

CLEAR TEXT:
WASO Ranger Activities'
Electronic Newsletter

JULY 20, 1993

ENHANCED ANNUITY RETIREMENT

The issue of enhanced annuity retirement has been a high interest subject lately because of developments in three related areas - agency support of past claims, a successful appeal of one claim for past credit, and efforts to designate future covered positions.

Past Claims

During this past winter, OPM began to issue decisions on past service for some of the 650 claims that were submitted from the National Park Service. In all the cases that we are aware of, OPM denied coverage for primary service. There seem to be some cases where they approved coverage for secondary or administrative service, although it appears that this was only in a minority of cases. Their denials seem to be based on several arguments. The first is that park rangers do "police" type work, rather than the "investigation, apprehension and detention" called for in the 6(c) regulations. Secondly, they argue that park rangers do not do much investigation of "serious" crime. In other words, park rangers mainly investigate violations of regulations rather than federal crimes. They argue that those rangers who have investigation, apprehension and detention duties do not have them as their "primary" duties, i.e. duties that occur more than 50% of the time.

We, of course, do not agree with OPM on these determinations. This is a serious NPS work force issue. It will be difficult to develop even-handed management practices for our firefighting and law enforcement programs if OPM issues decisions that have a negative impact on employees. Those who receive adverse decisions from OPM will have to appeal them to the Merit System Protection Board (MSPB) or lose their coverage; those who fail to do so in a timely manner will lose their coverage, period. If you're making an appeal, please keep us informed of its status! Ranger Activities will monitor the progress of appeals and provide information to you on how they're going.

In light of this development, we've taken several actions. The Service has asked that the Department provide support in making the case to OPM that those park rangers who have investigation, apprehension and detention as the primary purpose of their positions should qualify for 6(c). The acting director recently signed a position paper supporting 6(c) coverage for rangers. We have also written to OPM to state our concerns, argue that rangers perform work which qualifies them for such coverage, and request that they reconsider their position. We hope to meet with them on this matter soon.

MSPB Appeal

Tim Sorber, a commissioned ranger at Gettysburg, recently appealed OPM's denial of his claim for past 6(c) coverage. On June 8th, a hearing was held on this appeal before Frederick Fishman, an administrative judge for MSPB. Among the witnesses were two other Gettysburg rangers and a representative

from this office. Sorber's attorney was Edward Passman of Passman and Kaplan. Two ranger associations funded most of Passman's fees. On July 2nd, Judge Fishman issued an initial decision in which he reversed OPM's ruling.

The judge began by noting that "the burden of proof is on the appellant to prove his entitlement to credit as a law enforcement officer under 5 USC", and that the appellant would have to show that he met the 6(c) requirement of performing investigation, apprehension and detention for more than 50% of the time while working as a ranger at Gettysburg.

Judge Fishman then cited testimony from Sorber and Gettysburg rangers Patrick Cooper and Randy Phiel (and affidavits from other Gettysburg rangers) which confirmed that Sorber had met those criteria although his position descriptions for the period under consideration (1980-1992) didn't accurately reflect these duties. Other testimony revealed that rangers Servicewide are charged with four law enforcement functions - to make investigations, issue warrants, carry firearms and make arrests - and that their training, authorities and duties meet 6(c) standards.

OPM, on the other hand, contended that little if any weight should be given to Sorber's and Cooper's testimony that Sorber's duties met the standards since the position descriptions of record do not show that law enforcement duties constituted primary duties for the appellant. They also contended that Sorber's PDs show little emphasis on investigation, apprehension and detention of violators of federal criminal laws. OPM argued that the criminal incident reports provided by Sorber reflected the duties of a police officer, and that Sorber failed to provide sufficient criminal investigative reports to support his contention that he was performing criminal investigative duties at least 50% of the time.

The judge disagreed with OPM, stating that he found "that it was improper for OPM to rely solely upon the official position descriptions of record and instead should have considered them as only one criterion of whether the employee was a law enforcement officer." He noted that MSPB has held that an "appellant's testimony and supporting documentation can carry more weight than the official position description and performance appraisal."

"It is clear that the appellant has established that the law enforcement duties and responsibilities of his positions are the basic reason for the park ranger positions which he held," the judge said. "In a letter dated September 9, 1991, the Department of Interior set forth the specific law enforcement duties and responsibilities of each position that the appellant held...OPM's final decision ignored the contents of this letter. OPM acted improperly in not considering the employing agency's view concerning his law officer employment status."

"Based on the evidence of record," he continued, "I find the testimony [of the witnesses] to be credible and entitled to more weight than the position descriptions that OPM relied upon...I assigned little probative value to the appellant's position descriptions, which are apparently inaccurate based on the un rebutted testimony of the witnesses and the descriptions of the appellant's job duties in the affidavits. Thus, I find that the appellant has established by a preponderance of evidence that the actual duties performed by him during his tenure in four positions constitute the duties of a law enforcement officer and that he should receive service credit for them."

While it is not clear how much bearing this decision will have on other pending cases, Judge Fishman's ruling is certainly a major step forward in

getting appropriate recognition of rangers' qualifying 6(c) duties.

Position Designation

Several things are happening regarding the designation of positions for future 6(c) coverage. But let's first address what parks should already be doing:

- * Park chief rangers who have any park rangers in positions in which they perform more than 50% law enforcement should be preparing packages to submit these positions for coverage under 6(c). Your personnel office can help you with the submission requirements.
- * Chief rangers who have any uncovered firefighting and criminal investigator positions should submit them for coverage.
- * Chief rangers with seasonal firefighting and law enforcement employees should advise them annually of the requirement to file for 6(c) coverage with their personnel office for each year of work.

We're also working on several 6(c) programs in Ranger Activities. The designation of positions for 6(c) coverage is part of the Ranger Futures initiative. Generic PDS will be written at the GS-5, GS-7 and GS-9 levels. There will be PDS for protection, interpretation, and possibly for other 025 specialties. The protection PDS will have an element for the designation of law enforcement positions for 6(c) in which law enforcement duties occupy more than 50% of the incumbent's time. Anyone occupying one of these positions will be covered. The advantage of this approach is that it avoids the problem of individual claims which have to be done annually, and also permits orderly management of these positions.

HANTAVIRUS ALERT

The following important health alert regarding hantavirus, the disease which recently struck the Navajo Nation and is also known as Four Corners virus or Adult Respiratory Distress Syndrome, has been passed on to us by WASO public health consultant Jerry Johnson for dissemination to the field:

This disease is caused by inhaling dried feces or urine of rodents. It is not spread person-to-person. The disease causes flu-like symptoms, including muscle aches, headache, fever and/or cough. It rapidly progresses to severe respiratory distress. Personnel should seek medical care if they develop these symptoms and have had contact with rodents, rodent nests, and/or rodent burrows.

If possible, avoid all contact with rodent burrows. If activities such as trenching are necessary that will disrupt rodent burrows, wear a disposable dust respirator. If you do not have these respirators on hand, they should be available at your local hardware store.

Nests found within structures should be left alone, if possible. If you have to remove the nests, first trap the rodent(s) using a mouse or rat trap baited with peanut butter. Do not use a rodent poison (rodenticide).

Spray carcasses, traps, nests and surrounding areas with a household disinfectant. Bleach is preferred (1 part household bleach per 10 parts of water). Chlorine will stain carpets, though, so it should be used with caution. Wait for 10 minutes after soaking rodent carcass, nests, etc., then remove using a long-handled shovel. bury in a hole sufficiently deep

to prevent carcass from being dug up by dogs or other animals.

Use paper towels or cloth rags to wipe down areas where nests and dead rodents were located. Wear rubber gloves to prevent irritation from the chlorine solution. Place towels, rags and any other contaminated materials in the hole with the carcass and nest. If you cannot bury the carcass, next, gloves, etc., double bag them in plastic and dispose in your trash.

Use the same procedures for cleaning up rodent feces and urine. DO NOT SWEEP THEM.

Discourage rodents from living in and around structures by practicing good sanitation. Clean up food scraps. Don't leave food items uncovered. Eliminate all possible sources of access into structures by rodent-proofing.

If you need further information, please contact your regional integrated pest management (IPM) coordinator.

FIRE EQUIPMENT SUMMARY

Since 1988, the Branch of Fire and Aviation Management has allocated a total of \$5.5 million for the purchase of 400 capital equipment items. Included in this total are one water tender, 49 engines, 58 slip-on pumper units, ten trailer-mounted pumps, 27 RAWs (Remote Automated Weather Stations) units, and one wildland fire boat. Chain saws, weather stations, radios and portable pumps account for most of the remaining items. Thanks to the efforts of Golden Gate FMO Bill Oswald, the Service has also acquired 17 surplus USFS engines at a savings of about \$1 million.

Rick Gale challenges you to figure out which park has the fire boat. Submissions should go to him via cc:Mail. Entries from the park, region and adjacent parks will be invalidated by the judge. Decisions are highly arbitrary and final. Winners are entitled to an all-expense paid cruise on said craft, but probably won't get one.

FIELD NOTES

Olympic

Your response to the call to assist Jonathan Holter, the Graves Creek law enforcement ranger, in his battle with Hodgkins Disease has been great, but more needs to be done. A special account has been established at a bank in Hoquiam which has agreed to waive all fees, and the park is asking that each of you send along a few dollars to help him with his bills. Jonathan has no insurance to cover the \$100,000 or so in medical bills that he has so far incurred. The money will help, but even more important will be his knowledge that you're helping him out. Please send what you can to Dan Pontbriand, The Jonathan Holter Cancer Fund, Quinalt River Ranger Station, 908 North Shore Road, Amanda Park, Washington 98526. Dan will send you a receipt for your contribution, no matter what the amount.

Lassen Volcanic

This season's DARE program for the Mineral School was considered to be a great success. There was 100% saturation of the student body (K-8) and additional outlying schools will now be reached through an expansion of the park's DARE program. The Mineral School staff wants to bring the program

back to the school the year after next. The program has led to a greater understanding and appreciation of the Service's mission and the role of park rangers within the community.

Bryce Canyon

Ranger Clyde Stonaker, the park's frontcountry district ranger, is in Panama for two weeks to instruct a Panamanian Park Service ranger skills class in Spanish. The program is sponsored and funded by the State Department. Clyde has extensive Peace Corps experience in Central America, and has instructed park operations and wildland fire courses in Honduras and Panama.

Chaco Culture

The Sierra Club recently received a Take Pride in America award from the state of New Mexico for projects completed at Chaco by club volunteers, including revegetation, construction of boundary fence, and ruins stabilization. Under the new NPS challenge cost share program, the Sierra Club will provide volunteer labor to construct twelve miles of boundary fence. The Service will provide the materials and supervision for the project.

Padre Island

Russ Osborne, a supervisory park ranger at Padre Island, is retiring after 26 years with the NPS. He began his career at Lassen and has worked at Sequoia, Channel Islands, Great Smokies, Amistad and Scotts Bluff. Anyone interested in sharing comments or anecdotes about Russ are encouraged to contact John Lujan, chief of interpretation at the park, before July 22nd.

PARK EXCHANGE

Steamtown

The dispatch supervisor at Steamtown is interested in hearing from other NPS comm centers regarding the following questions:

- 1) What occupation code/series to you use to fill dispatch positions?
- 2) Who is assigned this duty - law enforcement rangers, chief rangers' secretaries, or individuals hired specifically to perform this work?
- 3) What other duties are assigned to these persons in addition to dispatching?
- 4) Does your center have 24-hour dispatch coverage?

Replies can be sent to the park either through regular mail or cc:Mail. Responses are greatly appreciated.

Yosemite

The park's Wawona District is in "desperate need" of a bench/chest machine to implement NPS-57, the fitness guideline. They'd prefer to have a bench/chest press machine rather than free weights so that it won't be necessary to have a spotter during fitness tests. Fitness coordinator Pam McMillan is trying to use the Wawona District as a model for the park by having all rangers participate in the mandatory fitness program. If you have such a machine or know where the park can get one, please contact Pam at the park.

PARK VACANCIES AND OPM REGISTER OPENINGS

Position	Closes	Number	Description
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GS-0401-09 8/5/93 OZAR 93-009 Fire management officer for Ozark.
The position is permanent full time. For info, call Susan Shaw, OZAR
Personnel at 314-323-4236.

GS-025-03 07/19/93 WRO-93-17 All sources. Fee collector at
Joshua Tree. For more info, call Maria Davila, WRO Personnel, at 415-744-
3888.

GS-025-07 7/26/93 ROMO 93-10 The position is STF for two PP.
Incumbent serves as backcountry office supervisor and is responsible for
planning, programming and operation of the HQ backcountry office. The park
is converting BC permit system to computerized program; incumbent will be key
person in transition. For more info, call ROMO Personnel, 303-586-3565, ext.
210.

GS-025-4/5 07/27/93 WRO-93-18 All sources. Western Regional
Office. For more info, call WRO Personnel at 415-744-3884.

GS-025-5/7 07/27/93 NCR 93-197 Career seasonal, RM&VP, at C&O
Canal, Great Falls, MD. For more info, call NCR Personnel at 202-619-7256.

CLEAR TEXT is the bi-weekly electronic newsletter of the Ranger Activities
Division in WASO. It is distributed via cc:Mail to all ranger training and
operations centers (FLETC, HOAL, STMA, NIFC), regional office ranger
divisions, park chief rangers, and other interested parties.

Short submissions for the last three sections of the report are welcome and
encouraged. The deadline for submissions for the next issue is July 29, 1993.

If you would like to get CLEAR TEXT but don't currently receive it, please
advise Ranger Activities via a short cc:Mail message. Any office may receive
it, including districts and subdistricts within a park. PLEASE pass it along
to others in your division and park.

Prepared by WASO Division of Ranger Activities