Dear Riley:

The evening before your letter came I had occasion to re-read your master's thesis on ecosystems in our national parks. My impression in so doing was that the Park Service could ill afford to let you go.

That isn't the way the government operates. It isn't the Park Service, simply, it's the whole structure. Len Volz as regional director was elected to sign the letter to you. He was present at Moab, Utah, when I participated in a forum on the future of the national parks and dedicated my remarks to the Professional Rangers Organization and to you in particular. I doubt that he got anything out of it. He may have been hearing, but he wasn't listening. He's like thousands of others working for the Atomic Energy Commission, the Forest Service, the military, the Department of State, Food and Drug, Federal Trade, Bureau of Reclamation, and so forth. They are programmed people, responding by mechanical, organizational instinct, rather than by human instinct. Because you refused to be programmed and insisted on placing service to the public above loyalty to the self-serving bureaucratic organization you became a threatening force and had to be dealt with in the most severe manner.

Before your letter came, I had already been advised by Jerry Verklar of your "separation." He sent me copy of a letter from the Park Service advising of your dismissal and the anticipation of legal action. Should you and Don Marble decide to follow through, I feel sure that a court of law ultimately must rule in your favor. After all, every step so far has involved one branch of Interior supporting the decision of another.

The end of your NPS career, however, isn't the end of the world. When one door closes, another opens. I have been fired in my time, and not only by American Forests, and have somehow survived and even prospered. The same will be true of you, I am sure. I understand you may go down to Missoula for your doctorate. It will be a very stimulating environment around the University. In due course you'll make bigger contributions to the national parks.

Stay in touch, Riley. I need not urge that you keep the faith — I know you will.

Sincerely,

[Signature]

August 11, 1973

1-49. **Top:** One-room basement cabin that became our home on 4 August 1973.

1-50. **Bottom:** The bedroom tent for Mary Teresa and Jane.
10 September: We moved into our recently purchased house in Missoula. Pat previously had enrolled the kids in school—Russell Grade School and Sentinel High School, both walking distances from the house.

15 September: The septic tank at our Missoula house failed. We spent the next three or four days walking to a restroom in a Forest Service office, a block away, while our house was connected to the city sewer line. On this same date I enrolled as a PhD student at UM for fall quarter. Received a Teaching Assistantship, with Dr. Bob Lange (Dendrology lab).

17 September: I signed a contingency agreement with attorney Don Marble for his upcoming representation of me in an appeal to the CSC. His contingency fee (contingent upon our winning the case and receiving back pay) was 33 1/3%.

27 September: Pat and I attended a hearing conducted by the Appeal Tribunal, Employment Security Division, Montana Department of Labor and Industry, in Missoula, Montana. I was appealing a decision made by a Deputy of the Employment Security Division (in Kalispell) on 29 August. The Deputy had ruled that I was ineligible for unemployment compensation.

2 October: The Appeal Tribunal overturned the Deputy’s decision that I was totally eligible for unemployment compensation. The Tribunal ruled that I would be eligible retroactively, beginning on 8 September 1973: thus, I would still lose five weeks compensation. This was a much better outcome than the previous decision of the Deputy, but we decided to appeal the exclusion of the five weeks. This appeal went to the Montana Board of Labor Appeals, to be decided in March 1974.

24 October: Attorney Don Marble filed a request for witnesses with Elbert F. Floyd, CSC Appeals Examiner. Mr. Floyd set the date for a public hearing as 19 December 1973, in Helena, Montana.

November 1973: I was enrolled in a course entitled Natural Resource Law, at UM. The course was taught by William Cunningham. To fulfill a class assignment of preparing a professional paper based on published federal court cases, I wrote "The National Park Service and Abdication of Conscience" (36 pages).

26 December: After a physical examination by Dr. William Reynolds Internal Medicine, Western Montana Clinic, Missoula MT, the previous week, I received a letter from Dr. Reynolds which read in part:

"In evaluating the findings it would be my opinion that Mr. McClelland has a rather severe hay fever related to grass, weed, and particularly ragweed pollen in the past. His symptoms were rather severe in the two areas where the concentration of these pollens was fairly high and he has had complete relief living in an area [GNP] where there is no ragweed and the concentrations of other weed and grass pollens is greatly reduced. I am very suspicious that Mr. McClelland does have a strong likelihood of developing asthma if he is re-exposed to heavy concentrations of pollens [Omaha]. Avoidance of the pollen is, of course, the best method of controlling this problem." "Attempted desensitization to pollens has been made [in 1964], but because of severe local reaction and the development of wheezing with the shots, the desensitization was discontinued."

Previously (on 2 October), I had received a letter from Charles M. Dus, Chief, Analytical Laboratories, Omaha-Douglas County [Nebraska] Health Department, responding to my inquiry about potential hay fever problems in the Omaha area. The Health Department letter read, in part:

"It is my firm belief that a person with a serious hay fever problem would experience a great deal of discomfort in this community. This belief is supported by evidence such as that enclosed and by medical records of individuals who reside in Omaha and have hay fever."

As Acting Regional Director Contor had told me back in March 1972, the NPS pays no attention to health issues of employees designated for transfer. Thus, the health issue was moot.
November 13, 1973

Mr. B. Riley McClelland
Box 366
West Glacier, Montana 59936

Dear Riley:

Thanks for your letter of November 10. I am happy to hear that your hearing has been scheduled although I am really at a loss at the delay. The dates fall at a bad time for me since the dates for negotiations at Glacier have been changed to January 7 and 8.

I sincerely hope that Marble, through Beck or other witnesses, can jump on Briggle's transfer of Campbell to Glacier and from Glacier as a demonstration that "for the good of the service" is a highly flexible criteria [sic]. If there have been promotions in the Omaha Office of any Environmental Impact Specialist from GS-11 to GS-12, they should be documented. The fact that lower graded positions in Glacier were available in lieu of removal should also be emphasized in terms of cost to the government for your removal and subsequent loss of your services. Your hearing examiner (Administrative Law Judge) from the Civil Service Commission will come out of Denver. Mort Davis, National Vice President of AFGE, will be in Washington, D.C., prior to your hearing and will contact Lud Andolsek, Commissioner of the CSC, to carefully check the whole situation re Briggle and your case (I have provided him with a brief).

I am sure that your attorney will cover the obvious re Walker's stipulation of your status, the treatment you received subsequent to filing the grievance (harassment, etc.) both before and after the various decisions, Hartzog's remarks to you concerning his policy not to transfer against employee's desires as well as all the various nonsensical happenings (meetings) prior to the formal grievance hearing. Any changes in the agencies merit promotion and transfer policies subsequent to the decision in your grievance could be material as well. I would really like to be there but conditions will not allow. My best to Pat and the children. My thoughts, prayers and hopes will be with you.

Sincerely and fraternally,

Bob Nogler
Natl. Representative

4 December: I received a handwritten note (D-69) from Edward Abbey (author of “Desert Solitaire,” “The Monkey Wrench Gang,” and other good works):

[Image of handwritten note]


17 December: We were notified that the CSC hearing, previously scheduled for 19 December 1973, in Helena, was being postponed. The postponement resulted from Regional Director Leonard Volz having been hospitalized after suffering a heart attack. With only two days notice, I frantically had to contact all (about 12) of the witnesses that had been scheduled to appear for us at the hearing. One (Robertson) was already on the bus from Utah. I caught Ken Beck (in Washington, D.C.), the night before his departure.

15 January 1974: Don Marble learned that Regional Director Volz would be unable to attend an appeal hearing for at least 4 months, due to his continuing heart problems. C.S.C. Appeals Examiner Floyd advised that he was continuing an indefinite suspension of my appeal.

16 February: William J. Briggle was transferred from Superintendent GNP to Superintendent Lake Mead National Recreation Area.

17 February: Phillip Iversen became superintendent of GNP.

The State of Montana Board of Labor Appeals, Montana State Department of Labor and Industry, held a hearing on our appeal to reinstate five weeks of unemployment compensation previously denied by the Appeal Tribunal. Because of UM obligations, I was unable to attend the hearing, but they allowed Pat to represent us.

12 March: We were informed that the Board reversed the Tribunal decision. The Board of Labor Appeals stated in part:

“The testimony establishes by substantial evidence that he [appellant] was trained in a specific field and given an assignment [in Glacier] at the request of the Service on a long term basis. Thereafter he was subjected to relocation [ordered to Omaha] which would not utilize the training given to him by the Federal Government and, in addition, would put him in a position which would be seriously detrimental to his health and the future circumstances of his family. Further, Federal Law, 5 U.S.C. 8506 (a) is contrary and in violation of the Constitution, of the State of Montana and the Constitution of the U.S. This [federal law] is in direct controverson of the separation of powers between
federal and state government . . .. Such a position by the Park Service in effect deprives the claimant of any hearing upon the facts before this tribunal, depriving the claimant of due process of law and depriving us of our jurisdiction.”

Therefore, we were granted back pay for the five weeks previously denied.

5 April: We learned that C.S.C. Appeals Examiner Elbert Floyd had scheduled our Appeal Hearing for 14 May 1974, in Helena. Floyd authorized three current government employees as witnesses for our case: Jerry DeSanto, Art Sedlack, and Edwin Rothfuss (who would probably be a hostile witness). Floyd rejected our request for Lyle McDowell, Marvin Stump, and Richard Robertson as witnesses.

17 April: As a result of a court decision not related to our case, the NPS was obligated to pay me severance pay. This amounted to $7,400 minus $1,628 withheld for taxes. This was extremely important to us at the time, since we had only a paltry income from my teaching assistantship and Pat’s substitute teaching.

25 April: Government Attorney Richard Robbins advised Appeal Examiner Floyd the Regional Director Volz would be unable to travel to Helena or to testify in any manner because of his heart problem.

14–15 May: The C.S.C. Hearing was held as scheduled in Helena. Among the witnesses on my behalf was Ranger Jerry DeSanto. Jerry testified that he considered Superintendent Briggle: “a vindictive man who would abolish a man’s position just because he didn’t like him” (Missoulian 16 May 1974). Our attorney, Don Marble asked that the Mangers-Rumberg Report (the February 1973 investigation of Briggle’s management at GNP) be produced for the hearing record. Government Attorney Richard Robbins objected, stating that the report was confidential and that the report had nothing to do with my dismissal (this was of course completely untrue). Hearing Examiner Floyd said that he had no power to subpoena the Report.

29 July 1974: Elbert F. Floyd, Chief Appeals Officer, U.S. CSC, Denver Field Office, issued his findings and recommendations report (D-70):

PART VI. CONCLUSIONS AND RECOMMENDATIONS

Based on a full and careful review of all available evidence it is concluded that Mr. J. Leonard Volz, Director, Midwest Region, National Park Service, Department of the Interior was unreasonable, unfair, arbitrary and capricious in his decision to remove Mr. B. Riley McClelland from the position of Park Ranger (Environmental Impact Specialist), GS-0825-11, for Mr. McClelland’s failure to accept a reassignment and change of duty station from Glacier National Park, Montana, to the Midwest Regional Office in Omaha, Nebraska. Therefore it is recommended that the Standard form 50, Notification of Personnel Action effective July 27, 1973 removing Mr. McClelland be cancelled and that Mr. McClelland be restored effective July 28, 1973.

PART VII. NOTIFICATION OF THE RIGHT OF FURTHER APPEAL TO THE APPEALS REVIEW BOARD

Unless this decision is further appealed within 15 calendar days of the day on which it is received, it becomes the final decision of the United States Civil Service Commission.”

We were of course elated with the decision, but the NPS immediately appealed the decision to the CSC Appeals Review Board, in Washington, D.C. Our attorney, Don Marble, appealed that part of the decision which reinstated me to an Environmental Impact Specialist position, arguing that I should be reinstated to either the Resource Management Ranger position or the East District Naturalist position. Don also made a Motion to the Appeals Review Board that it require the NPS to send us the Manager-Rumberg Report, which evaluated the allegations concerning Superintendent Briggle’s coercive and intimidating management of GNP personnel. With our further obligations in fighting the appeal, Don Marble needed help on the case and I contacted the AFGE (employees union). Don talked with Ed Passman (Director of the Labor-Management Department, Washington, D.C.), National Vice President Mort Davis, and National Representative Bob Nogler. Nogler wrote: “Mort agreed that the National Office would give all assistance possible since we believe the merits of the case will be precedent setting.”

As a result of the favorable 29 July decision of Elbert Floyd on our original case before the CSC, Dale Burk wrote two extensive stories in the Missoulian (D-71 and D-72):

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Missoulian

August 22, 1974

Abuse of Power Was Way of Life in Glacier

Outdoor Picture by Dale A. Burk

Vindication for Riley McClelland

The recent ruling by the U.S. Civil Service Commission that Riley McClelland must be restored to his job as park ranger in Glacier National Park came as especially good news. McClelland is the naturalist who bucked the power structure of the National Park Service to refuse a forced transfer to a desk job in Omaha, Neb. McClelland believed former Glacier Park Supt. William Briggle had arranged the transfer because McClelland, a resource specialist, had criticized several of Briggle's management programs in the park.

The Civil Service Commission (CSC) hearing officer agreed with McClelland on that point, and ruled that Briggle, as well as the former superintendent's immediate superior, Leonard Volz, NPS regional director in Omaha, had conspired to affect not only McClelland's transfer but several others as well. The CSC ruling was, in fact, against Volz because he was the officer in charge at the time. To quote the CSC findings: "Based on a full and careful review of all available evidence it is concluded that Mr. J. Leonard Volz, director, Midwest Region, NFS, Department of Interior, was unreasonable, unfair, arbitrary and capricious in his decision to remove Mr. B. Riley McClelland from the position of park ranger (environmental impact specialist), for Mr. McClelland's failure to accept a reassignment and change of duty station from Glacier National Park, Montana, to the Midwest regional office in Omaha, Neb."

The CSC ordered McClelland reinstated with back pay to the date he was fired, July 27, 1973. The NPS intends to appeal the ruling and further court action is still possible on the case. It is important to note, however, that McClelland won his point as soon as he could get the case out of the self-protective confines of the Department of Interior. An earlier hearing by and an appeal before the Department of Interior, of which the NPS is a part, has resulted in a ruling against McClelland. Then, believing he had not received fair treatment by Interior officials, McClelland asked for and received the Civil Service Commission hearing. The result was that a hearing officer independent of the bureaucratic Interior structure saw beyond the confines of the department and judged the case independent of concern for the power structure.
McClelland and his attorney, Don Marble of Chester, contended that the NPS and Briggle and Volz in particular had conducted a Watergate-type coverup on McClelland's case because the forced transfer method had become a standard practice in Glacier Park under Briggle. Until McClelland spoke out, none of those forced out of Glacier had publicly challenged the almost insurmountable odds encountered in fighting the deeply-entrenched power structure.

A few of the others who had been forced out of Glacier came forward, however, and their testimony was helpful in the CSC hearing. They helped establish the fact that abuse of power and forced transfers were a way of life at Glacier Park. To quote the CSC hearing record: "Serious complaints were made about Mr. Briggle's harshness and insensitivity in personnel relations. It was out of this environment that the request for outplacement was made by Mr. Briggle for Mr. McClelland. The record shows that Mr. Volz had responded favorably on at least five other occasions to Mr. Briggle's request for outplacement. Mr. Volz did not deny any such request. Six outplacements of personnel, some in key staff and line positions, were not questioned. Out of a total permanent staff of 55 employees this appears to be a high ratio of employees to be moved at the request of Mr. Briggle. This should have alerted Mr. Volz to inquire as to whether this supposedly non-disciplinary method of getting an employee out of Glacier was being abused. But apparently Mr. Volz was concerned only with helping Mr. Briggle.

The CSC goes on to note the philosophic differences between Briggle and McClelland. Criticizing management decisions on the basis of resource values was part of McClelland's job "and the record shows that he did it well although he perhaps was too direct at times." There may also have been personal as well as official differences between these two strong-willed men and Mr. Volz should have guarded against countenancing an overuse of authority by Mr. Briggle. The CSC found proof in Volz's records to show that McClelland had been singled out for specific removal from Glacier. To quote:

"There is no evidence in the record that the NPS explored any other avenue of filling the job that Mr. McClelland was offered. In fact, Mr. Volz admitted this at the grievance hearing but he said that recruiting would not have produced a better candidate and he needed to fill the position quickly to cut down the backlog of work. However, evidence in the record shows that other specially-trained resource management personnel were stationed in park areas within Mr. Volz' jurisdiction and he did not even inquire as to their interest or degree of availability nor did he attempt to broaden the area of consideration in his quest for help. The conclusion must follow that Mr. Volz firmly planted himself in support of Mr. Briggle's request for outplacement of appellant (McClelland) and would consider no one else for the position."

The CSC also debunked arguments by Briggle and Volz to the effect that McClelland had fabricated health problems for himself and his wife. One of the major reasons the McClellands refused the move was because of health reasons. To once again quote the CSC transcripts:

The agency contends that Mr. McClelland fabricated the health problems but there is no evidence to support this contention. It is concluded on balance, that Mr. Volz had his mind made up and did not wish to re-examine his decision.

McClelland Had Little Help in Park Fight

Outdoor Picture by Dale Burk

It is interesting to note that the National Park Service (NPS) is appealing the ruling of the U.S. Civil Service Commission — a ruling which states that the NPS had unfairly and illegally fired Glacier Park naturalist Riley McClelland because he refused a forced transfer from Glacier to a manufactured desk job in Omaha, Neb.

It is further interesting to note that the NPS appeal deals only with its authority to transfer people, not with the particulars of the McClelland case. That is understandable. The Park Service, and particularly former Glacier Park Supt. William Briggle and Midwest Regional Director Leonard Volz came out looking pretty bad in the particulars of the CSC ruling. Their motives, not only in forcing McClelland out of Glacier, but in circumventing the process established by Civil Service regulations to prevent abuses of power in dealing with government employees, were found to be "unreasonable, unfair, arbitrary and capricious."

That is a harsh but just indictment of the heavy-handed treatment given not only Riley McClelland but others as well and it's way past time that such misuses of power be corrected. One can nonetheless understand why the NPS seeks further clarification on the authority it has to transfer personnel. But common sense leads to the conclusion that if McClelland's (and other forced transfers) had originated in good faith and followed established procedures, there never would have been a dispute.

The point is that McClelland had been assured earlier by NPS officials that he could complete his career as a resource specialist in Glacier Park. McClelland's job was to provide critiques on possible management actions concerning the impact they might have on natural resources in the park. His problem was, as the hearing officer noted, he did his job too well. Several of his critiques didn't jibe with decisions Briggle already had made and Briggle, rather than alter his decisions to fit the requirements of resource protection, decided to get rid of his resource specialist.

And why not? Apparently the same tactic had been used to get rid of at least six other persons in Glacier who had also disagreed with Briggle's method of operation. Fortunately, Riley McClelland is more than just a highly competent and respected specialist in his field. A rather quiet and unassuming man, he nonetheless is steeped in character, courage and, as the NPS was to find out as it joined ranks to clobber him when he dared question its omnipotence, dogged perseverance.

When he began his protest against the forced transfer to a desk job he didn't want and fervently believed he was not qualified for, the odds against McClelland seemed insurmountable. And yet, in spite of one setback after another as he encountered the intransigent NPS bureaucracy in his appeal for fairness, McClelland stuck to his case only at great personal cost to himself and his family. Early in the process, however, the McClellands as a family decided that come what may they would stick to what they considered the truth to be, even if it cost McClelland his career.

It almost did. A year after he began his fight, he was fired by the NPS and decided to do work at the University of Montana on a doctoral degree. While there, he worked part time as an instructor in the Forestry School and proved so effective and well-liked by students who studied under him that, if he chose, it was obvious that a new career as a college instructor would be available to him. Now, however, he has been ordered reinstated at Glacier with full back pay. Thus he can return to work he loves.
Riley McClelland's courageous case is one that gives cause for reflection and encouragement. That he has been exonerated is ultimately due to two factors, the tightness of his case and his perseverance in pursuing a just conclusion to it. But what about some haunting questions that plague those of us with subsidiary interest in it, and in the cause of good government and not only proper treatment of our natural resources but our human resources as well? What steps will the NPS take to insure that such abuses of power will not occur again? Will William Briggle and Leonard Volz be reprimanded for their mistreatment of McClelland and other Glacier employees not only in terms of the actual forced transfers but the obvious aura of intimidation this practice would have on other employees under their authority?

Ultimately, I guess, we have to ask the question of whether persons who abuse power this way deserve to keep positions of authority. The NPS should take immediate remedial steps to guarantee such excesses do not occur again. Questions must be asked, too, about the sincerity of the Montana congressional delegation in terms of its role in protecting the rights of the citizenry from such abuses of power.

With the exception of Sen. Lee Metcalf, the Montana congressional delegation kept a strict hands-off on the McClelland-Briggle question, which gives rise to the serious question of whom, exactly, they serve in their elective office — the established power structure or the little guy, the citizen who has been wronged by that power structure.

It seems to me that in this case the Montana congressional delegation played chicken and, instead of sticking its neck out to guarantee that a citizen was not being mistreated, the congressmen buried their heads in the sand to prevent running the risk they might be wrong.

This is a sad reflection on the nature of ethics in our political process, for if we are not willing to stand up and guarantee that each individual citizen is getting a fair shake, do we not by those actions condone and encourage the overt abuse of power and authority, at the expense of the powerless?

Questions must also be asked about the press, which generally exhibited about the same depth of concern for McClelland's plight as the congressional delegation. With the exception of his contacts with this writer and the editor of a weekly newspaper in Chester, McClelland had a tough time getting his side of the story out. In fact, he felt badly abused by the fact that Briggle could get anything he said printed in papers in the Flathead while he (McClelland) was never contacted once by any of the Flathead-based papers for his side of the story. In fact, a couple of times when he tried to state his response to certain statements by Briggle, McClelland claims he was denied access to the pages of Flathead Valley papers.

It seems there is a fundamental question of the press' role in our society involved. It is sometimes difficult for the press to decide the veracity of the many citizen complaints that come to it about the abuses of governmental authority. Certainly not all the cases can be taken up as causes to be explored in public view. But it must be conceded, I feel, that if an error is to be made by the press in writing about such issues, it must be made on the side of the powerless, the little guy who doesn't have either the power structure or the wherewithal to face up to the powers that be.

That isn't to say that the press must demand that it give full public exposure only to "just" causes. There always is the possibility that a complaint won't stand up to scrutiny. The point is that often the press provides the only means whereby that scrutiny is achieved, and in the case of Riley McClelland it is my contention that by and large the press did not do justice to the cause of public pursuit of truth.

As one wire service news chief told me in discussing McClelland's complaint early in the controversy, he didn't know what McClelland was talking about when he mentioned a deteriorating resource base in Glacier because he (the wire service man) "had driven through the park recently and it looked pretty good to me."

That sort of superficial interest in resource quality as well as denial of the press' responsibility to print all sides of the issue thoroughly and fairly strikes me as being an
admission that the press (that wire service at least) was not interested in either truth or fairness or probing for either.

Lastly, one must reflect on the moral caliber of McClelland’s associates in the park. A few spoke out for him, even risked their careers to support his cause. Ken Beck, former administrative officer in Glacier and himself a victim of a forced transfer, was the most outspoken and articulate. He is a man whose courage I admire greatly. The same for Bill Hutchison and others on the Glacier Park trail crew, who after they spoke up felt the heavy hand of NPS authority. But what about the others, the multitude who either for fear of their own careers or lack of commitment to the cause of truth, crawled into their turtle shells and let Riley fight it out alone although they knew he was right.

And what about those who, also knowing the truth, openly supported the power structure because that was the safe thing to do. They ultimately are the most pathetic, for they opted to protect themselves at the expense of two truths — Riley’s and their own. They, sadly, represent an aspect of self-serving moral corruption that all too often rears its ugly head on the American scene.

But it is a new day and the truth is finally public and justice apparently will prevail. The question now is not what was but what can and should be. The ultimate lesson is that all men, whoever and wherever they may be and whatever their circumstances, must pursue the cause of truth no matter what the cost. At any level, Watergate or national park, the cost of not doing so is tyranny and that, at any level, is something we cannot permit.


Throughout August and September 1974, our attorney Don Marble continued efforts to obtain a copy of the Mangers-Rumberg Report covering the February 1973 NPS “investigation of Briggle’s management. The NPS and the Department of Interior Solicitors consistently stonewalled, arguing that the document was “a personnel internal management matter that is not discloseable.” The CSC Appeals Review Board ruled that it had no basis for requiring the NPS to make the document available to us.
On 25 November 1974, the CSC Appeals Review Board issued its decision. It read, in part (D-73):

"An agency, prior to effecting a reassignment to a vacant position, is not required to consider the employee's past mobility, other methods of filling the vacancy, or the health of the employee and his family. Under certain circumstances, however, failure to consider any one of these factors may indicate arbitrariness or unreasonableness on the part of the agency. While the record does not show that the agency considered these factors in this instance, failure to do so does not make this reassignment and the resultant removal action arbitrary, capricious, and unreasonable. Although the circumstances presented by the appellee contain valid reasons for his desire to remain at Glacier National Park, it would be quite difficult for any employee to be transferred if the propriety of the move was conditioned upon the employee's subjective satisfaction with it... in view of the appellee's past, there was no reason to believe that he would not adjust and adapt to the Omaha position. The mere fact that the appellee preferred a 'wilderness' work environment does not preclude the agency from reassigning him to a position where he is fully qualified and a need exists." "In view of the foregoing and based upon the entire appellate record, the Board finds that the appellee's reassignment to the Midwest Regional Office, Omaha, Nebraska, was not arbitrary, capricious, or unreasonable, but for such cause as would serve the best interests of the service. Accordingly, the appellee's failure to accept this new assignment warranted the removal action and that action is therefore sustained."

**DECISION**

"The July 29, 1974 decision of the Denver Field Office in this case is hereby reversed and its recommendation that the appellee be restored is withdrawn. As a result of the Board's decision, the removal action effected in this case stands undisturbed and the agency is not required to take any further action. Civil Service-regulations provide that the decision of the Board is final and there is no further right of administrative appeal."

[By majority vote: Members Berzak and Bechtold agreeing, Member Griffiths disagreeing]

"For the Commissioners:

William P. Berzak
Chairman

November 25, 1974"

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This was of course a great disappointment and a setback essentially to beginning again, because this ended the administrative appeals process. However, Don Marble and the AFGE planned to write to the CSC, asking the Appeals Review Board to reopen the case and reconsider their decision. Don Marble had been our attorney in the CSC process to this point, with AFGE filing a supplemental brief. With the appeal to reopen, then Federal Court being the next line of action, Don Marble and AFGE's General Counsel agreed to be co-counsels. I formally requested assistance from AFGE's Legal Rights Fund to cover the costs of AFGE's participation.
In January, NPS Director Ron Walker resigned. He was replaced by Gary Everhardt. On behalf of the Glacier Defense Fund, Chairman Jack Hughes issued the following report (D-74):

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**GLACIER DEFENSE FUND**

February 1, 1975

Dear Friends:

It has been a long while since we last communicated with you. The reason for the long delay has been our hope that we could report a conclusion to the issue involving arbitrary and capricious transfers which originated in Glacier National Park under the past administration. It now appears that the final chapter will not be written for quite some time. We want to summarize the two Civil Service Commission decisions received during the past six months and to make a final report on finances.

On 14 and 15 May, 1974, an open hearing was held before Elbert F. Floyd, Chief Appeals Officer, Civil Service Commission. The hearing was conducted in Helena, Montana. We believe the hearing was full and fair. Much personal testimony was introduced and numerous documents were accepted in evidence.

On 29 July, 1974, Mr. Floyd issued his findings and recommendations on the matter. In a seventeen-page document the Chief Appeal Officer concluded:

"Based on a full and careful review of all available evidence it is concluded that Mr. J. Leonard Volz, Director, Midwest Region, National Park Service, Department of Interior, was unreasonable, unfair, arbitrary and capricious in his decision to remove Mr. B. Riley McClelland from the position of Park Ranger... for McClelland's failure to accept a reassignment and change of duty station from Glacier National Park, Montana, to the Midwest Regional office in Omaha, Nebraska."

He recommended that Mr. McClelland be reinstated effective 27 July, 1973, the date on which he was removed. It is not possible to report on all seventeen pages of the findings, but the following quotes are representative:

"Serious complaints were made about Mr. Briggle's harshness and insensitivity in personnel relations. It was out of this environment that the request for outplacement was made by Mr. Briggle for Mr. McClelland."

"Mr. Briggle chose not to shed Mr. McClelland through a disciplinary action because Mr. McClelland had committed no serious breach of the employment relationship but he chose a non-disciplinary tool that he was an expert at using— a directed reassignment and change of duty station."

"Volz started looking for outplacement opportunities for McClelland. One at Big Horn Canyon was found but McClelland declined. But this did not turn Mr. Volz from his desire to support Mr. Briggle. Volz manufactured another job—this time in Omaha."

The National Park Service appealed this decision to the Civil Service Commission Board of Review in Washington, D.C. By a 2-1 vote, on 25 November, 1974, the Board overturned the Chief Appeals Officer's findings and ruled that the removal was not arbitrary and capricious.

The matter thus seems destined for federal court. It is too important a principle on which to give up.
The following financial report will constitute our final summary of finances. We will of course inform you of future court decisions on this case:

**Receipts**

Received through the Glacier Defense Fund $712
other contributions 175

Total $887

**Expenditures**

Attorney fees (costs only) through CSC Hearing $1,440
(paid from severance pay received in 1974)
Travel for witnesses 350
Duplicating 138
Telephone 650

Total $2,578

Thanks to all of you who supported the cause.

Sincerely,

B. Riley McClelland 1612 Bel Air Pl.
Missoula, MT 59801

Jack Hughes
2724 South Oak
Port Angeles, WA 98362

Don Marble and AFGE agreed on a fee arrangement (for further action on our case) described in the following letter (D-75):

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**February 5, 1975**

Mr. Lou Pellerzi  
General Counsel  
AFGE  
1325 Massachusetts Ave., N.W.  
Washington, D.C. 20005  

Re: Appeal of McClelland  

Dear Lou:  

Enclosed is a copy of a letter from Riley.  
If this does not satisfy your requirements, please advise me.  

I agree to act as co-counsel with you in the request to the CSC and in a court action, if such an action is necessary. I have a 1/3 contingent agreement with Riley. If successful in a CSC action, I agree that the AFGE Legal Rights Fund receive 1/3 of the attorney fee. If successful in a court action, I agree that the AFGE Legal Rights Fund receive 1/2 of the attorney fee. It is my understanding that AFGE will return their share to Riley.  

The draft to reconsider will be mailed to you by February 7, 1975.  

Best regards,  

Donald R. Marble  

cc: B. Riley McClelland  
Mort Davis  

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D-75. Letter from Attorney Marble to AFGE General Counsel Lou Pellerzi 5 February 1975.

5 February: Although we did not learn the fact until several months later, GNP Superintendent Phillip Iversen “re-created” the Resource Management Ranger position on this date, filling it with Ranger Clyde Fauley. Clyde was a super nice guy, but he had no training to qualify for such a position.
20 February: Ed Abbey sent the following handwritten note to us (D-76):

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Feb. 20th

Good luck.
Fight the bastards.
No acknowledgement desired, but please keep me informed of developments.

Ed Abbey
Box 66
Moab Utah 84532
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D-76. Note from Ed Abbey, 20 February 1975.

17 March: Don Marble decided that the best course of action was to initiate action in Federal Court, as recommended by AFGE (D-77).

16 July: AFGE General Counsel Lou Pellerzi wrote to Don Marble stating that AFGE Counsel Raymond Malloy would file our complaint in Federal District court in about two weeks.

4 September: Malloy wrote to me stating that I (as a recipient of AFGE Legal Services) must agree to pay ten percent of the amount of money received (back pay) if our case is successful. This was different than an earlier agreement with AFGE General Counsel Pellerzi, previously mentioned, but I had no objection to it.
March 11, 1975

Donald R. Marble, Esq.
Bunn and Marble
Westland Building
Chester, Montana 59522

Dear Don:

I have reviewed the materials you have sent along as well as the whole file in the McClelland case and I believe we are better on going directly to court. If you concur with the view expressed, please let me know and we will proceed to draw the necessary papers and file. I just do not think the Civil Service Commission will reopen or reverse and the cost in time and effort seeking reconsideration would be largely wasted. I believe we have a strong case and can get it decided on a motion for summary judgement unless there are critical factual issues which are not apparent to me at this time.

Please let me have your views on this. I believe it to be the best course to follow and hope you concur.

With best personal regards.

Sincerely,

L. M. Pellerzi
General Counsel

D-77. Letter from AFGE General Counsel Pellerzi to Attorney Marble, 11 March 1975.
In late October rumors began to circulate that Bill Briggle was going to be appointed Deputy Director of the NPS, by Director Gary Everhardt. That seemed preposterous, so I wrote to Mike Frome to ask him what he knew about it. His reply follows (D-78):

**Michael Frome**  
9426 Forest Haven Drive  
Alexandria, Virginia 22309  

November 8, 1975

Dear Riley:

The news about Briggle is true. Gary Everhardt sounded me out about it during at least two private sessions. At first I thought he was just fishing for ideas. He also tried to tie in Briggle's appointment with bringing you back in -- providing you would drop your suit, which I assured him you were not about to do.

A delegation of conservation organizations went to see Assistant Secretary Reed to protest Briggle's appointment. He brushed them off as though proud to have a hatchet man coming aboard. Reed is well motivated, but has no sense of organization or how to get things done.

Gary asked the NPS regional directors for their opinion of Briggle as Deputy Director. They urged against the appointment. I have heard no one in the entire organization say a kind word about Bill Briggle; to the contrary, rank-and-file from park rangers to park superintendents have asked me to do what I could to block this idiotic appointment.

I endeavored to enlist Senator Lee Metcalf's help via the Secretary of the Interior. He was very sympathetic but felt it would be inappropriate to intercede. However, I did learn that citizen leaders in Montana have also been in touch with him, including establishment types like Mel Ruder. We may still get Metcalf to speak out somehow.

For the present, Briggle can't come to Washington because Russ Dickenson is in the chair. Russ is slated to become regional director in the Pacific Northwest but he's holding onto a GS 16 and heading for a GS 15 slot.

Thanks for sending me a copy of your paper on hole-nesting birds. Getting foresters to change, even on the basis of scientific data, is difficult. Foresters know best; all that anyone needs to do is ask them. Attached is a sheet of correspondence with the names of a couple of avian experts. It may be of interest to you.

Also attached, xerox copies of a two-part series on the national parks which I did in the Chicago Tribune.

W.C. said he had a great time with you and your family. He's looking forward to returning to Glacier next summer. In the meantime, he seems to be exploring the country at large.

All best, Riley,

Michael Frome

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D-78. Letter from Michael Frome to McClelland, 8 November 1975.
20 November: AFGE Counsel Ray Malloy finally wrote that he had submitted our complaint to the Federal District Court in Washington, D.C. The case had now become McClelland vs. Kleppe (Secretary of Interior) et al. The case dragged on through the end of 1975 and early 1976, with the U.S. Attorney’s Office submitting to the District Court their Answer to our Complaint and filing a “Motion for Summary Judgement.” AFGE Counsel Malloy filed a “Motion for Summary Judgement” and various other responses and pleadings. Attorneys Marble and Malloy continued to press for release of the Mangers-Rumberg Report with the continuing response of stonewalling.

1976

After having visited with Ed Abbey in GNP on 9 July 1975 (he was working for the NPS in GNP on Numa Ridge Lookout), I wrote to him in early January 1976, updating him on our situation. He replied with a postcard (D-79):

![Postcard from Ed Abbey, 31 January 1976.](image)


2 April: The Department of Interior issued a News Release announcing that William J. Briggle, Superintendent of Lake Mead National Recreation Area, had been appointed Deputy Director of the NPS, effective 11 April 1976. Briggle replaced Russ Dickenson, who was becoming Regional Director in the Pacific Northwest Region (based in Seattle).
On 21 May 1976, AFGE Assistant General Counsel Raymond Malloy sent us the bad news concerning the Washington, D.C. District Court’s decision, issued on 17 May. District Judge John Pratt ruled in favor of the NPS, granting the government’s motion for Summary Judgment. Malloy summarized Judge Pratt’s decision as follows (D-80):

"Enclosed herein is a copy of his [Judge Pratt’s] Memorandum and Order, denying our Motion for Summary Judgment on both Counts and granting the government’s Motion for Summary Judgment. Of course, we are not happy with Judge Pratt’s decision and we are especially concerned with the manner in which he shrugged off Count II, the Freedom of Information Act request for the Mangers-Rumberg Report. He relied completely on the self-serving affidavit of Charles L. Mangers, Exhibit A to the government’s Motion for Summary Judgment, who, of course, was one of the investigators and authors of the Report. We have serious feelings that his failure to ask for production and review it in camera by himself so he could determine if, in fact, its contents were privileged and if he could delete any portions he so found, as we had requested in our Motion, may constitute error. So we are presently reviewing his decision and researching the recent Supreme Court case of Air Force, et al. v. Rose, decided April 21, 1976, three weeks prior to Judge Pratt’s signing his decision, to see how strong an appeal on this point would be. You will note that he based his decision on Count II on the basis that he found the Report to be a personnel file protected from disclosure under 5 U.S.C. (b)(6) and did not rule on the applicability of 5 U.S.C. (b)(2) and (5), which were also strongly argued by the government.

As to Count I, while it is true that the administrative record does contain evidence that the reassignment order was rationally based and that there was a need for your services in Omaha, according to the testimony of Regional Director Volz and other management witnesses, the record also contains much evidence supporting our position and raising serious questions as to motivation and actions running contra to agency and national policy. Therefore, we are giving serious thought as to whether the Judge failed to consider all the evidence and whether his decision is supported by substantial evidence. Of course, as you know in a case of this sort the court only reviews the administrative record and we cannot change it. All we can do is argue on the basis of what is in that record.

We will have to make our determination on an appeal of this decision to the United States Circuit Court of Appeals for the District of Columbia very soon and I shall inform you as soon as we have finished reviewing this matter. I shall also be in touch with Donald R. Marble in regard to possible appeal of this case. We wish we had better news for you, but your review of the lengthy pleadings will show you the legal issues presented to the Court. Evidently, the Judge did not feel the case important enough for oral argument, not feeling that there were any aspects of this case that he needed any further argument on. I trust that things are going well with your teaching position at the University and that you are enjoying the academic life."

Sincerely and fraternally,

signed
Raymond J. Malloy
Assistant General Counsel

D-80. Letter from AFGE Assistant General Counsel Malloy to McClelland, 21 May 1976.
At this point, we were left with one final chance to reverse this unfair and unethical use of transfer by William Briggle and Leonard Volz. We hoped that AFGE would choose to Appeal to the Circuit Court (beyond that is only the Supreme Court, and there was no possibility that AFGE could take it that far or that the Supreme Court would hear such a relatively minor case). The Circuit Court would be the end of the line, if only AFGE would opt to pursue the case that far.

In a letter of 16 June 1976, AFGE Counsel Raymond Malloy informed us of AFGE’s decision (D-81):

"After careful review of Judge Pratt’s Memorandum and Order of May 12, and giving this case much consideration, we have made the decision to appeal this case to the U. S. Circuit Court of Appeals. Even though the Federal Rules of Appellate Procedure allow sixty days for the filing of a Notice of Appeal, because of our desire to expedite final resolution of this case, considering the period of time that has gone by since you were discharged by the National Park Service, I filed a Notice of Appeal on June 10, a copy of which I enclose herein for your information. Now begins the long involved job of going over this tremendous administrative record with the U.S. Attorney in order to reach agreement on a stipulated appendix of the record of this case. Appellate courts only want before them what is absolutely essential for their review, so we will, of course, pick out those portions of the administrative record which most strongly support our argument.

I also enclose herein a copy of the Designation of Record on Appeal which I also filed in an effort to get the District Court Clerk to submit the entire administrative record to the appellate court, but most likely the clerk will make both parties agree on the most relevant portions and have these printed in the Appendix."


We were very pleased, and thankful for union representation by AFGE and the availability of their Legal Defense Fund. Certainly we could not have afforded the attorney fees one would normally expect in this lengthy process. This of course is one of the positive attributes of a good union, just as the AFGE motto says:

“TO DO FOR ALL THAT WHICH NONE CAN DO FOR ONESELF”

12 October: Throughout the summer we heard nothing from AFGE. I wrote to AFGE Counsel Malloy asking if there had been any developments on the case and what he anticipated as a time frame.

14 October: AFGE requested and received from the Circuit Court of Appeals, an extension time for filing the Appeal; the new deadline became 22 November 1976. Apparently Malloy had suffered a severe head injury in a fall, back in June, and that had delayed his progress on the case.

In early November, I had written a letter of recommendation for our good friend Paula Dustin, who was applying for a job in Canada. Paula had been secretary for the Chief Park Naturalist in GNP during the first years of our conflict with Briggle. She wrote the following (D-82):
November 8, 1976

Dear Pat and Riley:

"... Briggle [Deputy Director, in Washington, D.C.] won't let Iversen alone now, and Mr. Iversen told me personally that he suspects that he [Iversen] will be given a transfer to the Washington Office, which to him means that he will retire. So the shadow grows over the NPS ... indeed, over the land, since Briggle is by no means unique in the agencies in Washington!

When we talk about this my father mourns, but says, "Well, at least you are motivated by ideals!" ... wherein lies your strength and my strength. Of course there is opposition, because that is the way of the world. Opposition tells you one thing: that you are right! And I would rather be the wronged one, than the one doing the wrong, which is consolation. Again, many, many thanks ... we will win in the end!"

Sincerely, Paula

D-82. Excerpt from letter to McClelland from Paula Dustin, 8 November 1976.

30 November: (Beyond the Circuit Court filing deadline of 22 November) I had heard nothing from AFGE, so I wrote to ask about the status of the case.

17 December: AFGE Counsel Malloy responded that he had requested and been granted a delay for filing until 22 December.

1977

Postponements in the deadline for filing our brief continued to be sought by AFGE's Ray Malloy. In March, we heard that the newest deadline was 11 April 1977. With Malloy's Brief still unfinished, I wrote to him as follows (D-83):

Mr. Raymond J. Malloy
Assistant General Counsel, AFGE
1325 Massachusetts Ave. N. W.
Washington, D.C. 20005

29 March 1977

Dear Mr. Malloy:

Thanks for the copy of your letter to Don Marble. I am really pleased to hear that the case is still progressing. I am sorry it has required so much time on your part.

I have no idea what kind of material is most relevant in the final arguments, but one point comes to mind which seems basic, so I want to mention it to you. In the first hearing in this matter, held before Administrative Law Judge Snashall at West Glacier in 1973 and again before Civil Service Appeals Chief Floyd in Helena, the Government justified the abolishment of the Resources Management Specialist position (in which I served) exclusively on the grounds that there was no longer a need for the position — all the work had been completed. Not long after I was deposed from the position, it was reinstated, involving most of the same duties as before. The job is still in existence and in fact the park is now attempting to create two additional positions to help with the work. It seems to me the "temporary" abolishment of a position, just long enough to get rid of an individual, rather conclusively exposes the sham abolishment. This has been part of earlier appeals but I don't believe sufficient emphasis has been placed on it.
It also seems to me that the conclusions of Civil Service Appeals Chief Floyd were perceptive and his findings (based on the personal appearances of involved parties) should receive considerable emphasis in final arguments.

You have better perspective than I so of course your judgement should dictate what points are emphasized. Thanks again for your invaluable assistance.

Sincerely,

B. Riley McClelland

cc: D. Marble

D-83. Letter from McClelland to AFGE Counsel Malloy, 29 March 1977.

8 April: AFGE National President Blaylock wrote to AFGE National Vice President Morten J. Davis (D-84):

"You will be interested to know that a strong letter writing campaign is underway by National Park Service employees and retirees, conservation organizations and other groups bringing to the attention of the new administration [Carter] their dissatisfaction with Mr. Briggle and his past managerial abuses and disregard for the rights of employees and the resultant decay of employee morale and enthusiasm. The enclosed copies of letters are self explanatory. Donald R. Marble, the attorney that represented B. Riley McClelland in his grievance and adverse action, appeal, has written a strong personal letter to the new Secretary of Interior [Cecil Andrus], a copy of which I also enclose for your information, demanding that Mr. Briggle be replaced and he has also furnished the Secretary of Interior a copy of the Civil Service Commission field examiner's report which recommended reinstatement of Mr. McClelland and was highly critical of Mr. Briggle's management and personnel practices."

Sincerely and fraternally,

Kenneth T. Blaylock
National President

D-84. Excerpt from letter to AFGE National Vice President Morten J. Davis from AFGE National President Blaylock, 8 April 1977.

May: During the first three weeks of the month I was mostly bedridden with symptoms very similar to those of Rocky Mountain Spotted fever. Dr. William Reynolds (Western Montana Clinic) ran several tests, but was unable to confirm a diagnosis.

27 June: Attorney Don Marble wrote again to Secretary of Interior Cecil Andrus, now requesting "that due consideration be given to reinstating former employee B. Riley McClelland."

21 July: The Acting Chief Judge Wright, United States Circuit Court of Appeals, District of Columbia, issued an Order to the Clerk of the Court. The Order read as follows:

"The clerk is directed to file appellant's motion for final extension of time for the filing of brief (emphasis applied), on consideration thereof, and appearing that this is appellant's eleventh (11th) request for extension of time to file brief, it is ORDERED that counsel for appellant is directed to file his brief on or before August 1, 1977 or show cause why this appeal should not be dismissed for failure to prosecute it."

This was very upsetting—eleven time extensions! Would Malloy meet this final deadline?
Meanwhile, Don Marble's letter writing campaign continued. Even Democratic Representative Max Baucus wrote to Secretary of Interior Andrus. Don Marble had personal contact with Baucus. Don forwarded copies of a note and letter he had received from Baucus; both were written on 27 July 1977. The note read (D-85):

"Dear Don:

Just a short note to say that, at your request, I have written to Secretary Andrus asking that the Department reconsider its opposition to Riley McClelland's appeal. I am enclosing a copy of my letter to Andrus. Any comments or additional suggestions on this matter will be appreciated. With best personal regards, I am

Sincerely,

signed Max"


The enclosed copy of a letter from Baucus to Secretary Andrus read in part (D-86):

"Dear Cecil:

I am writing to you concerning a legal dispute between the National Park Service and one of its former employees, B. Riley McClelland. The controversy has gone on for some time now, stemming from a decision in 1973 by the former Superintendent of Glacier National Park to move Mr. McClelland, who was then an ecologist on the Glacier Park staff.

I have reviewed some of the documents surrounding the controversy, and I have the distinct feeling that the Park Service "dug in its heels" to support a principle which may be entirely unrelated to this fact situation. As I see it, the case has less to do with safeguarding the management prerogatives of the Park Service as it does with the need for Park Service management personnel to work out their problems with their fellow employees. In any event, the controversy has continued now for four years. Currently, the case is on appeal before the U.S. Court of Appeals for the D.C. Circuit. While I don't wish to intervene in the judicial proceedings, I respectfully request that your office re-examine its position on the case to determine whether or not it is consistent with President Carter's recent pronouncements concerning the need to preserve and encourage the rights of government employees to object to the means of executing government policies."

Signed Max

Beginning in late August 1977, we received copies of documents and letters that follow (D-87 through D-95):


This was devastating news—our case lost because AFGE Counsel Malloy failed to file the brief, after 11 extensions! And the news continued to be depressing.
Dear Max:

As regards the review of Riley McClelland's case by Interior, I have just received information that the initial report has been prepared and it is adverse to our interests. The real unacceptable point is that it was written by Rick Robbins who was the Interior attorney on this case from the very start. He is a hold over from the Nixon-Ford days and a review by him is not a review. It is bound to be merely a justification of previous vindictive and unfair actions. I will not accept a report by him as a "fresh review" of the problem.

Please see if you can get this matter looked over by a new person and not a Nixon-Ford holdover. I am quite disappointed.

Very truly yours,

Donald R. Marble

cc: Riley McClelland
    James Webb
    Secretary Andrus


Re: McClelland

Dear Max:

I am writing to inform you of some recent developments on Riley's case. He was originally removed from the resource management ranger position when it was abolished. Briggle said there was no further need for it. However, this was a ruse to get rid of Riley. This is borne out of the fact that there are now two resource management ranger positions and probably another half position will be created. Clearly the need for the position was always needed. This type of action by NPS supervisors should not be condoned. Clearly Riley's union involvement was aggravating to the NPS but federal law gives him the right to associate with unions.

We have been informed that his appeal may have been dismissed because of failure of his Washington lawyer to file his brief. We must now depend entirely upon you.

Very truly yours,

Donald R. Marble
James Webb

cc: Riley McClelland
    Secretary Andrus

"Re: McClelland

Dear Mr. Malloy:

I have been advised by Riley that the appeal was dismissed for lack of prosecution. Neither Riley nor I was informed and believed the brief would be filed. If you could not have written the brief I would have done so. Please advise.

Very truly yours,
Donald R. Marble"


"Dear Riley:

I called Davis yesterday and asked him to check for me. Lou Pellerzi General Counsel, called me today. He said it was true, the appeal was dismissed because Malloy did not file the appeal. He was very unhappy and apologetic. I told him I was very unhappy and would consult with you. Malloy probably will be fired.

Pellerzi said he would personally do everything possible to get Andrus to reinstate the hearing examiner’s decision. See my letter to him. I am very unhappy. It is perhaps malpractice. I can’t believe it happened. Pellerzi thought the brief was filed long ago, Malloy told him it was anyway. Malloy is going to try to get a rehearing.

I am very unhappy of course. Before we make any decisions on Malloy’s action, let us see if we can get Andrus to really review the matter. It may all turn out for the better since Pellerzi has a lot of friends back there if he decides to use his influence fully.

Very truly yours,
Donald R. Marble"


25 September: Briggle was transferred from his Deputy Director position in Washington, D.C. to Mt. Rainier National Park, as Superintendent. His subsequent transfers were: 14 April 1984, from Mt. Rainier to the Pacific Northwest Regional Office (Seattle), as Deputy Director and then Acting Director. He returned to Mt. Rainier as superintendent in 1991 and remained until his retirement on 2 January 1999.
"Dear Don:

Mr. Malloy thought he had sent you a copy of the enclosed brief and motions at the time he responded to Congressman Baucus' letter. Evidently he did not. It is enclosed with the copies of his motions to set aside the dismissal of the appeal and to accept the brief. The court has not acted on these motions to date. I believe you will find the brief to be a good job. Unfortunately, the Federal Courts are turning a cold shoulder to these type cases after years of more objective treatment.

I will keep you posted of developments in the future, as Mr. Malloy is leaving us.

With best personal regards, I am

Sincerely yours,

L. M. Pellerzi
General Counsel"

D-92. Letter from AFGE General Counsel Lou Pellerzi to Attorney Marble, 10 November 1977.

"RE: B. Riley McClelland

Dear Don:

I am enclosing a letter I recently received from the General Counsel of the Department of the Interior in connection with the review, de novo, that was conducted on Riley McClelland's case. Regrettably, Secretary Andrus has refused to reverse Interior's position on this case. My office was in contact with Interior on the matter, and I had hoped that we were going to get a reversal.

Initially, I had been encouraged by the fact that Secretary Andrus signed one of his top attorneys to completely reexamine the case. However, it looks as though my optimism was unwarranted. Every time I see the Hungry Horse News of late, I find Riley McClelland prominently featured as an active wildlife biologist. It's a shame that we can't employ that talent with the Park Service in a way that it could be most productively used.

In any event, I certainly regret the outcome of this case, and I want you to know I stand ready to help further in this matter if you can think of additional avenues that might be pursued.

With best personal regards, I am

Sincerely,

signed Max"

D-93. Letter from Representative Max Baucus to Attorney Marble, 23 November 1977.
“Dear Riley:

I am very sorry to tell you that they [Department of Interior] refused [to reinstate McClelland]. I am greatly disappointed but do feel we did all we could. The D.C. Circuit Appeal is the last hope now.

We hope to come up for the bird count in Glacier between Christmas and New Years. I hate to lose cases, and especially this one where so much was at stake.

Very truly yours,

Donald R. Marble”


1978

“Dear Mort and Bob:

As you know, there has been some sort of problem in the A.F.G.E. Washington office meeting a deadline for filing a brief on my case in Circuit Court. The only communication I have received relative to the problem is a copy of the dismissal of the appeal issued by the Circuit Court, the dismissal based upon failure to file. I have received no explanation from Mr. Malloy, who was responsible for the case, or any other direct communication from A.F.G.E.

Would it be possible for you to find out just what the status is - is the matter moot because of failure to file the appeal? If so, it is really a disappointment for it to end this way after all the time and effort by so many people, including both of you. If Malloy couldn't get the job done, it is a shame that he didn't notify Don Marble, as Don could have met the deadline. What seems most strange is the lack of communication. At any rate I would be appreciative if you could find out what is going on and let me know.

Thanks again to both of you for all the help over the past five years.

Sincerely,

B. Riley McClelland”

D-95. Letter from McClelland to AFGE Mort Davis and Bob Nogler, 7 January 1978.
Attorney Don Marble urged me to write a personal handwritten letter to the Chief Judge of the Tenth Circuit Court of Appeals, requesting that my case be reinstated. Don felt this was our last hope of getting the case reinstated. I sent the following (D-94):

12 January 1978

Chief Judge
U.S. Circuit Court of Appeals
for the District of Columbia
John Marshall Place
Washington, D.C. 20001

Dear Sir:

I am writing regarding my case (76-1654) filed in your court. The attorney (employed by the American Federation of Government Employees) responsible for my case failed to communicate with me concerning his repeated failure to meet court deadlines for submission of the brief. Finally, I discovered (upon receipt of a notice directly from the Court) that my appeal had been dismissed without consideration of the issues. Recently I discovered that a motion to reopen the case is still pending. After what I believe to be unfair, unethical, and illegal treatment from the federal agency for which I worked (the subject of the appeal), it seems to me that it would be, in effect, a continuation of the same lack of justice for the case never to be ruled on by the Court of Appeals. Permanent dismissal of the case, because of the tardiness of a union attorney upon whom I relied, would leave the issue unsettled. I am notifying the American Federation of Government Employees that they are relieved of further responsibility for the case because of their neglect. I am in the process of contacting a dependable local attorney who, if allowed, will handle the case. I have taken the liberty of writing only because I recognize that the objective of our court system is a just and fair hearing for all cases. Therefore, I respectfully request that a new attorney be allowed to carry on with the case and that I not be penalized for the neglect of my previous attorney; neglect about which I was unaware.

Sincerely,

B. Riley McClelland

D-96. Letter from McClelland to Chief Judge, Tenth Circuit Court of Appeals, 12 January 1978.
Mr. B. Riley McClelland  
1612 Bel Air Place  
Missoula, Montana  59801

Dear Riley:

Good to hear from you again and hope the news I have is good.

Enclosed find the latest materials we have regarding your case. Ray Malloy was fired as a result of not filing the brief in a timely fashion. As I understand it, another attorney is now handling the matter. The motion for reconsideration on the order to dismiss has been filed as you will note. The court has not yet ruled on this motion (as of 1/17/78).

You may forward the materials to Don Marble if you wish. These are our only copies so would appreciate them back. You can reproduce them if you so desire.

My best to Pat and the kids!

Sincerely and fraternally,

Robert C. Nogler  
National Representative


In the following letter, AFGE General Counsel Lou Pellerzi strangely seemed to try to console me by saying that the failure to file the brief in the Circuit Court wasn’t that big a deal because we would have lost anyway (D-98):
Dear Mr. McClelland:

I have delayed in responding to your letter of January 13, 1978, in the hope that I could advise you that the briefs that were filed on your behalf in the Court of Appeals had been accepted and our Motion for Reconsideration of the Motion to Vacate Appeal granted. However, I have received a copy of a letter dated February 2, 1978, to you from the Deputy Clerk showing you have been advised as to the current status of the matter, so you know we are still awaiting the possibility that the court will accept the appeal.

I think it important to a full understanding of the significance of the appeal to explain to you the controlling rules of law in cases of this type. The law is such that we could only appeal your removal for purposes of obtaining judicial review thereof on the basis of the administrative record. Mr. Marble did an excellent and highly professional job in representing you on the administrative level and made as good a record as was possible. When we reviewed your case to go to court, we were restricted in the District Court to a review of that administrative record to determine if there was substantial evidence to support the agency's action. We attempted to extend the factual record upon which the court would review the case by filing, along with the administrative case, a Freedom of Information Act request to obtain the investigative report which had previously been denied to Mr. Marble. I believe Mr. Malloy did a credible job, in consultation with Mr. Marble, in presenting your case to the District Court. Under the controlling standards of review, the District Court need only determine that there was "substantial evidence" to support the final CSC decision at the administrative level. It does not try the case over, or indeed reweigh the evidence, although we try to get this done by various techniques of advocacy.

I personally believe the District Court decision to be wrong, because of the injustices that occurred to you at the administrative level. However, because of the limited scope of review and the fact that you do not get a trial de novo in the District Court, but simply a review of the administrative record, the Court's decision is fully sustainable as a matter of law. To take a decision based on substantial evidence to the Court of Appeals, in cases of this type, rarely results in a reversal because the Court of Appeals gives great weight to the judgement and discretion of the District Court Judge in finding that there was substantial evidence to sustain the removal. Normally, we do not even appeal such cases, however, because of the gross injustices that had been done to you, I authorized the appeal as I had considerable time spent in reviewing your case and trying to ensure the matter would be presented at the District Court in its best posture.

I have no way to excuse or to rationalize the failure of Mr. Malloy to file the briefs on time after numerous continuances. As you are no doubt aware, Mr. Malloy is no longer with AFGE. I can say without any hesitation that you received full and competent representation at the administrative level and at the District Court level where cases of this type are normally decided. Therefore, while the failure to fully pursue the appeal is inexcusable, it did not, as a practicable matter, materially deprive you of any significant representation as the appeal was filed with the full awareness that it was unlikely to be successful because of the state of the law controlling the appeal. Nevertheless, I regret very much what has occurred. We will keep you advised of any action by the Court.

Sincerely and fraternally,

L. M. Pellerzi
General Counsel

D-98. Letter from AFGE General Counsel Pellerzi to McClelland, 10 February 1978.
And then—good news for a change (D-99):

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 76-1654

B. Riley McClelland
Appellant

v.

Thomas S. Kleppe, Secretary of the Interior, et al

BEFORE: Robinson and Wilkey, Circuit Judges

ORDER

Upon consideration of appellant's unopposed motion for reconsideration of the August 24, 1977, order dismissing the appeal herein, and for leave to file appellant's lodged brief on appeal, it is

ORDERED by the Court that, for the reasons expressed in the accompanying memorandum, the motion be and hereby is granted; and it is

FURTHER ORDERED by the Court that the order entered herein on August 24, 1977, be and hereby is vacated, and that the appeal herein be and hereby is reinstated; and

The Clerk is hereby directed to file appellant's lodged brief on appeal.

For the Court:

GEORGE A. FISHER, Clerk

By: Robert A. Bonner
Chief Deputy Clerk


AFGE General Counsel Lou Pellerzi (in Washington, D.C.) wrote to AFGE National Vice President Mort Davis (in Portland), identifying AFGE Attorney Jim Rosa as our new attorney (D-100):
June 28, 1978

Mr. Morten J. Davis
AFGE National Vice President
610 S. W. Broadway, Room 306
Portland, Oregon 97205

Re: McClelland v. Kleppe

Dear Mort:

Enclosed are copies of the orders and memorandum opinion in the U.S. Court of Appeals for the District of Columbia Circuit in the McClelland case.

The Court has reinstated the appeal and accepted the brief that was late filed on appeal. The affect of these orders is to restore the case to full consideration by the Court. Whether or note oral argument will be permitted will be in the judgement of the Court.

I am reassigning the case to Jim Rosa of my staff as he is the most competent lawyer to handle it. Will you please advise McClelland of this progress by copy of this letter.

Sincerely and fraternally,

L. M. Pellerzi
General Counsel

D-100. Letter from AFGE General Counsel Pellerzi to AFGE Vice President Mort Davis, 28 June 1978.

On 13 July 1978, Attorney Don Marble wrote (D-101):
Dear Riley:

Thanks for the news. It is very good and I am extremely pleased. I believe your handwritten letter did the trick.

May I suggest that you write Mr. Pellerzi. Tell him you have received a copy of the letter of June 28, 1978, and the Court's memorandum. You could tell him you are pleased to see it reinstated.

I am now admitted to practice before the D.C. Circuit. You could ask Mr. Pellerzi to have me added as counsel of record for Appellant. Then I would get a copy of all notices, etc. AFGE could then stay involved. I could participate in the reply brief yet to be prepared and filed, and I would get all of the notices.

I'm extremely pleased to see us back in the ball game.

Very truly yours,

Donald R. Marble


15 August: I received the first communication from AFGE Attorney Jim Rosa, a copy of his "Reply Brief for the Appellant. The Clerk of the Circuit Court had received the Brief.

14 August: Jim Rosa asked me for any thoughts or comments I had on the brief. Rosa turned out to be a super attorney with great expertise.

22 August: Attorney Don Marble wrote to Jim Rosa: "I like the brief [that Rosa had submitted]; it is clear, easy to digest and to the heart of the matter, that of restoring the Hearing Examiner's decision. I am optimistic and hope the Court goes along with us." Through the remainder of 1978 there we received no further word on the case. Meanwhile, the NPS was de-emphasizing any reference to ecosystem management and focusing on use and facility development. Director Hartzog proclaimed 1979 "The Year of the Visitor."

In early March 1979, we were informed that our case would have oral arguments
before a three-judge panel of the 10th Circuit Court of Appeals, at 9:30 A.M. on 27 March 1979, in Washington, D.C. AFGE Attorney Jim Rosa told me that in his opinion it would be very important for me to attend, although I would have no opportunity to say anything. Rosa would present our arguments in court. I decided to attend the 56th annual North American Wildlife and Natural Resources Conference to be held in Toronto, Canada, during that week. I flew from Missoula to Toronto on the 25th, from Toronto to Washington, D.C. the evening of the 26th to attend the hearing at the Circuit Court on the morning of the 27th, then back to Toronto the afternoon of the 27th to attend the final day of the conference. I made airline reservations (total air fare was $642) and for a hotel room in Toronto during the Conference and one night at the International Holiday Inn, 14th Street NW, Washington, D.C. for the eve of the hearing. AFGE would not be able to cover the travel costs; we would have to bear them.

It had been nearly impossible to concentrate on the presentations in Toronto; my thoughts were consistently on the Circuit Court Hearing. I met Jim Rosa outside the Washington, D.C. courtroom on the morning of 27 March. We had talked on the phone, but I had not met him before. We took our place in the courtroom and the three judges (Chief Judge Wright, and Circuit Judges Swygert and Robb) entered and sat in their commanding positions facing the courtroom. I had expected that Attorney Richard Robbins would again be arguing for the government. He had been, it seemed to me, not in search of the truth, but on humiliating me. But Robbins was a Department of Interior solicitor and the government’s case was now in the hands of the Department of Justice. Mary C. Lawton presented the government argument. It was a relief to have Robbins absent, after the extreme hostility he had displayed at the previous hearings. However, I had no idea what tact Mary Lawton would take; perhaps she would be as bad.

Compared to the previous hearings, appearance before three 10th Circuit judges had an austere “atmosphere” that demanded that attorneys on both sides focus on terseness and the heart of the legal issues. Attorney Lawton avoided the sarcasm and personal attacks that had pervaded Richard Robbins presentations before the Administrative Law Judge and the CSC Hearing Officer. Lawton did not seem to be familiar with the facts of the case and made what appeared to me to be a weak defense of NPS actions. Of course to us, there was NO defense of the NPS’ actions. Jim Rosa presented a strong and forceful case in our defense. He clearly was articulate and experienced in this setting. I was extremely pleased with his presentation. The questions raised by the Chief Judge seemed to indicate skepticism concerning Lawton’s arguments. But one can not reliably deduce from the tone of the questions from the bench, which way the judges are swaying. As one would expect, Jim Rosa was cautiously, very cautiously, optimistic about the eventual outcome. He obviously didn’t want me to be disconsolate, but also didn’t want to elevate my expectations. Waiting for a verdict dragged on through the summer. Meanwhile, I was occupied in a continuing avian research project sponsored by the U.S. Forest Service (USFS), primarily in the Coram Experimental Forest, in northwest Montana.

20 August 1979: We received word of the 10th Circuit Court’s decision (the decision is available in its entirety online at several web sites (e.g., http:openjurist.org, or search McClelland vs. Andrus). Excerpts from the decision follow (D-102):
United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 76-1654  
B. Riley McClelland, Appellant  
v.  
Cecil D. Andrus, Secretary of the Interior, et al.

Appeal from the United States District Court for the District of Columbia  
(D.C. Civil Action No. 75-1969)

Argued March 27, 1979  
Decided August 17, 1979

James R. Rosa, for appellant. Raymond J. Malloy was on the brief for appellant.  
Mary C. Lawton, Attorney, Department of Justice, with whom Earl J. Silbert, United States Attorney at the time the brief was filed, and John A. Terry and Eric B. Marcey, Assistant United States Attorneys, were on the brief for the appellees.

Before WRIGHT, Chief Judge, and SWYGERT and ROBB, Circuit Judges.

Opinion for the court filed by Chief Judge WRIGHT. Dissenting opinion filed by Circuit Judge ROBB.

The Circuit concluded:  
"... the judgment of the District Court appealed from in this case is vacated, and this case is remanded to the District Court with instructions to remand it to the Civil Service Commission (1) to permit appellant access to the Mangers-Rumberg report with appropriate excisions, if necessary, and (2) to reopen the record to allow introduction of such further evidence as may be relevant to this case, after which the Commission shall reconsider the case on the augmented record in accordance with the principles stated herein and take such further action in the premises as may be appropriate."


We were of course, overjoyed. Although the Circuit Court decision remanded the case to the District Court with instructions to remand it to the CSC, the Circuit Court also articulated different principles on which the case should be reconsidered. The Circuit Court ordered the production of a secret NPS report (Mangers-Rumberg) on the Briggle administration and instructed that the record be reopened for further evidence.
Unlike the unfavorable decisions from the Administrative Law Judge who conducted the Formal Hearing back in 1973, the CSC Appeals Review Board in Washington, D.C., the District Court, and all of the agency and departmental appeals, the Circuit Court panel cut to the heart of the NPS obfuscation and exposed the failure of the NPS to follow its own policies. The 10th Circuit’s decision was favorable to us, as had been the decision of the CSC’s Field Hearing Office, in Helena, in 1973.

The District Court for the District of Columbia reacted to the Circuit Court decision and issued the following (D-101):

B. RILEY MCCLELLAND Plaintiff,
V.
CECIL D. ANDRUS,
Secretary of the Interior, et al., Defendants.
Civil Action No. 75-1969
FILED SEP 14 1979
JAMES F. DAVEY. Clerk

ORDER

In accordance with the decision of the United States Court of Appeals for the District of Columbia Circuit in McClelland v. Andrus, No. 76-1659 (August 17, 1979) . . . it is

ORDERED, that this action be, and hereby is, remanded to the Civil Service Commission (1) to permit plaintiff McClelland access to the Mangers-Rumberg report with appropriate excisions, if necessary, and (2) to reopen the record to allow introduction of such further evidence as may be relevant to this case, after which the Commission shall reconsider the case on the augmented record in accordance with the principles stated in the above decision of the United States Court of Appeals for the District of Columbia Circuit and shall take such further action in the premises as may be appropriate.

John H. Pratt
United States District Judge


It was not evident just how the NPS would proceed. They could of course follow the court’s order and go back to the CSC and reargue the appeal in a hearing under the new guidelines imposed by the court, or they could decide to settle in a manner agreeable to us. I wrote to Mike Frome regarding the news of the Circuit Court decision. He responded as follows, in part (D-102):

Dear Riley:

Thanks for keeping me posted on the case. The decision is encouraging but, of course, indecisive. The regional directors were apprised of it at their meeting last week and groaned. They would want to fight it. But Whalen [NPS Director] might not be; is a different breed, principled but unfortunately not ready for the job— too bad he couldn't have had more training. Riley, why don't you contact Dale Burk and see if you can get an editorial or some coverage in the Missoulian. It might also help if Baucus wrote a new letter to Andrus. This is a chance for the Department to do something positive for a change.

Mike


Dale Burk wrote another supportive column in the Missoulian (D-105):
A good man wins a round

By DALE BURK
Missoulian Columnist
Eight years after he began a seemingly impossible fight against dictatorial management policies in the National Park Service, B. Riley McClelland has won a chance to win his war.

In 1971, McClelland became a national cause celebre when he challenged an effort by then-Superintendent William Briggie to transfer naturalist McClelland to a desk job in Omaha, Neb. McClelland contended that Briggie had arranged the transfer because of personal animosity resulting from McClelland’s professional disagreement with management policies implemented in Glacier Park by Briggie.

Subsequent investigations revealed evidence that McClelland’s case was only one of many in Glacier Park, but the Park Service bureaucracy still ruled against McClelland’s appeal of what he believed to be a punitive transfer. He subsequently was fired and now works as an assistant professor at the University of Montana’s School of Forestry.

He appealed his dismissal, however, with the help of the American Federation of Government Employees. That legal maneuver, in U.S. District Court in the District of Columbia, failed. The ruling was against McClelland. Subsequently, his attorney — Don Marble of Chester — and the AFGE appealed that decision to the U.S. Court of Appeals last March.

That court issued its ruling recently — in McClelland’s favor. The Civil Service Commission must reconsider his case and it must do so on the basis of court-ordered guidelines intended to ensure that all facts concerning the case are considered.

At issue are two key points. One is that the National Park Service now must prove that its transfer of McClelland to Omaha “would promote the efficiency of the service more than would his retention in Glacier.”

The other is that the Park Service must release to the Civil Service Commission its internal assessment of Briggie’s management practices in Glacier Park, the so-called Mangers-Rumberg report. McClelland’s attorneys have insisted the report is essential to determine if Briggie’s proposed transfer of McClelland to Omaha was capricious. The U.S. Court of Appeals agreed.

In the first case, the Court noted that the transfer of a government employee cannot be based on “an arbitrary decision to achieve a predetermined result.” That is seen as nothing more than camouflage of a discretionary decision.

“The agency can support the adverse action (McClelland’s transfer order) on a rational basis: the need for appellant’s services in Omaha. But that does not eliminate the possibility that the transfer was a sham — a way of achieving a predetermined result,” the Court ruled.

The court then ruled that the Civil Service Commission must, to uphold the Park Service’s dismissal of McClelland, find a nexus between the proposed transfer and the good of the service. The court noted that the “urgent” job the NPS ordered McClelland to in Omaha has not been filled eight years later.

The Appeals Court also noted that denying McClelland’s attorneys access to the Mangers-Rumberg report “could do violence to our conception of fair procedure and due process.”

The Mangers-Rumberg report is uniquely relevant to (McClelland’s) case,” the court ruled. “It deals with Supt. Briggie’s personnel management practices. These practices may shed light on the validity of appellant’s claim and the findings of the the Federal Employee Appeals Authority that the transfer order to Omaha was not for the good of the Service, but a mere pretext to enable Briggie to get rid of him.”

The court suggested that the manner in which Briggie dealt with other employees would be probative of the manner in which he dealt with McClelland.

“The report might identify individuals that appellant may wish to call as witnesses; it may lead appellant to additional evidence supportive of his claim,” the case’s presiding judge wrote.

Now the Civil Service Commission must examine the report and balance McClelland’s need for it against the agency’s need to protect the confidentiality of its deliberations. It also must decide the merit or nonmerit of the McClelland-Briggie dispute.

Whatever, the McClelland case is far from over. Rulings either way can still result in further appeals — but any outcome can only serve to emphasize the long, costly, and almost insurmountable struggle a whistle-blower in public service must face to defend his or her integrity.

So far, however, the odds have been against McClelland. Now it seems that they’re at least even and that’s the best chance he’s had in eight long years. What’s a few more when you’re in pursuit of justice?
We continued to hear that it would benefit our negotiations with the NPS if we could obtain a copy of the Mangers-Rumberg Report. Attorney Don Marble wrote to AFGE General Counsel Jim Rosa (D-106):

16 November 1979

Dear Mr. Rosa:

I have received information from a good source high up in the NPS that the Mangers and Rumberg Report is a real explosive report and it was a result of or part of a "coverup" to prevent disclosure of management problems at Glacier N.P. Perhaps very aggressive actions to obtain it would help the N.P.S. decide to settle?

Best regards, and
Very truly yours,

Donald R. Marble


28 November: Attorney Jim Rosa wrote to the Merit Systems Protection Board (MSPB, formerly the Civil Service Commission) requesting that I be provided with a copy of the Mangers-Rumberg Report.

13 February 1980: Assistant Solicitor Richard G. Robbins, our old nemesis from the earliest Hearings, wrote to the MSPB announcing that he would represent the Department of Interior in the upcoming hearing on our case. In the same letter Robbins included copies of the Mangers-Rumberg Report for the MSPB. AFGE Attorney Jim Rosa received a copy of the letter and promptly wrote to the MSPB requesting: "... on behalf of Mr. McClelland, that AFGE expeditiously receive a copy of the Report."

29 February: The MSPB’s Acting Chief Appeals Officer responded to Rosa, stating: "The Department of Interior has asserted no claim of privilege with respect to the Mangers-Rumberg Report. A copy of it is enclosed." The MSPB letter also stated: "The record of appeal is reopened. Mr. Steven L. Chaffin will be the presiding official on the case. You may expect him to schedule the hearing you requested in late March or early April."

Matters continued to drag on and we heard that the hearing would be held no earlier than 18 April 1980.

10 March: AFGE Attorney Kevin Grile forwarded to me a copy of the infamous Mangers-Rumberg Report. We finally got to review the long-protected document, that was based on an “inquiry” in GNP during 6–9 February 1973. The Report did not comment on my case, but dealt with Briggle’s overall personnel management problems. Reading the Report, it became clear why the NPS had attempted to keep it confidential. Excerpts follow (D-107):
The report listed Briggle’s strong points as:

1. Talented
2. Analytical
3. Dedicated
4. Aggressive
5. Articulate
6. Actively moves programs
7. Receptive for the need for change
8. Actively pursues program thrusts for superiors
9. Maintains good Service image with Service friends
10. Employees know where they stand

His weak points were listed as:

1. Domineering
2. Manages by fear
3. Lacks compassion
4. Egotistical
5. Inconsistent
6. Fails to provide full staff communications
7. Difficulty delegating authority
8. Fails to communicate with outside critics (both organizations and individuals), particularly conservationists.

The following comment in the Report implies that Regional Director Volz probably was taking orders from Superintendent Briggle, through Director Hartzog, rather than following the usual line of command:

“It is believed important to point out an additional significant factor which bears directly on the situation confronting Briggle and his management style. Briggle was ‘George Hartzog’s man’—Briggle had direct access to the Director and the Director, in turn, dealt directly with Briggle on many matters concerning the management of Glacier. As a result, Regional Director Volz was placed in an awkward position as far as his relations with Briggle and general park management are concerned. Actually, we understand that Volz has visited Glacier only once during Briggle’s tenure and has never provided any management direction advice nor counselled [sic] him regarding his handling of personnel situations.”

The Report’s Recommendation:

“It is our recommendation the he [Briggle] be counseled regarding those management practices considered to be poor, i.e., management by fear, lack of compassion, and poor communications and that his management practices be reevaluated at six-month intervals for the next year. If he proves himself successful in rebuilding his employee relationships he will undoubtedly be one of the better managers in the Service. If he fails to do so, he should be transferred out of direct line management.”

[If these “reevaluations” actually took place, no information was ever released].


Perhaps this is the appropriate place to comment on Briggle’s university “degree.” When Briggle was appointed Superintendent of GNP, he claimed in a press release that he had
graduated with a degree in Forestry from the University of Idaho. At the time, we heard from several sources that his degree was a fabrication. Briggle’s claim that he had received a B.S. degree from the University of Idaho was raised again in 2006 in a description of the National Pugsley Medal, that he received in 1993. Honorable Cornelius Amory Pugsley Medals are the most prestigious awards that recognize outstanding contributions to the promotion and development of public parks in the United States (cited from the American Academy of Parks and Recreation Administration [AAPRA]). The Award story and Briggle’s biography were included in the AAPRA Bulletin, September 2006, Page 5. The article included the following:

“William J. ‘Bill’ Briggle (1925-) received the national level Pugsley Medal in 1993. He was born in Fort Worth, Texas, but at the age of ten, he moved to California and lived there until his induction into the Army in 1944. He had attended El Camino Junior College in California and after his discharge from the Army in 1946, Briggle returned to school at the University of Idaho graduating with a B.S. in Forestry.”

In early 2009, my UM colleague, Dr. James Habeck, came across the 2006 AAPRA Newsletter on the internet. With the article again crediting Briggle with a degree from the University of Idaho, Dr. Habeck decided that the only way to put this issue to rest was to ask for information from the Registrar at the University of Idaho. Dr. Habeck wrote to the Registrar and received the following response on 4 February 2009, from Chris Menter, Student Records & Systems Coordinator, University of Idaho Registrar’s Office:

“William Briggle attended the University of Idaho from Spring 1948 through Spring 1949 when he withdrew on March 9, 1949; no degree was earned.”

The lack of a degree would not necessarily disqualify Briggle for the positions he held in the NPS. However, Briggle’s persistent lie that he had earned a degree was characteristic of his penchant for conjuring up his own set of “facts.” It was simply one of the facets of Briggle’s lack of conscience and his lack of ethical standards. After retirement, in 1999, Briggle also had received the Department of Interior’s Meritorious and Distinguished Service Awards. Quite a set of accolades for an individual who demanded loyalty above all principles.

18 March: The MSPB notified us that the hearing would be held in Missoula, Montana, on 22 April 1980.

AFGE believed that the NPS might now be more amenable to a settlement favorable to us, to avoid a hearing in which much embarrassing information regarding Briggle would be aired. AFGE Attorney Jim Rosa and Department of Interior Solicitor Richard Robbins began negotiations to see if a settlement of the case was possible at this point. In a 24 March 1980 letter to the MSPB (D-106), requesting an extension of time for the Hearing date, Richard Robbins wrote (D-108):

“Settlement negotiations are active. I met with Mr. James Rosa, AFGE on March 19, 1980 and received a proposal from him on behalf of Mr. McClelland. The Department of the Interior is presently evaluating this proposal. Additional time will permit meaningful exploration of options. Time will permit the necessary financial data to be collected, and retirement and other benefit entitlements to be calculated and evaluated by the parties.”

4 April: The MSPB responded:
"The fact that negotiations are taking place, without some indication that progress is being made toward a settlement, is not necessarily sufficient good cause for the postponement. Since the hearing is still scheduled some three weeks in the future, please notify me within 10 days of the hearing date concerning the progress of the negotiations."

This undoubtedly put some pressure on the NPS, assuming that they really did desire to settle. Negotiations continued between AFGE attorneys Jim Rosa and Kevin Grile and Solicitor Robbins. Rosa or Grile kept in contact with me by phone making certain that they were representing my position in a potential settlement.

18 April: Solicitor Robbins wrote to the MSPB “Presiding Official” for our case, Steven Chaffin (D-109):

Dear Mr. Chaffin:

This confirms my telephone call to you on Friday April 11, 1980 informing you that the parties in Riley McClelland v. Department of the Interior, Docket No. DE 752B-79-67 have reached principal agreement on settlement of the case and that no hearing would be necessary in the matter.

Specifically, the Department of the Interior has agreed to reinstate Mr. McClelland and to pay back pay to date of removal less amounts earned by Mr. McClelland during that period. The parties are in the process of gathering the relevant financial information in order to calculate back pay and are exploring specific positions for Mr. McClelland.

We expect that full agreement on all details of the reinstatement and back pay will be reached in the near future. We shall keep you posted on our progress.

Please advise what documentation you will require in order to officially close this case.

Sincerely,

Richard G. Robbins
Assistant Solicitor
National Capital Parks

cc: Mr. Riley McClelland
Mr. James Rosa


20 April: AFGE Attorney Jim Rosa phoned and asked me to prepare an estimate of the back pay that I was owed by the NPS, i.e., the NPS salary that I would have received minus the amount earned during the period (27 July 1973–31 August 1980). My preliminary calculations were:

NPS salary that would have been earned: $155,327
Minus salary actually earned from UM and research 11,601
Difference = $43,726
Jim Rosa continued to have difficulty nailing down some of the details. The NPS did not want me to be reinstated in GNP and they were proposing various other national parks where I could be reinstated as a research biologist (e.g., Isle Royal National Park). I decided I must hold firm on returning to GNP. That was, after all, the basis for this entire imbroglio. Accordingly, I wrote to AFGE Attorney Jim Rosa (D-110):

28 April 1980

“This is a letter to clarify my view on the conditions for accepting reinstatement as part of the settlement of this case with the National Park Service.

Although I can be quite flexible in terms of which position in Glacier National Park, I do think that it is important to strive for reinstatement in that Park. This whole issue arose because of the sham abolishment of one position there, then forced transfer from another. It (remaining in Glacier) was to a large degree the key to the whole issue. And of course the Hearing Officer (upon whose decision the Circuit Court based a large part of their opinion) had originally ordered reinstatement to Glacier.

As mentioned to you earlier, I would accept a reinstatement to Yellowstone as a compromise if the settlement might otherwise collapse.

I cannot consider it to be a reasonable settlement if they were to simply come up with some obscure location in Alaska or elsewhere. Hopefully, that will not happen. If they are pursuing the settlement in good faith, I trust that they will arrange for reinstatement in Glacier.

I do not want to appear ‘picky,’ but I do believe that the issue of reinstatement location is a very important one.

Many thanks for your continuing patience and assistance,

Riley McClelland”


14 May: NPS Director William Whalen was replaced as by Russell Dickenson, a career NPS man with a good reputation. This was encouraging news. Still, the negotiations dragged on, with the NPS unwilling to commit to reinstatement in GNP.

28 May: MSPB Presiding Official Chaffin wrote to Jim Rosa:

“If I do not hear from you by June 7, 1980, on this matter, I will consider that the settlement has not been effected and I will proceed to either schedule a hearing on the matter or close the record and adjudicate the appeal.”

Chaffin obviously was reaching his limit of patience on delays in finalizing this case. I was of course of similar mind. It was not easy trying to teach classes, conduct field research, and every day worry about how this would wind up. In the last week of May I had a long phone conversation with Jim Rosa, after which I wrote to him (1 June) reiterating my position that the reinstatement must be in GNP. The NPS apparently had now moved to a strategy of offering some sort of deferred retirement. I had no interest in that option.
AFGE Attorney Jim Rosa wrote the following to the MSPB on 9 June 1980 (D-111):

"Dear Mr. Chaffin:

As representative for Mr. McClelland, I am hereby responding to your letter dated May 28, 1980 requesting a progress report on the settlement of the above-referenced case. The parties have both agreed as to the principle of settlement with only the specifics of the settlement yet to be determined such as the computation of back pay and the position in which Mr. McClelland will be reinstated. Because a settlement has not been formally effected, appellant can not withdraw his appeal at this time. However, as only the specifics are yet to be determined, it is requested that additional time be permitted in order to achieve a settlement. Mr. Richard Robbins, attorney for the Agency, has been contacted and concurs in this request. Appellant expects that this case will be settled in the near future.

Respectfully submitted,
James R. Rosa
General Counsel

cc: R. McClelland, Richard Robbins, Regional Director, Midwest Region, Donald Marble"

Steven Chaffin responded as follows:

ORDER TO PRODUCE DOCUMENTS

DENVER FIELD OFFICE
Building 46, Denver Federal Center
Box 25025
Denver, Colorado 80225

Riley McClelland
V. 
Dept. of the Interior

Docket No. 752B-79-67

ORDER TO PRODUCE DOCUMENTS

The agency is hereby ordered to produce documents relating to the settlement in the above captioned case. These documents are the settlement agreement signed by all parties, and the Standard Form 50, Notification of Personnel Action, documenting the appellant's reinstatement.

These documents must be produced by July 3, 1980. If the documents are not produced by that date, I will conclude that the settlement is no longer in effect and schedule a hearing on this matter.

Date: June 20, 1980

Steven L. Chaffin
Presiding Official

D-112. ORDER TO SHOW CAUSE issued by the MSPB, 20 June 1980.
A friend in GNP sent me a copy of the minutes from the 17 June weekly meeting of the superintendent’s staff. Superintendent Iversen made it clear that he was looking for arguments against a possibility of my return to GNP. He no doubt was feeding this strategy to the NPS negotiators in Washington, D.C. Following is an excerpt from the meeting minutes:

Superintendent Iversen commented regarding the Riley McClelland Case:

“Despite rumors that this case has been settled, the Park Service is still negotiating with Riley’s attorneys. There have been rumors of reinstating him in Glacier or Yellowstone. The only position that we have available in Glacier is a GS-9 District Naturalist position, and Riley was a GS-11. Riley has apparently heard that we have a vacant plant ecologist position. Let me reemphasize, the plant ecologist position was abolished when Bob Hall transferred from it. Technically, the position is on the books to take care of one of the three vacancies we cannot fill, but it will only be reestablished by budget justification and a high priority on the staffing list.”

1 July: AFGE Attorney Jim Rosa phoned me and said that it appeared to be imperative that I come to Washington, D.C. and accompany him in a face-to-face negotiation with NPS representatives as a last ditch effort to affect the final details of an agreement. I would have to foot the bill for the travel. On 10 July, I flew from Missoula to Denver, where I connected with a flight to Washington, D.C. It had been seven years since the NPS fired me. The meeting took place in the Interior Building, in Washington D.C. I was represented by James Rosa, from AFGE. The NPS was represented by Nancy C. Garrett (known as the "Dragon Lady"), Associate Director Administration, and James Thompson, from the Washington office, but soon to be promoted to the superintendency in Rocky Mountain National Park. It was a long and contentious meeting. The NPS wanted to settle and to end the case, but they did not want me back in GNP.

Reinstatement in GNP was the criterion on which we were committed to remain firm. The NPS tried to argue that there were no vacant positions in GNP (as Iversen had stressed in the staff meeting) and that the Park had no resource problems or questions that were not currently covered. However, the NPS negotiators had a difficult time countering facts in the recently released “STATE OF THE PARKS” REPORT TO THE CONGRESS, MAY 1980, by the Office of Science and Technology, NPS. This report stated that the NPS had recently completed its first Service-wide survey designed to identify and characterize threats that endanger the natural and the cultural resources of the parks. This 1980 State of the Parks Report focused on three aspects of the threats to the parks problem: First, identification of specific threats which endanger the resources of individual parks; second it identified sources of threats, whether located internal or external to park boundaries; and third, the Report identifies park resources which are endangered by the threats.

The Report stated:

“The 63 National Park natural areas greater than 30,000 acres in size reported an average number of threats nearly double that of the Service-wide norm. Included in this category are units such as Yellowstone, Yosemite, Great Smoky Mountains, Everglades and Glacier. Most of these great parks were at one time pristine areas surrounded and protected by vast wilderness regions. Today, with their surrounding buffer zones gradually disappearing, many of these parks are experiencing significant and widespread adverse effects associated with external encroachment.”

The study found an average of 13.5 threats per park, but 56 for GNP, the fourth highest number of threats facing any of the 326 park units that were surveyed. Jim Rosa and I focused on the results of the Threats to the Parks Report, pointing out that it was clear that
GNP was understaffed and unable to deal with many of the identified threats.

After hours of negotiations, and separate conferences by the opposing sides, the NPS finally agreed on reinstatement in GNP (they can always create a position in any Park whenever they want [need] to), in either research or resource management, within 24 months. Prior to the 24-month deadline I would be placed in GNP in a career seasonal position of between 10 and 11 months per year, beginning 1 September 1980. This would allow me time to work out a split employment, with part of the year in the NPS in GNP, and part remaining on the faculty at UM. I also was awarded full back pay, minus any income earned from any source during the period. All annual leave and sick leave, including that which would have been earned during the period of my absence, also was to be restored.

I left Washington with this verbal agreement. There remained to be concluded a final written agreement with precise wording, to be worked out between AFGE Attorneys Jim Rosa and Kevin Grile, and the Department of Interior’s Solicitor Richard Robbins, with my final written concurrence necessary. After another three weeks of struggling over the precise wording, on 31 July 1980, I then received the agreement which AFGE had finalized with the NPS. Jim Rosa wrote (D-113):
July 31, 1980

Mr. B. Riley McClelland
1612 BelAir Place
Missoula, Montana 59801

Dear Riley:

Enclosed is a copy of the settlement agreement. This will finally conclude your case.

Sincerely and fraternally,

James R. Rosa
General Counsel

Enc.
James Rosa
General Counsel, AFGE
1325 Massachusetts Avenue, N.W.
Washington, D.C. 20005

Dear Jim:

Enclosed are two copies of the final settlement agreement in the B. Riley McClelland case.

This agreement has been changed to reflect the wording which Kevin and I agreed upon on Wednesday, July 30th. Nancy Garrett of the National Park Service has executed the agreement. When Riley has signed both copies, please return one for our files.

I am pleased that we have been able to settle this case and look forward to wrapping up the final details as quickly as possible.

Sincerely yours,

Richard G. Robbins
Assistant Solicitor
National Capital Parks

D-114. Letter from Solicitor Robbins to AFGE Attorney Rosa, 1 August 1980.
AFGE General Counsel Jim Rosa had done the unimaginable. I wrote to thank him (D-115):

"Dear Jim:

Here are the original and one copy of the agreement with my signature. Could you please make sure that a copy of the agreement, with Ms. Garrett's initials on the wording addition, is mailed to me as soon as it has been accomplished.

It all looks very good; preliminary arrangements with Glacier are very encouraging. And — it is all very hard to believe.

Heartfelt thanks to you and Kevin.

Best regards,

B. Riley McClelland"

D-115. Letter from McClelland to AFGE General Counsel Jim Rosa, 6 August 1980.

Following is the Settlement Agreement signed by Nancy C. Garrett, Associate Director of the NPS, 7 August 1980 (D-116):

SETTLEMENT AGREEMENT

B. Riley McClelland Case

In accord with the findings of the United States Court of Appeals for the District of Columbia Circuit in McClelland v. Andrus, Civ. No. 75-1969 (D.C. Cir. Aug. 17, 1979) and to rectify an unwarranted personnel action, Mr. B. Riley McClelland and the Department of Interior hereby agree to settle Mr. McClelland's case in accordance with the following provisions:

Mr. McClelland will, within the next twenty-four months, be reinstated to an appropriate full-time career research or resource management position at GS-11, step 8, at Glacier National Park. This position will reflect Mr. McClelland's background, education and experience and the National Park Service recognizes that Mr. McClelland's first preference is for a research position. Until such placement Mr. McClelland will, beginning on September 1, 1980, be placed in a Career Seasonal position as a Research Biologist ("at Glacier National Park" inserted, and initialed by Nancy Garrett for the National Park Service and by B. Riley McClelland) at forty-hours per week for not less than ten (10) months or more than eleven (11) months a year with the remaining weeks per year to be covered by annual leave plus two weeks of leave without pay. While in such position Mr. McClelland shall be entitled to all fringe benefits of a permanent career employee on a pro-rated basis.

It is further agreed that Mr. McClelland's reinstatement will be with backpay to the full extent permitted under the law for the entire period from the effective date of his removal, July 27, 1973, until his return on September 1, 1980. The Department of Interior agrees to provide Mr. McClelland with a copy of the calculations upon which they rely in determining the amount of his backpay award. It is understood by all parties that such calculations shall make provisions for appropriate set-off but that Mr. McClelland in no way waives his right to question the calculations or the amount of backpay arrived at pursuant to this agreement and that Mr. McClelland may, after executing this document, exercise his right to question the Department of Interior's backpay calculations and seek correction of any miscalculation.
It is further agreed that in accord with applicable regulations the Department of Interior will restore annual leave to Mr. McClelland. It is estimated that Mr. McClelland will be entitled to approximately 38 weeks of annual leave which under current regulation he must use 32 weeks by the second week in January 1983. Accordingly, the Department of Interior will take this factor into consideration when considering Mr. McClelland's leave requests.

In return for the above-referenced actions by the Department of Interior, Mr. McClelland agrees to the dismissal, with prejudice, of all claims including pending proceedings against the government involving his removal, provided, however, it is recognized that Mr. McClelland reserves the right to challenge the Department of Interior's calculations relative to backpay and restoration of annual leave and litigate any violations of this agreement.

Agreed this 7 day of August 1980 by:

B. Riley McClelland
Nancy C. Garrett
Associate Director, Administration
National Park Service

B. Riley McClelland has been assigned to a position as Wildlife Research
Biologist in Glacier National Park according to Park Superintendent,
Phillip R. Iversen.

In response to a settlement agreement, "In accord with the findings of
The United States Court of Appeals for the District of Columbia in
McClelland vs. Andrus, Civ. No. 75-1969 (D.C. Cir. August 17, 1979) and
to rectify an unwarranted personnel action . . .," the National Park
Service is reinstating McClelland to a Research Biologist Position in
Glacier National Park.

McClelland will enter on duty September 1, 1980, with the initial thrust
of his activities being directed toward the fall concentration of bald
eagles along McDonald Creek. He will also be responsible for research
projects in other parts of the Park.

Riley McClelland has been associated with the University of Montana
School of Forestry since 1974. He has conducted research and published
articles on a variety of topics. He expects to maintain an active
relationship with the University as part of his new job.

# # # # #

McClelland wins job fight

WEST GLACIER — After eight years, Riley McClelland has finally won his battle with the National Park Service.

He has appeared at many hearings and in a number of courtrooms asking reinstatement to his position on the Glacier Park staff.

An agreement has finally been reached and the Park Service announced Wednesday that McClelland will go back to work in Glacier Park as a wildlife research biologist starting next Monday.

McClelland will direct his initial activity toward the fall concentration of bald eagles along McDonald Creek. He will continue the extensive eagle research that he's conducted when with the University of Montana.

McClelland’s case began in 1972 when he filed a grievance over an order directing him to transfer to the regional Park Service office in Omaha.

He said the transfer was a reprisal because his professional views on resource management conflicted with those of then Superintendent William Briggle. McClelland maintained his transfer was not in accord with National Park Service personnel policy and he refused to move.

He had moved from Yellowstone Park to Glacier Park as a naturalist and had been here seven years when the conflict arose.

In May 1973, McClelland appealed the move to the Park Service director but the order stood. He then appealed to Department of Interior Rogers Morton who sustained the NPS decision.

In July 1973, McClelland requested a temporary injunction to stay on the federal payroll pending further appeal. Federal District Judge Russell Smith in Missoula denied his request.

He became associated with the University of Montana in the interim both as a student and as an instructor. And he kept fighting to get his job back.

In May 1974, he asked the U.S. Civil Service Commission for reinstatement to his post in Glacier. A ruling three months later by an examiner was in favor of McClelland however the Park Service appealed, sending the case to a Civil Service Commission appeals review board.

The board reversed the examiner’s decision and ruled in favor of the NPS. McClelland had lost again.

He then appealed to the U.S. District Court for the District of Columbia in Washington, D.C.

In November 1975, the court ruled in favor of the Park Service.

McClelland still wasn't satisfied and appealed the court's decision to the U.S. Court of Appeals for the District of Columbia. He finally won when the appeals court remanded it back to the Civil Service Commission examiner's 1974 decision which had stated he should be reinstated to his position.

The appeals court described McClelland's transfer as “unwarranted.”

McClelland had requested back pay since his termination in 1972. After negotiations with the Park Service, he will be awarded the wages minus anything he's made since 1972 at UM or other jobs. His annual leave is also being negotiated.

He was represented in his legal battle in part by the American Federation of Government Employees.

McClelland earned his doctorate from UM in 1977 and is an associate professor there. He and his wife, Pat, will live in West Glacier.

Briggle is currently superintendent at Mount Rainier National Park.
Dr. B. Riley McClelland  
1612 Bel Air  
Missoula, Montana  59801

Dear Riley:

I am writing to extend a personal welcome back into the ranks of the National Park Service.

It is neither necessary nor appropriate for me to comment on the disagreement of the past eight years. The Court of Appeals has spoken on the case and we have reached a settlement. However, I want you to know that I respect your integrity and appreciate your strong commitments to national park principles.

There is a tremendous amount of work to be done. We need every bit of talent and energy available to meet the issues of the day. I will be counting on the input of your considerable skills and ability.

With all best wishes to you and your family.

Sincerely,

[Signature]

Director


I replied (D-120):
Dear Mr. Dickenson:

I sincerely appreciate your letter of welcome back into the National Part Service. I will strive, as I always have, to make constructive contributions to the Service and to Glacier National Park. I am keenly aware of the privilege of working in Glacier National Park. The altruistic and unique principles that are the foundation of the National Park "Idea" have provided a focus for my life and I am proud to have the opportunity to be a part of the Service again.

My family and I thank you for your thoughtful letter.

Sincerely yours,

B. Riley McClelland
Research Biologist

D-120. Letter from McClelland to NPS Director Russell Dickenson, 5 September 1980.

We returned to work on 1 September 1980, as a GS-11 Career Seasonal Research Biologist (Wildlife), in GNP, after nine years of stress, confusion, and hardship on the family. The NPS had sought affirmation of total power over an employee's career, without regard for the employee or his/her family, and to stifle loyal dissent within the agency. The NPS' use of the transfer policy as a tool of intimidation and coercion had been found wanting by the U. S. 10th Circuit Court. Ironically, my supervisor would be Research Biologist Cliff Martinka, one of William Briggle's original accomplices.

After the announcement of our reinstatement, we received the following from loyal friend Paula Dustin (D-121):
A thought for a courageous and noble spirit:

ON MAD DICTATORS OF TREMBLING NATIONS,
AND THE AGONIES OF WARS;
I PONDER ON MYSELF, INDIFFERENTLY HONEST,
BREATHELESS ON THE ROARING HIGHWAY OF TIME.
LET ME FORGIVE MUCH, FORGET MORE,
REMEMBERING ONLY WHAT IS BEAUTIFUL,
THAT IN MY DAY DREAMS
THE PICTURE MAY GROW SOFTER AND STILLER,
AND LIFE AGAIN GROW GENTLE.

Thank you, Riley, for setting such a shining example,
and "doing what you had to do!"

Your grateful secretary,

D-121. Ending lines of “I Ponder on Life,” by Max Ehrmann, sent by Paula Dustin.

The Missoulian carried the following article (D-122):
Superintendent retires from Glacier Park job

WEST GLACIER (AP) — The man who has been in charge of Montana's million-acre Glacier National Park since 1974 retired Friday, without any advance notice to co-workers or superiors. Phillip Iversen, a 28-year National Park Service veteran who became Glacier Park superintendent in February 1974, said he had to retire before Sept. 1 "to take advantage of some retirement benefits that Congress is in the process of changing."

Iversen's retirement came one day after the announced reinstatement of park biologist Riley McClelland, who won a court ruling that his firing by Iversen's predecessor was "unwarranted." Iversen, 56, said there was no connection between McClelland's reinstatement and his own retirement.

The superintendent is a native of Eugene, Ore. He has worked Grand Canyon and Petrified Forest National Parks in Arizona; Zion and Canyonlands National Parks in Utah; Rocky Mountain National Park in Colorado; Dinosaur National Monument in Utah and Colorado; C&O Canal National Historic Park in Maryland; and Park Service Regional Offices in Omaha, Neb., and Salt Lake City. His last post was as state director for Utah's national parks. There was no word on a successor.


Assistant Superintendent Joe Shellenberger served as Acting Superintendent of GNP from 31 August through 27 December 1980. Robert Haraden, Superintendent of Big Bend National Park, Texas, became Superintendent of GNP on 28 December 1980.
H. Frank Evans weekly Hungry Horse News column (4 September 1980) included the following (D-123):

"Friends are deeply gratified at Riley McClelland's final success in winning his case and getting his job back. He was a persistent and determined fighter because he was right. Someone said, "That shows you that truth always wins out." Poppycock. The intolerable fatigue and expense of fighting a huge agency is beyond the endurance of most people. When the bureaucentric divisions of government investigate matters within their own jurisdiction, it's like having a felon sit in judgment of his deed. I know from experience. We are happy for Riley and his family. The one cliche that we can recite in this case is, 'All's well that ends well.'"

D-123. Excerpt from H. Frank Evans column, Hungry Horse News, 4 September 1980.

The Missoulian editorial page (Sam Reynolds was the Editorial Page Editor) of 7 September 1980, carried the following (D-124):

Good luck
Best wishes to Phillip Iversen, who has retired as superintendent of Glacier National Park. Iversen took over a troubled park administration in 1974. He has been an enlightened and progressive superintendent. Good luck to him in retirement.

And congratulations to Riley McClelland, a park biologist who recently won reinstatement after a long legal struggle. McClelland was fired by Iversen's predecessor for questioning some practices that the superintendent allowed in the park. McClelland has been vindicated. That is justice.

SCOREBOARD
Air Standards 14, Politics 13 (12th inning)
Board of Health 9, Ramirez 0
Acid Rain 7, Controls 1 (4th inning)
McClelland 15, That Jerk 0
MX 1, Montanans Want It 0
Summer 6 Fall 4 (3rd inning)
— Sam Reynolds

Missoulian

We received the following letter from Bob Nogler, our stalwart AFGE defender for the entire eight years (D-125):

Mr. Riley McClelland  
Box 366  
West Glacier, MT  59936

Dear Riley:

Thanks so much for your letter and copy of the settlement agreement. Damn near brought tears to my eyes! I want to wish you and your wife the best of luck in your return to the National Park Service.

I think it is likely that Andrus might have been influenced some by my friend Bill Bird with whom I had a number of conversations regarding your case. Bill is a close personal friend of Andrus. We tried to put the pressure on from every angle and I guess it worked out.

Incidentally and ironically we are now dealing with Briggle again in organizing efforts at Rainier National Park. Let's hope he has learned a lesson!

Stay in touch and again the very best to both of you.

Sincerely and fraternally,

Robert C. Nogler  
National Representative  
AFGE Eleventh District

September 8, 1980

Dear Riley: It's great to know you're back. I'm not surprised Dickenson would write -- he's very decent and wants things and people to go right. Unfortunately, he's not exactly a scrapper in an age that demands one. But he's very cooperative with me and is not averse to being pushed. What this outfit needs is some kind of messianic inspiration that it hasn't had for years!

Attached is first of a series of five articles I wrote for Travel Agent Magazine. Maybe it should have been in the NY Times, but I have to take it where I can, and hope for the best.

I was out in Yellowstone in August, invited on a week's pack trip by a Cooke City outfitter (Ralph Miller). It was spectacular on the Mirror Plateau and I learned a lot about the backcountry and lack of management. Then I spent a day and a half with Supt Townsley and saw some headaches resulting from overdevelopment and concessions-power.

Whatever happened to Iversen? I talked with him within the past couple of months and he had no intention of bowing out. Generally speaking, he was one of the better superintendents. This outfit is thin at all levels and can't get itself together for a tough stand on principles. How long will you be able to stand it?

All best,

Michael

The final determination of the amount of backpay that I was owed continued to be a point of disagreement. I made a final calculation of the difference between what I would have made in the NPS (had I not been fired) and what I had earned from UM and research grants during the fired period as $73,795. The NPS calculated it as $34,664. The NPS clung to its calculation and in the end we had to accept it. From their total, they deducted severance pay ($7,888) and tax withholding ($17,066), leaving $9,709 as my total received; not exactly what could be characterized as a huge windfall. From this, I owed Attorney Don Marble $1,624, which I promptly paid (a very small fee for all the terrific work he did!). Still unresolved was the amount of UM Fellowship money ($1,533), which AFGE argued should not be deducted from the backpay owed.

The AFGE, that provided expert and invaluable assistance from Bob Nogler, Mort Davis, Jim Rosa, Kevin Grile, and others, charged us absolutely nothing.


Dear Mr. Blaylock:

I am writing to commend the efforts of several AFGE employees, without whose unwavering and professional assistance my family and I could not have endured lengthy administrative and court challenges. After 8 years, the matter—which we believed to be an unfair and illegal removal by the Department of Interior—was successfully resolved late last year after a favorable ruling by the Circuit Court of Appeals in Washington, D.C. and a negotiated settlement [out of court].

I believe the representation provided by James Rosa, General Counsel, deserves special recognition. His professional skills in brief preparation, court argument, and negotiation were superlative. Kevin Grile, in the General Counsel Office kept me constantly informed of developments and I’m sure did a great deal of background work on the case. Their always capable work was a continual source of encouragement.

At the onset of the problem, in 1972, two gentlemen from the Portland Office were instrumental in making possible the successful pursuit of justice. Morten Davis authorized AFGE involvement in the first hearings. From the very beginning his support and encouragement could always be counted on. Bob Nogler provided representation in the earliest hearings. His initial efforts made possible the eventual favorable settlement of the case. We could not have survived the first few difficult years without him.

Through 8 years of tenuous persevering, I could always count on these 4 AFGE employees. To these gentlemen, and to many others who helped, I offer deepest thanks. These people, and AFGE as an organization, accomplished what I could not have done for myself.

Sincerely,

B. Riley McClelland

D-127. Letter from McClelland to AFGE President Blaylock, 16 February 1981.
President Blaylock responded (D-128):

February 25, 1981

Ms. B. Riley McClellend
1612 Bel Air
Missoula, MT 59801

Dear Ms. McClellend:

This is to acknowledge your correspondence dated February 16, 1981, expressing your appreciation for the services rendered by several AFGE employees.

I am pleased to receive your correspondence, and I am always pleased to hear compliments concerning the effectiveness of the AFGE staff. I feel that the AFGE has accrued a fine staff, and letters such as yours corroborate my opinion.

I appreciate your taking the time to write such a letter. Unfortunately, they are few and far between.

Sincerely and fraternally,

Kenneth T. Blaylock
National President

cc: NVP Davis
    J. Rosa

On 7 October 1981, The “Special Task Force of the National Park System Advisory Board” issued their report to Secretary of Interior James Watt. The Board was composed of Durward Allen (Chairman), Larry Erickson, E. Raymond Hall, and Walter M. Schirra. The Board, with a subtle reference to NPS Director Hartzog’s 1979 “Year of the Visitor,” the Board concluded: “...[the NPS] public information job is not getting done. Nor will it get done by anyone who tells less than the whole story or covers up unsightly realities. It will not get done unless the Service, with a sensitivity it has failed to show, promotes policy in its public relations and accepts the help of those who understand the mission and the process.”

“This task force proposes that when enough people are told often enough what the objectives and benefits of a park system are and how they can be attained with the means available, we will see less lost motion and more progress toward solid, achievable goals. Perhaps what we should have is a ‘Year of Understanding.’”

After having established a new career on the UM School of Forestry faculty, I was torn between full time return to the NPS and retaining my university career. I was able to work out an arrangement with the NPS and UM whereby I could continue a career in both organizations. The "split" involved teaching spring quarters at the University and working as a research biologist in GNP from 1 April through 31 December each year. I signed the agreement with GNP Superintendent Robert Haraden and Regional Director Lorraine Mintzmyer on 13 July 1982. Most people saw this as the best of both worlds. Perhaps it was, but it actually amounted to trying to work at two full-time jobs simultaneously. I was never able to leave one job behind when working on the other.

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**Nonsecurity Confidential - Blue Envelope**

Memorandum

To: Superintendent, Glacier National Park

From: Regional Director, Rocky Mountain Region

Subject: Revised agreement with Dr. B. Riley McClelland, Research Biologist (Wildlife)

We are now enclosing the revised draft of the proposed agreement between the Department of the Interior, National Park Service, and Dr. B. Riley McClelland, Research Biologist (Wildlife), on your staff.

Our Regional Personnel Office has coordinated the revision of the draft agreement with the Washington Office. The enclosed draft has also been discussed and legally cleared by an Assistant Solicitor (Hank Strand) in our Regional Solicitor’s Office.

If the draft meets with your approval and that of Dr. McClelland, please have it prepared in final form, signed, and returned to us for final approval, signature, and distribution. We believe that the agreement should prove to be mutually beneficial between the National Park Service, Dr. McClelland and the University of Montana.

Lorraine Mintzmyer, Regional Director

D-129. Memorandum from Regional Director Lorraine Mintzmyer to Glacier Superintendent Robert Haraden, 7 March 1982.
AGREEMENT

BETWEEN THE UNITED STATES DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE
AND
DR. B. RILEY McCLELLAND, RESEARCH BIOLOGIST
(WILDLIFE), GLACIER NATIONAL PARK

In the interest of pursuing mutually beneficial relationships between the National Park Service and the University of Montana's School of Forestry, the parties agree to the following:

1. The National Park Service agrees to place Dr. B. Riley McClelland in a Career-Seasonal position of Research Biologist (Wildlife) at Glacier National Park. Employment in this position will be full-time from approximately April 1 through December 31, annually. The remaining 3 months each year, from approximately January 1 through March 31, will be in a Leave-Without-Pay (LWOP) or furlough status for the purpose of continuing to serve as a faculty member in the School of Forestry, University of Montana, with a goal of facilitating research activities of mutual interest to the University and the National Park Service.

2. Dr. McClelland shall be entitled to all fringe benefits accorded Career-Seasonal employees of the National Park Service. These benefits include annual and sick leave accrual, Civil Service retirement coverage, eligibility for Federal Group Life and Health Insurance, and grade and pay retention, as appropriate, and in accordance with applicable regulations and procedures.

3. On the basis of this agreement, Dr. McClelland waives the right to conversion to a Career Permanent Full-time position with the National Park Service in Glacier National Park, which was accorded him in the Settlement Agreement of August 7, 1980, signed by Dr. McClelland and the National Park Service Associate Director Nancy C. Garrett.

4. Should the University of Montana terminate its faculty employment arrangement with Dr. McClelland, the National Park Service will immediately attempt to increase the length of his employment as a Career-Seasonal within the FTE ceiling and budget constraints imposed on the Service at that time. Potentially, this could result in extending Dr. McClelland's annual employment length from 9 months on a permanent full-time basis to 11 months PFT for a maximum employment each year of 24 biweekly pay periods. A minimum of 2 biweekly pay periods would be in a furlough or Leave-Without-Pay status.

5. Should a Career Permanent Full-time position become available of interest to Dr. McClelland, he will be considered for it on the basis of priority needs of the Service and Glacier National Park and in accordance with applicable regulations and procedures.

6. Nothing within this agreement shall prevent the National Park Service from complying with applicable laws, rules, and regulations should Reduction-in-Force actions be required to reduce employment and/or funding levels in Glacier National Park.

(continued on next page)
Agreed this 13 day of July 1982 by:

[Signature]
(B. Riley/McClelland)

[Signature]
(Robert C. Haraden, Superintendent, Glacier National Park)

[Signature]
(Lorraine Mintzmyer, Regional Director, Rocky Mountain Region, National Park Service)

D-130. Agreement between the NPS and McClelland, 13 July 1982.

AFGE continued to pursue a reversal of the NPS’s calculation on my backpay. On 6 March 1982, AFGE’s Jim Rosa and Kevin Grile filed a claim with the General Accounting Office (GAO) Claims Group. On 26 March, GAO rejected the claim. On 16 April 1982, Kevin Grile appealed to the Comptroller General. On 1 March 1983, the Comptroller General ruled that the NPS had wrongly included University Fellowship money in the amounts to be deducted from NPS backpay.

Dear Riley:

March 11, 1983

Enclosed is the Comptroller General’s decision awarding you $1,533.30 in additional pay based upon a finding that the Park Service wrongfully deducted fellowship monies from your earlier back pay award. Unfortunately, the Comptroller General takes the same position as the Park Service in regard to your claim for the research you would have conducted had you been on annual leave.

... For what its worth, this marks the first time to my knowledge that it has been held that fellowship monies are not to be included in deductions from back pay. Warmest congratulations on your latest success.

Sincerely,

Kevin M. Grile
AFGE Staff Counsel

March 15, 1983

8c/L-1589

Mr. B. Riley McClelland
1612 BelAir Place
Missoula, Montana 59801

Dear Riley:

Congratulations on your award of $1,533.30 from the Comptroller General. I understand Kevin has already sent you a copy of the favorable decision.

The letter continued with comments on the back pay portion the NPS had refused to pay Rosa decided it would be too costly for AFGE to pursue and uncertain outcome, with the majority of our claim having been successful. I completely agreed with him. Rosa then ended the letter as follows:

I must tell you that I personally found it a pleasure to represent you in your battles with the Park Service. Not withstanding the problem on the one back pay claim, this office does take pride in securing your reinstatement and a large back pay recovery. I sincerely hope you have been satisfied with our representation and I wish you best success in future endeavors.

Sincerely,

James Rosa
General Counsel

After receiving word on the Comptroller’s decision, I wrote to Don Marble asking if I owed him a percentage of this additional money. He replied (D-133):

Dear Riley:

Thanks for the letter and information. It is probably timely to consider the case closed and to get on with something new. I can't remember the percentages and so let's call it equal now. I am satisfied. It was quite a battle and I found it very interesting.

Best regards,

Donald R. Marble

The final letter we received from AFGE contained very sad news:

March 2, 1984

8c/L-1589

Mr. B. Riley McClelland
1612 Bel Air Place
Missoula, Montana 59801

Dear Riley:

I'm forwarding a copy of a letter dated February 16, 1984 from GAO to the National Park Service. I assume that the Park Service has already paid off on what they owe you. If the Service has not yet paid off, please let me know. I'm now at AFGE, 446 Central Ave. Northfield, Illinois 60093, (312) 446-9486.

In the event you don't know, Jim Rosa passed away last July. Since I'm no longer based in Washington, I couldn't say with certainty the actual cause of his death. I do know that he had cancer for the year preceding his death.

I hope that things have been working out for you at Glacier. It was good to see you on the CBS Evening News several months ago.

Sincerely,

Kevin M. Grile
Staff Counsel

D-134. Letter from AFGE Counsel Grile to McClelland, 2 March 1984.

Jim Rosa had died in July 1983, 4 months after our last letter from him. He was 38 yrs old.
When I first filed a grievance, after learning I was to be fired, I requested assistance from the NFFE, the union with exclusive rights to represent NPS employees in GNP. Unbeknownst to me at the time, that union was simply a tool of management. This was made evident when the NFFE representative, after his first meeting with Briggle, told me that I had no case for a grievance and that NFFE would not represent me. Someone, I do not remember who, suggested that I contact the AFGE, which had a reputation for strongly advocating and defending employee rights vis-a-vis management bullying. I had never been active in any union and I suppose I thought that union representation should not and would not be needed in a "family" organization with idealistic goals like the NPS. I naively believed that loyalty was defined by the following Code (D-135):

### CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in governmental service should:

- Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

- Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

- Give a full day's labor for a full day's pay, giving to the performance of his duties his earnest effort and best thought.

- Seek to find and employ more efficient and economical ways of getting tasks accomplished.

- Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

- Make no private promises of any kind binding upon the duties of the office, since a governmental employee has no private word which can be binding on public duty.

- Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

- Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profits.

- Expose corruption wherever discovered.

- Uphold these principles, ever conscious that public office is a public trust.

(This Code of Ethics was agreed to by the House of Representatives and the Senate as House Concurrent Resolution 175 in the Second Session of the 85th Congress. The Code applies to all Government employees and office holders.)

72 Stat Part 2, B12 (1958)

How wrong I was; loyalty was seen as first to the superintendent, then to the agency—classic management versus labor. Fortunate for me, AFGE was supportive, fair, persistent, and clearly essential to my survival as a government employee. The AFGE representative with responsibility for this part of the country was Robert Nogler, whose office was in Seattle. After discussing the case with him, he and AFGE leadership in Washington, D.C. (President Morten Davis) agreed to take the case.

I also must gratefully acknowledge the representation and assistance I received from attorney and friend Don Marble. We never could have successfully contested my firing without his support. He took the lead in some of the early phases of the case, on a contingency fee basis. The union gradually took over most of the responsibility in the latter stages.

AFGE Regional Representative Bob Nogler, AFGE General Counsel Jim Rosa and his assistant Kevin Grile, spent an incredible amount of time on the case. It would have been absolutely impossible for us to contest the action for 13 years, and to the level of the 10th Federal Circuit Court of Appeals in Washington, D.C., without AFGE legal representation. AFGE asked for not one red cent in return for all their time and legal expertise. It would have cost tens of thousands of dollars. So, my children, friends, and colleagues, when you are tempted to bash the unions, bear in mind the history that has made them necessary. I would have been so much carrion without Don Marble and the AFGE.

There are times when unions are guilty of excess (including illegal activities), just as management has been. In some companies and some agencies, managers may treat employees with sensitivity and the respect all humans deserve. In those places and at those times, unions may seem to be unnecessary, even counterproductive. And they may be. But when an unscrupulous, power-mongering manager assumes it is his or her prerogative to ruthlessly crush employees, there is no substitute for group support and representation—that's the role of the union.

The real world is full of people whose arrogance and greed drives their every move. Some of these people manage other people. The ultimate example of total authority over workers is slavery. There is a continuum of scale below this and unions have always served to force the balance toward the middle. Sometimes they push too hard and too fast, to the ultimate detriment of the organization and workers alike. But the answer is to strive for a balance, in the timeless tension between management and labor.

The long-term answer will not be to abolish unions, as the Republicans always want to do, until all companies and organizations are run by "benevolent" managers who see the bottom line in the context of their ethical responsibilities to workers and society. The free market is fine to a point, but it has no conscience. We try to band together in various ways to interject ethics and fair play into our society. Sometimes this is in the form of a union, which should always be available to workers who desire to organize.