



Office of Environmental Affairs

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September 3, 2015

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

Dear Mr. Watkins:

In reference to the National Park Service Federal Register proposed rule **36 CFR Part 2**, Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for Traditional Purposes.

Ohkay Owingeh has concerns with the proposed ruling that would allow the traditional gathering of culturally significant plants and plant parts within park boundaries. The gathering of culturally significant plants and plant parts, within Ohkay Owingeh recognized "Ancestral Boundary", have been the practice of the tribe since time immemorial. We anticipate that this may serve as a solution of past NPS procedures to allow our tribal members to exercise their cultural right to gather important plants within the park boundaries however; we feel some discrepancies within the proposed document.

Sec. 2.6 (i) Termination or Suspension, Ohkay Owingeh has concerns that, as written, it allows the Superintendent excessive discretion in engaging in and terminating "gathering" agreements, it does not provide a clear method to appeal decisions and there is no clear remedies should this situation arise. It has also been noted that there are no time frames stated once the Superintendent begins this process, for suspension or written correspondence.

We have reviewed the Superintendent's authority to enter into an agreement on gathering with a Tribe and found that this section debatably allows a Superintendent to not engage in negotiations with Tribes upon the submittal of a request by a Tribe. This level of discretion could lead to a negative response to engage in negotiations on the matter and fails to recognize the Tribe's ancestral claims.

Section 2.6 (e)

This section states Superintendent must deny the request to enter into an agreement to gather if any of the determinations required by paragraph (d) of this section cannot be made. However, a Tribe can appeal the denial of a request in writing within 30 days to the Regional Director. Once again, it does not provide a clear method to appeal a decision made by the Superintendent and is burdensome to Tribes.

Sec. 2.6 (f) Contents Agreements. In this section there are references to NPS providing locations where gathering removal may take place. The tribe is well aware of the "traditional" gathering locations utilized and are concerned that these areas might be restricted or not on the locations identified by NPS. In addition to the actual locations, the tribe is willing to identify general locations but no specific site will be divulged and no specific

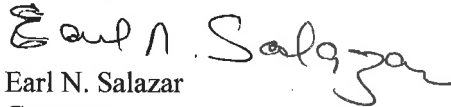
plant or plant part will be identified by the tribe. The tribe is also against any type of escort or supervision when actual gathering is taking place.

Section 2.6 (h).

This section allows Superintendents to close certain areas of a park to gathering and removal activities or to suspend or terminate an agreement and permit without any negotiation or consultation with the tribe being directly affected. Ohkay Owingeh is concerned that no notice is required to be given to the Tribe. That being said, it is a requirement to be given to the public under §2.6 (h)(3). This lack of consultation with a Tribe does not reflect the deference that should be accorded the activities that are the subject of this section. A decision to obstruct a Tribe's access to its traditional activities should be taken seriously and collaboration should be implemented to make reasonable decisions.

Thank you for the opportunity to comment on this proposed register. We here at Ohkay Owingeh have a vested interest in these comments as these gathering practices will continue for years and years to come. In our government to government relationship with NPS, we hope that we have provided you with insight to our needs and that you understand the importance of our input into these matters. If you have any questions please feel free to contact our offices here at Ohkay Owingeh. Thank you for your time.

Sincerely,

A handwritten signature in dark ink, appearing to read "Earl N. Salazar". The signature is fluid and cursive, with the first name "Earl" and last name "Salazar" clearly distinguishable.

Earl N. Salazar
Governor