

Sequoia Access Fee Lawsuit-A last resort for public lands

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Local residents have a long standing history of opposing fees to enjoy their public lands. It took many years for the Forest Service to begin charging a fee to park at three sites around the lake-Auxiliary Dam, Old Isabella, and South Fork. At 2008 meetings there was enormous public opposition to more fee areas.

Many argue they have already paid for access to their public lands with their taxes.

Sequoia National Forest retired District Ranger Dave Freeland notes, "when I joined the Forest Service in the early 1970's we charged a fee for developed campgrounds, however we did not charge an entrance fee for accessing public lands. With tough budget times agencies will be pushed to charge more fees. It is unfortunate that more recreation and maintenance funding does not get out to the Ranger Districts."

Under the 2004 Federal Lands Recreation Enhancement Act the Forest Service is only allowed to charge at those locations where they provide the following amenities-picnic tables, developed parking, trash collection, a permanent toilet, security services, and an interpretive sign, exhibit, or kiosk.

The administration of the Sequoia National Forest's "Southern Sierra Pass" fee program is being challenged in federal court by Kernville resident and avid kayaker Peter Wiechers. In a civil suit filed recently, Wiechers asked the Fresno District Court for relief from having to pay a fee while kayaking on the river or otherwise enjoying the forest without using any facilities and services.

A similar fee on the Coronado National Forest in Arizona was struck down in February 2012 by the Ninth Circuit Court of Appeals in San Francisco. Writing for the unanimous three-judge panel, Judge Robert Gettleman said, "Everyone is entitled to enter national forests without paying a cent." That decision is binding in nine western states, including California, but the Sequoia has not yet made any changes to its Southern Sierra Pass fee program.

"The Forest Service has persisted for more than a year in charging access fees that the 9th Circuit ruled illegal," said Wiechers. "Here in the Kern River Valley they are not only charging for general access but they are also charging a fee at sites that lack the minimum required amenities and services. They have ignored the court's ruling that such fees are not authorized, so I felt it was necessary to bring the situation to the court's attention."

The lawsuit filed by Wiechers says that none of eight day-use sites named meet all six of the requirements and no one should have to pay a fee to use them. The sites at issue are Camp 9 day use, Auxiliary Dam, Old Isabella, and South Fork, all located on Lake Isabella, as well as the lower Kern River sites of Miracle Hot Springs, Upper Richbar, Lower Richbar, and Live Oak.

"The Sequoia National Forest is charging fees for sub-standard facilities and says you must pay just to park your car to access trails, rivers, lakes, and undeveloped backcountry. People are being intimidated into paying illegal fees under threat of federal prosecution," said Wiechers. "If the roles were reversed and it was a citizen breaking the law, the government would have that person locked up in no time. But when a federal agency ignores the law, our only recourse as citizens is to ask the courts for relief. That's what I've done and I am hopeful that this will settle the matter."

"Today we are nickel and diming people to death." notes Freeland. "When you look at it cumulatively people are having a hard time. We do not want to make it too costly for the public to enjoy their public lands."

Kitty Benzar, the Executive Director of Western Slope No Fee Coalition, has been heavily involved in the fee dispute issue on public lands. Kitty notes "it's very unfortunate that a lawsuit should even be necessary. The 9th Circuit's ruling could not be clearer but the Forest Service has chosen to ignore it. They seem to prefer to fight a losing battle case by case instead of getting their whole program into compliance with the law. The Forest Service has legal authority to charge recreation fees for use of developed sites - no one is asking them to stop charging for camping in developed campgrounds for example. But when they charge fees for access to undeveloped areas, they don't have authority for that and should just stop."

Freeland agrees noting "I always believed that people should pay a reasonable fee for adequate services like developed campgrounds that provide restrooms, garbage service and potable water. I never have been a fan of charging the public a fee, no matter how minimal, just to enter their National Forests."

You can read the legal filing and more about this at

<http://westernslopenofee.org/index2.php?display=yes&pageid=42>.