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FOREST SERVICE REPORT REVEALS THAT 75% OF FEE SITES ARE NOT IN COMPLIANCE WITH FEDERAL LAW

AGENCY DATA CONFIRMS SURVEY FINDINGS BY FEE OPPONENTS

Documents provided by the Forest Service to the U.S. Senate Energy and Natural Resources Committee and recently released to the public have confirmed that the vast majority of fee sites on National Forests may not be in compliance with the new Federal Lands Recreation Enhancement Act (FLREA). Of 1,339 sites that are located within agency-designated "High Impact Recreation Areas," 981 are Standard Amenity Fee sites that are required to have six minimum amenities in order to qualify for fees. The Forest Service documents reveal that 739 of those-a full 75%-do not have all of the amenities the law specifies.

In addition, 627 sites-47% of the total-have never been previously reported to Congress as fee sites, but have not been subjected to the public participation process that the FLREA requires for newly instituted fees.

The information is included in answers that Mark Rey, Undersecretary of Agriculture, provided in response to Supplemental Questions posed to him in writing by Senator Larry Craig (R-ID), Chairman of the Subcommittee on Public Lands and Forests, following Rey's October 26, 2005 testimony before Craig's

Subcommittee. The October hearing was held to review implementation of fees by the Forest Service and Bureau of Land Management under the FLREA. The FLREA replaced the unpopular Recreation Fee Demonstration Program (Fee Demo) and was attached to a massive spending bill in December 2004. It was never voted on separately by either the House or Senate.

During the hearing, Craig quizzed Rey about HIRA fees, saying, "I believe the Federal Lands Recreation Enhancement Act prohibited the BLM and the U.S. Forest Service from charging entrance fees or for charging people to walk, drive, or ride through lands. Can you tell me how your Department concluded that the Federal Lands Recreation Enhancement Act permitted the creation of high-intensity recreation areas and how it is they seem to be willing to ignore Section 803(d)(1) that prohibits the Department from charging for certain things? "

Craig's question referred to wording in the FLREA that prohibits entrance fees from being charged for Forest Service or BLM lands. Fees are also prohibited solely for parking, for access to undeveloped backcountry, for passing through without using facilities, for undeveloped camping, for scenic overlooks, or for general access. In addition, FLREA requires day-use fee sites to have six minimum amenities. The restrictions were meant to deflect criticism that arose under Fee Demo's unrestricted fee authority.

Rey's responses confirm charges made in a Survey Report published last year by the Western Slope No-Fee Coalition. WSNFC co-founder Kitty Benzar testified at the October hearing about the Survey Report, telling Senators that the Forest Service is requiring de facto entrance fees for HIRAs, is forcing visitors to pay for activities such as backcountry hiking that are supposed to be protected by law from fees, and has established new fee sites without going through the law's public participation process. She pointed out in her testimony that HIRAs are not defined or authorized anywhere in the law.

At the hearing, Rey responded to Craig's concerns by saying that the Forest Service "thought charging one fee, as opposed to trying to break it out into several separate fees, was a much more prudent way

to proceed," but admitted that "these are, we understand, the areas of greatest ambiguity. "

In his Supplemental Questions, Craig asked Rey to list all of the Forest Service's HIRAs, specify what sites they encompass, and indicate what amenities are located at each site. Rey's response, which became public with the recent release of the hearing transcript, includes a spreadsheet showing 1,339 sites that are within HIRAs. Many of the sites listed are trailheads that control access to hundreds of thousands of acres of undeveloped backcountry, including many designated wilderness areas. The WSNFC contends that parking fees at trailheads violate the FLREA's prohibition on fees for access to undeveloped backcountry.

The FLREA also requires that new fee sites undergo an extensive public review process using Recreation Resource Advisory Committees or RRACs. But the Forest Service HIRA list has 627 new, or newly reported, fee sites, even though the RRACs have not even been implemented yet. Examples include Colorado, where the Arapaho National Recreation Area has 7 new fee sites, the Red Rocks Pass area in Arizona and the Mt Baker-Snoqualmie Forest in Washington, which report 36 new fee sites apiece, and the White Mountain National Forest in New Hampshire, which has 13 previously unreported fee sites.

"This information confirms with the Forest Service's own data their widespread disregard for the provisions in the FLREA that were supposed to protect public access and allow public participation," said Robert Funkhouser, President of the Western Slope No-Fee Coalition. The WSNFC is spearheading a nationwide effort to repeal the FLREA. The state legislatures of Colorado, Oregon, Idaho, and Montana, as well as the Alaska House of Representatives have called for repeal.

"As bad as the HIRA situation is, it is still only the tip of the iceberg," added Funkhouser. He noted that there are more than 3,000 former Fee Demo sites outside of HIRAs that are charging fees, even though the WSNFC's Survey Report showed that many of them are not compliant with the FLREA.

The transcript of the October 26, 2005 hearing, including Mark Rey's answers to the Supplemental Questions, can be read at <http://www.access.gpo.gov/congress/senate/senate08ch109.html>

The WSNFC's analysis of the spreadsheet of Forest Service HIRAs, highlighting non-compliant sites and new sites that have not been through the public participation process, can be downloaded at www.WesternSlopeNoFee.org.