

Ochenski

Unsung hero - Robert Funkhouser fought for free use of public lands

By:

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Pulling into the unmarked turnout on BLM land in southern Utah, we set up our little tent nestled in the oranges, yellows and reds of fall as the sun slipped behind the western ridge. The Sevier River gurgled over its rocky bed, providing a sweet symphony as the stars came out and the temperature plummeted. Sitting on the banks of our still-free campsite, we toasted Robert Funkhouser, one of the nation's true unsung heroes, who died suddenly at 50 years of age in the midst of his tremendous struggle to keep our public lands free and open to all.

Now Robert Funkhouser is not a household name in Montana, nor is it likely to become one with his passing. But it should be. For most of the last decade Funkhouser headed the Western Slope No-Fee Coalition out of Colorado and led the battle against those in Congress who would turn our right to freely access national forests, plains, ocean beaches and lakes into privatized, marketed, and profit-making commodities.

Funkhouser was one of the people who waved the early warning flags back in the late '90s when the notorious Congressman Richard Pombo of California began his push to turn freedom into fee-dom by attaching a rider to an appropriations bill that inaugurated the so-called Fee Demo program. The provision allowed public land management agencies to begin charging Americans fees simply for walking on public lands, wading in public waters, or even just parking on the side of public roadways.

For most Americans, the idea that they would have to pay a fee to enter the lands where, for generations, families and individuals had sought the solace of nature seemed some kind of twisted, nightmare fantasy that couldn't possibly become the law of the land. As it turned out, Funkhouser and his small band of fellow activists were right to be afraid—and those who took their natural heritage for granted were dead wrong.

In spite of the initial protests when the Forest Service, Bureau of Land Management, and Bureau of Reclamation began assessing fees, Congressman Pombo and his band of public lands privateers used the slimiest of procedural moves to keep pay-to-play alive. Their excuse was that the federal government was no longer funding its land management agencies at levels sufficient to provide the services he claimed the public wanted. Ignoring the fact that Congress itself makes the funding decisions in this country and could have easily voted to increase funding for public lands management, Pombo's answer was to start taxing those citizens who found joy in nature's wonders every time they set foot on public lands—whether they wanted any of the services provided or not.

In effect, what Fee Demo did to those who worked for federal land management agencies was turn managers into marketers—a move that many employees in the agencies found disgusting but could not ignore. Suddenly, Forest Service employees were forced to become fee enforcers, checking forest visitors to make sure they had paid their money up front and ticketing those who spurned the idea of paying to walk on public lands.

To say the new squeeze Congress was putting on the American people was contentious would be putting it mildly. But remember, the Republicans dominating both houses of Congress and the White House in those dark days had little concern for those who could not or would not kick up the dollars to access their natural heritage.

The arguments against the new fees cover the spectrum from double taxation—since we

already pay federal taxes to maintain federal lands—to the economics that show it costs as much or more to collect the fees, and ticket and prosecute violators, than the fees generate in the first place. And that ignores the loss of productivity and attention to public lands resources by those who were sidelined from the jobs they were trained and hired to do as they spend their days pinching citizens.

Just before the American people gave the Republican Congressional majorities the boot (including Richard Pombo), they formalized Fee Demo into the Federal Lands Recreation Enhancement Act (FLREA) through another rider with no public hearings. And like virtually every Bush-era initiative from Clean Skies to the Patriot Act, the title was the antithesis of the program. For the growing band of those who sided with Funkhouser, the FLREA was more accurately labeled the Recreation Access Tax, or RAT.

Montana, along with a host of other Western states, violently rejected the concept of paying to enter the public lands that make up a large part of our territory and an even larger part of our lives. In 2005 the Montana legislature passed a resolution affirming the rights of Montanans to access their federal public lands for free and urging Congress to repeal the FLREA, or in popular vernacular, to “Kill the RAT.” Out of 150 Montana legislators, only nine voted against the resolution.

The good news is that Montana’s Senator Max Baucus is an outspoken opponent of access fees and Senator Tester co-sponsored the anti-fee resolution when he was president of the Montana Senate. “It’s all wrong,” Baucus says. “These are public lands, and public lands are for the public. People pay for them with their taxes. They shouldn’t have to pay for them twice.”

Baucus also notes that “fees are the cousin of privatization” and his words ring true as federal agencies now seek to shift hundreds of public recreation sites to private entities who can and will charge whatever the market will bear. Some day soon, however, Baucus is likely to introduce legislation to finally kill the RAT. When he does, Rep. Denny Rehberg should pledge to do the same in the House.

Although Robert Funkhouser is gone, we may yet win the battle he died leading. If and when the RAT is finally repealed, I suspect Funkhouser will be smiling down from beyond the Pearly Gates where, I also suspect, he didn’t pay an entrance fee.

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