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Ruling further restricts Red Rock Pass program

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SEDONA - An opinion from the 9th Circuit Court of Appeals could muddle efforts by the Coconino National Forest to enforce its recently revised Red Rock Pass program.

In a case that originated in the Coronado National Forest, the court ruled that the U.S. Forest Service cannot charge a fee to someone who is merely parking at a trailhead, accessing a trail or back country camping.

Forests fee programs such as the Red Rock Pass are authorized under the Federal Lands Recreation Enhancement Act (REA).

However, the act specifically prohibits the Forest Service from charging a fee, "solely for parking, undesignated parking, or picnicking along roads or trailsides," or for "hiking through...without using the facilities or services."

"Everyone is entitled to enter national forests without paying a cent," Judge Robert Gentlemen wrote in the court's unanimous decision.

Under REA, a fee may only be charged when all the following amenities are present: improved parking, restrooms, picnic tables, trash receptacles, interpretive signs and security. The court's ruling says, in effect, that even when all amenities are present, a fee can't be charged unless they are being used.

The appellate court's decision reverses a lower court's decision to dismiss the suit and remands it back to the district court so the plaintiffs in the case can pursue their claim.

The Red Rock Pass fee area is designated as a High Impact Recreation Area under Forest Service criteria. It was recently downsized from 160,000 acres to 11,000 acres, but the Forest Service still requires a pass in order to park anywhere within its boundary.

"I have been telling them from the beginning that just making the area smaller doesn't make it legal. They still have to allow these exempted uses at no charge. Now maybe they will pay attention," said Kitty Benzar with the Western Slopes No Fee Coalition.

It is uncertain how the ruling will affect enforcement of the Red Rock Pass program. According to spokesman Brady Smith, the Coconino National Forest has yet to review the decision.

Benzar, however, believes the ruling should make it easier for the Forest Service.

"They just need to go to the places where they can legally charge the fee and if they see someone picnicking or using other amenities, then they can ask to see their Red Rock Pass. They don't have to check every single car parked along the road," Benzar says.

The Forest Service recently completed a review of 10 High Impact Recreation Areas in Arizona that currently charge a fee and recommended removing the fees from eight of them.

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