

FILED

NOT FOR PUBLICATION

OCT 06 2014

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES ALBERT WILDE,

Defendant - Appellant.

No. 13-30360

D.C. No. 4:10-cr-00021-RRB-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Alaska
Ralph R. Beistline, Chief District Judge, Presiding

Argued and Submitted August 12, 2014
Anchorage, Alaska

Before: FARRIS, D.W. NELSON, and NGUYEN, Circuit Judges.

Defendant James Albert Wilde was convicted of violating 36 C.F.R. §§ 2.32(a)(1), (2) and 3.2(b). *See also* 16 U.S.C. § 3; Alaska Stat. § 05.25.055(a), (d); Alaska Stat. § 05.25.090(b)(2). Wilde appeals his conviction, arguing that the National Park Service does not have authority to enforce these regulations on the

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

part of the Yukon River that runs within the geographic boundaries of the Yukon-Charley Rivers National Preserve. We have jurisdiction pursuant to 28 U.S.C. § 1291 and affirm.

According to 16 U.S.C. § 3103, “[o]nly those lands *within the boundaries of any conservation system unit* which are public lands . . . shall be deemed to be included as a portion of such unit.” *Id.* (emphasis added). The statute necessarily divides “lands within the boundaries of any conservation system unit” into “public lands” and *non*-public lands. *See id.* While only “public lands” are “included as a portion of such unit,” any *non*-public lands nevertheless are “lands within the boundaries of [the] conservation system unit.” *See id.*; *see also* 16 U.S.C. § 3102.

Wilde is correct that certain “regulations [are] applicable solely to public lands within such units.” 16 U.S.C. § 3103; *see, e.g.*, 50 C.F.R. §§ 100.10, 100.26(n)(1)(v). But Wilde was not convicted pursuant to any such regulation. Instead, Wilde was convicted pursuant to generally applicable “regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States.” 16 U.S.C. § 1a-2(h); *see also* 16 U.S.C. §§ 1, 2; 36 C.F.R. § 1.2(a)(3).

There can be no dispute that the relevant part of the Yukon River is located within the geographic boundaries of the Yukon-Charley Rivers National Preserve, a “unit[] of the National Park System [to] be administered by the Secretary under the laws governing the administration of such lands” 16 U.S.C. § 410hh(10); *see also* 16 U.S.C. § 3201. Consequently, Wilde was “under the jurisdiction of the National Park Service,” regardless of whether he was on “public lands” or *non-public lands*. *See* 16 U.S.C. § 3; *Sturgeon v. Masica*, No. 13-36165+, Slip op. at 22–23.

AFFIRMED.