divisive.

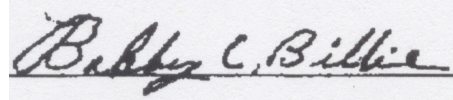
**We, Aboriginal Indigenous Nations of the Peoples have been planted on our lands, with sacred instructions and responsibilities placed within us by the Creator, to follow the Laws of the Creator**

We, the Indigenous Peoples, are united under the Creator's Law as United Indigenous Nations, to protect and extend Life for all future generations. We are from various Indigenous Nations and are spiritually related. We have a great responsibility to our children and All Life that must be honored and upheld. The covenant we have with the Creator requires us to consider the impacts of our decisions on the Creator's Creation and the impact these decisions will have on the future of life. The Indigenous Elders, Medicine Peoples, Spiritual Leaders, Wisdom Keepers, Spiritual People and Those Who Carry Great Responsibilities for Their People will continue to fulfill their responsibilities to provide a future for the coming generations of life and must be included in all planning and decisions affecting the natural system of life.

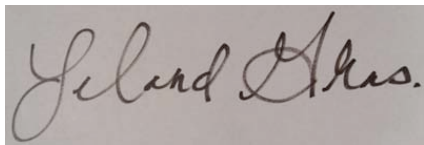
We have much more to say but this discriminatory process has limited us to responding in black and white with a foreign language that does not allow us to convey the full depth of our concerns.



*Chief Arvol Looking Horse  
19th Generation Keeper of the Sacred  
White Buffalo Calf Pipe  
Spiritual Leader The Great Sioux Nation*



*Bobby C. Billie  
Clan Leader and Spiritual Leader  
Council of the Original Miccosukee  
Simanolee Nation Aboriginal Peoples*



*Leland Grass, Dine' Traditionalist*

*Faith Spotted Eagle,  
Tunkan Inajin WinBrave Heart Society  
Grandmother/Headswoman & Ihanktonwan  
Treaty Council  
Ihanktonwan Dakota from the Oceti  
Sakowin 7 Council Fires*

**-ADDITIONAL SIGNATURES TO FOLLOW-**