



HUALAPAI NATION
Hualapai Department of Cultural Resources
P.O. Box 310, Peach Springs, AZ 86434
(928) 769-2223/2234 fax: 769-2235

May 19, 2015

Desk Officer for the Department of the Interior at OMB-OIRA

RE: 1024-AD84; National Park Service proposed rule: Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for Traditional Purposes, 80 Fed. Reg. 21674 (April 20, 2015); Information Collection Requirements

Dear Madam or Sir:

On behalf of the Hualapai Tribe, please accept this comment on the information collection requirements of the proposed rule. We generally support the proposed rule and intend to file a letter with substantive comments. While this letter addresses only the information collection requirements, there is some overlap with substantive issues.

Under the rule as proposed, the Superintendent of a park area could enter into an agreement with a federally recognized Indian tribe to authorize gathering and removal of plants or plant parts for traditional purposes. In order to qualify for such an agreement, a tribe would have to show that it has a traditional association with the park and that the proposed gathering and removal would be a traditional use of the park area. Before entering into such an agreement, the NPS Superintendent would be required to collect information from the tribe, and possibly also from tribal members.

The proposed rule discusses the information collection requirements on pages 21678-79 of the Federal Register notice. We are particularly concerned about item (4):

(4) Identification of the times and locations at which plants or plant parts may be gathered and removed; ...

While we recognize that NPS has a legitimate need for such information, we would be reluctant to provide such information without assurances that the information will not be released to the public. We expect that other tribes would have similar concerns. We want to avoid situations in which authorized tribal members are impeded from gathering plants and plant parts by people of the general public who show up to watch, or harass, the Indians doing the gathering. This would be particularly troublesome in situations in which the gathering is a religious practice.

If NPS does not provide acceptable assurances that information about locations and timing will not be disclosed, then the estimate of the burden for this collection is not accurate. The burden on tribal officials would include not just the time it takes to develop the information, but would likely also include some time on the part of tribal legal counsel to take steps to preserve confidentiality. In addition to time, there will also be what could be described as psychological burdens, as people struggle with trying to decide whether the prospect of gaining access to traditional gathering areas in lands managed by NPS outweighs the risk of being observed or harassed by non-Indians.

There is a way that NPS could revise the proposed rule to address this concern, and we will explain our proposed solution in more detail in comments on the substance of the proposed rule. Briefly, the rule should acknowledge that any place within a park area where a tribe has traditionally harvested plants or plant materials would most likely qualify for the National Register of Historic Places as a traditional cultural property (TCP). The rule should provide a process for such a determination of eligibility to be made, if such a determination has not already been made before the tribe proposes to enter into an agreement with NPS for harvesting plants and plant parts. If a location at which a tribe has traditionally engaged in such harvesting has been determined eligible for the National Register, then section 304 of the National Historic Preservation Act authorizes NPS to:

withhold from disclosure to the public information about the location, character, or ownership of a historic resource if the Secretary [of the Interior] and the agency determine that disclosure may—

- (1) cause a significant invasion of privacy;
- (2) risk harm to the historic resources; or
- (3) impede the use of a traditional religious site by practitioners.

If in the final rule, NPS makes use of this authority in a way that provides adequate assurances that information about the locations and timing of gathering practices will not be disclosed to the public, then this aspect of the information collection burden on tribes could be alleviated. Without such assurances, however, the estimate in the proposed rule of the information collection burden on tribes is not accurate. . If you have questions or concerns regarding letter please contact me at the above numbers.

Sincerely,



Loretta Jackson-Kelly, Director
Hualapai Department of Cultural Resources