



Nez Perce

TRIBAL EXECUTIVE COMMITTEE
P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2253

May 28, 2020

Sent via email only to: cheryl.probert@usda.gov

Ms. Cheryl Probert, Forest Supervisor
Nez Perce-Clearwater National Forests
903 3rd Street
Kamiah, ID 83536

**Re: Nez Perce Tribe's Opposition to a Rainbow Family Gathering on Nez-Perce
Clearwater National Forests Lands**

Dear Supervisor Probert:

I write on behalf of the Nez Perce Tribal Executive Committee ("NPTEC"), the governing body of the Nez Perce Tribe ("Tribe"), to express our deep concerns with, and opposition to, the Rainbow Family of Living Light's ("Rainbow Family") plans to hold a gathering in the coming weeks somewhere on Nez Perce-Clearwater National Forests lands in proximity to the Tribe's Reservation and within our aboriginal homeland in north-central Idaho.

Our understanding is that the Rainbow Family members met with individual Nez Perce Tribal citizens recently to seek their support for the gathering. NPTEC, however, has neither received a request or confirmation from any Rainbow Family member concerning a proposed gathering this year, nor has NPTEC in any way been involved in conversations that have taken place in preparation for such an event.

As you are aware, the Tribe is a sovereign nation whose aboriginal territory spans over 13 million acres in what is today Idaho, Oregon, Washington, and Montana. Home to the Nez Perce, or Nimiipuu, since time immemorial, the lands and waters encompassing the Nez Perce-Clearwater National Forests, including the corridors surrounding the Middle Fork of the Clearwater River, Lochsa River, and Selway River, are among the most environmentally pristine, historically significant, and culturally vibrant areas in our cherished homeland.

To preserve our unique identity and way of life, the Tribe entered into a treaty with the United States in 1855 in which the Tribe reserved, and the United States secured, our right to fish, hunt, gather, pasture, and travel off-Reservation and throughout our aboriginal homeland and

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traditional fishing places. Today, the Nimiipuu continue to maintain a strong and enduring relationship to the Nez Perce-Clearwater National Forests. We actively use and enjoy the many blessings that this land continues to offer, honor the land through stewardship and co-management of the resources, and exercise our treaty rights regularly and year-round for subsistence, cultural, ceremonial, spiritual, aesthetic, recreational, and commercial purposes.

In addition to protecting our homeland and treaty rights, the Tribe, as a sovereign government, has a paramount obligation to protect the health and welfare of our citizens and surrounding communities. The COVID-19 pandemic has posed enormous challenges to the Tribe. In response to this crisis, we have taken unprecedented action to close our facilities, restrict or postpone non-essential governmental functions, prohibited large gatherings, and institute social distancing policies. While the Nimiipuu and surrounding communities have shown tremendous resilience, courage, and compassion throughout this ordeal, the effects of COVID-19 will likely be felt for many months, possibly years, to come.

While the Tribe respects any individual's right to free assembly, we are a sovereign nation with our own laws and regulations. We are also co-managers of the fish and other natural resources within and surrounding the Reservation. We have the inherent governmental power to regulate the health, safety, and well-being of our citizens and a paramount obligation to protect our citizens, homeland, and treaty-reserved rights. We accordingly view the Rainbow Family's plans to host a large gathering on National Forest System lands within our homeland during this time of national suffering and sacrifice as deeply offensive and socially irresponsible for the following reasons:

- There is already a shortage of certain foods, medical supplies, and cleaning supplies here and throughout Idaho due to COVID-19.
- There is no guarantee that people coming here from other states or even from other areas of Idaho are not carriers of COVID-19. Many people carrying this virus are asymptomatic. Therefore, a gathering could become dangerous for the citizens of our Reservation with a simple trip to the grocery store by one member of the Rainbow Family gathering.
- The lack of kitchen and medical staff on hand at the gathering and what this might mean for a possible outbreak of COVID-19 at the campsite and potential spread to residents that live on the Reservation.
- Nez Perce Tribal citizens will be actively accessing and exercising their treaty-reserved fishing, hunting, and gathering rights on or near the Nez Perce-Clearwater National Forests this spring and summer. The gathering may interfere with our citizens' exercise of these treaty-reserved rights.
- There are numerous culturally-significant areas and archaeological sites on or near the Nez-Perce Clearwater National Forests. A large gathering could harm or destroy these sensitive and irreplaceable places and objects.
- There is a potential for impacts to soil, water quality, threatened and endangered plants and animals, and other resource impacts caused by large gatherings and/or poor sanitation conditions.

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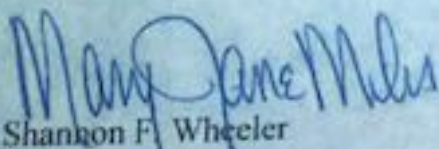
As our sovereign partner and co-manager of the Nez Perce-Clearwater National Forests, we expect the Forest Service to uphold its treaty and trust responsibilities and take swift and immediate action to address what the Tribe regards as the Rainbow Family's reckless and potentially unlawful plans to occupy and use National Forest System lands for their gathering this year. The Tribe accordingly requests that the agency take all appropriate measures under federal law to address this issue.

Our understanding is that the Rainbow Family provided little or no advance notice to the Forest Service or other land management or regulatory agencies concerning the specific location, number of people, or other information about their gatherings. We also understand that the Rainbow Family also contends that they do not require a special use permit for this or any gathering on National Forest System lands—even if the gathering involves thousands of people, lasts weeks, presents health and sanitation concerns, and results in demonstrable impacts to land and resources. This is unacceptable.

The Forest Service has the authority and clear obligation to protect National Forest lands on which the Tribe has treaty-reserved rights and other legally-protected interests. At minimum, the agency can and must hold the Rainbow Family accountable by requiring this organization to apply for, and receive, a special use permit imposing conditions on the use and occupancy of National Forest lands, in accordance with federal law.

The Tribe would like to arrange a government-to-government consultation as soon as possible so that our governments, including our respective law enforcement and resource managers, can address this issue cooperatively and expeditiously. Please contact the Nez Perce Tribe Executive Committee by mail at P.O. Box 766, Lapwai, ID 83540, or by phone at 208-843-2250 and ask for Rachel Edwards to schedule a meeting or phone call.

Sincerely,


Fox: Shannon F. Wheeler
Chairman

cc: The Honorable Brad Little, Governor, State of Idaho