

## Forest Service will continue to charge forest fee during appeal period

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A decision by the 9th U.S. Circuit Court of Appeals this month does not yet stop the Forest Service from requiring all visitors to buy Adventure Passes.

The Forest Service has 90 days to appeal the court's ruling in a 2008 case brought by four hikers who regularly visit the Coronado National Forest around Mount Lemmon, near Tucson.

The court found the Forest Service at fault for charging parking fees to people who hike or picnic without using facilities such as bathrooms, picnic tables or trash cans.

The San Francisco appeals court cited the Federal Lands Recreation Enhancement Act, which bans such fees.

"The U.S. Forest Service is reviewing the ruling, and that's basically all," said John Heil, public affairs spokesman for the Pacific Southwest Region of the agency. "We have nothing else further to add."

Officials would not say whether the Forest Service plans to appeal the ruling.

Attorney Mary Ellen Barilotti, who began filing suits against the forest access fee programs 10 years ago, explained the court's ruling is binding on all the Western states but not yet final.

That means that park use without an Adventure Pass can still be prosecuted as a misdemeanor offense until the court issues an order.

"If, after this case becomes final, the Forest Service continues to demand payment and threaten prosecution for that which the 9th Circuit said it could not, its actions would be in contravention of the law," Barilotti said.

Joe Pasinato, Los Padres National Forest information assistant, said that those who fail to display Adventure Passes in their windshields while visiting the national forest will get a notice of noncompliance and be asked to mail in a \$5 fee.

Barilotti is in Oregon but was working for Santa Barbara County when she began filing suits based on the lands recreation act. She was acting on behalf of grass-roots volunteer groups such as Keep Sespe Wild, which has led the opposition.

"We do expect the Forest Service to keep charging fees by whatever slight of wordsmithing they can come up with," Alasdair Coyne, an Ojai resident who is conservation director of Keep Sespe Wild. "The point is to bring them into the line of the law."

In the ruling, U.S. Circuit Judge Robert Gettleman said, "Everyone is entitled to enter national forests without paying a cent."

The forest access fees began in 1996. That's when the Adventure Pass that covers much of the four Southern California national forests — Los Padres, Angeles, San Bernardino and Cleveland — was introduced. The Forest Service charges people \$5 a day or \$30 a year for the pass.

"Congress decided they were not going to appropriate the funding to the Forest Service," Pasinato said. "Instead they offered up the recreational fee program with all its subcomponents, like the Adventure Pass, to take up the slack."

Pasinato said that when visitors pay access fees for a specific national forest, 90 percent of those fees stay in the area where they are collected.



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