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ELECTRONIC SUBMISSION – NO HARD COPY TO FOLLOW

(This letter has been revised to address is to the current Acting Director of the National Park Service.)

August 11, 2020

Ms. Margaret Everson
Counselor to the Secretary, Exercising the Delegated Authority of the Director
National Park Service
1849 C Street, N.W.
Washington, DC 20240

Dear Acting Director Everson:

I am writing to you on behalf of the Coalition to Protect America's National Parks (Coalition) to express our strong objections to President Trump's proposal to hold his Republican presidential nomination acceptance speech at Gettysburg National Military Park (battlefield) on August 27, 2020. Anyone knowledgeable of United States history understands that, as site of the largest battle ever fought in North America – a battle involving more than 165,000 Union and Confederate soldiers that claimed more than 51,000 casualties – the battlefield at Gettysburg is hallowed grounds. As President Lincoln so eloquently stated in his address on November 19, 1863 on the battlefield near Gettysburg, Pennsylvania:

We have come to dedicate a portion of that field, as a final resting-place for those who here gave their lives, that that nation might live. It is altogether fitting and proper that we should do this. But, in a larger sense, we cannot dedicate, we cannot consecrate – we cannot hallow – this ground. The brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract.

It is profoundly inappropriate to stage such a high profile and highly partisan political event, such as a major political party's presidential nomination acceptance speech, at Gettysburg National Military Park, a sacred site that belongs to all Americans. We are aware that a number of laws regarding political campaigns and the involvement of federal employees are implicated by such an action, but we do not intend to address those concerns in this letter. Instead, our comments are limited to the National Park Service (NPS) legal authorities that govern such events.

We call your attention to National Park Service general regulations at 36 CFR § 2.50, which sets forth permit requirements for "special events" to occur in parks. Provisions of the regulation that are relevant to the proposed use at Gettysburg include, but are not limited to, the following:

- In order for the National Park Service (NPS) to permit (i.e., issue a permit for) such an event, there must be “a meaningful association between the park area and the event, and the observance [must] contribute to visitor understanding of the significance of the park area.” § 2.50(a)
- A permit shall be denied if such activities would (among other things): Be contrary to the purposes for which the natural, historic, development and special use zones were established; or unreasonably impair the atmosphere of peace and tranquility maintained in wilderness, natural, historic, or commemorative zones; Result in significant conflict with other existing uses. § 2.50(a)(1-6)
- As a condition of permit issuance, the superintendent may require: The filing of a bond payable to the Director, in an amount adequate to cover costs such as restoration, rehabilitation, and cleanup of the area used, and other costs resulting from the special event; and the acquisition of liability insurance in which the United States named as co-insured in an amount sufficient to protect the United States. § 2.50(c)(1-2)

Based on our extensive experience administering the NPS special use permitting authority in accordance with 36 CFR § 2.50 and Director’s Order 53 (Special Park Uses), we firmly believe that any competent superintendent, if allowed to exercise that authority as intended, would deny a permit request to hold a major political campaign event, such an acceptance speech, within a unit of the National Park System. Such an event fails to pass the red face test with regards to having “a meaningful association between the park area and the event.”

However, we fully realize that Secretary Bernhardt is unlikely to object to the President’s proposal and NPS may be directed to permit a patently partisan political event that is clearly in conflict with NPS regulations and policies. In the event that the NPS or the Secretary chooses to rationalize the event as a “First amendment activity,” we call your attention the related NPS regulations at 36 CFR § 2.51 regarding “Demonstrations and Available Park Areas.” As stated in § 2.51(a-c):

- “The term ‘demonstrations’ includes... speechmaking... and all other like forms of conduct that involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which is reasonably likely to attract a crowd or onlookers.” § 2.51(a)
- “Demonstrations are allowed within park areas designated as available under paragraph (c)(2) of this section, when the superintendent has issued a permit for the activity” (unless the activity involves groups of 25 or less). § 2.51(b), Section 2.51(c)(1-2) specifies that
- The NPS may limit such demonstrations, including speechmaking, to designated areas provided certain conditions are met; and “the superintendent must designate on a map...the locations designated as available for demonstrations.” § 2.51(c)(1-2)

We therefore call your attention to the Gettysburg National Military Park Superintendent’s Compendium, §2.51(a) “Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views,” which is posted at: <https://www.nps.gov/gett/learn/management/superintendents-compendium.htm>. It states: “The two areas designated for these demonstrations are at the orchard area west of Taneytown Road, north of Meade’s Headquarters, and south of the National Cemetery Parking Lot (excluding the orchard) and the grassy area to the west of the Eternal Peace Light Memorial.” In other words, these are the only two locations where the proposed event should be allowed to occur.

If NPS is directed to allow the event to occur at Gettysburg under either kind of permit described above, we assume the Republican National Committee or the Trump Campaign would serve as the permittee for such an event. We respectfully suggest the following actions for NPS to appropriately manage such an inappropriate event:

- Activate a national incident management team to plan and manage the event, including providing for public safety during the event, site preparation and clean-up, and tracking all costs incurred by

NPS that are associated with the event. One would reasonably expect counter-demonstrations to occur at the park as well; and that should be factored into planning and staffing for the incident.

- As a condition of the permit, NPS should require a performance bond sufficient to cover costs incurred by NPS that are associated with the event.
- As a condition of the permit, NPS should require the permittee to acquire liability insurance naming the United States as co-insured in an amount sufficient to protect the United States.
- Ensure that all park employees and NPS incident management team personnel are informed of the Office of Special Counsel's updated guidance regarding President Donald Trump as a candidate for reelection, which is available at:

https://www.doi.gov/sites/doi.gov/files/migrated/ethics/upload/update_hatch_act_guidance_trump_2020_ao.pdf. If the event is held at Gettysburg, it is imperative that NPS personnel not be perceived as engaging in political activity, which as defined in the OSC guidance is any "activity directed at the success or failure of a political party, partisan political group, or candidate for partisan political office."

While this letter is focused on the proposed acceptance speech event at Gettysburg National Military Park, we are aware that from time to time other events of lesser significance but still political in nature have been staged in National Park System units. We are similarly concerned about the authority for such events. For that reason we recommend that NPS issue clear policy guidance, in the form of a revised Director's Order, setting forth standards and procedures for special events and identifying those circumstances, such as the President's proposed acceptance speech, that cross the line and should not be authorized under any circumstances.

In closing, we strongly oppose allowing such a major partisan political event to occur on the hallowed grounds of Gettysburg National Military Park, or in any unit of the National Park System for that matter. There are many other far more appropriate venues for the President to give his acceptance speech.

Sincerely,



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