

CLEAR TEXT:
WASO Ranger Activities'
Electronic Newsletter

April 22, 1994

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 four sections of the report - Field Notes; Park Exchange; Vacancies, Register Openings and Details; and Calendar - are welcome and encouraged.

Next issue: May 6, 1994
Submission deadline: May 4, 1994

RANGER CAREERS

The first volume of "Ranger Careers" was transmitted to each park by overnight delivery earlier this week. Substantial work will now be required at the park level to meet the July 10th conversion date. We are confident that the anticipated results will fully justify this one-time effort.

Volume one contains instructions for converting the existing ranger work force to the new ranger careers system, including the new benchmark ranger position descriptions and instructions on how to use benchmark Pds. Also included are detailed personnel instructions, position management guidance and EO information. A second volume, soon to be released in draft for field comment, will cover career management, qualifications, recruitment, performance management, training and development, career mobility, managerial preparation, and related topics.

Further information regarding the transition to ranger careers, including a Lotus 123 spreadsheet to request funding, more detailed EO instructions to insure no adverse impacts occur regarding our work force statistical ratios, and a counseling checklist for employees moved out of the 025 occupation, will be made available to parks via the regional ranger career management teams.

One further note: A big thank you to the folks who helped get the 400 plus express mail packages prepared - Leroy Green, Gerry Buckbinder, Dana Gerard and Mary Davis - and the crew that came in to Interior last Saturday to prepare and deliver 400 express mail packages to FedEx - Joe Smith, Bill Sanders, Glen Douglas, Denise Robinson, Bill Sanders and his son Jason, and Mary Davis and her son Corey.

CODE OF FEDERAL REGULATIONS

As you have no doubt heard, WASO Administrative Services is no longer making the annual procurement of copies of 36 CFR due to funding constraints. Those same constraints also apply to this office. We've asked Administrative Services for information on how field areas can acquire copies. They advise that you need to write to: Superintendent of Documents, 941 North Capitol

Street, NE, Washington, DC 20402. Price will vary according to amount and which volumes you're interested in procuring.

GLACIER BAY RULEMAKING

On Tuesday, March 29th, an emergency/interim rule for Glacier Bay was published in the Federal Register (59 FR 14564). The regulatory problem which this rulemaking acknowledged, and the solution proposed below, have NPS Systemwide implications. Alaska Region is seeking comments on the rulemaking from all interested parties, but most particularly from park managers and law enforcement rangers in parks with navigable waters, Indian lands, or non-federally owned lands administered by the Service. Here are the particulars, which have been provided by Steve Shackleton and Russ Wilson of the Alaska Regional Office. The first few paragraphs provide the necessary background information; the draft reg follows.

The Glacier Bay rulemaking was needed to clarify that NPS general regulations apply on navigable waters within the park, irrespective of ownership of the submerged lands. A recent federal district court case concerning a seal shot either in navigable waters or on the tide lands of Glacier Bay (incident 93-850, December 14, 1994 morning report) revealed that a 1987 technical amendment to 36 CFR § 1.2(b) rendered ambiguous the reference to "waters, controlled . . . or otherwise subject to the jurisdiction of the National Park Service" in 36 CFR § 1.2(a)(2). That amendment substituted the term "non-federal" for the term "private" in § 1.2(b) to read: "the regulations . . . of this chapter do not apply on non-federally owned . . . waters". Therefore § 1.2 fails to provide what is constitutionally required: clear and unambiguous notice that Chapter 36 regulations are applicable on navigable waters (including tide lands and low lands), regardless of whether submerged lands within an NPS unit underlying navigable waters are federally owned.

Although the NPS contends that the submerged lands of Glacier Bay are federally owned, the Solicitor's Office did not want to litigate a major ownership issue as part of a criminal misdemeanor and the case was dismissed. In many NPS areas, there is no question that, due to the Submerged Lands Act, there are submerged lands that are not federally owned. NPS authority to regulate in these areas is found in 16 U.S.C. § 1a-2(h) ("waters subject to the jurisdiction of the United States" are "navigable waters"). However, since 36 CFR § 1.2(b) currently links federal ownership of waters to the applicability of regulations on and in them, where a state or other party owns the underlying submerged lands, we have, Systemwide, effectively precluded ourselves from any regulatory authority over navigable waters in areas of proprietary jurisdiction, including tide lands and low lands, and have limited our authority within these same navigable areas to the regulations that are specifically applicable, regardless of land ownership, in areas of concurrent or exclusive jurisdiction.

The authors' concern and expertise is in the area of jurisdiction on navigable waters. However, because the existing § 1.2(b) also refers to Indian lands, such lands must also be considered here out of necessity. The draft that appears below contemplates deleting the reference to Indian lands in the revised § 1.2. It appears that the exception of Indian lands contained in the existing regulations -- which were promulgated as part of the final rule in the 1966 Chapter 36 revision (31 FR 16630) -- may have no legal significance. Even without this express exception, current NPS regulations would not apply on Indian lands held in trust by the U.S. which are administered by the Bureau of Indian Affairs, or on lands held by a tribe in a sovereign status, unless NPS administration has been expressly

authorized by Congress, or through the consent of the tribe.

The intent of the 1966 terminology is not clear and no explanation accompanied its promulgation. Making a regulation applicable on Indian land is not simply a matter of having legislative jurisdiction -- which defines federal police power in relation to a state's police power -- as § 1.2(b) currently implies. The present Indian land exception is also contrary to the fact that some parks are enforcing NPS regulations on Indian land with the consent of the appropriate tribe. This ambiguity resulted in the dismissal of a case from Canyon de Chelly under circumstances analogous to the Glacier Bay seal case. The draft proposal provides for this type of cooperative agreement in paragraph (a)(2). A reply is requested from any park with Indian lands. Other knowledgeable parties are encouraged to comment on this issue.

This draft contemplates that -- other than those lands within park boundaries where some regulations are applicable regardless of land ownership as a result of legislative jurisdiction (paragraph (b)) -- all non-federally owned lands where we want at least some degree of NPS regulatory control, including less-than-fee interests, will be administered pursuant to some type of "agreement" (paragraph (a)(2)).

This should be a written agreement such as a lease, easement, or memorandum of understanding (MOU). If we have overlooked any land in any park area in making this assumption, we need to hear about it.

Except for a few issues that generally are a necessary part of this revision, this draft is intended solely for the purpose of clarifying NPS regulatory authority over navigable waters by expediently restoring § 1.2 to its originally promulgated (pre-1987) scope.

Here's the draft text of the regulation:

(a) The regulations contained in this chapter pertain to all persons entering, using, visiting, or otherwise within:

(1) The boundaries of federally owned lands and waters administered by or subject to the jurisdiction of the National Park Service; or

(2) The boundaries of lands and waters, controlled, leased, or administered by the National Park Service, pursuant to an agreement with: a nonfederal entity; or a federal entity, including other federal reservations in the environs of the District of Columbia, policed with the approval or concurrence of the head of the agency having jurisdiction or control over such reservations, pursuant to the provisions of the Act of March 17, 1948 (62 Stat. 81); or

(3) The boundaries and depths of navigable waters controlled, administered or otherwise subject to the jurisdiction of the National Park Service, including areas within their ordinary reach, and without regard to the ownership of submerged lands.

(b) In addition to applying on the lands and waters described in paragraph (a), the regulations contained in Parts 1 through 5 which are specifically written to be applicable regardless of land ownership shall also apply on any lands and waters within park area boundaries that are under the legislative jurisdiction of the United States.

(c) The regulations contained in Part 7 and Part 13 of this chapter are special regulations prescribed for specific park areas. Those regulations, as well as the regulations in Part 6, may amend, modify, relax or make more

stringent the regulations contained in Parts 1 through 5 and Part 12 of this chapter.

(d) Same as existing.

(e) Same as existing.

The following definitions will be added to or amended in § 1.4:

"Areas within the ordinary reach of navigable waters" means up to the mean high water line in places subject to the ebb and flow of the tide, and up to the ordinary high water mark in other places.

"Boundary" means a delineation of a Federal Interest: (1) As authorized by Congress; or (2) published pursuant to law in the Federal Register; or (3) filed or recorded by a State or political subdivision in accordance with applicable law; or (4) published or posted in such locations and manner as to reasonably inform the public.

Questions and comments, or requests for additional information, including a list of authorities, should be addressed to Steve Shackelton or Russ Wilson at the Alaska Regional Office. Contact them by cc:Mail, or at: ARO, 2525 Gambell St., Room 107, Anchorage, AK 99503-2892, Telephone (907) 257-2644. They are working directly with Mike Tiernan of the WASO Solicitor's Office on this revision.

Please submit any comments and suggestions before May 6th. The target date for Federal Register publication of the proposed rule is July 1, 1994. Comments and suggestions concerning § 1.2 issues other than navigable waters, Indian lands and NPS administration of non-federally owned lands are welcome, but will be considered as part of a separate rulemaking/revision.

VISITOR MANAGEMENT/RESOURCE PROTECTION ASSESSMENT PROGRAM

A final report and implementation recommendations for the Visitor Management and Resource Protection Assessment Program (VRAP) have been given to Jim Brady for review prior to an anticipated summer implementation Servicewide. We'll provide you with more details in the next CLEAR TEXT, but wanted to apprise you of the status of the project.

CRITICAL INCIDENT STRESS DEBRIEFING

The NPS has established two Servicewide critical incident stress debriefing teams. The teams have been created to provide stress intervention for Service employees involved in critical incidents, including, but not limited to, line of duty deaths, major search and rescue operations, fire shelter deployments, multi-casualty accidents, instances of serious injury or death of children, and those incidents deemed abnormally stressful by incident commanders, superintendents, supervisors or participants.

The teams will be coordinated through Ranger Activities in WASO and are designed to supplement - not substitute for - park and regional critical incident stress management programs. The teams will consist of NPS employees with training and experience in critical incident stress and peer counseling. Clinical coordination will come from a mental health care professional with significant experience in the field of emergency services stress.

Although the team concept of debriefing in the NPS is new, the members of the teams have a wealth of collective experience. Team resources are available for use on major and minor incidents, at the discretion of local managers.

As team resources are utilized and their effectiveness critiqued, adjustments will be made to future needs. The overriding message debriefers have received from such debriefings has been extremely positive. This is a peer-driven, personnel-related program which has been designed to truly help people.

The teams can be contacted through the WASO or via direct contact with the team leaders. Mission authorization will come from WASO. The principals are as follows:

WASO Coordinator	Bob Marriott	202-208-4206
West Team Leader	Sherrie Collins, GRCA	602-638-7840
East Team Leader	Rick Obernesser, CACO	508-349-3785
WASO Duty Officer	Bill Halainen	800-759-7243, PIN 2404843

West Team Members	Connie Cox, BIBE	915-477-2251 x 136
	Pat Grediagin, BIBE	915-477-2251 x 136
	Mark Maciha, DEVA	619-786-3259
	Pat Buccello, RMRO	801-772-3256
	Peter Peinhardt, CRLA	503-594-2211
	Dan Mason, OLYM	206-452-4501
	Patty Thompson, GRCA	602-638-7832
	Ken Phillips, GRCA	602-638-7832

East Team Members	Ed Whitaker, CAHA	919-995-5041
	Dan Kirschner, DEWA	717-588-9570
	Linda Alick, DEWA	717-828-2321
	Barbara Goodman, DESO	813-792-0458
	Steven Gazzano, CACO	508-487-2100
	Ricky Pearce, GETT	717-334-0909
	Jan Kirwan, EVER	305-582-5119
	Jill Hawk, EVER	813-695-3096
	Linda Green, SHEN	703-999-2243

OPERATIONS STAFF CHANGES

As noted in the last issue, Tim Stone, chief ranger at Sitka, has been selected as the new fee program manager in this office. We now have an EOD for him - June 5th. Bill Sturgeon, who's been filling that slot on detail from SERO, will be leaving on April 29th; Bonnie Winslow from SWRO will be in on April 25th and hold down the fort until Tim gets here.

Mike Johnson, acting regs coordinator, finishes up on May 14th and heads back to Fredericksburg. The regs position has not yet been announced, and it's uncertain at present whether someone else will come in on an acting detail after Mike leaves.

Don Weir, chief ranger at Fire Island, is also in on detail, but not for the NPS. Don's assisting the Bureau of Reclamation with the promulgation of regulations and the development of a law enforcement authorities legislative package.

Other changes are occurring further up the line. Dave Moffitt, the assistant director for visitor services, has taken the buyout option and is scheduled to leave on May 3rd. Mike Finley, superintendent of Yosemite, is acting associate director for operations at least until June; Don Castleberry, his predecessor, has retired.

FIELD NOTES

Golden Gate

The park assumed structural and wildland fire protection responsibilities for the Presidio this week. The park took on these responsibilities at this time in order to assure a smooth transition from Army post to NPS area - a change which formally take place on October 1st. Keith McElroy, formerly assistant fire chief at El Toro Marine Corps Air Station, has been named chief of the fire department.

Submerged Cultural Resources Unit (SCRU)

Sheck Exley, an internationally recognized figure in the cave diving community who worked closely with SCRU and SWRO's cave resources program, drowned in Mexico on March 6th while attempting to break his own world deep-diving record. Exley was involved in deep diving operations at Devil's Hole in Death Valley, in the exploration of springs at Grand Canyon, and in consulting work on Servicewide cave diving policies. He was a personal friend to many in SWRO and elsewhere in the Service and will be sorely missed.

PARK EXCHANGE

Big South Fork

The park is seeking innovative solutions for the signing of river portages. Needed are effective and long-lasting portage signs for novices who paddle the more sedate sections of the Big South Fork River. Loss of current signs has been a problem because of frequent high water and debris. There are two Class III rapids on a sedate 30-mile section of river typically used by the non-whitewater paddlers for camping and fishing trips. Portages exist at both rapids, but have been difficult to mark with adequate warning signs. The park has tried signs bolted to rocks and spring mounted signs designed to give with the flow of the river, but finds that both are frequently destroyed or covered by high water or debris. Suggestions for better methods of signing have ranged from cable hung signs to buoys to the painting of rocks and trees. Before the next generation of signs is installed, however, the park would like to hear from others who have experienced and solved similar problems. Please send suggestions to Ron Wilson, the park's management assistant, at BISO Administration on cc:Mail or via phone at 615-569-9778.

VACANCIES, REGISTER OPENINGS AND DETAILS

No listings.

DIVISIONAL TRAVEL

APRIL

4/25-4/26	Gale	Presentation on ICS/incident program and Hurricane Andrew response to maintenance conference, St. Louis, MO
4/25-4/29	Hurd	Annual leave
4/29-5/6	Gale	Fire program review, Cumberland Island, Big South Fork and Congaree Swamp

MAY

5/2-5/6	Zimmerman	Fire program review, Congaree Swamp and Big South Fork
5/2-5/5	Broyles	NWCG training working team meeting,

Phoenix, AZ 5/2-5/6	Botti, Clark, Berg	FIREPRO steering committee meeting,
Anchorage, AK 5/2-5/6	Halainen	Contract evaluation, Arlington, VA
5/2-5/6	Spruill	Aircraft depreciation committee, Boise,
ID 5/9-5/10	Botti	Review of large fire growth modeling
project, Missoula, MT 5/9-5/13	Marriott	CISD training, Tucson, AZ
5/10-5/11	Zimmerman	Compliance review of fire behavior
research project, Missoula, MT 5/14-5/19	Farrel	NFPA annual meeting, San Francisco, CA
5/17-5/18	Gale	IMT team exercise, NARO, Boston, MA
5/16-5/20	Clark	S-590 cadre meeting, NARTC, Marana, AZ
5/23-5/25	Hurd, Farrel	NWCG meeting, Salt Lake City, UT
5/23-5/27	Broyles	NWCG safety and health working team, Salt
Lake City, UT		

JUNE

6/1-6/2	Gale	ICS program presentations, NASAR
conference, San Diego, CA 6/6-6/10	Gale	S-520/620 cadre meeting, NARTC, Marana,
AZ 6/8-6/10	Zimmerman	Fire danger rating group meeting,
Ashville, NC 6/20-6/23	Broyles	Southeast Region FMO meeting, Knoxville,
TN 6/20-6/24	Zimmerman	Fire behavior analyst steering committee
meeting, Atlanta, GA 6/20-6/24	Clark, Berg	Regional audit, PNRO, Seattle, WA
6/22-6/24	Botti	Southeast Region FMO meeting, Knoxville,
TN 6/27-7/1	Broyles	Steering committee meeting, Fire
Management for Agency Administrators training course, San Diego, CA		

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

Telephone: Branch of R&VP - 202-208-4874
 Branch of F&A (WASO) - 202-208-5572
 Telefax: Branch of R&VP - 202-208-6756
 Branch of F&A (WASO) - 202-208-5977
 cc:Mail: Branch of R&VP - WASO Ranger Activities
 Branch of F&A (WASO) - WASO Fire and Aviation
 SkyPager: Emergencies ONLY - 1-800-759-7243, PIN 2404843