

Court Attacks Adventure Pass

Decision Likely to Affect Recreation Fees in Los Padres National Forest

By Matt Kettmann

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Los Padres National Forest's much derided Adventure Pass program suffered what could be a significant blow last week, when the Ninth Circuit Court of Appeals ruled that recreational fees cannot be charged to national forest visitors who aren't using amenities.

"Everyone is entitled to enter national forests without paying a cent," wrote Judge Robert W. Gettleman in the case of Adams vs. U.S. Forest Service, which was brought by four hikers in 2008 who were charged with not paying the forest fees while visiting the Coronado National Forest near Tucson, Arizona. "We conclude that the [Recreation Enhancement Act] unambiguously prohibits the Forest Service from charging fees ... for recreational visitors who park a car, then camp at undeveloped sites, picnic along roads or trailsides, or hike through the area without using the facilities and services."



Adventure Pass

Forest Service officials, who have supported the Adventure Pass and similar programs as a means for the underfunded agency to pay for improvements and facilities, are currently reviewing the decision.

“Nothing's changed as to how we implement the program on the Los Padres,” said the forest's Santa Barbara-based spokesperson Andrew Madsen, although he does see that the decision might directly affect areas such as Figueroa Mountain, where people are charged to just drive, park, and look at wildflowers or play in the occasional snow storm. “Maybe we do need to look at that,” said Madsen.

But he is also quick to remind that the program has been “winnowed” down over the years and is only required in a half-dozen or so specific areas where facilities are usually used by visitors, such as the Paradise Road area and the Mt. Pinos region in the winter when it snows. “I still run into people who say they need a pass to park on West Camino Cielo,” he laughed. “Who told you that? No, you don't.”

“We finally got a Ninth Circuit opinion,” said attorney Mary Ellen Barilotti, who started taking on these cases more than a decade ago when she was living in Santa Barbara and working for the County Counsel's office. In addition to this case, Barilotti — who now lives in Oregon after 35-plus years in Santa Barbara — is also working on a case out of Mt. Evans, Colorado, and expects a similar result. She also believes that it will affect Figueroa Mountain, but says that it also applies to everywhere in Los Padres, even Paradise Road, so long as someone parks and doesn't use the offered facilities. “If you go beyond [the developed sites at the beginning of Paradise Road], drive through, and park on the side of the road, you shouldn't have to pay,” said Barilotti.

Because this recent decision is so strongly worded, she doesn't think that the government will ask for reconsideration, nor does she think that the Supreme Court would take the case, explaining, “They have nothing at the circuit level that's in conflict.” Instead, Barilotti thinks that there are some administrative remedies that will soon come down from Washington D.C.: “You'll see some changes pretty quickly.”

Keep the Sespe Wild's conservation director Alasdair Coyne, who's been fighting these fees ever since they were first conceived in 1996, issued a celebratory press release this week. “Millions of Americans will once again be free to go for a walk in their national forests, which they jointly own and which have been maintained by their tax dollars for over a century, without risking being ticketed by Forest Service staff,” he said.