Message

From: Gettle, Jeaneanne [Gettle.Jeaneanne@epa.gov]
Sent: 12/7/2020 12:59:35 PM
To: Calli, Rosemary [Calli.Rosemary@epa.gov]; Laycock, Kelly [Laycock.Kelly@epa.gov]; Hicks, Matt [Hicks.Matthew@epa.gov]; Creswell, Michael [Creswell.Michael@epa.gov]; Ghosh, Mita [Ghosh.Mita@epa.gov]
Subject: FW: proposed NHPA consultation meeting re: the State of Florida's request to assume a 404 program
Attachments: Draft 404 Programmatic Agreement (11-25-20) Muscogee Creek Nation Comments.docx; MCN_Comments_Regarding_EPA_Proposed_Operating_Agreement.pdf

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From: RaeLynn Butler <raebutler@mcn-nsn.gov>
Sent: Sunday, December 6, 2020 11:22 PM
To: Mcgill, Thomas <Mcgill.Thomas@epa.gov>; Jaime Loichinger <jloichinger@achp.gov>; Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>
Cc: LeeAnne Wendt <LWendt@mcn-nsn.gov>; Turner Hunt <thunt@mcn-nsn.gov>; Robin Soweka Jr. <rosoweka@mcn-nsn.gov>; Gano Perez <GPerez@mcn-nsn.gov>
Subject: Re: proposed NHPA consultation meeting re: the State of Florida's request to assume a 404 program

Ms. Gettle,
The Muscogee (Creek) Nation is the fourth largest tribe in the United States with over 87,000 Citizens. Prior to Indian Removal, our ancestral homelands were in Alabama, Georgia, and Florida. Parts of NE Florida were ceded by The Muscogee (Creek) Nation to the United States in the 1739 Treaty of Coweta. The Muscogee (Creek) Nation has an historic area of interest in Florida and we currently review undertakings in 65 counties in Florida in accordance with Section 106 of the National Historic Preservation Act. The Muscogee (Creek) Nation expressed concerns with the final action deadline (December 17, 2020) and lack of tribal consultation regarding the State of Florida's request to assume CWA 404 permitting during a meeting with the EPA on October 15, 2020. We told the EPA at this meeting that trying to execute a Programmatic Agreement (PA) by December 17th would be problematic because we had not yet received a draft and this was our first time learning about the Operating Agreement and the EPA's process for deciding the assumption. The Muscogee (Creek) Nation sent comments to the EPA on November 2, 2020 regarding the Operating Agreement. It has been over 30 days and we have not received a response or acknowledgement of our letter to the EPA. We received the draft PA on Wednesday, November 25, 2020, only giving us 3 business days to review before meeting with the EPA on December 2, 2020. We were told that comments on the PA would need to be submitted before Monday, December 7th to be considered in the final draft of the PA. We left the December 2nd meeting with more questions than answers and there are many issues in the PA that need to be addressed before it can be executed. We have made comments using the track-changes function in the attached Microsoft Word document and hope EPA will consider these comments. We request that EPA provide a comment matrix and respond to the comments we have provided. If the EPA will not implement recommended changes to the PA, we request that the EPA explain the decision-making process and reasons for not implementing recommendations. We have also attached the letter we sent back in November and request that the EPA provide a written response to our questions and comments. We agree with the ACHP that the EPA should schedule another consultation meeting with Tribes (including Seminole Nation of Oklahoma and as Dr. Thompson pointed out, The Jena Band of Choctaw) to discuss and consider revisions to the PA. We also agree that the EPA should consider extending the 120-day approval process to accommodate tribal concerns that EPA has yet to consider. It is imperative that the treatment of historic properties include the expertise of Tribal Nations under NHPA and we feel the EPA has rushed Tribal Consultation to meet thier own rules, neglecting meaningful Tribal Consultation required under NHPA and Executive Order 31175. We need all parties on the same page to have a successful agreement in place.

Please let us know if you have any questions.

Mvto

RaeLynn A. Butler

Historic and Cultural Preservation Department, Manager

Muscogee (Creek) Nation

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From: Mcgill, Thomas <Mcgill.Thomas@epa.gov>
Sent: Tuesday, November 17, 2020 4:36 PM
To: Jaime Loichinger <jloichinger@achp.gov>; Javier Marques <jmarques@achp.gov>; Christopher Wilson <cwilson@achp.gov>; Timothy.Parsons@dos.myflorida.com <Timothy.Parsons@dos.myflorida.com>; Aldridge, Jason H. <jason.aldridge@dos.myflorida.com>; Mason, Heather <Heather.Mason@FloridaDEP.gov>; Gray, Stephanie A <Stephanie.A.Gray@FloridaDEP.gov>; THPO@pci-nsn.gov <THPO@pci-nsn.gov>; kweatherford@pci-nsn.gov <kweatherford@pci-nsn.gov>; lhaikey@pci-nsn.gov <lhaikey@pci-nsn.gov>; chead@pci-nsn.gov <chead@pci-nsn.gov>; GeneD@miccosukeetribe.com <GeneD@miccosukeetribe.com>; beverlyt@miccosukeetribe.com <beverlyt@miccosukeetribe.com>; kevind@miccosukeetribe.com <kevind@miccosukeetribe.com>; JeanineB@miccosukeetribe.com <JeanineB@miccosukeetribe.com>; Amy Castaneda <AmyC@miccosukeetribe.com>; lyannem@miccosukeetribe.com <lyannem@miccosukeetribe.com>; CraigV@miccosukeetribe.com <CraigV@miccosukeetribe.com>; paulbackhouse@semtribe.com <paulbackhouse@semtribe.com>; kevincunniff@semtribe.com <kevincunniff@semtribe.com>; Stacy Myers <StacyMyers@semtribe.com>; Anne Mullins <AnneMullins@semtribe.com>; Whitney Sapienza <WhitneySapienza@semtribe.com>; Juan Cancel <JuanCancel@semtribe.com>; Bradley Mueller <bradleymueller@semtribe.com>; KarliEckel@semtribe.com <KarliEckel@semtribe.com>; mdiffenderfer@llw-law.com <mdiffenderfer@llw-law.com>; rsantana@llw-law.com <rsantana@llw-law.com>; Section106 <Section106@mcn-nsn.gov>; RaeLynn Butler <raebutler@mcn-nsn.gov>; LeeAnne Wendt <LWendt@mcn-nsn.gov>; Robin Soweka Jr. <rosoweka@mcn-nsn.gov>; ithompson@choctawnation.com <ithompson@choctawnation.com>; Lindsey Bilyeu <lbilyeu@choctawnation.com>; Madison D. Currie <mcurrie@choctawnation.com>
Cc: Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>;

Ghosh, Mita <Ghosh.Mita@epa.gov>; Pugh, Katherine <Pugh.Katherine@epa.gov>; Zimmerman, Eve <Zimmerman.Eve@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>
Subject: proposed NHPA consultation meeting re: the State of Florida's request to assume a 404 program

Good afternoon!

The EPA plans to host a virtual meeting in two weeks regarding our consultation under Section 106 of the National Historic Preservation Act with respect to the State of Florida's request to assume a Clean Water Act Section 404 program. We specifically intend to discuss a draft Programmatic Agreement that sets forth a process for ensuring protection of cultural and historic resources and welcome input from the consulting parties that are included on this email.

In order to schedule the meeting during a time that maximizes participation, please complete the doodle poll which may be accessed at: https://doodle.com/poll/25swudd67ui89suv?utm_source=poll&utm_medium=link, regarding potential meeting times on November 30, December 1, and December 2. Please respond to the doodle poll regarding your availability by 5:00pm Eastern Standard Time (EST) on Thursday, November 19, and we will follow-up with a meeting invitation. Please note that the proposed meeting times are in EST.

We look forward to the discussion, and please let us know if you have any questions in the meantime.

Tom

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