

Federal court overturns Forest Service fees

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SAN FRANCISCO — In a ruling that is binding in nine western states and sets a nationwide legal precedent, the Ninth Circuit Court of Appeals found unanimously last week that the U.S. Forest Service’s recreation fee programs must allow citizens to park at trail heads and go for a hike without paying a fee.

The case (Adams vs. U.S. Forest Service) was brought in 2008 by four hikers who visit the Coronado National Forest around Mt. Lemmon, near Tucson.

The San Francisco Appeals Court found the U.S. Forest Service at fault for charging parking fees to people who go for a hike without using amenities such as picnic tables, trash cans and bathrooms located nearby, or who camp in dispersed, undeveloped parts of a National Forest.

Judge Robert Gettleman, writing for the unanimous three-judge panel, stated in the ruling that “Everyone is entitled to enter national forests without paying a cent.”

Forest access fees began in 1996 under the Fee Demo program. They include the Adventure Pass, which covers much of the four National Forests in southern California, the Northwest Forest Pass, required at hundreds of trail-heads in Oregon and Washington, the Red Rocks Pass at Sedona, Arizona, American Fork Canyon near Provo, Utah, Mt Evans Scenic Byway in Colorado, and dozens of other forest fee programs around the nation.

In 2004, Fee Demo was replaced by the Federal Lands Recreation Enhancement Act (FLREA), enacted by Congress for 10 years. The FLREA clearly prohibited fees solely for parking and hiking, but the U.S. Forest Service continued operating fee programs around the country that did just that.

Attorney Mary Ellen Barilotti of Hood River, Oregon has been handling litigation against the forest access fee programs for more than 10 years. This ruling is the culmination of her efforts to hold the U.S. Forest Service to the letter of the fee laws that Congress enacted. In recent years, Barilotti has been assisted by attorney Matt Kenna of Durango, Colorado.

The Western Slope No-Fee Coalition has led the opposition to forest access fees since 2001 and worked closely with Barilotti and Kenna on the Arizona case. President Kitty Benzar said, “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 being ticketed by Forest Service staff.”

The Forest Service is studying the ruling, and has 60 days to request a rehearing.