

Fee Demo Sucks

or... Whose Land IS it Anyway?

By Robert Funkhouser

HOW TO
ADVERTISE

"When agencies begin to act like entrepreneurs seeking self-funding through fees, and low-income people are excluded, the public purpose—the very reason for public ownership—is defeated." (More and Stevens, Journal of Leisure Research, 2000)

"You're kidding me, right?" I said, laughing.

"Nope." No smile in return from the Forest Service Enforcement Officer. "You have to have a pass to be here."

And with that my introduction to the Recreational Fee Demonstration Program (RFDP), more commonly called "Fee Demo," had begun.

I'd been in Santa Barbara, California for about two months working on a rather extensive project and had taken to stopping in the local National Forest on the way home from work, particularly if it had been a difficult workday. It had already been that even before the Forest Service Enforcement Officer found me, way up a dirt road, in the middle of nowhere sitting by a creek, and told me I would have to leave or receive a citation.

I could not fathom why a pass was required to drive a winding forest road or to simply be on public land-taxpayer funded land with no improvements, services or anything else that could even remotely be considered an amenity. Nonetheless, I left the forest that day and figured I'd just bide my time until my responsibilities in California were complete, and I could head back to Colorado where I could roam at will, unrestrained by humorless officers. After all, the Forest Service might get away with such foolishness in California, but I knew that they'd never get away with any such nonsense in Colorado. No more Fee-Demo. No more feeling alienated on the public lands. Back to Colorado, home of the Free.

But guess what? It wasn't more than six weeks after returning home that I was aghast to read that, yes indeed, Fee-Demo had arrived on the Western Slope. Yep, the boys and girls in green had "saved" Yankee Boy Basin near Ouray. For a mere \$5 a day we would be allowed the "privilege" of driving on a county road through a National Forest. Think you earned that as a right when you paid your taxes? Sorry, either pay up again or keep out!

In June of 2001 Kitty Benzar, Jan Holt, Skip Edwards and myself formed the Western Slope No-Fee Coalition, which now boasts members in over 35 states. Our goal has been to encourage Congress to repeal Fee-Demo and fully fund the public land agencies through appropriations. Education about the program has been our biggest tool to that end. We organized three protests in Yankee Boy Basin in 2001. In one of those protests some 120 citizens entered the new fee area at Yankee Boy without paying and 36 individuals received citations from



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Forest Service enforcement officers. Ironically, our membership grows every time a new fee area is declared, as local residents look for a way to express their outrage at being denied access to public lands they have used for generations. The Forest Service and BLM have inadvertently become our best recruiters of contributors and anti-fee activists!

The really amazing thing about this rebellion is not just the amount of opposition to Fee-Demo on the Western Slope and indeed all over the West, but the diversity of individuals and groups opposing the program. Interests that are usually at each other's throats over land-use issues are working side-by-side. Opponents of the program are a mix of Republicans, Democrats and unaffiliated voters, Blue Ribbon Coalition members, conservationists, motorized and non-motorized use advocates and those, like myself, who have not been previously active in public land matters but have joined together to fight Fee Demo. The spectrum is so wide and so united one wonders how Congress could even consider making this program permanent.

Through two World Wars and the Great Depression, federal lands were funded with tax appropriations, and all Americans had a right to free access for lawful recreational purposes. The Land and Water Conservation Fund Act of 1965 prohibited user fees and commercial activities, while carving out specific exceptions such as fees for developed campgrounds, special facilities like boat ramps, and entry to some National Parks.

But in the 1990s, amidst peace and prosperity, Congress claimed to have insufficient funds for public lands and began applying a business philosophy to them and expecting them to pay their own way. In 1996, the Recreational Fee Demonstration Program (Fee Demo), which had failed a House vote, slipped in as a rider on an omnibus appropriations bill. Suddenly it costs \$5 to go for a walk in the woods or park your car long enough to watch the sun set behind the mountains.

On its face, it certainly appears reasonable that we help federal land managers do their jobs. But the issue is much more complicated than that. The public land that Americans have entrusted to federal agencies to manage is being developed, packaged, and sold back to us as a product. Gone is the concept of public ownership of public lands.

Fee Demo was supposed to "demonstrate" that the public will accept the concept of "pay-to-play." Originally a two-year test, it has been extended five times. Eight years into Fee Demo we find that simple, rustic campgrounds have been transformed into paved RV parks. People must pay a fee to leave their vehicles at trailheads or drive scenic backcountry roads. Low income Americans are excluded from enjoying nature on the same terms as the affluent. Forest Rangers are no longer civil servants and stewards of the land. They are cops on the lookout for "trespassers" without the proper pass to be there. Some entire National Forests are now off limits unless you purchase an entry pass. We are no longer the owners of the land, we are "customers."

Even worse is the fact that the Fee Demo Program has been a financial failure as well. According to a 2003 audit by the GAO, the Forest Service used about \$10 million in appropriated funds for administrative overhead to manage and operate Fee Demo in FY2001, plus an unspecified amount of appropriated funds to send staff to national meetings (GAO 03-470 page 32). These overhead costs were not reported to Congress in the annual Fee Demo report. Nor did their reported costs include discounts (commissions) to outside vendors for selling Fee Demo passes as a cost of collection. The GAO stated that this is "inconsistent with federal financial accounting standards and the U.S.

Department of Agriculture financial manual." (GAO-03-470 pages 25-26)

Although the Forest Service claims the program is a success, with gross revenue in FY2001 of \$35 million, the truth is that the program brought in far less than \$15 million because the cost of overhead, collection, and enforcement was well over 50%.

Until the GAO audits the BLM and Fish and Wildlife Service Fee Demo programs, their true financial results are uncertain, but as it stands, the net revenues for these two agencies in FY2001 are estimated at less than \$4 million. That's chump change in Washington.

Legislation currently pending in the U.S. House (HR3283) would take Fee Demo, which has failed both with the public and financially, and expand it into an even worse permanent program. Under HR 3283, a national pass would be required to set foot or tire on any public land. It would be disarmingly called the "America the Beautiful Pass" and would initially cost about \$85, with annual price increases sure to follow. Being caught on public land without your pass would get you charged with a Class B Misdemeanor punishable by a fine of up to \$5,000 and/or 6 months in jail. If your car were found parked on public land without displaying a pass, you, as the registered owner, would be presumed guilty whether or not you were the one who parked it there. The BLM recently implemented these higher penalties administratively, in defiance of Congress's currently specified maximum penalty of a \$100 fine, a move that the WSNFC is appealing.

The land management agencies want these extreme measures because compliance with Fee Demo has been dismal. In Southern California alone, over 250,000 Notices of Non Compliance or citations have been issued. The program has not won over the hearts and minds of the public so the agencies are pushing for a Big Stick approach. If a \$100 fine has been insufficient to deter the public from using their public lands, a \$5,000 fine most likely will. HR 3283 would make criminals out of taxpayers.

Meanwhile, over in the Senate, another bill, S1107, is inching forward. It would let the Park Service retain the entrance fees they have been collecting for years instead of sending them to the Treasury, but would allow Fee Demo to expire in the Forest Service, BLM, and Fish and Wildlife Service. Most people in the anti-fee movement can live with this because of the long history the NPS has of collecting entrance fees and the higher level of infrastructure expected in a National Park. The public knows full well the difference between the National Parks and the lands and waters managed by the Bureau of Land Management, US Fish and Wildlife Service, Bureau of Reclamation, and the Forest Service. To start with they know that the National Parks is where the tollbooths are. The National Parks is where it can cost up to \$50 to enter with your families.

The agencies, however, insist that the public needs and wants ever-increasing facilities and services, even on the vast tracts of undeveloped land under Forest Service, BLM, and Fish and Wildlife management. They are lobbying hard for a national pass and all the other provisions of the House bill to be amended into S 1107.

The fundamental dilemma is, does the American public demand that all 640 million acres of public land be managed as if they were National Parks? Is the public really demanding that the land management agencies spend hundreds of millions of taxpayer dollars to build capital infrastructure to "enhance" what God has already given us?

If we allow the agencies to charge a fee or require a permit to enter these lands then we have given ownership of the lands to the agencies and taken it away from the people. Access to these public lands would become a privilege you pay for and no longer a right, and the agencies would be given a perverse incentive to build more and bigger facilities so they can charge ever-higher fees.

The public and the local land managers would be better served by taking a course that emphasizes the use of our limited resources to maintain what we already have first. The incentive to "build it and they will pay" is clearly not in the public's best interests. Nor can we as a nation afford to maintain that level of capital infrastructure. It becomes a vicious circle: The more the government develops its public lands - the more maintenance is required - the more fees are imposed - the fewer number of people who can enjoy these special places. And in this circle, we lose access to our natural areas.

It's already happening all over the West:

The BLM at the Grand Staircase-Escalante National Monument is building three new visitor centers. One alone costs over \$10 million. At the same time Monument managers want to start charging for backcountry use and car camping because they do not have the funds to deal with those uses.

At the Maroon Bells in Pitkin County, Colorado, the Forest Service has built a toilet for \$1.6 million but has to charge a fee because they say they don't have the funds for toilet paper.

In Ouray, Colorado, the Forest Service threatened to close the world-class jeeping and hiking area of Yankee Boy Basin unless Fee Demo was applied, citing lack of funds for toilet maintenance. But the following year the Forest Service spent over \$650,000 to expand a concessionaire-run campground across the highway.

The BLM's Cedar Mesa area, a vast swath of canyons and plateaus west of Blanding in southeastern Utah, charges a fee for all hiking, whether day hikes (\$2 per person per day) or overnight backpacking (\$8 per person per trip). These fees for the most popular places are causing an increase in use at lesser-known spots, which start to become hammered as visitors search farther and farther afield for areas that are still free. As those spots in turn show the impacts of increased use, the fee area is enlarged to include them, causing people to search out still more remote areas, in an endless game that damages the very resource the fees were supposed to protect.

Opposition to Fee Demo has been overwhelming and widespread. From New Hampshire to California, from Idaho to Arizona, Americans from all walks of life and all political persuasions are raising their voices against this program. Resolutions of opposition have been sent to Congress by the state legislatures of Colorado, Oregon, California, and New Hampshire. Thirteen counties in western Colorado alone, as well as counties, cities, and towns across the nation have passed resolutions opposing the program. Hundreds of organized groups oppose Fee Demo, and civil disobedience to it is rampant.

The Senate Energy and Natural Resources Committee unanimously passed Senator Craig Thomas's bill, S. 1107, in February. It calls for permanent fee authority in the National Parks only. Senate Public Lands Subcommittee Chairman Larry Craig (R-ID), at a hearing on Fee Demo on April 21st, made it clear that he would not support the idea of access fees for any agencies except the National Parks. Other members of the Subcommittee shared this view.

The legislative hearings regarding HR 3283 in the House Subcommittee on National Parks, Recreation and Public Lands on May 6th were not so positive. While there is strong opposition to the Fee Demo Program in the House Resources Committee on both sides of the aisle, there is a chance that this bill might move to a Committee vote. Chairman Pombo has indicated that he would like to see something move this year. What he is calling for at this time is unclear. But, one thing is certain: those of us that believe in public ownership of public lands have much to do to ensure that our voices are heard in Washington.

The Western Slope No-Fee Coalition has urged those in Congress to recognize the distinct differences between the National Parks and the land managed by the other agencies. We have urged them to choose the financially responsible course, to maintain what we already own first, to stop this "Spiral of Government Growth," and to uphold Public Ownership of Public Lands. We ask you to contact your representatives in Congress and ask them to oppose HR 3283 and to end Fee Demo.

Eight years into a failed program, Americans are speaking out and beginning to be heard. Congress must restore adequate appropriations for public lands management from existing tax dollars. We must say no to heavy-handed, heritage-robbing and discriminatory public land user fees.

Oh, and that \$5 fee to drive into Yankee Boy Basin that got me started on this issue? In 2003, the Ouray County Commissioners, tired of being the poster child for Fee Demo, pressured the Forest Service into lifting it. A group of local citizens now organizes a volunteer effort each summer to provide stewardship. For a few thousand dollars in voluntary, tax-deductible donations they accomplish what the Forest Service needed \$40,000 and a phalanx of law enforcement rangers to do.

Yankee Boy Basin is once again in public hands, and free.

-Robert Funkhouser, President, Western Slope No-Fee Coalition

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