

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
SWF	<p>[Too much lumped together; break it up!]</p> <p>"(a) The possession of loaded firearms, ammunition, projectile firing devices, bows and arrows, and crossbows is prohibited unless; ... [the four conditions]</p> <p>The word "loaded" should be stricken. The only circumstances for a member of the public to be in possession of a firearm (unloaded or otherwise) on Corps lands or waters are covered by the four conditions. There is no reason for the regs to put the burden of investigating whether or not a weapon is loaded upon a weaponless agency.</p> <p>"(b) The possession of a state-issued permit to carry a weapon does not invalidate the prohibitions contained in this section. Possession of other weapons as defined by state law is prohibited without written permission of the District Engineer."</p> <p>The Corps needs to either specifically prohibit "concealed-carry" weapons, or exempt them. We favor prohibiting them. The second sentence would prohibit such items as clubs, switchblades, throwing stars, nunchucks, etc. (See modification and rationale that follows.)</p> <p>"(c) Possession of explosives or explosive devices of any kind, including fireworks or other pyrotechnics, is prohibited unless written permission has been received from the District Engineer."</p> <p>Should be listed separately; only one of the four conditions applies. (See new subsection 13(b))</p>				XX					XX		
SWT	<p>A statement should be added that fireworks may be impounded.</p> <p>(Impounding would require we follow Federal Property Management Regulations, which would likely be far too cumbersome for something like fireworks. It does not appear rangers have authority to confiscate/impound. Would require the assistance of law enforcement. Don't see how this could be authorized under T36.)</p>										XX	



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NWO	<p><b>LOADED FIREARMS....PROHIBITED UNLESS.....</b> What about possession of unloaded firearms by recreational users, other than hunters, on project land and waters.</p> <p>This is an issue of public and Ranger safety and should be addressed. I have had a camper say, "I suppose you're going to tell me I can't have my gun in the camper also." (See modification and rationale that follows.)</p> <p>Suggested modification and addition to 327.13:  <b>(a) The possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, crossbows or other weapons, explosives or explosive devices of any kind, including fireworks, is prohibited unless: (1) in the possession of a Federal, state or local law enforcement officer; (2) being used for hunting or fishing as permitted under Section 327.8, with devices being unloaded when transported to, from or between hunting and fishing sites; (3) being used at authorized shooting ranges; or (4) written permission has been received from the District Engineer.</b>  <b>(b) Possession of explosives or explosive devices of any kind, including fireworks or other pyrotechnics, is prohibited unless written permission has been received from the District Engineer.</b></p> <p>(Rationale for chosen wording:  This was a highly discussed and researched topic, with much good input considered. The result is a compromise, given the numerous external factors affecting our authority. It was concluded that rangers should not have to inspect a firearm to check if it is loaded, as the current reg required. Therefore, "loaded" was stricken. It is also a reality that a total ban on all firearms was impractical and unconstitutional. Hunting and fishing are legitimate recreation venues, and firearms, bows, etc. are a part of that, and should be allowed, with certain limitations in public places such as parks, for public safety. Also, state "right-to-carry" permits vary widely. Some permit concealed carry, others allow open carry. Open carry of firearms in parks is generally not considered acceptable, hence a "in accordance with state law and permits" section was considered and dropped. Too many variations exit to address in one nationwide document. Prohibiting concealed carry could make rangers the sole enforcer in some states)</p> <p>m loca</p>											



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	(1) in the possession of a Federal, state or local law enforcement officer; (2) being used for hunting or fishing as permitted under Section 327.8, with devices being unloaded when transported to, from or between hunting and fishing sites; (3) being used at authorized shooting ranges; or (4) written permission has been received from the District Engineer.											
	327.14 Public Property											
NAB	Add - "use of metal detectors"  {Corps-wide policy exists, we cannot prohibit altogether. See new subsection 14(d).}									XX		
NWO	It should also state that during the gathering of firewood, a person is NOT allowed to drive off-road with the vehicle.  {Should not be off road anyway; already covered at 2(c).}							XX			XX	
	(a) Destruction, injury, defacement, removal or any alteration of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, and vegetative growth, is prohibited except when in accordance with written permission of the District Engineer.											
SAD	Revise to add - "paleontological remains, non-game species of wildlife" after "historical and archaeological features." Some non-game species are protected by state law, but others are not. There have been instances where individuals have harassed and/or killed non-game wildlife on Corps lands not for personal protection but out of ignorance or for meanness.  {Agree on paleontological. Non-game species could be covered under hunting, firearms; possibly destruction of Government property, but this might apply only to migratory birds, or endangered species. Opens up several legal & jurisdictional problems. Probably not a T36 issue.}									XX	XX	



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LRD	<p>Suggest the following rewording of this section to include "possession" of public property and paleontological resources, "Destruction, injury, defacement, removal, or possession of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, paleontological remains, and vegetative growth, is prohibited except when in accordance with written permission of the District Engineer".</p> <p>(Add paleontological resources, but do not add "possession," which would be akin to creating a "controlled substance" such as illegal drugs. Outside our authority. Also add "boundary monumentation")</p>									XX		
GENWK-CO-TR	Insert "paleontological remains" after archaeological features.									XX		
SWF	<p>Change to "...historical, paleontological, and archaeological features, ..."</p> <p>Clarifies that fossils, dinosaur tracks, <i>et al.</i>, are protected public property.</p>									XX		
SWL	<p>Add "boundary monumentation" to the list of public property that is protected from defacement, destruction, or removal. The use of metal detectors should be addressed in this section.</p> <p>(Add in monumentation. Add metal detectors under (d).)</p>									XX		
SWL	<p>Add section (d). "Mowing or brush clearing activities on project lands are prohibited without written permission of the District Engineer. The construction and/or clearing of paths for access across project lands is prohibited except when in accordance with written permission from the District Engineer."</p> <p>(Not needed with vegetative growth verbiage.)</p>							XX			XX	



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SWT	<p>A statement should be added "items used in the destruction of public property may be impounded for evidence and held until the case has been disposed."</p> <p>{Same as with fireworks. We cannot readily seize or impound private property.}</p> <p>Suggested modification, 327.14(a): (a) Destruction, injury, defacement, removal or any alteration of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, <i>paleontological resources, boundary monumentation or markers</i> and vegetative growth, is prohibited except when in accordance with written permission of the District Engineer.</p>										XX	
	(b) Cutting or gathering of trees or parts of trees and/or the removal of wood from project lands is prohibited without written permission of the District Engineer.											
NWO	<p>Does CUTTING include use of chain saws in or around recreation areas.</p> <p>People often use chain saws for cutting up gathered wood. I know in many recreation areas across the country this is prohibited, is it on COE project land?</p> <p>{No nationwide ban. DE can set local policy.}</p>											
	(c) Gathering of dead wood on the ground for use in designated recreation areas as firewood is permitted.											
SPD	<p>Delete. Many state and federal parks prohibit wood gathering. Wood gathering should be a local option depending upon local conditions. Additionally, firewood sales might be a revenue generation option.</p> <p>{Agree, see modification.}</p>									XX		
CENWK-CO-TR	<p>Add paragraph (d) to state "the use of metal and other detector devices is prohibited except in designated areas specified by the District Engineer.</p> <p>{Add as paragraph 14(d).}</p>									XX		



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SWF	<p>After "...is permitted", add ", unless prohibited by the District Engineer."</p> <p>{Might be good to have in, doesn't hurt those who allow the activity. There may be areas and times in which we need to prohibit all gathering of wood.}</p> <p><b>Suggested modification, 327.14(c):</b> (c) Gathering of dead wood on the ground for use in designated recreation areas as firewood is permitted, <i>unless prohibited and posted by the District Engineer.</i></p> <p><b>Suggested new subsection 327.14(d):</b> (d) <i>The use of metal detectors is permitted on designated swim beaches or other previously disturbed areas, unless prohibited by the District Engineer for reasons of protection of archaeological, historical, or paleontological resources. Items found must be disposed of in accordance with Part 327.15 and Part 327.16.</i></p>									XX		
	327.15 Abandonment and Impoundment of Personal Property.											
LRD	<p><b>Suggest adding the following subsection, "Any personal property involved with unauthorized activities as defined in this regulation shall be subject to summary removal and/or impoundment. Personal property may be impounded for the purpose of guaranteeing public safety, resource protection, and/or providing evidence for prosecuting a citation. Personal property may be returned to owners upon their leaving project lands or upon disposition of any citation by the courts".</b></p> <p>{Again, we cannot seize property, cannot take it away if it has not been abandoned. Get a deputy to do the actual seizure. Add in after "in a public use area," ...or for the purpose of guaranteeing public safety or resource protection,..."} Could greatly help if drums of potential hazardous waste are dumped, something leaking into the lake, etc.}</p>	XX								XX		



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	(a) Personal property of any kind shall not be abandoned, stored or left unattended upon project lands or waters. After a period of 24 hours, or at any time after a posted closure hour in a public use area, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the District Engineer, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.											
	<b>Suggested modification, 327.15(a):</b> <b>(a) Personal property of any kind shall not be abandoned, stored or left unattended upon project lands or waters. After a period of 24 hours, or at any time after a posted closure hour in a public use area, or for the purpose of providing public safety or resource protection, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the District Engineer, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.</b>											
	(b) The District Engineer shall, by public or private sale or otherwise, dispose of all lost, abandoned or unclaimed personal property that comes into Government custody or control. However, property may not be disposed of until diligent effort has been made to find the owner, heirs, next of kin or legal representative(s). If the owner, heirs, next of kin or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at the last known address. When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay except that if it has a fair market value of \$25 or more the property may not be disposed of until 90 days after the date it is received at the storage point designated by the District Engineer. The net proceeds from the sale of property shall be conveyed into the Treasury of the United States as miscellaneous receipts.											



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CELMVROD-T	<p>Change to "The District Engineer shall dispose of all lost, abandon or unclaimed personal property with a value of greater than \$100 that comes into government custody or control 90 days after the property is received. Any property with a value of less than \$100 may be disposed of 7 days after it comes into government custody or control if unclaimed. Diligent efforts shall be made to locate the owner, heirs or next of kin prior to disposal." This will allow us to dispose of property more quickly and not spend a lot of time trying to return the ripped tent and greasy skillet that was left on a campsite.</p> <p>(Examines Title 41 regs, appears we have authority to increase this limit to \$100. Corps is different from other agencies, as we provide a service to our customers, holding lost items longer, seeking to locate owners, etc.)</p>									XX		
CEMVN	<p>When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay except that if it has a fair market value of (pick one: \$50.00 \$75.00 \$100.00) or more the property.....</p>									XX		
SAD	<p>Change the value of property stipulation from \$25 to \$50 and both the 90-day and 120-day time stipulations to 30 days.</p> <p>(Time frame could possibly be changed, but policy is to provide a service. Recommend increase in value limit.)</p>										XX	
LRD	<p>Suggest that the "\$25 or more" be modified to "\$150 or more" to reflect the value of today's dollar and to recognize the cost involved with processing a property disposal. The word "covered" in the last sentence should actually be "conveyed".</p> <p>("Covered" is actually the term used by US Treasury regs, strange as that may seem!)</p>										XX	
SPD	<p>Increase fair market value from \$25 to \$100. This will allow quicker disposal of abandoned property and lower Corps' administrative costs.</p>									XX		
CENWO-OD-TN	<p>Raise the fair market value amount from \$25 to \$50.</p>											



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CENWK-CO-TR	<p>Sentence 4, change to read "When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay in accordance with Title 41 CFR, Federal Property Management Regulation, Chapter 101, Sections 45.901 and 45.902; except that if it has a fair market value of \$500 or more, the property may not be disposed of until 90 days after the date it is received at the storage point designated by the District Engineer. The net proceeds from the sale of property shall be covered into the Treasury of the United States as miscellaneous/receipts."</p> <p>{Add Title 41 reference - Raise limit to \$100 rather than \$500 to remain consistent with "customer service" goal.}</p>									XX		
SWF	<p>This is a very cumbersome, time consuming, and expensive mechanism for disposal of property. Additionally, it provides no means of allowing the finder to eventually be awarded the item; NPS regs permit this, which provides an incentive for the finder to turn in the property. Absent a compelling reason not to, this process should be revised and streamlined.</p> <p>{Awarding private property to the finding individual does not appear at all acceptable in the current climate.}</p>										XX	
SWT	<p>Under unclaimed or abandoned property, after diligent efforts have been made to locate the owners, we should be allowed to dispose of property without delay if valued under \$100.00, instead of \$25.00.</p>									XX		



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SWL	<p>Should be rewritten to provide for a more expedient means of disposal of abandoned personal property.</p> <p><b>Suggested modification, 327.15(b):</b>  (b) The District Engineer shall, by public or private sale or otherwise, dispose of all lost, abandoned or unclaimed personal property that comes into Government custody or control. However, property may not be disposed of until diligent effort has been made to find the owner, heirs, next of kin or legal representative(s). If the owner, heirs, next of kin or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at the last known address. When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay in accordance with Title 41 CFR, Federal Property Management Regulation, Chapter 101, Sections 45.901 and 45.902; except that if it has a fair market value of \$25 \$100 or more the property may not be disposed of until 90 days after the date it is received at the storage point designated by the District Engineer. The net proceeds from the sale of property shall be conveyed into the Treasury of the United States as miscellaneous receipts.</p>											
	(c) Personal property placed on Federal lands or waters adjacent to a private residence and/or developments of any private nature for more than 24 hours without permission of the District Engineer shall be presumed to have been abandoned and, unless proven otherwise, such presumption will be sufficient to issue a citation as provided for in Section 327.25.											
SAD	<p>Revise to add - "...such presumption will be sufficient to impound the property and/or issue a citation..."</p> <p>(Applies to private picnic areas, boat on Corps land, etc. 15(a) does allow impoundment of abandoned property on all project lands and water, seems it would apply here. Check with legal if we can remove (esp summary removal where we would have to cut chain, etc). If possible, add impoundment to 15(c) as well.)</p>									XX		



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SWF	<p>Change first sentence to "...adjacent to a private residence, and/or development, or facility of any private nature..."</p> <p>This change would clarify that personal property cannot be placed around boathouses and other private facilities placed under a Shoreline Management Plan. The owner of the closest adjacent private residence is often not the owner of the private floating facility.</p> <p>(Would allow greater flexibility, better definition.)</p>									XX		
NWO	<p>Paragraph (c) needs to have "impound the personal property" added to in after the word "citation."</p> <p>Suggested modification, 327.15(c): (c) Personal property placed on Federal lands or waters adjacent to a private residence, facility and/or developments of any private nature for more than 24 hours without permission of the District Engineer shall be presumed to have been abandoned and, unless proven otherwise, such presumption will be sufficient to impound the property and/or issue a citation as provided for in Section 327.25.</p>									XX		
	327.16 Lost and Found Articles.											
	All articles found shall be deposited by the finder at the Resource Manager's office or with a ranger. All such articles shall be disposed of in accordance with the procedures set forth in Section 327.15.											
	<p>{According to recent policy letter from HQUSACE, the reference "Resource Manager" is to be replaced with "Manager." It was intended to use the term "Project Manager;" however, that term apparently now belongs to Project Management Branch, and is not authorized for use as intended in T36.}</p> <p>Suggested modification, 327.16: All articles found shall be deposited by the finder at the Resource Manager's office or with a ranger. All such articles shall be disposed of in accordance with the procedures set forth in Section 327.15.</p>											
	327.17 Advertisement.											



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	Advertising by the use of billboards, signs, markers, audio devices, handbills, circulars, posters, or any other means whatsoever, is prohibited without written permission of the District Engineer. Vessels and vehicles with semipermanent or permanent painted or installed signs are exempt as long as they are used for authorized recreational activities and comply with all other rules and regulations pertaining to vessels and vehicles.											
	327.18 Commercial Activities.											
LRD	Suggest that the phrase "on project lands or waters" be added to this sentence.  (All of T36 applies to project lands/waters as stated under 327.1, Policy, but addition would greatly clarify for the public.)							XX		XX		
	The engaging in or solicitation of business without the express written permission of the District Engineer is prohibited.											



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SWF	<p>"The engagement in or solicitation of business without the express written permission of the District Engineer is prohibited. Any solicitation for, or provision or delivery of, any service or portion of service on project lands or waters constitutes conclusion of commercial activity."</p> <p>This sentence would clarify that if any portion of a commercial activity occurs on Corps property, a regulated commercial activity exists. Corps lakes are seeing more and more of this type of commercial operator, for example, an individual who sets out a dozen PWC along a roadway leading to a Corps park, and rents the PWC to incoming visitors. This individual then comes in to the park to conduct the remainder of the business. His rental craft may even effectively take over the nearest boat ramp. This revision re-enforces that if his business provides any portion of the services on Corps property (such as delivery, launch, or retrieval of the craft), it becomes a commercial activity as defined by 327.18. Although at least one Magistrate Judge has sustained this position in court, this clarification should be made in the CFR; it would prevent many arguments.</p> <p>(Real Estate should examine closely; delivery portion does not seem to violate intent of 327.18.)</p> <p>Suggested modification, 327.18: The engaging in or solicitation of <i>business on project lands or waters</i> without the express written permission of the District Engineer is prohibited.</p>										XX	
	327.19 Permits.											
	(a) It shall be a violation of these regulations to refuse to or fail to comply with the fee requirements or other terms or conditions of any permit issued under the provisions of this Part 327.											



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NAB	<p>Clarification - Even though section 19 is written primarily for Lake Shore Management type permits, a section is needed to indicate that it is a violation of Title 36 to fail to abide by the terms of <u>any permit</u>. Modify last of sentence "...under the provisions of Title 36." (Agree)</p> <p>Suggested modification, 327.19(a): (a) It shall be a violation of these regulations to refuse to or fail to comply with the fee requirements or other terms or conditions of any permit issued under the provisions of this Title 36 Part 327.</p>							XX		XX		
	<p>(b) Permits for floating structures (issued under the authority of Section 327.30) of any kind on/in waters of water resource development projects, whether or not such waters are deemed navigable waters of the United States but where such waters are under the management of the Corps of Engineers, shall be issued at the discretion of the District Engineer under the authority of this regulation. District Engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the appropriate Resource Manager's office.</p>											
SWL	<p>Should begin with: "The placement, existence, or use of any unauthorized floating structure upon project water or lands is prohibited. Authorized floating structures must comply with applicable conditions of the permit."</p> <p>(This already exists under 327.20, except for "use of" the structure.)</p> <p>Change to 327.19(b): (b) Permits for floating structures (issued under the authority of Section 327.30) of any kind on/in waters of water resource development projects, whether or not such waters are deemed navigable waters of the United States but where such waters are under the management of the Corps of Engineers, shall be issued at the discretion of the District Engineer under the authority of this regulation. District Engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the appropriate Resource Manager's office.</p>											



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	(c) Permits for non-floating structures (issued under the authority of Section 327.30) of any kind constructed, placed in or affecting waters of water resources development projects where such waters are deemed navigable water of the U.S. shall be issued under the provisions of Section 10 of the Act approved March 3, 1899 (33 USC 403). If a discharge of dredged or fill material in these waters is involved, a permit is required under Section 404 of the Clean Water Act (33 USC 1344). (See 33 CFR Parts 320-330.)											
<b>CENWO-OD-TN</b>	<b>Should read as Section 10 of the River and Harbor Act.</b>											
	(d) Permits for non-floating structures (issued under the authority of Section 327.30) of any kind in waters of water resources development projects, where such waters are under the management of the Corps of Engineers and where such waters are not deemed navigable waters of the United States shall be issued as set forth in paragraph (b) of this section. If a discharge of dredged or fill material into any water of the United States is involved, a permit is required under Section 404 of the Clean Water Act (33 USC 1344) (See CFR Parts 320-330). Certification may be required pursuant to Section 401 of the Clean Water Act (33 USC 1341).											
	327.20 Unauthorized Structures.											
	The construction, placement, or existence of any structure (including, but not limited to, roads, trails, signs or landscape features) of any kind under, upon, in or over the project lands or waters is prohibited unless a permit, lease, license or other appropriate written agreement has been issued by the District Engineer. The design, construction, placement, existence or use of structures in violation of the terms of the permit, lease, license or other written agreement is prohibited. The government shall not be liable for the loss of, or damage to, any private structures, whether authorized or not, placed on project lands or waters. Unauthorized structures are subject to summary removal or impoundment by the District Engineer.											



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LRD	<p>Should include the construction and/or placement of hunting stands or blinds, swimming and diving structures, including rope swings.</p> <p>{Add "hunting stands or blinds, buoys" to existing wording}</p>					+				XX		
SWF	<p>Add to the first sentence, "...including, but not limited to, roads, trails, signs, deer stands, utilities, out buildings, or landscape features) of any kind..."</p> <p>Helps to identify range of commonly-occurring unauthorized structures.</p> <p>{Buildings are commonly recognized as structures. Need to avoid too large a list.}</p> <p>Add to the last sentence, "...or impoundment by the District Engineer, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to the owner. Disposal of the unauthorized structure will be accomplished in accordance with procedures specified in 327.15(b). (To impound, we must be certain the property is abandoned, then it falls under the confines of 327.15. Not valid in this section.)</p> <p>Unclaimed unauthorized property, or property on which the owner refuses to pay the impoundment fee, is often disposed of. The regulation should afford us a sanctioned mechanism to charge an impoundment fee, and to dispose of such property. See previous comment regarding streamlining 327.15(b).</p> <p>{Would fall under 327.15.}</p>									XX	XX	



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SWL	<p>Should be revised to read: "The construction, placement, or existence of any structure (including, but not limited to, roads, trails, paved surfaces, signs, outdoor equipment, landscape features, or buoys ) of any kind under, upon in or over project lands or water, is prohibited unless authorized by a permit, lease, license, or other written agreement issued by the District Engineer. The design, construction, placement, existence, or use of structures in violation of the terms of a permit, lease, license, or other written agreement is prohibited. The government shall not be liable for the loss of or damage to any private structures, whether authorized or not, placed on project lands or waters. Unauthorized structures are subject to summary removal or impoundment by the District Engineer."</p> <p>(See modification.)</p> <p>Suggested modification, 327.20: The construction, placement, or existence of any structure (including, but not limited to, roads, trails, signs, <i>hunting stands or blinds</i>, <i>buoys</i> or landscape features) of any kind under, upon, in or over the project lands or waters is prohibited unless a permit, lease, license or other appropriate written agreement has been issued by the District Engineer. The design, construction, placement, existence or use of structures in violation of the terms of the permit, lease, license or other written agreement is prohibited. The government shall not be liable for the loss of, or damage to, any private structures, whether authorized or not, placed on project lands or waters. Unauthorized structures are subject to summary removal or impoundment by the District Engineer.</p>											
	327.21 Special Events.											
CENWK-CO-TR	<p>Modify paragraphs to reflect changes proposed by OCE Special Events Committee.</p> <p>(Agree, but no input has been received from the Special Events Committee at the time of this submittal. The very minor change recommended here is reflective of that. This section may be subject to further change, once findings of the Special Events Committee are developed.)</p>									XX		



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POD	This section should be titled "Special Event/Use Permits" and reference to special event and special use permits should be made in sub-sections (a) and (b).  {Need Special Events Committee input.}											
	(a) Special events including, but not limited to, water carnivals, boat regattas, music festivals, dramatic presentations or other special recreation programs are prohibited unless written permission has been granted by the District Engineer. An appropriate fee may be charged under the authority of Section 327.23.											
CEMVK	Special events - This article should be revised as follows: "Special events including, but not limited to, water carnivals, <u>fishing tournaments</u> , boat regattas, music festivals, dramatic presentations or other special recreation programs are prohibited unless written permission has been granted by the District Engineer. An appropriate fee may be charged under the authority of section 327.23."  {Agree tournaments should be included, at least those above a certain size. Questions remain about what constitutes a tournament, how fees are assessed, etc. Recommend addition of tournaments; may change pending Committee input.}									XX		
LRD	Suggest including fishing tournaments as an activity requiring written permission.									XX		



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SWF	<p>Several suggestions were received to add "fishing tournaments" to the sample list of permitable events. Add as final sentence. "An appropriate damage or removal deposit may be required as a condition to an event's permit/permission."</p> <p>We concur that this should be listed, since it is a frequently-occurring type of special event at most of our lakes, and is <u>already</u> being managed at many lakes through the Special Event Permit (SEP). However, we caution the task force that the proposal to charge a fee for SEP has generated regional controversy within confederations of bass clubs. Inclusion of fishing tournaments as a listed example of events which may be permitted should therefore be dependent upon the progress of the task force proposal. The damage/removal deposit is already being required in some areas; this sentence would clearly legitimize it as a management tool.</p> <p>(Agree with comments - fees would be handled through policy, not T36. Unfortunately, without Committee input, we cannot recommend any substantive changes under this section.)</p> <p>Suggested modification 327.21(a): (a) Special events including, but not limited to, water carnivals, boat regattas, <i>fishing tournaments</i>, music festivals, dramatic presentations or other special recreation programs are prohibited unless written permission has been granted by the District Engineer. An appropriate fee may be charged under the authority of Section 327.23.</p>									XX		
	<p>(b) The public shall not be charged any fee by the sponsor of such event unless the District Engineer has approved in writing (and the sponsor has properly posted) the proposed schedule of fees. The District Engineer shall have authority to revoke permission and require removal of any equipment upon failure of the sponsor to comply with terms and conditions of the permit/permission or the regulations in this Part 327.</p>											



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SWF	<p>Insert as second sentence, "It is prohibited for event sponsors or participants to fail to comply with terms and conditions of the permit/permission." Add to final sentence, "The District Engineer shall also have authority to revoke...."</p> <p>These changes would make it an offense for sponsor or participants to disregard terms of the SEP. As presently written, the only recourse for non-compliance is to revoke the sponsor's permission, which is usually not a practicable solution.</p> <p><u>Offered in passing:</u> This subsection is probably legally insufficient to be used as grounds to evaluate permit applications non-commercial group uses, particularly if the evaluation results in a denial. The Forest Service discovered that their regulations were inadequate when the Rainbow Family descended on Texas in 1988. The FS was compelled by court decision to revise and expand (and liberalize) their regulations governing non-commercial group events and non-commercial distribution of printed material.</p> <p>(Special Event Committee input needed.)</p>											
	327.22 Unauthorized Occupation.											
	(a) Occupying any lands, buildings, vessels or other facilities within water resource development projects for the purpose of maintaining same as a full- or part-time residence without the written permission of the District Engineer is prohibited. The provisions of this section shall not apply to the occupation of lands for the purpose of camping, in accordance with the provisions of Section 327.7.											
	(b) Use of project lands or waters for agricultural purposes is prohibited except when in compliance with terms and conditions authorized by lease, license or other written agreement issued by the District Engineer.											



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SWL	<p>Add Section 327.22(c). "The unauthorized use including, but not limited to, landscaping; reshaping; gardening; or other such action, of public lands is prohibited. Unauthorized modification or alteration of the naturally existing vegetative cover including, but not limited to, clearing; mowing; cutting; thinning; pruning; or spraying is also prohibited. The adjacent landowner shall be presumed to be responsible for the action on project property. Unless proven otherwise, such presumption will be sufficient to issue a citation for the above unauthorized use of project lands."</p> <p>{Already covered by 327.22 and 327.14.}</p>							XX			XX	
	327.23 Recreation Use Fees.											
MVP	<p>Recreation Use Fees. (b) &amp; (e). Has the Corps regularly published the fees in the Federal Register? Or is this a "once every 5 years" type of thing? Paragraph (e) can be deleted.</p> <p>{23(e) (free area) will be deleted, no longer valid.}</p>									XX		



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LRD	<p>SEC. 327.23 (a), (b), or (c) - Recreation Use Fees - Public Law for Day Use Fee authorization should be cited.</p> <p>23(a). Put 16usc and PL88-578 here. We will also need to reference the Public Law authorizing day use fee collection, and public law charging for Golden Age Passport.</p> <p>23b. Will need to add in somewhere failure to pay rec fee authorized under... (allow tickets to be written)</p> <p>23b. Also add a clause requiring display of Day Use daily or annual Passes. Forfeiture less for display than failure. Delete rest of existing 23b, including criteria.</p> <p>Suggest a separate subsection specifically on Golden Age Cards (because of fee for them and to attempt to tighten up on the public abuse of the passports). The first sentence in the section should cite legislation for charging for them, state the fee involved, and indicate how the card can be used. Subsequent sentences should address abuse of the cards. Verbiage such as the following is suggested, "Holders of Golden Age Passports are entitled to a single user unit campsite and must occupy the campsite during the entire registration period. If other persons, not entitled to the discount, are also using the site, only the person to which the passport has been issued may present the passport to receive the discount at the time of registration. Misuse of the Passport may result in the issuance of a citation".</p> <p>{Agree to portions; T36 should not become an instruction manual for use of the cards - see modification.}</p>									XX		
										XX		
										XX		
SPD	<p>Add a provision requiring boaters to display an annual boat launching pass or boat launching permit on their vehicles at launching ramps.</p> <p>{Agree.}</p>									XX		
	<p>(a) In accordance with 16 USC 460I, the Corps of Engineers is required to collect special recreation use fees and/or special permit fees for the use of specialized sites, facilities, equipment or services related to outdoor recreation furnished at Federal expense.</p>											



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
SWL	<p>Should include the Day Use Fee.</p> <p><b>Suggested modification, 327.23(a):</b>  <b>(a) In accordance with the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, and 16 USC 460l, the Corps of Engineers is required to collect day use fees, special recreation use fees and/or special permit fees for the use of specialized sites, facilities, equipment or services related to outdoor recreation furnished at Federal expense.</b></p>									XX		
	<p>(b) All use fees shall be fair and equitable and will be based on the following criteria (as contained in the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended):</p>											



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SWF	<p>"All use fees shall be fair and equitable and will be based on the following criteria (contained in the Land and Water...as amended)." [Eliminate listing the seven criteria.] Listing the seven criteria, which come directly from the Public Law, seems unnecessary.</p> <p>{List the verbiage of 23(b), add in Public Law day use fees, delete the seven criteria.}</p> <p>Suggested modification, 327.23(b):</p> <p>(b) All use fees shall be fair and equitable and will be based on the following criteria (as contained in the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, and the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended):</p> <p><del>(1) The direct and indirect amount of Federal expenditure.</del></p> <p><del>(2) The benefit to the recipient.</del></p> <p><del>(3) The public policy or interest served</del></p> <p><del>(4) The comparable recreation fees charged by other Federal and non-Federal public agencies and the private sector within the service area of the management unit at which the fee is charged.</del></p> <p><del>(5) The economic and administrative feasibility of fee collection.</del></p> <p><del>(6) The extent of regular maintenance required.</del></p> <p><del>(7) Other pertinent factors.</del></p> <p>Based upon the above criteria, it shall be the policy of the Chief of Engineers to publish in the FEDERAL REGISTER, as a general notice document, the established range of fees for day use, specialized sites, facilities, equipment or services whenever such fees are adjusted.</p>											
	(1) The direct and indirect amount of Federal expenditure.											
	(2) The benefit to the recipient.											
	(3) The public policy or interest served											



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	(4) The comparable recreation fees charged by other Federal and non-Federal public agencies and the private sector within the service area of the management unit at which the fee is charged.											
	(5) The economic and administrative feasibility of fee collection.											
	(6) The extent of regular maintenance required.											
	(7) Other pertinent factors.											
	Based upon the above criteria, it shall be the policy of the Chief of Engineers to publish in the FEDERAL REGISTER, as a general notice document, the established range of fees for specialized sites, facilities, equipment or services whenever such fees are adjusted.											
	(c) Where such fees are charged, the District Engineer shall insure that clear notice of fee requirements is prominently posted at each area, and at appropriate locations therein and that the notice be included in publications distributed at such areas. Failure to pay authorized recreation use fees as established pursuant to Public Law 88-578, 78 Stat. 897, as amended (16 USC 460l-6a), is prohibited and is punishable by a fine of not more than \$100.											
CEMVK	A phrase should be added that "failure to properly display user fee receipt" is a violation of this section. This is extremely important in the day user fee program. {Agree}					+				XX		



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SAD	<p>Add a new sentence to read - "The unauthorized possession and/or use of Golden Age or Golden Access Passports by anyone other than the authorized holder is prohibited and is punishable by a fine and/or forfeiture of the passport."</p> <p>{Apply under new 23(e). Have yet to find any national authority to impound/confiscate/forfeit a Golden Age/Access card for abuse. Once issued, it is private property. If such national authorization is located, will willingly change this. Cannot see "possession" of the card as offense; only when improperly used. }</p>			XX							XX	
NAP	<p>Second sentence; add the words "or display fee receipts as posted" after words "recreation use fees" so as to read: "Failure to pay authorized recreation use fees, or display fee receipts as posted, as established pursuant to ...more than \$100." RATIONALE: One of the most nagging problems with the recreation use fee program at unattended areas is the failure of users to display the envelope receipt on the dashboard of their vehicles as instructed and as posted. This creates a substantial workload on the ranger to try to account for non-compliance with payment of the user fee. Some users try to use the same receipt stub on successive days by not filling in the date of use on them. {Adopt as modified.}</p>									XX		
LRD	<p>Add the following sentence to this subsection, "User fee permits and/or receipt (s) shall be prominently displayed on vehicle dashboard areas for compliance purposes". Suggest adding additional verbiage regarding the purchase and display of seasonal passes. {Adopt as modified.}</p>									XX		
CENWO-OD-TN	<p>Add language that failure to display the day use pass is punishable too. {Adopt as modified.}</p> <p>Suggested new 327.23(d): <i>Failure to pay authorized day use fees, and prominently display the applicable receipt, permit or pass is prohibited.</i></p> <p>{NOTE: Separating day use fees out avoids conflicts with references under 23(c), can allow for a different, more reasonable forfeiture schedule.</p>									XX		



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	(d) Any Golden Age or Golden Access Passport permittee shall be entitled, upon presentation of such a permit, to utilize special recreation facilities at a rate of 50 percent off the established use fee at Federally operated areas.											
CELMVROD-T	Add a sentence to this section stating "Fraudulent use of a Golden Age or Golden Access Passport is prohibited and constitutes a violation of this regulation as specified under section 327.25." {Adopt as modified.}					+				XX		
CEMVK	Recreation use fees, Golden Passports - The referenced article should be revised to read as follows: "Any Golden Age or Golden Access Passport permittee shall be entitled, upon presentation of such a permit, to utilize special recreation facilities at a rate of 50 percent off the established use fee at Federally operated projects. <u>Misuse or abuse of a permit is subject to fine and may result in forfeiture of permit and exclusion of future permit.</u> " {Adopt as modified, without forfeiture clause.}									XX		
SAD	Amend to delete "...at a rate of 50 percent off the established use fee at Federally operated areas" and substitute "...at the Congressionally authorized discount rate off established use fees at Federally operated areas." This will keep Title 36 current in the event the discount rate changes in the future.  {Discount rate is posted on the card itself, should cover our need to reference the exact rate. Congress may be very reluctant to change this, however, not only for political reasons, but also since every Golden Age/Access card would have to be recalled and exchanged. A rate change could happen, but is not considered likely. }										XX	
CENWO-OD-TN	Amend this section to include unauthorized presentation of a Golden Age or Golden Access Card. {Adopt as modified.}									XX		
SWT	A sentence should be added to this section stating misuse or abuse of the Golden Age or Golden Access Cards will result in a fine and revocation of the card.  {Fine, yes, revocation apparently no.}											



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SWL	<p>Add "Fraudulent procurement or use of Golden Age/Golden Access Passports, camping permits, or Day Use Permits is prohibited."</p> <p>{Covered by regs as modified.}</p> <p>Suggested modification, move to 327.23(e):  <del>(d)</del> (e) Any Golden Age or Golden Access Passport permittee shall be entitled, upon presentation of such a permit, to utilize special recreation facilities at a rate of 50 percent off the established use fee at Federally operated areas. <i>Fraudulent use of a Golden Age or Golden Access Passport is prohibited.</i></p>									XX		
	(e) At each Corps lake or reservoir where camping is permitted, the District Engineer will provide at least one primitive campground, containing designated campsites, sanitary facilities and vehicular access, where no fees will be charged.											
CELMVROD-T	Delete {Agree to deletion.}									XX		
CEMVK	Recreation use fees, free areas. Delete this article. {Agree to deletion.}									XX		
SAD	Recreation Use Fees. Delete this in its entirety since recent legislation has eliminated this requirement. {Agree to deletion.}									XX		
NAP	Remove this section. The Corps is no longer required to provide free camping at projects that provide fee campgrounds. {Agree to deletion.}									XX		
NAB	Delete this section - It is no longer a requirement to provide for a free area. {Agree to deletion.}									XX		
SPA	Why is this still applicable? Fee camping. {Agree to deletion.}									XX		
LRD	Delete this section as it is no longer valid. {Agree to deletion.}									XX		
SPD	Delete {Agree to deletion.}									XX		



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CENWO-OD-TN	Delete as this is no longer a requirement. {Agree to deletion.}									XX		
CENWK-CO-TR	Change "lake or reservoir" to "water resource development project" for consistency. {Agree to deletion.}							XX			XX	
SWF	Eliminate; superseded. {Agree to deletion.}									XX		
SWT	Should be deleted.  Suggested deletion, 327.23(e): (e) <del>At each Corps lake or reservoir where camping is permitted, the District Engineer will provide at least one primitive campground, containing designated campsites, sanitary facilities and vehicular access, where no fees will be charged.</del>									XX		
	327.24 Interference with Government Employees.											
SAD	Add a new section to read - "It shall be unlawful to interfere with, oppose, or impede the activities or operations of a contractor conducting official contract responsibilities for the U.S. Army Corps of Engineers.  {It would be desirable to have the instructions of Gate/Park Attendants carry much more weight than it currently does, however, this would place contractors on the same level as Federal employees, but without the training or accountability. This is not the intent of this regulation.}										XX	



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SWT	<p>A statement should be added "It shall be considered interference for any operator of a motor vehicle who fails to yield or stop for a ranger utilizing hand signals or authorized emergency sights or siren."</p> <p>(Implies vehicle stops by Rangers - could also cover Ranger directing traffic. Seems to be covered under lawful order in 25(b). Question as to what defines/constitutes a "lawful order," which should be an order within the scope of your authority under T36. Would not likely be approved as written.)</p> <p>Suggested modification 327.24(a):  (a) It is a Federal crime pursuant to the provisions of Sections 1114 and 111 of Title 18, United States Code, to forcibly assault, resist, oppose, impede, intimidate, or interfere with, <i>attempt to kill or kill</i> any civilian official or employee of the U.S. Army Corps of Engineers engaged in the performance of his or her official duties, or on account of the performance of his or her official duties. Such actions or interference directed against a Federal employee while carrying out these regulations are also a violation of these regulations and may be a state crime pursuant to the laws of the state where they occur.</p>										XX	
	(a) It is a Federal crime pursuant to the provisions of Sections 1114 and 111 of Title 18, United States Code, to forcibly assault, resist, oppose, impede, intimidate, or interfere with any civilian official or employee of the U.S. Army Corps of Engineers engaged in the performance of his or her official duties, or on account of the performance of his or her official duties. Such actions or interference directed against a Federal employee while carrying out these regulations are also a violation of these regulations and may be a state crime pursuant to the laws of the state where they occur.											
	(b) Failure to comply with a lawful order issued by a Federal employee acting pursuant to these regulations shall be considered as interference with that employee while engaged in the performance of their official duties. Such interference with a Federal employee includes failure to provide a correct name, address or other identification upon request of the Federal employee, when that employee is authorized by the District Engineer to issue citations in the performance of the employee's official duties.											



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SAD	Revise to add - "date of birth and phone number" to list of items that may be requested by a Federal employee in the performance of their official duties.  {May be needed with the new citation form. }									XX		
NAP	Second sentence; add the word "information" after the words "correct name, address..." so as to read "Such interference with a Federal employee includes failure to provide a correct name, address or other information deemed necessary for identification upon the request of the Federal employee...in the performance of the employee's official duties." RATIONALE: Correct name and address is often not enough for certain violators. Other information may at times be required to substantiate their identity, particularly with persons suspected of providing false information.  {Better wording than above, broadens the scope without limiting the information needed.}									XX		
NAB	Add - Include all employees, not just those with citation authority.  {Non-citation Rangers have no authority under T36. To add this suggestion would give no additional authority or protection, would require presence of law enforcement or citation ranger to enforce, so nothing is gained. However, do summer rangers routinely operate outside the scope of their duties by issuing warnings? Could be a loophole, not awarding them any protection. Would likely be covered under Title 18, but not 327.24. }										XX	
LRD	Add the terms "date of birth" and telephone number" to the list of items required to be provided by apparent violators.  {We can "request," but not "require" this information.}									XX		



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LRD	<p>SEC 327.24(c) If we can legally do it, suggest that the following subsection c be added, "It is unlawful to interfere with, oppose, or impede the activities or operations of a contractor carrying out official contract responsibilities for the U.S. Army Corps of Engineers".</p> <p>Suggest adding volunteers to this section since we rely heavily upon volunteer to perform certain duties as the need arises (i.e., campground hosts).</p> <p>(Volunteers covered for Workman's Comp, some tort (w/in scope of duties), but not much different from contractors. Could create problems granting contractors or volunteers this kind of authority on a general basis. )</p> <p>Suggested modification 327.24(b): (b) Failure to comply with a lawful order issued by a Federal employee acting pursuant to these regulations shall be considered as interference with that employee while engaged in the performance of their official duties. Such interference with a Federal employee includes failure to provide a correct name, address or other <i>information deemed necessary for identification</i> upon request of the Federal employee, when that employee is authorized by the District Engineer to issue citations in the performance of the employee's official duties.</p>										XX	
	327.25 Violations of Rules and Regulations.											
SWT	<p>Violation of Rules and Regulations. Several of our field personnel have indicated the maximum fine of \$500.00 should be raised considerably, if possible.</p> <p>{Such change now authorized.}</p>									XX		
	<p>(a) Any person who violates the provisions of these regulations, other than for a failure to pay authorized recreation use fees as separately provided for in Section 327.23, may be punished by a fine of not more than \$500 or imprisonment for not more than six months or both and may be tried and sentenced in accordance with the provisions of Section 3401 of Title 18, United States Code. Persons designated by the District Engineer shall have the authority to issue a citation for violation of these regulations, requiring the appearance of any person charged with the violation to appear before the United States Magistrate within whose jurisdiction the affected water resources development project is located. (16 USC 460d)</p>											



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SAD	<p>Fines and imprisonment sentences for Title 36 offenses were apparently raised 6 November 1991 (18 USC, Section 19). Preliminary research indicates that magistrates can now assess punishment for Federal petty offenses at 6 months imprisonment and/or up fines of \$5000. This matter needs research and clarification. There is a most definite need to have the maximum fine raised above \$500 - and our recommendation would be to \$5000. Many destruction of Government property cases have damages far exceeding \$500, yet they are not considered of sufficient magnitude to pursue under civil or criminal actions.</p> <p>{Changes to T18 confirmed through Ranger Safety Task Force - we can change \$500 to \$5,000. As written, some confusion exists over fine (\$5,000) vs restitution as ordered by a magistrate, for actual damages that may easily exceed \$5,000. Fines may be applied along with restitution}</p>									XX		
LRO	<p>Change verbiage regarding fines and imprisonment to reflect maximum fine of \$5,000 and one year imprisonment</p> <p>{Imprisonment term not changed under T18- this cannot be changed from authorized 6 months.}</p> <p>{also make this change in block of back panel}. {This panel needs to be changed to \$5,000 also.}</p> <p>Forfeitures of Collateral should be adjusted upward to reflect inflation and to serve as a more effective deterrent.</p> <p>{Must be accomplished with OC and Magistrates.}</p> <p>Suggested modification 327.25(a): (a) Any person who violates the provisions of these regulations, other than for a failure to pay authorized recreation use fees as separately provided for in Section 327.23, may be punished by a fine of not more than \$500 \$5,000 or imprisonment for not more than six months or both and may be tried and sentenced in accordance with the provisions of Section 3401 of Title 18, United States Code. Persons designated by the District Engineer shall have the authority to issue a citation for violation of these regulations, requiring the appearance of any person charged with the violation to appear before the United States Magistrate within whose jurisdiction the affected water resources development project is located (16 USC 460d).</p>									XX	XX	



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	(b) Any person who commits an act against any official or employee of the U.S. Army Corps of Engineers that is a crime under the provisions of Section 1114 or Section 111 of Title 18, United States Code or under provisions of pertinent state law may be tried and sentenced as further provided in Federal or state law, as the case may be.											
	327.26 State and Local Laws.											
	Except as otherwise provided herein or by Federal law or regulation, state and local laws and ordinances shall apply on project lands and waters. This includes, but is not limited to, state and local laws and ordinances governing:											
SPA	<p>Why is liquor not specifically listed?</p> <p>{Alcohol use is certainly a state issue, as are the others listed. Abuse could be enforced by locals, banning could not unless locals also ban or adopt our reg. Add in 26(f) "Alcohol or other controlled substances." Would allow local enforcement, make the potential for abuse enforcement clear to the public. While actually covered, this does allow for clarity.}</p>						X			XX		



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SWF	<p>"Except as otherwise provided herein or by Federal law or Federal operational management plan, state and local laws and ordinances shall apply..."</p> <p>{Would require changing many areas of T36 to be consistent. Would be seeking exclusive or proprietary jurisdiction. Does not seem a big problem, would be one for lawyers to wrangle about.}</p> <p>This is important, although it could probably be stated with more legal accuracy. While it is important that the Corps recognize and stress that state and local criminal laws do apply at Corps projects, a statement reminding and reserving a degree of Federal supremacy (Sovereign Immunity, or whatever the legal term may be) should appear in the CFR to balance the subsection. Many of our suburban lakes with parks administered by the Corps could have their own programs damaged by local ordinances, inadvertently or otherwise. If, for example, a town whose corporate limits encompass a Corps project passes an ordinance prohibiting camping within its city limits, the CFR seems to imply that we would have to shut down our program. Such an ordinance is not unforeseeable. While our District Office of Counsel feels that such a move could be contested, perhaps successfully, a simple statement in the CFR could keep it from ever reaching that point.</p> <p>{Outside the scope of this review. Would have to be addressed at a higher level.}</p>										XX	
	(a) Operation and use of motor vehicles, vessels, and aircraft;											
	(b) Hunting, fishing and trapping;											
	© Use of firearms or other weapons;											
	(d) Civil disobedience and criminal acts; and,											
	(e) Littering, sanitation and pollution.											



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	<b>Suggested new 327.26(f): (f) Alcohol or other controlled substances.</b>											
	THESE STATE AND LOCAL LAWS AND ORDINANCES ARE ENFORCED BY THOSE STATE AND LOCAL ENFORCEMENT AGENCIES ESTABLISHED AND AUTHORIZED FOR THAT PURPOSE.											
	327.27 (Reserved).											
LRD	<b>Suggest that a specific section regarding the use of alcoholic beverages be added, regardless of the final policy on this controversial issue. The following verbiage would be appropriate whatever the final policy: (1) Operators and/or owners of vehicles with alcoholic beverages located within them while being operated or parked within an alcohol free area are presumed to be the owner of the beverage (responsible party) for the purpose of enforcement of this regulation; (2) The possession or use of an alcoholic beverage on project lands or waters by a minor, as defined by appropriate state law, is prohibited. The sale or gift of an alcoholic beverage to a minor is also prohibited. Adults accompanying minors who possess or consume alcoholic beverages are considered responsible for supplying the minor with alcohol and jointly share responsibility for the issuance of a citation under this section.</b>  <b>(addressed under 327.26(f))</b>										XX	
	327.28 (Reserved).											
	327.29 (Reserved).											
	327.30 Lakeshore Management on Civil Works Projects.											



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	(a) Purpose. The purpose of this regulation is to provide policy and guidance on the protection of desirable environmental characteristics of Civil Works lake projects and restoration of shorelines where degradation has occurred through private exclusive use.											
	(A complete copy of Section 327.30 is available at the Resource Manager's Office, District Office, Division Office or from HQUSACE-CECW-ON, Wash., D.C. 20314-1000)											
	<b>Necessary change to 327.30(a): (A complete copy of Section 327.30 is available at the Resource Manager's Office, District Office, Division Office or from HQUSACE-CECW-ON, Wash., D.C. 20314-1000)</b>											
	A violation of the provisions of this regulation shall subject the violator to a fine of not more than \$500.00 or imprisonment for not more than 6 months, or both.											
	<b>Necessary change for consistency with 327.25(a): A violation of the provisions of this regulation shall subject the violator to a fine of not more than <del>\$500.00</del> \$5,000.00 or imprisonment for not more than 6 months, or both.</b>											
	In the interest of more effective resource management and to increase the overall enjoyment of the visitor experience available at Corps of Engineers water resources development projects, the preceding rules and regulations have been established. Your observance of these rules while a visitor to these projects will make your visit and the visits of others more pleasant and enjoyable.											
	THIS REVISION SUPERSEDES EP 1165-2-316, JAN 1986.											
	GENERAL DISCUSSION ITEMS/COMMENTS											



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
CENWS (Tyger)	<p>Life rings seem to be treated by a significant portion of the public as "beach play toys." They are most often used as floating devices by young kids, many of whom are non-swimmers. Not only does this use represent a danger to a person that may truly be in danger of drowning, but it may also lead to drowning should a non swimmer fall through a life ring in deep water. In the Canadian province of British Columbia, the misuse of a life saving device, such as a life ring, has multiple levels of punishment should the misuse lead to some one becoming injured. The punishment goes from a dollar fine up to long jail terms in the event some one drowns. Perhaps the possibility of a fine under Title 36 would reduce this problem and save a life.</p> <p>{Should be addressed under Swimming, these should be handled under posted restrictions, not nationally in T36.}</p>						XX				XX	
CENWK-CO-TR	<p>We suggest adding a paragraph addressing written permissions, which should also further define Operations Project Managers as authorized representatives of the District Engineer. (Note also that terminology in 36 CFR 327.16 &amp; .30 should reflect this new job title.) The permissions list should be similar to the National Park Service compendium. The compendium contains all approved hours, restrictions, standing permits and deviances which are authorized by the District Engineer for a particular project. (See enclosed example.)</p> <p>{All incidences of "Resource Manager" should be changed to current term of "Manager" as per HQ. Hope we get something better than this!!}</p>									XX		
CENWK-CO-TR	<p>EP 1165-2-316 does not do a very good job of communicating rules to visitors. The writing style, type size, mixture of both high and low priority information, and other factors result in a handout which is not read and which - for many visitors - cannot be read.</p> <p>{Reg must be posted in its entirety somewhere. T36 must be posted, but a shortened version can be utilized as long as T36 is not superseded.}</p>											
CENWK-CO-TR	<p>We feel that a new simplified pamphlet should be devised for most visitor contacts. (A number of National Park Service examples are enclosed.) The purpose of the new pamphlet would be rules communication, stressing the most commonly violated rules. The complete 36 CFR 327 would be published in a document format available for inspection and posted in accordance with the sign manual. All should be revised to meet accessibility standards.</p>											



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
CENWK-CO-TR	36 CFR 327 can also be vastly improved by editing and re-phrasing. For example, if 327.12a was changed to read, "The District Engineer may post restrictions on the public use of the project. Using the project in a manner contrary to these restrictions is prohibited"; then items in other paragraphs using wording such as "except as authorized or posted by the District Engineer" could be deleted.											

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
SWF	<p>Consideration should be given to creation of a new subsection concerning health and safety codes at commercial concessions. This would give project offices another tool to improve the safety of visitors to marinas and other commercial concession areas.</p> <p>Crafting of such as subsection would require close coordination between the Operations and Real Estate elements, but the initial reaction of Fort Worth District's Real Estate Division was positive. As presently worded, 327.1(e) applies all Federal, state and local laws and regulations to outgranted lands and waters. However, some Real Estate elements feel that corrective management actions regarding concessionaire's deficiencies may be taken <b>only</b> through provisions of the lease, even for something as blatant as dumping or spilling sewage onto project lands and waters. However, the only recourse which the older leases leave to Real Estate is to revoke the lease, not a practicable solution. Additionally, many of the older lease instruments make no mention of, and therefore do not invoke, codes and regulations such as NFPA, NESC, and other regulations vital to public safety.</p> <p>While recognizing that the responsibility to oversee third-party concessions rests mostly with the primary lessee, and recognizing further that there is considerable debate going on in the Real Estate and Operations communities as to what is the appropriate level of Corps involvement in concession area oversight, we nonetheless believe that specific inclusion of some type of "commercial area safety code" into Title 36 would give project offices as valuable tool to persuade concessionaires to maintain their facilities in a safe condition. Such provisions would clearly permit the Corps to take action when local or state regulatory authorities cannot or will not.</p> <p>{Field needs way to deal with reluctant lessees when total shutdown is not warranted, or not practical. Could provide the "middle ground" Operations has been seeking. If lease agreements tie them to T36, we would have some real help. Lease would have to indicate penalties would be applicable for failure to comply. Would need "Partnering" with RE. The deeper we get into it, this could be opening up a significant policy change, needs careful review.}</p>											



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
CEMVK	<p>Remote Controlled Airplanes, Boats and Cars. The following should be added to Title 36 to address the use of subject articles on project lands and waters: "The operation of remote controlled airplanes, boats and vehicles in a careless, reckless or negligent manner so as to endanger any person, private property, public property or environmental feature, or as to create a public nuisance, is prohibited."</p> <p>{A growing concern - misuse could be covered under 12(c). }</p>											
MVP	<p>It would be useful for the public if we could develop a shortened "popular" version of the Title 36 brochure. We understand that Title 36 is a legal document and is the basis of our visitor assistance program and citation authority. However, it is a difficult document to read through, and we wonder how many of our visitors actually read it. We often provide a synopsis of the "important" rules, like quiet hours, tree cutting/firewood, etc. Title 36 should be posted and available for the public.</p> <p>{Can be done locally, still need to post full version.}</p>											

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
CEMVROD-T	<p>327.3 – We have several rules that we would like to have added to this section that will allow the rangers to enforce regulations that we need for the safety of our visitor without enforcing state boating laws. They are: The operation of a vessel equipped with an engine of greater horsepower rating than the vessel is designed for as shown on the Federally required capacity plate or the manufacturer's plate on the vessel shall be a violation. Altering any Federal or manufacturer's capacity plate to achieve compliance with this section is a violation of this regulation.</p> <p>Operation of a vessel or other water craft on project waters shall comply with the following speed and distance requirements;  - Vessels cannot exceed no wake speed within 100 feet of any vessel going at no wake speed  - Vessels must maintain a distance of 50 feet when both boats are exceeding no wake speeds  - Vessels cannot exceed 10 mph unless vision is unobstructed for more than 200 feet ahead.</p> <p>All vessels in operation on project waters shall display navigation lights between sunset and sunrise and during periods of reduced visibility. Such lights shall comply with U. S. Coast Guard Navigation Rules or applicable state laws.  All vessels operated on project waters shall have a wearable, Type I, II or III personal flotation device (PFD) for each person on board. All PFDs must be in good and serviceable condition, the appropriate size for the intended user, and readily accessible. Any vessel 16 feet or longer must have a Type IV buoyant cushion or ring buoy as a throwable device. If a type V PFD is counted toward this requirement it must be worn.</p> <p>All vessels operated on project waters and propelled by an outboard motor larger than 10 h.p. or any inboard motor shall have the proper Coast Guard approved fire extinguisher on board as required by the U. S. Coast Guard or state boating laws applicable to project waters.</p> <p>Skiing is permitted from sunrise to one half-hour after sunset.</p>											



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
CEMVROD-T	<p>327.11 – This section should be broken into parts for clarity sake and to allow different collateral forfeitures to be set for the different offenses.</p> <p>No person shall bring or allow dogs, cats or other pets into developed recreation areas unless penned, caged, on a leash under 6 feet in length, or otherwise physically restrained."</p> <p>No person shall allow animals to impede or restrict otherwise full and free use of the project lands and waters by the public. The owner of any animals who displays aggressive or threatening behavior or unreasonably disturb other campers may be requested to leave the project with the offending animal. Unattended animals that display aggressive or threatening behavior or unreasonably disturb other campers will be impounded and removed in accordance with state and local laws. (Formerly section (a). Sentences added)</p> <p>All animals and pets are prohibited on swimming beaches. Animals and pets, except properly trained animals assisting the handicapped (such as seeing-eye dogs), are prohibited in sanitary facilities or other areas so designated by the District Engineer. (Formerly section (a))</p> <p>Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws. (Formerly section (a))</p> <p>Persons bringing or allowing pets in designated public use areas shall be responsible for proper removal and disposal, in sanitary facilities, of any waste produced by these animals. (Formerly section (b))</p> <p>No person shall bring or allow horses, cattle, or other livestock onto project lands except in areas designated by the District Engineer. (Formerly section ©with a change. This change would allow us to control use by horseback riders in undeveloped areas. We are experiencing over use and erosion by horse trails)</p> <p>Ranging, grazing, watering or allowing livestock on project lands and waters is prohibited except when authorized by lease, license or other written agreement with the District Engineer. (Formerly (d))</p> <p>Unauthorized livestock are subject to impoundment and removal in accordance with Federal, state and local laws. (Formerly (e))</p>											

HQ AR000155-HQ AR000292



-----Original Message-----

From: Austin, Stephen B HQ02  
Sent: Wednesday, May 20, 1998 10:40 AM  
To: Austin, Stephen B HQ02  
Subject: FINAL REVIEW OF TITLE 36 CFR PART 327

1. Reference CECW-ON memo, dated 18 May 1998, subject same as above (MS Word and Word Perfect copy attached as "T-36MEMO.DOC" and "T-36MEMO.WP" respectively).
2. A hard copy of the above memo was sent to all Major Subordinate and District Commands on 19 May 1998. The memo requests division-consolidated comments on the proposed changes to Title 36. The memo also identified two follow-up e-mail enclosures which are now being transmitted to you in MS Word (DOC) and Word Perfect (WP). These documents are:  
  
"T-36REV.DOC" & "T-36REV.WP" -- Proposed update to T-36 showing deletions by strikeouts and additions by bold inserts.  
  
"T-36COM.DOC" & "T-36COM.WP" -- Compilation of the field input received and the rational the T-36 task force used to decide which suggestions were included in the final draft (caution - this is a 118 page document!).
3. Please note that the suspense date for your division-consolidated comments (to Philip Parsley/CESAS-OP-S) has been extended from 15 June 1998 to 1 July 1998. Please respond to Mr. Parsley by both e-mail and hardcopy.
4. This e-mail message is being sent directly to all Natural Resources Management MSC/Districts Offices and Operations Projects. Please ensure the widest possible distribution to operations/resource managers, rangers and other employees in Operations, Real Estate, Security and Office of Council.
5. The T-36 task force (Phil Parsely/Chair, Peg O'Bryan, David LaRue) has done a commendable job in coordinating this entire action. They have taken the extra effort to present the proposed changes in an easy-to-follow format as well as documented all individual comments/responses in a very organized manner.

/ s /

DARRELL E. LEWIS  
Chief, Natural Resources

HQ AR000155

Management Branch  
Operations, Construction  
and Readiness Division



CECW-ON

MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMANDS  
AND DISTRICT COMMANDS

SUBJECT: Final Review of Title 36 Code of Federal Regulations Part 327

1. Your comments and suggestions for updating Title 36 CFR, Part 327, have been reviewed by the Title 36 Review Task Force. Based upon your input, they have prepared a final draft with proposed additions and deletions for final field review prior to submittal to the Federal Register.
2. Please provide consolidated major subordinate command comments on this final draft by both hardcopy and e-mail to the task force chairman, CESAS-OP-S, Attn: Mr. Philip Parsley by 15 June 1998. Two enclosures are being forwarded to you by e-mail for your use. The first is a copy of the proposed update showing deletions by strikeouts and additions by bold inserts. The second is a compilation of the field input received and the rationale the task force used to decide which suggestions were included in the final draft.
3. Please allow the widest distribution to operations managers, resource managers, park rangers and other employees in Operations, Real Estate, Security, and Office of Council. The use of e-mail to distribute these documents can maximize the review time available and is encouraged.
4. Title 36 CFR, Part 327, is an important management tool to help protect our visitors, employees, and resources. Your full participation is needed to ensure that all suggested changes contribute to an improved final product.

FOR THE COMMANDER:

2 Encls

CHARLES M. HESS  
Chief, Operations, Construction  
and Readiness Division  
Directorate of Civil Works

HQ AR000157

Title 36 Code of Federal Regulations

FORWARD

The following rules and regulations, published in the Federal Register of September 3, 1985, govern the public use of water resources development projects administered by the Chief of Engineers. Visitors are bound by these Title 36 regulations.

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ARTHUR E. WILLIAMS

Colonel, Corps of Engineers

Executive Director, Engineer Staff

Title 36--Parks, Forests, and Public Property

CHAPTER III--U.S. ARMY CORPS OF ENGINEERS

PART 327--RULES AND REGULATIONS GOVERNING PUBLIC USE OF  
WATER RESOURCES DEVELOPMENT PROJECTS ADMINISTERED BY  
THE CHIEF OF ENGINEERS

Section

- 327.0 Applicability.
- 327.1 Policy.
- 327.2 Vehicles.
- 327.3 Vessels.
- 327.4 Aircraft.
- 327.5 Swimming.
- 327.6 Picnicking.
- 327.7 Camping.
- 327.8 Hunting, Fishing and Trapping.
- 327.9 Sanitation.
- 327.10 Fires.
- 327.11 Control of Animals.
- 327.12 Restrictions.
- 327.13 Explosives, Firearms, Other Weapons and Fireworks.
- 327.14 Public Property.
- 327.15 Abandonment and Impoundment of Personal Property.
- 327.16 Lost and Found Articles.
- 327.17 Advertisement.
- 327.18 Commercial Activities.
- 327.19 Permits.
- 327.20 Unauthorized Structures.
- 327.21 Special Events.
- 327.22 Unauthorized Occupation.
- 327.23 Recreation Use Fees.
- 327.24 Interference with Government Employees.
- 327.25 Violations of Rules and Regulations.
- 327.26 State and Local Laws.
- 327.27 (Reserved).
- 327.28 (Reserved).
- 327.29 (Reserved).



## 327.30 Lakeshore Management on Civil Works Projects.

Authority: Section 4, Act of December 22, 1944, 58 Stat. 889, as amended (16 U.S.C. 460d); Section 210 of Public Law 90-483, 82 Stat. 746; and Public Law 88-578, 78 Stat. 897, as amended (16 U.S.C. 460l-6a).

## 327.0 Applicability.

The regulations covered in this Part 327 shall be applicable to water resources development projects, completed or under construction, administered by the Chief of Engineers, and to those portions of jointly administered water resources development projects which are under the administrative jurisdiction of the Chief of Engineers. ALL OTHER FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS REMAIN IN FULL FORCE AND EFFECT WHERE APPLICABLE TO THOSE WATER RESOURCES DEVELOPMENT PROJECTS.

## 327.1 Policy.

- (a) 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.
- (b) Unless otherwise indicated herein, the term "District Engineer" shall include the authorized representatives of the District Engineer.
- (c) The term "project" or "water resources development project" refers to the water areas of any water resources development project administered by the Chief of Engineers, without regard to ownership of underlying land, to all lands owned in fee by the Federal Government and to all facilities therein or thereon of any such water resources development project.
- (d) All water resources development projects open for public use shall be available to the public without regard to sex, race, color, creed, age, nationality *disability*, or place of origin. No lessee, licensee, or concessionaire providing a service to the public shall discriminate against any person because of sex, race, creed, color, age, *disability*, nationality or place of origin in the conduct of the operations under the lease, license or concession contract.
- (e) In addition to the regulations in this Part 327, all applicable Federal, state and local laws and regulations remain in full force and effect on project lands or waters which are outgranted by the District Engineer by lease, license or other written agreement.
- (f) The regulations in this Part 327 shall be deemed to apply to those lands and waters which are subject to treaties and Federal laws and regulations concerning the rights of Indian Nations and which lands and waters are incorporated, in whole or in part, within water resources development projects administered by the Chief of Engineers, to the extent that the regulations in this Part 327 are not inconsistent with such treaties and Federal laws and regulations.
- (g) Any violation of any section of this Part 327 shall constitute a separate violation for each calendar day in which it occurs.
- (h) For the purposes of this Part 327, the ~~owner~~ *operator* of any ~~unattended~~ vehicle, vessel or aircraft as described herein shall be presumed to be responsible for its use on project property. ***In the event where an operator cannot be determined, the owner of the vehicle, vessel or aircraft, whether attended or unattended, will be presumed responsible.*** Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to the use of such vehicle, vessel or aircraft as provided for in Section 327.25, Violations of Rules and Regulations.

**Suggested new 327.1(i):**

*(i) For the purposes of this Part 327, the registered user of a campsite, picnic area or other facility shall be presumed responsible for its use. Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to the use of such facilities as provided for in Section 327.25, Violation of Rules and Regulations.*

## 327.2 Vehicles

- (a) This section pertains to all vehicles, including, but not limited to, automobiles, trucks, motorcycles, mini-bikes, snowmobiles, dune buggies, all-terrain vehicles and trailers, campers, bicycles or any other such equipment.
- (b) Vehicles shall not be parked in violation of posted restrictions ***and regulations***, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, ~~project~~ property or environmental feature. Vehicles so parked are subject to removal and impoundment at the owner's expense.
- (c) The operation and/or parking of a vehicle off authorized roadways is prohibited except at locations and times designated by the District Engineer. Taking any vehicle through, around or beyond a restrictive sign, recognizable barricade, fence or traffic control barrier is prohibited.
- (d) Vehicles shall be operated only in accordance with posted ***restrictions and*** regulations and applicable Federal, state and local laws, which shall be enforced by authorized enforcement officials.
- (e) No person shall operate any vehicle in a careless, negligent or reckless manner so as to endanger any person, ~~project~~ property or environmental feature.
- (f) At ~~developed~~ ***designated*** recreation areas, vehicles shall be used only to enter or leave the area or individual sites or facilities unless otherwise posted. ***Repetitive entry and exit is prohibited.***
- (g) Except as authorized by the District Engineer, no person shall operate any motorized vehicle without a proper and effective exhaust muffler as defined by state and local laws, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

## 327.3 Vessels.

- (a) This section pertains to all vessels or watercraft, including, but not limited to, powerboats, cruisers, houseboats, sailboats, rowboats, canoes, kayaks, ~~jet skis~~ ***personal watercraft*** and any other such equipment capable of navigation on water, whether in motion or at rest.
- (b) The placement and/or operation of any vessel or watercraft for a fee or profit upon project waters or lands is prohibited except as authorized by permit, lease, license, or concession contract with the Department of the Army. This paragraph (327.3(b)) shall not apply to the operation of commercial tows or passenger carrying vessels not based at a Corps project which utilize project waters as a link in continuous transit over navigable waters of the United States.
- (c) Vessels or other watercraft may be operated on the project waters, except in prohibited or restricted areas, in accordance with posted regulations, including buoys, and applicable Federal, state and local laws,



as regulated by authorized enforcement officials. All vessels or watercraft so required by applicable Federal, state and local laws shall display an appropriate registration on board whenever the vessel is ~~operated~~ on project waters.

(d) ~~The operation of vessels or other watercraft in a careless, negligent or reckless manner so as to endanger any property or person (including the operator and/or user(s) of the vessel or watercraft) is prohibited.~~ No person shall operate any vessel or other watercraft in a careless, negligent or reckless manner so as to endanger any person, property or environmental feature.

(e) All vessels, when ~~in use,~~ **on project waters**, shall have safety equipment, including personal flotation devices, on board in compliance with U.S. Coast Guard boating safety requirements (~~Coast Guard Pamphlet CG 290; 46 CFR Parts 25, 30; 33 CFR Part 175~~) and in compliance with boating safety laws issued and enforced by the state in which the vessel is being operated. ***Owners or operators of vessels not in compliance with this section may be requested to remove the vessel immediately from project waters until such time as items of non-compliance are corrected.***

(f) Unless otherwise permitted by Federal, state or local law, vessels or other watercraft, while moored in commercial facilities, community or corporate docks, or at any fixed or permanent mooring point, may only be used for overnight occupancy when such use is incidental to recreational boating. Vessels or other watercraft are not to be used as a place of habitation or residence.

(g) Water skis, parasails, ski-kites and similar devices are permitted in nonrestricted areas except that they may not be used in a careless, negligent, or reckless manner so as to endanger any property or person (including the user and/or operator of the towing vessel).

(h) ***Vessels shall not be attached or anchored to structures such as locks, dams, buoys or other structures unless authorized by the District Engineer.*** All vessels when not in actual use shall be removed from project lands and waters unless securely moored or stored at designated areas approved by the District Engineer. The placing of floating or stationary mooring facilities on, adjacent to, or interfering with a buoy, channel marker or other navigational aid is prohibited.

(i) ~~The use at a project of any vessel not constructed or maintained in compliance with the standards and requirements established by the Federal Safe Boating Act of 1971 (Public Law 92-75, 85 Stat. 213), or promulgated pursuant to such act, is prohibited.~~

~~(j)~~ (i) Except as authorized by the District Engineer, no person shall operate any vessel or watercraft without a proper and effective exhaust muffler as defined by state and local laws, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

#### 327.4 Aircraft.

(a) This section pertains to all aircraft including, but not limited to, airplanes, seaplanes, helicopters, ultra-light aircraft, motorized hang gliders, hot air balloons, any non-powered flight devices or any other such equipment.

(b) The operation of aircraft on project lands at locations other than those designated by the District Engineer is prohibited. This provision shall not be applicable to aircraft engaged on official business of Federal, state or local governments or law enforcement agencies, aircraft used in emergency rescue in accordance with the directions of the District Engineer or aircraft forced to land due to circumstances beyond the control of the operator.

(c) No person shall operate any aircraft while on or above project waters or project lands in a careless,

negligent or reckless manner so as to endanger any person, ~~or~~ property **or environmental feature**.

(d) Nothing in this section (327.4) bestows authority to deviate from rules and regulations or prescribed standards of the appropriate State Aeronautical Agency, or the Federal Aviation Administration, including, but not limited to, regulations and standards concerning pilot certifications or ratings, and airspace requirements.

(e) Except in extreme emergencies threatening human life or serious property loss, the air delivery **or retrieval** of any person, material or equipment by parachute, **balloon**, helicopter or other means onto project lands or waters without written permission of the District Engineer is prohibited.

(f) In addition to the above provisions, seaplanes, as defined below, are subject to the following restrictions:

(1) Such use is limited to aircraft utilized for water landings and takeoff, herein called seaplanes, at the risk of owner, operator and passenger(s).

(2) Seaplane operations contrary to the prohibitions or restrictions established by the District Engineer (pursuant to Part 328 of Title 36) are prohibited. The responsibility to ascertain whether seaplane operations are prohibited or restricted is incumbent upon the person(s) contemplating the use of, or using, such waters.

(3) All operations of seaplanes while upon project waters shall be in accordance with marine rules of the road for power boats or vessels and Section 327.3 Vessels.

(4) Seaplanes on project waters and lands in excess of 24 hours shall be securely moored at mooring facilities and at locations permitted by the District Engineer. Seaplanes may be temporarily moored on project waters and lands, except in areas prohibited by the District Engineer, for periods less than 24 hours providing (i) the mooring is safe, secure, and accomplished so as not to damage the rights of the Government or members of the public and (ii) the operator remains in the vicinity of the seaplane and reasonably available to relocate the seaplane if necessary.

(5) Commercial operation of seaplanes from project waters is prohibited without written approval of the District Engineer following consultation with and necessary clearance from the Federal Aviation Administration (FAA) and other appropriate public authorities and affected interests.

(6) Seaplanes may not be operated at Corps projects between sunset and sunrise unless adequate lighting and supervision approved by the District Engineer are available.

#### 327.5 Swimming.

(a) Swimming, **wading**, diving, snorkeling or scuba diving at one's own risk is permitted, except at launching sites, designated mooring points and **public docks, or** other areas so designated by the District Engineer. ~~Diving or jumping from bridges or other structures which cross project waters is prohibited.~~

(b) An international, **diver down, or inland** diving flag must be displayed during underwater activities.

(c) Diving, ~~or~~ jumping **or swinging** from bridges, **cliffs, environmental feature** or other structures which cross **or are adjacent to** project waters is prohibited.

#### 327.6 Picnicking.

Picnicking and related day-use activities are permitted, except in those areas where prohibited by the District Engineer.



## 327.7 Camping.

- (a) Camping is permitted only at sites and/or areas designated by the District Engineer.
- (b) Camping at one or more campsites at any one water resource project for a period longer than 14 days during any 30-consecutive-day period is prohibited without the written permission of the District Engineer.
- (c) The unauthorized placement of camping equipment or other items on a campsite and/or personal appearance ~~without overnight occupancy~~ at a campsite for the purpose of reserving a ~~designated~~ campsite for future occupancy is prohibited.
- (d) The digging or leveling of any ground or the construction of any structure without written permission of the District Engineer is prohibited.
- (e) Occupying or placement of any camping equipment at a campsite which is posted as "reserved" without an authorized reservation is prohibited.***

## 327.8 Hunting, Fishing, and Trapping.

~~Hunting, fishing and trapping are permitted except in areas where prohibited by the District Engineer. All Federal, state and local laws governing these activities apply on project lands and waters, as regulated by authorized enforcement officials.~~

- (a) Hunting is permitted in areas and during periods designated by the District Engineer.***
- (b) Trapping is permitted in areas and during periods designated by the District Engineer.***
- (c) Fishing is permitted except in swimming areas, at boat ramps, mooring points or public docks, or other areas designated by the District Engineer.***
- (d) All Federal, state and local laws governing these activities apply on project lands and waters, as regulated by authorized enforcement officials. Additional restrictions pertaining to these activities may be established by the District Engineer.***

## 327.9 Sanitation.

- (a) Garbage, trash, rubbish, litter, **gray water**, or any other waste material or waste liquid generated on the project and incidental to authorized recreational activities shall be either removed from the project or deposited in receptacles provided for that purpose. The improper disposal of such wastes, human and animal waste included, on the project is prohibited.
- (b) It is a violation to bring onto a project any household or commercial garbage, trash, rubbish, debris, dead animals or litter of any kind for disposal or dumping without the written permission of the District Engineer. ***For the purpose this regulation, the owner of any garbage, trash, rubbish, debris, dead animals or litter of any kind shall be presumed to be responsible for proper disposal. Such presumption will be sufficient to issue a citation for violation.***
- (c) The spilling, pumping or other discharge **or disposal** of contaminants, pollutants or other wastes, including, but not limited to, human or animal waste petroleum, industrial and commercial products and by-products, on project lands or into project waters is prohibited.
- (d) Campers, picnickers, and all other persons using a water resources development project shall keep their sites free of trash and litter during the period of occupancy and shall remove all personal equipment

and clean their sites upon departure.

(e) The discharge or placing of sewage, galley waste, garbage, refuse, or pollutants into the project waters from any vessel or watercraft is prohibited.

327.10 Fires.

(a) Gasoline and other fuels, except that which is contained in storage tanks of vehicles, vessels, camping equipment, or hand portable containers designed for such purpose, shall not be carried onto or stored on the project without written permission of the District Engineer.

(b) Fires shall be confined to those areas designated by the District Engineer, and shall be contained in fireplaces, grills, or other facilities designated for this purpose. Fires shall not be left unattended and must be completely extinguished prior to departure. The burning of materials that produce toxic fumes, including, but not limited to, tires, plastic, *styrofoam and other floatation materials* or treated wood products is prohibited. *The District Engineer may prohibit all open burning during periods of increased fire danger.*

(c) Improper disposal of lighted smoking materials, matches or other burning material is prohibited.

327.11 Control of Animals.

(a) No person shall bring or allow dogs, cats, or other pets into developed recreation areas *or adjacent waters* unless penned, caged, on a leash under six feet in length, or otherwise physically restrained. No person shall allow animals to impede or restrict otherwise full and free use of project lands and waters by the public. *Barking or other noise from pets which unreasonably disturbs persons is prohibited.* ~~All animals and pets are prohibited on swimming beaches.~~ Animals and pets, except properly trained animals assisting the handicapped *those with disabilities* (such as seeing-eye dogs), are prohibited in sanitary facilities, *playgrounds, swimming beaches* or other areas so designated by the District Engineer. *Abandonment of any animal on project lands or waters is prohibited.* ~~Such~~ Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws.

(b) Persons bringing or allowing pets in designated public use areas shall be responsible for proper removal and disposal, in sanitary facilities, of any waste produced by these animals.

(c) No person shall bring or allow horses, cattle, or other livestock in camping, picnicking, swimming or other recreation areas except in areas designated by the District Engineer.

(d) Ranging, grazing, watering or allowing livestock on project lands and waters is prohibited except when authorized by lease, license or other written agreement with the District Engineer.

(e) Unauthorized livestock are subject to impoundment and removal in accordance with Federal, state and local laws.

(f) Any animal impounded under the provisions of this section may be confined at a location designated by the District Engineer, who may assess a reasonable impoundment fee. This fee shall be paid before the impounded animal is returned to its owner(s).

(g) *Wild or exotic pets and animals (including but not limited to cougars, lions, bears, bobcats, wolves, and snakes), or any pets or animals displaying vicious or aggressive behavior, otherwise pose a threat to public safety, or are deemed a public nuisance, are prohibited from project lands and waters, and are subject to removal in accordance with Federal, state and local laws.*



## 327.12 Restrictions

- (a) The District Engineer may establish and post a schedule of visiting hours and/or restrictions on the public use of a project or portion of a project. The District Engineer may close or restrict the use of a project or portion of a project when necessitated by reason of public health, public safety, maintenance, **protection of natural resources** or other reasons in the public interest. Entering or using a project in a manner which is contrary to the schedule of visiting hours, closures or restrictions is prohibited.
- (b) Quiet shall be maintained in all public use areas between the hours of 10 p.m. and 6 a.m., or those hours designated by the District Engineer. Excessive noise during such times which unreasonably disturbs persons is prohibited.
- (c) Any act or conduct by any person which interferes with, impedes or disrupts the use of the project or impairs the safety of ~~another~~ **any** person is prohibited. Individuals who are boisterous, rowdy, disorderly, **lewd** or otherwise disturb the peace on project lands or waters may be requested to leave the project.
- (d) The operation or use of any ~~audio or other noise sound~~ producing device ~~including, but not limited to, radios, televisions, or musical instruments and~~ **or** motorized equipment, including **generators**, vessels or vehicles, in such a manner as to unreasonably annoy or endanger persons at any time or exceed state or local laws governing noise levels from motorized equipment is prohibited.
- (e) ***The possession and/or consumption of alcoholic beverages at any portion of the project land or waters, or the entire project, may be prohibited when designated and posted by the District Engineer.***

## 327.13 Explosives, Firearms, Other Weapons and Fireworks.

The possession of ~~loaded~~ firearms, ammunition, ~~loaded~~ projectile firing devices, bows and arrows, crossbows, ~~explosives or explosive devices of any kind, including fireworks,~~ **or other weapons** is prohibited unless: (1) in the possession of a Federal, state or local law enforcement officer; (2) being used for hunting or fishing as permitted under Section 327.8, with devices being unloaded when transported to, from or between hunting and fishing sites; (3) being used at authorized shooting ranges; or (4) written permission has been received from the District Engineer.

***(b) Possession of explosives or explosive devices of any kind, including fireworks or other pyrotechnics, is prohibited unless written permission has been received from the District Engineer.***

## 327.14 Public Property .

- (a) Destruction, injury, defacement, removal or any alteration of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, **paleontological resources, boundary monumentation or markers** and vegetative growth, is prohibited except when in accordance with written permission of the District Engineer.
- (b) Cutting or gathering of trees or parts of trees and/or the removal of wood from project lands is prohibited without written permission of the District Engineer.
- (c) Gathering of dead wood on the ground for use in designated recreation areas as firewood is permitted, **unless prohibited and posted by the District Engineer.**
- (d) ***The use of metal detectors is permitted on designated beaches or other previously disturbed areas unless prohibited by the District Engineer for reasons of protection of archaeological, historical or paleontological resources. Items found must be disposed of in accordance with Part 327.15 and Part***

**327.16.****327.15 Abandonment and Impoundment of Personal Property.**

(a) Personal property of any kind shall not be abandoned, stored or left unattended upon project lands or waters. After a period of 24 hours, or at any time after a posted closure hour in a public use area *or for the purpose of providing public safety or resource protection*, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the District Engineer, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.

(b) The District Engineer shall, by public or private sale or otherwise, dispose of all lost, abandoned or unclaimed personal property that comes into Government custody or control. However, property may not be disposed of until diligent effort has been made to find the owner, heirs, next of kin or legal representative(s). If the owner, heirs, next of kin or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at the last known address. When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay *in accordance with Title 41 CFR, Federal Property Management Regulation, Chapter 101, Sections 45.901 and 45.902*; except that if it has a fair market value of ~~\$25~~ **\$100** or more the property may not be disposed of until 90 days after the date it is received at the storage point designated by the District Engineer. The net proceeds from the sale of property shall be conveyed into the Treasury of the United States as miscellaneous receipts.

(c) Personal property placed on Federal lands or waters adjacent to a private residence, *facility* and/or developments of any private nature for more than 24 hours without permission of the District Engineer shall be presumed to have been abandoned and, unless proven otherwise, such presumption will be sufficient to *impound the property and/or* issue a citation as provided for in Section 327.25.

**327.16 Lost and Found Articles.** All articles found shall be deposited by the finder at the ~~Resource-Manager's~~ **Manager's** office or with a ranger. All such articles shall be disposed of in accordance with the procedures set forth in Section 327.15.

**327.17 Advertisement.**

Advertising by the use of billboards, signs, markers, audio devices, handbills, circulars, posters, or any other means whatsoever, is prohibited without written permission of the District Engineer. Vessels and vehicles with semipermanent or permanent painted or installed signs are exempt as long as they are used for authorized recreational activities and comply with all other rules and regulations pertaining to vessels and vehicles.

**327.18 Commercial Activities.**

The engaging in or solicitation of business *on project land or waters* without the express written permission of the District Engineer is prohibited.

**327.19 Permits.**

(a) It shall be a violation of these regulations to refuse to or fail to comply with the fee requirements or other terms or conditions of any permit issued under the provisions of ~~this~~ **Title 36** Part 327.

(b) Permits for floating structures (issued under the authority of Section 327.30) of any kind on/in waters of water resource development projects, whether or not such waters are deemed navigable waters of the



United States but where such waters are under the management of the Corps of Engineers, shall be issued at the discretion of the District Engineer under the authority of this regulation. District Engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the appropriate ~~Resource Manager's~~ **Manager's** office.

(c) Permits for non-floating structures (issued under the authority of Section 327.30) of any kind constructed, placed in or affecting waters of water resources development projects where such waters are deemed navigable water of the U.S. shall be issued under the provisions of Section 10 of the Act approved March 3, 1899 (33 USC 403). If a discharge of dredged or fill material in these waters is involved, a permit is required under Section 404 of the Clean Water Act (33 USC 1344). (See 33 CFR Parts 320-330.)

(d) Permits for non-floating structures (issued under the authority of Section 327.30) of any kind in waters of water resources development projects, where such waters are under the management of the Corps of Engineers and where such waters are not deemed navigable waters of the United States shall be issued as set forth in paragraph (b) of this section. If a discharge of dredged or fill material into any water of the United States is involved, a permit is required under Section 404 of the Clean Water Act (33 USC 1344) (See CFR Parts 320-330). Certification may be required pursuant to Section 401 of the Clean Water Act (33 USC 1341).

#### 327.20 Unauthorized Structures.

The construction, placement, ~~or~~ existence **or use** of any structure (including, but not limited to, roads, trails, signs, **hunting stands or blinds, buoys** or landscape features) of any kind under, upon, in or over the project lands or waters is prohibited unless a permit, lease, license or other appropriate written agreement has been issued by the District Engineer. The design, construction, placement, existence or use of structures in violation of the terms of the permit, lease, license or other written agreement is prohibited. The government shall not be liable for the loss of, or damage to, any private structures, whether authorized or not, placed on project lands or waters. Unauthorized structures are subject to summary removal or impoundment by the District Engineer.

#### 327.21 Special Events.

(a) Special events including, but not limited to, water carnivals, boat regattas, **fishing tournaments**, music festivals, dramatic presentations or other special recreation programs are prohibited unless written permission has been granted by the District Engineer. An appropriate fee may be charged under the authority of Section 327.23.

(b) The public shall not be charged any fee by the sponsor of such event unless the District Engineer has approved in writing (and the sponsor has properly posted) the proposed schedule of fees. The District Engineer shall have authority to revoke permission and require removal of any equipment upon failure of the sponsor to comply with terms and conditions of the permit/permission or the regulations in this Part 327.

#### 327.22 Unauthorized Occupation.

(a) Occupying any lands, buildings, vessels or other facilities within water resource development projects for the purpose of maintaining same as a full- or part-time residence without the written permission of the District Engineer is prohibited. The provisions of this section shall not apply to the occupation of lands for the purpose of camping, in accordance with the provisions of Section 327.7.

(b) Use of project lands or waters for agricultural purposes is prohibited except when in compliance with terms and conditions authorized by lease, license or other written agreement issued by the District Engineer.

#### 327.23 Recreation Use Fees.

(a) In accordance with ***the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, and*** 16 USC 460l, the Corps of Engineers ~~is required to~~ collects ***day use fees***, special recreation use fees and/or special permit fees for the use of specialized sites, facilities, equipment or services related to outdoor recreation furnished at Federal expense.

(b) All use fees shall be fair and equitable and will be based on the ~~following~~ criteria ~~(as contained in ***the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, and*** the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended)~~:

~~(1) The direct and indirect amount of Federal expenditure~~

~~(2) The benefit to the recipient.~~

~~(3) The public policy or interest served~~

~~(4) The comparable recreation fees charged by other Federal and non-Federal public agencies and the private sector within the service area of the management unit at which the fee is charged.~~

~~(5) The economic and administrative feasibility of fee collection.~~

~~(6) The extent of regular maintenance required.~~

~~(7) Other pertinent factors.~~

~~Based upon the above criteria, it~~ ***It*** shall be the policy of the Chief of Engineers to publish in the FEDERAL REGISTER, as a general notice document, the established range of fees for ***day use***, specialized sites, facilities, equipment or services whenever such fees are adjusted.

(c) Where such fees are charged, the District Engineer shall insure that clear notice of fee requirements is prominently posted at each area, and at appropriate locations therein and that the notice be included in publications distributed at such areas. Failure to pay authorized recreation use fees as established pursuant to Public Law 88-578, 78 Stat. 897, as amended (16 USC 460l-6a), is prohibited and is punishable by a fine of not more than \$100.

***(d) Failure to pay authorized day user fees, and prominently display applicable receipt, permit or pass is prohibited.***

~~(d e)~~ Any Golden Age or Golden Access Passport permittee shall be entitled, upon presentation of such a permit, to utilize special recreation facilities at a rate of 50 percent off the established use fee at Federally operated areas. ***Fraudulent use of a Golden Age or Golden Access Passport is prohibited.***

~~(e) At each Corps lake or reservoir where camping is permitted, the District Engineer will provide at least one primitive campground, containing designated campsites, sanitary facilities and vehicular access, where no fees will be charged.~~

327.24 Interference with Government Employees.

(a) It is a Federal crime pursuant to the provisions of Sections 1114 and 111 of Title 18, United States Code, to forcibly assault, resist, oppose, impede, intimidate, or interfere with, ***attempt to kill or kill*** any civilian official or employee for the U.S. Army Corps of Engineers engaged in the performance of his or her official duties, or on account of the performance of his or her official duties. Such actions or interference directed against a Federal employee while carrying out these regulations are also a violation of these



regulations and may be a state crime pursuant to the laws of the state where they occur.

(b) Failure to comply with a lawful order issued by a Federal employee acting pursuant to these regulations shall be considered as interference with that employee while engaged in the performance of their official duties. Such interference with a Federal employee includes failure to provide a correct name, address or other ***information deemed necessary*** for identification upon request of the Federal employee, when that employee is authorized by the District Engineer to issue citations in the performance of the employee's official duties.

#### 327.25 Violations of Rules and Regulations.

(a) Any person who violates the provisions of these regulations, other than for a failure to pay authorized recreation use fees as separately provided for in Section 327.23, may be punished by a fine of not more than ~~\$500~~ **\$5,000** or imprisonment for not more than six months or both and may be tried and sentenced in accordance with the provisions of Section 3401 of Title 18, United States Code. Persons designated by the District Engineer shall have the authority to issue a citation for violation of these regulations, requiring the appearance of any person charged with the violation to appear before the United States Magistrate within whose jurisdiction the affected water resources development project is located (16 USC 460d).

(b) Any person who commits an act against any official or employee of the U.S. Army Corps of Engineers that is a crime under the provisions of Section 1114 or Section 111 of Title 18, United States Code or under provisions of pertinent state law may be tried and sentenced as further provided in Federal or state law, as the case may be.

#### 327.26 State and Local Laws.

Except as otherwise provided herein or by Federal law or regulation, state and local laws and ordinances shall apply on project lands and waters. This includes, but is not limited to, state and local laws and ordinances governing:

- (a) Operation and use of motor vehicles, vessels, and aircraft;
- (b) Hunting, fishing and trapping;
- (c) Use of firearms or other weapons;
- (d) Civil disobedience and criminal acts; and,
- (e) Littering, sanitation and pollution.

***(f) Alcohol or other controlled substances.***

THESE STATE AND LOCAL LAWS AND ORDINANCES ARE ENFORCED BY THOSE STATE AND LOCAL ENFORCEMENT AGENCIES ESTABLISHED AND AUTHORIZED FOR THAT PURPOSE.

327.27 (Reserved).

327.28 (Reserved).

327.29 (Reserved).

327.30 Lakeshore Management on Civil Works Projects.

(a) Purpose. The purpose of this regulation is to provide policy and guidance on the protection of desirable environmental characteristics of Civil Works lake projects and restoration of shorelines where degradation has occurred through private exclusive use.

(A complete copy of Section 327.30 is available at the ~~Resource Manager's~~ **Manager's** Office, District Office, Division Office or from HQUSACE-CECW-ON, Wash., D.C. 20314-1000)

A violation of the provisions of this regulation shall subject the violator to a fine of not more than ~~\$500.00~~ **\$5,000.00** or imprisonment for not more than 6 months, or both.

THIS REVISION SUPERSEDES EP 1165-2-316, JAN 1986.



Title 36 Code of Federal Regulations

FORWARD

The following rules and regulations, published in the Federal Register of September 3, 1985, govern the public use of water resources development projects administered by the Chief of Engineers. Visitors are bound by these Title 36 regulations.

~~ARTHUR E. WILLIAMS~~  
Colonel, Corps of Engineers  
Executive Director, Engineer Staff





SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	327.0 Applicability.											
SWL	<p><b>Move paragraph 327.1(c). to 327.0(b). To better clarify the applicability of T36 to the pools of the navigation systems.</b></p> <p><b>{Do not see any real clarification - difficult to see value in moving text. Appears to be semantic only.}</b></p>							XX			X X	
	The regulations covered in this Part 327 shall be applicable to water resources development projects, completed or under construction, administered by the Chief of Engineers, and to those portions of jointly administered water resources development projects which are under the administrative jurisdiction of the Chief of Engineers. ALL OTHER FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS REMAIN IN FULL FORCE AND EFFECT WHERE APPLICABLE TO THOSE WATER RESOURCES DEVELOPMENT PROJECTS.											
	327.1 Policy.											
SWT	<p><b>A new section should be added stating "The parent or legal guardian of any juvenile violating regulations herein shall be considered responsible for the actions of the juvenile, and may be issued a citation for the violation committed.</b></p> <p><b>{Juveniles are becoming an increasing problem, and magistrates typically will not hear juvenile cases of a non-violent nature. However, this proposal raises Constitutional issues. We have no legal authority at this time to propose or enforce such a regulation.}</b></p>										X X	
	(a) 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.											

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	(b) Unless otherwise indicated herein, the term "District Engineer" shall include the authorized representatives of the District Engineer.											
	(c) The term "project" or "water resources development project" refers to the water areas of any water resources development project administered by the Chief of Engineers, without regard to ownership of underlying land, to all lands owned in fee by the Federal Government and to all facilities therein or thereon of any such water resources development project.											
CENWO-OD-TN	<b>Regarding facilities, does this apply to all facilities on project lands or just facilities owned by the Federal Government? For instance, concession facilities are owned by private individuals but are on project lands and waters.</b>  <b>{Per Real Estate: T36 does now apply if they are violating specifics of the code. We can cite for illegal camping, fires, destruction, etc on Corps land under lease when needed, We do not manage them through T36, but can enforce when necessary.}</b>											
	(d) All water resources development projects open for public use shall be available to the public without regard to sex, race, color, creed, age, nationality or place or origin. No lessee, licensee, or concessionaire providing a service to the public shall discriminate against any person because of sex, race, creed, color, age, nationality or place or origin in the conduct of the operations under the lease, license or concession contract.											
CEMVN	<b>All water resource development projects open for public use shall be available to the public without regard to sex,</b>									X X		



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	<p>race, color, creed, age, nationality, place of origin or handicap.</p> <p>{"Disability" is the preferred term. Adopt as modified.}</p>											
NAP	<p>second sentence. Add the word "disability" after the word "age" so as to read: "No lessee, licensee, or concessionaire providing a service to the public shall discriminate against any person because of sex, race, creed, color, age, disability, nationality or place of origin in the conduct of the operations under the lease, license or concession contract."</p> <p>{Adopt as modified.}</p>									X X		
LRD	<p>This paragraph should include persons with physical and developmental disabilities among those protected from discrimination and both contractors and volunteers should be listed among those who shall not discriminate.</p> <p>{Already included in contracts, should be in volunteer agreements as well.}</p>									X X		
CENWK-CO-TR	<p>Add "permittee" to the list of those who shall not discriminate.</p> <p>{Already covered under special event permits - no need to add to T36. Can cite under 327.19.}</p>										X X	
	(e) In addition to the regulations in this Part 327, all applicable Federal, state and local laws and regulations remain in full force and effect on project lands or waters which are outgranted by the District Engineer by lease, license or other written agreement.											
SWL	Should be reworded to read: "In addition to the regulations in this Part 327, all applicable Federal, state, and local laws and regulations remain in full force and effect on project lands and waters, including those lands and waters, which are outgranted by the District Engineer by lease, license, or other written agreement."							XX			X X	

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	{Already covered under 327.0, Applicability, emphasized with all capital letters, and also under 327.1(c). While addition might clarify somewhat, it would be repetitive.}											
	(f) The regulations in this Part 327 shall be deemed to apply to those lands and waters which are subject to treaties and Federal laws and regulations concerning the rights of Indian Nations and which lands and waters are incorporated, in whole or in part, within water resources development projects administered by the Chief of Engineers, to the extent that the regulations in this Part 327 are not inconsistent with such treaties and Federal laws and regulations.											
	(g) Any violation of any section of this Part 327 shall constitute a separate violation for each calendar day in which it occurs.											
SAD	Add a new sentence to read - "Furthermore, individuals responsible for separate and distinguishable acts prohibited in this regulation may be cited for each act, regardless of its time in relation to another like or similar prohibited act."  {See below}										X X	
LRD	Suggest adding the following statement, "Furthermore, individuals responsible for separate and distinguishable acts prohibited in this regulation may be cited for each act, regardless of its time frame to another like or similar prohibited act.  {Existing reg. Intended to cover illegal grazing, illegal occupancy type violations, where each day constitutes a separate violation. Adding to this tends to compromise the intent of the "each calendar day" verbiage, creating other problems. It is true magistrates may tend to dismiss duplicate tickets, however, issuing duplicate tickets appears to be an infrequent occurrence, and it										X X	



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	<b>works in some regions. If such an incorrigible person is in the park, rangers should probably get law enforcement help to have the person(s) removed from the park, rather than risk escalating the situation, possibly placing the ranger at risk.}</b>											
	(h) For the purposes of this Part 327, the owner of any unattended vehicle, vessel or aircraft as described herein shall be presumed to be responsible for its use on project property. Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to the use of such vehicle, vessel or aircraft as provided for in Section 327.25, Violations of Rules and Regulations.											
CEMVK	<b>If it is legally possible, remove the word "unattended" from this clause. As written, the owner is only responsible for "unattended" vehicles. Unauthorized operation of a vehicle (in a reckless manner, off roadways, etc.) is an enforcement problem; on rare occasions, a ranger happens upon a violation as it occurs or shortly thereafter and can obtain a license plate number. A citation may be issued; however, unless a ranger can prove who was driving a vehicle, this "unattended" aspect introduces a loophole as it only applies to parked vehicles in interpretation of most magistrates. Consequently, even if we discover the owner of the vehicle through the registration, no conviction is made due to absence of a positively identifiable operator.</b>  <b>{Adopt as modified - see below.}</b>					+				X X		
CENWK-CO-TR	<b>Delete the word "unattended". Sometimes no one in a group with a vehicle will claim it when it is involved in a disciplinary action. However, it is attended. Technically, we cannot cite the registered owner.</b>  <b>{Agree - modification can also cover situations where a violation occurs, several people are around the vehicle, and none will claim to be the operator. The owner could then be held responsible, whether the vehicle is attended or not.}</b>					+				X X		

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	<p>Suggested modification, 327.1(h).  For the purpose of this Part 327, the <del>owner</del> operator of any <del>unattended</del> vehicle, vessel or aircraft as described herein shall be presumed to be responsible for its use on project property. <i>In the event where an operator cannot be determined, the owner of the vehicle, vessel or aircraft, whether attended or unattended, will be presumed responsible.</i> Unless proven otherwise, such presumption shall..."</p>											
LRD	<p>SEC. 327.1 (I) Policy (add this item) - Suggest adding the following section (I), "Corps personnel authorized by the District Engineer may stop and/or temporarily detain individuals for the purpose of identifying them, determining their compliance with regulations in this Part 327, and for issuing appropriate warnings, citations, and lawful orders".</p> <p>{While many desire this authority, the reality is that under current administration, rangers, by design, do not have the authority to detain. Authority to detain indicates you have authority to back up that demand, which means the ability to arrest. This would require certified peace officer authority. This is not likely to happen, and attempting to add it to T36 will not pass. "Asking" someone to remain while checking out the details is different from the authority sought in this suggestion.}</p>			XX	XX	?			XX		X X	
CEMVROD-T	<p>327.1 (I) – Add this section: "For the purposes of this part 327, the registered user of a campsite, picnic area or other facility shall be presumed responsible for its use. Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to the use of such facilities as provided for in Section 327.25, Violation of Rules and Regulations." This would place the responsibility for use of the facility on the registered camper or the person who reserved the picnic shelter and give us more control over vandalism and rowdiness at these sites.</p>					+				X X		

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	<p>{ Agreed would be a significant assistance to enforcement without creating safety issues. Legal application may differ from privately owned vehicles (327.1(h)) where this was lifted. Adopt as suggested, add as new subsection, 327.1(I).</p> <p>Suggested new 327.1(i): (I) – Add this section: "For the purposes of this part 327, the registered user of a campsite, picnic area or other facility shall be presumed responsible for its use. Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to the use of such facilities as provided for in Section 327.25, Violation of Rules and Regulations."</p>											
	327.2 Vehicles.											
CEMVK	<p>There is a growing problem with the public operating minibikes, motorcycles, and ATV's on Government property without wearing suitable safety headgear. Although state laws exist in some locations which require headgear, they are often inadequately enforced by local and state law enforcement agencies on Government lands due to priorities and limited resources. Suggest this article be revised to require that the operator and all passengers wear the reference headgear while operating such vehicles on Government land.</p> <p>{Unlike PFD's (327.3(e)), where specific regulations are cited granting us authority, we do not specify safety gear required except under lease or special event agreements, or perhaps posted in designated areas. In areas where a significant problem exists, it should be covered under posted restrictions. We do not have authority to enforce local laws and regs.}</p>						XX				X X	
	(a) This section pertains to all vehicles, including, but not limited to, automobiles, trucks, motorcycles, mini-bikes, snowmobiles, dune buggies, all-terrain vehicles and trailers,											



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	campers, bicycles or any other such equipment.											
CEMVK	<p>Add the term <u>all terrain cycles</u> to the list of vehicles in this section.</p> <p>{Not a widely recognized term, already covered by ATV phrase.}</p>							XX			X X	
SAD	<p>Add "golf carts, mopeds, skateboards, roller skates, in-line skates" to the list of vehicles to which this section pertains.</p> <p>{See below. Golf carts and mopeds can be street-legal in some states.}</p>										X X	
SPA	<p>Need to include a broader definition so that anything ridden without regard to the power source, ie., "4-wheelers; mopeds; electric cars, carts; solar equipment; etc.</p> <p>{Covered under "any other such equipment."}</p>										X X	
LRD	<p>The words, "skateboards, roller skates, roller blades, and horse drawn equipment" should be added to the list of things covered by this section.</p> <p>{Much discussed issue, Conclusion is skates &amp; skateboards do not fall under the typical definition of a vehicle, and difficulties arise attempting to address them here. Not aware of any jurisdictions that consider skates to be vehicles. (Bicycles are recognized as legitimate vehicles.) Naming "skates or skateboards" may change in several years as the technology changes. May also have problems restricting a legitimate recreation format within the confines of T36. Possibly the best approach would be to address under 327.12, Posted Restriction, in areas where significant problems exists.</p> <p>Horse drawn equipment is considered a legal vehicle in some areas (such as Amish), DE has authority to authorize these in certain areas as necessary. Would appear that livestock regs would be adequate to handle most other</p>										X X	

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	instances. May be some other concerns we are not aware of.}											
	(b) Vehicles shall not be parked in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, project property or environmental feature. Vehicles so parked are subject to removal and impoundment at the owner's expense.											
SAD	<p>Replace the phrase "...endanger any person, project property or environmental..." with "...endanger any property or person, or environmental..." This will be consistent with wording in Section 327.3(d).</p> <p>{A question arises as to how a vehicle parked on Corps property can endanger private property. Endangering a person by how the vehicle is parked is covered. If grass, shrubs, etc. on Corps land are endangered by parked vehicles, it could be handled by locally posted restrictions. However, it is intended to make 2(b), 2(e), 3(d) and 4(c) as consistent as possible. See additional rationale under those subsections.}</p>									X X		
NAB	<p>ADD - "Parking is permitted only in designated areas. Vehicles will be parked in such a manner as to only occupy one designated space". (cont)</p> <p>{Adding "designated areas only" would likely be too restrictive, especially rural areas. 2(b) already includes power to cite vehicles impeding traffic (roadside parking) and impede/obstruct parking of other vehicles (parking lot, taking four spaces). The problem can be handled with existing reg.}</p> <p>Add Section - "Persons involved in vehicle accidents occurring on Corps property and resulting in personal injury or damage to private or Government property will report same to the Park Manager within 24 hours. (cont)</p>										X X	

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	<p>{While we would like to know this info, how could we make it known to the public, and how would we enforce it? Even with law enforcement contracts, there is no possible way to determine if all incidents are reported. Impossible to enforce.}</p> <p>Add Section - "No vehicle operator shall allow a person to ride in a towed trailer (boat or camper) (cont)</p> <p>{Covered under 2(e).}</p> <p>Add Section - "No person shall leave a motor vehicle unattended with the motor running". This presents a clear and present danger to those around the vehicle.</p> <p>{Noise, noxious fumes can be handled under other sections. Not a widespread problem.}</p> <p>Add Section - "No person shall leave a vehicle unattended when occupied only by a child or children under 10 years of age. (cont)</p> <p>{Did not receive all of this suggestion-assume "use of reasonable means," trying to clarify how far we can go to effect a rescue. Lack of law enforcement support is problem in rural areas. Does not always create immediate danger. T36 probably not best vehicle for addressing.} Pets? Can they be covered?</p> <p>fct</p>					XX					X X	
LRD	SEC 327.2 (b) Vehicles and (e) - Remove the word "project" from the sentence and replace with "any/all property", as shown in the Vessels Section 327.3 (d). {See modification}									X X		
SWF	"Vehicles shall not be parked . . . or the parking of other vehicles, to create a safety hazard, or to endanger any											



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	<p>person, project property or environmental feature. Vehicles so parked are subject to citation and/or removal and impoundment at the owner's expense."</p> <p>The twice-added "to" seems to be a grammatical necessity. The added phrase concerning citations clarifies that removal is not the only enforcement option for illegally parked vehicles.</p> <p>{Examined by English major - second "to" not necessary, don't see any improvement by adding. As per citations, the whole purpose of T36 is authority to issue citations-covered already.}</p>										X X	
CENWK-CO-TR	Change the phrase "project property" to "any property" as in .3(d) and .3(g).									X X		
CENWK-CO-TR	<p>Should read "removal and impoundment" to conform with .11(a).</p> <p>{327.11(a) references state &amp; local laws, while Corps has their own restrictions concerning parking-state/local not apply, as they would under 11(a).}</p>										X X	
CENWO-OD-TN	<p>Recommend adding some language stating that parking in a handicap space requires a handicap permit to be displayed.</p> <p>{Use of a handicap parking space requires display of a valid permit. It is a violation to fail to display the permit when parking in a handicap spot. Existing reg covers.}</p> <p>Change (b) and (d) to be consistent - one has "regulations," other has "restrictions." {Agree}</p> <p>Suggested modification, 327.2(b):</p> <p>(b) Vehicles shall not be parked in violation of posted restrictions <i>and regulations</i>, or in such a manner as to obstruct or impede normal or emergency traffic movement</p>									X X	X X	

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	or the parking of other vehicles, create a safety hazard, or endanger any person, <del>project</del> property or environmental feature. Vehicles so parked are subject to removal and impoundment at the owner's expense.											
	(c) The operation and/or parking of a vehicle off authorized roadways is prohibited except at locations and times designated by the District Engineer. Taking any vehicle through, around or beyond a restrictive sign, recognizable barricade, fence or traffic control barrier is prohibited.											
SAD	Add a sentence or insert a new paragraph which restricts vehicles and ATVs from driving on the shoreline and on Government property unless written permission has been obtained from the District Engineer.  {Don't see where suggested change is any different from existing regulation.}										X X	
NAB	Add - "Parking off roadway" - in second sentence.  {Already covered in first sentence. No need to repeat.}										X X	
SPA	Need to add wording that would include "berms," "rock barriers," Some 4-Wheeler's just do not understand "authorized roadways."  { "Berms" and "rock barriers" are not widely understood terms, not present at many projects. Existing reg is actually specific enough.}										X X	
LRD	Suggest that wording be added which would allow Corps Rangers to enforce prohibitions on the use of off-road vehicles on project roads where such prohibitions exist - current paragraph only allows enforcement by authorized law enforcement officials. The following wording is suggested, "Operation of vehicles on public roadways requires a licensed vehicle and a licensed operator. Vehicles not licensed.			XX						X X		

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	{ We again face a state law (licensed vehicle/operators) where we have been given no authority. Only if the specific restriction is physically posted as per this reg, can we actually enforce. If a sign prohibiting ATV's on park roads is present, we can enforce. We have no authority to determine the legality of a vehicle or operator. We may not like it, but we have to live with it at this time. Under 24(b) we have authority to request proper ID, but we have not been allowed to request ID to prove legality, such as a drivers license. As more and more licenses are required (PWC, Hunter Ed, etc), it is possible we may one day need authority to request to see them. This authority would have to be granted prior to incorporation into T36.}											
POD	Strike "authorized" from the first sentence. Change the second sentence to read "Motorized entry onto any part of a Corps project other than via an open, public roadway is prohibited."  {Seems covered under existing reg. Don't see how this would improve the reg, could confuse what constitutes a roadway.}										X X	
	(d) Vehicles shall be operated only in accordance with posted regulations and applicable Federal, state and local laws, which shall be enforced by authorized enforcement officials.											
CENWK-CO-TR	Replace the word "regulations" with "restrictions", to conform with language in .2(b).  {Change both 2(b) and 2(d) to "restrictions and regulations."}									X X		
SWT	The following sentence should be added: "Vehicles operated in park areas shall be only those which can be legally operated on public roadways in accordance with state law."  {Wanted to adopt, but still face the lack of authority to enforce. We do not have authority to determine what			XX							X X	



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	is/is not a street-legal vehicle. }											
SWL	<p>Should be revised and clarified by adding the words (Federal, state, county, or city) after the phrase "authorized enforcement officials."</p> <p>{Unnecessary - already covered.}</p> <p>Suggested modification, 327.2(d): (d) Vehicles shall be operated only in accordance with posted <i>restrictions and</i> regulations and applicable Federal, state and local laws, which shall be enforced by authorized enforcement officials.</p>									X X		
	(e) No person shall operate any vehicle in a careless, negligent or reckless manner so as to endanger any person, project property or environmental feature.											
CEMVK	<p>This article should be revised as follows: "No person shall operate any vehicle in an <u>unsafe</u>, careless, negligent, or reckless manner as to endanger any person, <u>personal property</u>, project property or environmental feature."</p> <p>{Same situation with private vs project property. Negligent: disregard, take no care of. Careless seems to be contained in negligent. Careless: disregard for liking, no charge, no oversight. Reckless: heedless, careless. Unsafe: endanger, involving risk, not cautious, untrustworthy. Legal needs to define difference. "Unsafe" is understood by each of the three terms.}</p>											
SAD	Replace the phrase "...endanger any person, project property or environmental..." with "...endanger any property or person, or environmental..." This will be consistent with wording in Section 327.3(d).									X X		
NAP	change to read: No person shall operate any vehicle in a careless negligent or reckless manner so as to endanger any property or person (including the operator and/or occupants) or any environmental feature. RATIONALE: Previous court hearings of violators charged under this							XX			X X	

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	<p>section for reckless operation of a vehicle have argued before a judge that their actions were not a threat to anyone because there were no park visitors nearby whom they could endanger. In so arguing, they gave no thought to the safety of other occupants in their vehicle.</p> <p>{Existing already lists "any person," which should include passengers. Apparently, negligent and reckless are hard to prove in court -careless should be used most.}</p>											
NAB	<p>Add - Operator/user as in 327.3(d)</p> <p>{see above}</p>							XX			X X	
CENWK-CO-TR	<p>Change the phrase "project property" to "any property" as in .3(d) and .3(g).</p> <p>{The intent of T36 is a focus on safety and resource protection. We are not in the business of protecting personal property. The intent of this subsection, however, is to control <i>operation</i> of vehicles, regardless of what is endangered by that act of operation. Since "all property" has been covered under vessels and aircraft for years, making this change should not change our liability or authority, but would allow rangers greater discretion in handling legitimate vehicle operation risks.</p>									X X		
SWL	<p>This section should state "any person including the operator" to make it consistent with similar verbiage in 327.3(d). under vessels.</p> <p>{see above}</p> <p>Suggested modification 327.2(e): (e) No person shall operate any vehicle in a careless, negligent or reckless manner so as to endanger any person, <del>project</del> property or environmental feature.</p>							XX			X X	
	(f) At developed recreation areas, vehicles shall be used only to enter or leave the area or individual sites or facilities unless											

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	otherwise posted.											
CENWK-CO-TR	<p>Delete in entirety.</p> <p>{Field input indicates this is needed in a number of areas to deal with cruising, unauthorized gatherings, etc.}</p>										X X	
CENWO-OD-TN	<p>The intent of this section is unclear; it either needs to be worded better or removed. If kept, and applicable to all recreation areas, suggest changing the word "developed" to "designated."</p> <p>{The term designated allows more flexibility to restrict over primitive camping, designated but undeveloped park areas, etc. Adopt, see modification below.}</p>									X X		
SWL	<p>Should be expanded to specifically prohibit joy riding, cruising, etc. and to provide for expulsion from the project.</p> <p>{Cruising and joyriding are "slang," not legally recognized terms in magistrate courts. Best mod to date below:</p> <p>Suggested modification, 327.2(f): At <del>developed</del> <i>designated</i> recreation areas, vehicles shall be used only to enter or leave the area or individual sites or facilities unless otherwise posted. <i>Repetitive entry and exit is prohibited.</i></p>							XX		X X		
	(g) Except as authorized by the District Engineer, no person shall operate any motorized vehicle without a proper and effective exhaust muffler as defined by state and local laws, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.											
SAD	<p>Delete the phrase "...as defined by state and local laws,..."</p> <p>This still provides a means to deal with excessive muffler noise from vehicles or vessels without the predicament of having to know and/or "enforce" state and local laws in this regard.</p>										X X	



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	{Can really only enforce with a decibel meter or other such device. However, some areas may be able to enforce, or at least run a bluff. To remove the state and local laws would remove any standards that exist. For real problems, may need to borrow decibel meter from law enforcement agency. Leave as is.}											
SWL	Section 327.2(h). Operation of skate boards, roller blades, go carts, kiddie electric carts, all terrain vehicles (ATVs), golf carts, dirt bikes, and other vehicles not designed and intended for legal road use is prohibited in parks.  {Too restrictive-some less densely used parks may not have problems with such operation. Allow local control, posting to designated areas only.}										X X	
CENWK-CO-TR	Delete in entirety.  {Some may be able to enforce, leave the ability to do so.}										X X	
	327.3 Vessels.											
CEMVK	There is a growing problem with the public operating boats in an unsafe manner. One example is the pulling of a skier without an observer on board the boat (i.e., the boat operator is the observer). There are state laws concerning this in some cases but they are inadequately enforced. Suggest the referenced article require the presence of separate observers in these boats. This would include a boat pulling a skier, surfboard, floats, tow ropes, or similar device capable of carrying a person.  {Regulations vary from state to state (some require observer, some allow no observer if a mirror is present). No one reg can cover all under our authority. Current reg is adequate. }										X X	
NAB	Add Section - "Vessels using project waters for overnight occupancy shall be equipped with factory installed, Coast			XX							X X	

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	<p>Guard approved sanitation systems." This has become a greater problem at Raystown Lake and probably at other projects. By making this a requirement, the problem of illegal discharge of waste can be eliminated or reduced.</p> <p>{Would change Ranger role to one of "head inspector." States already monitoring, we do have authority under 9(c).}</p>											
LRD	<p>Suggest that a subsection be added which prohibits the operation of a vessel from sunset to sunrise while it is pulling a skier, or any other type of ski or aquaplane type device. Boaters should also not be permitted to pull such devices through designated areas such as "No Wake Zones" and areas of heavy traffic congestion such as launch ramps, bridges, or railroad trestles.</p> <p>{State laws vary, in most these are already covered. Local posted restrictions can handle most exceptions. PWC regs are in a state of flux, getting more specific in T36 would likely be self-defeating down the road.}</p>							XX			X X	
	(a) This section pertains to all vessels or watercraft, including, but not limited to, powerboats, cruisers, houseboats, sailboats, rowboats, canoes, kayaks, jetskis and any other such equipment capable of navigation on water, whether in motion or at rest.											
CEMVROD-T	Add "personal watercraft" to the list of vessels.									X X		
MVP	<p>The reference to "jetskis" needs to be changed to "personal watercraft." Jetskis is a brand/model name.</p> <p>{Agree to replace "jetski" with "personal watercraft."}</p>									X X		
CEMVK	<p>The separate section to address operation and safety for personal water craft should be added under the vessels section.</p> <p>{Not needed. Would have to duplicate much of what is</p>										X X	

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	already in vessels section, would require new forfeiture schedule, would not account for state variations. Existing regs adequate, as they are vessels.}											
SAD	Revise to read - "personal or jet-propelled watercraft" in lieu of "jetskis" which is a trade name.									X X		
NAP	change the word "jetskis" to "personal watercraft." Also, add the words "or ice" after the word "water" so as to read "capable of navigation on water or ice whether in motion or at rest." RATIONALE: the term "personal watercraft" is more encompassing of the variety of vessels on the market today. Adding the word "ice" will enable enforcement of applicable regulations for winter usage of lakes by iceboats.  {Agree on "jetski" issue. Not sure T36 is appropriate vehicle to address iceboats, which appear to be geographically limited.}									X X jet sk i	X X ice bo at	
SPA	that windsurfers be named and included in all aspects of vessels. {Coast Guard does not classify sailboards as vessels (that's why they don't have to wear PFD's while in use), difficult to address under vessel section. }										X X	
LRD	Add the words Personal Water Craft of PWC since this is the common language now used - eliminate the term "jetski". {Agree}									X X		
SPD	"jetski" is a brand name. Change to "personal watercraft". {Agree}									X X		
SWF	Replace "jetskis" with "personal watercraft." This is the correct industry term. {Agree}									X X		
CENWK-CO-TR	Add "...personal watercraft...". {Agree}  Suggested modification, 327.3(a): (a) This section pertains to all vessels or watercraft,									X X		



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	<b>including, but not limited to, powerboats, cruisers, houseboats, sailboats, rowboats, canoes, kayaks, jetskis, personal watercraft and any other such equipment capable of navigation on water, whether in motion or at rest.</b>											
	(b) The placement and/or operation of any vessel or watercraft for a fee or profit upon project waters or lands is prohibited except as authorized by permit, lease, license, or concession contract with the Department of the Army. This paragraph (327.3(b)) shall not apply to the operation of commercial tows or passenger carrying vessels not based at a Corps project which utilize project waters as a link in continuous transit over navigable waters of the United States.											
<b>LRD</b>	<b>Add marine sanitation devices into the Vessels Section.</b>  {Covered in 9(c). Again, adding this would make us boat inspectors. We are authorized to check only for safety gear at this time. Outside our role. Many boats have heads, people still choose to dump in lake when unobserved. Requiring proper equipment does not guarantee proper use. Boarding enclosed boats for inspections could endanger rangers in some instances.}			XX	XX more risk						X X	
	(c) Vessels or other watercraft may be operated on the project waters, except in prohibited or restricted areas, in accordance with posted regulations, including buoys, and applicable Federal, state and local laws, as regulated by authorized enforcement officials. All vessels or watercraft so required by applicable Federal, state and local laws shall display an appropriate registration on board whenever the vessel is operated on project waters.											
<b>NAP</b>	<b>last sentence, add the word "placed" so as to read: All vessels or watercraft so required by applicable Federal, state and local laws shall display an appropriate registration on board whenever the vessel is placed and/or operated on project waters. RATIONALE: violators of registration requirements are often caught while sitting in their vessels along the shoreline. When approached about the violation they claim that they were not operating</b>											

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	<p>their vessel at the time, thus using this loophole to avoid a citation.</p> <p>{Better solution, delete "operating." Eliminates questions about operating, placing, etc. If it's there, its covered.}</p> <p>Suggested modification, 327.3(c): (c) Vessels or other watercraft may be operated on the project waters, except in prohibited or restricted areas, in accordance with posted regulations, including buoys, and applicable Federal, state and local laws, as regulated by authorized enforcement officials. All vessels or watercraft so required by applicable Federal, state and local laws shall display an appropriate registration on board whenever the vessel is <del>operated</del> on project waters.</p>											
LRD	<p>Add, "Vessels shall not be tied off or permanently anchored to structures such as the lock, dam, buoys or other structures unless authorized for lockage, etc.".</p> <p>{Neither 3(c) nor 3(h). address vessels mooring to buoys, dams, etc. 1st half of 3(h). may not be adequate, as seldom are signs posted anywhere near buoys. Address at 3(h). This would then address mooring both boats in use and not in use.}</p> <p>The phrase, "as regulated by authorized enforcement officials," needs clarification. Does this phrase imply that because Corps of Engineer projects are located throughout the United States and that state boating (fish and game laws) vary from state to state, that Corps rangers are to enforce boating and fish &amp; game laws and regulations in the same manner as the states; or, are these laws and regulations the exclusive domain of state law and regulatory officials? If the latter is true, the phrase, "as regulated", needs to be replaced with, "which shall be enforced by authorized enforcement officials", as stated in Section 327.2 (d).</p>					XX				X X		X X

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	{HQ directive-except for safety issues, these are pretty much the domain of state and local officials. }											
SWF	<p>The second sentence, concerning registration on board, should be moved to the end of subsection (e), since registration is an equipment requirement, rather than an operational requirement.</p> <p>{Since registration is a state requirement, feel it fits better under 3(c) than 3(e), which is primarily a safety equipment reg.}</p> <p>Add as last sentence, "Operating a vessel within 50 feet of a diver's marker, downed skier, swimmer, wader, or person in or on a floating toy or sailboard is prohibited at greater than no-wake (headway) speed."</p> <p>{State regs vary (50ft in TX, 100ft in GA). Need to allow for these variations. Attempting to post and enforce something different than the state law would create a major headache, and because it would be <u>our</u> reg, we would not have the assistance of state &amp; local law enforcement personnel, who would continue to enforce only the state reg.}.</p>									X X		
SWL	<p>Should have the phrase (Federal, state, county, or city) included after "authorized enforcement officials.</p> <p>{Semantic - existing does allow some flexibility.}</p>										X X	
	(d) The operation of vessels or other watercraft in a careless, negligent or reckless manner so as to endanger any property or person (including the operator and/or user(s) of the vessel or watercraft) is prohibited.											
CEMVROD-T	<p>Add "Careless, reckless or negligent operation includes but is not limited to operating a boat in a swimming area, excessive speed in the vicinity of other boats, bow riding, and riding on seat backs, gunwale or transoms.</p> <p>{Including too many specifics can cause problems, limiting</p>										X X	



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	what we can actually call careless, etc. Ranger should be able to justify the ticket based on what they saw, and should be familiar with applicable state laws.}											
CEMVK	<p>This article should be revised as follows: "The operation of vessels or other watercraft in an <u>unsafe</u>, careless, negligent or reckless manner as to endanger any property, person or <u>environmental feature</u> is prohibited. <u>This includes the operator and/or users of the vessel or watercraft, persons in other watercraft, and persons on the shoreline.</u>"</p> <p>{ Legal definition of "careless, negligent or reckless" includes "unsafe," would be redundant to add. Recommend adding "environmental feature" as it could allow additional protection of shoreline (ie. erosion from wakes), protection of certain aquatic plants, etc}.</p>							XX			X X	
NAP	<p>add the words "or environmental feature" before "is prohibited" at the end of the sentence. RATIONALE: To provide a means of enforcing restrictions in wildlife habitat and nesting areas.</p> <p>{Accept. See above.}</p>									X X		
LRD	<p>Wording in this section should be made compatible with verbiage contained in the "Locking Through" brochure.</p> <p>{Brochures can change readily. Any major differences can be handled under posted restrictions.}</p> <p>When issuing a violation notice under this subsection, the probable cause is usually a violation of state boating regulations. How should Corps Rangers write these violations without referring to state boating regulations?</p> <p>{State regs are referred in the subsections of T36. Rangers do not need to actually refer to the state regs. We must be able to legally justify that what we observed was careless, negligent or reckless, and the action did pose</p>										X X	

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	<p>a potential endangerment. Again, our focus is safety.}</p> <p>The terms "careless, negligent and reckless" need to be defined. The U.S. Coast Guard defines negligent operation as the failure to exercise that degree of care which a reasonable person, under like circumstances, would demonstrate in order to prevent the endangering of the life, limb, or property of a person (s) including the operator and/or users of the vessel or watercraft. We have also been told that the difference between negligent and reckless operation is that negligence is the result of ignorance of rules, regulations or laws, while reckless operation is the result of knowingly violating the rules, regulations, or laws governing the operation of a vessel.</p> <p>{All three listed, Ranger has discretion to use whichever is applicable. Defining terms in T36 would be cumbersome and self defeating. Rangers should know the difference between the three terms, touch base with legal or magistrate where there is a local problem.}</p>										X X	
SPD	<p>Add "Watercraft capacity ratings include persons being towed behind the vessel."</p> <p>{This would be covered under 3(g). Not widespread problem.}</p> <p>Suggested modification, 327.3(d): (d) The operation of vessels or other watercraft in a careless, negligent or reckless manner so as to endanger any person, property or person (including the operator and/or user(s) of the vessel or watercraft) or environmental feature is prohibited.</p>										X X	
	<p>(e) All vessels, when in use, shall have safety equipment, including personal flotation devices, on board in compliance with U.S. Coast Guard boating safety requirements (Coast Guard Pamphlet CG-290; 46 CFR Parts 25, 30; 33 CFR Part 175) and in compliance with boating safety laws issued and enforced by the state in which the vessel is being operated.</p>											

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SAD	<p>Add a new sentence to read - "Operators of vessels not in compliance with this section may be required to remove the vessel immediately from project waters."</p> <p>{Within visitor assistance, we have authority to request visitors to leave project land. Also under 12(c). We must get law enforcement help if they refuse, but we can make the request. Same should apply with a vessel. Change "required" to "request," as per 12(c), and add "until such time as items of non-compliance are corrected."}</p>									X X		
NAP	<p>make sure Coast Guard Pamphlet CG-290 46 CFR parts referenced in this section are currently applicable. RATIONALE: The pamphlet appears to have changed over the years and some of the parts do not relate to this section.</p> <p>{CG-290 no longer exists, will be deleted. Only portions of the other references (those dealing with safety) directly apply.}</p>									X X		
SPA	<p>specific guidance needs to be given that will include windsurfers and the type of PFD that will be worn.</p> <p>{This is determined by Coast Guard and state regs, not T36.}</p>										X X	
LRD	<p>Recommend that the words, "when in use" be deleted. This verbiage can be interpreted to mean simply "not in operation" or "at anchor".</p> <p>{Change to "All vessels, when on project waters, shall have safety equipment..." As more states enforce regs whether or not vessel is actually under way or in use (only has to be present on the lake or at mooring facility), we should modify to avoid conflict with state laws.}</p> <p>Recommend adding this sentence to section, "Operators not in compliance with section may be required to remove</p>									X X		
										X		



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	<p>the vessel immediately from project waters”.</p> <p>{Cannot “require,” but we may “request.” Adopt/modify}</p> <p>Recommend a more specific statement in this section regarding the wearing of PFDs - or the addition of another section. Recommended wording is, “All persons on board canoes, personal watercraft, sailboards, kayaks, or any other type of ski or aquaplane device are required to wear a properly fitted, Coast Guard approved personal flotation device (PFD)”.</p> <p>{outside our authority at this time. We are dependant on CG regs for our authority.}</p> <p>This section references another agency's regulations, CG-290; 46 CFR Parts 25, 30; and 33 CFR Part 175. Corps rangers have no authority to cite these regulations. The referenced regulations should be either incorporated into Title 36 as specific subsections or a more specific statement should be made to cover the intent of the current subsection.</p> <p>{We do not write citations on CG regs. We have adopted what these CG regs refer as our minimum standards under T36. Our tickets are written on T36, not a CG reg. Much like Corps adoption of Natl Electric Code standards.}</p> <p>Change the wording of the last sentence to, “The tying of a boat or placing of stationary mooring facilities on, adjacent to, or interfering with a buoy, channel marker or other navigational aid is prohibited”. The sentence needs to specifically prohibit the tying of boats to non-mooring buoys. **Already addressed</p>									X	X X	X X
SWF	<p>“All vessels, when in use, shall have and utilize safety equipment . . . in compliance with U.S. Coast Guard boating safety requirements ( <del>Coast Guard Pamphlet</del></p>									X X		

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	<p><del>CG-290</del>; 46 CFR Parts 25, 30; 33 CFR part 175) and in compliance . . . ”</p> <p>The “and utilize” was added to clarify that failure to <i>display</i> navigation lights after sunset is a violation. The listed USCG requirements need to be reviewed; during a recent call to the USCG Boating Safety Hotline, that office could not determine which of their publications was referred to as “CG-290.” Moreover, that office identified a 50-page pamphlet as being the current “Federal Requirements for Recreation Boats,” whereas the version which we currently distribute to the public (and use as the basis for our enforcement) is an undated 28-page edition.</p> <p>Corps rangers should be able to enforce all USCG regs pertaining to equipment and operation of recreational vessels on inland waters (minus, of course, provisions regarding law enforcement activities such as arrests and BWI testing). It would seem logical for our CFR to cite those portions of the USCG’s CFRs governing equipment and operation which we may enforce, such as parts of 33 CFR (sub-chapter S), portions of the USCG Navigation Rules which contain lighting requirements, etc. In order to make Title 36 more user-friendly, we should list not only the applicable rule number or CFR, but also identify what the cited CFR refers to (for example, “marine sanitation devices”).</p> <p>This may take a little legwork. If uncorrected, the inaccuracy of the present wording will eventually cause water safety citations to be dismissed.</p> <p>{T36 does not inform the public on what safety equipment is required. We are not authorized to enforce CG regs outside safety regs. CG regs are also prone to change, and T36 can be quickly outdated if tied too closely.}</p>									X X		
SWL	Should be changed to read “All vessels when in use shall have safety equipment, including personal flotation devices, on board in compliance with U.S. Coast Guard									X X		

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	<p>boating safety requirements ... and in compliance with boating safety laws of the state in which the vessel is being operated."</p> <p>{Add "as amended" after US Coast Guard does provide flexibility, remain current as CG regs evolve. However, deleting the references altogether would leave even more flexibility. Rangers would have to be kept current on CG and state regs.}</p> <p>Suggested Modification, 327.2(e): (e) All vessels, <del>when in use on project waters</del>, shall have safety equipment, including personal flotation devices, on board in compliance with U.S. Coast Guard boating safety requirements, <del>(Coast Guard Pamphlet CG-290; 46 CFR Parts 25, 30; 33 CFR Part 175)</del> and in compliance with boating safety laws issued and enforced by the state in which the vessel is being operated. Owners or operators of vessels not in compliance with this section may be requested to remove the vessel immediately from project waters until such time as items of non-compliance are corrected.</p>											
	(f) Unless otherwise permitted by Federal, state or local law, vessels or other watercraft, while moored in commercial facilities, community or corporate docks, or at any fixed or permanent mooring point, may only be used for overnight occupancy when such use is incidental to recreational boating. Vessels or other watercraft are <b>not</b> to be used as a place of habitation or residence.											
SAD	<p>Delete as this section can be enforced under Section 327.22(a).</p> <p>{May be a viable alternative-it appears that 22(a) would cover if "residence" would apply to someone out on a boat. Currently have a camping limit (14 days) but beyond that may be considered setting up a residence. May be useful to some. Leave intact.}</p>										X X	
	" Unless otherwise permitted . . . vessels or other											



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SWF	<p>watercraft, <del>while</del> including those moored in . . .” After “ . . . incidental to recreational boating.”, add “ Overnight occupancy of a vessel at any water resource project in excess of 14 days during any 30-consecutive day period is prohibited without the written permission of the District Engineer.”</p> <p>This revision would clarify that houseboat users on the lake <u>not</u> in mooring facilities may be used only for recreational overnight occupancy, and further defines a time limit (comparable to that of recreational camping) for all boaters. As presently written, this subsection addresses only overnight occupancy of moored boats, not those in use on the lake. We need to set a limit for occupancy of all vessels in order for use to remain recreational and not residential.</p> <p>{Changing reg may worsen problem. We must be careful not to get into “bed checks.”}</p>											XX
SWL	<p>A clarification of the phrase “incidental to recreational boating” is needed. This violation is unenforceable as written. The following phraseology is suggested: “The overnight occupancy of a vessel is prohibited unless the boat is removed from its mooring or marina stall and operated on the waters of a project for recreational purposes during the period of use.”</p> <p>{Occupancy while moored has been legitimized, at least in a number of Districts. Would create even more problems for many projects.}</p>										X X	
	(g) Water skis, parasails, ski-kites and similar devices are permitted in nonrestricted areas except that they may not be used in a careless, negligent, or reckless manner so as to endanger any property or person (including the user and/or operator of the towing vessel).											
NAP	<p>add: “In accordance with posted regulations” before the start of the sentence, water skis, parasails, ...etc.</p> <p>RATIONALE: When these items are not restricted,</p>									X X		

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	regulations vary from state to state on the use of these items.  {DE has authority to post restrictions under 327.12. No need to duplicate here.}											
SPD	Add "Vessels towing water skis, parasails, ski-kites and similar devices shall have an observer on board in addition to the operator."  {Still subject to 3(c), state laws and restrictions. If state does not require observer, we have no real authority to require one.}										X X	
SWF	Add final sentence: "The District Engineer may establish restrictions governing locations and times for use of these devices."  This clause would clarify that the Corps can designate zones and restrictions for use of these devices, similar to the subsection governing use of seaplanes. In actual practice, some districts have already established such restrictions.  {DE has this authority under 327.12, does allow for local control over this activity. No need to add here.}										X X	
SWF	Suggest that personal watercraft such as jet skis be added to the list of craft covered.  {PWC is more of a boat-looks adding here would be trying to ban PWC from lakes.}										X X	
	(h) All vessels when not in actual use shall be removed from project lands and waters unless securely moored or stored at designated areas approved by the District Engineer. The placing of floating or stationary mooring facilities on, adjacent to, or interfering with a buoy, channel marker or other navigational aid is prohibited.											
SAD	Revise the last sentence to read "Interfering or tying to a									X		

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	<p>buoy..."</p> <p>{Adopt as modified below. Existing does not address this issue, which does cause damage to buoys, etc.}</p>					XX				X		
LRD	<p>There seems to be confusion regarding the meaning of this section in the field. The section has been interpreted to mean that boaters <u>cannot</u> use their vessels for overnight occupancy unless they are moored at commercial facilities, community or corporate docks, or at a designated mooring point. Recommend that a clear statement be made regarding this issue. Mooring should be allowed as long as the vessel out of the flow of lake traffic, safely and securely anchored at a set minimum distance from shoreline, properly illuminated, and the activity itself is incidental to recreational boating (not residency). This could be further enhanced with a statement that the District Engineer may designate specific areas of a lake as designated anchorages, such as small coves, areas buoyed as no wake zones, etc. Vessels capable of overnight occupancy should not be moored in waters of developed recreation areas or be permanently moored along shorelines. This practice blocks the views of shoreline campers and the noise originating from such vessels often disrupts and disturbs shoreline campers.</p> <p>{Except for residence issue, this can be handled under 327.12, Posted Restrictions.}</p>						XX					
SWF	<p>Change final sentence to, "The placing of vessels or stationary mooring facilities on, adjacent to, or interfering with a buoy . . ."</p> <p>This wording would make it an offense to tie a vessel to a navigational or swim beach buoy. This action is a violation of Coast Guard regulations, but not of Title 36, as presently written. This is not only a safety hazard, but also requires that project employees continually readjust buoys dragged out of position by moored vessels.</p>									X X		



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	{Adopt as modified.}											
SWL	<p>Should be reworded “All vessels when not in actual use shall be removed from project lands and waters unless securely moored or otherwise stored at designated areas approved by the District Engineer. No vessel shall be allowed to be tied up, moored, or stored at any other location on project lands or waters.”</p> <p>{Sounds like if vessel is not in active use, get it out of the water. This is a local call, would fall under authority of DE. DE should be allowed to designate where mooring is allowed, and enforce violations of the local policy. Lakes can prohibit shoreline mooring, as long as it is clearly posted and known (although the perpetrator always says "I didn't know!!) Covered under modified reg below.}</p> <p>Suggested modification, 327.3(h): (h) <i>Vessels shall not be attached or anchored to structures such as locks, dams, buoys or other structures unless authorized by the District Engineer. All vessels when not in actual use shall be removed from project lands and waters unless securely moored or stored at designated areas approved by the District Engineer. The placing of floating or stationary mooring facilities on, adjacent to, or interfering with a buoy, channel marker or other navigational aid is prohibited.</i></p>								X X			
	(I) The use at a project of any vessel not constructed or maintained in compliance with the standards and requirements established by the Federal Safe Boating Act of 1971 (Public Law 92-75, 85 Stat. 213), or promulgated pursuant to such act, is prohibited.											
SWF	<p>This subsection is little understood by rangers or the public, and is therefore of little or no use to either. It needs to either be better explained and made more user-friendly, or dropped. Perhaps a separate brochure/flier could be published as an explanatory companion to this regulation, which rangers could hand to the owner/operator of a substandard or homemade boat,</p>									X X		

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	<p>summarizing applicable manufacturing standards. Have any other districts been able to successfully utilize this subsection as presently written?</p> <p>{Surveys indicate very little use for this subsection today. Relatively few homemade boats being built today, FSBA 1971 seems almost impossible to find for field offices. On most boats, problems could be addressed under safety, 3(c). Recommend deletion of 327.3(I).}</p>											
	(j) Except as authorized by the District Engineer, no person shall operate any vessel or watercraft without a proper and effective exhaust muffler as defined by state and local laws, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.											
SAD	<p>Delete the phrase "...as defined by state and local laws,..." This still provides a means to deal with excessive muffler noise from vehicles or vessels without the predicament of having to know and/or "enforce" state and local laws in this regard.</p> <p>{See comments 327. 2(g)-decibel meter, leave in for flexibility, change this to 327.3(I) if previous is deleted.</p>										X X	
CENWK-CO-TR	Delete in entirety. {See above}										X X	
SAD	<p>Section 327.3(k): Make this a new section to read "No vessel may be moored or operated on project waters unless it is in full compliance with all Federal, state, and local laws regulations and requirements for marine sanitation equipment and sewage holding devices."</p> <p>{Already addressed-we don't want to become "potty inspectors."}</p> <p>{Recommend this subsection become 327.3(i)}</p>			XX							X X	

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	327.4 Aircraft.											
	(a) This section pertains to all aircraft including, but not limited to, airplanes, seaplanes, helicopters, ultra-light aircraft, motorized hang gliders, hot air balloons, any non-powered flight devices or any other such equipment.											
	(b) The operation of aircraft on project lands at locations other than those designated by the District Engineer is prohibited. This provision shall not be applicable to aircraft engaged on official business of Federal, state or local governments or law enforcement agencies, aircraft used in emergency rescue in accordance with the directions of the District Engineer or aircraft forced to land due to circumstances beyond the control of the operator.											
CENWK-CO-TR	<p>Add a comma after "Engineer".</p> <p>{Did not specify which "Engineer" within the text. No comma needed after first Engineer reference. Second reference could possibly use a comma, yet we received conflicting recommendations from "English experts" on the need for a comma. Would not change meaning or interpretation of reg either way.}</p>											XX
	(c) No person shall operate any aircraft while on or above project waters or project lands in a careless, negligent or reckless manner so as to endanger any person or property.											
NAB	<p>Add - Operator/user as in 327.3(d) {Not really necessary, covered by "any person."}</p> <p>Suggested Modification 327.5(c): (c) No person shall operate any aircraft while on or above project waters or project lands in a careless, negligent or reckless manner so as to endanger any person, <del>or</del> property or environmental feature.</p>										X X	



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	{Above added for consistency, also to address possible abuse of shorelines, wildlife management areas, etc.}											
	(d) Nothing in this section (327.4) bestows authority to deviate from rules and regulations or prescribed standards of the appropriate State Aeronautical Agency, or the Federal Aviation Administration, including, but not limited to, regulations and standards concerning pilot certifications or ratings, and airspace requirements.											
	(e) Except in extreme emergencies threatening human life or serious property loss, the air delivery of any person, material or equipment by parachute, helicopter or other means onto project lands or waters without written permission of the District Engineer is prohibited.											
SWF	<p>Add to the sentence, "Except on extreme emergencies . . . the air delivery or retrieval of any person, material or equipment by parachute, balloon, helicopter or other means . . ."</p> <p>These additions parallel the corresponding NPS subsection in their CFR. They apparently had problems with hot-air balloons, which we are also seeing more of.</p> <p>{Appears to correct a problem that seems to be growing-reword as suggested, except use "in extreme emergencies" rather than "on" as suggested (probably a typo.) Add balloons and retrieval as suggested.}</p> <p>Suggested modification, 327.4(e):</p> <p>(e) Except in extreme emergencies threatening human life or serious property loss, the air delivery or retrieval of any person, material or equipment by parachute, balloon, helicopter or other means onto project lands or waters without written permission of the District Engineer is</p>									X X		

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	<b>prohibited.</b>											
	(f) In addition to the above provisions, seaplanes, as defined below, are subject to the following restrictions:											
	(1) Such use is limited to aircraft utilized for water landings and takeoff, herein called seaplanes, at the risk of owner, operator and passenger(s).											
	(2) Seaplane operations contrary to the prohibitions or restrictions established by the District Engineer (pursuant to Part 328 of Title 36) are prohibited. The responsibility to ascertain whether seaplane operations are prohibited or restricted is incumbent upon the person(s) contemplating the use of, or using, such waters.											
	(3) All operations of seaplanes while upon project waters shall be in accordance with marine rules of the road for power boats or vessels and Section 327.3 Vessels.											
	(4) Seaplanes on project waters and lands in excess of 24 hours shall be securely moored at mooring facilities and at locations permitted by the District Engineer. Seaplanes may be temporarily moored on project waters and lands, except in areas prohibited by the District Engineer, for periods less than 24 hours providing (i) the mooring is safe, secure, and accomplished so as not to damage the rights of the Government or members of the public and (ii) the operator remains in the vicinity of the seaplane and reasonably available to relocate the seaplane if necessary.											

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	(5) Commercial operation of seaplanes from project waters is prohibited without written approval of the District Engineer following consultation with and necessary clearance from the Federal Aviation Administration (FAA) and other appropriate public authorities and affected interests.											
	(6) Seaplanes may not be operated at Corps projects between sunset and sunrise unless adequate lighting and supervision approved by the District Engineer are available.											
	327.5 Swimming.											
CEMVN	<b>Diving or jumping from bridges or other objects which cross or are adjacent to project waters is prohibited.</b>  {Legitimate problem, has lead to deaths and injuries over the years. See suggested modification. Must take care not to overstate our limits (such as prohibiting jumping off a boat in the middle of the lake, or a private dock). Some features, such as cliffs, could be handled with local posted restrictions, but a wider interpretation would help, so long as it remains within our authority.}					XX				X X		
NAB	<b>Add - "The placement and use of rope swings attached to trees, bridges and other structures is prohibited." This an ongoing safety hazard. Rangers spend a lot boat patrol time removing rope swings and telling the visitor about the danger of their use knowing that without teeth the swing will go back up when he leaves.</b> {See modification}					XX				X X		
SPA	Swimming to be prohibited also in marinas and non swimming boat handling docks. {5(a) change to "designated mooring points and docks..."}									X X		
LRD	Suggest adding a subsection which prohibits swimming after sunset unless the area is lighted or a designated					—				X X		



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	swimming area provided with properly buoyed areas to restrict boat traffic. It is very difficult for a boater, even at slow speed, to spot a swimmer in the water after sunset.  {Unenforceable at most projects, most areas allow swimming after dark. Impact on adjacent landowners, Congressional input, etc. }											
SWF	Suggest prohibiting glass containers on swimming beaches.  {Should be handled locally under posted restrictions-new glass technology may soon obsolete this change.}						XX			X X		
NWO	A regulation is needed to address the practice of diving off of high cliffs. Currently, the only way to prohibit this is to close the entire area. Also, it would help if rope swings are prohibited. {Address under modification 5(c).}									X X		
	(a) Swimming, diving, snorkeling or scuba diving at one's own risk is permitted, except at launching sites, designated mooring points and other areas so designated by the District Engineer. Diving or jumping from bridges or other structures which cross project waters is prohibited.											
CEMVK	At some locations there is a persistent safety problem with the public diving and jumping from cliffs, boulders and trees into project waters. The reference article effectively prohibits this activity with regard to bridges and structures, however it does not address natural resources. Request this article include natural resources.  {Agree, the scope of our reg needs to be broadened if at all possible, to include cliffs, trees, etc. Such cannot always be posted, especially in remote areas. See mod.}				++	++				X X		
NAP	add the word "wading" after "swimming" to read "swimming, wading, diving, snorkeling, or scuba ...etc. Also, add the word "trees" after "bridges" in the last sentence so as to read "Diving or jumping from bridges, trees, or other structures which cross project waters is					++				X X		

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	<p>prohibited." <b>RATIONALE:</b> Some people claim that they were only "wading" and not "swimming" as a loophole to avoid some of our beach regulations. Also, many of our serious swimming accidents have occurred when people have jumped out of trees. We prohibit them from jumping off bridges; thus it would seem that jumping out of trees would follow the same logic for their own safety.</p> <p>{Adding "wading" after "swimming" would assist in closing what is a frequently used loophole. Most magistrates see wading as legally different from swimming. See modification 327.5(a)}.</p>											
NAB	Add - List diving/jumping sentence as 327.5® {See modification}			++						X X		
LRD	<p>There is a perennial problem with teens diving from a variety of structures and natural formations at projects. Recommend that the words "natural terrain features" be added after the word "bridges", and the words "cross project waters" be replaced with "over project waters". Additionally, the paragraph should be reworded to restrict jumping or diving from bridges, other man-made structures, or natural features which cross over or adjoin project waters. The intent is to prohibit jumping or diving from cliffs or tree swings, but, permit normal diving activities at designated swimming areas or from boats. "Rappelling and swinging from any over-water structure" should be added to the prohibited list. {See modification}</p>			++		++				X X		
SPD	<p>Separate into two different sections. One section to allow swimming at own risk, another to prohibit jumping or diving from any manmade features. Some rangers want to include jumping or diving from natural features (rope swings, cliffs, rocks, etc.) but I think that would be difficult to enforce.</p> <p>{Breaking into a separate subsection would make the diving prohibitions clearer, and would allow for a heavier forfeiture for a more dangerous practice. SWF already</p>		XX		++	++				X X		

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	has diving fine separated from swimming and diving flag. SAD has one fine for all.}											
CENWK-CO-TR	This part should also address diving or jumping from boat docks, roofs, cliffs, etc. which do not cross project waters. {See modification}				++	++				X X		
SWF	Change to "Swimming, <del>diving</del> , wading, snorkeling, or scuba diving . . . Diving or jumping from bridges or other non-recreational structures <del>which</del> in, upon, or crossing project waters is prohibited."  Diving injuries and deaths continue to be a major visitor safety issue. If the agency is not prepared to prohibit diving at its projects, it should at least <u>not</u> specifically list it as being permitted. Substituting "wading" in the list will end arguments that "just wading" is acceptable around boat ramps and other areas off-limits to swimming. We continue to experience public injuries and deaths from persons jumping from water intake towers, outlet structures, etc. Prohibiting jumping from all structures in or upon lake waters will assist us in discouraging this activity. {See modifications, 5(a) and 5(c)}				++	++				X X		
SWL	Should be reworded "Swimming, diving, snorkeling, or scuba diving at one's own risk is permitted, except at launching sites or ramps, designated mooring points and other areas as designated by the District Engineer. Diving or jumping from bridges or other structures (whether natural or artificial) which cross or are present on project lands or waters are prohibited." {See modifications 5(a) and 5(c)}				++	++				X X		
NWO	Does STRUCTURES include high cliffs or land areas of erosion which pose a high risk? This needs to be clarified. There are numerous areas around Lake Sakakawea that pose this problem. I have warned individuals of this activity in an area where injuries have occurred before and they questioned if jumping off smaller cliffs was				++	++	XX			X X		

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	<p>permissive.</p> <p>{Would require local judgment call, handle with posted restrictions in addition to suggested modifications.}</p> <p>Suggested modification, 327.5(a): (a) Swimming, <i>wading</i>, diving, snorkeling or scuba diving at one's own risk is permitted, except at launching sites, designated mooring points and <i>public docks</i>, or other areas so designated by the District Engineer. <del>Diving or jumping from bridges or other structures which cross project waters is prohibited.</del></p>											
	(b) An international diving flag must be displayed during underwater activities.											
CEMVK	<p>The referenced article requires the use of an international diving flag marker, otherwise known as the alpha flag. However, for inland waters a sport's diver's flag, otherwise known as a diver-down flag, is more commonly used. It is red and white as opposed to blue and white of the alpha flag and is better understood by those using inland waters. Recommend adding the diver-down flag to the article as another option.</p> <p>{Agree -"diver-down" and "inland" flag are both technically accepted terms to describe approved flag. Include both terms for regional differences. See modification.}</p>					++				X X		
CENWS (Tyger)	<p>Add paragraph: Removal of Life Rings from their holders for purposes other than for the saving of life is prohibited. Parents or adult supervisors will be held responsible for the violation of this restriction by minor children in their care.</p> <p>{Appears most projects have eliminated them. Taking it out does cause endangerment, adults can be responsible. Handle with locally posted restriction.}</p>						XX				X X	
	Add the phrase "including snorkeling and diving.										X	



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
CENWO-OD-TN	{Already covered by "underwater activities."}							XX			X	
SWL	<p>The international diving flag is not in common use on inland waters. The red with a diagonal white stripe "Diver Down" flag is more widely recognized and should be allowed. Suggest the wording be changed from "an international diving flag" to "a diving flag." {Agree, see modification.}</p> <p>Add "Swimming, diving, snorkeling, or scuba diving in designated swim areas in prohibited between 30 minutes after sunset and 30 minutes before sunrise."</p> <p>{This varies greatly across the nation. Handle with local posted restrictions.}</p>						XX			X X		
SWF	<p>Change clause to "An international recognized diving flag must be displayed..."</p> <p>The international diving flag presently specified (the blue and white "alpha" flag) is not generally recognized in this country, nor is it particularly appropriate for recreational diving. The recognized "diver down" flag in this country is the red and white-slashed flag.</p> <p>Suggested modification, 327.5(b): (b) An international, <i>diver-down or inland</i> diving flag must be displayed during underwater activities.</p> <p>Suggested new subsection, 327.5(c): (c) <i>Diving, jumping or swinging from bridges, cliffs, structures or environmental features which cross or are adjacent to project waters is prohibited.</i></p> <p>{Wording would allow jumping off boats in the middle of the lake, or on docks, since these are <i>on</i> project waters, rather than <i>adjacent to</i> or <i>crossing</i> project waters. Docks, etc., could be further posted with local restrictions.}</p>					++				X X		

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	327.6 Picnicking.											
	Picnicking and related day-use activities are permitted, except in those areas where prohibited by the District Engineer.											
	327.7 Camping.											
SPA	Add something specific to the cutting of vegetation and trees or damage to vegetation and trees.  {Already covered under 14(a).}										X X	
NWO	We need a regulation stating how many units are considered under one fee. We also then need to define "unit."  {T36 is not the vehicle to address this-if one standard is to be set, should be a Corps policy.}										X X	
	(a) Camping is permitted only at sites and/or areas designated by the District Engineer.											
	(b) Camping at one or more campsites at any one water resource project for a period longer than 14 days during any 30-consecutive-day period is prohibited without the written permission of the District Engineer.											
CEMVROD-T	Replace "water resource project" with "designated area". Tracking campers who move from one campground to another on the project is time consuming and with our occupancy rates no where near 100% it does not seem necessary. We would prefer to simply have them move from one area to another to avoid the permanent camper problems.								XX		X X	

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	{Guidance from HQUSACE is that this subsection must remain consistent with the Dorn policy, and we will continue the 14 day limit as the policy for T36 at this time.}											
SAD	<p>Revise to read - "Camping at one or more campsites for a period longer than 14 days is prohibited without the written permission of the District Engineer." Camping extensions of 14 days and longer are currently being granted on a case by case basis. Many campers have expressed interest in staying the winter season at Corps campgrounds. Many state and private campgrounds offer longer stays, especially during the off season. In the interest of customer needs and increased revenues, we should allow campers to submit a written request for longer stays to the Operations Project Manager (OPM). The OPM could then review each request on a case by case basis and respond with a letter of denial or permission stipulating any specific restrictions.</p> <p>{Many would like to see a loosening of this policy, allowing more local control and flexibility to meet customer desires and increase revenue. However, we are not authorized to do so at this point.}</p>								XX		X X	
LRD	<p>Recommend that the maximum camping stay be extended from 14 days in a 30-day period to 30 days in a 60-day period or 21 days in any 30-day consecutive period. Additionally, and most importantly, no camping unit should be allowed to be used at a specific site longer than 14 days. This will probably provide a suitable alternative to the issue of seasonal camping, yet discourage any semblance of permanency. Wording such as "no camping unit will be allowed to be used at a specific site longer than 14 days" should appear in this section. This is needed because some districts have had difficulty with members of a group (in primitive campgrounds where only a free permit is required to camp), who all call in and reserve a certain site in their name so that every six weeks or so the original visitor starts over again in the same camping unit. Presently the district cannot require removal of the</p>								XX		X X	

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	camping unit because it is never abandoned and there is always a registered permit for the unit.  {See above comments. Longer stay has been approved for commercial concessions (marinas), but not for Corps campgrounds.}											
CENWO-OD-TN	Since the Districts have the latitude to allow extensions up to 30 days on a case by case basis, the Omaha District favors keeping the 14 day stay as a general policy. As this section reads now, however, a visitor would have to move to another project after staying 14 days. This should be changed to only require the visitor move to another campground. Another suggestion is to change the 30 consecutive day period to a 28 day consecutive period which puts it on an even week basis. {See above comments.}											
CENWK-CO-TR	Change to read: Camping at one or more campsites at any one campground for a period longer than 14 days is prohibited. Campers must vacate their site and campground for two (2) camping nights before returning to the site. Campers may apply for a written exemption from the District Engineer.  {Districts appear to have latitude to vary extensions somewhat, which is proper. The two night suggestion would be in conflict with the current policy.}								XX		X X	
	(c)The unauthorized placement of camping equipment or other items on a campsite and/or personal appearance without overnight occupancy at a campsite for the purpose of reserving a designated campsite for future occupancy is prohibited.											
CEMVROD-T	Remove the word "overnight". We can only require that campers occupy the site, not dictate that they must be their at night. Many campers fish overnight or work night shifts and come to the campgrounds for the day. Add "without the written permission of the District Engineer" to the end.					+				X X		



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	{As we progress to a more reservation -driven environment, overnight occupancy becomes less an issue. Suggestions points also valid. Once NRRS is functional, this should become a moot point. Since sites will be reservable, with a short lead time, this practice should diminish. Recommend deleting "overnight".}											
SAD	Revise to read - "The unauthorized placement of camping equipment or other items on a campsite for the purpose of reserving a designated campsite for future occupancy is prohibited." This would still accommodate the NRRS or other authorized reservation systems, but would preclude saving a site by unauthorized means such as parking a car or placing equipment on a site to give the impression the site is occupied. This revision would also eliminate the overnight occupancy requirement which has been a contentious subject for some time. {See above}					+				X X		
NAB	Delete the word "unauthorized." Any placement of equipment or appearance without occupancy with the intent to reserve is prohibited.  {Semantic - without a reservation or valid camping permit, any placement of gear is unauthorized.}							XX			X X	
LRD	Suggest the wording of this section be changed to the following to more effectively deal with attempts to illegally reserve campsites, "The unauthorized placement of camping equipment or other personal items on a campsite for the purpose of reserving a designated site is prohibited. A registered campsite must be occupied overnight. {See above}									X X		
CENWK-CO-TR	Change to read: The placement of camping equipment or other items on a campsite and/or personal appearance without a properly displayed current camping permit is prohibited. Placement of a camping unit on a site constitutes authorized occupancy if the proper fee has been paid.									X X		

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	{See modification}											
SWF	<p>[Split into two sentences and modify] "Unauthorized occupation or placement of camping equipment or other items on a campsite is prohibited. <del>and/or</del> Personal appearance <del>without overnight occupancy</del> or placement of items at a campsite for the purpose of reserving a <del>designated site for future occupancy</del> is prohibited."</p> <p>Much discussion regarding the impact of the NRRS upon this clause has resulted in this suggested revision. While avoiding specific mention of the NRRS (policies from which may change over a period of years), it may preserve most of the applicable intent of the original subsection. {See modification}</p>									X X		
SWL	<p>Should be revised to allow for the reservation system that is being implemented. Wording suggested is "The unauthorized reservation of a campsite, such as by placement of personal property on a site to prevent other authorized uses of the site, is prohibited." Paying for a campsite without occupancy is prohibited. Occupancy of a campsite without paying the authorized recreational fee is also prohibited. {See modification}</p>									X X		
NWO	<p>We need to try and specify our reserving policy. It needs to state whether a person can pay for another camper when he is not yet present.</p> <p>{Appears to vary by District - T36 probably not the vehicle to make this uniform.}</p>						XX				X X	
NWO	<p>WITHOUT OVERNIGHT OCCUPANCY AT A CAMPSITE..., can be misinterpreted to imply that if you occupy "A" campsite it is permissible. A lot of users will occupy a campsite and reserve another campsite by placement of items or a registration slip. {See comments, modification}</p> <p>Suggested modification, 327.7(c):</p>									X X		

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	(c) The unauthorized placement of camping equipment or other items on a campsite and/or personal appearance <del>without overnight occupancy</del> at a campsite for the purpose of reserving a <del>designated</del> campsite for future occupancy is prohibited.  { "Designated" is struck out here because it is not used in other subsections, and deleting it allows some control over undesignated campsites (ie primitive camping) which some projects feature. }											
	(d) The digging or leveling of any ground or the construction of any structure without written permission of the District Engineer is prohibited.											
CENWK-CO-TR	Add new subparagraph (e) Occupying a campsite designated for reservation or which is posted as reserved without an authorized reservation is prohibited.  {Agree. See 327.7(e)}					+				X X		
SWF	For more logical and general application, remove this subsection from 327.7 and relocate it as subsection (d) under 327.14, Public Property.  {This is more geared to camping activity, does not impact 14(a) if left intact, see no reason to remove. Could have some difficulty convincing a magistrate that minor leveling of a developed campsite would warrant a ticket under 14(a). However, it does appear to be covered under 14(a) and 20, and could be deleted altogether. Presence does allow for different forfeitures.}  Suggested new subsection 327.7(e): (e) Occupying or placement of any camping equipment at a campsite which is posted as "reserved" without an authorized reservation is prohibited."		XX					XX			X X	
	327.8 Hunting, Fishing, and Trapping.											
	Leave the section that exists as (a) and add (b) which										X	

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CEMVROD-T	<p>should say "Hunting and trapping are prohibited within 500 feet of any project road, trail, developed recreation area, or developed project operation area unless authorized by the District Engineer." This would allow us to control these activities, as the landowner, for safety.</p> <p>{Distance varies by state, we would lose state enforcement if we adopt otherwise. See modification. }</p>										X	
CEMVK	<p>Trapping - Problems have arisen with unscrupulous trapping on project lands. State laws concerning trapping sometimes go unenforced. Suggest a requirement be added to Title 36 to that a permit must be obtained from the District Engineer (through the Resource Manager) to conduct this activity at a project.</p> <p>{District Engineer's already have this authority to restrict such activity, require permits.}</p>						XX				X X	
SAD	<p>Add a new sentence to read - "The District Engineer may establish additional regulations and restrictions on hunting, fishing, and trapping, including the requirement of a project-issued permit for these activities.</p> <p>{See modification.}</p>									X X		
NAB	<p>Add - "Hunting is prohibited within 100 yards of any recreation area, water control structure, roadway, building, or hiking trail, unless otherwise posted." Would eliminate the need to post around every recreation area unless management would choose.</p> <p>{See comments above.}</p>										X X	
LRD	<p>For safety considerations, suggest that the following be added, "Hunting and trapping are prohibited within developed recreation areas".</p> <p>{Found that a number of projects in the Midwest authorize hunting in developed recreation areas during winter hunting season, when visitation is limited to basically hunters only. Suggestion would severely impact</p>										X X	



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	<b>these projects, provide only limited enforcement improvement for others.}</b>											
	Hunting, fishing and trapping are permitted except in areas where prohibited by the District Engineer. All Federal, state and local laws governing these activities apply on project lands and waters, as regulated by authorized enforcement officials.											
SPD	<p><b>Rewrite to "Fishing is permitted except in areas where prohibited by the District Engineer. Hunting and trapping are prohibited except where authorized by the District Engineer. All Federal, state and local laws governing hunting, fishing and trapping apply on project lands and waters, as regulated by authorized enforcement officials."</b></p> <p>{Contrast of prohibited and permitted could be confusing, and project a negative, "prohibitionist" image. Suggestion is hopefully addressed by modification.}</p>									X X		
SWF	<p><b>Suggest a new sub-paragraph be added which states that "alcoholic beverage consumption, while in the possession of a firearm for hunting, shooting range activity or any other permitted activity where firearms are allowed, is prohibited".</b></p> <p>{Actually outside our authority at this time. This is addressed on a limited scale by modification to 327.26(f).}</p>			XX							X X	
SWF	<p><b>[Break down to subsections]</b></p> <p><b>"(a) Hunting is permitted in locations and during periods designated by the District Engineer."</b></p> <p><b>"(b) Fishing is permitted except in swimming areas, at boat ramps, on courtesy docks, or other areas designated by the District Engineer."</b></p> <p><b>"(c) Trapping is permitted in areas designated by the District Engineer."</b></p>									X X		

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	<p>"(d) All Federal, state and local laws governing these activities apply on project lands and waters, as regulated by authorized enforcement officials. Additional restrictions pertaining to these activities may be established by the District Engineer for reasons of public safety or resource management."</p> <p>These programs are so dissimilar as to merit breaking them down into subsections.</p> <p>At many projects, the reality is that more land is closed to hunting and trapping than not. The restrictions clause in subsection (d) merely legitimizes the numerous existing district and local hunting policies, permit programs, etc.</p> <p>{Allows local control, variations between areas (some actually allow hunting within rec areas during off times). Seems to address most all concerns. See modification.}</p>											
SWL	<p>Should be revised to read "Hunting, fishing, and trapping on project lands and waters are permitted, except in areas where prohibited by the District Engineer. Fishing should be prohibited inside designated swimming areas. Hunting and/or use of these items is not allowed in designated recreation areas. All Federal, state, and local regulations governing these activities are in effect on project lands and waters."</p> <p>{Disagree on total prohibition in designated rec areas, as explained above. Agree with other suggestions.}</p> <p>Suggested modification, 327.8 (delete all existing reg):  <i>(a) Hunting is permitted in areas and during periods designated by the District Engineer.</i>  <i>(b) Trapping is permitted in areas and during periods designated by the District Engineer.</i>  <i>(c) Fishing is permitted, except in swimming areas, at boat</i></p>									X X		

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	<p><i>ramps, mooring points, public docks, or other areas designated by the District Engineer.</i></p> <p><i>(d) All Federal, state and local laws governing these activities apply on project lands and waters, as regulated by authorized enforcement officials. Additional restrictions pertaining to these activities may be established by the District Engineer.</i></p> <p>{NOTE: hunting and trapping are deliberately separated to allow for different forfeiture schedules. Any additional restrictions authorized by DE (such as permits) may result in regs that state officials may not enforce. Local control is needed for variances, but it must be used judiciously.}</p>											
	327.9 Sanitation.											
SPA	<p>Include specific language to prohibit the dumping or disposing of fish carcasses or entrails.</p> <p>{Fish disposal is a growing problem, especially as states modify their regs. Basically covered under 9(a), plus lots of differences between regions on what is allowed by states (growing number no longer allow dumping back in the lake). May have to resort to posted restrictions at this time, until state regs level out, or better on-site disposal technology appears. We cannot make them take them home. }</p> <p>Sanitation needs specific language to include the shampooing of dogs and people bathing in the lake or on the ground.</p> <p>{covered under 9(a) also.}</p>						XX				X X	
LRD	To simplify the problem dealing unauthorized dumping suggest that the following subsection be added, "For the purpose this regulation, the owner of any garbage, trash, rubbish, debris, dead animals or litter of any kind shall be presumed to be responsible for proper disposal. Such presumption will be sufficient to issue a citation for									X X		

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	<b>violation".</b> <b>{Recommend adoption, append to end of 9(b).}</b>											
	(a) Garbage, trash, rubbish, litter, or any other waste material or waste liquid generated on the project and incidental to authorized recreational activities shall be either removed from the project or deposited in receptacles provided for that purpose. The improper disposal of such wastes, human and animal waste included, on the project is prohibited.											
SWF	<p><b>"Garbage, trash...or waste liquid (including but not limited to gray water)generated on the project and incidental to authorized recreational activities..."</b></p> <p><b>The addition of "gray water" was to clarify to campers that gray water cannot be drained onto the ground. Specifying this will end many arguments.</b></p> <p><b>There is some debate as to what purpose the stricken phrase serves, and it would appear that the subsection is strengthened by its removal.</b></p> <p><b>{Agree to add graywater to (a). The stricken phrase in the above does specify what is allowed, does give some teeth to distinguishing between trash brought in, and that generated by legitimate campers, day users, etc. Keep "generated on the project.."</b></p> <p><b>Suggested modification, 327.9(a):</b>  <b>(a) Garbage, trash, rubbish, litter, <i>graywater</i>, or any other waste material or waste liquid generated on the project and incidental to authorized recreational activities shall be either removed from the project or deposited in receptacles provided for that purpose. The improper disposal of such wastes, human and animal waste included, on the project is prohibited.</b></p>	+++				—				X X	X X	
	(b) It is a violation to bring onto a project any household or commercial garbage, trash, rubbish, debris, dead animals or											



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	litter of any kind for disposal or dumping without the written permission of the District Engineer.											
SWT	<p><b>Add statement “Two articles of mail or other items which contain a common name and /or address shall constitute probable cause to issue a citation.”</b></p> <p><b>{this will vary between magistrate courts - adding such a specific would not likely stand review, nor would magistrates be required to honor it. In the absence of a witness, need a preponderance of evidence; two pieces of mail may not be adequate in some courts. Dumping is a significant and growing problem, possibly addressed by the following;</b></p> <p><b>Suggested modification, 327.9(b):</b> <b>(b) It is a violation to bring onto a project any household or commercial garbage, trash, rubbish, debris, dead animals or litter of any kind for disposal or dumping without the written permission of the District Engineer.</b> <i>For the purpose of this regulation, the owner of any garbage, trash, rubbish, debris, dead animals or litter or any kind shall be presumed to be responsible for proper disposal. Such presumption will be sufficient to issue a citation for violation..</i></p>									X X		
	(c) The spilling, pumping or other discharge of contaminants, pollutants or other wastes, including, but not limited to, human or animal waste, petroleum, industrial and commercial products and by-products, on project lands or into project waters is prohibited.											
SAD	<p><b>Revise to add - “.. human or animal waste, galley waste, gray water, petroleum...”</b></p> <p><b>{9(c) has potential for more significant pollution, such as trucks bringing in industrial pollutants, or large quantities of waste being dumped. Should have big fine or MA capability. Fine should be different from 9(a) or (e). Add graywater to (a), but adding here would dilute the</b></p>	+++	XX							X X		

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	intent.}											
SPA	Although the dumping of gray water is a contaminant, campers do not see the words "gray water" and thus do not understand "gray water" to be a contaminant. {Agree, add to 9(a)}	+++	XX							X X		
CENWK-CO-TR	Specify that "greywater" is included. {Agree, add to 9(a)}	+++	XX							X X		
SWF	After "discharge" add "or disposal". {Would fit some instances, give more flexibility.}  Suggested modification, 327(9(c): (c) The spilling, pumping or other discharge or disposal of contaminants, pollutants or other wastes, including, but not limited to, human or animal waste, petroleum, industrial and commercial products and by-products, on project lands or into project waters is prohibited.									X X		
	(d) Campers, picnickers, and all other persons using a water resources development project shall keep their sites free of trash and litter during the period of occupancy and shall remove all personal equipment and clean their sites upon departure.											
SWL	Should be revised to state "Campers, picnickers, and all other persons using a water resource development project shall keep their sites free of trash, refuse, and litter at all times during the period of occupancy, and shall remove all personal property, including trash and refuse, and clean their sites upon departure."  {Consensus is this would be hard to enforce, campers could see as harassment. Existing reg adequate.}										X X	
	(e) The discharge or placing of sewage, galley waste, garbage, refuse, or pollutants into the project waters from any vessel or watercraft is prohibited.											
SAD	Delete this section as it will now be covered by the above	+									X	

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	revised Section 327.9(c).  {Different forfeiture schedules could assist in areas with big offenders, such as industrial dumping. This one should be for rec users.}		XX								X	
LRD	Amend this sentence to add the following wording, "...refuse, pollutants, or the discharge of wastes (liquids or solids) from recreational equipment (camping units, recreational vehicles, or marine sanitation devices) into project lands or into project waters is prohibited". {Already covered by 9(a), which includes discharge into water.}	+	XX								X X	
SPD	Rewrite to add "gray water". "The discharge or placing of sewage, galley waste, gray water, garbage, refuse, or pollutants into project waters from any vessel or watercraft is prohibited."  {Technically, graywater is covered under either galley waste or pollutants on a vessel. Not really necessary to add. Coverage under 9(a) can still apply, if needed.}							XX			X X	
	327.10 Fires.											
SPA	Fires needs specific language to prohibit the dumping of live or "dead" charcoal coals on the ground or in a refuse dumpster. {Already covered under 10(c).}										X X	
	(a) Gasoline and other fuels, except that which is contained in storage tanks of vehicles, vessels, camping equipment, or hand portable containers designed for such purpose, shall not be carried onto or stored on the project without written permission of the District Engineer.											
	(b) Fires shall be confined to those areas designated by the District Engineer, and shall be contained in fireplaces, grills, or other facilities designated for this purpose. Fires shall not											

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	be left unattended and must be completely extinguished prior to departure. The burning of materials that produce toxic fumes, including, but not limited to, tires, plastic or treated wood products is prohibited.											
CEMVK	<p>This article should be revised as follows: "Fires shall be confined to those areas designated by the District Engineer, and shall be contained in fireplaces, grills, <u>fire rings</u> or other facilities designated for this purpose. Fires shall not be left unattended and must be completely extinguished prior to departure. The burning of materials that produce toxic fumes, including but not limited to, tires, plastic or treated wood products is prohibited."</p> <p>{Leave out suggestion, for if included people could make their own "fire ring" out of rocks, etc, claim they are designated.}</p>										X X	
LRD	<p>Add styrafoam to the list of prohibited items.</p> <p>{Due to phase-out of styrafoam as a flotation material, may be helpful to include this term. Burning of styrafoam cups also produces noxious fumes, but typically burned only in nominal amounts. May be a real problem in areas of strict air pollution standards.}</p>									X X		
SWF	<p>After first sentence, add " Lighting, maintaining, or tending a fire, except at such areas or facilities, is prohibited."</p> <p>Add, as final sentence, " The District Engineer may prohibit all open burning during periods of increased fire danger."</p> <p>{Ban on open burning would give more local flexibility, would not have to wait on counties, etc to declare ban if conditions warrant. Should be within authority of DE.}</p> <p>The first addition clarifies that "It was already burning when we got here!" is not a valid defense for utilizing and tending a fire. The second addition makes clear that the</p>									X X		X X



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	District Engineer may ban open fires during, for example, regional fire emergencies. {Little too weak to defend-could be abused by overzealous rangers. If person is seen with any fuel (sticks, etc) or actively tending the fire, they could be cited under existing regs.}											
SWL	Should include "Fires in recreational areas shall be subject to applicable state, county, municipal, or other local restrictions."  {Already are in many places, could become too restrictive in some regions with overzealous regulators; DE control which would allow for this is preferred.}  Suggested modification, 327.10(b): (b) Fires shall be confined to those areas designated by the District Engineer, and shall be contained in fireplaces, grills, or other facilities designated for this purpose. Fires shall not be left unattended and must be completely extinguished prior to departure. The burning of materials that produce toxic fumes, including, but not limited to, tires, plastic, styrofoam, flotation materials or treated wood products is prohibited. The District Engineer may prohibit all open burning during periods of increased fire danger.										X X	
	(c) Improper disposal of lighted smoking materials, matches or other burning material is prohibited.											
	327.11 Control of Animals.											
MVP	Control of Animals. (c) & (d) It would appear that these paragraphs could be combined.  {No, as fines need to be different, allowing different degrees of control.}										X X	
NAB	Add section - "Persons will not allow pets to be left										X	

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	<p>unattended in vehicles, at campsite or picnic sites." We have numerous problems with pets left in hot vehicles or tied up a campsites while the owner is gone.</p> <p>{Corps in the business of people safety, but not in the business of animal safety. T36 intent on animal control has always focused on protecting people and resources from animals, while leaving protection of animals themselves to state and local authorities. Guidance indicates this focus has not changed.}</p> <p>Add section - "Loud and/or continuous barking by pets, that would unreasonably disturb others, is prohibited." Usually occurs in the situations above. {Will address under 11(a).}</p>								XX	X		
LRD	<p>In order to provide emphasis suggest the portion of section b referring to animals on a beach be modified and presented as a separate subsection with the following wording, "All animals and pets are prohibited on beaches, in playgrounds and sanitary facilities, or other areas so designated by the District Engineer". {Agree to modify, but keep in 11(a). See modification.}</p>					+				X X		
SWF	Much addition and re-organizing. This is an area of considerable concern to visitors and rangers.											
NWO	<p>A clarification is needed in the regulations that deals with the use of animals (dogs) for hunting purposes. Currently, according to the regulations, the dog must be on a leash, regardless.</p> <p>{These regs specifically apply only in developed areas of parks - outside the developed areas (even if undeveloped park area) the dog should be allowed to run loose. If a campground is later designated a hunting area (see 327.8 notes), not a rec area, the dog can range.</p>											
	(a) No person shall bring or allow dogs, cats, or other pets into developed recreation areas unless penned, caged, on a											

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	leash under six feet in length, or otherwise physically restrained. No person shall allow animals to impede or restrict otherwise full and free use of project lands and waters by the public. All animals and pets are prohibited on swimming beaches. Animals and pets, except properly trained animals assisting the handicapped (such as seeing-eye dogs), are prohibited in sanitary facilities or other areas so designated by the District Engineer. Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws.											
LRD	<b>Separate out the reference to seeing dogs and make it a specific subsection using the following wording, "Properly trained service animals assisting physically challenged persons are not considered pets for the purposes of this section.".</b> {See modification, should cover.}									X X		
NWO	<b>Dogs swimming in project waters unrestrained: Is this allowable at all times unless it IMPEDES OR RESTRICTS FULL AND FREE USE? This may apply to designated swim areas, but what about developed recreation areas or other project waters?</b>  <b>This is a continuous problem insome recreation areas - often times users are warned about having their dog off-leash in the campground but there is confusion about enforcement of dogs swimming in project waters unrestrained.</b>  {See modification.}											
NWO	<b>Unrestrained pets on project lands: INTO DEVELOPED RECREATION AREAS pets are required to be physically restrained, but what about other project lands or outgranted areas? Does this fall under FULL AND FREE USE?</b>  <b>This can cause confusion and conflicts between different user groups. Are hunting dogs allowed to be utilized unrestrained?</b>											

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	{As written, restraint applies only in developed rec areas. However, second sentence of 11(a) still holds owners responsible for not impeding use by others anywhere on project lands and waters.}											
NWO	Unattended dogs (pets) making excessive noise: UNATTENDED ANIMALS ARE SUBJECT TO IMPOUNDMENT, but what about a citation.  {T36 authorizes citations, not just impoundment. Impoundment may be in addition to citation.}											
SWF	“(a) No person shall bring or allow dogs, cats, or other pets into developed recreation areas unless penned or caged in a single structure not larger than 6' by 10' in area, or on a leash under 6 feet in length. <del>or otherwise physically restrained. No person shall allow animals to impede or restrict otherwise full and free use of project lands and water by the public.</del> All animals and pets are prohibited on swimming beaches, sanitary facilities, or other areas so designated by the District Engineer except properly trained animals assisting the disabled, such as seeing-eye dogs.”  {Single structure idea poses lots of problems, open to may different interpretations, May address with posted restrictions.}  “Under physical restraint” was removed as it serves no purpose other than to engender heated arguments as to what constitutes such restraint. A size limit for pens is specified, because we are beginning to see dog pens which occupy most of a campsite (some in the range of 20' by 30') and may contain up to ten dogs. The “impede or restrict” clause would be moved to the next subsection. The final sentence was merely re-organized.					—				X X		
SWT	A sentence should be added to this section stating any animals deemed to be a nuisance or vicious shall be subject					++					X	



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	to immediate removal from project lands. {Addressed under new 11(g).}										X	
SWL	<p><b>Add:</b> "Abandonment of any animal on project lands or waters is prohibited" and "Animals exhibiting aggressive behavior shall be removed from the project upon request from an authorized representative of the District Engineer. Owners and trainers of animals are liable for any threats, disturbance (including violations of quiet hours), or incident caused by the animals." {Addressed under 11(a) and 11(g).}</p> <p><b>Suggested modification, 327.11(a):</b> (a) No person shall bring or allow dogs, cats, or other pets into developed recreation areas <i>or adjacent waters</i> unless penned, caged, on a leash under six feet in length, or otherwise physically restrained. No person shall allow animals to impede or restrict otherwise full and free use of project lands and waters by the public. <i>Barking or other noise from pets which unreasonably disturbs persons is prohibited.</i> <del>All animals and pets are prohibited on swimming beaches.</del> Animals and pets, except properly trained animals assisting the <del>handicapped</del> <i>those with disabilities</i> (such as seeing-eye dogs), are prohibited in sanitary facilities, <i>playgrounds, swimming beaches</i> or other areas so designated by the District Engineer. <i>Abandonment of any animal on project lands or waters is prohibited. Such u</i>Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws.</p>									X X		
	(b) Persons bringing or allowing pets in designated public use areas shall be responsible for proper removal and disposal, in sanitary facilities, of any waste produced by these animals.											
NAP	<p>replace "designated public use areas" with "developed recreation areas." <b>RATIONALE:</b> The public is more apt to understand what a "developed recreation area" is.</p> <p>{It is true the public may understand "developed" more, but use of "designated" allows more DE control, allowing</p>										X X	

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	more animal control in some undeveloped areas that see heavy use.}											
LRD	Suggest wording of this section be modified to the following, "No person shall bring or allow dogs, cats, or other pets into recreation areas unless penned, caged, on a leash under six feet in length, or otherwise physically restrained. No person shall allow animals to impede or restrict otherwise full and free use of project lands and waters by the public or to unreasonably annoy another person. Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws". The word "developed" is omitted because animals can be problems in recreation areas that get visitation but are not actually developed. {Addressed under 11(a).}									X X		
SWF	<p>"(b) [from subsection(a)] No person shall allow <del>animals</del> pets to impede or restrict otherwise full and free use of project lands and waters by the public. Dangerous pets and animals (including but not limited to such animals as cougars, lions, bears, bobcats, wolves, and snakes), or any pet or animal displaying vicious or aggressive behavior, or which otherwise pose a threat to public safety, are prohibited from being brought on to project lands and waters."</p> <p>The word "pets" was substituted to clarify the intent of the first clause; the present wording could boomerang on Corps employees should a native animal injure a visitor. The second sentence gives clear authority for the Corps to prohibit visitors' bringing clearly inappropriate animals into public use areas. Such an occurrence resulted in the mauling of a two-year-old child by a leashed cougar at a Fort Worth District lake. Many visitors are bitten by aggressive (but often leashed) dogs, and several park rangers have been bitten in the parks over the past few years. {Issue addressed under 11(g).}</p>				+++					X X		
	(c) No person shall bring or allow horses, cattle, or other											

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	livestock in camping, picnicking, swimming or other recreation areas except in areas designated by the District Engineer.											
LRD	<p>Insert the words "wild animals" after the word "allow" in the sentence. This necessary to deter individuals from bringing caged or leased wild animals into recreation areas. Substitute term "on project lands" for "in camping, picnicking, swimming or other recreation areas".</p> <p>{Intended to address domesticated livestock, allow different forfeiture schedule than 11(a). Wild animals addressed under 11(g).}</p>									X X		
NWO	<p>Unattended dogs (pets) making excessive noise: <b>DISRUPTIVE BEHAVIOR BY ANY PERSON, or animal (pet) needs to be included, WHICH INTERFERES...OR IMPAIRS THE SAFETY...</b></p> <p>I have received numerous complaints about unattended dogs making excessive noise in recreation areas. There have also been occasions which an unattended dog has been tied up too close to the roadway and causes a safety hazard to vehicles and/or pedestrians. {See 11(a) modification, should address.}</p>									X X		
CENWK-CO-TR	<p>Insert "wild animals" after the word "allow". (This is needed to deter those who bring in caged or leashed wild or exotic animals.) {See above}</p>									X X		
SWF	<p>Pets may not be left unattended and tied to an object. Free-roaming, feral, unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws." {Outside our authority at present.}</p> <p>Unattended animals can, and often do, free themselves and endanger nearby campers. In this situation, it is difficult and dangerous to attempt to approach the animal.</p>										X X	

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	<b>[Remaining subsections (b) through (f) of present regulation would then be relabeled (d) through (h).]</b>											
	(d) Ranging, grazing, watering or allowing livestock on project lands and waters is prohibited except when authorized by lease, license or other written agreement with the District Engineer.											
SAD	<b>Sections 327.11(d) and (e): Combine these sections.</b>  <b>{No-different forfeiture schedules for illegal grazing and impoundment fees for impounded cattle. Perhaps 11(e) and 11(f) could be combined, but it has not posed problems to date.}</b>							XX			X X	
	(e) Unauthorized livestock are subject to impoundment and removal in accordance with Federal, state and local laws.											
SAD	<b>Sections 327.11(d) and (e): Combine these sections.</b>							XX			X X	
	(f) Any animal impounded under the provisions of this section may be confined at a location designated by the District Engineer, who may assess a reasonable impoundment fee. This fee shall be paid before the impounded animal is returned to its owner(s).											
CENWK-CO-TR	<b>Add new subparagraph (g) The owner or responsible party shall be required to remove any dog which displays aggressive behavior or which poses a threat to public safety even though it is physically restrained. (More and more visitors are bringing in vicious dogs. Dog attacks on other visitors and Corps employees are increasing in number. The potential for a small child wandering too close to a vicious dog, leashed or not, and being seriously mauled or killed is frightening.)</b> <b>{See 11(g).}</b>									X X		
SWL	<b>Section 327.11(g). Add a phrase prohibiting potentially dangerous non-typical pets from the parks. Possible</b>		XX		++	++				X X		



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	<p>wording could be “Exotic animals and other non-typical pets including, but not limited to, bears; cougars; lions; wolves; and reptiles are prohibited in all parks, recreation areas, administrative, and interpretative facilities.”</p> <p><b>Suggested new subsection 327.11(g):</b> <i>(g) Wild or exotic pets and animals (including, but not limited to cougars, lions, bears, bobcats, wolves and snakes), or any pets or animals displaying vicious or aggressive behavior, otherwise pose a threat to public safety, or are deemed a public nuisance, are prohibited from project lands and waters, and are subject to removal in accordance with Federal, state and local laws.</i></p>											
	327.12 Restrictions.											
LRD	<p>Statements regarding the use of alcohol, restricted areas, beach rules, and the wearing of PFDs should be developed and placed in this section. If the decision is made to adopt a restrictive alcohol policy then the following restriction could be added to this section, “The use or possession of alcoholic beverages on project lands and waters is prohibited unless authorized by lease, license, permit, or other written agreement by the District Engineer”.</p> <p>{As per Ranger Safety Committee, alcohol would have to be handled locally-no feasible way or rationale to prohibit it nationally. Restricted areas already covered here (2nd sentence). Others are state/local laws.}</p>			XX							X X	
	(a) The District Engineer may establish and post a schedule of visiting hours and/or restrictions on the public use of a project or portion of a project. The District Engineer may close or restrict the use of a project or portion of a project when necessitated by reason of public health, public safety, maintenance, or other reasons in the public interest. Entering or using a project in a manner which is contrary to the schedule of visiting hours, closures or restrictions is prohibited.											

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CELMVROD-T	<p>Remove the words "and post" from the first line and add the statement " Specific restriction of use are available at the project office and other staffed recreation areas." Although we will continue to place signs, this would eliminate the requirement to have signs posted at every conceivable location in order to enforce the restrictions.</p> <p>{Magistrates require a sign posted in a public place, but not in every single location. Unless there are public signs (especially for local restrictions) they will not convict.}</p>										X X	
CEMVK	<p><b>Restrictions - This article should be revised as follows:</b> "The District Engineer may establish and post a schedule of visiting hours and/or restrictions on the public use of a project or portion of a project. The District Engineer may close or restrict the use of a project or portion of a project when necessitated by reason of public health, public safety, maintenance, <u>natural resources</u> or other reasons in the public interest. Entering or using a project in a manner which is contrary to the schedule of visiting hours, closures or restrictions is prohibited." {See modification below.}</p> <p>Add that a violation of this section will be considered trespassing. For instance, if a Federal Magistrate has ordered an individual banned from all federal property for a specified period and the individual returns to the property. {Rangers cannot enforce a magistrate edict - this is a law enforcement issue, outside our role. Even if someone is banned from a park, if they return, we can only request they leave. We must get law enforcement help to remove them.}</p> <p>Suggested modification, 327.12(a): (a) The District Engineer may establish and post a schedule of visiting hours and/or restrictions on the public use of a project or portion of a project. The District Engineer may close or restrict the use of a project or portion of a project when necessitated by reason of public health, public safety, maintenance, <i>protection of natural</i></p>			XX	_____	_____			_____	X X	X X	

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	<b>resources or other reasons in the public interest. Entering or using a project in a manner which is contrary to the schedule of visiting hours, closures or restrictions is prohibited.</b>											
	(b) Quiet shall be maintained in all public use areas between the hours of 10 p m. and 6 a m., or those hours designated by the District Engineer. Excessive noise during such times which unreasonably disturbs persons is prohibited.											
CENWK-CO-TR	<b>Delete "public use areas". Revelers are very often found outside the park disturbing those within and adjacent private neighbors.</b>  <b>{Guidance suggests such cases should be handled by law enforcement contracts, especially during the quiet time hours. Rangers typically should not be handling such situations alone. }</b>											
SWF	<b>"Quiet shall be maintained in all <del>public use</del> project areas, including water areas, between the hours of 10 p m. and 6 a.m...."</b>  <b>This change would help curtail late night "drag racing" noise on the lake, an unreasonable disturbance to most campers. It would also allow rangers to tone down shoreline groups anywhere on the project which unreasonably disturb adjacent residents.</b>  <b>{Again, law enforcement should be involved in some of these areas.}</b>			XX	—		XX				X X	
	(c) Any act or conduct by any person which interferes with, impedes or disrupts the use of the project or impairs the safety of another person is prohibited. Individuals who are boisterous, rowdy, disorderly or otherwise disturb the peace on project lands or waters may be requested to leave the project.											
CEMVK	<b>This article should be revised as follows:</b> <b>"Any act or conduct by any person which interferes with,</b>									X		

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	<p>impedes or disrupts the use of the project or impairs the safety of another person is prohibited. Individuals who are boisterous, rowdy, disorderly, <u>indecently exposed</u>, or otherwise disturb the peace on project lands or waters may be requested to leave the project <u>and forfeit any user fees paid.</u>"</p> <p>{Adopt, as this is a problem on the increase. Input received indicated "lewd" may be a more legally useful term than "indecent," which is apparently very difficult to define in a legal sense. Under request to "forfeit fees:" under existing Corps-wide policy, refunds cannot be given at the field level, PERIOD. Giving Credit Vouchers for any remaining portion of rec use fees is administered in accordance with ER 1130-2-550 and other Division/District policies, handled separately from T36. Credit Vouchers are awarded at the discretion of the Project Manager, who is under no obligation to issue a voucher to someone removed from a park. We basically have the authority to not return use fees; adding this terminology to T36 would not likely pass legal review.}</p>									X		
NAP	<p>change the last sentence to read: "Individuals who are boisterous, rowdy, disorderly or otherwise disturb the peace on project lands or waters may be <u>required</u> to leave the project, and prohibited from using it in the future. RATIONALE: This provides stronger language and allows management the option of citing a disorderly individual and of requiring him/her to leave the project, not just requesting them to leave. Additionally, it provides the mechanism of lawfully banning a troublemaker from returning to the project the next day, week, month, etc.</p> <p>{We have no authority to "require" them to leave. "Request" is there by design.}</p>			XX							X X	
NAB	<p>Change last sentence - "Actions by individuals who are boisterous....on public lands or waters are prohibited and the individuals may in addition be directed to leave the project." The current regulation does not clearly state</p>							XX			X X	



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	<p>that the individual may be cited as well as directed to leave.</p> <p>{Reg already says action is prohibited, therefore it is legally citable.}</p> <p>Add Section - "Persons shall not enter an area posted "No Trespassing or Restricted Access" unless authorized." Entering these areas (operations areas, compounds, etc.) are of a serious nature. As a separate section a greater forfeiture could be utilized than that covered under 12(a) which usually includes relatively minor situations such as campground rules, etc.</p> <p>{Local issue-should go to magistrate, get different fines for different areas they enter. Could also press state charges for trespassing in addition to T36 citation. On a serious issue, we should call the cops.}</p> <p>Add Section - "Persons shall not enter into an area posted as dangerous, hazardous, or other area posted that might endanger the violator or another." The intent is the same as above to provide for a more serious collateral for those that might enter into a marked - dangerous tailrace, discharge, intake area, etc.</p> <p>{Still does not give any more clout than 12(a) currently gives.}</p>										X X	
SPD	<p>Rewrite".. impairs the safety of another person..." to "... impairs the safety of any person..." Makes Part consistent with Parts 327.3(d) and 327.4(c).</p> <p>{Add as suggested, consistent with Vehicles and Vessels, could include potential danger to self.}</p>				+					X X		
SWT	<p>Add the word "or oneself". { "any" preferred }</p> <p>Suggested modification, 327.12(c): (c) Any act or conduct by any person which interferes</p>				+					X X		

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	with, impedes or disrupts the use of the project or impairs the safety of <del>another</del> any person is prohibited. Individuals who are boisterous, rowdy, disorderly, <i>lewd</i> or otherwise disturb the peace on project lands or waters may be requested to leave the project.											
	(d) The operation or use of any audio or other noise producing device including, but not limited to, radios, televisions, or musical instruments and motorized equipment, including vessels or vehicles, in such a manner as to unreasonably annoy or endanger persons at any time or exceed state or local laws governing noise levels from motorized equipment is prohibited.											
CEMVK	<p><b>Restrictions, noise - This article should be revised as follows: "The operation or use of any audio or other noise producing device including, but not limited to, radios, televisions, <u>cassette players, compact disc players</u>, or musical instruments and motorized equipment including vessels or vehicles, in such a manner as to unreasonably annoy or endanger persons at any time or exceed state or local laws governing noise levels from motorized equipment is prohibited."</b></p> <p>{Need to take care we do not get too specific, or name items that may become obsolete within a few years. See modification.}</p>					+				X X		
SAD	<p>Delete the phrase "...or exceed state and local laws governing noise levels from motorized equipment..." for the same rationale as in Item 5 above.</p> <p>{Still, we must have some legal standard to base our judgment upon for it to stand up in court. The referenced laws provide this.}</p>										X X	
SPD	Rewrite to add "generators". "The operation or use of any audio or any other noise producing device including, but not limited to, radios, televisions, or musical instruments and motorized equipment including generators, vessels or vehicles, in such a manner as to									X X		

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	unreasonably annoy or endanger persons at any time or exceed state or local laws governing noise levels from motorized equipment is prohibited." {See modification}											
CENWK-CO-TR	Add "generators" to the list of noise producing devices.									X X		
SWL	<p>Delete the words "or exceed state or local laws governing noise levels from motorized equipment" from the phrase. This has been an unenforceable measure and contributes nothing to the regulation. A paragraph should be developed to prohibit the unauthorized use of project facilities contrary to design and construction for recreation purposes (e.g. vehicle engine maintenance such as, but not limited to, oil changes; use of electrical service for power tool operation for repair; maintenance; construction or painting of boats and/or trailers; water tank truck loading at boat ramps; cleaning fish in restrooms or at water fountains; and unsafe personal conduct acts such as climbing buildings, poles, towers, and other project facilities). A paragraph should also be developed to prohibit public nudity, lewd behavior, sexual indecency, and loitering for such purposes in the restrooms and restroom parking lots. Expulsion from the project should be stated as a consequence of violating this paragraph.</p> <p>{Generally appears everything covered under other regs and mods, except fish cleaning in restroom, which should be handled under local posted restrictions.}</p> <p>Suggested modification, 327.12(d): (d) The operation or use of any <del>audio or other noise sound</del> producing device <del>including, but not limited to, radios, televisions, or musical instruments and</del> or motorized equipment, including <i>generators</i>, vessels or vehicles, in such a manner as to unreasonably annoy or endanger persons at any time or exceed state or local laws governing noise levels from motorized equipment is</p>									X X		

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	prohibited.											
NAP	<p>327.12( e ). Create this new section under 327.12 Restrictions. It shall read: The possession and/or consumption of alcoholic beverages at any portion of the project, or the entire project, is prohibited when designated by the District Engineer. RATIONALE: Currently, alcohol violations are enforced under 327.12(a) by most projects. It is a cumbersome section under which to enforce this regulation when the District Engineers elected to ban alcohol. Fortunately, in the Philadelphia District, our local rule adopted by the federal courts assigned a separate collateral forfeiture section for alcohol violations as 327.12 ( e ). To remain consistent throughout the Corps, we recommend that a separate section for alcohol violations, such as we have in this District, be adopted.</p> <p>{Agree, see new subsection 12(e)}</p> <p>327.12( f ). Create this as a new section specifically for beach regulations. Suggested wording would be as follows: The District Engineer may establish and post beach regulations, and may close or restrict the use of the beach, or portions thereof, when necessitated by reasons of public health, safety, maintenance operations or other reasons in the public interest. RATIONALE: Currently, beach regulations are enforced under 327.12 ( a ). Beach regulations can be quite lengthy and it would be better to have a separate collateral forfeiture section adopted just for these regulations.</p> <p>{Already covered, magistrates not likely to authorize a different forfeiture without a better rationale.}</p> <p>Suggested new subsection 327.12(e):  <i>The possession and/or consumption of alcoholic beverages at any portion of the project land or waters, or the entire project, may be prohibited when designated and posted by</i></p>		XX			+				X X		
											X X	



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	<i>the District Engineer.</i>											
	327.13 Explosives, Firearms, Other Weapons and Fireworks.											
	The possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, crossbows, explosives or explosive devices of any kind, including fireworks, is prohibited unless:											
SAD	Revise to add - "The possession and/or discharge of ..." and delete the term "loaded" from "loaded firearms" and "loaded projectile firing devices." This should better clarify the issue of firearms and reduce risk to rangers. Also, need to add another exception to address concealed weapons carried in accordance with applicable state laws and permitting processes. {See modification and rationale that follows.}				XX					X X		
NAP	Delete the word "loaded" where it appears. RATIONALE: There is no logical reason for a person to carry a firearm of any type onto the project unless it is being used for legitimate hunting and fishing purposes. Therefore, by removing the word "loaded" from the regulations we are thus banning the carrying of firearms onto the project unless it is for legitimate purposes. We have had police respond to the project on various occasions when park patrons observed firearms on other visitors and feared for their own safety. When police arrive, there is no regulation they can apply to make the visitor take their firearm off the project, unless it was loaded. Rangers on night patrol have come upon visitors carrying firearms. The visitors claim they carry the firearms for their safety, yet our records show no incidents where a visitor would have needed a firearm to protect themselves. {See modification and rationale that follows.}				XX					X X		
NAB	Clarification - Separate fireworks from weapons, etc. and possession from use. This results in the same fine for possessing fireworks as a gun.		XX							X X		

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	<p>Delete from first sentence "... including fireworks..."</p> <p>Add Section - "The possession or discharge of fireworks, as defined by state law, is prohibited unless permitted by a special events permit."</p> <p>{Agree to breakout, seek different forfeiture. See new subsection (b).}</p>											
LRD	<p>Recommend deletion of the term "loaded" from "loaded firearms" and "loaded projectile firing devices". This clarifies the issue of firearms and fireworks while not placing the ranger in situations of high risk where they may have to interact with a potentially dangerous armed individual.</p> <p>A statement will probably need to be added to this section that addresses concealed weapons as there are a number of state and local laws as well as ordinances that address this issue, particularly if we are going to continue to say that state and local laws shall apply on project lands and waters.</p> <p>{See modification and rationale that follows.}</p>				XX					X X		
SPD	<p>Add "chemical weapons". "The possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, crossbows, chemical weapons, or explosive devices..."</p> <p>{ie, pepper spray, mace. It is legal to carry these anywhere except on a commercial airplane. State law issue.}</p>										X X	
CENWK-CO-TR	<p>The possession of loaded firearms or other loaded projectile firing devices, explosives or explosive device of any kind including fireworks is prohibited unless: (1) in the possession a Federal, state or local law enforcement officer; (2) being used for hunting or fishing as permitted under Section 327.8, with devices being unloaded when</p>									X X		

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	<p>transported to, from or between hunting and fishing sites; (3) being used at authorized shooting ranges; (4) participation in a living history program; or (5) written permission has been received from the District Engineer.</p> <p>{See modification and rationale that follows. Living history programs should have special event permit authorizing use of firearms.}</p>											
CENWK-CO-TR	<p>Add the following sentence: "Target shooting is prohibited except where permitted."</p> <p>{Already declares limitations - would be redundant.}</p>										X X	
SWF	<p>[Too much lumped together; break it up!]</p> <p>"(a) The possession of <del>loaded</del> firearms, ammunition, projectile firing devices, bows and arrows, and crossbows is prohibited unless; ... [the four conditions]</p> <p>The word "loaded" should be stricken. The only circumstances for a member of the public to be in possession of a firearm (unloaded or otherwise) on Corps lands or waters are covered by the four conditions. There is no reason for the regs to put the burden of investigating whether or not a weapon is loaded upon a weaponless agency.</p> <p>"(b) The possession of a state-issued permit to carry a weapon does not invalidate the prohibitions contained in this section. Possession of other weapons as defined by state law is prohibited without written permission of the District Engineer."</p> <p>The Corps needs to either specifically prohibit "concealed-carry" weapons, or exempt them. We favor prohibiting them. The second sentence would prohibit such items as clubs, switchblades, throwing stars, nunchucks, etc.</p> <p>{See modification and rationale that follows.}</p>				XX					X X		

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	<p>"(c) Possession of explosives or explosive devices of any kind, including fireworks or other pyrotechnics, is prohibited unless written permission has been received from the District Engineer."</p> <p>Should be listed separately; only one of the four conditions applies. {See new subsection 13(b)}</p>									X X		
SWT	<p>A statement should be added that fireworks may be impounded.</p> <p>{Impounding would require we follow Federal Property Management Regulations, which would likely be far too cumbersome for something like fireworks. It does not appear rangers have authority to confiscate/impound. Would require the assistance of law enforcement. Don't see how this could be authorized under T36.}</p>										X X	
NWO	<p><b>LOADED FIREARMS....PROHIBITED UNLESS.....</b> What about possession of unloaded firearms by recreational users, other than hunters, on project land and waters.</p> <p>This is an issue of public and Ranger safety and should be addressed. I have had a camper say, "I suppose you're going to tell me I can't have my gun in the camper also." {See modification and rationale that follows.}</p> <p>Suggested modification and addition to 327.13: (a) The possession of <del>loaded</del> firearms, ammunition, <del>loaded</del> projectile firing devices, bows and arrows, crossbows or other weapons, <del>explosives or explosive devices of any kind, including fireworks</del>, is prohibited unless: (1) in the possession of a Federal, state or local law enforcement officer; (2) being used for hunting or fishing as permitted under Section 327.8, with devices being unloaded when transported to, from or between hunting and fishing sites; (3) being used at authorized shooting ranges; or (4) written permission has been received from the District Engineer.</p>											



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	<p><i>(b) Possession of explosives or explosive devices of any kind, including fireworks or other pyrotechnics, is prohibited unless written permission has been received from the District Engineer.</i></p> <p><b>{Rationale for chosen wording:</b> This was a highly discussed and researched topic, with much good input considered. The result is a compromise, given the numerous external factors affecting our authority. It was concluded that rangers should not have to inspect a firearm to check if it is loaded, as the current reg required. Therefore, "loaded" was stricken. It is also a reality that a total ban on all firearms was impractical and unconstitutional. Hunting and fishing are legitimate recreation venues, and firearms, bows, etc. are a part of that, and should be allowed, with certain limitations in public places such as parks, for public safety. Also, state "right-to-carry" permits vary widely. Some permit concealed carry, others allow open carry. Open carry of firearms in parks is generally not considered acceptable, hence a "in accordance with state law and permits" section was considered and dropped. Too many variations exist to address in one nationwide document. Prohibiting concealed carry could make rangers the sole enforcer in some states}</p> <p><b>m loca</b></p>											
	(1) in the possession of a Federal, state or local law enforcement officer; (2) being used for hunting or fishing as permitted under Section 327.8, with devices being unloaded when transported to, from or between hunting and fishing sites; (3) being used at authorized shooting ranges; or (4) written permission has been received from the District Engineer.											

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	327.14 Public Property											
NAB	<p>Add - "use of metal detectors"</p> <p>{Corps-wide policy exists, we cannot prohibit altogether. See new subsection 14(d).}</p>									X X		
NWO	<p>It should also state that during the gathering of firewood, a person is NOT allowed to drive off-road with the vehicle.</p> <p>{Should not be off road anyway; already covered at 2(c).}</p>							XX			X X	
	(a) Destruction, injury, defacement, removal or any alteration of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, and vegetative growth, is prohibited except when in accordance with written permission of the District Engineer.											
SAD	<p>Revise to add - "paleontological remains, non-game species of wildlife" after "historical and archaeological features." Some non-game species are protected by state law, but others are not. There have been instances where individuals have harassed and/or killed non-game wildlife on Corps lands not for personal protection but out of ignorance or for meanness.</p> <p>{Agree on paleontological. Non-game species could be covered under hunting, firearms; possibly destruction of Government property, but this might apply only to migratory birds, or endangered species. Opens up several legal &amp; jurisdictional problems. Probably not a T36 issue.}</p>									X X	X X	
LRD	Suggest the following rewording of this section to include "possession" of public property and paleontological resources, "Destruction, injury, defacement, removal, or possession of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, paleontological remains, and vegetative growth, is prohibited except when									X X		

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	<p>in accordance with written permission of the District Engineer".</p> <p>{Add paleontological resources, but do not add "possession," which would be akin to creating a "controlled substance" such as illegal drugs. Outside our authority. Also add "boundary monumentation"}</p>											
CENWK-CO-TR	Insert "paleontological remains" after archaeological features.									X X		
SWF	<p>Change to "...historical, paleontological, and archaeological features, ..."</p> <p>Clarifies that fossils, dinosaur tracks, <i>et al.</i>, are protected public property.</p>									X X		
SWL	<p>Add "boundary monumentation" to the list of public property that is protected from defacement, destruction, or removal. The use of metal detectors should be addressed in this section.</p> <p>{Add in monumentation. Add metal detectors under (d).}</p>									X X		
SWL	<p>Add section (d). "Mowing or brush clearing activities on project lands are prohibited without written permission of the District Engineer. The construction and/or clearing of paths for access across project lands is prohibited except when in accordance with written permission from the District Engineer."</p> <p>{Not needed with vegetative growth verbiage.}</p>							XX			X X	
SWT	<p>A statement should be added "items used in the destruction of public property may be impounded for evidence and held until the case has been disposed."</p> <p>{Same as with fireworks. We cannot readily seize or impound private property.}</p>										X X	

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	<b>Suggested modification, 327.14(a):</b> (a) Destruction, injury, defacement, removal or any alteration of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, <i>paleontological resources, boundary monumentation or markers</i> and vegetative growth, is prohibited except when in accordance with written permission of the District Engineer.											
	(b) Cutting or gathering of trees or parts of trees and/or the removal of wood from project lands is prohibited without written permission of the District Engineer.											
NWO	<b>Does CUTTING include use of chain saws in or around recreation areas.</b>  <b>People often use chain saws for cutting up gathered wood. I know in many recreation areas across the country this is prohibited, is it on COE project land?</b>  {No nationwide ban. DE can set local policy.}											
	(c) Gathering of dead wood on the ground for use in designated recreation areas as firewood is permitted.											
SPD	<b>Delete. Many state and federal parks prohibit wood gathering. Wood gathering should be a local option depending upon local conditions. Additionally, firewood sales might be a revenue generation option.</b> {Agree, see modification.}									X X		
CENWK-CO-TR	<b>Add paragraph (d) to state "the use of metal and other detector devices is prohibited except in designated areas specified by the District Engineer.</b> {Add as paragraph 14(d).}									X X		
SWF	<b>After “.. is permitted”, add “, unless prohibited by the District Engineer.”</b>  {Might be good to have in, doesn't hurt those who allow the activity. There may be areas and times in which we									X X		



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	<p>need to prohibit all gathering of wood.}).</p> <p><b>Suggested modification, 327.14(c):</b> (c) Gathering of dead wood on the ground for use in designated recreation areas as firewood is permitted, unless prohibited and posted by the District Engineer.</p> <p><b>Suggested new subsection 327.14(d):</b> (d) The use of metal detectors is permitted on designated swim beaches or other previously disturbed areas, unless prohibited by the District Engineer for reasons of protection of archaeological, historical, or paleontological resources. Items found must be disposed of in accordance with Part 327.15 and Part 327.16.</p>											
	327.15 Abandonment and Impoundment of Personal Property.											
<b>LRD</b>	<p><b>Suggest adding the following subsection, "Any personal property involved with unauthorized activities as defined in this regulation shall be subject to summary removal and/or impoundment. Personal property may be impounded for the purpose of guaranteeing public safety, resource protection, and/or providing evidence for prosecuting a citation. Personal property may be returned to owners upon their leaving project lands or upon disposition of any citation by the courts".</b></p> <p>{Again, we cannot seize property, cannot take it away if it has not been abandoned. Get a deputy to do the actual seizure. Add in after "in a public use area," ...or for the purpose of guaranteeing public safety or resource protection,..."} Could greatly help if drums of potential hazardous waste are dumped, something leaking into the lake, etc.}</p>	XX								X X		
	(a) Personal property of any kind shall not be abandoned, stored or left unattended upon project lands or waters. After a period of 24 hours, or at any time after a posted closure hour											

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	in a public use area, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the District Engineer, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.											
	<b>Suggested modification, 327.15(a):</b> <b>(a) Personal property of any kind shall not be abandoned, stored or left unattended upon project lands or waters. After a period of 24 hours, or at any time after a posted closure hour in a public use area, or for the purpose of providing public safety or resource protection, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the District Engineer, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.</b>											
	(b) The District Engineer shall, by public or private sale or otherwise, dispose of all lost, abandoned or unclaimed personal property that comes into Government custody or control. However, property may not be disposed of until diligent effort has been made to find the owner, heirs, next of kin or legal representative(s). If the owner, heirs, next of kin or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at the last known address. When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay except that if it has a fair market value of \$25 or more the property may not be disposed of until 90 days after the date it is received at the storage point designated by the District Engineer. The net proceeds from the sale of property shall be conveyed into the Treasury of the United States as miscellaneous receipts.											
CELMVROD-T	<b>Change to "The District Engineer shall dispose of all lost, abandon or unclaimed personal property with a value of greater than \$100 that comes into government custody or</b>									X X		

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	control 90 days after the property is received. Any property with a value of less than \$100 may be disposed of 7 days after it comes into government custody or control if unclaimed. Diligent efforts shall be made to locate the owner, heirs or next of kin prior to disposal." This will allow us to dispose of property more quickly and not spend a lot of time trying to return the ripped tent and greasy skillet that was left on a campsite.  {Examines Title 41 regs, appears we have authority to increase this limit to \$100. Corps is different from other agencies, as we provide a service to our customers, holding lost items longer, seeking to locate owners, etc.}											
CEMVN	When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay except that if it has a fair market value of (pick one: \$50.00 \$75.00 \$100.00) or more the property.....									X X		
SAD	Change the value of property stipulation from \$25 to \$50 and both the 90-day and 120-day time stipulations to 30 days.  {Time frame could possibly be changed, but policy is to provide a service. Recommend increase in value limit.}										X X	
LRD	Suggest that the "\$25 or more" be modified to "\$150 or more" to reflect the value of today's dollar and to recognize the cost involved with processing a property disposal. The word "covered" in the last sentence should actually be "conveyed".  { "Covered" is actually the term used by US Treasury regs, strange as that may seem! }										X X	
SPD	Increase fair market value from \$25 to \$100. This will allow quicker disposal of abandoned property and lower Corps' administrative costs.									X X		

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CENWO-OD-TN	Raise the fair market value amount from \$25 to \$50.											
CENWK-CO-TR	<p>Sentence 4, change to read "When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay in accordance with Title 41 CFR, Federal Property Management Regulation, Chapter 101, Sections 45.901 and 45.902; except that if it has a fair market value of \$500 or more, the property may not be disposed of until 90 days after the date it is received at the storage point designated by the District Engineer. The net proceeds from the sale of property shall be covered into the Treasury of the United States as miscellaneous/receipts."</p> <p>{Add Title 41 reference - Raise limit to \$100 rather than \$500 to remain consistent with "customer service" goal.}</p>									X X		
SWF	<p>This is a very cumbersome, time consuming, and expensive mechanism for disposal of property. Additionally, it provides no means of allowing the finder to eventually be awarded the item; NPS regs permit this, which provides an incentive for the finder to turn in the property. Absent a compelling reason not to, this process should be revised and streamlined.</p> <p>{Awarding private property to the finding individual does not appear at all acceptable in the current climate.}</p>										X X	
SWT	Under unclaimed or abandoned property, after diligent efforts have been made to locate the owners, we should be allowed to dispose of property without delay if valued under \$100.00, instead of \$25.00.									X X		
SWL	<p>Should be rewritten to provide for a more expedient means of disposal of abandoned personal property.</p> <p>Suggested modification, 327.15(b): (b) The District Engineer shall, by public or private sale or otherwise, dispose of all lost, abandoned or unclaimed personal property that comes into Government custody or</p>											



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	control. However, property may not be disposed of until diligent effort has been made to find the owner, heirs, next of kin or legal representative(s). If the owner, heirs, next of kin or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at the last known address. When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay in accordance with Title 41 CFR, Federal Property Management Regulation, Chapter 101, Sections 45.901 and 45.902; except that if it has a fair market value of <del>\$25</del> \$100 or more the property may not be disposed of until 90 days after the date it is received at the storage point designated by the District Engineer. The net proceeds from the sale of property shall be conveyed into the Treasury of the United States as miscellaneous receipts.											
	(c) Personal property placed on Federal lands or waters adjacent to a private residence and/or developments of any private nature for more than 24 hours without permission of the District Engineer shall be presumed to have been abandoned and, unless proven otherwise, such presumption will be sufficient to issue a citation as provided for in Section 327.25.											
SAD	Revise to add - "...such presumption will be sufficient to impound the property and/or issue a citation..."  {Applies to private picnic areas, boat on Corps land, etc. 15(a) does allow impoundment of abandoned property on all project lands and water, seems it would apply here. Check with legal if we can remove (esp summary removal where we would have to cut chain, etc). If possible, add impoundment to 15(c) as well.}									X X		
SWF	Change first sentence to "...adjacent to a private residence, and/or development, or facility of any private nature..."									X		

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	<p>This change would clarify that personal property cannot be placed around boathouses and other private facilities placed under a Shoreline Management Plan. The owner of the closest adjacent private residence is often not the owner of the private floating facility.</p> <p>{Would allow greater flexibility, better definition.}</p>									X		
NWO	<p>Paragraph (c) needs to have "impound the personal property" added to in after the word "citation."</p> <p>Suggested modification, 327.15(c): (c) Personal property placed on Federal lands or waters adjacent to a private residence, <i>facility</i> and/or developments of any private nature for more than 24 hours without permission of the District Engineer shall be presumed to have been abandoned and, unless proven otherwise, such presumption will be sufficient to <i>impound the property and/or</i> issue a citation as provided for in Section 327.25.</p>									X X		
	327.16 Lost and Found Articles.											
	All articles found shall be deposited by the finder at the Resource Manager's office or with a ranger. All such articles shall be disposed of in accordance with the procedures set forth in Section 327.15.											
	<p>{According to recent policy letter from HQUSACE, the reference "Resource Manager" is to be replaced with "Manager." It was intended to use the term "Project Manager;" however, that term apparently now belongs to Project Management Branch, and is not authorized for use as intended in T36.}</p> <p>Suggested modification, 327.16: All articles found shall be deposited by the finder at the Resource Manager's office or with a ranger. All such</p>											

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	<b>articles shall be disposed of in accordance with the procedures set forth in Section 327.15.</b>											
	327.17 Advertisement.											
	Advertising by the use of billboards, signs, markers, audio devices, handbills, circulars, posters, or any other means whatsoever, is prohibited without written permission of the District Engineer. Vessels and vehicles with semipermanent or permanent painted or installed signs are exempt as long as they are used for authorized recreational activities and comply with all other rules and regulations pertaining to vessels and vehicles.											
	327.18 Commercial Activities.											
<b>LRD</b>	<b>Suggest that the phrase “on project lands or waters” be added to this sentence.</b>  <b>{All of T36 applies to project lands/waters as stated under 327.1, Policy, but addition would greatly clarify for the public.}</b>							XX		X X		
	The engaging in or solicitation of business without the express written permission of the District Engineer is prohibited.											
<b>SWF</b>	<b>“The engagement in or solicitation of business without the express written permission of the District Engineer is prohibited. Any solicitation for, or provision or delivery of, any service or portion of service on project lands or waters constitutes conclusion of commercial activity.”</b>  <b>This sentence would clarify that if any portion of a commercial activity occurs on Corps property, a regulated commercial activity exists. Corps lakes are seeing more and more of this type of commercial operator, for example, an individual who sets out a dozen PWC along a</b>										X X	

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	<p>roadway leading to a Corps park, and rents the PWC to incoming visitors. This individual then comes in to the park to conduct the remainder of the business. His rental craft may even effectively take over the nearest boat ramp. This revision re-enforces that if his business provides any portion of the services on Corps property (such as delivery, launch, or retrieval of the craft), it becomes a commercial activity as defined by 327.18. Although at least one Magistrate Judge has sustained this position in court, this clarification should be made in the CFR; it would prevent many arguments.</p> <p>{Real Estate should examine closely; delivery portion does not seem to violate intent of 327.18.}</p> <p><b>Suggested modification, 327.18:</b> The engaging in or solicitation of <i>business on project lands or waters</i> without the express written permission of the District Engineer is prohibited.</p>											
	327.19 Permits.											
	(a) It shall be a violation of these regulations to refuse to or fail to comply with the fee requirements or other terms or conditions of any permit issued under the provisions of this Part 327.											
NAB	<p><b>Clarification - Even though section 19 is written primarily for Lake Shore Management type permits, a section is needed to indicate that it is a violation of Title 36 to fail to abide by the terms of <u>any permit</u>. Modify last of sentence "...under the provisions of Title 36."</b></p> <p><b>{Agree}</b></p> <p><b>Suggested modification, 327.19(a):</b> (a) It shall be a violation of these regulations to refuse to or fail to comply with the fee requirements or other terms or conditions of any permit issued under the provisions of</p>							XX		X X		



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	<del>this</del> Title 36 Part 327.											
	(b) Permits for floating structures (issued under the authority of Section 327.30) of any kind on/in waters of water resource development projects, whether or not such waters are deemed navigable waters of the United States but where such waters are under the management of the Corps of Engineers, shall be issued at the discretion of the District Engineer under the authority of this regulation. District Engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the appropriate Resource Manager's office.											
SWL	<p><b>Should begin with: "The placement, existence, or use of any unauthorized floating structure upon project water or lands is prohibited. Authorized floating structures must comply with applicable conditions of the permit."</b></p> <p>{This already exists under 327.20, except for "use of" the structure.}</p> <p><b>Change to 327.19(b):</b>  <b>(b) Permits for floating structures (issued under the authority of Section 327.30) of any kind on/in waters of water resource development projects, whether or not such waters are deemed navigable waters of the United States but where such waters are under the management of the Corps of Engineers, shall be issued at the discretion of the District Engineer under the authority of this regulation. District Engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the appropriate Resource Manager's office.</b></p>											
	(c) Permits for non-floating structures (issued under the authority of Section 327.30) of any kind constructed, placed in or affecting waters of water resources development projects where such waters are deemed navigable water of the U.S. shall be issued under the provisions of Section 10 of the Act approved March 3, 1899 (33 USC 403). If a discharge of											

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	dredged or fill material in these waters is involved, a permit is required under Section 404 of the Clean Water Act (33 USC 1344). (See 33 CFR Parts 320-330.)											
<b>CENWO-OD-TN</b>	<b>Should read as Section 10 of the River and Harbor Act.</b>											
	(d) Permits for non-floating structures (issued under the authority of Section 327.30) of any kind in waters of water resources development projects, where such waters are under the management of the Corps of Engineers and where such waters are not deemed navigable waters of the United States shall be issued as set forth in paragraph (b) of this section. If a discharge of dredged or fill material into any water of the United States is involved, a permit is required under Section 404 of the Clean Water Act (33 USC 1344) (See CFR Parts 320-330). Certification may be required pursuant to Section 401 of the Clean Water Act (33 USC 1341).											
	327.20 Unauthorized Structures.											
	The construction, placement, or existence of any structure (including, but not limited to, roads, trails, signs or landscape features) of any kind under, upon, in or over the project lands or waters is prohibited unless a permit, lease, license or other appropriate written agreement has been issued by the District Engineer. The design, construction, placement, existence or use of structures in violation of the terms of the permit, lease, license or other written agreement is prohibited. The government shall not be liable for the loss of, or damage to, any private structures, whether authorized or not, placed on project lands or waters. Unauthorized structures are subject to summary removal or impoundment by the District Engineer.											
<b>LRD</b>	<b>Should include the construction and/or placement of hunting stands or blinds, swimming and diving structures, including rope swings.</b>					+				X X		

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	{Add "hunting stands or blinds, buoys" to existing wording}											
SWF	<p>Add to the first sentence, "... including, but not limited to, roads, trails, signs, deer stands, utilities, out buildings, or landscape features) of any kind..."</p> <p>Helps to identify range of commonly-occurring unauthorized structures.</p> <p>{Buildings are commonly recognized as structures. Need to avoid too large a list.}</p> <p>Add to the last sentence, "...or impoundment by the District Engineer, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to the owner. Disposal of the unauthorized structure will be accomplished in accordance with procedures specified in 327.15(b). {To impound, we must be certain the property is abandoned, then it falls under the confines of 327.15. Not valid in this section.}</p> <p>Unclaimed unauthorized property, or property on which the owner refuses to pay the impoundment fee, is often disposed of. The regulation should afford us a sanctioned mechanism to charge an impoundment fee, and to dispose of such property. See previous comment regarding streamlining 327.15(b).</p> <p>{Would fall under 327.15.}</p>								X X		X X	
SWL	Should be revised to read: "The construction, placement, or existence of any structure (including, but not limited to, roads, trails, paved surfaces, signs, outdoor equipment, landscape features, or buoys ) of any kind under, upon in or over project lands or water, is prohibited unless authorized by a permit, lease, license, or other written agreement issued by the District Engineer. The design, construction, placement, existence, or use of structures in violation of the terms of a permit, lease, license, or other											

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	<p>written agreement is prohibited. The government shall not be liable for the loss of or damage to any private structures, whether authorized or not, placed on project lands or waters. Unauthorized structures are subject to summary removal or impoundment by the District Engineer."</p> <p>{See modification.}</p> <p>Suggested modification, 327.20: The construction, placement, or existence of any structure (including, but not limited to, roads, trails, signs, <i>hunting stands or blinds</i>, <i>buoys</i> or landscape features) of any kind under, upon, in or over the project lands or waters is prohibited unless a permit, lease, license or other appropriate written agreement has been issued by the District Engineer. The design, construction, placement, existence or use of structures in violation of the terms of the permit, lease, license or other written agreement is prohibited. The government shall not be liable for the loss of, or damage to, any private structures, whether authorized or not, placed on project lands or waters. Unauthorized structures are subject to summary removal or impoundment by the District Engineer.</p>											
	327.21 Special Events.											
CENWK-CO-TR	<p>Modify paragraphs to reflect changes proposed by OCE Special Events Committee.</p> <p>{Agree, but no input has been received from the Special Events Committee at the time of this submittal. The very minor change recommended here is reflective of that . This section may be subject to further change, once findings of the Special Events Committe are developed.}</p>									X X		
POD	This section should be titled "Special Event/Use Permits" and reference to special event and special use permits should be made in sub-sections (a) and (b).											



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	{Need Special Events Committee input.}											
	(a) Special events including, but not limited to, water carnivals, boat regattas, music festivals, dramatic presentations or other special recreation programs are prohibited unless written permission has been granted by the District Engineer. An appropriate fee may be charged under the authority of Section 327.23.											
CEMVK	<p>Special events - This article should be revised as follows: "Special events including, but not limited to, water carnivals, <u>fishing tournaments</u>, boat regattas, music festivals, dramatic presentations or other special recreation programs are prohibited unless written permission has been granted by the District Engineer. An appropriate fee may be charged under the authority of section 327.23."</p> <p>{Agree tournaments should be included, at least those above a certain size. Questions remain about what constitutes a tournament, how fees are assessed, etc. Recommend addition of tournaments; may change pending Committee input.}</p>									X X		
LRD	Suggest including fishing tournaments as an activity requiring written permission.									X X		
SWF	<p>Several suggestions were received to add "fishing tournaments" to the sample list of permissible events. Add as final sentence, " An appropriate damage or removal deposit may be required as a condition to an event's permit/permission."</p> <p>We concur that this should be listed, since it is a frequently-occurring type of special event at most of our lakes, and is <u>already</u> being managed at many lakes through the Special Event Permit (SEP). However, we caution the task force that the proposal to charge a fee for SEP has generated regional controversy within confederations of bass clubs. Inclusion of fishing tournaments as a listed example of events which may be</p>									X X		

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	<p>permitted should therefore be dependent upon the progress of the task force proposal. The damage/removal deposit is already being required in some areas; this sentence would clearly legitimize it as a management tool.</p> <p>{Agree with comments - fees would be handled through policy, not T36. Unfortunately, without Committee input, we cannot recommend any substantive changes under this section.}</p> <p><b>Suggested modification 327.21(a):</b>  <b>(a) Special events including, but not limited to, water carnivals, boat regattas, <i>fishing tournaments</i>, music festivals, dramatic presentations or other special recreation programs are prohibited unless written permission has been granted by the District Engineer. An appropriate fee may be charged under the authority of Section 327.23.</b></p>											
	<p>(b) The public shall not be charged any fee by the sponsor of such event unless the District Engineer has approved in writing (and the sponsor has properly posted) the proposed schedule of fees. The District Engineer shall have authority to revoke permission and require removal of any equipment upon failure of the sponsor to comply with terms and conditions of the permit/permission or the regulations in this Part 327.</p>											
SWF	<p><b>Insert as second sentence, "It is prohibited for event sponsors or participants to fail to comply with terms and conditions of the permit/permission." Add to final sentence, "The District Engineer shall also have authority to revoke...."</b></p> <p><b>These changes would make it an offense for sponsor <u>or</u> participants to disregard terms of the SEP. As presently written, the only recourse for non-compliance is to revoke the sponsor's permission, which is usually not a practicable solution.</b></p> <p><b>Offered in passing: This subsection is probably legally</b></p>											

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	insufficient to be used as grounds to evaluate permit applications non-commercial group uses, particularly if the evaluation results in a denial. The Forest Service discovered that their regulations were inadequate when the Rainbow Family descended on Texas in 1988. The FS was compelled by court decision to revise and expand (and liberalize) their regulations governing non-commercial group events and non-commercial distribution of printed material.  {Special Event Committee input needed.}											
	327.22 Unauthorized Occupation.											
	(a) Occupying any lands, buildings, vessels or other facilities within water resource development projects for the purpose of maintaining same as a full- or part-time residence without the written permission of the District Engineer is prohibited. The provisions of this section shall not apply to the occupation of lands for the purpose of camping, in accordance with the provisions of Section 327.7.											
	(b) Use of project lands or waters for agricultural purposes is prohibited except when in compliance with terms and conditions authorized by lease, license or other written agreement issued by the District Engineer.											
SWL	Add Section 327.22(c). "The unauthorized use including, but not limited to, landscaping; reshaping; gardening; or other such action, of public lands is prohibited. Unauthorized modification or alteration of the naturally existing vegetative cover including, but not limited to, clearing; mowing; cutting; thinning; pruning; or spraying is also prohibited. The adjacent landowner shall be presumed to be responsible for the action on project property. Unless proven otherwise, such presumption will be sufficient to issue a citation for the above							XX			X X	



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	{Agree to portions; T36 should not become an instruction manual for use of the cards - see modification.}											
SPD	Add a provision requiring boaters to display an annual boat launching pass or boat launching permit on their vehicles at launching ramps.  {Agree.}									X X		
	(a) In accordance with 16 USC 460l, the Corps of Engineers is required to collect special recreation use fees and/or special permit fees for the use of specialized sites, facilities, equipment or services related to outdoor recreation furnished at Federal expense.											
SWL	Should include the Day Use Fee.  Suggested modification, 327.23(a): (a) In accordance with the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, and 16 USC 460l, the Corps of Engineers is required to collect day use fees, special recreation use fees and/or special permit fees for the use of specialized sites, facilities, equipment or services related to outdoor recreation furnished at Federal expense.									X X		
	(b) All use fees shall be fair and equitable and will be based on the following criteria (as contained in the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended):											
SWF	"All use fees shall be fair and equitable and will be based on the following criteria- contained in the Land and Water...as amended)." [Eliminate listing the seven criteria.] Listing the seven criteria, which come directly from the Public Law, seems unnecessary.											



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	<p>{List the verbiage of 23(b), add in Public Law day use fees, delete the seven criteria.}</p> <p><b>Suggested modification, 327.23(b):</b></p> <p>(b) All use fees shall be fair and equitable and will be based on the <del>following</del> criteria <del>(as contained in the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, and the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended).</del></p> <p><del>(1) The direct and indirect amount of Federal expenditure.</del></p> <p><del>(2) The benefit to the recipient.</del></p> <p><del>(3) The public policy or interest served</del></p> <p><del>(4) The comparable recreation fees charged by other Federal and non-Federal public agencies and the private sector within the service area of the management unit at which the fee is charged.</del></p> <p><del>(5) The economic and administrative feasibility of fee collection.</del></p> <p><del>(6) The extent of regular maintenance required.</del></p> <p><del>(7) Other pertinent factors.</del></p> <p><del>Based upon the above criteria, It</del> shall be the policy of the Chief of Engineers to publish in the FEDERAL REGISTER, as a general notice document, the established range of fees for <i>day use</i>, specialized sites, facilities, equipment or services whenever such fees are adjusted.</p>											
	(1) The direct and indirect amount of Federal expenditure.											
	(2) The benefit to the recipient.											
	(3) The public policy or interest served											

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	(4) The comparable recreation fees charged by other Federal and non-Federal public agencies and the private sector within the service area of the management unit at which the fee is charged.											
	(5) The economic and administrative feasibility of fee collection.											
	(6) The extent of regular maintenance required.											
	(7) Other pertinent factors.											
	Based upon the above criteria, it shall be the policy of the Chief of Engineers to publish in the FEDERAL REGISTER, as a general notice document, the established range of fees for specialized sites, facilities, equipment or services whenever such fees are adjusted.											
	(c) Where such fees are charged, the District Engineer shall insure that clear notice of fee requirements is prominently posted at each area, and at appropriate locations therein and that the notice be included in publications distributed at such areas. Failure to pay authorized recreation use fees as established pursuant to Public Law 88-578, 78 Stat. 897, as amended (16 USC 4601-6a), is prohibited and is punishable by a fine of not more than \$100.											
CEMVK	A phrase should be added that "failure to properly display user fee receipt" is a violation of this section. This is					+				X		

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	extremely important in the day user fee program. {Agree}									X		
SAD	Add a new sentence to read - "The unauthorized possession and/or use of Golden Age or Golden Access Passports by anyone other than the authorized holder is prohibited and is punishable by a fine and/or forfeiture of the passport."  {Apply under new 23(e). Have yet to find any national authority to impound/confiscate/forfeit a Golden Age/Access card for abuse. Once issued, it is private property. If such national authorization is located, will willingly change this. Cannot see "possession" of the card as offense; only when improperly used. }			XX							X X	
NAP	Second sentence; add the words "or display fee receipts as posted" after words "recreation use fees" so as to read: "Failure to pay authorized recreation use fees, or display fee receipts as posted, as established pursuant to ...more than \$100." RATIONALE: One of the most nagging problems with the recreation use fee program at unattended areas is the failure of users to display the envelope receipt on the dashboard of their vehicles as instructed and as posted. This creates a substantial workload on the ranger to try to account for non-compliance with payment of the user fee. Some users try to use the same receipt stub on successive days by not filling in the date of use on them. {Adopt as modified.}									X X		
LRD	Add the following sentence to this subsection, "User fee permits and/or receipt (s) shall be prominently displayed on vehicle dashboard areas for compliance purposes". Suggest adding additional verbiage regarding the purchase and display of seasonal passes. {Adopt as modified.}									X X		
CENWO-OD-TN	Add language that failure to display the day use pass is punishable too. {Adopt as modified.}									X X		

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	<p><b>Suggested new 327.23(d):</b>  <i>Failure to pay authorized day use fees, and prominently display the applicable receipt, permit or pass is prohibited.</i></p> <p>{NOTE: Separating day use fees out avoids conflicts with references under 23(c), can allow for a different, more reasonable forfeiture schedule.</p>											
	(d) Any Golden Age or Golden Access Passport permittee shall be entitled, upon presentation of such a permit, to utilize special recreation facilities at a rate of 50 percent off the established use fee at Federally operated areas.											
CELMVROD-T	<p><b>Add a sentence to this section stating "Fraudulent use of a Golden Age or Golden Access Passport is prohibited and constitutes a violation of this regulation as specified under section 327.25."</b>  {Adopt as modified.}</p>					+				X X		
CEMVK	<p><b>Recreation use fees, Golden Passports - The referenced article should be revised to read as follows: "Any Golden Age or Golden Access Passport permittee shall be entitled, upon presentation of such a permit, to utilize special recreation facilities at a rate of 50 percent off the established use fee at Federally operated projects. <u>Misuse or abuse of a permit is subject to fine and may result in forfeiture of permit and exclusion of future permit.</u>"</b>  {Adopt as modified, without forfeiture clause.}</p>									X X		
SAD	<p><b>Amend to delete "...at a rate of 50 percent off the established use fee at Federally operated areas" and substitute "...at the Congressionally authorized discount rate off established use fees at Federally operated areas." This will keep Title 36 current in the event the discount rate changes in the future.</b>  {Discount rate is posted on the card itself, should cover our need to reference the exact rate. Congress may be very</p>										X X	

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	reluctant to change this, however, not only for political reasons, but also since every Golden Age/Access card would have to be recalled and exchanged. A rate change could happen, but is not considered likely. }											
CENWO-OD-TN	Amend this section to include unauthorized presentation of a Golden Age or Golden Access Card. {Adopt as modified.}									X X		
SWT	A sentence should be added to this section stating misuse or abuse of the Golden Age or Golden Access Cards will result in a fine and revocation of the card.  {Fine, yes, revocation apparently no.}											
SWL	Add "Fraudulent procurement or use of Golden Age/Golden Access Passports, camping permits, or Day Use Permits is prohibited."  {Covered by regs as modified.}  Suggested modification, move to 327.23(e): ( <del>d</del> ) (e) Any Golden Age or Golden Access Passport permittee shall be entitled, upon presentation of such a permit, to utilize special recreation facilities at a rate of 50 percent off the established use fee at Federally operated areas. <i>Fraudulent use of a Golden Age or Golden Access Passport is prohibited.</i>									X X		
	(e) At each Corps lake or reservoir where camping is permitted, the District Engineer will provide at least one primitive campground, containing designated campsites, sanitary facilities and vehicular access, where no fees will be charged.											
CELMVROD-T	Delete {Agree to deletion.}									X X		
CEMVK	Recreation use fees, free areas. Delete this article. {Agree to deletion.}									X X		



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SAD	Recreation Use Fees. Delete this in its entirety since recent legislation has eliminated this requirement. {Agree to deletion.}									X X		
NAP	Remove this section. The Corps is no longer required to provide free camping at projects that provide fee campgrounds. {Agree to deletion.}									X X		
NAB	Delete this section - It is no longer a requirement to provide for a free area. {Agree to deletion.}									X X		
SPA	Why is this still applicable? Fee camping. {Agree to deletion.}									X X		
LRD	Delete this section as it is no longer valid. {Agree to deletion.}									X X		
SPD	Delete {Agree to deletion.}									X X		
CENWO-OD-TN	Delete as this is no longer a requirement. {Agree to deletion.}									X X		
CENWK-CO-TR	Change "lake or reservoir" to "water resource development project" for consistency. {Agree to deletion.}							XX			X X	
SWF	Eliminate; superseded. {Agree to deletion.}									X X		
SWT	Should be deleted.  Suggested deletion, 327.23(e): (e) <del>At each Corps lake or reservoir where camping is permitted, the District Engineer will provide at least one primitive campground, containing designated campsites, sanitary facilities and vehicular access, where no fees will be charged.</del>									X X		

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	327.24 Interference with Government Employees.											
SAD	<p>Add a new section to read - "It shall be unlawful to interfere with, oppose, or impede the activities or operations of a contractor conducting official contract responsibilities for the U.S. Army Corps of Engineers.</p> <p>{It would be desirable to have the instructions of Gate/Park Attendants carry much more weight than it currently does, however, this would place contractors on the same level as Federal employees, but without the training or accountability. This is not the intent of this regulation.}</p>										X X	
SWT	<p>A statement should be added "It shall be considered interference for any operator of a motor vehicle who fails to yield or stop for a ranger utilizing hand signals or authorized emergency sights or siren."</p> <p>{Implies vehicle stops by Rangers - could also cover Ranger directing traffic. Seems to be covered under lawful order in 25(b). Question as to what defines/constitutes a "lawful order," which should be an order within the scope of your authority under T36. Would not likely be approved as written.}</p> <p>Suggested modification 327.24(a): (a) It is a Federal crime pursuant to the provisions of Sections 1114 and 111 of Title 18, United States Code, to forcibly assault, resist, oppose, impede, intimidate, or interfere with, <i>attempt to kill or kill</i> any civilian official or employee of the U.S. Army Corps of Engineers engaged in the performance of his or her official duties, or on account of the performance of his or her official duties. Such actions or interference directed against a Federal employee while carrying out these regulations are also a violation of these regulations and may be a state crime pursuant to the laws of the state where they occur.</p>										X X	
	(a) It is a Federal crime pursuant to the provisions of Sections 1114 and 111 of Title 18, United States Code, to											

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	forcibly assault, resist, oppose, impede, intimidate, or interfere with any civilian official or employee of the U.S. Army Corps of Engineers engaged in the performance of his or her official duties, or on account of the performance of his or her official duties. Such actions or interference directed against a Federal employee while carrying out these regulations are also a violation of these regulations and may be a state crime pursuant to the laws of the state where they occur.											
	(b) Failure to comply with a lawful order issued by a Federal employee acting pursuant to these regulations shall be considered as interference with that employee while engaged in the performance of their official duties. Such interference with a Federal employee includes failure to provide a correct name, address or other identification upon request of the Federal employee, when that employee is authorized by the District Engineer to issue citations in the performance of the employee's official duties.											
SAD	Revise to add - "date of birth and phone number" to list of items that may be requested by a Federal employee in the performance of their official duties.  {May be needed with the new citation form. }									X X		
NAP	Second sentence; add the word "information" after the words "correct name, address..." so as to read "Such interference with a Federal employee includes failure to provide a correct name, address or other information deemed necessary for identification upon the request of the Federal employee...in the performance of the employee's official duties." RATIONALE: Correct name and address is often not enough for certain violators. Other information may at times be required to substantiate their identity, particularly with persons suspected of providing false information.  {Better wording than above, broadens the scope without									X X		

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	limiting the information needed.}											
NAB	<p>Add - Include all employees, not just those with citation authority.</p> <p>{Non-citation Rangers have no authority under T36. To add this suggestion would give no additional authority or protection, would require presence of law enforcement or citation ranger to enforce, so nothing is gained. However, do summer rangers routinely operate outside the scope of their duties by issuing warnings? Could be a loophole, not awarding them any protection. Would likely be covered under Title 18, but not 327.24. }</p>									X X		
LRD	<p>Add the terms "date of birth" and telephone number" to the list of items required to be provided by apparent violators.</p> <p>{ We can "request," but not "require" this information. }</p>									X X		
LRD	<p>SEC 327.24(c) If we can legally do it, suggest that the following subsection c be added, "It is unlawful to interfere with, oppose, or impede the activities or operations of a contractor carrying out official contract responsibilities for the U.S. Army Corps of Engineers".</p> <p>Suggest adding volunteers to this section since we rely heavily upon volunteer to perform certain duties as the need arises (i.e., campground hosts).</p> <p>{ Volunteers covered for Workman's Comp, some tort (w/in scope of duties), but not much different from contractors. Could create problems granting contractors or volunteers this kind of authority on a general basis. }</p> <p>Suggested modification 327.24(b): (b) Failure to comply with a lawful order issued by a Federal employee acting pursuant to these regulations shall be considered as interference with that employee while engaged in the performance of their official duties. Such interference with a Federal employee includes failure</p>									X X		

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	<b>to provide a correct name, address or other <i>information deemed necessary for</i> identification upon request of the Federal employee, when that employee is authorized by the District Engineer to issue citations in the performance of the employee's official duties.</b>											
	327.25 Violations of Rules and Regulations.											
SWT	<b>Violation of Rules and Regulations. Several of our field personnel have indicated the maximum fine of \$500.00 should be raised considerably, if possible.</b>  <b>{Such change now authorized.}</b>									X X		
	(a) Any person who violates the provisions of these regulations, other than for a failure to pay authorized recreation use fees as separately provided for in Section 327.23, may be punished by a fine of not more than \$500 or imprisonment for not more than six months or both and may be tried and sentenced in accordance with the provisions of Section 3401 of Title 18, United States Code. Persons designated by the District Engineer shall have the authority to issue a citation for violation of these regulations, requiring the appearance of any person charged with the violation to appear before the United States Magistrate within whose jurisdiction the affected water resources development project is located. (16 USC 460d)											
SAD	<b>Fines and imprisonment sentences for Title 36 offenses were apparently raised 6 November 1991 (18 USC, Section 19). Preliminary research indicates that magistrates can now assess punishment for Federal petty offenses at 6 months imprisonment and/or up fines of \$5000. This matter needs research and clarification. There is a most definite need to have the maximum fine raised above \$500 - and our recommendation would be to \$5000. Many destruction of Government property cases have damages far exceeding \$500, yet they are not considered of sufficient magnitude to pursue under civil or criminal actions.</b>									X X		



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	{Changes to T18 confirmed through Ranger Safety Task Force - we can change \$500 to \$5,000. As written, some confusion exists over fine (\$5,000) vs restitution as ordered by a magistrate, for actual damages that may easily exceed \$5,000. Fines may be applied along with restitution}											
LRD	<p>Change verbiage regarding fines and imprisonment to reflect maximum fine of \$5,000 and one year imprisonment</p> <p>{Imprisonment term not changed under T18- this cannot be changed from authorized 6 months.}</p> <p>(also make this change in block of back panel). {This panel needs to be changed to \$5,000 also.}</p> <p>Forfeitures of Collateral should be adjusted upward to reflect inflation and to serve as a more effective deterrent.</p> <p>{Must be accomplished with OC and Magistrates.}</p> <p>Suggested modification 327.25(a): (a) Any person who violates the provisions of these regulations, other than for a failure to pay authorized recreation use fees as separately provided for in Section 327.23, may be punished by a fine of not more than <del>\$500</del> \$5,000 or imprisonment for not more than six months or both and may be tried and sentenced in accordance with the provisions of Section 3401 of Title 18, United States Code. Persons designated by the District Engineer shall have the authority to issue a citation for violation of these regulations, requiring the appearance of any person charged with the violation to appear before the United States Magistrate within whose jurisdiction the affected water resources development project is located (16 USC 460d).</p>									X X	X X	
	(b) Any person who commits an act against any official or employee of the U.S. Army Corps of Engineers that is a crime under the provisions of Section 1114 or Section 111 of Title											

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	18, United States Code or under provisions of pertinent state law may be tried and sentenced as further provided in Federal or state law, as the case may be.											
	327.26 State and Local Laws.											
	Except as otherwise provided herein or by Federal law or regulation, state and local laws and ordinances shall apply on project lands and waters. This includes, but is not limited to, state and local laws and ordinances governing:											
SPA	<p><b>Why is liquor not specifically listed?</b></p> <p>{Alcohol use is certainly a state issue, as are the others listed. Abuse could be enforced by locals, banning could not unless locals also ban or adopt our reg. Add in 26(f) "Alcohol or other controlled substances." Would allow local enforcement, make the potential for abuse enforcement clear to the public. While actually covered, this does allow for clarity.}</p>						X			X X		
SWF	<p>"Except as otherwise provided herein or by Federal law or Federal operational management plan, state and local laws and ordinances shall apply..."</p> <p>{Would require changing many areas of T36 to be consistent. Would be seeking exclusive or proprietary jurisdiction. Does not seem a big problem, would be one for lawyers to wrangle about.}</p> <p>This is important, although it could probably be stated with more legal accuracy. While it is important that the Corps recognize and stress that state and local criminal laws do apply at Corps projects, a statement reminding and reserving a degree of Federal supremacy (Sovereign Immunity, or whatever the legal term may be) should appear in the CFR to balance the subsection. Many of</p>										X X	

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	<p>our suburban lakes with parks administered by the Corps could have their own programs damaged by local ordinances, inadvertently or otherwise. If, for example, a town whose corporate limits encompass a Corps project passes an ordinance prohibiting camping within its city limits, the CFR seems to imply that we would have to shut down our program. Such an ordinance is not unforeseeable. While our District Office of Counsel feels that such a move could be contested, perhaps successfully, a simple statement in the CFR could keep it from ever reaching that point.</p> <p>{Outside the scope of this review. Would have to be addressed at a higher level.}</p>											
	(a) Operation and use of motor vehicles, vessels, and aircraft;											
	(b) Hunting, fishing and trapping;											
	© Use of firearms or other weapons;											
	(d) Civil disobedience and criminal acts; and,											
	(e) Littering, sanitation and pollution.											
	<p><b>Suggested new 327.26(f):</b>  <b>(f) Alcohol or other controlled substances.</b></p>											
	THESE STATE AND LOCAL LAWS AND ORDINANCES ARE ENFORCED BY THOSE STATE AND LOCAL											

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	ENFORCEMENT AGENCIES ESTABLISHED AND AUTHORIZED FOR THAT PURPOSE.											
	327.27 (Reserved).											
<b>LRD</b>	<p>Suggest that a specific section regarding the use of alcoholic beverages be added, regardless of the final policy on this controversial issue. The following verbiage would be appropriate whatever the final policy: (1) Operators and/or owners of vehicles with alcoholic beverages located within them while being operated or parked within an alcohol free area are presumed to be the owner of the beverage (responsible party) for the purpose of enforcement of this regulation; (2) The possession or use of an alcoholic beverage on project lands or waters by a minor, as defined by appropriate state law, is prohibited. The sale or gift of an alcoholic beverage to a minor is also prohibited. Adults accompanying minors who possess or consume alcoholic beverages are considered responsible for supplying the minor with alcohol and jointly share responsibility for the issuance of a citation under this section.</p> <p>{addressed under 327.26(f)}</p>										X X	
	327.28 (Reserved).											
	327.29 (Reserved).											
	327.30 Lakeshore Management on Civil Works Projects.											
	(a) Purpose. The purpose of this regulation is to provide policy and guidance on the protection of desirable environmental characteristics of Civil Works lake projects and restoration of shorelines where degradation has occurred											

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	through private exclusive use.											
	(A complete copy of Section 327.30 is available at the Resource Manager's Office, District Office, Division Office or from HQUSACE-CECW-ON, Wash., D.C. 20314-1000)											
	<b>Necessary change to 327.30(a): (A complete copy of Section 327.30 is available at the Resource Manager's Office, District Office, Division Office or from HQUSACE-CECW-ON, Wash., D.C. 20314-1000)</b>											
	A violation of the provisions of this regulation shall subject the violator to a fine of not more than \$500.00 or imprisonment for not more than 6 months, or both.											
	<b>Necessary change for consistency with 327.25(a): A violation of the provisions of this regulation shall subject the violator to a fine of not more than <del>\$500.00</del> \$5,000.00 or imprisonment for not more than 6 months, or both.</b>											
	In the interest of more effective resource management and to increase the overall enjoyment of the visitor experience available at Corps of Engineers water resources development projects, the preceding rules and regulations have been established. Your observance of these rules while a visitor to these projects will make your visit and the visits of others more pleasant and enjoyable.											
	THIS REVISION SUPERSEDES EP 1165-2-316, JAN 1986.											
	GENERAL DISCUSSION ITEMS/COMMENTS											
CENWS (Tyger)	Life rings seem to be treated by a significant portion of the public as "beach play toys." They are most often used as floating devices by young kids, many of whom are						XX				X X	



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	<p>non-swimmers. Not only does this use represent a danger to a person that may truly be in danger of drowning, but it may also lead to drowning should a non swimmer fall through a life ring in deep water. In the Canadian province of British Columbia, the misuse of a life saving device, such as a life ring, has multiple levels of punishment should the misuse lead to some one becoming injured. The punishment goes from a dollar fine up to long jail terms in the event some one drowns. Perhaps the possibility of a fine under Title 36 would reduce this problem and save a life.</p> <p>{Should be addressed under Swimming, these should be handled under posted restrictions, not nationally in T36.}</p>											
CENWK-CO-TR	<p>We suggest adding a paragraph addressing written permissions, which should also further define Operations Project Managers as authorized representatives of the District Engineer. (Note also that terminology in 36 CFR 327.16 &amp; .30 should reflect this new job title.) The permissions list should be similar to the National Park Service compendium. The compendium contains all approved hours, restrictions, standing permits and deviances which are authorized by the District Engineer for a particular project. (See enclosed example.)</p> <p>{All incidences of "Resource Manager" should be changed to current term of "Manager" as per HQ. Hope we get something better than this!!}</p>									X X		
CENWK-CO-TR	<p>EP 1165-2-316 does not do a very good job of communicating rules to visitors. The writing style, type size, mixture of both high and low priority information, and other factors result in a handout which is not read and which - for many visitors - cannot be read.</p> <p>{Reg must be posted in its entirety somewhere. T36 must be posted, but a shortened version can be utilized as long as T36 is not superseded.}</p>											
CENWK-CO-TR	<p>We feel that a new simplified pamphlet should be devised for most visitor contacts. (A number of National Park Service</p>											

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	examples are enclosed.) The purpose of the new pamphlet would be rules communication, stressing the most commonly violated rules. The complete 36 CFR 327 would be published in a document format available for inspection and posted in accordance with the sign manual. All should be revised to meet accessibility standards.											
CENWK-CO-TR	36 CFR 327 can also be vastly improved by editing and re-phrasing. For example, if 327.12a was changed to read, "The District Engineer may post restrictions on the public use of the project. Using the project in a manner contrary to these restrictions is prohibited"; then items in other paragraphs using wording such as "except as authorized or posted by the District Engineer" could be deleted.											
SWF	<p>Consideration should be given to creation of a new subsection concerning health and safety codes at commercial concessions. This would give project offices another tool to improve the safety of visitors to marinas and other commercial concession areas.</p> <p>Crafting of such as subsection would require close coordination between the Operations and Real Estate elements, but the initial reaction of Fort Worth District's Real Estate Division was positive.</p> <p>As presently worded, 327.1(e) applies all Federal, state and local laws and regulations to outgranted lands and waters. However, some Real Estate elements feel that corrective management actions regarding concessionaire's deficiencies may be taken <b>only</b> through provisions of the lease, even for something as blatant as dumping or spilling sewage onto project lands and waters. However, the only recourse which the older leases leave to Real Estate is to revoke the lease, not a practicable solution. Additionally, many of the older lease instruments make no mention of, and therefore do not invoke, codes and regulations such as NFPA, NESC, and other regulations vital to public safety.</p> <p>While recognizing that the responsibility to oversee third-party concessions rests mostly with the primary lessee,</p>											

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	<p>and recognizing further that there is considerable debate going on in the Real Estate and Operations communities as to what is the appropriate level of Corps involvement in concession area oversight, we nonetheless believe that specific inclusion of some type of "commercial area safety code" into Title 36 would give project offices as valuable tool to persuade concessionaires to maintain their facilities in a safe condition. Such provisions would clearly permit the Corps to take action when local or state regulatory authorities cannot or will not.</p> <p>{Field needs way to deal with reluctant lessees when total shutdown is not warranted, or not practical. Could provide the "middle ground" Operations has been seeking. If lease agreements tie them to T36, we would have some real help. Lease would have to indicate penalties would be applicable for failure to comply. Would need "Partnering" with RE. The deeper we get into it, this could be opening up a significant policy change, needs careful review.}</p>											
CEMVK	<p>Remote Controlled Airplanes, Boats and Cars. The following should be added to Title 36 to address the use of subject articles on project lands and waters: "The operation of remote controlled airplanes, boats and vehicles in a careless, reckless or negligent manner so as to endanger any person, private property, public property or environmental feature, or as to create a public nuisance, is prohibited."</p> <p>{A growing concern - misuse could be covered under 12(c). }</p>											
MVP	<p>It would be useful for the public if we could develop a shortened "popular" version of the Title 36 brochure. We understand that Title 36 is a legal document and is the basis of our visitor assistance program and citation authority. However, it is a difficult document to read through, and we wonder how many of our visitors actually read it. We often provide a synopsis of the "important" rules, like quiet hours, tree cutting/firewood, etc. Title 36 should be posted and available for the public.</p>											

SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	{ Can be done locally, still need to post full version. }											
CEMVROD-T	<p>327.3 – We have several rules that we would like to have added to this section that will allow the rangers to enforce regulations that we need for the safety of our visitor without enforcing state boating laws. They are: The operation of a vessel equipped with an engine of greater horsepower rating than the vessel is designed for as shown on the Federally required capacity plate or the manufacturer's plate on the vessel shall be a violation. Altering any Federal or manufacturer's capacity plate to achieve compliance with this section is a violation of this regulation.</p> <p>Operation of a vessel or other water craft on project waters shall comply with the following speed and distance requirements; - Vessels cannot exceed no wake speed within 100 feet of any vessel going at no wake speed - Vessels must maintain a distance of 50 feet when both boats are exceeding no wake speeds - Vessels cannot exceed 10 mph unless vision is unobstructed for more than 200 feet ahead.</p> <p>All vessels in operation on project waters shall display navigation lights between sunset and sunrise and during periods of reduced visibility. Such lights shall comply with U. S. Coast Guard Navigation Rules or applicable state laws. All vessels operated on project waters shall have a wearable,Type I, II or III personal floatation device (PFD) for each person on board. All PFDs must be in good and serviceable condition, the appropriate size for the intended user, and readily accessible. Any vessel 16 feet or longer must have a Type IV buoyant cushion or ring buoy as a throwable device. If a type V PFD is counted toward this requirement it must be worn.</p> <p>All vessels operated on project waters and propelled by an outboard motor larger than 10 h.p. or any inboard motor shall have</p>											

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	<p>the proper Coast Guard approved fire extinguisher on board as required by the U. S. Coast Guard or state boating laws applicable to project waters.</p> <p>Skiing is permitted from sunrise to one half-hour after sunset.</p>											



SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
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CEMVROD-T	<p>327.11 – This section should be broken into parts for clarity sake and to allow different collateral forfeitures to be set for the different offenses.</p> <p>No person shall bring or allow dogs, cats or other pets into developed recreation areas unless penned, caged, on a leash under 6 feet in length, or otherwise physically restrained.”</p> <p>No person shall allow animals to impede or restrict otherwise full and free use of the project lands and waters by the public. The owner of any animals who displays aggressive or threatening behavior or unreasonably disturb other campers may be requested to leave the project with the offending animal. Unattended animals that display aggressive or threatening behavior or unreasonably disturb other campers will be impounded and removed in accordance with state and local laws. (Formerly section (a). Sentences added)</p> <p>All animals and pets are prohibited on swimming beaches. Animals and pets, except properly trained animals assisting the handicapped (such as seeing-eye dogs), are prohibited in sanitary facilities or other areas so designated by the District Engineer. (Formerly section (a))</p> <p>Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws. (Formerly section (a))</p> <p>Persons bringing or allowing pets in designated public use areas</p>											
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SOURCE	REVIEW	Significant Resource Protection	Forfeiture Schedule Adjust	Not Consistent with Ranger Role	Significant Safety Issue	Ease of Enforc.	Local Issue	Cosmetic/ Semantic	Policy Chgs	Yes	No	No Consensus
	<p>shall be responsible for proper removal and disposal, in sanitary facilities, of any waste produced by these animals. (Formerly section (b))</p> <p>No person shall bring or allow horses, cattle, or other livestock onto project lands except in areas designated by the District Engineer. (Formerly section (c) with a change. This change would allow us to control use by horseback riders in undeveloped areas. We are experiencing over use and erosion by horse trails)</p> <p>Ranging, grazing, watering or allowing livestock on project lands and waters is prohibited except when authorized by lease, license or other written agreement with the District Engineer. (Formerly (d))</p> <p>Unauthorized livestock are subject to impoundment and removal in accordance with Federal, state and local laws. (Formerly (e))</p> <p>Any animal impounded under provisions of this section may be confined at a location designated by the District Engineer, who may assess a reasonable impoundment fee. This fee shall be paid before the impounded animal is returned to its owner(s). (Formerly section (f))</p>											

HQ AR000293-HQ AR000542



US Army Corps  
of Engineers®

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# Water Resources People and Issues

*Interview with  
Theodore M. Schad*

EP 870-1-61

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*Water Resources People and Issues*

**Theodore M. Schad**

Interviewed by  
Martin Reuss

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Office of History  
and  
Institute for Water Resources  
U.S. Army Corps of Engineers  
Alexandria, Virginia

HQ AR000294



*Water Resources People and Issues*

**Theodore M. Schad**

Interviewed by  
Martin Reuss

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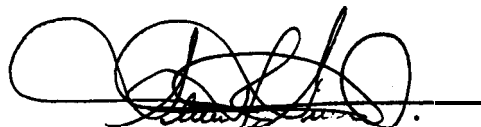
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Theodore M. Schad

## Preface

Among the leaders in federal water resources planning in the decades following World War II, few have exerted more influence than Theodore Schad. He began his career with the Corps of Engineers and the Bureau of Reclamation. Later, Schad joined the Bureau of the Budget and the Library of Congress Legislative Reference Service. As staff director to the U. S. Senate Select Committee on National Water Resources (1959-61) and as executive director of the seven-member National Water Commission (1968-73), he ensured that analyses of water problems **fully** exploited the insights and skills of engineers and natural, social, and physical scientists, while remaining sensitive to political and administrative realities. In the **1970s**, he continued to serve the water community in a number of positions with the National Academy of Sciences, the Conservation Foundation, and the National Groundwater Policy Forum.

This interview is the fourth published in the Water Resources People and Issues: Hydraulics and Hydrology series. However, it is the first of the series to enjoy the support of the Corps of Engineers Institute for Water Resources, which funded and helped coordinate its publication. Through in-depth interviews, this series presents the thoughts and careers of key individuals who have influenced United States water resources development. I commend this interview to all those interested in the past and future of water resources planning.



ALBERT J. GENETTI, JR.  
Major General, USA  
Deputy Commander

## Interviewer

Martin Reuss is a senior historian in the Office of History, Headquarters, U.S. Army Corps of Engineers. He specializes in the history of flood control, navigation, and civil engineering. Among his monographs are *Shaping Environmental Awareness: The United States Army Corps of Engineers Environmental Advisory Board, 1970-1980*, *Reshaping National Water Politics: The Emergence of the Water Resources Development Act of 1986*, and *Designing the Bayous: The Control of Water in the Atchafalaya Basin, 1800-1995*.

He also introduced and edited *Water Resources Administration in the United States: Policy, Practice, and Emerging Issues* and coedited *The Flood Control Challenge: Past, Present, and Future*.

Numerous professional journals, including *The Public Historian*, *Technology and Culture*, *Environment*, *The Journal of Policy History*, *Central European History*, *Louisiana History*, and *South Atlantic Quarterly* have published articles by Dr. Reuss.

He received his Ph.D. from Duke University and taught at Georgia Southern College, Virginia Polytechnic Institute and State University, and the University of California, Santa Barbara.

## Acknowledgments

Marilyn Hunter, Office of History, and Arlene Nurthen, Institute for Water Resources, U.S. Army Corps of Engineers, provided editorial and technical support. Barbara Barnes prepared the index.

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Theodore M. Schad

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Theodore M. Schad

## **Introduction**

Theodore M. Schad has over 50 years of experience in natural resources engineering and policy. Born August 25, 1918, in Baltimore, Maryland, to William Henry and Emma Margaret (Scheldt) Schad, he received his Bachelor of Engineering (Civil) degree from Johns Hopkins University in 1939. His first work was in the summer of 1937 and 1938 on rural electrification projects in southern Maryland and the northern neck of Virginia. After graduation, Schad worked for a year for the Baltimore District, U.S. Army Corps of Engineers.

In 1940, Schad went to work for the Bureau of Reclamation, Department of the Interior. He worked about one year in the Spillway Design Section in the Office of the Chief Engineer, Denver, and then in project investigations in the Pacific Northwest. In 1942, Schad rejoined the Corps of Engineers, serving in the Seattle District, first in the Specifications Section and then as rivers and harbors reports coordinator in the Engineering Division.

In 1946, Schad moved to the Office of the Commissioner, Bureau of Reclamation, in Washington, D.C. There he served successively as staff engineer, chief of the Coordination of Plans Section, and assistant chief of the Program Coordination Division, with responsibilities connected with authorizing projects and coordinating the work of the Bureau with other agencies.

Schad left the Bureau of Reclamation in 1954 and moved to the Bureau of the Budget (now the Office of Management and Budget), Executive Office of the President. He initially served as a budget examiner for the civil functions of the Corps of Engineers. After a reorganization of the bureau in 1956, he became the principal budget examiner for all of the water resources programs of the federal government, including those of the Corps of Engineers, Bureau of Reclamation, Panama Canal Company, Saint Lawrence Seaway Development Corporation, and Tennessee Valley Authority.

In 1958, Schad moved to the Legislative Reference Service of the Library of Congress where he served as the senior specialist on engineering and public works. Though mostly focused on water resources, Schad also occasionally worked on assignments in military public works, highways, and space. Later, in 1965, he

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served as the deputy director of the Legislative Research Service in the Library of Congress.

Schad served as the staff director to the U.S. Senate Select Committee on National Water Resources from **1959** to 1961, producing a report which led to the enactment of the Water Resources Research Act of 1964 and the Water Resources Planning Act of 1965.

In 1968, Schad was named the executive director of the National Water Commission, an independent, seven-member study commission created by Congress to prepare policy recommendations to the President and the Congress on all aspects of water resources policy. The commission's final report, *Water Policies for the Future*, was transmitted to the President and the Congress on June 14, 1973. Many of its recommendations were subsequently implemented to varying degrees.

Schad became deputy executive director of the Commission on Natural Resources, National Academy of Sciences, sharing responsibilities with the executive director for development and administration of academy programs in the fields of agriculture and renewable resources, environmental studies, mineral and energy resources, and radioactive waste management. During this period he served also as executive secretary of the Environmental Studies Board (1973 to 1977) and as the principal staff officer for committees on Water Quality Policy (1973 to 1976) and Water Resources Research (1979 to 1981).

In 1982, Schad became the principal staff member for water resources on the Commission on Physical Sciences, Mathematics, and Resources at the National Academy of Sciences. He became involved in creating and developing the program of the Water Science and Technology Board in the National Research Council.

From 1984 to 1986, Schad was senior fellow of the Conservation Foundation and executive director of the National Groundwater Policy Forum.

Schad retired in 1986 but continued work as a consultant.

From 1986 to 1987, he served as a consultant to **Ronco** Consulting Corporation on the United States Agency for International Development studies for the Gambia River Basin Development Commission. He prepared a report on the development

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**Theodore M. Schad**

of a planning capability for the basin and then the water resources chapters of the summary report on the project.

In 1990 he served as a consultant to the Ford Foundation's Western Water Policy Project at the Natural Resources Law Center of the University of Colorado Law School.

Schad also served as a consultant to the Office of Technology Assessment, United States Congress, on the water resources chapter of the October 1993 report, *Preparing for an Uncertain Climate*, including an analysis of proposals for a new commission to study U.S. water policy.

**Water Resources People and Issues**

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Theodore M.Schad

## **Career Summary**

### **1939 to 1940**

Corps of Engineers, Baltimore District, Maryland

### **1940 to 1942**

Bureau of Reclamation, Department of the Interior, Denver, Colorado, and  
Pendleton, Oregon

### **1942 to 1946**

Corps of Engineers, Seattle District, Seattle, Washington

### **1946 to 1954**

Office of the Commissioner, Bureau of Reclamation, Department of the  
Interior, Washington, D.C.

### **1954 to 1958**

Budget Examiner, Water Resources, Bureau of the Budget (now the Office of  
Management and Budget), Washington, D. C.

### **1958 to 1968**

Senior Specialist, Engineering and Public Works, Legislative Reference  
Service, Library of Congress, Washington, D. C.

### **1959 to 1961**

Staff Director, U.S. Senate Select Committee on National Water Resources,  
Washington, D.C.

### **1961 to 1966**

Senior Specialist, Engineering and Public Works, Legislative Reference  
Service, Library of Congress, Washington, D.C.

### **1966 to 1968**

Deputy Director, Legislative Reference Service (now the Congressional  
Research Service), Library of Congress, Washington, D. C.

## **Water Resources People and Issues**

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### **1968 to 1973**

Executive Director, National Water Commission, Washington, D.C.

### **1973 to 1983**

Deputy Executive Director, Commission on Natural Resources, National Academy of Sciences, Washington, D.C. (1973 to 1982) with concurrent service as Executive Secretary, Environment Studies Board (1973 to 1977)

### **1982 to 1983**

Staff Officer, Water Science and Technology Board, National Academy of Sciences, Washington, D. C .

### **1984 to 1986**

Senior Fellow, Conservation Foundation, and Executive Director, National Groundwater Policy Forum, Washington, D. C.

## **Personal**

Parents: William Henry and Emma Margaret (Scheldt) Schad

Marriages:

Kathleen White, married November 5, 1944

Margot Cornwell, married March, 1995

Children:

Mary Jane S. Klingelhofer

Rebecca Christina Schad

## **Education**

1936 to 1939: Bachelor of Engineering (Civil), Johns Hopkins University

1939 to 1940: Graduate work in hydrology at Johns Hopkins University

## **Honors and Awards**

Meritorious Service Award, U.S. Department of the Interior, 1950

Honorary Member, American Water Works Association, 1970

Iben Award, American Water Resources Association, 1978

**Theodore M. Schad**

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Caulfield Medal, American Water Resources Association, 1990  
Fellow, American Society of Civil Engineers and President, National Capital  
Section, 1967 to 1968  
Julian Hinds Prize, 1991  
Fellow, National Speleological Society, Certificate of Merit, 1968  
**Woodrow Wilson Award for Distinguished Government Service**, Johns Hopkins  
University, 1997

### **Publications**

Theodore Schad is the author of many government reports, primarily in the field of water policy, and articles in journals of the American Society of Civil Engineers, American Geophysical Union, American Water Resources Association, Western Resources Conferences, and others. From 1964 to 1968 he wrote articles on water resources and conservation for the *Encyclopedia Britannica Book of the Year*.

### **Memberships**

American Academy of Environmental Engineers  
American Association for the Advancement of Science  
American Geophysical Union  
**American** Institute of Hydrology  
**American** Society of Civil Engineers  
American Water Resources Association  
American Water Works Association  
International Commission on Irrigation and Drainage  
National Academy of Public Administration  
National Speleological Foundation  
Trustee, National Speleological Foundation  
Permanent International Association of Navigation Congresses  
U.S. Committee on Large Dams

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*Water Resources People and Issues*

**Theodore M. Schad**

Interviewed by  
Martin Reuss

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Office of History  
and  
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Water Resources People and Issues

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## Interview with **Theodore M. Schad**

### **Early Years**

**Q:** Ted, let's begin by talking about your family and your upbringing, the schools you went to as a boy. Tell me about your parents, for one thing. What did your father do, where did your parents come from?

**A:** Well, I can do you one better than that. My grandfather was born in Hesse-Darmstadt in Germany in 1841. His grandfather had been a Hessian soldier in the service of King George III in the Revolutionary War. We don't know anything about his service, but I have been told that he came back to Germany full of stories about what a wonderful place America was, that it was a great place to live.

His grandson, my grandfather, Henry J. Schad-they pronounced it in Germany, although it is spelled S-c-h-a-d-was sent over, or was allowed to come over, to the United States when he was a teenager. His mother did not want him to be conscripted into the Hessian Army because this was before **Bismarck** and the Hessians were still putting out mercenaries anywhere in the world that would pay for them. So he came over as a teenager to avoid being conscripted in the Hessian Army.

That was in the **1850s**, and before he got the chance to marry or do anything, he was drafted into the Union Army in what we, of course, call the Civil War and the Southerners would call the War of Northern Aggression. He lived in Baltimore. Baltimore really had Southern leanings and the first little skirmish, outside of Fort Sumter, was when the Massachusetts militia marched from one station to another in Baltimore and they were stoned by the populace.

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This manuscript is an edited version of an oral history interview conducted by Dr. Martin A. Reuss in Arlington, Virginia, on February 27 and 28, **1989**. The original tapes and unedited transcript are in the Research Collections, Office of History, Headquarters, U.S. Army Corps of Engineers, **Alexandria**, Virginia.

But he was drafted into the Union Army, and he served with great pride and has been quoted as saying he thought that to serve one's country in time of war was one of the finest things a person could do. He ended up as a master sergeant after the second re-enlistment. I've never had the time to check up and find out what battles he was in, but I have seen a little write-up about him in which he expressed his pride in his military service. Of course, a lot of what I know about him is what my father told me.

My grandfather was very proud of being an American. He married a German girl, a German woman, whose name was Emma Augusta Yeager, and she also had been born in Germany. I don't know much about her. They had a large family. They lived on Fremont Avenue in west Baltimore after the war, where he set up shop as a shoemaker.

My father was one of the latest of the family. There were seven children, two girls and five boys, and my father was number six of this lineup, born in 1876, and his name was William Henry. Interestingly enough, they didn't speak German at all. When my sister and I studied German in college, my father could not help a bit. He told us how his mother and father spoke German-that was their native tongue-but when the children would speak German his father, my grandfather, would say, "This is an American household. We speak English in this household." My grandfather was very, very patriotic-having been in the service in the war. Anyway, that was the beginning of my branch of the Schad family in America.

Some of the Schad children went to college, but my father wanted to get out on his own, and he did, at a very early age-his first job, he told me, was making wheels for wagons. I still have the spoke-shave that he used. He used to tell about how difficult it was to make these wooden wheels and then to heat up the steel rims and get them on it so they would fit tightly after they cooled without burning the wood.

And he was able to do everything with his hands. He did enlist-he was very proud of enlisting-in the Spanish-American War, and he used to tell me many times that it was the only war in which all the American troops were volunteers. No drafting. Because this was many years after the Civil War, Civil War history seemed very romantic-people talked about it, and particularly his father who was still living and thought that it was a great patriotic duty to serve one's country as a soldier. My father never got to Cuba. He got as far as

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Tampa and he got the typhoid fever and it bothered his health for years afterwards.

He took a job as a motorman on an open-platform street car in Baltimore, but the cold weather almost killed him. After that he went into various businesses. Not having had the benefit of a college education, he took up what now seems to be a very unusual occupation for a man. He was a shirt ironer. This was in the day when men wore high collars, separate collars, and, of course, the shirts and collars were heavily starched and had to be ironed. He traveled up and down the East Coast. Anybody who was a good shirt ironer could get a job anywhere. He was working in laundries, and this is something that went out of style, I guess, in the first decade of the century. For a while, he operated his own laundry; he and one of his brothers operated a laundry in Washington.

He was living in Kingston, New York, when he and my mother courted. My mother was a Baltimorean—all of my family history is based in Baltimore except my father traveled around a lot. My mother was born in east Baltimore and lived there until she married. My father courted her from Kingston by postcard, and I still have somewhere in my archives upstairs the postcards that they wrote back and forth from Baltimore to Kingston, New York, where he was employed as a shirt ironer in the laundry.

They courted that way for a year or two. They had met while my mother was visiting a cousin who lived in Kingston. Eventually, he came down to Baltimore and married my mother, whose name was Emma Margaret Scheldt, also of German extraction. But the Scheldt side of the family came from north Germany.

**Q:** Was that S-c-h-e-l-d-t?

**A:** Yes, the same as the river which the Dutch call the Skelt, and you could say “S-c-h” could be pronounced in the same way, like “school.” But it wasn’t.

My grandmother was born in this country, but her parents were from Germany, from Schleswig-Holstein, and they actually spoke a different kind of German. The German was so different in the north and the south, but understandable.

Anyway, my mother and father were married on June 12, 1907, and lived in Kingston, New York, for a few years. My father was a pioneer in

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photography. He took pictures up and down the Hudson River valley and in the Catskills around Kingston. This was in the first years when they started to have film on celluloid rather than glass, although he even had some pictures that were on glass. It was a hobby that he had in those early years and then he just stopped it, apparently, when he moved back to Baltimore because I don't have any pictures that he took after they came back to Baltimore, probably in about 1910, or possibly when my grandfather died in 1911.

And-I tend to be a little bit emotional in all this. I mean, you know, it—

Q: Sure.

A: But anyway-I'm probably telling you more than you want to hear, but you can cut it out later.

The laundry he ran was in Washington, but he was living in Baltimore-this would have been before World War I. I think World War I is what killed the high white collars. Now, Herbert Hoover, you remember, still wore them when he was President. You may not remember, but I remember the pictures of him with those high collars, and they were so tight that the necktie wouldn't even get up in them sometimes.

Shortly after the beginning of the First World War, about 1914, my father started to work for the British government in procurement of war materiel, and he worked for them all through the war and eventually got a citation from King **George V**. Somehow this British service seems to run in the family. I just realized that my great great grandfather served King George III as a Hessian mercenary in the revolution, three generations earlier. Somewhere we have this citation that my father got for having helped the British war effort. You remember, the United States didn't get in the war until much later.

Having served in the Spanish-American War, my father was free from World War I service. In the meantime, my brother had been born in 1908 and my sister in **1915**. I was born August 25, 1918. We were living at 601 North Calhoun Street, Baltimore, Maryland, at the time. After the war, my father went into various businesses, largely involved in buying and selling materials of all kinds.

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They also took a step which had quite an influence on my life. They bought a farm out in Baltimore County about 20 miles northwest of Baltimore-actually, the farm overlapped across the northwest branch of the Patapsco Falls-that is what they call it-and over into Carroll County. So it was right on the county line there, near the little town of Reisterstown.

And they really thought they would go out there and make a living on a 169-acre farm. But the fallacy in that can be demonstrated by my mother's talking about how they had looked for farms up and down the countryside of Maryland, Anne Arundel County waterfront and everywhere, and she said, "When we drove over the top of the hill and we saw that farm spread out below us in the valley of the Patapsco Falls, we knew that was the place for us."

Well, the fact that it was such a lovely, idyllic setting, with wooded hills and rolling country made it not a very good farm. Terrible erosion-they didn't know about contour plowing in those days. Of course, my early recollections are of living on the farm, and I remember the way those fields would erode. They planted corn and wheat and had horses and cows and chickens-it was just going to be a general purpose farm.

My father built a tenant house and hired a man to run the farm. The man's name was Solly. I don't know where they got him, but he had grandiose ideas of riding around on a horse and telling the hired hands what to do. Of course, you don't do that on a 169-acre farm.

And the origin of the 1929 crash was in the agricultural depressions in the early years of the '20s. I don't know just which year they found out their dream of making a living on the farm wasn't going to work, but by 1923 my father had gone back to work in the city. He was commuting back and forth to Baltimore, driving a big Reo touring car.

Q: Photography, or—

A: No. He was working in real estate. I'm not sure when he started to work for Randall H. Hagner and Company, where he was involved largely in apartment house maintenance, but that was what his work was most of the time when I was growing up.



We didn't have a telephone on that farm and I'll never forget the time-this is one of my very early recollections-when Father didn't come home-we always called him "Father." None of this "Daddy" stuff or "Pop." It was "Father."

He didn't come home. We didn't know what had happened, and it was maybe two days before my mother got a letter from an aunt saying that he had appendicitis and was in the hospital and operated on and was all right. It was an emergency appendectomy, but we didn't have a telephone on the farm, so we didn't know what had happened. We didn't have a telephone until sometime later.

Anyway, in 1925 things got so bad that we had an auction of the farm equipment and moved into town so the commuting wouldn't be so hard. My father sold the farm to a family that wanted to move out there to give their children more space to grow up. The farm had been financed with a Federal Farm Loan Board mortgage, the nature of which was that my father was responsible for that mortgage no matter what, so when he sold it, taking back a second mortgage, he was still responsible. After selling the farm we moved into the town of Reisterstown to a house that my father rented at 360 Main Street. At that time, I was in the first grade. Later on, when I was in the second grade, we moved to a house on a one acre lot at 22 Woodley Avenue in Reisterstown. That's where we lived through the rest of my childhood, all the way through high school for me.

One of the things I haven't mentioned yet happened in 1920; I was stricken with polio which hit my right leg and damaged the muscles in the lower leg, particularly in the foot. I had to wear a brace on my lower leg until I was six years old. There are a lot of pictures of me with the brace and all, and I never looked very happy. I don't know whether I should say this or not, but my mother kept me with long curls until I was six years old. I had light blond hair and many years later she always said, "My, you wet your hair too much. It's getting dark."

And they always called me "Mac" because I had a cousin whose name was Theodore-Theodore G. **Schad** that they called "Teddy" -and my mother didn't want me to be called "Little Teddy" because the family already had Aunt Emma and Little Emma, and Uncle Harry and Little Harry, and my mother didn't like that. My middle name was Mac Neeve and so they called me Mac, and I went all the way through high school under the name of Mac and that's

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how we got away from the pronunciation of Schad with a broad “A.” You can’t say “Mac Schad,” with a broad “A.” (Laughter)

And my father often said, “I don’t care what they call me as long as they call me when it’s time to eat.” He was a little irreverent, I guess, on some things, but most of the time the other branches of the family pronounced the name Schad with a broad “A.”

Well, anyway, at age six, the doctors decided that they could operate on my leg and do a muscle transplant which would help me to walk without a brace. A wonderful doctor, Dr. Howard Bennett, did the operation. It was done at Children’s Hospital, which was on Green Spring Avenue, near Cold Spring Lane in north Baltimore.

So when I was six they cut off my curls and took me to the hospital and I had the first operation, which was a muscle transplant, just before entering school in the first grade. I didn’t go to school much during the winter while we lived on the farm, but when we did go to school, I remember walking up the driveway to the road and riding to school in a Ford panel truck without any windows, with benches in the back which a gentleman named Mr. Fitz, pronounced “Fights” used to drive as a school bus. He would pick up about a dozen children who were crammed into this little Ford panel truck. After we moved into town in March 1925, I could start to go to school regularly, and I think out of the 180-day school term, I think I went to school 95 or so days and was absent the rest of the time.

But I had learned how to read-our house was full of books, and my sister read to me, and I almost progressed along with her. She was three years ahead of me, and so I could read, and I didn’t have any trouble with school at any time because of that.

The people that bought the farm defaulted on the second mortgage; my father had to take the farm back, and we had that farm around our necks almost like a millstone all through the rest of the ’20s and the ’30s. My father was working in Baltimore, and we’d get various tenants on the farm. He sold the farm again to a gentleman who was going to raise beef cattle; the farm was perfectly suited to that. Again, he had to take a second mortgage. Nobody had money. This probably was around 1929 or 1930.

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And when the second payment on the second mortgage came due-every six months there was a payment due-the man came in and said to my father, “Mr. **Schad**, I’m sorry, I can’t make that payment now, but I’ve got a barrel of whiskey here. I’ll give you that on account, and as soon as I sell a few head of cattle, I’ll give you the rest of the money.” I think the payment was \$500 every six months.

Well, a little while later we heard that the still that he was operating in the barn had been blown, the explosion knocked the whole side out of the barn, and he disappeared and we never heard of him again. He apparently was running the cattle as a front for a still. This, you remember, was during Prohibition.

So we had the farm back and we’d plant beans one year and we’d plant peas the next year for the cannery. Some years they’d say, “Well, we can’t take them. Just plow them up.” Other years, we would pick the beans. That’s about as hard work as I’ve ever done-stoop labor, picking beans for the cannery. We liked it when they planted peas because they were harvested mechanically, vines and all.

Anyway, the farm never really was profitable and finally, in 1940—this was after I had graduated from college and had gone out West-it was taken by the city of Baltimore as part of the Patapsco Reservoir area. The upper end of that reservoir floods into our farm and has drowned out some of my first recollections about water, which go back to playing in the stream, playing in **Keyser** Run before I was six years old.

Q: I wanted to ask you, as a matter of fact, if I could interrupt, whether you think your early experiences on the farm -which you obviously remember rather vividly-may have influenced your career and what you finally went into. **Do you** have any feelings about that?

A: Yes, I think it did in two ways. One was that my earliest recollections are playing in that stream and climbing up on a big rock. There was a big rock there that must have been all of six feet high, like a boulder, and it kind of sloped into the hillside, so you could walk around the back and get up on top of it. And I think this is my earliest recollection-being up on that rock, and my grandmother, who took care of me most of the time while my mother was off doing other things and running the farm, grabbed me so I wouldn’t fall. I must have thought it was great fun to get up on that rock. So I did it again and

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she brought me down again and smacked my hands and I think that's why I remember it.

It must have been the summer when I was either four or five years old. But that incident brought rocks and water together both of which have been a very significant part of my life from then on, although it took a little while before it all came together that way because I got off into other interests.

Q: Sure. You went to school, then, in—

A: Franklin High School in Reisterstown. I started there in the first grade and I went all the way through that school. When I started in the first grade, the whole class was all in one room. That year my brother was a senior in high school upstairs, my sister was in the fourth grade, and I was in the first grade. That was the one year the three of us were there in school together, the year of 1924-2s.

When I was in the sixth grade they built a new high school, and my seventh grade moved over into the high school building when a number of other schools were consolidated with Franklin. This, remember, was rural Maryland and we had no junior high. We had seven grades and then we went into high school and had four years of high school. So I got through school in 11 years, whereas in Baltimore and in many other places, people were generally going 12 years. And this eventually got me through college when I was only 20.

Going to the same school for 11 years gives me very vivid memories. I could probably-and I know you won't be interested, but I could probably tell you the names of all my grade school teachers and quite a few of my high school teachers. Of course, one reason is that, from time to time, I've been back there. We had our 50th high school reunion in 1985.

Q: How many people were in that class then?

A: Well, there were not a lot. There were about 80 that graduated in 1935 and there were about 70 surviving in 1985. About 45 or 48 or so and their spouses were there in 1985 for the reunion. We also had a 20-year reunion and there may have been other reunions. Those are the only one that I attended.

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**Q:** Well, let me ask you this. When you were in high school, in particular, did you early develop an interest in science and mathematics and things of this sort, or—

**A:** Yes. I was always good in science and mathematics. I remember when I took geometry once arguing with the teacher and proving that she was wrong in something she had put on the board, One of my friends said, “Mac, she’s going to flunk you.” Instead, she gave me an A.

**Q:** Good for her.

**A:** I loved chemistry and physics, but strangely enough, the thing that obsessed me at that particular time was maps. My grandfather had bought a lot of atlases which had beautiful maps-these would be engraved maps that were so carefully printed that they were works of art-back in the 1870s, 1880s. My family was the repository for many of my grandfather’s possessions. Having lived on the farm and living in a huge old house in Reisterstown, we had lots of space. So many of the relics from my grandfather came down to my father, including the shoemaker’s tools. I still have some of those lasts that, I’m sure, were my grandfather’s. My father kept them all; we kept everything.

But I was obsessed with maps. I became a Boy Scout. I mapped everything in sight using a compass and pacing techniques that were required for the First Class Scout test. I was really obsessed with maps, and the reason I mention this is it had quite a bearing on something that happened much later in my life.

**Johns Hopkins University**

**Q:** When you decided to go to college, did you have any difficulty making a choice?

**A:** Well, that’s where the maps came in. I knew I wanted to be a civil engineer, largely because I wanted to make maps, but it was kind of a romantic vision of civil engineering, of a man out there squinting through a telescope with riding britches and-that’s the way surveyors used to dress in those days-and so when I applied at Johns Hopkins, I listed civil engineering as my major. I’m sure that’s the reason.

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Now, remember, you apply when you're in high school-your senior year, I guess. Maybe in the fall of senior year. But that's what I put down. I also applied at Princeton and MIT [Massachusetts Institute of Technology] and considered colleges that didn't teach engineering, but I really wanted to take engineering. Those were the three that accepted me, but our family was not financially able to pay my tuition—there wasn't enough money for me-my sister was already in college. She was going to Western Maryland College, commuting from home-Western Maryland College is in Westminster, about 12 miles from Reisterstown. So it was a question of my getting a scholarship or not going. We were land poor, with that farm. Half the time we didn't even make expenses on it. I can't say that we were all that bad off, because my father had bought other properties and was renting them. These were properties that were in need of rehabilitation. He would buy a property that didn't have a water supply-didn't have indoor plumbing. It would have a well on the back porch and he would put in a pump and a water system, upgrade the house and rent it.

But this was during the '30s, you see. I graduated from high school in 1935 and a lot of those people didn't pay the rent, and my father was too good natured to put them out, so we never had much money. And it was a question of a scholarship or I wouldn't have been able to go to college.

Fortunately, Hopkins had a lot of scholarships through the state scholarship system in the engineering school, and I took that exam. I had also applied for and got a small scholarship at Princeton, but it would not have been enough. To live in Princeton would have been expensive, so I just reluctantly-since Princeton was my first choice-gave it up. But I had done very well on the scholarship examination for Hopkins. I never really considered MIT very seriously, although I was accepted. In those days, they didn't use the Scholastic Aptitude Test. They used the College Entrance Examination Board exams, which were held on the campus at Johns Hopkins and were largely essay-type questions.

And so I was accepted, but my recollection was that I didn't do particularly well in the science part of the CEEB exam. MIT sent me the grades. Apparently I had actually flunked the science exam, but I had done well enough in all of the others that they accepted me.



Later, there was an examination at Hopkins for Maryland state scholarships which were under the control of the state senators. Although I placed high enough on the exam to earn a full scholarship, when the time came, I didn't get the scholarship that I had earned, but I had good enough marks that I got what they called a trustees' scholarship, which paid half of my tuition and books. I had to work part time to get enough money to pay the rest of the tuition, I worked under what they called the NYA, National Youth Administration. You worked about 40 hours a month for a very nominal sum which was then applied to tuition.

When I decided to enroll at Hopkins my brother, being 10 years older and having had a rough time of it, said, "You must take electrical engineering because that's where the future is." And I said, "Yes, I guess you're right."

However, because I didn't get that scholarship right away, I didn't enroll right away. In fact, it was two weeks after school had started that I got the call from the dean who said, "The trustees have gone over your record and they've given you this scholarship and this NYA job." So I came in and I found that I had already been enrolled in civil engineering, which was based on my original preference as stated on my application. I knew full well that electrical engineering was where the jobs were, but I was enrolled in civil engineering and they had my class schedule all worked out for me. The class schedule for engineering was pretty well defined, and it was a civil engineering course which included surveying. Of course, that's what I was interested in. So that's really what directed my career-I got to be a civil engineer because of my interest in maps and surveying. One of the other things I think that had a big effect on my career was the fact that because of my weak leg I couldn't participate in sports as much as the other boys. My leg was not very strong after the first operation and my foot turned over when I ran.

When I was in the fourth grade, I had another operation in which they inserted another bone in my foot which kept it from turning over. After that, I could run and play ball and do things like that, and take long walks. Before that, I couldn't and so I was doing a lot of reading, even in those early years because that's what our family did. The whole house was full of books of all kinds and I did a lot of reading. My sister also brought her books home from school, and I used to read her books three years ahead of the rest of my class, so when I got to most of my classes, I was well prepared and didn't have to study much.

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And I did reasonably well in school with good marks and all, but my family never made an obsession of it. They never said anything, except if I got a C my father would say, "Gee, what happened?" because most of my marks were **As** and Bs, and-but they never drove me to excellence in school or anything like that.

And then the thing that had a major effect on my education happened when I was in first year of high school. In early May, after school one day I was riding on a bicycle out to the farm, which was three miles away. The front tire blew out as I was going down a steep hill. I went head over handlebars, and the bicycle landed on top of me. I had a broken leg, the femur just above the **knee**. I went to the hospital in early May, and they put me in traction, trying to gain a little bit of length because my right leg had ended up shorter because of the polio.

I was in the hospital until about the 4th of July, and then I was around on crutches all summer. That was the summer that my education really took off. My brother had never been able to get through college. Determined to **educate** himself, he had bought the Harvard Classics, and the Harvard Classics Library of Fiction, and I literally think I went through the whole of those volumes, 50 volumes of the Harvard Classics, that summer. Now, I know a lot of that was too much over my head for me to understand, and a lot of it I skimmed-

Then there was a complete set of Dickens. And the Waverly, novels of Sir Walter Scott. I did a lot of reading. H.G. Wells, Will Durant, I wish I could remember it all. But the significance of it was it opened my eyes to the broader world while I was still a teenager.

A lot of this is already written up in my journals that I wrote from 1935 to about 1955. I've written a bit here and a bit there, and I've always thought that it ought to be documented-in a lot more detail about my family.

Q: Is it in publishable form?

A: No, no, no. It's just in drafts. In fact, it's not really very good-none of it has even been typed, but I used to write it in notebooks.

Q: I see. That's fine.

A: Because I think what I really wanted to be when I was a teenager was a writer. You know, I was very-well, poetic. I know I don't have that kind of talent, at least I don't think I do, but some people thought that I did and used to encourage me to write.

Q: Well, you were talking about these 50 books-the Harvard Classics series, and how this helped you—

A: Well, I think reading a lot of good literature is how you develop the ability to write, and that's had a big effect on me because the ability to write and communicate either in writing or verbally is very important.

Q: Yeah. It's a bit unusual, at least to me-and perhaps I'm showing some bias of my own here-for a person with an engineering bent to have also an enthusiasm for the classics, for reading and writing and so forth. So that's—that's a bit unusual. Do you think it's in some ways helped you in your career?

A: Well, I do think it helped me in the ability to communicate, and when you get down to it, communication, either writing or speaking, is essential in any profession, and that's why I mentioned it. I think it did have an effect, which I didn't really realize until many, many years later and I realized that I did have the benefit of a much better classical education than most people who went through engineering school—at least who went through engineering school at the end of the 1930s.

Now, a lot of what I read I can't really remember-I can pick up those books and look at them now and I can't imagine that I ever read them, because some of it's pretty hard going for me even now, some of those early novels and all that. But I laid on that hammock under a big maple tree and read one book after another-I was on crutches all summer.

I never did finish my school work but even though I didn't go to the last six or seven weeks of school because I was in the hospital, they passed me because I had good enough marks up to then.

About the end of August I was off of the crutches and went to school and the first day of school, I slipped on something in the hall and I was back on crutches again.

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Q: Are you sure you just didn't want to read some more?

A: Well, no, because even if I did, it didn't work. One of our neighbors used to drive up to town-it was only about three-quarters of a mile-and so she would drive me to school every day, and I came home on my crutches. Now, you know, three-quarters of a mile is not too far to walk on crutches, but it caused me to wear the tips out about once a week. I remember at the end of the week after the tip was worn out, if you didn't get a new one on quick enough, well, the wood tended to open up like a cauliflower and the crutch would be a bit shorter.

But anyway, that didn't last very long. I got to the point where I was all right again, and I was a key person on the intramural basketball team because I had gained in height-I had grown about six inches while I was in the hospital because they were feeding me protein and milk and everything to make my leg grow a little bit longer. So I had suddenly become perhaps the tallest person in the class, and I was in great demand as the center on the intramural high school basketball teams. In those days, you remember, after every basket the ball came back to the center for the tip-off, and even though I wasn't very fast on the court, I had the edge on everybody else for tipping off. Aside from that, I was probably the world's worst basketball player, and I never was really good at team sports.

But we did play softball. I used to play softball. Until I was in the fourth grade, I couldn't do much of that kind of sport, but when I got to the fifth grade after the operation that strengthened my foot, even then I was one of the tallest people in the class. We used to play softball at lunchtime, and we played a game called "three-at-the-bat." Everybody called off-the first three in numbers and then the rest in team positions. The first three would be at bat and then the next one would be catcher, pitcher, first, second, third base, shortstop, and all the way out in the field. No matter how many people were there, you could always play without organizing a team or anything, and you progressed upward through each position as the batters were put out, and when you were put out you became "last-man-in-the-field."

Well, there were three fellows that were bigger or tougher than I was in the fifth grade and-so they always were the first three, you know, and if you argued with them you might find yourself looking at a fist. So, I would be four, and would start as catcher. That was the one position I could play with

reasonable skill, and then as soon as somebody went out, I'd be at bat, and I'd usually, maybe, get around the bases once before I was out. I could run, but sometimes people would volunteer to run for me because I guess I ran with a kind of a hop-leggedy run.

That was when I started in organized sports, I played softball then off and on with class teams, not with varsity. Sometimes I played soccer, and sometimes basketball. Then I started to play golf. I loved golf. I learned to hit the ball in the meadow on the farm near where we lived. I taught myself to play golf with my brother's clubs, and then I became a caddy-this was about when I was 12, 13 years old-so I could play golf on caddy day. One Monday, which was caddy day, I got around 54 holes on our nine-hole course in Reisterstown. We didn't get much work, as caddies, because people couldn't afford to take caddies back in the early '30s.

And so the only varsity sport that I ever got involved in was the golf team in my senior year at high school. I also started swimming regularly, I guess by the time I was in high school-I taught myself how to swim by reading in a book. I went into the water in our farm one Sunday with neighbor boys who took me out there-they asked my mother if I could go and she said sure. I had read a little book called "Healthful Sports for Boys," and it had a section on swimming. It told about the breast stroke and the crawl and the backstroke and the sidestroke which they used to talk about then. I read about the various strokes, and that the first thing is to not be afraid of the water. To conquer the normal fear of water you filled the wash basin full of water and put your head in it and opened your eyes and you'll find out that you can see under water, and once you get over that, why you'll find that swimming comes easier.

So I went out to the farm with the Warner boys-I know my mother would have had a conniption fit if she knew what I did. There was a swimming hole in the Patapsco Falls where it flowed through the farm. There was a gravelly beach where we could get down the bank to the water, so I walked down and stuck my head in the water and opened my eyes. I couldn't see a thing! The water was muddy. But that didn't stop me, and so I guess I probably dog paddled across to the other side and put my feet down and there wasn't anything down there. It was one of those places where the water was deep.

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Well, I guess some people might have panicked, but I didn't. I just turned around and dog paddled and came back to the beach, and from then on I could swim.

We swam a lot during the summer when I was in high school, mostly in a neighbor's pool. These neighbors had a lovely pool, and this reminds me of one of the harsh facts of growing up around Baltimore in the 1930s. There was an awful lot of anti-Semitism. The neighbor children had gone to the public swimming pool in Glyndon and I don't know how people could tell someone was Jewish, but at the public swimming pool whoever was on duty said, "You can't come in," and they asked, "Why not?" And he said, "We've got too many." And then finally the manager came out and said, "We don't allow your kind in here."

There was a small creek running through our neighbor's farm, so they dammed it and built a swimming pool and invited the whole town to swim. They built just an ordinary little pool, and then the electric company put a new high tension power line from Safe Harbor on the Susquehanna River down to Baltimore, which came right over this pool. It wasn't safe to swim there, so the company-it's now Baltimore Gas and Electric Company-built this beautiful pool about 50 yards by 30 yards. So the whole town was invited to come out there to swim. I don't know whether it helped or hurt the business of Glyndon pool that much or not, but it must have because we all swam there, and we were welcome all summer. Some summers I would count the times I went swimming, and it would be something like 100 or 110 or something like that, and each year I'd try to beat the previous record. The pool was about three-quarters of a mile or a mile out Berryman's Lane from my house, and I walked it all the time.

Q: What was the neighbor's name, do you remember?

A: The name was Dorman, D-o-r-m-a-n. The farm has been taken over by some kind of an institution now and I don't think the pool is still there.

But that's one of the unpleasant facts of life, growing up in the 30s. We didn't think much about it, but Baltimore was very segregated, not only the black race, but also the Jewish people. Of course, the Jewish people had some of the really fine sections of the city; you couldn't call them ghettos. But in the sections around Johns Hopkins University, Guilford and Roland Park, I think



they went back three generations to find out if you had any Jewish blood. It was that kind of a snobbish society. I know they don't like me to say that, but it's a fact.

Anyway, I became a good swimmer. I used to swim a mile a day. When I first started I was swimming side stroke and any kind of a stroke, and I learned all the strokes, and eventually swam the crawl because it was the most efficient. And when I got to Hopkins I did go out for swimming, and I was on the freshman swimming team. I could do that the first year but the course schedule was so rigorous in the sophomore year that I had to give it up. I also tried to get into ROTC, not so much because I wanted to be a soldier in the tradition of my father and grandfather, but because they paid you the last two years, and that would have been very important.

I remember going to see Colonel Gregory Hoisington. I don't know whether he was a Corps of Engineers officer or not-and asking him if I could enroll, and he said, "No, no, we just can't-your leg's shorter and you walk with a limp and we just couldn't have you in the service." And I said, "Well, gee, I can do everything. I can walk miles and do this, that, " and he said, "No, I'm sorry, but we can't take you."

I had to take something else to fill out my schedule, so I took French reading. Having had French in high school, after one semester I absolved the requirements for French in the Ph.D. I would have had to take an exam, but they certified that I could take it, so I had some time off, which I promptly used to play bridge over in Levering Hall.

Upon entering Johns Hopkins they gave you placement exams and I absolved taking English composition. This permitted me to go right into an advanced English literature course with the person who, I believe, is the best teacher I ever had, Captain Kilbourne, formerly of the British Army. He may have been a U.S. citizen by that time, but he lived and breathed English literature from *Beowulf* on. With my having had a kind of a literary background from all the reading that I had done, but not having been very organized, he really helped me organize it, although years later, when I looked at some of the papers I wrote, they seemed rather insipid and immature, but still it did help to really inculcate the love of English literature in me.

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Captain Kilbourne was steeped in the love of English literature. He could read *Beowulf* and Chaucer and he could just make it come alive in the same way that good actors can make Shakespeare live, whereas when you just read it, you don't always get the flavor of it. Unfortunately my high school courses in English-in English literature particularly-were not too good because they were so unimaginative. By the time I got to high school English literature, I had read *Ivanhoe* and *Quentin Durward* and the *Bride of Lammermoor* and almost all of the Waverly novels, which I just loved, and it was amazing to me how the teacher could make them seem so dull and uninteresting.

Well, I'm not really a classical scholar. I just enjoy literature.

Q: Let me ask you this. First of all, you'd taken French. Now, did you still have some working knowledge of German at that time?

A: No, very little. And I never took German, but I had tried to learn to speak it with my sister when she took it at Western Maryland College.

Q: What about-I'm still a little bit mystified as to why your house was so crammed full of books. I mean, your father, photography work and a shirt ironer, what led him and your mother to have that kind of an interest?

A: I think that what started it was that they inherited all the books from my grandfather when he died in 1911. I think a lot of the books came from my mother also. She had lots of books that were hers and were of a later vintage. Also they bought a lot of books up to the farm years and then their interests, I guess, became different. But no, there were all kinds of books, and it was not at all unusual for three or four of us to be sitting in the living room and reading on a Sunday afternoon.

And the other source of books was my brother-remember, 10 years older than I-but only one year at college. My father didn't have money to send him because of the losses on the farm. My brother got a scholarship for tuition, but he had to work for his room and board. He went to Randolph-Macon College-not the women's college, but the one down in Ashland-he got his scholarship through a program they called the CMTC. He went in the summer to the Citizen's Military Training Corps, which was the 1920s version of military preparedness. He was good at it, and he was awarded a scholarship. But he had to work for his room and board, and he didn't make it.

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So he was determined to educate himself, and he started buying books during the boom years of the late '20s. He made a lot of money in the first few years selling radios. He was selling radios at the time when the salesman just sat there in the showroom and wrote the orders as fast as he could write them. This, you remember, was in 1927-28.

So he made a lot of money, and that's when he bought the Harvard Classics and a lot of other good books. He bought good books, like the Merezhkowski trilogy-H. G. Wells' *Outline of History* and *The Story of Philosophy* by Will Durant. All these are just a few of the books I remember, much more than my family's books, but there were several bookcases full of older books.

It always seemed that reading was the way to go, I think, in our family.

Q: Let's talk about Johns Hopkins.

A: Well, okay. I think I told you about absolving French reading and English composition and having a wonderful English literature course. But still, I was taking engineering and so the first year I took engineering drawing and surveying and mathematics, physics, and chemistry, which are the basic courses for going into engineering-the only engineering, in the first year, being surveying and engineering drawing.

And the swimming team was one interest. Then I started up a freshman golf team just so I wouldn't have to take physical education. We played mostly high school teams like Friends' School and Tome, up in Port Deposit, and other prep schools. I'm not sure any of the colleges had golf teams, at least I don't remember playing any college freshman golf team. I was not all that good at golf. If I ever got an 85, I thought I was really doing well, and I think maybe the best round I ever shot in those days was an 81 or so.

Q: Were there any particular professors at Hopkins that gave you inspiration.

A: Well, only Captain Kilbourne- i n the freshman year that is. The next year my calculus teacher, Dr. Zariski really turned me on. At one time I considered changing my course, from engineering to mathematics.

Q: Okay.

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A: Sophomore year, I went out for swimming, but there were two people so much better than I was that I knew I couldn't make the team and also I was very busy. In sophomore engineering at Johns Hopkins in those days, you had about a 40-hour a week schedule of labs and classes. Also I was working on the yearbook. It was the major activity that I kept up. I was on the staff of the yearbook all four years and was editor in my senior year. But you really start working in sophomore engineering and remember, I was commuting with my father, and if I stayed late, I had to hitchhike.

So I really started to hit the books more then, and I guess after the freshman year I wasn't able to sneak over to Levering Hall and play bridge. Bridge was an obsession with me as a child growing up. I just loved the game, having started off on auction bridge and then when they started playing contract, that was just like real big-time stuff and I really enjoyed it. So I've always liked to play bridge.

Anyway, so on through my sophomore year. In those first two years my NYA job was working in the chemistry library as a typist and the other thing that I did to make a little bit of spending money was type term papers for people. I took touch typing in high school and in those days, the going rate was 5 cents a page for double spaced and 7 cents a page for single spaced typing of term papers. That doesn't add up to very much money, but that was the going rate. But you could buy a hamburger, a little hamburger at the Little Tavern, for a nickel and a bottle of milk for a nickel and a piece of pie for a nickel. Remember this was 1935, '36, '37 and things were pretty low economically.

I gave up eating lunch. My mother said she had made lunch all through school for three children and it lasted for her-my brother being 10 years older than I-about 20-some years, and she, "I've made enough lunches, but you can make your own lunch if you want." And I was 17 years old by that time and didn't really like sandwiches, and I didn't want to bother making lunch so I just gave up eating lunch, even when I was swimming in the afternoon. At that time, I remember talking to the swimming coach about it, and he said, "You're really swimming on your breakfast, and if you're in the habit of not eating lunch, it won't make any difference." So I was eating really two meals a day, and once in a while maybe getting a milkshake, and that was in the days when a milkshake was two tall glasses of nothing but milk and ice cream and good stuff. And I'd do that once in a while, and that would cost 10 cents and I could afford that.

So that was what you might call poverty. Now, when I say "poverty," it was a genteel kind of poverty. We just were land poor and didn't have any money. Otherwise, it was a rich family life.

In my junior year something happened which had a major effect on me. Abel Wolman moved from the Hopkins School of Hygiene and Public Health, where he had been teaching-he was also head of the Maryland State Department of Health-to the Homewood Campus. The School of Hygiene and Public Health is associated with the medical school campus over on Broadway in east Baltimore.

Professor [John] Gregory had been professor of sanitary engineering. He left and Abel came to the Homewood campus as the professor of sanitary engineering. And I got the job as his student assistant. I can't remember whether I asked for it or whether they just figured it was a natural. They assigned me to be his student assistant under the NYA program, and my job for a whole year, working 40 hours a month, was to unpack his library, catalogue it, and put it on the shelves. Abel had an office on the second floor in Latrobe Hall, and he had an adjacent room which was his library. The ceilings must have been-they seemed like they must have been-12 or 14,15 feet high. The walls were lined with shelves all the way to the top. There were two rolling ladders on tracks, one on each side, that you could climb up to get to the top ones. So I spent that whole year in my spare time unpacking books and cataloging them and putting them on shelves. But it certainly gave me an insight on Abel, because I was always there late in the evening and whenever else I could find time to work, because engineering students had a full course schedule at Hopkins. Frequently I got the chance to talk to him and ask him about things. He really had such a tremendous volume of publications some of which seemed to me to be very esoteric.

He had all the reports of various sanitary districts, the ones in this country, such as the Miami Conservancy and the Muskingum and all of the others, plus he had a wealth of foreign publications. The ones that stick in my memory are the annual reports of the West Riding of Yorkshire and the East Riding of Yorkshire. These were the reports that told about what they were doing in the public health and sanitation field in England. And new reports were coming in all the time.

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Of course, Abel is so well known, I don't have to say anything about him. I know everybody who reads this will know who he was. But he was an international consultant even back in those days, which was pre-1937. He came to the campus at Hopkins in the fall of '37.

Q: At this time, he was already involved with the Natural Resources Committee?

A: Oh, yes, and at that time a lot of these publications, the new reports and papers that were coming in were from the Water Resources Committee of the National Resources Committee and eventually the National Resources Planning Board, although really it was not named that until about 1939.

Anyway, so I was steeped in all of that. Now, I did not take hydraulics until the third year, the junior year, and I didn't take sanitary engineering until the fourth year, and I still just loved the surveying. In my sophomore year, I took railroad surveying. And in the second semester of my freshman year when I absolved the French I couldn't just goof off for that hour, which was four times a week, so they let me take advanced surveying, and that was a thrill because I was with the senior class of 1936 at Hopkins. Taking advanced surveying involved things like shooting the North Star at night and what they call the three-point problem and the two-point problem and all the techniques which require an awful lot of trigonometry. I just loved it, and at the end of the year I remember getting a 10, one of only two or three given in this course of seniors, and I was only a freshman. This was what I wanted-surveying was what I wanted to do, so I loved that course and the association with the senior civil engineering students.

And all this shows how chance really affects your life. Although in the background, I've always loved water, at that time in my life I was headed in another direction. But I think everybody loves water. It is a part of the human psyche. There is something about it that appeals to us. A lot of people have written more eloquently about that than I ever could. And I was getting an education that would help me when I got pointed in the direction of a career in water resources.

In my senior year I had my only course under Abel. He taught a course called Legal and Social Aspects of Engineering and I'd say of all the courses I took, it was the one that had the most relevance to my future career.



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And Abel had the facility of making it all come alive the same way that Captain Kilbourne made English literature come alive for me. For example, I had to do a paper on metropolitan area governments and I floundered around. I interviewed the chief engineer of the Baltimore County metropolitan area government and I read all kinds of things and I wrote the worst mishmash of stuff you can imagine. And showed it to Abel, which we had to do before we presented it. This was a seminar course. Each week somebody did a seminar, and this was one of my subjects. He took my draft and he read it and he asked me two or three questions, and all of a sudden, I understood what it was all about, and I went back and revised the paper and it was a reasonably good paper.

But he didn't tell me anything. He just asked me a couple of questions and it made it all come together, and he did that with me on several occasions. He was that kind of a teacher. But I really only had him in that one course. Of course, I also had him as a boss because I was his student assistant, but he never got me to really help him with any of his work. It was mostly sorting out all those publications and asking where to put them. Of course, he would talk about what was going on in Washington and tell me about his meetings as he was almost commuting daily to Washington in those days, to the meetings of the Water Resources Committee of the National Resources Committee at that time. It was before they called it the NRPB [National Resources Planning Board].

So I got to know about the alphabet agencies as they called them-and, of course, Abel also was very much involved in either the PWA [Public Works Administration] or the WPA [Works Progress Administration]. I can't remember now. He was Maryland director or something like that, because he was a very, very competent administrator. He really handled his staff the same way he handled me when I showed him a mishmash of a paper, and by asking two or three questions, he showed me how to fix it up. This is the sign of a good administrator. You get your staff to develop and do all the work by asking them questions, getting them to think.

It's hard to say whether my exposure to Abel Wolman is what got me into water resources or not, because of some other things happening.

In my senior year, I was editor of the college yearbook, the *Hullabaloo*, it was called. I gave up working for Abel because I just couldn't see my way clear to

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do the 40 hours a month on the NYA job, and I borrowed the money for the last year's tuition. My scholarship, was cut off after the third year and the university loaned me the money. They said that was the way they'd do it. They wanted to make the money for the trustees' scholarships available to people that couldn't otherwise go. But I had a good enough record that the college was just willing to just take my note for tuition—which at that time was \$450. In those days that was high tuition. It was the same as Princeton—I think MIT had gone up to \$500 and was the highest. My sister had graduated from college in 1936—her tuition was only \$150 a year at Western Maryland College.

Q: I was going to ask you, I'm interested in what kind of subjects Wolman probably covered in a course on social and legal aspects of engineering. Would he have covered things like multipurpose river development, for instance?

A: Oh, definitely, -and he covered all of the things that the National Resources Committee was doing, and that's where I first learned about the Corps of Engineers and Bureau of Reclamation, and you remember, this is at the time when the Corps was building Bonneville and the Bureau of Reclamation was building Hoover Dam, the Central Valley project, Grand Coulee, and all of those Depression Era projects. Each person was assigned a topic—one would cover irrigation and one would cover flood control, and so that's where we did start our research-but we were looking more at the underlying-the underlying reasons for all these programs.

But it was much more than just water resources because the course was also dealing with what we now call infrastructure-highways and other public works-but with a heavy emphasis on municipal water supply and sewerage, which was his field.

Of course, at the same time, I was taking sanitary engineering under Dr. John Geyer and I was taking bridge engineering under Professor [Thomas] Comber. At that time, Johns Hopkins was putting out graduates who could leave their desks, or their academic environment and go to work for a consulting engineering firm and design a bridge or design a structure. We designed plate girders. We designed concrete arches. We designed all kinds of bridge trusses, to the extent of actually drawing them and detailing the number of rivets and designing every part of the structure, and so that's why the course was so rigorous. We were probably spending 40 hours in classes and laboratories, and

then there was homework. Being editor of the *Hullaballoo* also took quite a bit of my time. I don't know how I did it all.

And I had a few other activities. I had been on the YMCA [Young Men's Christian Association] cabinet and was editor of the YMCA handbook, was a member of the student council, and various other things, which I don't remember much now.

But anyway, I was really ready to go to work on a drafting table for Greiner Engineering Company or Whitman, Requardt and Smith, or any of those companies. It was 1939 when I graduated, and I started to pound the pavements looking for a job.

Now, going back to the summers while I was at Johns Hopkins. The requirements for a degree at the time were that you have at least six months of some kind of practical engineering or subprofessional engineering work before you get your degree. If you didn't have it, you'd get a roll of white paper at the end if you otherwise had completed the course requirements, and you didn't get your diploma-it was called "Bachelor of Engineering"-you didn't get that until you had six months of experience. They didn't want to put out somebody that didn't know which end was up as far as work was concerned. My summer job after my sophomore and junior years was surveying for the REA [Rural Electrification Association] power lines in southern Maryland. I worked for a Colonel P. M. Anderson, whose office was in Washington.

Q: What were you doing?

A: He had contracts with the Rural Electrification Administration under which I worked on the survey for the Southern Maryland Tri-County Electric Co-op in the summer of 1937 and again in the summer of 1938.

I got the job from an ad in the newspaper: salary, \$20 a week plus car expenses. I hitchhiked over to Washington for this job interview. Colonel Anderson's office was in the Investment Building, 15th and K Street, and I'll never forget that hitchhiking. I went down to the Washington Boulevard in Baltimore and a guy with a semitrailer stopped, picked me up, and when we got out of town he said, "Say," he said, "I'm getting awful sleepy. Could you drive this rig for me?" It was not an 18-wheeler. It was a smaller tractor-trailer-I guess you'd say a lo-wheeler or something like that. But it was a big

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truck and I drove that thing, and this guy actually leaned over and was asleep and I drove all the way over to Washington. I, of course, was a competent driver because my brother had taught me how to drive when I was 12 years old but-as a matter of fact, I didn't even have a car of my own at the time. So I was really scared and drove very carefully.

We came in New York Avenue, and I got so scared of the heavy traffic that I pulled over and woke him up and I said, "Well, this is as far as I'm going. I'm going to have to get out here." This was on New York Avenue, probably over—

Q: Bladensburg or something?

A: Well, a little bit farther in than that-about 17th Street, N.E. Anyway, I got out even though I didn't realize how far it was to Colonel Anderson's office because I was in northeast and I had the address 15th and K, and here we were around, I don't know, the 1700 or 1800 block of New York Avenue, and I thought I was nearly there. But it turned out I was in northeast-I had to walk all the way over to northwest Washington.

But anyway, they hired me. I went down to start work in La Plata as a member of the crew, and we were surveying in Accokeek, right near the southern tip of Prince George's County, I got all over southern Maryland that summer. I worked the first few weeks for \$20 a week and got car expenses of 3 cents a mile. My grandmother loaned me the money to buy a Model A Ford and the interesting thing was, I could make money at 3 cents a mile with a Model A Ford-not paying for the car, of course.

After three or four weeks, somebody else quit, and I became a party chief at a salary of \$110 a month, which was munificent in 1937. In fact, my mother, when I told her, said, "Maybe you ought to just drop out of school for a year and hang on to that good job." And thank God, I didn't do that. But anyway, it was nice to be making a little bit of money. And that was maybe one reason why I gave up working for Abel that last year, because after working during the summer after my junior year, I was able to save some money and I just felt that the time was more important than the little bit of money I could make on the NYA job.

After finishing up in southern Maryland, I worked down on Northern Neck for the Northern Neck Electric Co-op. I worked for the Bull Run Electric Co-op and then eventually, the next year, made an inventory of the whole line in southern Maryland. One Christmas holiday, I remember going down to finish up some work-working for two weeks during the Christmas holiday down there in southern Maryland just to get a little bit of money. So I did get to use my surveying, but when I got out of college there weren't any jobs. I tried to get back on an REA job over on the Eastern Shore, where one of my buddies was working, but that didn't work out.

### **Engineer Division, Baltimore District**

I'm pretty sure we graduated on about June 4, 1939, and I pounding the pavement seeking appointments and interviews with potential employers for a week. Then I went back to Hopkins for something and someone, I don't remember who it was, told me, "I understand that the Corps of Engineers is hiring. Maybe you could go down there." And that's how I became associated with the Corps of Engineers.

But you mentioned the other professors. The other professors that I particularly remember at Hopkins were Truman Thompson who taught transportation engineering, and he also taught concrete and various things like that, and John Geyer, who was brought in to kind of understudy Abel Wolman, and did succeed him later as head of the department-he was a sanitary engineer of quite some note, coming out of Harvard. And the one that I worked a lot with was Tom Hubbard who taught surveying. Of course, I had a real affinity for him because of my interest in surveying. Later I had a real falling out with Truman Thompson because he didn't think I applied myself well. During that last year, with the work on the *Hullabaloo* and various other extra curricular activities-I was on the student council and working with the YMCA-I didn't seem to have much time for school work. My marks had been very good up through the junior year, but there was a real drop-off in the senior year, just because I was doing other things.

At times, I guess everybody in college thinks, "Well, maybe I should continue my studies and get a master's degree." But Truman Thompson, who was the department head, didn't encourage me to think about going on, and he said, "I hope you get a chance to continue with surveying. I know that's what you're

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really interested in, and I hope you can find a career in that field. ” At another time he said, “I can’t do much to help you, but if you ever get a chance to be county surveyor somewhere, take it. That’s a good job. It doesn’t look like much, but,” he said, “you get all those fees for doing various things. You ought to look for something like that.”

This was the advice I got from the head of the Civil Engineering Department who obviously didn’t think very much of my ability. Abel was just a professor of sanitary engineering, and I don’t remember getting any advice from him at the time.

So anyway, I went down to the Corps of Engineers office, and I know exactly the day it was. It was June 13, 1939.

Q: Before you continue with that, can I interrupt you?

A: Sure.

Q: I want to pick up a couple of threads from your college years, still.

A: Sure.

Q: First of all, you explained in a very interesting way how you stayed in civil engineering-in other words, your brother suggested you go into double-E and you didn’t, you went into civil engineering.

A: Yes.

Q: Did you ever think again about going into something other than civil engineering when you were at Hopkins, or once you got in there you decided that was the way you were going to go?

A: Oh, I knew that’s where I wanted to be, because remember, I had the surveying courses for a couple of years and my summer surveying work-and then-I liked the hydraulics, which was a course I took in my junior year. But the course in hydraulics was not a particularly good course because, for one thing, they didn’t have enough money. The hydraulics lab was a little bit antiquated, as I look back on it now, although it seemed wonderful-all those big pumps and pipes and tanks and channels-but we couldn’t run the big



pumps because of- I don't know why, but we did enough things that were fun. Also, of course, a lot of it is theoretical-Reynolds number and the Manning formula and all those things that were just coming into use at the time. I think we did learn how to do practical things like flood routing and things like that. That served me in good stead when I started to work for the Corps and the Bureau of Reclamation.

So anyway, I never really considered anything other than civil engineering because I wanted to be outdoors. Remember, I had been kind of- well, almost a cripple up until I was in the fourth grade, and so I wanted to get out, in the outdoors and work in the outdoors. In civil engineering you worked in the outdoors. That's the way I looked at it.

Q: But in particular, you wanted to be a surveyor. That's kind of what interests me, because, as you pointed out just before, here was a time during the Great Depression when all these great projects were being built: Bonneville, Grand Coulee, Boulder, Fort Peck, etcetera, etcetera. I get—

A: There was always a man out there with a transit, laying the thing out, and this was the engineer. He was there with the transit, telling the contractor what to do. Professor Comber told us we would be underpaid. He said, "If you want to make money, you should operate a steam shovel or a bulldozer." But the engineer tells them what to do. I was inculcated with the fact that the engineer is the one that is going out there first and telling them what to build.

Q: But, you know, I've interviewed, of course, a lot of engineers and, you know, one of the things that seemed to attract so many people was the design work. You were going to design the great dam. You were going to design the- you know, even just a spillway or something, something that really was tangible and was going to be put on the ground. That didn't hold, evidently, the same attraction for you?

A: That was paperwork in the office, you see, and I wanted to be out in the outdoors. Again, remember, I was only 20 years old when I graduated and I guess I was pretty immature.

Q: Yeah.

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A: You don't really do an awful lot of deep thinking at age 20—well, I guess you do some deep thinking—in fact, that's when we have time to do it. But anyway, that was the way I was thinking then—it may be an anomaly for someone who has done what I've done over the years.

But anyway, I actually had a June 13th appointment for an interview at the Baltimore District Office of the Corps of Engineers. I had called up and made the appointment, and I went down there, and I was interviewed by John T. Starr, who at that time was chief of the Drafting Section, which was part of the Design Section in the Engineering Division. The head of the Design Section was Doug Chittenden—his father was an old-time Corps general and all that. But these were civilians, of course, and I can't even remember who the district engineer was.

So I went down to the Baltimore District Office in the Calvert Building and, to my recollection, the interview with Mr. Starr consisted of just three questions. The first one was almost like a statement—John Starr knew I was coming and he said, “Now, you just graduated from Johns Hopkins this year?” And I said, “Yes. Yes, sir.” And he said, “You took civil engineering?” And I said, “Yes, sir.” And the next question: “Can you start work this afternoon?”

And I was flabbergasted, but also I was interested in railroads. We lived up near the Western Maryland Railroad, and it just happened I had an appointment with the Engineering Department of the Western Maryland Railroad that afternoon, and so I didn't say, “Yes, sir.” I said, “Well, let me think about it. I'll call you back.”

And so we talked a little bit more, I'm sure. He told me a little bit about the work and all that. He said, “You'd be doing strictly drafting at first, and then eventually work into design.” I would be working on the small structures first—on the Susquehanna River flood control. That's what gave the Corps the impetus for hiring at that time. Money had just been appropriated.

This was a temporary job, salary \$1,800 a year. The position was called SP-5, I believe, which would be about the same salary as about a GS-4 at the present time, I guess. I am not sure. This was before the government amalgamated the sub-professional, professional, and clerical schedules into the GS schedule.

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And so, during the interview we talked about the work, and I got a picture of what it was going to be, but it was going to be drafting work in the office there. The office at that time, for the Engineering Division, was in the Calvert Building, which was at the corner of Fayette and Light Streets-at the bottom of St. Paul Place in Baltimore. The building is gone now, replaced by a new office building.

After the interview I went out to the Western Maryland Railroad office that afternoon because I still had visions of working outdoors. My younger daughter has the same feeling. She doesn't want to work indoors. She wants to work outdoors; it must be in our genes.

Anyway, at the railroad it was a typical interview. "Yeah. You've got a good resume. Don't call us, we'll call you. Right now there's nothing, but we may have something in the fall and we'll call you."

So I called up John Starr and I said, "I'll be in in the morning if you still want me." He answered in the affirmative so I started to work on June 14, 1939. Ever since I got that job, I've had a great affinity for the Corps of Engineers. I think it's one of the most efficient agencies in the United States government. Not always efficient, but-but let me tell you an example, which also will tell you why I remember that the interview was on June 13, 1939, and that I started work there on June 14. In those days, working for the federal government, you got paid on the 15th and the last day of every month. Everybody griped about that extra day you worked on the 31st. They never said a word about February 28th, getting that half month's paycheck for only 13 days' work.

On the 15th, which was on Friday, the second day of my employment, the paymaster came around with his file of checks and I can't remember for sure what he said, but I can reconstruct it. He said, "What's your name, boy?" And I said, "Well, my name's Ted Schad, but you won't have a check for me, because I just started work yesterday." And he flipped through his file, and he pulled out a check which was for \$10 for two days' pay at \$150 per month. Remember, in those days you got paid actually by the day and so, you know, \$150 is \$5 a day. Can you imagine getting a pay check on your second day of work for the government today?

And I'll never forget that, because that was my first paycheck on a regular job. Well, I had paychecks previously from my summer work, but this was really

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something-to be on a payroll, so I walked right down and cashed the check at a nearby bank-I needed the money. Otherwise I'd have kept that check and framed it. But \$10 was a lot of money in those days. It was Friday, and I needed it. So that was my start with the Corps of Engineers.

I started work at the same time as another young man who was an architecture graduate. We were put into a squad headed by an architect named Bert Lichtig-L-i-c-h-t-i-g. Bert was one of these self-made architects that had never gotten a college degree, and he said something like this-"You know, I don't have a sheepskin, but I don't really need one. Just because you've got that piece of paper that says you're an engineer"-or to the other fellow-"you're an architect," he said, "That doesn't mean anything to me. I got to see what you can do." Then he said, "What I want you fellows to do is to draw the borders and the title block on linen for my men to fill in the drawings."

At that time, every job had detailed plans and specifications prepared before bids were taken. The plans were drawn up in India ink on linen. We were working on plans for the Susquehanna River flood control, so I spent my first couple of weeks drawing those borders and title blocks for the plans. The other fellow and I made a game of it, to see who could do the most. I don't think we ever did more than seven or eight a day. I think the maximum was about eight a day. We were putting down—first, at the top, you remember, it wasn't the Corps-it was U.S. Engineer Department, or U.S. Engineer Office, something like that. I have a towel that I stole as a souvenir of my first job-the statute of limitations has run out, so I can tell you-it says, "USED" embroidered in red on it. Every draftsman had a towel that he used to keep his hands and cuffs clean so that he wouldn't make a smear when he was working on those drawings.

On the other corner, at the top, it said, "War Department." And the title block had the name of the project, and the name of the drawing, and always "Prepared by..." "Reviewed by..." "Submitted by..." and "Approved by..." and the name of the district engineer and the chief of the Engineering Division-all that in 020 Leroy. Well, that's mighty fine print, and if you're not real careful, you'll smear it. Finally, down in the title block, it said, "United States Engineer Office, Baltimore, Maryland District."

Anyway, I did borders and title blocks for a couple of weeks-we were working on drawings for the pumping plants and levees for the Wilkes-Barre

project and I think John Starr took pity on me after a couple of weeks, or he realized that this was just my indoctrination, and then he moved me into another unit. The squad leader there was named Ken Gardner. But I really did start then to do some design and drafting of small structures-the small structures being things like headwalls and manholes and other minor facilities where you did have to know about reinforcing steel and things like that. However, there was no real major design. One of the projects I worked on that I guess the Corps of Engineers would probably just as soon I forget about was a project called "Toby Creek Pressure Conduit and Outlet Works. "

This was part of the project for Susquehanna River flood control. They were designing for a hundred-year flood on the Susquehanna River. Somebody else was doing the hydrology. We were not. We were just doing the design after somebody else had decided what to do.

Right across the river from Wilkes-Barre are two small towns, Kingston and Edwardsville, that ran together. I think it's right near the line between those that Toby Creek came down out of the mountains and crossed the flood plain and discharged into the Susquehanna River. It's a right mountainous area with a narrow flood plain, and, of course, the big flood plain is on the Wilkes-Barre side where the city is. On the Kingston-Edwardsville side the narrow flood plain was subject to flooding when the river came up, just as Wilkes-Barre was on the other side.

The idea of the Toby Creek Pressure Conduit and Outlet Works was to take this stream that came down out of the mountains and back it up in an impounding basin to create enough head to force the water through a pressure conduit and out into the river through a headwall on the river bank with a floodgate, so that when the river was up, the water would come out, and it would be forced out because of the head from the impoundment but the floodgate would prevent the river flood water from coming in. The impounding basin was merely earth levees in a U shape to hold the water and give it enough head to send it out through this conduit, which was maybe a half-mile long, under pressure. It went right down to the river near the border between Kingston and Edwardsville.

I designed the headwalls and several other minor structures for the Toby Creek project, I can't remember the details of what I did. At one time, I did a whole job which was the biggest job I did-including the design and the drafting in

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ink and the specifications for a railing along the levee in Wilkes-Barre. I was proud of that. That was my biggest job. I did the whole thing from A to Z, including getting it ready for bids and lettering in my own name in the title block, where it said "Prepared by..."

Well, the Toby Creek pressure conduit was built around 1940 or '41 but the first flood that came down out of Toby Creek went into a hydraulic jump in the impounding basin. The water overtopped and washed out the earth levees and flooded down the stream depositing the earth and fragments of the structure down on the streets of Kingston and Edwardsville. This is written up in the *Engineering News Record*, but I can't remember if it was 1942 or '43 or when that flood came. And somebody just hadn't realized that this little stream coming down there and suddenly coming out into a pond would go into a hydraulic jump.

That's why I say the Corps would probably just as soon forget about the project-I'm probably one of the few people that remembers what happened, but John Starr would remember it, and I'm sure some others around the Baltimore District would.

Now, this was just a very little project. It wasn't a separate project. It was part of the Kingston-Edwardsville project which had levees and other components. I'm sure they fixed it up, but by that time, I was long gone from the district.

Q: Could you tell me something about the reputation of the Corps of Engineers among young engineers at this particular time? Was the Corps of Engineers a place where young engineers just out of engineering school would want to go? Was it a place where you would go if you couldn't find jobs with an independent consultant or an independent engineer? You know, it was a controversial agency, even at that time.

A: This was at a time, near the end of the Depression of 1930s. Some of the war work had picked up but there was still a lot of unemployment. People wanted to get on a payroll. They didn't care where. And the general feeling was that government payrolls were good payrolls. They encouraged us at Hopkins-in our junior and senior years-to take civil service exams. And so I had taken the exams-everybody in our civil engineering class had-for draftsmen and for engineering aide and for junior engineer. And one of our college classmates who had had to drop out after the junior year-Bob Linthicum, who was a



Corps hand for many, many years-he was fairly good at drafting, and he was hired in a sub-professional position in the Baltimore District before he graduated.

And so I guess there were no connotations that you only took a job with the government when you couldn't get one somewhere else. They were good jobs. I don't remember any controversy about the Corps in Baltimore.

My particular class of civil engineers thought it was just great to work for the Corps of Engineers because I had the highest salary of anybody in our class. Of course, we only had seven civil engineers in the class of 1939. One of them went to Glen L. Martin, detailing for stress analysis on airplane construction at 75 cents an hour, which comes out to \$30 a week. Another one was a timekeeper on an engineering project at \$25 a week. The guy who was the best draftsman got the first job, but he was only an SP-3 or something, because they were hiring draftsmen at \$1,620 a year. And he thought that the Corps was just great, paying \$1,800; that was a good salary in 1939.

Four of our class of seven went to work for the government. Two of them with the FAA [Federal Aviation Administration] and one with the Coast and Geodetic Survey. Another one went to Dupont and another went to the gas and electric company. But I was the only one that went to work for the Corps.

### **Graduate Work, Johns Hopkins University**

I've already summarized the work that I did that first year. Around September, John Starr came to me and said, "Some of us are thinking about registering for graduate work at Hopkins. Would you be interested in working toward a master's degree? We would have to go out and be on campus for one course during the day, and we could take another course at night. Hopkins required you to be enrolled in the day school if you wanted to get a master's degree.

We were working a five-and-a-half day, 39-hour week at the time with lots of unpaid overtime, which was recorded as "comp time," so there was no problem getting off for an afternoon class, especially since the boss was also enrolled in the course. So I agreed to do it, along with John Starr and two others from the Baltimore District, Philip Kirpich, who was working in the hydrology section at that time, and Gordon Williams, who later went with

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TAMS in New York. We agreed to take a graduate course in hydraulics and a graduate course in hydrology at Johns Hopkins. The hydraulics they could give us at night under Mr. [Fred] Medaugh and the hydrology was going to be every Friday afternoon under Abel Wolman, with John Geyer filling in when Abel couldn't be there.

A couple of fellows came down from the Philadelphia Electric Company and Conowingo Dam to register for the two courses. Abel's course was a seminar and we called it "A Hydrologic Analysis of the Susquehanna River Basin."

Now, Abel at that time was somewhat jaundiced about the economics of Corps projects and I think that the engineering profession generally thought that the Corps was kind of stretching the economic analysis to justify some of the projects. Abel's view was that when the Corps goes into a town to investigate a potential project that the government would build and the local people would have to provide the land, easements, and the rights-of-way, the town council will look at the cost of the land, easements, and rights-of-way and they will, in their heads, do a cost-benefit ratio of what they know the benefits really are and weigh them against the cost that they have to put up, and if they can see that ratio coming out favorable, they would agree to go ahead with it. He was very dubious about the Corps' cost-benefit analyses, particularly estimation of benefits.

You should remember, Abel was a consultant to the Miami Conservancy District where everything was computed down to a gnat's eyebrow, and they didn't build projects unless there were either collectable benefits or taxes sufficient to pay for them because there weren't any federal funds. I think Abel at that time was expressing the general views of the engineering profession, but I don't think this extended down to the graduates' not wanting to take a job with the Corps. In 1939 and 1940, you didn't analyze things like that. You wanted to get on a payroll. The effect of the Depression.

Anyway, we took those two courses, but I wasn't able to finish the last month because I was in an automobile accident in the spring of 1940 and had to drop out. In the summer I left the Corps to take another job. I should have said that my first job was temporary. It wasn't under civil service. They didn't take out retirement or anything like that, although I had benefits such as annual and sick leave. That's how John Starr could hire me the next day.

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**Survey Party, Constructing Quartermaster, Edgewood Arsenal, Maryland**

About May or June of 1940 the marks on the civil service exam that I had taken when I was in college came through. You found out only when you were offered a job-at least, that's what I remember, because I didn't know anything about it until I got an offer of a position as senior engineering aide from the Constructing Quartermaster at Camp Holabird in east Baltimore.

You remember, this was between the two wars. The Corps was not involved in military construction. The Corps was solely involved in civil functions at the time. And the Constructing Quartermaster was doing military construction work, and they were just starting to work on the chemical warfare depot at Edgewood Arsenal. The offer I got was an invitation to interview for a job as senior engineering aide at Edgewood.

So I went down to Camp Holabird for the interview. I had to borrow my mother's car because mine had been wrecked in the accident. I didn't have a car. I don't remember who interviewed me, but they offered me the position as chief of a survey party, **SP-6**, on the spot. It was what I wanted to do, working outdoors, so they hired me and I gave notice to the Corps of Engineers that I was leaving in two weeks.

And John said, "Golly, Ted, we could have gotten an SP-6 rating for you if we'd known you were on that register. We could have given you a senior engineering aide position. You certainly deserve it. You've been here a year." He was very effusive about it. And I had to say, "Well, you didn't tell me that, and I've already accepted this other job." The other thing, I was going to be surveying, and I was chafing at being in the office, especially in the summertime.

And so I think it was probably around July 1, 1940, I started to work at Edgewood Arsenal for the Constructing Quartermaster, surveying for the chemical warfare depot down in a new area that was opening up. We surveyed for railroad lines and sidings and located phosphorus storage places and other facilities and eventually surveyed all the way down that long peninsula that goes down, I think, between the Gunpowder and the Bush Rivers. I think it was called the Santo Domingo area-land that they had bought up years earlier. There were old decaying farmhouses and dirt roads, and I had to survey some

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lines through some swamps, just to layout a traverse and map so they could locate other things down there later.

I really enjoyed that summer. I can't remember that it ever rained. I had to drive 50 miles to get to work-100 miles a day. I was living up in Reisterstown, actually in a little town called Woodensburg north of Reisterstown and driving, picking up people in Baltimore and going out the Philadelphia Road to Edgewood. Again, we were working five and a half days week, so it was six days a week driving up there.

Q: You were talking about being hired on with the Quartermaster Corps and then going to Edgewood Arsenal. Do you want to continue from that point on?

A: Well, we did all that surveying, and I can remember the muck that we surveyed through when we went down that peninsula through some of those swamps-the grass at the upper end of some of the little creeks. It was a messy, messy job. One of my chainmen got sick because of the foul odor, and I had to go in there to finish the job.

This lasted the whole summer of 1940. I put 12,000 miles on my new car in three months driving to and from work and—

Q: Let me ask you a question if I might.

A: Yes.

Q: Now this chemical warfare depot-Edgewood Arsenal-this question is obviously for the benefit of knowing your thoughts about present-day concerns about dumping and toxic pollution and so forth, so when you did this arsenal-

A: Oh, people have just been convicted of improperly disposing of chemical waste up there. The people that were charged.

Q: That's right. Those civilians. You knew that the arsenal was going to be used for chemical warfare experiments and so forth, and there would be, I suppose, a dumping problem. Was there any concern when you were doing the surveying about the dump sites being properly located so there wouldn't be any kind of pollution or anything like that?

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A:: No. I didn't give any thought to that. I don't think anyone did at the time. I was a survey party chief and we were laying out a railroad track and warehouses, and the only thing that made us realize that this was dangerous stuff was that we were locating bunkers to store phosphorus in with mounds of earth over them. But the warehouses-I guess I didn't have any perception of exactly what was going to be in them and what was going to be done there. You remember the war was going on over in Europe at the time, but we weren't in it. I didn't really think too much about that. A young man of 21 years old in 1940 had other things on his mind than thinking about environmental consequences of what he was doing. I wasn't 22 until the end of that summer.

So I didn't really think about that, and I'm not sure anybody did. It's pretty obvious that they didn't, even many years later when they really had some dangerous stuff there. If anybody thought about it, they apparently didn't take any action, because the employees there were convicted. I think it was a raw deal for these people, who were doing what they were paid to do, to be convicted. I haven't read any details about it, however.

Anyway, the job got bigger at the end of the summer and the Constructing Quartermaster decided that they needed to have an architect-engineer on the job. I think the firm they hired was probably Whitman, Requardt, and Smith, which was a big Baltimore engineering firm. When they came in they brought in another survey party. Of course, we had all of the locations surveyed and laid out, but they said, "Well, we're going to have to go over and do all of that over again to make sure that it's right." I started to boil inside, because I thought our work was pretty good.

**Spillway Design Section, Bureau of Reclamation, Denver, Colorado**

When I went home that night I had a letter from the Bureau of Reclamation out in Denver offering me a job as a junior engineer, P-1. That was providential, and although the salary was just the same, \$2,000 a year, it seemed like a step up in status. This offer also came as a result of an exam I had taken when I was still in college. It had taken them a year and a half to get around to certifying me for employment as a junior engineer. The Bureau wanted somebody to go out in the field and survey for irrigation projects. The job seemed to be right up my alley.

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But the fact that it was getting me back in the water resources field didn't really enter into my decision. However, I had worked on flood control with the Corps and working with water had a lot more appeal than surveying for chemical warfare depots.

So the appeal of working on irrigation, of going out West--I'd never been out West--and also of getting into the professional category made my decision easy, particularly because I was mad over there being somebody else hired, and paid more money than I was getting, and deciding he was going to do my work over. Thus, it didn't take me long to accept that job. And by early October, I was on my way to Denver.

When I got there and reported for work something happened that changed the plan. When I reported for work they said, "Mr. Schad, we're sorry, but your physical exam doesn't permit us to approve you for field work." Of course, I said, "Well, I've been doing field work all summer, doing surveying." They still didn't approve my doing fieldwork, so I took the alternative position they offered in the Spillway Design Section.

So I started to work for the Bureau of Reclamation in October 1940 in the office of the chief engineer. And it turned out to be very interesting work.

When I went out to Denver even though I'd lived away from home down in southern Maryland surveying for the power lines, I felt that I was all alone and a long way from home. In those days, it took the better part of four days to drive from Baltimore to Denver. There were no interstate highways. You drove U.S. Route 30, because that was the only one that was paved all the way. Route 40 had one section in Kansas that was still gravel at that time. Maybe some of the southern routes were paved all the way. I don't know.

So, I took the Lincoln Highway which passed just below Chicago and after crossing Iowa went up the Platte River valley and through Nebraska. At some point west of Ogalalla, Nebraska, I felt a great thrill when I started going up the hill, climbing out of the Platte valley on to the high plains. It just seemed that you went up and up and up and up, as the road leveled and then rose again. And I just felt as if I were going up to heaven, there was such a feeling of exultation. It was so wonderful I still remember the feeling today, 50 years later, driving 80 miles an hour--everybody always drove 80 miles an hour then when you got out of the city--there were no speed limits on the open road.



And sometime-I'm not sure whether it was right when I got to the top of that hill or later, I started to see the faint blue line of the mountains in the distance. The air was so clear and there was no sign of smog or pollution of any kind. As I drove on down the road that followed up the course of the South Platte toward Denver, the mountains to the west loomed up higher and higher on the horizon and I was in a state of euphoria all the rest of the way.

While I am waxing euphoric about my personal feelings I have to tell you about something that had another tremendous impact on my life. There was a family in Denver that came from my home town of Reisterstown, Maryland. Their name was Ebaugh. Dr. Franklin Ebaugh had grown up on a farm near Reisterstown and had married a girl from Baltimore County. They lived in Denver and he was a very well-known psychiatrist and he was at that time head of the Department of Psychiatry at the University of Colorado Medical School in Denver.

And so because I was feeling kind of alone, I called them up shortly after I got to Denver and Dorothy Ebaugh said, "We'd be delighted to see you. How long are you going to be here?" and I said, "I'm going to work here. I'm starting to work at the Bureau of Reclamation next Monday."

She said, "Well, why don't we drive you up in the mountains tomorrow? I'd love to." I accepted her invitation with alacrity. This was a chance to meet somebody from home. When you're alone, far from home, you want to know somebody. I didn't know anybody at the Bureau yet. I hadn't even been to the office.

So she took me for a drive in the mountains, inviting a friend of hers, Eleanor Eppich Kingery, who just happened to be the secretary of the Colorado Mountain Club. It was a pleasant drive up through the foothills west of Denver to Idaho Springs-and this was before the Clear Creek Highway was built. And then we drove up the Virginia Canyon Road, which was a steep shelf road with zigzags and switchbacks up to a pass and then dropped down into Central City. After a short visit to the Teller House to see the "Face on the Barroom Floor" we drove on down through Boulder and back to Denver.

And before I got out of that car, I had to fill out an application blank to join the Colorado Mountain Club. And this, I'm sure, got me out in those mountains a lot sooner than I would have, because if anybody else can remember the fall

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of 1940 in Denver, it was beautiful weather, right up through Christmas. I started going on Colorado Mountain Club trips every Sunday. Because the snow had already started in the higher altitudes, the trips were mostly just little hikes in the foothills, scrambling over rocks. But that started me on what became a dominant force in my life-that is mountain climbing. From then on I was hooked, and when the summer came, I was out climbing every weekend. Like many newcomers to Colorado, I fell victim to what we called 14,000-foot fever. We just had to climb all of those mountains that were over 14,000 feet in elevation above sea level. That happens to be 4,237 meters and one of my friends would say, "What's the difference whether a mountain is 4,237 meters or 4,210 meters? Why do you want to climb one and not the other?"

Well, it was just a kind of a feeling that you got. Eventually I teamed up with some of my colleagues in the Bureau of Reclamation and got lots of advice from one of the people that had already climbed all of them, Whitney Borland. He was my squad boss in the spillway section in the Bureau, and we used to talk about mountains. They certainly had a profound influence on our lives and it's probably why I'm in as good health as I am now, and-you realize this is my 50th year-I'm just finishing the 50th year of my professional career.

During the 18 months that I worked in the Spillway Design Section, I became very much interested in hydraulic design and read a number of books on the subject. I worked on design of spillways for dams such as Anderson Ranch Dam in Idaho, Angostura Dam in South Dakota, Rifle Gap Dam on the silt project in western Colorado, and Kortes Dam, which is a power dam on the North Platte River in Wyoming. Those are the ones I remember. There were a lot of others. And I had the opportunity on some of them, like Anderson Ranch, which was already authorized, to make the initial design-being supervised, of course, by others-and then following through with the model testing and perfecting the design. The office of the Bureau was in the Denver Custom House, at 20th and Stout Street then, and the hydraulics lab was in the basement. And I had the thrill of making the initial design of the spillway and observing them make a model test, watching them run the model, and making adjustments to the design and so forth, and it really was a wonderful opportunity for a young man just 22 years old.

I was working under the direction of the head of the Spillway Design Section, D. C. MacConaghy. And he was one of these grand old men with a lot of experience. He was a Scotchman, and for lunch he'd eat a few crackers and

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drink a little carton of milk. I thought it was because he had ulcers or something. Later somebody told me that he did it to save money.

Now this is far removed from a career item, but I have to tell you about what happened that fall when we had a golf tournament at the Bureau of Reclamation. Everybody was paired by lot, and my first match was with D. C. MacConaghy, my big boss.

I had played a lot of golf in Baltimore, and after we got out of college and started working, we usually took caddies. I'd only played golf in Denver once, out at the Case Course, so I'd never been on the city park course. I got there first, before Mac arrived, and the first thing I did was engage a caddy. Because, I didn't know the course, and, I just thought, "Well, gosh, the big boss of the whole Spillway Section-I had a couple of squad bosses in between me and him-would certainly use a caddy." He was at least a P-6 in the government hierarchy. But when MacConaghy got there I saw that he had what we used to call a Sunday bag, a light-weight canvas bag that you carried yourself. We went out to the first tee and he looked at the caddy and he looked at me, and he was obviously quite shocked. I felt a little queer and said, "Well, you know, I don't know my way around this course," and I was hoping that there would be an earthquake and the ground would open up and swallow me. But it didn't. So we teed off. I used to hit a fairly long ball, and the course there is flat and hard in the fall. I was hitting these drives about 250 yards and old Mac would come in, and he'd hit a ball that would go straight down the fairway about 150 yards. Then he'd take his second shot and he'd be up to me.

To make the situation worse, I started winning. And we got up to about to the 14th hole or the-1 think it was either the 13th or the 14th hole and I was ahead by something like-I guess it was on the 14th hole and it was five and four, and Mac said, "Well, that's it," picks up his bag and (Laughter) started to walk back to the car. Of course, I had to go with him. I felt that it really put me off on a bad foot with MacConaghy, and I felt that I would never make it with him. But it turned out that he was pretty rough with everybody. Later, one of the other fellows that had been working in the Spillway Section as a junior engineer for six or eight years, Boyd Brown, and he really was a mature person-at least compared to me-told me that Mac never recommended anyone for a promotion. About that time the Ramspeck Act went through, and I'll never forget Boyd Brown saying, "Well, it takes an act of Congress to get me a \$100 raise."

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**Theodore M. Schad**

Q: Now, what act was this?

A: The Ramspeck Act in 1940 or 1941 authorized the in-grade raises. At that time it was every 18 months.

**Planning Division, Bureau of Reclamation, Pendleton, Oregon**

Q: I see.

A: Anyway, so nobody was getting raises out of Mac, but the anecdote shows how inept I was at “winning friends and influencing people.”

After I had been in Denver about 18 months I got a call from E. B. Debler- “Old Deb” they used to call him. He was head of the Planning Division in the Bureau of Reclamation. When I went to see him he said, “Well, Mr. Schad,” he says, “you know, we wanted you to go work for us, but they wouldn’t let us hire you for field work and we did something about it. We’ve gotten this restriction on your ability to do field work removed and we’d like to have you over here in the Planning Section. ”

This really made me feel like I was going to have the chance to do what I really wanted to do: field work. I enjoyed the spillway design work, but the war was on by that time, and I felt as if I were working on projects that couldn’t possibly have anything to do with the war effort. I felt like I was spinning my wheels, working in the office, and I wanted to get out. So, it didn’t take me long to say goodbye to Mr. MacConaghy and transfer to the Planning Division.

At this time, the Bureau’s work was all centralized in Denver. There were no regional offices. I am not even sure that I knew that we had a commissioner. To me, the chief engineer, Mr. Walter, was the head of it all, and I just didn’t realize there was a commissioner, John Page, back in Washington. I don’t remember finding that out until much later.

Deb gave me the choice of either going out to Oregon and working there on projects under the tutelage of Glenn Sloan or of staying in Denver and working with Randy Riter on hydrology. They knew I’d worked on floods and the Bureau was authorized in 1939 to include flood control in its projects.

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I decided to take the job under Glenn Sloan out in Oregon. I wouldn't be working directly with Glenn Sloan, but he was kind of the honcho for all of the Bureau's field planning.

Q: Was Sloan at Billings at this time?

A: Oh, no. Sloan was in Denver. Almost everybody was in Denver. I'm not even sure there was a Billings office. Well, there probably was—

Q: No, Sloan had been working out of the Billings office when he was working on the Pick-Sloan Plan. That's the reason why the Missouri River basin development comes to be called the Pick-Sloan Plan.

A: I know. But that was not until 1944. And he had an office in Denver. I think he did the Pick-Sloan Plan out of the Denver office. The surveys for the Missouri-Souris and the Garrison Division, and the Oahe-James units were what we in the Bureau used to refer to irreverently as "windshield surveys." There was very little field work.

Q: I see.

A: Now, the field office was undoubtedly involved in some way.

Q: I was thinking Bashore was the commissioner.

A: Well, Harry Bashore followed John Page as commissioner. I'd have to check the history books to see when it was. But John Page was in there through the 1930s. Bashore may well have been in there by this time, because it was 1942.

Q: Yeah.

A: Page probably was succeeded about 1940. Anyway, I got my directions from Glenn Sloan after I transferred to the Planning Division.

Q: Can you tell me what kind of man Glenn Sloan was?

A: Well, he was a very kindly person and he really was very helpful to me. Personally, I remember the way one of his eyes was bigger than the other

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Theodore M. Schad

because it was obvious he had done a lot of squinting through a transit. Somebody told me that's what caused it.

But I didn't really work with him that closely. It was just a couple of meetings before I went out in the field. At the time, I didn't even recognize him as the author of- I didn't even know they were working on the Missouri River basin plan. You should remember the Pick-Sloan Plan-the Sloan part, the Bureau's plan, Senate Document 191—was rushed in there to get it in before the Corps got its report in, because the Bureau could see the Corps moving into its territory. I'm not sure that Glenn Sloan had started on that job. I mean, it was under his general supervision—all the planning was-and that may be why he was still in Denver and not up in Billings. That's probably the reason we used to joke about how he made windshield surveys of most of those projects that were recommended. You know what that means. You drove through the area, and if you could see some flat land, that was irrigable land. I'd have to look at the date on Senate Document 191 to refresh my memory as to when it was done. [The Bureau's report was dated April 1944.]

Anyway, in April 1942 I went out to Pendleton, Oregon, drove out across Wyoming and Idaho, and I continued to get a thrill out of the great open spaces of the West and seeing places such as the Hagerman Springs along the Snake River in Idaho with all the thousands of springs coming down from in between the lava flows. And finally over the Blue Mountains of eastern Oregon and into Pendleton. I was only there for one day or so, and then they sent me over to Prineville, Oregon, to work on the Crooked River project. It's right in the middle of Oregon. From Prineville we drove up the Crooked River valley to Paulina which was just a crossroads. At that time there was just a general store with a gas pump out front and a post office in the back of the store and maybe two other houses. I stayed with a rancher named Dick Bryant about a half a mile away. We had government cars and we were surveying potential dam and reservoir sites in the valley. We also made a base map for land classification on every place you could find any flat land.

This was for the preliminary report on the Crooked River. It was a basin report, and I worked up there from about mid-April until mid-June. The weather was just terrible. It could rain one day; and the nature of the roads was such that when it rained it was a deep, kind of a gumbo mud that was so muddy your wheels would spin when you started off. And then a few hours after it stopped raining it would all dry up and you would have a thick layer of



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dust. It was cold and miserable, and my survey crew-1 was the chief of party-kidded me unmercifully about my interest in climbing mountains. I guess I talked to them about climbing mountains, because right over there to the west of us were the Three Sisters in the Oregon Cascade range. I just looked at those peaks and talked about them, and I wanted to get over there and climb, but it was early spring and you couldn't do it without a well equipped party. Also I didn't feel comfortable about snow and ice.

My rodmen knew that I wanted to climb those mountains, and so they would go out of their way to locate survey points-we were doing plane table and alidade surveys-on some isolated pinnacle where there was hardly room to get around the plane table to take sights. In one place there wasn't even room to take any sights. And they would laugh at my discomfort as I struggled to set up on the little pinnacle. This was in the gorge where we eventually built the Prineville Dam for the Crooked River project.

They were kind of needling me-1 was replacing their much loved former party chief, who had been drafted, and so they probably were testing me to see how much I could take. But I had a lot of fun and I used to write to the woman who eventually became my wife, and she said that the most interesting letters I ever wrote were when I was writing from the Crooked River country because Dick Bryant was such a fascinating character. He was an old rancher and he would serve up dinner and the meat tasted a little bit different, but I didn't really know what it was. And he would say, "This is good beef, isn't it?" and then I finally realized that it was venison. He was not averse, when he needed food, to shooting a deer and having venison for a while.

They were really isolated up there. They had one of these old telephone lines. It was a single wire system, with the return through the ground. When the wire got blown down one time they hooked the remaining section on to somebody's fence wire, and so from then on they called it the barbwire line.

Even though it was isolated, word got around so that they knew when the game warden was coming up. Then they made sure that there wasn't any venison around, or anything like that. It was about 70 miles up the river from Prineville to Paulina, through a little town called Post, dirt road all the way. You could take a short cut over the hill if it wasn't so muddy and rainy that you would have trouble getting over the hill. That would save you about 10 miles.

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The valley of the Crooked River was surrounded by the Ochoco National Forest, and we surveyed dam sites up on Big Summit Prairie and Little Summit Prairie, and I was in my element, because here I had my maps to work on and I was studying and figuring out the way to run the canal lines. We could actually get out and drive through the sage brush, and sometimes we'd get big chunks of sage brush caught under the bottom of the Chevrolet cars we were driving. Somebody finally got the idea of welding a steel plate under those cars so you could drive through the sage brush without getting caught.

I was up there until about the middle of June, and the weather was really getting good then, so we finished the field work. Then we had to work in the office. It was ever thus! You worked out in the field when it was rainy and cold and miserable and windy, and then when you get all the field work finished, you have to go in to the office and work up your notes while the weather is good outside.

### **Green-Puyallup Project**

In June I went back to the office in Pendleton until that office closed in September. Then I transferred to Salem, Oregon, and was sent to Puyallup, Washington, which is a little town about 10 miles east of Tacoma, where I was surveying for the Green-Puyallup project. This was to be an irrigation project which would use water from the Green River and the Puyallup River to irrigate some of that fertile valley where they grow good crops but suffer from lack of rainfall in the summer.

All of this was part of what they called the "Food for Victory" program at the Bureau. This was how the Bureau justified this work during the early years of World War II. By this time it was the fall of 1942~and it was thought we were going to have a long war and that we'd need the extra food production before it was over.

People now tend to forget the shortages of food during World War II. Everything was rationed, not just the meat. You had red points for meat and you had blue points for fruit and you had green points for canned vegetables. There were shortages of almost everything, and you did not have much choice in what you bought in the store. There was very little butter. You could buy margarine, but you couldn't buy yellow margarine. They had that mix so when

you bought margarine you had to mix it up with a little packet of yellow dye if you wanted it to look like butter. And for butter, the price was just unbelievably high so that nobody could afford it.

So the Bureau had this Food for Victory program and that's what we were working on with the Green-Puyallup project, which would have been an easy and quick project to build, because they didn't need storage since those rivers flowed all summer there, right out of the Cascades. We surveyed up and down that valley locating irrigable land. We had a hard time getting a survey crew together, and I broke every rule in the book to get the job done. I hired a 72-year-old man and I hired a 14-year-old boy as rodmen. The old man walked so slowly-he was carrying a big 14-foot stadia rod-that you had to look at him twice to see whether he was moving or on station, because he always walked with the rod, holding it up over his shoulder because it was too hard to lift it up if he ever let it get down. I got my knuckles wrapped for hiring the 14-year-old boy because you weren't supposed to hire anybody for the government unless they were 16 years old, but we got out of that all right.

One of the aspects of this was that I was working with the Army engineers in Seattle on the flood control benefits on Green-Puyallup as well as earlier on the Crooked River with staff of the Portland District. One of the things I noticed was here I was, a junior engineer-by that time, my Ramspeck raise had pushed me all the way up to \$2,100. And I noticed I was working with Army engineers who were at the **P-2** or **P-3** level, and it just struck me as unfair that I was working with these people at a much lower salary. Also I was very dubious as to the importance of the Food for Victory program.

### **Specifications Section, Seattle District**

Earlier, I had tried to get in the Army Specialist Corps as an officer because they would take people in who had physical impairments. I still walked with a limp because of my right leg being shorter. I had made an application, but nothing came of it. When I just asked somebody casually at the Seattle District if there were any openings, I was asked to send in a resume. That led immediately to an offer of a position doing war work in the Specifications Section. This didn't sound very interesting to me, but the personnel officer said, "We need you. We need you. We're doing war work. We need **you**."

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My reply was that I was not interested and went home and eventually returned to my home office in Salem. But the next thing I knew, my boss down at the Bureau, who later became assistant commissioner of the Bureau of Reclamation, called me into his office and told me, "The Corps of Engineers wants you up in Seattle. They want to transfer you."

And I said, "Oh, I talked to them, but I told them I didn't want that job." He said, "It doesn't look like you've got much choice. This is an official transfer, a war service transfer, " and he said, "I don't think you can get out of it." Well, I looked, and the salary was \$2,600 a year, assistant engineer, P-2, so I moved up to Seattle and took that job with the Seattle District.

At that time, the Seattle District was handling Alaska and our work extended as far east as Cut Bank and Glasgow and all of the rest of Montana for the military work, and we had a lot of HECF and HEDP, Harbor Entrance Command Posts and Harbor Entrance Defense Posts along the Puget Sound and out along the ocean. I was put in the Specifications Section more or less unwillingly, but it was work that I could do. In many instances, however, we were writing specifications after the projects had been built. And also, we had to follow the guide specifications for military construction which were more or less cut and dried. We also had all kinds of critical material lists that we had to follow. Some of it didn't make much sense.

One of the materials that was very critical during World War II was two-inch dimension lumber. They were using all the two-by-fours and two-by-sixes for crating military equipment that was being shipped-well, both ways, to Europe and to the Pacific theater of war. And so we wrote the specifications to prohibit the use of two-inch dimension lumber, specifying alternatives that they use, such as building barracks out of brick or stone or anything, but positively no two-inch dimension lumber.

When we got out to a construction job once in a great while, we saw what the contractors were doing. They didn't have any trouble with not using two-inch dimension lumber. They just used four-by-fours and four-by-sixes instead of two-by-fours and two-by-sixes.

That was one of the sorry aspects of the wartime economy. They would set some uniform rule in Washington which just was not adaptable to the Pacific

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Northwest. There never was a shortage of lumber there, but there was a shortage of brick and building stone.

Eventually I got to be chief of the Specifications Section, after the Anchorage, Alaska, district was formed and my boss transferred up there. Before that, and a lot of people have forgotten this, the Japanese had occupied Attu and Kiska Islands out in the Aleutians, and it really was expected that there were going to be a lot of casualties before we could win them back. There were not enough hospital facilities to take care of a large number of casualties. So before we were going to move in on the Japanese on Attu and Kiska, it was decided that we needed some more hospital facilities to handle the casualties. The Corps of Engineers leased the New Richmond Hotel, which was in a rather seedy area of Seattle, down near the railroad station. The name, "New Richmond," referred to the fact that it was built around 1910, maybe even earlier than that, but was new compared to most of the rest of Seattle at that time.

I'm not sure whether the Corps leased the hotel or some other part of the Army leased it, but the Corps was given the job of converting this hotel into a hospital. Well, it was really one of the most interesting jobs that I had had because I could actually go down there and look at it with the designers who were designing the electrical layout and the plumbing and the structural work, and then we drew up the specifications for a very specific job, which was much more interesting than turning out specifications for cantonments and other standard facilities which were taken right off the shelf. And, in many cases, the specifications were being written after the project was built, as a record.

So on this job, I had a chance to use some ability, and we wrote the specifications and put it out for bids, and the hotel was made into a hospital with operating rooms and emergency power supply and lead-shielded x-ray rooms and all the things that they put into a hospital in those days. Of course, hospitals were not as complex then as they are now.

It was an interesting job, and we put it out for bids. My recollection is that the job was done for \$7.5 million, and it was finished in record time. The whole job was finished within less than a year from the time we started to write the specifications. That was the way the Army engineers did things. When they had complete control of the job they could get it done on time. We had to get waivers for the use of the critical materials involved, but we used the materials we needed and we got the waivers later—

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Q: So it was a cost plus fixed fee contract, was it—

A: I don't really remember. It probably was, for something like that, because it was peculiar, but my recollection is the job cost \$7.5 million.

Well, a few weeks before it was finished, the Army decided to drive the Japanese out of the Aleutians. I can't remember which island they went to first, but they went to one of them and there wasn't anybody there, and then they went to the other one and they got there just as the Japanese were leaving. So in other words, we occupied those islands, I think without even firing a shot. Again, we were not occupying; we were just retaking our own territory.

So, the hospital wasn't needed, and I wish that was all the waste that we had in the war, but-anyway, you have to be ready, and we were ready. And it was just another example of how the Corps, when you needed to get something done, you could get it done.

But the real fiasco came later. By that time, hotel space in Seattle was at a premium. You just couldn't get a room anywhere, and the hotel owners wanted the New Richmond back. They were given it back, and the Army agreed to put it back into shape as a hotel. I didn't get involved in drawing up the specifications for bringing it back to being a hotel, and I don't know exactly how they did it, but at the very end, it cost \$8 million to turn it back into a hotel!

And so I always look on that as being one of the fiascos I have been involved in-it wasn't really my fault it was a fiasco, but it really was one of those things that kind of gives you a little bit of humility to think that so much effort was wasted.

When the war was over, I saw the chance to get back into water resources work. I was aware of the work being done on the Chief Joseph Dam, and the 308 review report on the Columbia River, as I had drawn up the specifications for the foundation drilling of the dam sites.



**Water Resources People and Issues**

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**Rivers and Harbors Reports Section, Seattle, Washington**

I asked for a transfer into the River and Harbor Reports Section, and began work there with another old-time Corps hand, George Krutilla who eventually came back to Washington and worked at the Board of Engineers for Rivers and Harbors.

At that time, we were preparing survey report on Grays Harbor. The entrance jetties were originally built in the 1890s and had been rebuilt about 1930. But they had been almost demolished by the Pacific waves, and the peninsula north of the south jetty was washing away. There was a fishing boat harbor just inside the entrance, protected by a sand spit that was in danger of being breached. I had the job of preparing the report on a project that included the jetty rehabilitation and improving the fishing boat harbor. Local interests wanted to dredge the fishing boat harbor and protect it, but it was very obvious to me that the fishing boat harbor was in the wrong place; it was north of the south jetty in a location subject to erosion, and it appeared that the whole peninsula was going to wash away before anything could be done.

In a few days of field study I located what I thought was a better site for the fishing boat harbor inside the bay but south of the jetty where it would be protected. We sent the whole problem back to a group then called the Shore Protection Board that dealt with the shore problems of government projects just as the Beach Erosion Board was dealing with general problems of shore protection. The Shore Protection Board made a report on the problem, and agreed that the fishing harbor shouldn't be in the position it was, north of the south jetty, and that when the jetty was rebuilt it would be even more vulnerable because the sand spit that protected it would be subjected to more erosion as the littoral drift was cut off by the new jetty. The board agreed with the proposed new site for the fishing boat harbor, which-I hate to think of it now-was in a marsh area, which could be easily dredged out. We had to dredge the fishing boat harbor, anyway, and we could have made a fishing boat harbor that would have been only a half a mile farther from the entrance and it would have been on the safe side of the jetty. At that time there was little awareness of the ecological consequences of dredging wetlands.

When our draft report proposing location of the fishing boat harbor got up to the district engineer and he discussed it with the local people, he rejected the Shore Protection Board's advice, and the final report was prepared containing

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recommendations to dredge the fishing boat harbor where it was and to rebuild the jetty and put armor rock on the sand spit north of the south jetty to prevent erosion. The project was authorized that way, even though it was a more costly solution, because it was the only way the Corps could obtain the necessary local cooperation. I suppose the project is still there, but I understand they have to dump a lot of eight- and ten-ton boulders in there periodically to try to prevent erosion of the sand spit and destruction of the fishing boat harbor.

Although my proposed solution was rejected, I learned a lot from this experience. First, the importance of working with the local interests from the very beginning of the planning of a proposed project. And then I learned a-well, I won't say a lot-I learned enough about shore protection and jetties and shore erosion processes to give me a little different water resources background which helped me in later years.

Q: Where do you pick up information on ocean hydrology as distinct from river? In other words, you know, did you take courses at Johns Hopkins that specifically dealt with those kinds of subjects as distinct from—

A: No. The courses that I had at Johns Hopkins, and then particularly in the graduate year, were dealing much more with hydrology of rivers. Riverine hydrology.

Q: Right.

A: And, particularly, flood control on rivers. But what an engineer does when he gets into a new field is start reading, and you go to the library if you don't have your own library, and you start reading about it, and the Corps has in its own files a tremendous amount of background information. In fact, there are some Corps disaster areas in this area. I think it was at Tillamook, Oregon, where the Corps put in jetties to protect the entrance to the harbor which cut off the littoral drift and essentially demolished an area they called the Bay Ocean Peninsula.

We had lots of pictures of that. We read reports on what had happened. The Corps has an institutional memory of these things, and it is not hard to tap into it for information. But the reason that the Seattle district engineer reversed us was that I hadn't worked closely enough with the local sponsors as the new plan was developed. A lot of this happened after I had left the Seattle District.

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When I left Seattle, I thought we had the thing all straightened out. We were going to build a new fishing boat harbor. It wasn't going to cost the government as much, but the local people would have to spend more, because they'd have to build new docks and fish handling facilities for loading the fish on trucks to take it to Aberdeen or Hoquiam where it is processed.

It was after I left that the decision was made to change the recommendations-to change the report that I had prepared recommending the new location for the fishing boat harbor. But this was just part of the project. The most expensive part was the jetty, rebuilding the north and the south jetties.

When I worked on this project I found a wealth of literature, and I did read a lot of it. There's a lot of literature on the breakwaters and jetties and sea walls on the Great Lakes. Some of the worst wave action is on Lake Superior, for example, where you have tremendous wave action coupled with the extremes of temperature and freezing. But those jetties on the Pacific Coast go out for miles to keep the bar channels open. I think that the Grays Harbor jetties originally went out maybe as much as 18,000 or 20,000 feet, because they put them out past the ocean bar. The idea is to concentrate the tidal flow so that it scours a channel through the bar that is built up by sediment discharged from the river. There still may be a bar, but it will be out where it's so deep that you can get your 45- or 50-foot draft shipping over it without trouble. And that's why those jetties are so long. But there is tremendous wave action out there in the deep water.

One of the things that was found out from some of the investigations was that the waves had enough force to lift the 8- to 10-ton blocks of sandstone used to built the original jetty in the 1890s, up on top of the trestle used to rebuild the jetty in 1930, which was at an elevation of 15 or 20 feet above mean low water.

**Marriage**

Q: What made you come to Washington?

A: During World War II it was almost impossible to use any annual leave. By the end of the war since everyone earned 26 days of annual leave each year, I had

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built up a tremendous amount of leave. I had been married in 1944 and had never met my wife's family and my wife had never met my family. Her family was in Mississippi, my mother and father were in Florida, and the rest of my family-my brother and sister-were in Maryland.

And so, in the spring of 1946, I asked for, was given, leave to take two months off to go back and visit family by car. By that time, you could drive again-if you could get tires-and so we started out on February 15th to take a trip back to the Southeast and Eastern part of the country.

We had a wonderful trip, down the Pacific Coast and across the southern tier of states. On the first night we stopped at Salem to see the people I had worked with there. My former boss, Buzz Bennett, had transferred back to Washington so I didn't see him, but obtained his address. During the war the Bureau had been reorganized into regions and was expanding, along with the rest of the non military agencies. As we continued our trip we eventually got to Washington, D. C., where I looked up Buzz Bennett.

It was another one of those cases when I walked in the door and Buzz said, "Good to see you, Ted. Gosh, we need you back here, when can you start to work."

Q: (Laughter)

A: And I said, "No, that's not why I came in-I just came in to see you. How's all the family." After we had a nice visit, he said, "I'll tell you, I really would like you to come back here and work. " But I said, "No, I like it out West and I want to get back with the Bureau but I want it to be out in the Pacific Northwest, because I like that and my wife likes it. She's from Mississippi and she thinks she's in Heaven with these cool summers out there."

And he said, "You ought to think about it. It wouldn't be permanent. We just want you back here for two years." Then he told me, "What we've got is a rotation plan and you'd probably have to come back here anyway if you go back to work out in Salem, because we're trying to rotate people around." He went on to say, "Once you get to know the system and how it works, you can pick your spot. Right now, we're thinking about opening up an office in Santa Barbara, and we've got a couple of other places in California, and I think eventually we're going to get into Hawaii."

Buzz was in the Project Planning Division, and he made it sound pretty good. Sure enough, when I got back to Seattle, there was a telegram offering me a job and a promotion to go back. Now, remember, this was right after the war. I always felt that the government employees financed that war by the low salaries they were paid in comparison to those paid in the war industries. I was still just a P-3. The salary had finally been raised to about \$3,500, and if I took this job as a P-4 I'd go up to \$4,300. Little did I know how much more it was going to cost to live in Washington.

My wife didn't want to come, but I remember telling her, "Well, if we go back there, your family's getting old, mine's getting old, we'll be able to visit them," and that was the argument I used to convince her to give up what she thought was Heaven and come back to Washington-for two years. Much later she said that what happened was I got Potomac fever and I wouldn't go back, but what did happen is every time I was given an opportunity to go back, the Bureau would figure out some way to promote me or give me something more interesting to do here.

#### **FIREBRICK, Project Planning Division, Bureau of Reclamation**

So, we came to Washington in May 1946, to work for the Bureau of Reclamation in the Project Planning Division-we called it a branch then, the Branch of Project Planning-and I was given the job of liaison with the Corps of Engineers. Under the Flood Control Act of 1944 and the Rivers and Harbors Act of 1945, the Secretary of the Interior had to comment on every Corps of Engineers report, and vice versa. The Corps, or rather the Secretary of the Army-he was still called Secretary of War then-had to comment on all of the Bureau's reports. This was all coordinated through the Federal Inter-Agency River Basin Commission-we used to call it FIREBRICK-and I became the special assistant to Michael Strauss, the Commissioner of Reclamation, who was the department's representative on the FIREBRICK. He had been Under Secretary of the Interior and he brought the FIREBRICK function with him when he became Commissioner of Reclamation.

So here Michael Strauss was representing the Fish and Wildlife Service and the Park Service and all the other agencies of the department, because he was the departmental representative, and I served as kind of as his executive secretary for this function preparing him for meetings and going to the meetings. Of

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course, this got me into a lot more contacts with all of the federal agencies from that time on, not just the Corps but the Department of Agriculture, the Federal Power Commission and-what did they call it-the Federal Security Administration that had the Water Pollution Control office of the Public Health Service. They were never a member, but they were kind of an associate member, and the Department of Commerce eventually became a member. And the other job I had was collecting and collating the department's comments on Federal Power Commission applications for hydroelectric power projects.

Now, when I say I had that job it was because-after a year or so-I was made chief of the section. I think they called it the Coordination of Plans Section, or something like that, which was responsible for preparing the comments. Later, we set up another section to deal with the environmental questions, and I had that too, and had the pleasure of hiring John Starr, my old boss from the Baltimore District, to come over and work with me on that, because he was very much oriented toward environmental matters. In fact, after he retired from the Corps, he's written environmental columns for the *Sun* paper in Baltimore.

Anyway, he was delighted to come to work with us-I don't know how I happened to get him to come, but it was right up his alley and I needed somebody and he was a very conscientious and reliable person. He came over, probably around 1949, to handle the environmental work because I really had the two sections, the Coordination of Plans Section and the Environmental Section. By that time we could see the environmental movement building up, and also we already had to form to the Fish and Wildlife Coordination Act and were dealing with the Park Service all the time, so this was a special section set up just for that, and John Starr was a natural for it.

As a matter of fact, we were able to give him a promotion to bring him over. I'm really getting to the nitty-gritty, but that was one of the reasons he came. We gave him a promotion. But John didn't stay long because the Korean War started up, and the Baltimore District needed him, and I think they gave him another promotion to come back. So it was really a good thing all around for John Starr, and I did appreciate him-he was a wonderful person for a young man to start working for. He lifted me out of that drafting business and got me to design work; he started the program with the Johns Hopkins graduate school. And so I always thought I owed an awful lot to John Starr, and he was a wonderful person.



Q: You were the coordinator or liaison specifically between the Board of Reclamation-not the Department of the Interior, just—

A: I was working for the Bureau of Reclamation and so this section was part of the Bureau, but at that time, the Bureau had all of these functions for the whole department because Michael Strauss more or less inherited them-the original tripartite agreement, which was the basis for the FIREBRICK, was signed by John Page for the Bureau of Reclamation, and somebody, probably Specs Wheeler, as the Chief of Engineers, and somebody from the Department of Agriculture, probably Ernie Wiecking .

Q: That was in '39, you're talking about, the tripartite agreement.

A: That's right.

Q: For the Corps-that would have been Julian Schley, I guess, was Chief of Engineers—

A: Well, whoever it was, and the Department of Agriculture. And then, of course, when we brought in the FPC [Federal Power Commission], they called it for a few months, I guess, the cluadripartite agreement.

Q: Yeah.

A: And then eventually it became FIREBRICK.

Q: Of course, they organized FIREBRICK partly, as I recollect, in response to the congressional decision—

A: To abandon the NRPB.

Q: Yeah, and also to not fund the Bureau of the Budget's little shop—

A: That's right.

Q: That was involved—

A: The first thing they did was they terminated NRPB—

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Q: Right.

A: -by legislation.

Q: Right.

A: Abel Wolman used to say many times that this is the only time that any agency has ever been terminated by act of Congress. Usually they just let them die, but that doesn't happen very often either.

And so the Bureau of the Budget picked up the function—

Q: Right.

A: -and they put out Executive Order 9384, and Congress refused to fund it—

Q: Right.

A: -and at that point, the quadripartite agreement, that group, was made into the Federal Inter-Agency River Basin Committee, with the position of chairman rotating among the four agencies.

Q: Right.

A: And Michael Strauss was involved in it as the Commissioner of Reclamation, following John Page and Harry Bashore. Michael Strauss came down from being Under Secretary of the Department of the Interior to be commissioner because he thought it would be more fun than being an understudy to Harold Ickes.

Q: Uh-huh.

A: Of course, he stepped into membership on FIREBRICK, and that's how we had all those functions, and we also had a water resources committee in the department that had responsibility for coordinating the views of the other agencies in Interior.

Q: Were you getting involved also with the Soil Conservation Service at this time, or was it strictly Bureau Rec, Corps of Engineers type?

A: No, no. We dealt with Agriculture and, at that time, it was a fellow named Ernie Weicking and he was what they called land use coordinator, and Howard Cook was on his staff—

Q: Right.

A: And Nat Back was with him.

Q: Right.

A: Of course, these people all were in the group we dealt with in Agriculture, along with Dick Hertzler who eventually became special assistant to the Assistant Secretary of the Army. We threw bricks back and forth at each other in the form of letters. Michael Strauss was a very strong character. He really was one of the most unforgettable people I ever worked with. At one time, when the House of Representatives was controlled by the Republicans, the Congress passed a law that said, “No part of this appropriation for the Bureau of Reclamation shall be used to pay any commissioner or any regional director who is not a registered engineer or a professional engineer.” And this had the effect of terminating Michael Strauss’ salary and Richard Boke’s salary. Boke was the director of the Bureau’s Region 2 in Sacramento. And that, I think, was done pretty much by Senator [William F.] Knowland of California, who was furious with the Bureau because it was trying to get reimbursement for the irrigation allocation of the Pine Flat project. The Corps had built Pine Flat and the Bureau insisted, under the 1944 Flood Control Act, that the sale of irrigation water had to be handled by the Secretary of the Interior, or the Bureau of Reclamation.

And so that fight was brewing, and Senator Knowland wrote a book called *They Would Rule the Valley*, excoriating the Bureau of Reclamation. He thought it was a grab of power, and so this was the response agreed to by the chairman of the House Appropriations Committee that year. And Mike just laughed and kept on working, and eventually became chairman of FIREBRICK. Of course, that gave me an awful lot more exposure to all of the agency people because I was his secretary and wrote the minutes, and handled other functions like that.

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Q: Well, can you sort of capsulize the relationship between the Bureau of Reclamation and both the Corps of Engineers and the Soil Conservation Service at this time?

A: It wasn't so much the Soil Conservation Service that we dealt with; this was still the Harry Truman administration, and the fight was with the land use coordinator in the office of the Secretary of Agriculture. We threw rocks back and forth at each other. Agriculture was commenting on our reports, and they would tear them apart mostly on the grounds that we didn't need the production and they would quibble with the farm budgets and all the technical things like that, and Michael Strauss would answer them, and it was just like a slugging match, and I was the one who was writing the letters for Mike Strauss. I'll never forget going into his office one time with a draft of a letter back to the Secretary of Agriculture-I believe it may have been on the Colorado River basin report, which was really little more than a windshield survey, but the Bureau had been working on some of the projects for years. They had a lot of projects in the basin plan, including some of the projects I'd worked on when I was in Denver like the Rifle Gap Dam and a lot of others in western Colorado. Agriculture just tore it to pieces, and we were arguing back to them point by point. After Mike Strauss had read my draft of his response he said, "Ted, How can you write a nasty letter like that without using words like 'son of a bitch' or 'bastard' at all. It's all so polite, and yet-" Anyway, he appreciated that kind of stuff, and I took that as a compliment, because, you know, you work for an outfit and-whether you think that they're right or wrong-you express agency policy.

Now, with the Corps, it was kind of different-we were much more restrained. This was in the days when George Beard was chief of Planning or whatever the Corps called it at that time. George was definitely one of the most able people that the Corps has ever had, and he and my boss in the Planning Branch, Jack Dixon usually met face-to-face to discuss reports. Jack Dixon was an old Corps hand out of the Rock Island District.

And I had to sit in so many meetings and see George Beard talk rings around Jack Dixon and just get him completely walled in-this happened most frequently in meetings of the Subcommittee on Benefits and Costs,and—

Q: That was under the FIREBRICK?

A: Yes, the FIREBRICK actually got out the "Green Book," the first Green Book.

George was a tough man to deal with-we had a lot of meetings with George, and also with Joe Brennan. Joe Brennan was in the corresponding position to me. He was chief of reports-this was before he went up on the Hill to be on the staff of the House Public Works Committee. He was chief of reports and Ken Bousquet was the budget man for the Corps at that time. We didn't have too much to do with Bousquet because we were not working on budgets, but we used to call them the "Three Bs." And we had a great deal of respect for them.

Gene Weber kind of came along after that, and took over, but I can't remember just when that happened. But those were the people we worked with on the Corps' staff. We had clashes on projects like the middle Rio Grande in New Mexico. I think the Bureau may have wanted to build Abiquiu and the Corps was moving in on it too. I think the Corps eventually built it. There were some other clashes on the middle Rio Grande, as we tried to coordinate the work of the Bureau and the Corps. Now, this is just me talking, and the way I remember it is that we went into meetings, with George Beard representing the Corps and Jack Dixon representing the Bureau, and George always just somehow seemed to close in on Jack Dixon and win the argument, and I'd be sitting there and feeling that it wasn't right to interrupt and correct your boss-or at least, it wasn't the proper thing to do. At that stage, I was probably a little more inhibited than I am now-but, the Corps would usually win the arguments because of George Beard. I thought he was just terrific; I have the greatest respect for him.

We had some of the same arguments on the Missouri basin. Now, if you can remember, the Missouri Basin project was approved in the '44 act and the initial stages were authorized, and I think they were as specified in the report, the initial stages.

Of course, this included the main stem dams for the Corps, but it was not as specific on the Bureau. So when the balance of the comprehensive plan was up for authorization in the 1946 act, George Beard argued that the Garrison Diversion into the Dakotas was authorized to the Corps. It was the only time we ever won an argument with George Beard, when he agreed that it should be a Bureau project. Maybe he just used it as a bargaining chip that he was prepared to yield on or maybe he knew that it wasn't a viable project.

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I used to go up to the congressional hearings, not so much to testify as to observe. In fact, the first week I was in Washington I was asked to go up to one of the hearings of the Senate Committee on Commerce on the 1946 act-so I could report when my boss, Jack Dixon, or Mike Strauss came up and tell them what the situation was. I remember that I was almost brand new in the office and I guess I looked a little bit shocked at going up on the Hill. And Jack asked me, "You don't mind going, do you?" And I said, "No." I really was delighted, but a little bit apprehensive—

-And even more apprehensive when I saw Senator [John] Overton practically take the skin off the representative of the Fish and Wildlife Service who was opposing the Red River Waterway on the grounds that it was going to destroy the fish and wildlife, and Senator Overton-he was somewhat like Mike Strauss, the same kind of a big man, tanned-I guess you might call it a bourbon tan-but anyway, he says, "Now, what about these catfish in the Red River? What are you worried about?" And no matter what the Fish and Wildlife Service man said, it seemed like he would say something and Overton would take another chunk of his skin off.

And then later the Corps decided to call that the Overton-Red River Waterway. I don't know whether that's still the name of it or not.

### **Valley Gravity Project**

Q: Yep.

A: But anyway, that was where I fitted into the picture when I got back to Washington. It did give me a lot of exposure to a lot of people, and I guess I learned a lot, because I was always the person that ended up holding the sack when we'd sit in on some big meeting and I'd have to write up the conclusions. The first time it happened was on the Valley Gravity project in south Texas. The Mexican Treaty provided that a dam would be built on the Rio Grande to provide water for the lands irrigated downstream on the American side, the problem being that, even though you have a treaty dividing up the water, the Mexicans may not necessarily pay attention to it, and the water might not be there when it got down to the lower part of the river.



**Water Resources People and Issues**

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So the Bureau of Reclamation always called this the Valley Gravity project, and the law implementing the treaty required that the Bureau of Reclamation fund this project and obtain a repayment contract. At an early stage in my tenure at the Bureau of Reclamation, we had this big meeting with the Department of State and the International Boundary and Water Commission and people from Texas and others, and it was more or less demanded by the Bureau of the Budget that the Bureau of Reclamation should be getting a project together to implement this law and get some reimbursement for that dam.

And so we sat around with all these State Department types and all the highfalutin assistant secretaries, and I was there for the Coordination of Plans Section supporting Jack Dixon. After we talked and talked all day and didn't get anywhere, Jack Dixon turned to me and he said, "Ted, will you write up the memo on this about what we concluded?" (Laughter)

A: I went back and I guess I wrote up what we should have concluded, and it seemed to work, because I seemed to be put in that role an awful lot. We had those meetings every year on the Valley Gravity project. We kept on and on and on arguing about it, but we never did get any reimbursement because the Bureau didn't build the gravity canal. The International Boundary and Water Commission built the dam and they eventually called it Falcon. It was a somewhat different project. But the whole idea of our meetings was to see that the U.S. would get its share of the water before the Mexicans took it.

Q: During this time, you had this controversy, usually called the upstream/downstream controversy, and in my own mind, I think of it mostly in terms of a controversy between the Soil Conservation Service[SCS] and the Corps of Engineers, particularly as it relates to the Arkansas River, but it sounds like the SCS might have as much to say about Bureau of Reclamation projects—

A: Oh, yes-

Q: -as about the Corps projects.

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Theodore M. Schad**Belle Fourche Project**

A: Yes, we got involved with them more on the Western projects-I guess it may have been the Belle Fourche project in western South Dakota primarily. Studies that were made by the Geological Survey showed that after the Bureau of Reclamation built that project, there wasn't enough water to fill the dam because the Soil Conservation Service built a lot of small dams that evaporated a lot of water.

We had some arguments with the Soil Conservation Service over that project,-that's the only one that I remember specifically-but we still dealt with them through Ernie Wiecking's shop, rather than directly with the SCS. In other words, the secretary's office handled the interdepartmental fights. With Ernie Wiecking and Howard Cook and Nat Back, they had a strong team. The one person that always was there from the Soil Conservation Service was Carl Brown. He was also on the Subcommittee on Benefits and Costs at FIREBRICK and there were a lot of arguments there on the economics of the SCS program.

But I was not the principal protagonist on that. Jack Dixon was the department's member on that, and then later, Reginald Price-both of them are deceased now. So I didn't get too much involved with the economics of the Soil Conservation Service program. I did work much more closely with the Corps, and I guess somehow had a lot more rapport with the Corps because I knew most of the people, and they knew I had come from the Corps, and I knew how the Corps operated.

And the Bureau wasn't nearly as much involved in that upstream/downstream controversy as the Corps and the SCS.

At some point the Fish and Wildlife Service and the National Parks Service got tired of working with FIREBRICK through Michael Strauss. One of the reasons was that there were more conflicts between the agencies. After the Upper Colorado River Basin Compact was approved in the early '50s, which opened up the possibility of building dams on the upper Colorado River, the Bureau of Reclamation went right ahead with a proposed 10-dam project including Echo Park Dam in the Dinosaur National Monument. I had the job of negotiating that with the Park Service. At first, the Park Service was perfectly content, if we gave them \$24 million, to build up the dinosaur display area-you see,

Dinosaur National Monument was created years ago because of this quarry, and then Franklin Roosevelt extended it to take in the canyon of the—

Q: Green River.

A: -Green River and Yampa River, where they joined there, two beautiful canyons. The Reclamation Bureau was going ahead with building the dam because they had a reservation for a reservoir dating back to 1910, or something like that, just as they had on the Bridge Canyon site in the Grand Canyon, and just as they had on Glacier View up on the north fork of the Flathead River in Montana. These were all first form reclamation withdrawals. In other words, the land was withdrawn from public use for later construction of a reservoir. When the Dinosaur Monument was enlarged, the Bureau said it had no objection to enlarging it, but just remember that we've got this reclamation withdrawal and reserve the right to build a dam there whenever we're ready.

Connie Wirth was director of the National Park Service at that time and he recognized that he had no legal grounds to object to the building of the dam which was provided for in the executive order enlarging the monument. The Park Service always struggled to get money, and the promise of \$24 million to build up facilities to display the dinosaur quarry, which was the primary focus of interest there, Wirth thought was a good deal, so he signed off on the project in the Truman administration. It was not done without some fight and haggling and negotiation, and there were some other recreational facilities in the Colorado River basin plan too. At that time, the project also included, I think, Marble Canyon Dam and Bridge Canyon Dam, upstream and downstream from the Grand Canyon National Park. That was all part of what they now call the Colorado River Storage project, the idea being to provide storage to permit the upper basin to make use of the 7.5 million acre feet that was allocated to the upper basin in the 1924 compact.

So-but I can't remember exactly when, or how it came about-it was decided that it wasn't right for one bureau chief to be representing the department on this. The other thing that happened was that Bill Warne, who had been assistant commissioner of Reclamation, became an Assistant Secretary of the Department of the Interior after the Hoover Commission made its recommendations for adding more assistant secretaries. One of the things about the Hoover Commission reports was that when they recommended that you add

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something new, the recommendation was accepted, but when they recommended that you take something off or combine, the recommendation was rejected or put aside for further study.

The first Hoover Commission decided that every department should have an administrative assistant secretary and should have assistant secretaries with complete power to operate in their field. So Bill Warne was made the first Assistant Secretary for Water and Power in the department, and he had responsibility for the Bureau of Reclamation and the power agencies, like Bonneville and Southwestern Power Administration.

Bill Wame may have been the one that instigated the move of the chairmanship of FIREBRICK from the Commissioner of Reclamation to the assistant secretary level. I'm not sure it made the Fish and Wildlife Service any happier. They had the same problem with getting their views represented because Bill Warne was primarily a water man, too, although he had been a newspaper editor-both of them had been newspapermen, Bill Warne from California and Mike Strauss from Chicago.

There was a continual power struggle between Bill Warne and Mike Strauss, and the transfer of FIREBRICK was one of the ways in which it was resolved in Bill Warne's favor. I admired and worked a lot with Bill Warne, too, and almost got caught in a struggle between them one time, because Bill Warne decided he wanted me to come up to work for him in the department. I had been the liaison man for the Bureau of Reclamation, on the departmental water resources committee. When an elderly-I call him an elderly gentlemen; he was not as old then as I am now-W. G. Hoyt, the executive secretary of that group, decided to retire, Bill decided he wanted me to take that job.

Bill had a personnel man in his office who spoke to me about it. It would have been a promotion for me, so I expressed interest. I can't remember the man's name, but he said he would go ahead and take steps to transfer me to the assistant secretary's office.

I assumed that he would take appropriate steps and tell Mike and my immediate supervisor, which is the way such transfers are normally handled through channels. If the Secretary of the Army wanted you on his staff, I would expect them to come back down through the Chief of Engineers and the Chief

Historian of the Army. You know how it is done. In other words, that's the protocol in the government.

Well, this man didn't do that. He just prepared the papers transferring me up to Bill Warne's office in the department at an increase in grade and on a certain day and carried them directly to me and told me where to report. It was essentially an order ordering me to go to work up there. I showed it to Jack Dixon, and he took it to Mike Strauss. Mike called me in to his office and he says, "Do you want to go up there and work?"

Well, it was with some misgivings that I was going to go up there, because I would be getting more into the political side of things, working directly for a political appointee. But I said to Mike, "Well, I'd be doing essentially the same thing I've been doing for you all these years, the function that's been taken away from us. So I know I can do the work, and they're going to give me a promotion."

And Mike says, "Is that where you want to go?" I guess I hemmed and hawed a little and finally said that I couldn't afford to turn down a promotion. Then Mike called the director of personnel of the Bureau of Reclamation over to his office to talk about what he should do about this, because I was just one of a number of people that Bill Warne had taken up to the department when he set up this new office. And Mike was seeing a lot of his best people being taken away.

So he turned to the director of personnel, Glen Thompson, and he said, "I want you to promote Schad tomorrow so that I can write back to Bill Warne and tell him that Schad is already at the grade level you are offering him and he was only going to take the job because it was a promotion."

Well, I don't know whether that's something you ought to tell about yourself. It makes me seem so mercenary, but anyway, that's what happened. I was watching Glen Thompson and he just kind of turned white-almost I thought he was going to faint right then and there. He started to say something and stuttered and stammered a little, and it was obvious that he didn't know what the hell to do. You know, what would happen if somebody said, "I want Marty Reuss promoted tomorrow." There's a lot of paperwork and someone would surely say that it couldn't be done.

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But we had a little fellow as our administrative assistant in the Branch of Project Planning. His name was Cleo F. Layton. And he was one of these people who knew how to get things done. He wrote up the papers, and because I had not been in grade for a year he had to get the approval of the Civil Service Commission. This was probably a promotion from P-6 to P-7 and I hadn't been a P-6 very long. You were supposed to be a year in grade before you were given a grade promotion.

Cleo Layton knew everybody, and so, in two hours he walked the papers through the Department of the Interior and the next morning he walked the papers through the Civil Service Commission—which wasn't right next door to the Department of the Interior at the time; it was another building. I used to do a lot of walking papers through the department too. That's one way I got things done. I don't think anybody does it any more. That's why it takes so long to get things done.

And so by the next afternoon, Mike Strauss wrote a blistering memo back to Bill Warne saying that he wasn't going to release me, and that there wasn't any advantage in me going, and then he blistered him for not going through channels. Mike was better at writing memos than I was. Eventually, however, Bill got another person from the Bureau, Morgan Dubrow, to take that job and handle the coordination of the department's views on Federal Power Commission applications.

And really, when you get down to it, there's no reason the Bureau should have been doing that, but it had done that way only because the commissioner was the representative on the FIREBRICK.

But I still was having a lot of fun doing other things. We tangled with the Corps on Hells Canyon Dam on the Snake River. I was sent out to Boise on a rush job to get the Hells Canyon report in before the Corps got its 308 review report completed. The planning had been finished by regional staff but I was kind of the facilitator to speed up the completion of the report. We also worked all night one time to get our Columbia basin report up to the Congress ahead of the Corps' report. It was at the time of the big flood, the Vanport Flood? That must have been about 1948, wasn't it? Do you remember that—



**Water Resources People and issues**

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**Columbia Basin Report**

Q: I think the actual report was about '49.

A: Okay. So the Vanport Flood was about '48, and before the water went down, the Bureau was rushing its Columbia basin report to get it ready, and we got our report up to the-either to the Congress or the Bureau of the Budget-before the Corps did.

Q: Uh-huh.

A: And we did that by working all night, and I'll never forget this. Those were the days when you had to type things twice to get enough carbon copies. You know, they did have-what did they call that brown stuff—

Q: Yeah—

A: Thermofax.

Q: Oh, Thermofax, right.

A: That's the first copying machine-and the copies didn't look like anything. They were brown and they faded. Jack Dixon had a secretary named Mrs. Dalton, and after we hammered out the decisions on the Columbia Basin project, she typed the secretary's covering letter which must have been at least 10 pages long,-first there was a commissioner's report to the secretary, which was already in. Then the secretary's report to the President, and the Congress, -or maybe just to the President. Once we got that out, we could release the report.

We had a lot of meetings and hammered out the decisions. Jebbie Davidson was the assistant secretary that really was insisting on a postage stamp power rate over the whole Columbia basin. The Bureau reluctantly gave in on that. We didn't particularly believe in the postage stamp rate, and would have preferred a higher power rate in Idaho to provide a greater subsidy to irrigation, but we gave in just to get the report finished before the Corps did. We finally got everything finished and the long letter was typed and we were putting our surnames on the file copy. They had a block on the side of the file

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copy and everybody put their surname to show approval. Sometimes it was all the way down the side and around the bottom--15 or 20 people.

About 4:30 or 5:00 A.M., everyone was about ready to go home, but we had to have another run of the long letter so we would have enough copies. Mrs. Dalton was typing it, and Jack Dixon turned to me and said, "Oh, Ted, would you mind taking Mrs. Dalton home when she finishes typing that other copy?" Of course, I said, "Yes." And then he said, "Thank you, Ted, and by the way. You always come in early. Don't you come in at quarter to eight?" And I said, "Well, usually. "

And he said, "Would you, first thing then, take this letter down to Secretary Davidson's office and get him to surname it and then get it into the secretary's office before 9:00 A.M.?" Here it was obvious I wasn't going to get away from that place until about 6:00 A.M., and then he expected me to come in before 8:00. I don't think I made it that morning. But it was a fact that the office hours started at 7:45 A.M. and we worked until 4:15, but I was usually there until 5:30 or 6:00 P.M.

Q: Let me see if we can go back and pick up a few things, because you are saying some things that I think I understand, and I think a lot of readers of this transcript might understand, but on the other hand, there are going to be those who need to be filled in on a few details.

So what you're talking about, of course, is a conflict that existed between the Corps of Engineers and the Bureau of Reclamation, particularly focusing on Western water development. Can you explain what was the nature of the conflict, specifically in relationship to Hells Canyon? Why did the Bureau of Reclamation feel it urgent to get the report in before the Corps?

### **Chief Joseph Dam**

A: Well, let me go back a little bit earlier than that to one of the first ones that came up, I think in 1946, and that was Chief Joseph Dam on the Columbia River. Now, the Bureau had built Grand Coulee but was just getting started on the irrigation part of the Columbia Basin project, and the Bureau was using the power revenues to subsidize irrigation development. You could never build any of those expensive irrigation projects without power revenues to subsidize

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them. And the Corps came in to Congress and got a resolution to authorize a survey report on Chief Joseph. When you really look at Chief Joseph, you wonder why would the Corps be building Chief Joseph? There is no flood control or navigation benefit. It is a run-of-the-river power plant that serves almost as an after-bay for the Grand Coulee power plant, and the two plants have got to be operated together. It is a much different type of project than Bonneville, which the Corps built first, and that's hundreds of miles away and is required for navigation.

In 1946 the Corps came in with a report proposing to build Chief Joseph Dam. The Bureau saw that the Corps was picking off a prime power site, the after-bay for Grand Coulee. The Bureau wanted to use that site, wanted to pump out of it for some irrigation projects using the power from Chief Joseph, just it was using the power from Grand Coulee to pump up to the Columbia River plateau for the Columbia Basin project.

So the Bureau saw that the Corps was barging in here with Chief Joseph. So we had a major fight.

Of course, the Corps had its report ready first. The Bureau hadn't even investigated Chief Joseph. There was never any question of that. But the argument we developed for our spokesman at the hearings on the project, Warner Gardner, the solicitor of the department, was, "We're not playing a game of football, gentlemen, so that the one who gets the ball first runs with it. This is a serious decision that should be based on all of the facts," and he explained all these reasons why this should be a Bureau project and you shouldn't have another agency building the after-bay for a major power project. And we drew up a big colored map showing the Chief Joseph Dam in red in the middle of the Bureau's projects.

The position the Bureau was taking was that this was an invasion into the federal reclamation program. At that time, there was no way you could use revenues from a Corps' project to subsidize a Bureau's project. There wasn't any basin account at that time.

That was the initial postwar fight continuing the struggle over projects that erupted over the Pine Flat Dam before the war. The Bureau lost again. It was in the '46 act, I think, that Chief Joseph was authorized.

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Of course, the Corps was authorized to study Chief Joseph by a resolution to review the 308 report and see if a dam should be built there, but I don't really know--I'd have to check up on why the Corps was proposing to build Chief Joseph. I really don't know why because it's just purely a power project.

Q: Of course, the original 308 report-

A: -had all those projects in-

Q: -had all those including Coulee-

A: -including Grand Coulee.

Q: That's right.

A: Well, and just like the original 308 report on the Tennessee got the whole TVA [Tennessee Valley Authority] system laid out,-but the Corps didn't build all of those projects. They didn't build them just because they get in there first. Resource development isn't playing football.

Q: Yes.

A: So that was the point that the Department of the Interior made and that the Bureau of Reclamation was making—

Q: Well, what—

A: -and so it was a continuation of that struggle based on bureaucratic power politics. The agency that builds a project has a lot of money to spend and a lot of people to hire and a lot of power. The argument on Hells Canyon was about the same between the Corps and the Bureau. The Bureau had been working in the Snake River basin since 1902. The Minidoka project was one of the first reclamation projects. Then there is the Boise project, and the Vale project-those are some of the original reclamation projects. In recent years the Bureau continued to work in Idaho and they built Anderson Ranch Dam and they built Palisades. Then the Corps came in and wanted to build Lucky Peak for flood control, and this was right in the middle of the Boise project. But there wasn't any irrigation; it was a flood control dam, but it had to be operated in coordination with the Bureau's projects.

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I can remember working one Saturday to make a big map showing all the Bureau's projects in nice shades of blue and yellow and green, and the Lucky Peak project in red right in the middle. The Bureau was trying to take Lucky Peak away from the Corps, but it didn't work.

On Hells Canyon, the particular thing that the Bureau wanted was the revenues, the power revenues, to subsidize irrigation. In the upper Snake basin-everybody agreed that, in spite of Lucky Peak, it was primarily reclamation territory. In the lower basin, the lower Snake dams and McNary and John Day was navigation territory-the Bureau never had any problem with McNary and John Day and The Dalles. Of course, Bonneville was in there first, and Priest Rapids was built by somebody else.

Q: Yeah, by private.

A: No, it was built by a public utility district, but Rocky Reach was private.

Q: Right.

A: So Hells Canyon could have logically gone either way. It was in between. But what the fight was all about was who's going to get to build these dams as a matter of bureaucratic aggrandizement, but also it was the power revenues that the Bureau wanted. And then also, this was not the Bureau so much as it was the department under Secretary [Julius] Krug and under Secretary Oscar Chapman. The driving force was Assistant Secretary Jebbie C. Davidson, Gerard Davidson, who wanted to extend the Bonneville Power rate into Idaho, and Hells Canyon was the key instrument to do that. Power from a big generating plant like Hells Canyon would have to move both ways. Idaho is closest.

You're going to move a lot of power into Idaho, but some would go the other way, to the lower basin, and this would provide transmission lines that would provide a way to extend the Bonneville power rate which, if you remember, was 2 mills per kilowatt hour for firm power. Jebbie Davidson wanted to extend that rate up through Idaho which would have carried the benefits of public power all up through the Idaho Power Company territory.

In other words, this was the same thing that came up in our discussions of the history of the Flood Control Act down in New Orleans. Certain people were

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trying to use the Flood Control Act as a means of getting federal hydroelectric power-Morris Cook and others-and, as your historian friends say, there was a hidden agenda there in the first Flood Control Act to keep that from happening. Well, whether there was or not, I don't know.

But it was not so much in the 1936 Flood Control Act but in the '38 act, when they changed the policy on dams—

Q: Right.

A: -so that you could build power.

Anyway, that was the gist of the fight between the Corps and the Bureau but when I went out to Boise in early 1948 to finish the Hells Canyon report, we were also fighting to get it done because Idaho Power Company had filed an application with the FPC to build five small run-of-the-river plants in that same reach of the river, which would have completely lost any flood control benefit, as well as kept either the Corps or the Bureau out of there, and there would be no navigation benefit of any kind.

Eventually, then, we negotiated an agreement with the Corps of Engineers on the Columbia River basin, which gave Hells Canyon to the Bureau. We got the report finished and sent it on up to the Congress. Authorizing legislation was introduced and there were hearings on it. Wayne Morse gave speech after speech on the Senate floor which we wrote for him. He would make those speeches late in the evening, and he'd go on for hours sometime. We'd write 50- and 60- and 70-page speeches for him to give-all the background on Hells Canyon, as to why the federal project was needed. I really think that that is one project that should have been built, because of its role in flood control, and the minimal adverse effect on the environment that would result.

Fortunately, we haven't had a big flood come out of the Snake River in recent years. I don't know what happened when the water from the Teton Dam failure came down the Snake. By the time it got down there, I guess the flood was pretty well attenuated. But if you ever have a repetition of those floods where the Snake peaks at the same time as the upper Columbia River-you could have a lot more damage, all the way down to Portland.



Anyway, I think Hells Canyon would have been a good project and it would have had no different environmental effects than the three small dams that the Idaho Power Company finally built. It would have taken the same land, except the pool would go on a little bit farther up the canyon, but it would have had no different effect. In fact, it was easier on the fish. There was only one place, if you wanted to run fish up above it, only one dam instead of three. But no salmon go up that far any more, I don't think.

But the whole picture was obfuscated by the fact that there was another dam site down in the canyon, Nez Perce, which would have blocked the Salmon River, and so the environmentalists attacked the Bureau's plan, arguing that the Hells Canyon was just the first step toward flooding the entire canyon. Actually Nez Perce wasn't in the Bureau's plan at all; it was a Corps proposal. Once you had Hells Canyon Dam, the Bureau didn't need to build anything else on the Snake River. And when the Corps got into the fight over Nez Perce, they found another site, which they called Mountain Sheep, which was above the Salmon River. But that's another story that I was not involved in. I was at one time going to write a book about my experience with the Hells Canyon project, and I kept all kinds of notes but, as the issue fades away, you don't get around to doing half the things that you want to do.

Q: A fair amount's been written about it, of course.

A: Well, lots has been written about it, that's right.

Q: Yeah.

A: And a lot of it has been inaccurate. Very few people know the whole background.

Q: Uh-huh.

A: That's one of the things I found out when I got over to the Bureau of the Budget in 1954, one year after Dwight Eisenhower came in and I saw the papers that had been used for the cabinet meeting where the decision was made to pull out of federal sponsorship of Hells Canyon, I found that they were inaccurate. I don't remember exactly the details, but when I looked at it, and I was horrified because the decision was made in the absence of having all the facts about those projects. Of course, it was an ideological decision-part of the

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effort to get the federal government out of the power business. The thing that really killed the Hells Canyon project was Jebbie Davidson's insistence that you use it to extend the Bonneville power rate into Idaho, where there would have been great benefits with the development of the phosphates industry.

Q: I know what you're talking about.

A: Using low-cost power to develop a chemical fertilizer industry up there, Simplot-

Q: I know Simplot, yeah. It made its fortune during World War II, as I recall, selling—

A: That's right.

Q: Yeah.

A: And Simplot was all for it, because he'd get cheaper power. Idaho Power Company was actually signed up on Hells Canyon when the Bureau wrote its first report, which was going to divide the power market-4.4 mill rate in the upper Snake basin-and 2 mills for the power sold down in the lower Columbia basin. That was kind of peculiar to price power at different rates that way, but it made sense politically.

But when Idaho Power Company saw this change, which was worked out late one night in Jebbie Davidson's office in the Department of the Interior, well, that's when the Idaho Power Company dropped off the support list for Hells Canyon. Of course, that, plus the decision made in the Eisenhower administration to withdraw the federal project, doomed Hells Canyon as a federal project.

Q: Were there any overtones in this whole thing about private versus public power and the intrusion of the federal government into state and private affairs, any of that sort of thing? In other words, this is taking place against a background where we have got the McCarthy hearings and all this sort of stuff. Was it-any of that, those polemics, ever applied to—

A: Well, on Hells Canyon that was the position that Idaho Power Company was taking. Of course, the Idaho Power Company dominated Idaho politics for a

long time. Henry Dworshak was their conservative senator before Frank Church was elected.

Q: Uh-huh. Well, Senator Dworshak you're talking about. He was with Idaho Power? I didn't know that.

A: No, he wasn't with them, but he supported their position on the Hells Canyon fight.

Q: I see.

A: So it was definitely a public versus private power fight. And Idaho basically kind of resisted federal power-they wanted to have the Bureau build irrigation projects and subsidize the projects but they didn't want to have any federal hydroelectric power; the general tenor of people in Idaho was against, public power. The support for Hells Canyon came from the Simplot and the people that could see a chance to make some money and to put some pressure on the Idaho Power Company to get concessions on power rates and the irrigation pumps. They were the ones that supported Hells Canyon, and the municipal electrics and the REA cooperatives. The preponderance of the testimony in the congressional hearings was favorable to the project.

But when Eisenhower came in, there was the feeling that the federal government had gotten too big. The same as, or similar to what Ronald Reagan said. But it was much less intensive, and I don't think that it ever got to the stage that the McCarthy hearings did-they were much more on the overall political issue of communists influencing the government.

Now, Senator Knowland, when he wrote his book, *They Would Rule the Valley*,—that was where the issue of communism or socialism showed up much more—in California. But I don't think he was very sincere about it—he didn't have any problem with the Corps of Engineers building Pine Flat Dam or anybody building a dam that made water available, as long as you didn't make the water users pay for it. There wasn't any problem about the government building dams. It was just the idea of trying to make these people pay, and the people had an argument with the Bureau.

They said, "We've been pumping this water all the time. We're pumping now—and you're going to sell us water? We don't want it. We shouldn't have

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to pay for it. All you're doing is trying to sell us what's already ours." That was their argument, long before Eisenhower was elected, really-that the Bureau was trying to dominate California. In my view it wasn't that the Bureau wanted to dominate California, the Bureau just wanted to build more projects and to have an integrated system. Remember, whichever agency builds the dam keeps on operating it when it is finished.

But I've never felt that the Corps really would have built a lot of these dams if it hadn't been for the Bureau of Reclamation. And vice-versa-in other words, the fight was shared by both side.

Q: The Bureau suggested projects so the Corps wanted to build them, and the Corps suggested projects so the Bureau automatically wanted to build them, something of that sort?

A: No, it was more that the local water users wanted the Corps to build the projects so they wouldn't have to pay for the water and the Bureau wanted to build them to uphold the integrity of the federal reclamation laws. The Bureau thought it was the dominant Western water agency. The Corps of Engineers thought, on the basis of history, that it was the dominant United States water agency, and they clashed in the West.

Now, remember the Section 308 language exempted the Colorado River, specifically saying that this is not to be covered because the Bureau of Reclamation has responsibility there. That was in the law that authorized the 308 reports.

Q: 1927 Rivers and Harbors Act.

A: Yes.

Q: Ted, I want to go back and pick up some areas that we haven't really covered. As you know, beginning in the late 1940s in particular, there was growing criticism really of both the Corps of Engineers and the Bureau of Reclamation about the size of water projects, expense and so forth, so there was an increasing concern about both expense and environmental devastation.

Do you-looking back, as I'm sure you have over time-do you see any particular seminal causes for this growing concern, or do you think it's a

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general kind of evolution as a result of the massive constructions going on since the '36 Flood Control Act, or whatever?

A: Well, one thing happened that really affected the reputations of both the Bureau and the Corps adversely. All during World War II some of the staff of both agencies was still working on civil functions. The Bureau had its Food for Victory program and the Corps had its 308 reviews going along, to the extent that they could get funding. I don't know how the Corps did it, but when money was appropriated for the Bureau, it was "no-year money"-available until expended. At times, the Bureau would have \$100 million or so, more or less in the bank, of funds that were appropriated and not spent, so they could keep that work going regardless of what Congress did.

That's all been changed now. Construction appropriations still are available until expended, but the committees keep a much closer track of them. But decisions were made all during World War II and for a year or so afterwards to make estimates of costs of projects at 1940 price levels, the feeling being that we were bound to have another horrendous depression after the war, just as we had after the Civil War, just as we had after World War I, and probably after the Spanish War, and so eventually price levels will simmer down to prewar prices.

So, on all the projects in the 1944 Flood Control Act and the '45 Rivers and Harbors Act, the authorizations were on a basis of costs contained in reports made at 1940 price levels. The Bureau of Reclamation also had a lot of projects under way on the same basis. For example, the Colorado-Big Thompson project had been started and the tunnel was holed through before World War II, or during it. The project was supposed to cost about \$50 million and the local interests signed a repayment to pay half, but not more than \$25 million, which was half of the estimate. Before the project was completed, the Bureau had spent \$175 million. The Corps got all those projects authorized in 1944 and 1945 and when they went to build them they cost sometimes two and three times or more than their estimates. People who were concerned with government expenditures had the feeling that these agencies were just making low estimates to get their nose under the tent and their primary motive was to spend more money.

It was just a lack of understanding on the part of the agencies of what was going to happen. The pent-up demand that caused the economy to boom when

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the war was over was not foreseen. It's not so much that there wasn't so much demand after the Civil War, it's just that marketing techniques are so much more sophisticated, radio, television, advertising-you've got a much better market, and that's why we didn't have a big depression after World War II-at least that is my theory about why we didn't have a depression. Now, an economist would have something else to say about it, I'm sure.

I don't remember when the Corps stopped making cost estimates based on 1940 price levels, but until it did it looked as if here was this agency trying to get its nose under the tent and then, once it got the project authorized-say an \$8 million project authorized-they'd spend \$40 million on it. Some of that is still going on. For example, on the Tennessee-Tombigbee Waterway, which was one of the projects authorized about that time.

Q: 1946. Right.

A: And so there was a feeling that these agencies were only interested in aggrandizing. Then there were the people who were being hurt, the people whose lands were being flooded. For example, projects like at Tuttle Creek where the Corps incurred the animosity of people whose families had lived on those homesteads for a hundred years.

There's always been that kind of a backlash against the Bureau and the Corps built up, but I don't think-maybe I've been too close to it to see it-I don't think there has really been any feeling, ideologically, that these agencies were getting too big. Now, there's another view expressed by a gentleman up in Minnesota named [Adolph] Ackerman who's written books citing a book called *Oriental Despotism*. I can't remember who wrote it.

Q: Wittvogel.

A: He wrote that book, alleging that governments control their people by controlling their water supply. Adolf Ackerman has gotten a few of the engineers, for example, who are, by nature, conservative, to cite Wittvogel against the Corps and the Bureau. But when you really look at it, they are attributing motives to government engineers that I don't think are there. Admittedly, there have been some ideological issues like the public power and other issues like that, that have-that might, in some people, might have been termed as ideological, and this has led some people into fear of government



domination. This came up in the Hells Canyon fight but largely as a public relations campaign funded by the Idaho Power Company and probably by the whole private power industry which, I think, united on that. They got the EBASCO services to come down and testify against that project.

And so all of that is underlying the surface here, and that is probably one of the reasons that the magnitude of the Corps' and Bureau's programs has declined as a percentage of the federal budget. I think most people in the West have looked on the Bureau as helping them and people in the East who have benefitted from Corps' projects look on it as helping them, rather than being government run amuck.

What people are complaining about are expenditures on government programs that don't help them. This is why people think the government is too big. They don't object to Social Security or Medicare or any of the programs that help them. They're always objecting to what somebody else gets.

But there are some great abuses of the programs, for example, when the Corps of Engineers and the Bureau of Reclamation tangled in the Pine Flat case. The Bureau thinks it got authorization through its finding of feasibility on Pine Flat as a reclamation project, under which local people would have to pay their share of the costs. Some of it would be paid by power revenues, of course.

And then the Corps took the position that Pine Flat is a flood control project and got authorization from the Congress to build it as a flood control project. This kind of a struggle tended to repel a lot of people and make them feel that this is just two bureaucracies fighting and that all of these projects are just pork barrel stuff.

**Arthur Maass (*Muddy Waters*)**

Q: Well, Arthur Maass in his book, *Muddy Waters*, makes a great deal of the Pine Flat case, showing not only a certain arrogance on the part of the Corps of Engineers, but also, of course, the clout that the Corps has within Congress, suggesting that Congress, through the Corps, can more or less have its own way when it comes to water projects. If people don't like what the Bureau of Reclamation is doing, they can go to the Corps-and I suppose vice versa. But in this particular case, it would be cheaper for local interests if the Corps were

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to build the project, so therefore it would be something that Congress would favor doing that way.

Let me ask you about-about Maass' argument, and then you can elaborate a bit about it. You know or are familiar with *Muddy Waters*?

A: Of course, Arthur Maass and I were at Johns Hopkins together. We were both in the class of 1939. He was taking a liberal arts course, and I was taking engineering. We were not great buddies at the time, but we were both involved in the student council and various campus activities. Arthur was on the social committee to arrange the dances and so forth, and I was on the student council trying to regulate the way that group operated.

Arthur was, in my view, quite liberal. And I was more or less a conservative engineer. Some of the engineers looked on Arthur as being a kind of a flaming liberal on campus, not quite as liberal as Murray Kempton, who was in the same class, or Walter Schlesinger, who was actually, admittedly, a member of the Young Communist League, right on campus. This was in the mid-'30s.

Arthur came down from Harvard one summer to work in the Department of the Interior for the Hoover Commission. I gave him a lot of information about the Pine Flat flap, because I was deeply involved in it through my role as coordinator with the Corps of Engineers. And you remember, Section 8 of the '44 Flood Control Act required the Bureau to get some reimbursement for the irrigation. I think they finally settled on a \$14 million reimbursement, which the Bureau didn't think was enough and the Corps thought was too much.

So I had a lot of information on the controversy, which, as I recall, went into the Pine Flat chapter of *Muddy Waters*. Arthur, of course, is much more scholarly than I am. Of course, he was involved much earlier when he was working for the National Resource Planning Board. My recollection is that Maass covered the fact that Roosevelt decided in favor of the Bureau of Reclamation but that the Corps, with the assistance of the Congress, overrode him. And Roosevelt was probably one of our strongest Presidents.

I don't have any problem at all with what Maass has said about that. I would certainly agree, although I haven't reread it recently.

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Q: Well, during this time, at least at the political level, the criticism of both the Bureau of Reclamation, but more particularly the Corps of Engineers, was centered within the so-called first Hoover Commission, which was organized in 1947 basically in response, as I understand it, to an expansion of federal agencies during World War II. It was not organized specifically, of course, to pick on any particular agency and certainly not to pick necessarily on water resources, but Hoover spent a fair amount of time looking at the water agencies. And, as you know, one of the recommendations of the commission was to consolidate the water resources agencies.

Can you tell me something about that and something about the Bureau of Reclamation's response to that particular proposal?

A: Well, I was right in the middle of it as a representative of the Bureau on various work groups. Of course, the Bureau generally favored that recommendation because it was felt that for sure it would be the surviving agency and because there was always the argument that water resources is not a military function. So I was one of the people in the Interior Department that was providing information for the staff of the Hoover Commission.

Now, that may have been how I got involved with Arthur Maass on the Pine Flat project when he was in Washington working with the Hoover Commission. But I do remember doing quite a bit of work for them on the Pine Flat controversy. I was primarily involved in getting the agreement on how much the local people would pay. I think it came out to \$14 million. That's why I had the background in it. But I worked on background for both of the Hoover Commissions, as well as for President Truman's Water Resources Policy Commission, so unless I go back and really look into my files, I can't remember exactly what I did for which one. But the Bureau was always in favor of the consolidation, if the Bureau was going to be the surviving agency, and the Bureau felt that it should be. The Bureau's position was that if you have a Department of Natural Resources, which it favored, you certainly would have water as a part of it, and the Bureau of Reclamation was there to take over.

The Bureau, of course, always felt that its programs were more sound economically than the Corps' because each project had to come up and be authorized separately and was subject to the reimbursement provisions of the reclamation law. They overlooked such items as interest on money, and even

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the fact that at one time they used some pretty fancy accounting on the basis of a solicitor's opinion that, even though they had to collect interest on the power allocation, that didn't mean they couldn't apply the interest also to subsidize irrigation. And this infamous piece of legalese was called the "Solicitor's Opinion" for years and years and years. And it just didn't make much sense, but that was how the solicitor of the Department of the Interior interpreted the law.

And this kind of thing generally turned some of the professional groups, such as the American Society of Civil Engineers that I belonged to, and various other groups of basically conservative people against the federal agencies. I'm sure the argument was made by lots of people at the time that surely the federal agencies are just trying to increase their clout and their size just for the purpose of bureaucratic aggrandizement.

And nobody can argue against the fact that both the Bureau and the Corps had strong congressional supporters. The Corps always had had an advantage over the Bureau in this area because its program covers all 50 states and the Bureau has been limited to--well, I guess counting Alaska and Hawaii, 19 states; but for a long time, it was just the 17 contiguous Western states. And the Bureau's projects came along with some strings. When they built a project, they expected to get something back.

Q: Not too much.

A: Not enough, except the local people always seemed to agree with the Bureau when the Bureau said, "The law requires us to demand full repayment on this project," ignoring the fact there was no charge for interest. There may have been some justification for using interest-free money out of the reclamation fund in 1902 with a 10-year reimbursement period. Ten-year reimbursement without interest is one thing; 40 years is another thing. And then there was another 10-year repayment free development period.

Anyway, the Bureau did get some reimbursement, usually about 12 to 15 percent of the actual total costs which is more than the Corps got on most of its projects.

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**River Basin Commissions**

Q: Well, there are a couple of things happening here. I suppose they complement one another, but on one level, they seem to be a little bit contradictory, too, and that is this: you have the Hoover Commission, the first Hoover Commission, and also President Truman's Water Policy Commission coming out in favor of a consolidated Water Resources Department within the federal structure.

On the other hand, those same commissions are arguing for the establishment of river basin commissions around the country. Of course, this goes back to some of President Roosevelt's ideas for a Missouri Valley Authority which never did get off the ground as Roosevelt conceived it.

That seems to be a step towards obtaining, or giving to the states, perhaps, a bit more say so in what's happening to regional water development-nonfederal interests, in any case. How do you interpret this interest in river basin commissions at this particular time, which, of course, leads finally into something else.

A: Where this got started, I think, was either the National Conservation Commission in 1908 or the National Waterways Commission about that same time in the Teddy Roosevelt era. He supported the idea that we should develop every river and use every drop of water profitably, all the way from the headwaters to the sea. There was almost a kind of a cult for river basin development-it wasn't a cult, really, in that sense, but a lot of people felt that that was the ultimate objective, and then they immediately started running into state lines and agency jurisdictions that made it impossible to do this, and that started people thinking in terms of organizations based on river basins.

The real problem, as I see it, was the need to coordinate the agencies working in the river basin. We've tried to coordinate the federal agencies as far back as 1910. I think the Inland Waterways Commission was set up really in the hopes that it would coordinate the agencies. They reported about 1912, or whenever it was. But instead of doing the job, they made another report which called for coordination. Then the Newlands Commission was authorized in the 1917 act but was never established. I think one of the reasons it was never set up was that the Corps saw a potential threat in it. Maybe the Corps and the Bureau both saw a threat in it. Instead, we got the Federal Power Commission

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authorization for comprehensive basin studies in 1920. I'm sure there were an awful lot of behind-the-scenes operations that I've never seen documented.

I'm sure one of the antecedents for the House Document 308 report was when the Federal Power Commission staff decided to do these comprehensive studies and asked for funds. They put it in the budget, instead, the Congress authorized the Corps to make the list of river basins which eventually was published as House Document 308. When the studies were authorized, there was a requirement for some coordination with the Bureau of Reclamation and the FPC, and they were participants in parts of the studies but it was a far cry from the coordination contemplated when the Newlands Commission was authorized.

The 308 report on the Tennessee River basin provided the basis for the Tennessee Valley Authority, which solved the coordination problem by keeping the old-line agencies out of the basin, so they didn't like it. But the need for coordination of the agencies' activities within river basins was still evident. So when the issue came up in the water policy commissions, there were a lot of conflicting opinions. When President Truman's Water Resources Policy Commission took up the subject, one of the ways that they got agreement was what we used to call the "Quaker" method-when there's something that you can't get agreement on, you drop it out. And so when you look at the commission's recommendation for river basin commissions, it kind of got down to the fact that since you can't really resolve this Corps of Engineers/Bureau of Reclamation/SCS problem, and you have a real problem with state lines that you can't resolve, you should set up an organization to handle the problems. It was a kind of a mild recommendation and I think a good recommendation. Of course, it formed the basis for a lot of planning that we've done since then.

Certainly the Senate Select Committee was definitely working on the basis of the river basin as the organizational unit for planning and wanted river basin plans drawn for all river basins. But Senator Bob Kerr didn't have independent river basin commissions in mind. He had in mind another Arkansas-White-Red basin type of report and he wanted an authorization in each basin like the Pick-Sloan Plan-an authorization that approved a plan and authorized the initial stages, and when you find a project you want, you just bring it to the Congress and get it authorized easily because it's already in the overall plan.



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So the idea of river basin commissions was never really resolved by the Senate Select Committee, and I doubt if it ever will be, now that the Reagan administration terminated them. I can argue either way, that we ought to stick with the political jurisdictions we have, the states, with interstate compacts where needed, or I can argue that from a hydrologic standpoint, it really doesn't make much sense to split some of these river basins right down the middle the way we do where the river is the boundary, as, for example, between Washington and Oregon. It would make much more sense to make one state out of the western slope of the Cascades and another one out of the eastern slope, because you've got a natural geographic division. Of course, that still would break the Columbia River basin in half but it wouldn't split it down the middle.

But to have the whole Columbia basin or the whole Colorado basin as one state would give you a rather unwieldy political organization, too big to govern.

So it's just inevitable, with the kind of government we have that there will be a lot of hydrologic inefficiencies, but so far our government has been adaptable enough to cope with them. If you go over to the Soviet Union, you get a lot of the same conflicts around Lake Baikal, for example, the environment versus development. I don't know how they're organized with respect to the rivers there, but I think our system is still the best, and I certainly wouldn't try to go back and redivide the country into river basins because then you start having clashes over other functions.

## **The Green Book**

Q: Well, let me turn our attention to something else that's developing about the same time. You had mentioned earlier the FIREBRICK and, as you know, one of the subcommittees under FIREBRICK did develop something which—let me consult my notes here to get the exact title—"The Proposed Practices for Economic Analysis of River Basin Projects," which was published in 1950 and commonly called the "Green Book."

Can you tell me something about the background to the development of this report which has a fair amount of influence in the subsequent 10 years or so?

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A: Well, it did, and I mentioned that earlier when I was talking about George Beard. George Beard was the Corps of Engineers representative, and I think Jack Dixon was the Interior representative for a while, and then later Reginald Price was the Interior representative. Reginald Price was in the department after Bill Warne became the Assistant Secretary for Water and Power.

The Green Book was developed with a great deal of discussion; another Corps person that was involved was Gene Weber. He was the staff person who took over when George Beard left to go out to the Pacific Northwest. I was only peripherally involved in that because of my staff role with the chairman and later the departmental member of the FIREBRICK, but I sat in on a lot of the meetings. There were many arguments. The big argument first was the Bureau of Reclamation wanted to use gross crop income as the measure of the benefits from irrigation, and the Corps of Engineers argued that you should take account of the on-farm costs so you should use the net benefits. Of course, when you go to the net benefits for agriculture, there's not very much and very few projects could be authorized.

But then the Corps of Engineers had its policy of using primary and secondary benefits, and also direct and indirect benefits. By the way that they were defined, you could do almost anything you want to prevent flood damages, and the gross value of the crops destroyed by floods was considered a direct benefit. That was the first battleground over the first draft of the Green Book. The Green Book in 1950 was the second draft. The first draft was put out, I think, in 1948, and there were not too many changes in the 1950 draft, but I think it got more involved with the recreational benefits.

The Corps wanted to use the cost of indulging in recreation, in water-based recreation, as a direct benefit, in other words, figuring that the people who are going to go boating or fishing or anything at a reservoir will spend a lot of money for equipment and transportation to get where they're going. The Corps was using that argument and somehow in the debates, which were dominated by George Beard, the Corps always seemed to win. I really attribute that to George Beard, but it seemed to me there were a lot of fallacious ideas on both sides. And, not having been directly involved, I'm hesitant to step into areas that Henry Caulfield and possibly Arthur Maass and some others were more closely involved with than I was.

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Of course, I've used the Green Book and referred to it many times, and it became the basis for Senate Document 97 much later.

**Bureau of the Budget Circular on Water Resources Projects**

Q: I don't know, of course, how much light you can shed on some of these issues, but I'll ask you the questions, and if there's not too much to be said, we can just move along.

I'm interested in the relationship between, say, that publication and something that comes out in December 1952 from the Bureau of the Budget: Circular A-47, which is called "Bureau of the Budget Circular on Water Resources Projects." It comes out at a fairly interesting time because it's after Eisenhower was elected, but before he takes office.

A: Well, I can shed a little bit of light on that. It really stemmed from President Truman's Water Resources Policy Commission. When that commission was created, and, of course, the Bureau of the Budget had an awful lot to do with getting the commission created, it was hoped that it would develop criteria and standards for evaluating the feasibility of federal water resources projects. A gentleman named Ed Ackerman—that's Ed Ackerman; not Bill Ackermann—was on the staff and he was probably the executive director, or something, of the commission. Gilbert White was the resident commissioner and Morris Cook, I think, was the chairman. Isn't that the one that—

Q: Cook was the chairman. Ackerman was—I'm not sure what Ackerman's position was. In 1949, he's a professor of geography at the University of Chicago and he submits some material to the government, to the—probably to Morris Cook.

A: That's right, and he came back, and he worked on the Bureau of the Budget's response to the commission's report. Anyway, the Truman Water Policy Commission didn't come out foursquare, in unequivocal terms, for sound economics. In other words, the Quaker method resulted in some kind of equivocation in the judgment of some people, and I know I'm probably stepping on Gilbert White's toes when I say that, but it just somehow didn't do what the Bureau of the Budget wanted to do.

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So the Bureau of the Budget hired Ed Ackerman. He was a full-time staff man for the Bureau of the Budget, and a number of panels were set up to critique and develop the action-you remember, the commission didn't make any legislative recommendations. In fact, it was not within their charter to make legislative recommendations. There was a draft of a bill prepared by someone which I don't think was ever introduced. I remember seeing a copy of it printed up as a congressional bill. It may have been printed at the Government Printing Office as a service for one of the members of one of the congressional committees who was interested in implementing the Cook Commission recommendations.

But none of it really satisfied the Bureau of the Budget by giving them the peg that they wanted to hang their hat on to stop all this nonsense of building projects where the economic justification was somewhat specious. And so Ed Ackerman set up all these panels at the Bureau of the Budget following the submission of the report to the President, which I guess was either early in 1951, or late 1950. The President's commission could only operate for one year.

Q: I think it was actually 1950. They operated during the year of 1950.

A: So it came out in '50, and it was probably in 1951 that Ed Ackerman worked with all of these panels. I was on a couple of them representing Interior, trying to develop ways to implement the Cook Commission report. I cannot say how they got from that to Budget Circular A-47, except that a lot of attempts were made by the panels to reach a consensus. I was on the panel dealing with navigation, for example, and I'm sure they had people from the Corps of Engineers on the one dealing with irrigation. They were trying to get down to some agreement but we were all defending the interests of our own agencies.

The Corps representative on this navigation panel was Haywood Faison, a very distinguished looking gentleman. I think he was from the Board of Engineers for Rivers and Harbors. We were working with Ed Ackerman, trying to get some kind of agreement on some principles which would satisfy the Bureau of the Budget and which would give a rational basis for making water project decisions on the basis of sound policies.

Out of all those working groups or panels came report after report after report, and then the whole project seemed to die on the vine and then disappeared until

suddenly Budget Circular A-47 appeared, as you pointed out, in the interregnum between Truman and Eisenhower. I think they got frustrated with all these panels not being able to really agree on anything. For example, on the water transportation panel, Haywood Faison, representing the Corps of Engineers, was not about to agree on a policy that would base navigation project justification on costs of alternatives rather than on rail freight rates. A Corps person just couldn't agree to knock out the economic justification for the Arkansas River Navigation project. Well, maybe he could, but they would have gotten somebody else to represent the Corps the next week.

Well, anyway, the panels didn't get anywhere, and so I think that some staff people, probably people like Floyd Peterson who was the assistant chief of what was called Resources and Civil Works produced the draft of A-47. Maybe it was even before him, possibly Charlie Curran was still there at that time, and he was a staunch critic of agency economic policies.

Whoever was responsible saw that this was their chance to put some rigorous policies in effect, with a new tough Republican administration coming in to enforce them; but with the responsibility placed on the outgoing administration. There wasn't as much emphasis on transition teams as we have now. I don't know whether the name had been invented. We had people doing it, but it wasn't as organized.

Q: And there weren't as many political appointees in the Bureau of the Budget.

A: There were only two or three of them.

Q: Yeah.

A: That's right. Anyway, so I can see the handwork of Floyd Peterson in this, and maybe Charlie Curran, because they were the ones who were the most critical of the Corps of Engineers and the Bureau of Reclamation policies. A-47 establishes very rigorous economic policies for all projects to meet. I don't remember all the details, but there were increases in local cost sharing on recreation and on fish and wildlife conservation and preservation, that would make it very difficult to get projects authorized.

But that's the way things get done. And if it had been Reagan coming in, probably, with the support of the Heritage Foundation, A-47 might well have

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been implemented. But instead, the Congress had hearings which I attended, much later, with Bob Merriam who was the political assistant director of the Bureau of the Budget [BOB]. The hearing was chaired by Senator Kerr and when the discussion of A-47 came up the Eisenhower administration withdrew from it. Bob Merriam said we didn't issue this; it was done before we came into office. Then they heard from some of the old-timers, staff people from the Truman administration, who said, "We didn't see it before it came out. We don't know where it came from." And this led Senator Allen Ellender to launch into a discussion of Louisiana law which defines eight different kinds of bastards, and he said this seems to be a ninth kind.

Q: Amazing. But would you say the general thrust of BOB Circular A-47 would be to exclude some projects from consideration for federal construction that otherwise would have been considered beforehand? Is that stated too strongly?

I'm talking particularly about something like the 50-year standard project amortization period versus the 100-year standard project amortization period as a justification for construction, and so forth and so on.

A: Yes, the economic standards in A-47 are much more rigorous and would exclude some projects, but the big issue in this one was reimbursement-local cost sharing-and if I remember right, A-47 recognizes land enhancement value as a major local benefit which should be reimbursed by local, nonfederal interests.

At that time the Corps was building all those projects down along the bayous in Louisiana and Arkansas, adding them on to MR&T—the Mississippi River and Tributaries project-on which the federal government, in consideration of the fact that the locals had put in so much money before the project was authorized, is paying all the costs, including operation and maintenance, and purchase of lands, easements, and rights-of-way. So, when the Boeuf and Tensas bayous projects were added on to MR&T, with the federal government picking up the tab on all of the costs, even though these were primarily land reclamation projects-clearing swamps and making agricultural crop land-there were tremendous benefits to the local landowners. Requiring local contributions for land enhancement benefits was one of the main thrusts here which would have had a major impact on the Corps. It was not to stop them from doing it, but it was just to get the local contribution for land enhancement, as well as local contribution for recreation and fish and wildlife



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enhancement. You know, it's been so long since I've looked at this that I can't remember all of the details.

I don't think there were so many differences between the definition of benefits in A-47, for example, primary and secondary benefits, and but it pretty well ruled out the use of secondary benefits on the grounds that they would come from any federal expenditure, and so forth.

The big change that I see in A-47 from the Green Book and it's not so much a change from the Green Book but it's a change in policy-is increasing the reimbursement-the local cost sharing. The standards proposed were more rigorous but I'd have to go through in detail to remember them-the standards for recreation benefits, for example, and the repayment of irrigation costs. A-47 made them more rigorous, whereas the Bureau of Reclamation tended to adapt the policies to the project.

For example, when they reviewed a project that was already built and the irrigation district people wouldn't sign a repayment contract because they didn't have repayment ability, the Bureau would reevaluate the project and would renegotiate the contract under the Reclamation Act of '39. If it took the local people several hundred years to pay the project off without interest, the Bureau would renegotiate on that basis. There was one project in Oregon, just west of Pendleton, which was renegotiated on the basis that they'd pay back at 326 years. I think it was a little project that had been built years earlier, and they couldn't get a repayment contract.

So A-47 attempted to eliminate any new projects like that by requiring a more rigorous economic analysis.

Q: Well, the circular, in a sense, does seem to anticipate some of the general philosophical predilections of the Eisenhower administration. I'm talking generally about the idea of what we'd call the cost sharing, the sharing of financial burden, or more of an emphasis on smaller projects than larger ones. So, you know, were they anticipating, do you think, what Republicans might be bringing into town?

A: Yes, there's no doubt that Floyd Peterson and Charlie Curran anticipated that the Republicans would move toward what I would call sound economic policies and you might call them conservative policies. I don't really feel that

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Eisenhower himself was any more, or even as conservative as Truman, for example. But a lot of this is in perception. If Taft had been elected, it would have been more conservative. Taft was an old-line Republican, but Eisenhower was not. In fact, I'm not sure that Eisenhower knew whether he was a Democrat or a Republican until they asked him to run for the presidency.

And there were a lot of liberalization in policy made in the Eisenhower administration. One that I was directly concerned in, for example, was the Corps' single user policy for navigation projects.

### **Resources and Civil Works Division, Bureau of the Budget**

**Q:** Was that after you went over to work at the Bureau of the Budget?

**A:** Yes. I went over to work on the staff of the Resources and Civil Works Division of the Bureau of the Budget in 1954. The division director was Carl Schwartz, and Floyd Peterson was the assistant director for the water and power side. There was another assistant director for the agriculture side, and there was a special projects branch also. My immediate superior was Charlie Warner, and Charlie Warner always called himself an "old mud digger" from the Corps of Engineers Philadelphia District. He grew up in Delaware and worked in the Philadelphia District in the dredging unit. He eventually ended up in the New York Division office and was involved very much in dredging. He knew every inch of the Delaware River and all the other rivers up and down the Delaware and New Jersey coasts. He was brought into the Bureau of the Budget to work on the Corps' budget and he knew where a lot of bodies were buried,

Floyd Peterson was another old Corps hand out of Minneapolis, or somewhere in the Midwest, possibly up where Gene Weber came from. And Pete had come into the Bureau to replace Charlie Curran after he had gone up to the Library of Congress as their first senior specialist in engineering and public works, a job that I had later. Charlie Curran was a very rigorous thinker, a conservative on economic principles, and the A-47 Circular would have probably been a little bit too liberal for him, but he was gone by the time I got there. Ed Ackerman may have had some involvement in the preparation of Circular A-47, but he had left the Bureau of the Budget before I got there. Ed Ackerman was really a brilliant man. I have great respect for him-a real

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facilitator to get things done within the bureaucratic system. I think one reason was that he was willing to use Gilbert White's Quaker method, whereas Floyd Peterson or Charlie Curran wouldn't. No, sir. They would stick to their guns, no matter what. Anyway, I'm just telling you the set up I went into in 1954.

Charlie Warner and Floyd Peterson, between them, had taken on the project of getting rid of a lot of the district engineers' survey boats. The government would confiscate these boats from people running drugs or some other illegal activity. Many of them were fancy 40- and 50-foot cabin cruisers which the Corps claimed as survey boats and which turned out to be used as a kind of a district engineer's yacht when he needed it. A lot of that type of thing was corrected during the Eisenhower administration.

Another thing that happened in the Eisenhower administration was in connection with use of airplanes. The Bureau of Reclamation was one of the first agencies to have its own airplane. It had a Lockheed Lodestar, which was a very nice airplane that Mike Strauss used for travel. I flew out to Phoenix in it to help write the Central Arizona project report in 1947, so it must have been acquired shortly after the end of the war.

And the Eisenhower administration decided to get rid of all that kind of folderol. A government agency having its own airplane! That was unheard of. So they made the Bureau of Reclamation declare it surplus, to reduce government expenditures. But that didn't happen. The chief of the Forest Service decided that he needed a plane, so it was picked up for the Forest Service, which hired the Bureau of Reclamation's pilot.

Q: The Corps had about three planes, I think, at one time.

A: Yes. The Corps, had a DC-3, which was called the chief's plane. I remember flying in it on an inspection trip over the lower Mississippi valley when I was working for the Bureau of the Budget.

Getting back to the way the Bureau of the Budget dealt with the Corps of Engineers' budget. We had people there who knew a lot about the Corps from first-hand experience. I had worked for the Corps in the Baltimore District and the Seattle District and had been the liaison between the Corps and the Bureau of the Budget. I had been eight years with the Bureau of Reclamation here in Washington and had had a lot of familiarity with the Corps' programs. So the

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Bureau of the Budget hired me not to work on the Bureau of Reclamation budget, but to work as an examiner on the Corps' program. And we had Charlie Warner and Floyd Peterson, both of whom had had that experience in Corps offices.

But we didn't leave it at that. Every year, every member of the staff went out to the field for three or four weeks to look at the projects and become familiar with the program. That was the plan, so that we had staff that really knew those programs. I went up and down the Missouri River one year and even crawled up into the scroll cases of the turbines that were under construction at the Garrison Dam. I don't know why, but that was my nature, to see what it was like in there before the water came in.

And I went up and down the Mississippi. I remember seeing some places along the Mississippi levees that seemed just like the old plantation days-Moon Bend on the Mississippi River within a few miles of Memphis, for example. We drove the levees maybe for 50 miles or so south of Memphis.

So the budget examiners really knew the programs very well. At that time, Joe Tofani was the budget officer for the Corps, and we had a very good arms-length relationship. Incidentally, Joe had come to the Corps from the Bureau of Reclamation and so we had a lot in common. I had known Joe off and on since the middle Rio Grande fight when we first met, which would have been 1946 or '47, before the '48 act, anyway.

So we had a lot of respect for each other and we worked well together and the Corps was very responsive because they knew that they couldn't put anything over on us. At that time, I wasn't working on the Bureau of Reclamation program at all, but the Bureau was always fighting us. The Bureau had been fighting all the time because the Bureau of the Budget wanted to eliminate the use of secondary benefits for project justification. They would write really nasty letters back to the Department of the Interior, trying to stop projects like Central Arizona and the Santa Barbara project in California. The Bureau of the Budget, as I recall, rarely ever approved Bureau of Reclamation projects.

Q: You're talking about the Santa Barbara dredging project.

A: No, the Santa Barbara County project. There were two or three aspects of the Santa Barbara County project-the Cachuma Dam and a tunnel through the

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mountains to bring water into Santa Barbara. And they eventually called it the Cachuma project. The Bureau of Reclamation fought that project through in spite of the Bureau of the Budget's objections and made a finding of feasibility on it, because it was one of the really good Bureau projects. It was fully reimbursable, except for the interest, because they were growing avocados and nuts on the agricultural lands. Most of the water was going to be municipal water.

Q: Right.

A: Anyway, what happened most of the time was that the Bureau of Reclamation fought, and if they lost, would take their arguments to the White House and lots of times win over there, even in the Eisenhower administration. The Corps never did that. They never went to the White House to get something reconciled. They always said, "Yes, sir." "Yes, sir." And they agreed to put it in the budget, or the letter or whatever we were arguing about. Of course, then on the Hill, the Corps always got what it-mostly always got what it wanted-through the committees.

**Executive Order 9384**

Q: Let me ask you a question about that. I have to go back and although I don't like to intrude myself in an interview, but I need to repeat some information. As I understand it, beginning in 1940, actually, President Roosevelt directed all federal agencies to send their reports and studies through what was then the Bureau of the Budget—

A: That was under Executive Order 9384.

Q: Right. And the Bureau of the Budget was to submit the comment on that report. What I'm trying to get to is this: throughout this period, beginning with 1940, the federal agencies would submit reports to the Bureau of the Budget, and the Bureau of the Budget would-could do one of three things: have no comment on the report, say that the report was not in accordance with the policy of the administration or words to that effect—

A: They could say it was not in accord with the program of the President.

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Q: -not in accord with the program, or is in accord with the program of the President. But, regardless of what was said, the report went forward to Congress, so far as I know. Now, that's different than it is today. I don't know when it changed.

A: I don't know what's going on today, but I think Executive Order 9384 came out of the work of the NRPB before it was abolished. I'm not sure when it came out, but I don't think it spelled out in detail what the Bureau of the Budget could say. I think what it said was that the Bureau of the Budget's comments had to accompany the report to the Congress. They made simply devastating comments on the Santa Barbara County project of the Bureau of Reclamation. I remember arguing with Charlie Curran about it when I was still with Reclamation. I don't think we won the argument, but it didn't stop the department from sending it up to the Congress and getting the project authorized.

Q: That's right.

A: If they said it was not in accord with the program of the President, it had to go up saying that. Writing those letters was my job in the Bureau of Reclamation; writing the commissioner's report to the secretary, the secretary's report to the President, which got to the Bureau of the Budget and then when the Bureau of the Budget comments came back, sending it up to the House and the Senate with the comments.

### **Milliken-O'Mahoney Amendment to the 1944 Flood Control Act**

Now, the other thing that we haven't discussed yet is that the Milliken-O'Mahoney amendment to the 1944 Flood Control Act-I guess I did mention it-required the Corps to comment on the Bureau's reports, and vice versa. The states also had to be given an opportunity to comment on any project, and all of the comments had to go up to the Congress when a recommendation went up. But you could send them up, no matter what the Bureau of the Budget said, although an agency would probably try to modify a project to get into accord with the President's program, if it could. And that's why we had all this haggling over the Santa Barbara County project, which became the Cachuma project eventually.



We haggled over some other projects, too, and would override the Bureau of the Budget once in a while, by somebody going to the White House. By going over their heads, sometimes you'd get the Bureau of the Budget to change their comments or tone them down or something like that. And this, of course, was a political matter where the secretary would be the only one that could go to the White House, or maybe an assistant secretary, not a staff person like me.

That went on once in a while, but I don't know that there was ever any prevention of a secretary of a department sending a report to Congress as long as he would send the comments.

By the time I got to the Bureau of the Budget in 1954, they had prohibited the Bureau of the Budget from saying something was or was not in accordance with the program of the President, unless it had been taken to the President himself. Now, of course, with Eisenhower, that meant to Sherman Adams, but still, that was pretty close, and Sherman Adams would probably mention it to the President .

The reason that happened was that during the Truman administration, Truman went out somewhere with Senator Clint Anderson and said, "We've got to build this dam and we're going to put it in next year's budget. " And then the Bureau of the Budget wrote that the project wasn't in accord with the program of the President. Clint Anderson just went to Truman and raised hell. This was when Clint was a senator not when he was Secretary of Agriculture. And that's when, I think, the Bureau of the Budget got its instructions. I never saw it in writing, but it was understood we could not say something was or was not in accordance with the program of the President unless he had definitely approved it.

Let me mention one time when the Eisenhower administration liberalized the Corps' policy. The Corps, as far back as the beginning of the century, had what they called a "single user" policy for navigation projects. If you were going to build a project which was going to be used by just one user-for example, dredging a 50-foot channel, up to Baltimore-and if the only shipping that needed a 50-foot channel, deeper than a 40-foot channel, was the Bethlehem Steel Company, the Bethlehem Steel Company should be taxed by a local port agency to pay half of the cost of deepening the channel from 40 to 50 feet.

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That was a long-standing Corps' policy. Another Corps' policy was that if you were dredging a new channel into a new area such as Portland Harbor in Oregon where they had to dredge the Willamette River to allow ships to get up to Portland, or the Houston ship channel, which was built to bring shipping up into Houston where there was no existing channel, the policy was that local districts or authorities, "local interests" is what the Corps calls them, had to pay half of the costs. The Corps couldn't take money directly from an industry. It would always have to be through some kind of a political body which was authorized to do it. The local interests paid half of the costs for the initial deepening of the Portland Harbor and also for the Houston ship channel when they first started. I'm sure they did it on a lot of others.

So when General Lewis Pick sent up the report recommending deepening of the Delaware River up to the Fairless Works of U.S. Steel near Trenton, but on the Pennsylvania side, he recommended that local interests pay half of the added costs of dredging a 45-foot channel above Philadelphia because the ore carriers were the only ships that needed more than 40-foot depth. I don't remember whether it was 50 feet or 45 feet that was recommended.

But anyway, because you needed that extra 5 feet of draft, the single user, in this case the U.S. Steel Company, under the long-standing Corps' policy would have to pay half. This, of course, would have to be done through the Delaware River Port Authority, which would somehow arrange a way to tax U.S. Steel. And that was the policy when the report came up in the Truman administration.

The report may have been cleared by the Bureau of the Budget during the Truman administration, or it may have still been in the Bureau of the Budget. All of these reports, would pile up while we were working on the budget in the fall and didn't have time to review reports. I usually had a stack of reports on the table in my office, because I was responsible for reviewing them for the Bureau and writing comments back to the Corps. And the stack built up right before the omnibus bill.

When the Eisenhower administration came into office in 1953 all of the project reports, including the upper Delaware, were sent back for review, and my recollection is that the Corps reiterated the recommendation for local cost sharing under the single user policy. I don't remember exactly the timing of this but it must have been in 1954.

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Ben Fair-less was the chairman or maybe by that time the ex-chairman of U.S. Steel and was a member of the Hoover Commission and I'm sure he was a staunch Republican. One day we got word from the White House, down through the staff, that we should relax the single user policy for the Upper Delaware project. One of my very astute staff members brought me a newspaper clipping the next day showing that Ben Fairless had been a dinner guest at the White House the night before we got that directive.

So, the feeling was that he was the one that had influenced the President. We took this as a definite order from the President to the Bureau of the Budget to the Corps of Engineers. So when the Upper Delaware project was cleared by the Eisenhower administration, they put some language in the Chief of Engineers' report to the effect that, even though the only use of the project at the present time is for the steel works, eventually it will attract other traffic and will be used by other shipping, and therefore it should be carried out fully at government expense.

The staff argued against it on the grounds that it didn't make sense, because U.S. Steel was paying for dredging the Orinoco River for bringing the ore out of Venezuela. They were actually going down there and dredging the Orinoco River, but they wouldn't dredge their own.

Dredging the upper Delaware River was expensive, because it was digging into rock to get that extra 5 feet, so it was a very substantial amount. I don't remember how much, but it was tens of millions of dollars that local people would have had to put up.

This is just one example of how the Eisenhower administration was willing to liberalize their philosophy when it was necessary to bend it to achieve some political end. I like to think that Taft wouldn't have done that if he had been the Republicans' choice for President, but—

**Q:** Well, Eisenhower did organize his own water commission, as I recall.

**A:** Well, it wasn't a commission. We called it PACKRAT, the Presidential Advisory Committee on Water Resources, or something like that. It consisted of three secretaries, the secretary, I think, of Defense not of Army, Interior, and Agriculture. We called it PACKRAT because it took on such a broad mission and tried to cover all the bases. I was not directly involved because by

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the time it was created I was at the Library of Congress, but I recall that their report recommended establishment of the Inter-Agency Committee on Water Resources. So then we were able to say they accomplished something. They changed the FIREBRICK to ICEWATER.

Q: Didn't amount to anything, so far as—

A: No, it wasn't that much of a change. Gene Weber had quite a hand in that committee as I recall, and it eventually led to the production of Senate Document 97, but by that time I was up at the Library of Congress.

### **Chiefs of Engineers and Water Resources**

Q: Ted, I would like you to talk some more about your work within the Bureau of the Budget. The period is the mid-1950s. I want to explore that a little bit more with you, particularly the relations between the Bureau of the Budget and specifically between yourself and various people in water resources at this time.

Let's start with the Corps of Engineers. At this time General Sam Sturgis was Chief of Engineers. Can you give me a little thumbnail sketch, perhaps, of General Sturgis, what you might remember about him and his concerns about water resources?

A: Yes. I recall that Sam Sturgis followed Lewis Pick as Chief of Engineers, and I guess all I can say is we had very cordial relationships but not too many direct relationships with the Chief of Engineers. We dealt primarily with the chief of Civil Works and also the staff, and particularly Joe Tofani, who had succeeded Ken Bousquet as the person who was primarily responsible for the budget. We had very good relationships with Joe Tofani and with members of his staff. I knew them all very well, because I had been meeting quite a bit with the Corps' staff when I was in the Bureau of Reclamation. And so I don't have much recollection about Sam Sturgis.

Then, General Emerson Itschner succeeded him, and I was much closer to General Itschner, because-you remember, I was there in the Eisenhower administration, which was purported to be and had the perception of being a conservative administration-we didn't feel that Sturgis was really on our side.

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Q: What does that mean?

A: By that, I mean that he was still the old Corps of Engineers which looked on itself as being engineer consultants to the Congress, and the Bureau of the Budget was looked on as a kind of a Johnny-come-lately on water resources. You realize that the Bureau of the Budget wasn't a part of the Executive Office of the President until 1939.

Somehow, General Sturgis was a much more remote figure. When General Itschner became chief, he seemed to be with us 100 percent and he was a very methodical person. When we said something, he immediately took steps to wholeheartedly put it into effect. He was methodical. Joe Tofani used to say how he read every letter that went out of the Civil Works Division. General Itschner was chief of Civil Works when we first started dealing with him and had the feeling that he really understood the position of the Bureau of the Budget much better than Sam Sturgis had.

Q: Well, let me ask you this, though. Sturgis can't defend himself, so let me see if I can try to defend him a little bit. I'm thinking about some of the material I've seen in Sturgis's files, which are voluminous, which we have in our archives.

There's an awful lot there, of course, in response to concerns that the Corps of Engineers might lose the civil works functions. You have the second Hoover Commission which, in the end, does not recommend that, but still and all, there is this concern and also perceptions that the Bureau of the Budget is trying to exert more control over the Corps' program than perhaps had been the case before.

So in other words if, in fact, Sturgis was a bit paranoid about what might be coming around the bend, particularly from other parts of the executive branch, was there some justification for it?

A: Yes, I guess there was, and I'm sure I would have felt the same way, if I had been the head of an agency in which I had a lot of pride. I hate to use the word, but the Corps is a little bureaucracy, and it has enjoyed a very close relationship with the Congress. In fact, the first few reorganization acts specifically eliminated from consideration any change in the civil functions of

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the Corps of Engineers. That was in the reorganization act that was passed during World War II, I remember.

So when the Hoover Commission task force recommended a consolidation of the water resources agencies, even though it was later rejected by the full commission, Sturgis certainly had reason to be concerned. I'm merely talking about my perceptions as a staff man. And remember, at that point, I was merely the staff member on the Corps of Engineers' program, and it was a year or two later that I was promoted to be the staff person for all the **water** resources programs.

Q: Who were you reporting to at that point?

A: Well, I was still reporting, at that point, to Floyd Peterson. Then Floyd Peterson moved up to be General [John] Bragdon's staff person-

Q: Into the White House itself.

A: -as public works coordinator to the President.

Q: What was Floyd Peterson's position before he went into that position?

A: He was assistant chief of the Resources and Civil Works Division under Carl Schwartz, who was chief.

When Pete left to go upstairs, Charlie Warner-he's the old Corps hand from the Philadelphia District-moved into the position. At that time I was moved into a position where I was responsible for all the water programs, and someone else had all of the power programs in the Resources and Civil Works Division. We kind of split the TVA in a way, which was difficult. I had the Panama Canal and the Canal Zone government, and eventually the Saint Lawrence Seaway Development Corporation, as well as the Bureau of Reclamation, even though, of course, it and the Corps had power programs. But the power marketing agencies were in the power unit, and we all worked well together.

Anyway, relationships with the Corps always were good. I think I mentioned yesterday that we had the feeling that we always got what we wanted from the Corps, but then we didn't always get it through the Congress. I'm sure that



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congressional staff members of the committees got help from the Corps' staff to get the Corps' program through, even if it was in opposition to the Bureau of the Budget's view.

One of the Corps' generals that I remember very vividly was Jack Person, who was director of Civil Works. He had come in, or maybe he went out to, the Ohio River Division. I always associate him with the Ohio River somehow. He had a very strong personality. One of the irreverent things I remember about him is when he would come in for a hearing, he always made a beautiful presentation because he had been educated in what we called Joe Tofani's "college." Then we would go to lunch with Jack and Jack would indulge himself in two double Martinis before lunch and Joe and I would kind of weakly follow on with singles. When we went back to the hearing Jack was right on the ball, the true Army general, and continued the presentation, and you never could see any trace of any influence of imbibing.

Some people could drink like that. My brother is one who could. He just could really hold his liquor and you never could tell he'd had a drink. He gave me my first drink of straight whiskey when I was about 15 years old. It made me feel so good that I didn't want to have a chaser.

So I had very good recollections of Jack Person and I was awfully sorry he had a heart attack. He had to kind of change his lifestyle somewhat, but he was a wonderful person, and we got along well. But my primary recollection, though, was with Joe Tofani who really held the whole budget of the Corps together and we knew we could count on him.

Now, with the Bureau of Reclamation we had a number of people whom we dealt with, and we were always fighting with them. Always arguing with them.

**Q:** Why is that?

**A:** Largely because the Bureau of Reclamation was primarily oriented toward irrigation at that time. They looked on power only as a source of revenue to subsidize irrigation. And at the same time in another part of the government, we were financing programs to restrict production and still the country was producing vast surpluses of crops. The Bureau of Reclamation refused to face up to the fact that this was a dichotomy in the federal programs. It was a bureaucratic agency fighting for its life. And the clash between the Bureau and

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Corps was part of this fight-the Bureau did not have the political backing that the Corps had because of its limited focus in the West, and so it fought the Corps tooth and nail over projects like Chief Joseph and Lucky Peak and Hells Canyon.

The Bureau and the Corps eventually got together on the Columbia River basin and the Corps conceded Hells Canyon to the Bureau, but I think that may have been because the Corps knew that the project wasn't going to be built because of the public power ramifications of Hells Canyon, which eventually killed the high dam.

Q: Of course, the Corps also built more dams in California, though, beyond Pine Flat.

A: Yes, so they did. In California, starting with Pine Flat, the battle between the two agencies was intensified. Of course, the Californians egged them on, because the more federal money they can get in there, the less state money they'd have to put up to meet water demands. Eventually the state did have to come through with its bond issue and build the California water project.

But the Californians knew what they were doing, and I have great respect for the political abilities of people like Harvey Banks the way they played the Bureau against the Corps. They knew what they were doing, and they pretty much got as much as they could out of the federal government. Then when it became too hard to get enough federal money, they went on their own-it was originally their project, of course. But it has been costly, particularly when the Bureau of Reclamation tied up all that water for 50 years at a price of \$3.50 an acre foot, and then fought to keep that low rate as new units were brought into the project.

### **Saint Lawrence Seaway Authority**

Q: Ted, there are at least two or three major issues, water issues, in the Eisenhower administration that I would like to get into in some detail. You mentioned one of them already, the Saint Lawrence Seaway. It seems to me you were in a kind of interesting position in the Bureau of the Budget, vis-a-vis the Saint Lawrence Seaway. You were the contact for both the Saint Lawrence Seaway Development Corporation and the Corps of Engineers.

You must have been aware of the rivalry between those two organizations, that is, you know, the Corps at one time was hoping, and made its hopes known, that it would operate and maintain the seaway once the construction was finished, and evidently, according to what I've read, there was not a heck of a lot of love lost between a person like Sturgis, for instance, and the head of the Saint Lawrence Seaway Corporation at that time.

Can you shed any light on that?

A: Yes, but first let me say that even though this was the Eisenhower administration, I don't think it was so much Eisenhower that originated policy as the business interests that controlled the Republican Party. To me, Eisenhower was what I would call a warmed-over Democrat. I don't know whether he was a Republican or Democrat until they offered him a nomination from the Republican side. But he was what the Republican Party needed after 20 years of the Democratic Party's hold on the presidency. He was electable, which Taft may not have been in 1952.

So the partnership philosophy of getting projects and programs financed by nonfederal money was developed as a means of reducing the size of the federal government. The seaway was one of the partnership projects-the power phases of it were done by the New York State Power Authority and the Saint Lawrence Seaway Development Corporation was created as an independent government corporation to handle the navigation project. You remember, the Saint Lawrence Seaway has been discussed back as far as the Harding or the Coolidge or the Hoover administrations and maybe for a lot longer than that. I think the Bureau of the Budget had the feeling that they could get a better partnership arrangement there if we had a government corporation to do the navigation with the New York State Power Authority doing the power.

Up until that time, when the Corps built projects like John Day, which was in the mill then, and The Dalles project, the Corps did the power and the navigation and there hadn't been any thought of separating responsibility for the two functions. But then the Eisenhower administration decided that the next dam on the Columbia should be a partnership, and so Priest Rapids was to be done that way. We called it a partnership, but really the project was turned over to the public utility district. But I don't think there are any navigation locks.

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Anyway, in the Eisenhower administration, Joe Dodge was the first director of the Bureau of the Budget and then Roland Hughes succeeded him. They were bankers, and they liked the idea of government corporations, and so the Bureau of the Budget never really considered that the Corps should have any role in the Saint Lawrence Seaway project, which was of an international nature, and we had to have relationships with the Canadians and the Canadian Seaway Authority.

So I guess if the Corps thought it was going to run the seaway, it was whistling Dixie, as they say, because, from my recollection, there was never any real consideration of the Corps on that.

Q: So the Corps did construct the seaway? I mean—

A: Well, the Saint Lawrence Seaway Development Corporation had a chief engineer, who was Ellis Armstrong, and he managed that project, not the corps.

I suppose I was maybe a Johnny-come-lately on the Saint Lawrence Seaway because originally the responsibility for the Saint Lawrence Seaway was being handled by the staff of the Commerce and Housing Division of the Bureau of the Budget. We had our own little bureaucratic struggles within the Bureau of the Budget, and I felt, of course, that the responsibility should be in Resources and Civil Works.

We already had responsibility for the TVA, which was a government corporation, and so when the decision was made to make the seaway into a government corporation, we fought to get it. We finally got it. I think the basic decisions had already been made, but Resources and Civil Works handled the budget each year. Reese Harrell, who was an expert on government corporations, with the GAO [General Accounting Office], became the controller of the seaway authority, and he was the one that we dealt with on the appropriations, and on setting the tolls, and all that.

But I never, never-I guess I'd have to go back and look at the record to see how the Corps fitted into that picture. But let me say that if there was any problem between the Corps of Engineers and the authority, it was nothing compared to the fight with the Coast Guard over the aids to navigation. This was a tempest in a teapot that went on for some time. We had a meeting with

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the admiral who was in charge of the Coast Guard. He felt that the Saint Lawrence Seaway was trying to usurp the control of navigation there, and he said, "Why, if you let them put up these navigation markers in the seaway, they're going to want to move on up into the Great Lakes which are international waters." And he went on to say, "We'll have two systems of navigation in this country."

The Coast Guard, of course, puts up the buoys and the markers in all of the harbors that the Corps of Engineers improves, and I really got a kick out of that bureaucratic fight because it was such a small amount, amounting to maybe a million dollars. But the Coast Guard saw it as a real threat to its authority over the navigable waters of the United States.

**McClellan-Kerr Waterway**

Q: Interesting. Let me turn our attention to another issue, and this is going to introduce one of the most interesting personalities of the era, Senator Bob Kerr of Oklahoma. The issue that I wanted to first mention, though, or get your response to, was the development of what came to be called the McClellan-Kerr Waterway in Arkansas. Let me, just by way of getting your comments, mention to you an observation that's been made to me, and I've never been able to really document it, and that is that I guess it was in 1956 when the Interstate Highway Act was being considered, that the agreement was made that Senator Kerr would support the Interstate Highway Act in return for some support from some highway supporters for the construction of what came to be called the McClellan-Kerr Waterway.

Do you know anything about that? Could you give us some background?

A: No, I was not aware of anything like that, but I'm not surprised. I don't remember in which act the Arkansas River Waterway was authorized. Do you remember which year that was authorized?

Q: I think that goes back to the late '40s, actually.

A: Yes, it was an authorized project when I was in the Bureau of the Budget.

Q: '48, something like that.

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A: That's what I remember and so each year the Corps came in and asked for money and each year the Bureau of the Budget turned them down. And I shouldn't say "each year," because I was only there for four years, but we did turn them down. Then the Congress finally put in \$1 million to start the project, and the Corps started by buying some land and building an access road, or something like that, the way they would do, and started the design.

When that came up in the budget for the second year of construction in the budget, and the Corps was asking for \$5 million, the way the construction progression goes: \$1 million, \$5 million, \$10 million, \$100 million. This became a policy issue. Should we continue this project? We didn't think it was economically sound, I should say the staff didn't think it was economically sound, and it had been started in opposition to the Eisenhower no new start policy. It was felt that the only way you could hold this program within the budget was to eliminate any new starts. The total Corps program at that time was about \$450 to \$500 million, but the Corps program plus the Bureau program and the SCS program amounted to maybe 2 percent of the budget, which is a lot bigger share of the budget than it is now. That was before the social security trust fund was incorporated into the budget.

So a policy decision was made on the second year of construction on the Arkansas Waterway. We just zero budgeted it, and, of course, that was in the budget that went up to the Congress. I think the Congress put it back in, and the Corps continued the work.

And then I recall that in the third year there was a big meeting in the White House at which I wasn't present but Senator Kerr came in-probably with Senator John McClellan and a lot of power from the Hill, plus a lot of local people-and they met with the President himself. I'm not sure whether Sherman Adams had been released at that time or not. You remember the Vicuna Coat scandal?

Q: Yes.

A: Anyway, after the White House meeting, we got the word that from then on we were going to fund the project. I don't know about this deal with the highway interests that you speak of. I've told you all that I can remember about my involvement with the Arkansas Waterway which was that we recommended against it as long as we could.



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### **Rivers and Harbors and Flood Control Act of 1958**

Now, at about that same time, there was another really major issue that came up to me and that was the omnibus bill that eventually became the Rivers and Harbors and Flood Control Act of 1958. There hadn't been a rivers and harbors bill for a few years, and the traditional two-year cycle had been broken, but in 1957 the Congress passed a bill, and because it was the first bill for several years, they put a lot of projects in it on which they didn't have completed reports. They also had a number of projects in the lower Mississippi valley which they were going to add to the MR&T project, which meant that the federal government would pay all the operation and maintenance costs.

And these projects-I think it was Boeuf and Tensas bayous, probably in Louisiana or Arkansas, and several other projects really were land reclamation projects. We were still operating under the provisions of A-47, or, you might say, trying to operate under these provisions, even though there was little political support for them. So the staff still would object if an agency didn't follow those provisions which called for local cost sharing for land enhancement projects.

And so, when this enrolled bill came to the White House for signature, proposing authorization of what seemed like a very large amount of money, it was carefully reviewed. There were lots of projects without reports, or with district engineer reports only, and no Board of Engineers report or no division report, and definitely no Chief of Engineers report. And then there were a number of them where they had a Chief of Engineers report and the report was still sitting on my desk for comments as to the Bureau of the Budget's position. I was able to get most of those out, but still, there were a lot of them that didn't have a House document number-hadn't been published.

It was obvious that enactment of this bill would be breaking the President's budget policy. At the same time, the bill for the Soil Conservation Service, which really got the Soil Conservation Service into small flood control projects with both feet by liberalizing the cost sharing, was under consideration.

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### **Modification of Public Law 566, The Hope-Aiken Act**

Q: So you're talking about the modification of Public Law 566, the Hope-Aiken Act.

A: I'm talking about the amendment which eliminated the cost sharing on flood control.

Q: Yes, that's what I was asking about.

A: The Hope-Aiken Act, Public Law 566, had cost sharing, and in 1957, they were considering removing that cost sharing on small reservoirs. At the same time, the Bureau of Reclamation was trying to get its Small Reclamations Project Act through, and those three bills moved down through the congressional committees and came up to us as enrolled bills for advice as to whether the President should sign them or veto them. Our staff took a position against all three of those bills, because of our feeling that they were all liberalizing federal policy and would result in increasing demands on the federal budget, even though on the small reclamations project bill there was going to be repayment, it would be without interest.

So our staff recommended that all three of these bills be vetoed. Of course, the Bureau of the Budget also asked all of the agencies for comments on all three enrolled bills. I didn't handle this directly, but our Office of Legislative Reference, as it was then called, handled that routinely. That office was headed by Roger Jones, and he gave us an opportunity to review all of the comments before he made the Bureau of the Budget's recommendation to the President.

Well, interestingly enough, the Bureau of Reclamation recommended that both the SCS's bill and the Corps' bill be vetoed, and each agency did the same: recommended that the other two be vetoed. One of the things I remember particularly was that the Corps, in its comments on the SCS's bill said, "This act would take away the one significant indicator of the value of a flood control project: the willingness of the beneficiaries to pay a share of the costs."

Well, I took great delight in using those very words in drafting the President's veto message on the Corps of Engineers' act. I think those words must have been written by either Gene Weber or Howard Cook.

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But anyway, the omnibus bill was vetoed on the grounds that they didn't include reimbursement for land enhancement in the flood control projects, which really hit those Louisiana and Arkansas projects hard, and they had all these projects that they didn't have complete reports on.

Do you remember the book that Elmer Peterson wrote—

Q: *Big Dam Foolishness*.

A: *Yes. Big Dam Foolishness*. Well, Elmer Peterson went in to see the President about that time and gave him a copy of the book. The President was very much impressed by the book so the President vetoed the Corps' bill, and he vetoed the Bureau of Reclamation's bill, but he signed the Soil Conservation's flood control bill and it became law in 1957. Neither of the vetoes was overridden.

The next year the Corps' bill, with some modifications was passed again, in 1958. Many of the reports had been finished. I had cleared my desk and got all the comments on the reports out, and so a lot of the objections because of the lack of completed reports were eliminated. But there were still some they didn't have reports on, and they were left out of the new bill. But no change had been made in land enhancement. So the President vetoed the bill again. I don't have as vivid a recollection of that, but we felt that we were breaking some new ground, vetoing a Corps of Engineers' authorization bill for the second time.

Everybody said, "It's never been done before." As a matter of fact, it had been done, and it was done many times in the 19th century. There's one thing that people forget, that until the Republican Party was formed in 1856 and succeeded in electing a President in 1860, Abraham Lincoln, the President had rarely ever agreed with the Corps, had vetoed most of the rivers and harbors bills, and they were passed over his veto. It wasn't until the liberalization of the federal programs by the Republican Party that Presidents agreed that undertaking internal improvements was an acceptable function for the federal government .

Most people don't know that. I'm indebted on that, I might say, to some research that Henry Caulfield did when he was at Resources for the Future. I opened my eyes to the origin of the Republican Party, and I did some research on the history of federal participation in public works later on when I was up at the Library of Congress.

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But it's an interesting facet of our political history that the Republican Party really was the liberal party. My family, I'm sure, were all Republicans. I was named "Theodore" because my mother and father had such a great respect for Theodore Roosevelt.

Now we've had a complete changing of the political spectrum, starting with Taft when he changed the nature of the Republican Party and when Teddy Roosevelt with his Bull Moose campaign was defeated.

**Q:** Let me continue on that for a second, because actually, while on the one hand, of course, the Eisenhower administration was trying to exert some control over the enormous costs of water resources projects, on the other hand there was some legislation passed in the 1950s that, in some senses, expanded the federal role in water resources. I'm talking specifically about legislation involving coastal engineering projects and also legislation involving water supply, the 1958 Water Supply Act.

I wonder if you might give us a little bit of background on either one or both of those acts? I'm particularly interested, frankly, in the Water Supply Act, because that seems to be something that is of some interest to us today. Did you get involved in any of the—

**A:** The Water Supply Act of '58 was Title III of this bill that I was talking about that was vetoed, and that was one of the reasons that we vetoed it twice. That was one of the objections, because it opened up a whole new area. The Bureau of the Budget, at least, was dead against it, and the President supported us.

Now, I have to say that, on the third try, they took out more projects and the recommendation on cost sharing for changed land enhancement. The President eventually signed the bill, but that was after I had left the Bureau of the Budget. But Title III stayed in the bill and became law.

### **Legislative Reference Service, Library of Congress**

I think I ought to tell you how it came about that I left the Bureau of the Budget to accept the position of senior specialist in Engineering and Public Works at the Legislative Reference Service at the Library of Congress. The reason I got that job was they had interviewed Howard Cook, and also Eugene