



United States Department of the Interior

NATIONAL PARK SERVICE
P.O. Box 37127
Washington, D.C. 20013-7127



IN REPLY REFER TO

JAN 9 1995

W46 (500)

Memorandum

To: Superintendents Outside the National Capital Region

From: Associate Director, Operations /s/ Maureen Finnerty

Subject: A Christian Ministry in the National Parks

It has recently come to my attention that there is some uncertainty regarding the application of the National Park Service regulations relating to permits for groups or individuals who have regularly engaged in demonstration activity in the parks. The purpose of this memorandum is to reiterate our policy.

Regulations regarding demonstration permits and solicitation activity must be applied evenhandedly to all groups, including groups with a religious affiliation. This means that any group whose activities fall within the regulations--even if that group has in the past been allowed to operate without a permit--must comply with the regulations in order to engage in demonstration activities in the parks. No groups are exempt from the requirement of applying for and obtaining permits, even for activity that is proposed to take place on a weekly basis. No group has a "right" to use or reserve a specific area of a specific park on a continuing basis. Permits must be awarded on a first-come-first-served basis to those groups that comply with applicable regulations.

Moreover, the National Park Service cannot unlawfully subsidize the activities of any groups engaging in demonstration activities, or individual members of those groups. Thus, all groups and individual members are to pay rent, utilities, or other generally assessed costs associated with their activity, to the extent required by the National Park Service policies and procedures, regardless whether the group is a charitable, non-profit or religious organization. Likewise, religious affiliation cannot be considered in hiring.

Third, where the National Park Service posts notices of activities in the parks, the notice boards should also contain a disclaimer informing the public that different groups engage in religious activity in the parks, but that the National Park

Service does not endorse any group or message. Further, notices bearing the National Park Service's Arrowhead logo should not be posted unless the use of the Arrowhead logo has been authorized. The Christian Ministry in the National Parks use of the Arrowhead logo has not been authorized.

Finally, National Park Service employees who may sit on a board or have a specific affiliation with any outside group or organization should be mindful of applicable conflict of interest regulations if their official duties involve the outside group or organization. Particularly, 5 CFR §2635.502 prohibits an employee from participating in a government matter concerning an outside group if a reasonable person with knowledge of the facts would question the impartiality of the employee in the circumstances.

NOTE TO READERS: This settlement was reached in District Court for the District of Columbia in 1994. The memorandum and letter referenced in sections 8 and 9 were distributed in January 1995.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

KARL M. GIRSHMAN,
et al.)
)
 Plaintiffs,)
 v.) Civ. Action No.94-0415 JHG
)
 ROGER G. KENNEDY, Director of)
 the National Park Service, and)
)
 BRUCE BABBITT, Secretary,)
 United States Department)
 of the Interior,)
 Defendants.)
)

SETTLEMENT STIPULATION AND ORDER

It is hereby stipulated by and between plaintiffs and defendants, by and through their undersigned counsel, as follows:

1. The parties do hereby agree to settle and compromise the above-entitled action under the terms and conditions set forth herein. This settlement stipulation shall not constitute a finding by the Court or constitute an admission of liability or fault on the part of the United States, its agents, servants, or employees, and is entered into by plaintiffs and defendants for the purpose of compromising disputed claims and avoiding the expenses and risks of litigation. Nothing in this stipulation shall be construed to prohibit the defendants from amending its existing regulations in accordance with applicable law.

2. The National Park Service will not authorize any group or organization to use its arrowhead symbol, except as permitted by applicable regulations. See 36 C.F.R. Part 11 (1993). Those regulations provide that the use of the arrowhead symbol is

limited to purposes permitted by the Director of the Park Service "for uses that will contribute to purposes of education and conservation as they relate to the program of the National Park Service. All other uses are prohibited." 36 C.F.R. § 11.2. Insofar as a Christian Ministry in the National Parks is currently using the arrowhead symbol on its stationary and other materials, such use is not authorized pursuant to this regulation and, accordingly, is prohibited.

3. The National Park Service shall, within 15 days after the entry of this Stipulation by the Court, send a letter to the Reverend Warren Ost of the Christian Ministry, informing Rev. Ost that the Christian Ministry's use of the arrowhead symbol is unauthorized and must cease.

4. The Park Service will continue its current general practice, where it now exists, of posting a disclaimer on National Park bulletin boards (or wherever notices are posted) informing the public that different persons and groups engage in religious activities in the parks but that the Park Service does not endorse any group or message. Such notices, consistent with current policy, will be posted in those parks where religious activities regularly take place. This paragraph shall not prohibit the Park Service from changing this policy in its discretion in accordance with applicable law.

5. The Park Service will not provide housing to religious groups or their agents except upon the same terms as are available to others.

6. The Park Service will not subsidize directly or indirectly the activities of religious organizations, including but not limited to providing utilities labor buildings or transportation, except upon the same terms as are available to others.

7. The Park Service will enforce its regulations regarding permits and solicitation evenhandedly to all groups, including groups with a religious affiliation. The Park Service recognizes that no person or group seeking to engage in demonstration activity is exempt from the requirement of applying for and obtaining a permit. See 36 C.F.R. § 2.51(a) and (b). Moreover,

No permit shall be issued for a period in excess of 7 days, provided that permits may be extended for like periods, upon a new application, unless another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible.

36 C.F.R. § 2.51(g). The regulations do not allow the use or reservation of a specific area of a specific park on a continuing basis. The regulations require that permits will be awarded on a first-come-first-served basis to those persons or groups that comply with applicable regulations.

8. Within fifteen days of the entry of this stipulation, the defendants shall send a memorandum to the superintendent of each National Park (outside the National Capital Area) in substantially the form attached hereto as Exhibit A.

9. Within fifteen days of filing this stipulation, the Park Service will send to all concessioners a letter in substantially the form attached hereto as Exhibit B.

10. In consideration of the foregoing, the above-entitled case shall be dismissed with prejudice, the parties to bear their own costs and fees.