



July 20, 2015

Joe Watkins  
National Park Service  
Office of Tribal Relations and American Cultures  
1201 Eye Street NW  
Washington, DC 20005

**RE: PUEBLO OF JEMEZ COMMENTS TO NPS PROPOSED RULE – GATHERING OF CERTAIN PLANTS OR PLANT PARTS BY FEDERALLY RECOGNIZED INDIAN TRIBES FOR TRADITIONAL PURPOSES  
REGULATION IDENTIFIER NUMBER (RIN) 1024-AD84**

Dear Mr. Watkins:

The National Park Service's proposed rule to lift prohibitions that currently restrict removal of plants and plant parts from NPS units is a welcomed change. The Pueblo of Jemez supports the proposed rule limiting plant gathering to only members of federally recognized Indian tribes that have "traditional associations" with specific park areas. However, the Pueblo believes that "location-specific" agreements are not the best instruments to accomplish the goals of the proposed rule to the extent that such agreements require a tribe to specifically identify a location where such plant gathering is going to take place and the specific nature of the activities with respect to which the plant gathering is conducted. The Pueblo of Jemez, like many tribes, perform plant gathering activities in conjunction with a religious ceremony or initiation ceremony at the same location, or at the location of a sacred site, which information is highly confidential. For that reason agreements requiring the disclosure of specific locations and activities are not favored by the Pueblo of Jemez and should not be required. A more general agreement or Memorandum of Understanding between a tribe and the NPS is more appropriate where the traditional purpose for the plant gathering is religious or ceremonial in nature, requiring only a very general description of the purpose and location where the plant gathering activity will take place. So long as the tribe has shown that they are traditionally associated with the park area through written publications or historical documents, that evidence should be sufficient to meet that requirement without requiring the tribe to give a more detailed description of their activities.

In addition, the religious and ceremonial activities of the Pueblo of Jemez often require, in addition to plant gathering, the taking of wildlife in traditional use areas, some of which lie within the boundaries of National Parks. Accordingly, the Pueblo urges the Park Service to expand the scope of the proposed rule to amend 32 C.F.R. 2.1 et seq., to allow the taking of wildlife within National Parks by federally recognized Indian tribes for traditional purposes.

---

***Office of the Governor***

4471 Highway 4, Box 100 • Jemez Pueblo • New Mexico • 87024  
(505) 834-7359 • Fax (505) 834-7331

Comment to Section 2.6 (c) Tribal Request

The proposed rule for this section requires a tribe to include in its request the following:

- (1) An explanation of the Indian tribe's traditional association to the Park area;
- (2) An explanation of the traditional purposes to which the gathering activities will relate; and
- (3) A description of the gathering and removal activities that the tribe is interested in conducting.

The Pueblo of Jemez does not have a problem with paragraph (1) but does have issues with paragraphs (2) and (3). These two paragraphs call for revealing sensitive and highly confidential information that are not necessary in determining the potential impacts the proposed gathering and removal will have on the park area. The information being requested under this rule can be seen as highly intrusive and insulting to the tribe and to its tribal religious groups. This is clearly a process to probe for more information about a sacred or culturally sensitive activity which is not necessary when the research NPS cites in the proposed rule has shown that traditional gathering, when done with traditional methods and in traditionally established quantities, does not impair the ability to conserve plant communities and can help to conserve them.

Section 2.6 (d) Criteria for Entering into Agreement

Under this rule, the Superintendent of the NPS, most likely a "non-native," will determine whether the tribe's proposed gathering is a traditional use. This section should be changed to allow for a tribal liaison or an Indian NPS employee who is a member of a local federally recognized tribe to make the determination whether the gathering is a "traditional use" and also to decide whether sufficient grounds exist to deny a request to enter into an Agreement under Section 2.6(e).

Further, the rule should make clear that the agreement may be a master agreement covering plant gathering activities throughout the year or a number of years so the tribe would not be required to enter into such an agreement for every plant gathering activity. The objective should be to make this process as least burdensome as possible for NPS and the tribe.

Finally, the rule should impose a time limit for NPS action on a tribe's request for an agreement to avoid unnecessary delay that may impede religious and ceremonial activities that are time-sensitive.

Section 2.6 (g) Regional Office Concurrence

If the Regional Office disapproves an agreement, some recourse should be provided to resolve the impasse short of forcing a tribe to hire attorneys and file suit under the federal Administrative Procedures Act.

Section 2.6(i) Termination or Suspension

If an agreement is suspended or terminated, some non-litigation recourse again should be provided to resolve the impasse.

Sincerely,



for Raymond Loretto, DVM  
Governor

---

**Office of the Governor**

4471 Highway 4, Box 100 • Jemez Pueblo • New Mexico • 87024  
(505) 834-7359 • Fax (505) 834-7331