

United States Department of the Interior
National Park Service

FINIDNG OF NO SIGNIFICANT IMPACT

Plant Gathering
Acadia National Park
Hancock County, Maine

June 2024

Introduction

The National Park Service (NPS) proposes to develop and enter agreements for the gathering of sweetgrass (*Hierochloe odorata* syn. *Anthoxanthum nitens*) within Acadia National Park (ACAD), Bar Harbor Maine by enrolled members of the five federally recognized tribes of Maine per 36 C.F.R. § 2.6, *Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for Traditional Purposes*.

The five federally recognized Indian Tribes affiliated with ACAD are the Passamaquoddy Tribes at Indian Township and at Pleasant Point, the Penobscot Nation, Mi'kmaq Nation, and Houlton Band of Maliseet Indians (hereafter collectively referred to as Wabanaki). Wabanaki history and associations with the lands and waters now within ACAD predate the park's creation and are well documented. Entering into government-to-government agreements would further co-stewardship, protect park resources, incorporate Indigenous knowledge into decision-making, and maintain and expand collaborative tribal relationships.

Beginning in 2015, ACAD consulted with the Wabanaki to learn about plants of cultural significance. Sweetgrass was identified as a plant of cultural significance. The Wabanaki tribes sent ACAD letters requesting to enter into agreements with the NPS to conduct traditional gathering of sweetgrass. These requests include sufficient information to meet the NPS rule requirement.

The NPS provided two opportunities for public comment during the National Environmental Policy Act (NEPA) process. The NPS accepted public comments for Indigenous plant gathering during civic engagement from December 18, 2023 through January 17, 2024, and after completing a thorough impact analysis with the release of the environmental assessment (EA) from May 6, 2024 to June 5, 2024. Appendix A of this finding of no significant impact (FONSI) summarizes public comments received and the NPS' response.

Selected Action and Rationale for Decision

The NPS analyzed two alternatives in detail in the EA: Alternative A – No Action and Alternative B – Proposed Action. Based on the EA's analysis, the NPS has selected Alternative B for implementation because it will meet the purpose and need by allowing the development of agreements for the gathering of sweetgrass per 36 C.F.R. § 2.6, *Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for Traditional Purposes*. The selected action both permits the traditional gathering of sweetgrass by enrolled members of the five federally recognized tribes and strengthens co-

stewardship. Details of the selected action and the No Action Alternative are described in Chapter 2 of the EA.

Mitigations

The Organic Act and its associated *Management Policies 2006* task the NPS with preventing impairment of park resources. This mandate gives the NPS the authority to adopt mitigation measures. The selected action includes mitigations that will help avoid and/or minimize adverse impacts of the project to natural and cultural resources.

Health and Safety

- Permitted gatherers will obtain parking passes from ACAD's designated point of contact. Vehicles will park safely on the road shoulder or designated pullouts.
- Gatherers will access harvesting locations by foot from the parking areas. ACAD staff will provide orientation to safely access locations.

Special Status Species

- Potential impacts to all Maine listed or tracked species of conservation concern will be re-assessed if any change in listing status occurs and during the five-year agreement renewals to ensure that gathering activities are not impacting species listed after the signing of this FONSI.
- The NPS will provide participants an orientation and/or otherwise advise them about sensitive species and their habitats to ensure those species and habitats can be avoided.

Cultural Resources

- Wabanaki gatherers will use traditional techniques to gather plants by hand. No mechanized equipment will be used to gather plants or plant parts.
- If gatherers discover previously undocumented cultural resources during plant gathering activities, gatherers will stop collecting and notify ACAD.

Invasive Species

- Annual site meeting will include information about known and relevant invasive plants and how to prevent their spread.

Visitor Use and Experience

- ACAD Public Affairs Officer, Visitor Experience and Education staff, and Visitor and Resource Protection staff will be briefed about the activities and given training to provide informed responses to any public inquiries about observed harvest activities.
- The NPS will assist in informing the public of the Plant Gathering Rule and activities, based on the Cultural Protocol (Anderson 2023) co-created for this purpose.

Ethnographic Resources

- Gathering is for traditional use; therefore, ACAD prohibits the sale or commercial use of plants or plant parts within the park.
- Gathering of plants or plant parts by non-tribal members is prohibited.

Sweetgrass

- Tribal governments will report the number of gathering permits issued to tribal members to the NPS annually.

- Gatherers and NPS staff will meet annually at select sites to jointly conduct site assessments, post-harvest monitoring, and review the health and abundance of sweetgrass.

Significance Criteria Review

Potentially Affected Environment

The project area encompasses approximately 133 acres of fee lands within ACAD in the counties of Hancock and Knox, Maine. Sweetgrass is a perennial grass that grows along shorelines in Maine. It shares its habitat with several avian tidal wetland specialist species such as the Least bittern (*Ixobrychus exilis*), Nelson's sparrow (*Ammodramus nelsoni*), and the saltmarsh sparrow (*Ammodramus caudacutuc*).

ACAD is located within traditional Wabanaki homelands. Prior to the development of the park, Wabanaki gathered sweetgrass along coastal saltmarshes. Sweetgrass harvesting is a unique cultural practice that the Wabanaki developed and refined over hundreds of years. Currently, gatherers are denied access to sweetgrass and the landscape from which it grows within ACAD.

Degree of Effects of the Action

The NPS considered the following actual or potential effects in evaluating the degree of effects (40 C.F.R. § 1501.3(b)(2)) for the selected action. As summarized below and documented in Chapter 3 the EA, the selected action has the potential for adverse and beneficial impacts on sweetgrass, ethnographic resources, and special status species or their habitat. The NPS did not identify any significant adverse effects from implementing the selected action.

a. Beneficial and adverse, and short- and long-term effects of selected action.

The duration of impacts is measured in short-term impacts occurring during sweetgrass harvesting, and long-term impacts occurring over multiple generations of gatherers.

Sweetgrass. The selected action will have long-term, direct beneficial impacts to sweetgrass through co-stewardship that increases the plant's abundance and restores the saltmarsh habitat. Sweetgrass harvesting is a unique cultural practice that the Wabanaki developed and refined over hundreds of years. Traditional Wabanaki gathering promotes sweetgrass so that it grows back in denser clumps. The act of harvesting increases soil aeration, reduces soil compaction, and allows water and nutrients to reach the root system, thus improving the overall health of sweetgrass. Past and future actions to 1) restore wetlands to natural conditions and 2) acquire land with sweetgrass habitat also improve the health of sweetgrass. Therefore, the selected action will cumulatively benefit sweetgrass.

Ethnographic Resources. The selected action will have long-term beneficial impacts to ethnographic resources by providing Wabanaki access to sweetgrass and the landscape from which it grows. ACAD is located within traditional Wabanaki homelands, and access to coastal saltmarshes for the gathering of sweetgrass has important traditional cultural meaning and value to the Wabanaki. The selected action will permit Wabanaki to exercise traditional gathering on their homelands. Past and future actions for ACAD to acquire land with sweetgrass habitat will also expand Wabanaki access. Therefore, the selected action will cumulatively benefit ethnographic resources.

Special Status Species and their Habitat. The selected action will have no effect on the federally endangered Atlantic salmon (*Salmo salar*) and candidate monarch butterfly (*Danaus plexippus*) because their breeding habitats are not within the project area. The endangered Northern Long-eared bat (*Myotis septentrionalis*) and candidate Tricolor bat (*Perimyotis subflavus*) will also not be affected because the selected action does not remove potential roost trees or create a disturbance that will affect behavior.

Maine state endangered Least bittern (*Ixobrychus exilis*) and species of concern Nelson's sparrow (*Ammodramus nelsoni*) and saltmarsh sparrow (*Ammodramus caudacutus*) may be present in the project area. The selected action will have negligible adverse impacts on these species. Least bittern nest in vegetation not collocated with sweetgrass. Saltmarsh sparrows have not been observed within ACAD where sweetgrass grows. Nelson's sparrows' nest in areas adjacent to where gathering may occur, and gathering activities may disturb nesting birds. To mitigate impacts on saltmarsh nesting birds, the NPS will monitor and advise gatherers of known locations so that they could be avoided.

Due to monitoring, avoidance, and the rotation of harvest sites by gatherers during the growing season, sweetgrass gathering will have negligible impacts on saltmarsh nesting species. Past actions to restore wetlands to natural conditions and both past and future actions for ACAD to acquire land with sweetgrass habitat improve protection of special status species and their habitat. When combined with the negligible adverse impacts from the selected action, these projects will have an overall long-term beneficial impact to special status species and their habitat.

b. Degree to which the selected action affects public health and safety.

The NPS considered how the selected action will affect public health and safety. Gatherers will park their vehicle on the road shoulder or designated pullouts and access harvest locations by foot from the parking areas. ACAD staff will provide an annual orientation on how to safely access harvest locations. With implementation of these measures, the selected action will not affect public health or safety.

c. Effects that would violate federal, state, tribal, or local law protecting the environment.

The selected action does not threaten or violate applicable federal, state, or local environmental laws or requirements imposed for the protection of the environment.

The NPS completed informal consultation under Section 7 of the Endangered Species Act on November 14, 2023. The United States Fish and Wildlife Service (USFWS) concurred with the NPS's determination that the selected action will have "No Affect" on Northern Long-eared Bats. During development of the EA, the Tricolored bat was added as a candidate species. The NPS reinitiated informal consultation on May 17, 2024 and the USFWS concurred with the NPS's determination that the selected action will have "No Affect" on either Northern Long-eared Bats and Tricolored Bats.

The U.S. Army Corps of Engineers (USACE) issues General Permits for activities subject to jurisdictional water of the U.S. in accordance with 33 C.F.R. §§ 320-332. The selected action will have no temporary or permanent impacts to wetlands or streams. On November 14, 2023, ACAD consulted with the USACE. Since the selected action has no activities regulated by Section 404 of the Clean Water Act, it will not need USACE authorization.

No historic properties are affected by the selected action because none are located within the project area. Therefore, the National Historic Preservation Action does not warrant consultation with the Maine State Historic Preservation Officer.

Consultation with the five federally recognized tribes (Penobscot Nation, Passamaquoddy Tribe at Indian Township and Sipayik, Houlton Band of Maliseet, and Aroostook Band of Mi'kmaq Nation) began in 2015 with the proposal to change the plant gathering regulation, 36 C.F.R. § 2.6. Key issues and opportunities were identified related to plant gathering from both the tribal and park perspective. Consultation continued with the Tribal Historic Preservation Offices and an advisory group of Wabanaki plant gatherers throughout the study period from 2016 to 2024 and including the release of the EA. Consultation was conducted in the form of online and in person meetings and via email and telephone.

The park received gathering request letters from the Passamaquoddy tribes on July 17, 2023, and one from the Mi'kmaq Nation on January 22, 2024. Under the authority of the plant gathering regulation at 36 C.F.R. § 2.6, the response letter sent by the park to the tribes (August 4, 2023, to the Passamaquoddy and January 31, 2024 to the Mi'kmaq) initiates formal consultation to develop a plant gathering agreement. Gathering request letters are pending from the Penobscot Nation and the Houlton Band of Maliseet Indians.

FINDING OF NO SIGNIFICANT IMPACT

- Based on the information contained in the EA, I have determined that the selected action does not constitute a major federal action having significant effect on the human environment. Therefore, an environmental impact statement will not be prepared.
- This finding considers the Council on Environmental Quality criteria for significance (40 C.F.R. § 1501.3(b) (2022)), regarding the potentially affected environment and degrees of effects of the impacts described in the EA (which is hereby incorporated by reference) and as summarized above.

Recommended:

Kevin Schneider, Superintendent
Acadia National Park

Date

Approved:

Gay E. Vietzke, Regional Director

Date

NPS Interior Region 1 Documents appended to the FONSI include:

- Appendix A: Public Comment Response
- Appendix B: Determination of Non-Impairment

Attachment A: Public Comment Response

The NPS received 15 correspondences during the public comment period of the environmental assessment (EA); 13 correspondences were generally supportive of the preferred (selected) alternative. One commentor expressed generally support for the no action alternative, while another asked about an impact of the preferred (selected) alternative. Below is NPS' response to the substantive comment's concern relating to indirect impacts.

Concern ID1: Indirect impacts to habitat

One commentor expressed concern that harvesting sweetgrass could alter the habitat and have indirect adverse impacts on endangered species.

NPS Response:

The NPS is working with tribal governments to ensure their traditional ecological knowledge (Secretarial Order 3403, 31 Department Manual 7, NPS Policy Memorandum 22-03) plays an integral role in continued management of federal lands and waters through consultation, capacity building, and partnership consistent with federal authority. Acadia National Park (ACAD) is the ancestral homelands of the Wabanaki for generations. They are active stewards of the lands and waters and have knowledge and expertise caring for and sustaining the environment (Anderson 2023). Wabanaki traditional knowledge, data, and cultural practices were incorporated into the impact analysis and decision-making process. Gatherers have expressed that gathering of sweetgrass not only increases the health of the sweetgrass population, but the overall health of the habitat (Greenlaw 2024).

Section 3.5 of the EA details federal and state endangered, threatened, or species of concern and analysis of all foreseeable direct, indirect, and cumulative impacts to those species and their habitat for the no action and preferred (selected) alternative. The NPS has consulted with the United States Fish and Wildlife Service, who concurred that no federal Endangered Species Act listed species will be affected by the selected action. The NPS identified three species of concern in the state of Maine that may be present in the action area. Based on Wabanaki traditional ecological knowledge, historic survey data, and pertinent studies (43 C.F.R. § 1502.24(a)), and with the proposed mitigation measures (43 C.F.R. § 1502.14(f), EA section 2.2.1), the selected action will have no indirect adverse impacts to species listed below. However, the gathering of sweetgrass will indirectly benefit species habitat.

Listed Bats. The federally endangered Northern Long-eared Bat (*Myotis septentrionalis*) primarily feeds on terrestrial insects, not aquatic insects associated with saltwater wetlands (Thomas et al. 2012). Tricolored Bats (*Perimyotis subflavus*) feed on insects along forest edges and over waterways. Gathering of sweetgrass will have no impact on insect populations. Therefore, the selected action will have no indirect impacts on listed bats.

Monarch Butterfly. Monarch Butterfly (*Danaus plexippus*) is a federal candidate species that lay eggs solely on milkweed so their larva can feed on it (EA page 15). Common milkweed (*Asclepias syriaca*) is present in ACAD but not located in saltmarshes (Mittelhauser 2016). Sweetgrass is located primarily in grass-dominated habitat that is not insect pollinated. The gathering of sweetgrass will not impact flowering plants on which the adults feed. Therefore, the selected action will have no indirect impacts to monarch butterflies.

Atlantic Salmon. ACAD is outside of the critical habitat for federally endangered Atlantic salmon (*Salmo salar*) and according to studies are not present on Mount Desert Island (EA page 15). Areas within the park do host habitat for fish species that Atlantic salmon feed on. Gathering sweetgrass will have no impact on these fish populations and thus no indirect impact on Atlantic Salmon.

Saltmarsh Nesting Birds. The primary factor for the decrease in population of Maine state endangered saltmarsh nesting birds is the loss of nesting habitat. This is caused by sea level rise and past agricultural manipulations of the saltmarsh. See section 3.5.1 of the EA, Trends in Affected Environment of Special Status Species or Their Habitat. Saltmarsh sparrow (*Ammodramus caudactus*) and Nelson's sparrow (*Ammodramus nelsoni*) primarily eat insects, while the least bittern (*Ixobrychus exilis*) has a wide diet of small fish, amphibians, and insects. The traditional harvesting of sweetgrass by Wabanaki will not impact food sources for these species. Therefore, the selected action will have no indirect impacts to state listed saltmarsh nesting birds.

Habitat. Traditional Wabanaki gathering of sweetgrass will alter the composition of the saltmarsh. Gatherers harvest mature leaves, creating space and light for smaller plants beneath to grow. The hand-pulling technique aerates the soil and creates spaces for new grasses within the seedbank to sprout. Gathering will increase the abundance of sweetgrass on the landscape (EA section 3.3.3). Some gatherers harvest sweetgrass that is collocated with other long grasses such as *Spartina pectinata* (syn *Sporobolus michauxianus*) because the competition helps each of the grasses grow longer (Greenlaw 2024). Gathering sweetgrass will have small but meaningful effects on the health and biodiversity of the marsh. It will directly increase sweetgrass abundance but will in turn indirectly increase the health of the saltmarsh nesting birds habitat.

Permitting the traditional gathering of sweetgrass by the Wabanaki is one step in co-stewardship of the saltmarsh. Additional phases of co-stewardship include a shared understanding of restoration. In the foreseeable future, ACAD will begin efforts to restore the park's saltmarshes. This includes restoring habitat for Maine state endangered saltmarsh nesting birds and small fish species. See section 3.5.3 of the EA. Additionally, ACAD staff and Wabanaki gatherers will meet annually to identify known nesting areas to avoid (EA section 2.2.1 Mitigations).

Attachment B: Non-Impairment Determination

Section 1.4.7 of the NPS Management Policies 2006 states National Park Service (NPS) decisionmakers must consider impacts of a proposed action and determine, in writing, that the action will not lead to an impairment of park resources and values. Section 4.1.3 goes on to state that every Finding of No Significance Impact (FONSI) must certify that the proposal will not impair park resources.

Impairment Prohibition

The Organic Act of 1916 directs the U.S. Department of the Interior and the NPS to manage units “to conserve the scenery, natural and historic objects, and wildlife in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wildlife in such manner and by such a means as will leave them unimpaired for the enjoyment of future generations” (54 U.S.C. § 100101(a)).

Congress reiterated this mandate in the Redwood National Park Expansion Act of 1978 by stating that NPS must conduct its actions in a manner that will ensure no “derogation of the values and purposes for which the System units have been established, except as directly and specifically provided by Congress” (54 U.S.C. § 100101(b)(2)).

Impairment Definition

According to NPS Management Policies 2006 Section 1.4.5, an impairment is an impact that, “in the professional judgment of the responsible NPS manager, would harm the integrity of Park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values”. Section 1.4.5 goes on to state that, “an impact to any park resource or value may, but does not necessarily, constitute an impairment. An impact would be more likely to constitute impairment to the extent that it affects a resource or value whose conservation is

- necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park, or
- key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park, or
- identified as a goal in the park's general management plan or other relevant NPS planning documents as being of significance.”

Per Section 1.4.6 of the NPS Management Policies 2006, the “‘park resources and values’ that are subject to the non-impairment standard include:

- the park’s scenery, natural and historic objects, and wildlife, and the processes and conditions that sustain them, including, to the extent present in the park: the ecological, biological, and physical processes that created the park and continue to act upon it; scenic features; natural visibility, both in daytime and at night; natural landscapes; natural soundscapes and smells; water and air resources; soils; geological resources; paleontological resources; archeological resources; cultural landscapes; ethnographic resources; historic and prehistoric sites, structures, and objects; museum collections; and native plants and animals;
- appropriate opportunities to experience enjoyment of the above resources, to the extent that can be done without impairing them;

- the park’s role in contributing to the national dignity, the high public value and integrity, and the superlative environmental quality of the national park system, and the benefit and inspiration provided to the American people by the national park system; and
- any additional attributes encompassed by the specific values and purposes for which the park was established.”

Impairment Determination

This impairment determination has been prepared for the selected action described in this Finding of No Significant Impact and Chapter 2 of the environmental assessment. The determination is for sweetgrass, ethnographic resources, and special status species and their habitat.

The purpose of Acadia National Park, along with park significance statements and a description of the park’s fundamental resources and values, are described in the Foundation Document Acadia National Park, Maine (Foundation Document), 2016. The park’s purpose is:

“Acadia National Park protects ecological integrity, cultural history, scenic beauty, and scientific values within the Acadia archipelago and Schoodic Peninsula and offers visitors a broad range of transformative and inspiring experiences among the park’s diverse habitats, glacially sculpted mountains, and bold, rocky coastline.” (Foundation Document, page 5).

The park’s significance statement and fundamental resources and values highlight resources that may be impacted by the Indigenous Plant Gathering, including mosaic habitats supporting diverse flora and fauna, and ethnographic resources and values. Indigenous Plant Gathering will not impact some fundamental resources and values, including range of visitor experiences, glacial landscape, legacy of conservation ethic and philanthropy, network of historic roads and trails, scenic resources and values, opportunities for science and education, clear skies and clean water, cultural landscapes, historic architecture, and maritime heritage (Foundation Document, pages 7-11).

The selected action will not impair sweetgrass, ethnographic resources, and special status species and their habitat.

Sweetgrass

ACAD has approximately 133 acres that contain the habitat where sweetgrass could grow. The project area’s population of sweetgrass is “occasional” because it covers 15%-50% of its habitat. The selected action will allow Wabanaki to gather sweetgrass in ACAD using traditional methods. A study of traditional Wabanaki sweetgrass gathering demonstrated stem density increased by almost 50% (Greenlaw 2024).

The traditional Wabanaki gathering of sweetgrass increases stem count. Like most grasses, sweetgrass grows back denser after disturbance. The act of harvesting increases soil aeration, reduces soil compaction, and allows water and nutrients to the roots system, thus improving the overall health of sweetgrass. Therefore, the selected action will have long-term direct beneficial impacts to sweetgrass populations by increasing its abundance across generations. For this reason, the selected action will not impair sweetgrass.

Ethnographic Resources

The NPS Management Policies 2006 defines ethnographic resources as “objects and places, including sites, structures, landscapes, and natural resources, with traditional cultural meaning and value to associated people.” The park is located within the traditional Wabanaki homelands. They have a long history of travelling along the shoreline to gather sweetgrass. Access to coastal saltmarshes for the gathering of sweetgrass has important cultural meaning and values to the Wabanaki.

The selected action will increase Wabanaki access to the plants and landscape from which it grows, which in turn will enhance ethnographic resources across generations. The Wabanaki consider sweetgrass a relative and its strength and vitality is integral to their cultural. The selected action will reunite them to this culturally significant species and landscape from which it grows. Therefore, the selected action will not impair ethnographic resources.

Special Status Species and Their Habitat

Traditional Wabanaki gathering of sweetgrass will have no effect on the federal Endangered Species Act listed species because activities will not alter critical habitat or create a disturbance that causes a change to species behavior. The project area does not contain hibernating or roosting habitat for the endangered Northern Long-eared Bat (*Myotis septentrionalis*) and candidate Tricolored Bat (*Perimyotis subflavus*). Sweetgrass is not collocated with milkweed, the obligate host plant for larval monarch butterfly (*Danaus plexippus*). Additionally, the project area does not contain habitat for the Atlantic salmon (*Salmo salar*).

Least bittern, Nelson’s sparrow, and saltmarsh sparrow are state species of concern that could be present on coastal saltmarshes within the park. Surveys have discovered only three least bittern (*Ixobrychus exilis*) nests in Maine, one being in ACAD. The nest’s surrounding vegetation was not collocated with sweetgrass. Nelson’s sparrow (*Ammodramus nelsoni*) and the saltmarsh sparrow (*Ammodramus caudacutuc*) are known to forage and nest in and adjacent to areas where sweetgrass occur. Nelson’s sparrow nests in clumps of dense grass just above the high tide mark. The saltmarsh sparrow establishes its nest after the spring tide. Both species are known to primarily nest from June through mid-July in Maine (Shriver 2010, Greenlaw 2018).

Monitoring for these species in advance of harvesting and avoiding the nest sites in June and July will mitigate potential impacts to these species. Park staff will orientate gatherers to known nesting sites during annual site visits and protocols will be developed in the unlikely event gatherers encounter a nest. The traditional gathering of sweetgrass in the park’s saltmarshes will have negligible impacts to special status species nesting in these areas during early summer months. Therefore, the selected action will not impair special status species and their habitat.

Conclusion

The NPS does not anticipate that implementing the selected action will constitute an impairment of the park’s resources or values. This conclusion is based on consideration of the park’s purpose and significance, a thorough analysis of the environmental impacts described in the environmental assessment, the comments provided by the public and others, and the professional judgment of the decision-maker guided by the direction of the NPS Management Policies (2006).