

Federal court judges say fees not allowed for parking, hiking forests

Tonto Forest says ruling does not apply to private contractors

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The Forest Service can't impose fees on people who just want to park and enjoy the national forests, a federal appeals court ruled last week.

But don't get all excited: The ruling won't do Rim Country residents much good.

The federal judges overturned fees the Coronado National Forest has imposed on people who park at trailheads, holding that the federal agency can only charge fees that recover the cost of using specific facilities — not for access to the public forests.

But the ruling probably won't affect most fee-charging areas in the Payson Ranger District, since the Forest Service here relies on private contractors to administer most of the fee-charging areas.

"It won't have much impact on the Payson Ranger District, but it will have a huge impact on the Tonto Forest as a whole," said Kitty Benzar, head of the Western Slope No-Fee Coalition, which has pushed for years to roll back the growing array of Forest Service user fees.

The Payson District contracts with Recreation Resources to run most of the campgrounds, day-use areas, and trailhead trash pickup operations in the region. The Ninth Circuit Court of Appeals unanimous ruling directly affects Forest Service-operated sites, but may not apply to sites operated by contractors.

Payson Head Ranger Angela Elam has previously said the various court cases challenging Forest Service fees won't affect fees managed by private contractors in Rim Country.

The appeals court's ruling will force the rollback of fees for parking at trailheads and camping in undeveloped sites throughout the Tonto National Forest, said Benzar. "Everyone is entitled to enter national forests without paying a cent," wrote Judge Robert Gettleman, writing for the three-judge appeals court panel.

However, Benzar said it will require additional legal action to determine whether the same rules apply to contractors the Forest Service employs to manage certain areas — including the day-use sites along the East Verde off Houston Mesa Road, several popular trailheads and most campgrounds in the region.

Benzar said, "we haven't had a court case to challenge that, but I think the Forest Service interpretation would not hold up in court. They're basically claiming that this whole thing is somehow waived and somehow doesn't apply if they in their wisdom have decided to rent the place out. That just doesn't make sense. We're considering litigation, but nothing's been filed yet."

The appeals court ruling will undercut the logic in the Tonto Pass, which gives people annual, unlimited access to fee-paying areas except for some of the most heavily developed and popular areas — like the marinas and boat launching facilities on some of the Salt River lakes.

The Tonto Pass also doesn't provide access to many of the privately operated sites, like the new day-use parking, picnic and toilet facilities along Houston Mesa Road.

Benzar has previously observed that this mix of private fee areas, the Tonto Pass and extra charges for the most highly developed sites makes Tonto National Forest the most expensive in the country when it comes to user fees.

The 3-million-acre Tonto National Forest draws an estimated 6 million visitors annually, making it one of the busiest in the nation. The heaviest use centers on the string of reservoirs on the Salt and Verde rivers near Phoenix, but hikers, campers, fishermen and others who use Forest Service sites remain the foundation of the Rim Country's tourist economy.

Benzar said it's possible the Forest Service may now seek to get around the ruling by turning to private contractors to run as many sites as possible, since the court's ruling remained silent if such contractors must abide by the same rules.

"This is a huge victory. But it remains to be seen how they're going to respond. Are they going to respond by getting programs into compliance, or looking for another way around the law like turning everything over to concessionaires. My experience is that they're likely to find a way around this ruling rather than just obeying it."

The Western Slope No-Fee Coalition and others have waged a 10-year struggle against the rising number of Forest Service fees, often based on Arizona cases.

For instance, a federal court previously struck a blow at the Coconino Forest's Red Rock Pass, after a hiker was ticketed for not having a pass when he left his car along the road for a hike to Vultee Arch.

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