



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

SEP 9 2011

CECW-CO

MEMORANDUM FOR CHIEFS, OPERATIONS AND NATURAL RESOURCES
MANAGEMENT, MAJOR SUBORDINATE COMMANDS AND DISTRICT COMMANDS,
AND OPERATIONS PROJECT MANAGERS

SUBJECT: Policy on Restricting Individual Visitor Access on Corps Water Resources
Development Projects; Issuance of Individual Ban or Bar Letters

1. References.

- a. 16 U.S.C. § 460d
- b. Rules and Regulations Governing Public Use of Corps of Engineers Water Resources
Development Projects Administered by the Chief of Engineers, 36 C.F.R. part 327.
- c. ER/EP 1130-2-550, Chapter 6, Visitor Assistance Program

2. Background. It is the policy of the Secretary of the Army, acting through the Chief of Engineers, to manage the natural, cultural, and developed resources of each project in the public interest, providing the public with safe and healthful recreational opportunities while protecting and enhancing these resources. In recent years, there have been increasing situations where unruly and uncooperative visitors have created situations where their use of Corps lands must be restricted. While the U.S. Army Corps of Engineers (USACE) has had the ability under 36 C.F.R. § 327.12(c) to request individuals who are boisterous, rowdy, disorderly or who otherwise disturb the peace on project lands to leave, we lack an adequate method to enforce individual bans for extended periods of time under our current authority and 36 C.F.R. part 327 regulations. We intend to amend 36 C.F.R. part 327 to provide for a new separate offense for violating a removal order or ban.

3. Purpose. The purpose of this memorandum is to establish immediate guidance that can be applied in a consistent manner nationwide prior to taking action to amend 36 C.F.R. This memorandum outlines the appropriate method for getting individuals banned from USACE projects for extended periods who violate our regulations at 36 C.F.R. part 327.

4. Policy.

- a. Since USACE does not have an adequate independent method to enforce extended individual bans, Corps projects and districts should not issue any individual ban or bar orders. Any attempt to enforce a pre-existing individual ban or bar letter for civil works projects issued by a USACE district should be immediately coordinated with HQUSACE.

CECW-CO

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b. Nothing in this policy should be interpreted to impede a USACE park ranger's ability to request an individual to immediately leave USACE project lands under 36 C.F.R. § 327.12(c) for health/safety reasons, disruption to project operations and/or otherwise disturbing the peace. USACE park rangers should not request the individual to leave for a period longer than what is required to abate the immediate threat to safety, the disruptive behavior or other violations of 36 C.F.R. part 327 (example: leave the lake project for the remainder of the day). The park ranger should also notify local law enforcement and/or their law enforcement contractor of the individual being asked to leave and the details related to the individual leaving.


c. Districts can have individuals who violate our regulations banned from the project utilizing our citation authority under 36 C.F.R. part 327 and requesting that the offending individual be banned as a condition of probation or any plea agreement. To initiate an individual ban, the person must be in violation of a provision of 36 CFR part 327 and we must issue a citation for that violation. If in the project's or district's opinion the offense or series of offenses warrant a ban for an extended period, the district operations division, in conjunction with district office of counsel, should request that the U.S. Attorney's office seek to have the individual banned as a condition of probation or plea agreement. Attached are several examples of court orders that have banned individuals from National Parks (and in one case, a USACE project) as a condition of unsupervised probation for violations of National Park Service regulations.¹

5. Enforcement. Once a court issues a judgment banning an individual from our projects and the individual reenters our project, it becomes a matter for the court to enforce. USACE park rangers should not attempt to enforce the ban, but document and report the individual's violation of their probation conditions to the U.S. Attorney's office.

6. Effective Date. This policy is effective immediately and will remain in effect until incorporated into 36 C.F.R. part 327 and ER/EP 1130-2-550, Chapter 6, Visitor Assistance Program.

FOR THE COMMANDER:

2 Encls


MICHAEL G. ENSCH
Chief, Operations
Directorate of Civil Works

¹ Note: Similar to the U.S. Army Corps of Engineers regulations, the National Park Service's regulations in Title 36 of the C.F.R. do not seem to contain a specific provision allowing for the banning of individuals outside the judicial process.

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

United States of America

v.

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed on or After November 1, 1987)

CHARLES WILLIAM (AKA: BILL) STEELE, No. 06-4141M

Eric Reed (Retained)
Attorney for Defendant

DOB: 1948 SSN:

THE DEFENDANT ENTERED A PLEA OF guilty on 10/6/06 to Count One and Count Two of the Complaint.

ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S) violating 36 C.F.R. 7.19, Entering Canyons of Canyon de Chelly without a Guide, a Class B Misdemeanor offense, as charged in Count One of the Complaint and violating 36 C.F.R. 2.1(a)(5), Walking, climbing, entering, ascending, descending or traversing an archeological or cultural resource, a Class B Misdemeanor offense, as charged in Count Two of the Complaint.

IT IS THE JUDGMENT OF THIS COURT THAT on Count One of the Complaint the defendant is hereby placed on unsupervised probation for a term of **ONE (1) YEAR**. Defendant is also to pay a special assessment of \$10.00.

IT IS FURTHER ORDERED that on Count Two of the Complaint the defendant is to pay a fine of \$1500.00 and a special assessment of \$10.00

TOTAL CRIMINAL MONETARY PENALTIES

The defendant shall pay to the Clerk, U.S. District Court, Attn: Finance, Suite, 130, 401 West Washington St., SPC 1, Phoenix, Arizona 85003-2118, the following total criminal monetary penalties:

SPECIAL ASSESSMENT: \$20.00 FINE: \$1500.00 RESTITUTION: N/A

The total special assessment of \$20.00 shall be paid pursuant to Title 18, United States Code, Section 3013.

If incarcerated, payment of criminal monetary penalties are due during imprisonment at a rate of not less than \$25 per quarter and payment shall be made through the Bureau of Prisons' Inmate Financial Responsibility Program. Criminal monetary payments shall be made to the Clerk of U.S. District Court, Attention: Finance, Suite 130, 401 West Washington Street, SPC 1, Phoenix, Arizona 85003-2118. Payments should be credited to the various monetary penalties imposed by the Court in the priority established under 18 U.S.C. § 3612(c). Once defendant is released from federal and state custody defendant is to make monthly restitution payments of no less than \$----- payment per month.

Until all restitutions, fines, special assessments and costs are fully paid, the defendant shall immediately notify the Clerk, U.S. District Court, of any change in name and address. The Court hereby waives the imposition of interest and penalties on any unpaid balances.

Enclosure 2

06-4141M

Page 2 of 2

USA vs. Charles William (aka: Bill) Steele

CONDITIONS OF UNSUPERVISED PROBATION


It is the order of the Court that you shall comply with the following conditions of unsupervised probation:

1. You shall not commit another federal, state, or local crime during the term of unsupervised probation.
2. You shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 801) or any paraphernalia related to such substances, without a prescription by a licensed medical practitioner. Possession of controlled substances will result in mandatory revocation of your term of unsupervised probation.
3. You shall pay any monetary penalties as ordered by the Court as follows: Payment of \$1520.00 to be paid on October 6, 2006.
4. You shall be banned from National Park Lands in the District of Arizona for the term of one year beginning on October 6, 2006.

THE COURT FINDS that you have been sentenced in accordance with the terms of the plea agreement and that you have waived your right to appeal and to collaterally attack this matter. The waiver has been knowingly and voluntarily made with a factual basis and with an understanding of the consequences of the waiver. However, should you believe you still have a right to appeal this matter, you must file a written notice of appeal with the Clerk of the Court in Phoenix, Arizona within ten (10) days from the imposition of sentence.

Date of Imposition of Sentence: **Friday, October 6, 2006.**

DATED this 6th day of October, 2006.


Mark E. Aspey

United States Magistrate Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

SEP - 8 2009

By: *Jason Lewis*

UNITED STATES OF AMERICA

-vs-

Case No. 4:09-MJ-61-01-WEJ
Violation: P0505156

KENNETH WILBORN YORK

Defendant's Attorney:
Jason Lewis

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant pled guilty to Count One (1) of the Violation Notice.

Accordingly, the defendant is adjudged guilty of such count which involves the following offense:

| <u>Title & Section</u> | <u>Nature of Offense</u> | <u>Count No.</u> |
|----------------------------|-----------------------------------|------------------|
| 36 CFR 2.34(a)(2) | Disorderly Conduct Obscene Act | 1 |

The defendant is sentenced as provided in pages 2 through 2 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay the special assessment of \$ 25 and processing fee of \$25 which shall be due immediately.

The defendant is banned from all Federal lands and waterways administered by the United States Department of Agriculture, Defense and Interior, including but not limited to the following agencies of those Departments: the National Park Service, the National Forest Service, and the United States Army Corps of Engineers for a period of THREE (3) YEARS.

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within thirty days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No. *****7459
Defendant's Date of Birth: 1960
Defendant's Mailing Address:
Trenton, GA 30752

Date of Imposition of Sentence: September 8, 2009

Signed this the 8th day of September, 2009.

Walter E. Johnson

WALTER E. JOHNSON
UNITED STATES MAGISTRATE JUDGE

4:09-MJ-61-01-WEJ : KENNETH WILBORN YORK

FINE

The defendant shall pay a fine of **\$1,000.00**.

This fine includes any costs of incarceration and supervision.

This fine (plus any interest required) shall be paid with **60 days**.

If the fine is not paid, the court may sentence this defendant to any sentence which might have been originally imposed. See 18 USC 3614.