

Judge: Fees for parking, other basic recreation-area access are OK

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A little boy searches for rocks to throw into Brainard Lake in this 2012 Denver Post file photo. (Helen H. Richardson, The Denver Post)

A Washington, D.C., court ruling quashed a grassroots lawsuit that protested day-use fees collected by private contractors managing public recreation areas.

Concessionaires are not limited by the 2004 Federal Lands Recreation Enhancement Act that keeps the U.S. Forest Service from charging people for simple access and basic services like parking and restrooms, [U.S. District Judge Rudolph Contreras ruled last month](#).

Private managers of public land offer services including parking, restrooms, trail maintenance and a safety presence, Contreras wrote. And the Forest Service has the ability to reject or modify the fees charged by contractors.

"It makes sense that visitors who enter concessioner-managed areas are expected 'to pay the true cost for those services,' " Contreras ruled.

The decision is a blow to fee critics as well as five individuals from Colorado, Arizona and Oregon and a forest advocacy group who [sued the Forest Service in September 2012](#). The lawsuit aimed to hold private concessionaires to the same rules that the Forest Service must follow under the Recreation Enhancement Act, which prohibits the agency from charging for simple access or undeveloped camping spaces but notes "a third party may charge a fee for providing a good or service to a visitor."

The lawsuit wasn't challenging the right of concessionaires to collect fees but wanted to keep such things as parking at a campground or trailhead by hikers free. It also sought public review of fees charged by contractors.

"The ruling confirms the Forest Service position that once they let private companies run these sites, they don't have to abide by the same restrictions that the agency itself does," said Matt Kenna, the

Durango attorney who represented the plaintiffs.

Kenna said the ruling might encourage the Forest Service to pursue more privatization of land management.

"It certainly is not going to put a crimp in any of the agency's plans," he said.

The Forest Service has enlisted private management for about half of its U.S. campgrounds, including 82 percent of its highly developed, reservable campsites. In the agency's Rocky Mountain region, which includes land in Kansas, Nebraska, South Dakota, Wyoming and Colorado, about 60 percent of all campgrounds are managed by private contractors.

"They provide services and amenities that the Forest Service would not be able to provide ... like taking care of boat ramps and marinas ... and just being a presence at some of these sites," the region's spokesman Chris Strebis said. "Some of the more popular sites that get a lot of visitation, the private concessionaires provide services the Forest Service would not be able to provide."

Hosting visitors on public land is big business. [A 2009 Forest Service analysis](#) found small campground concessions of one to three developed campsites can produce up to \$105,000 in revenue while large campgrounds with 10 to 12 sites can generate more than \$1 million a year. The 150 permitted concessionaires who operate Forest Service-owned campgrounds and recreation areas in the U.S. harvest about \$35 million in revenue a year, according to the analysis.

David Wimert of Longmont, who began campaigning against day-access fees in 2009 when he was charged to pedal his bike into Brainard Lake Recreation Area west of Boulder, was one of the five people who joined the lawsuit against the Forest Service. He said an appeal is not likely. Especially since the plaintiffs who sued could be responsible for the Forest Service's legal fees.

"We're just little people. I don't like to lose but to me, the reality of this whole thing has been somewhere between tilting at windmills and righteous citizen action," Wimert said. "When it's all said and done, it's the people who are getting screwed. The motto of the U.S. Forest Service is caring for the land and serving the people but they threw the people under the bus for more money. The public lands were the heritage of the American people, held in trust by the federal government. That fantasy is truly done."

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Recreation areas in colorado that charge for day access include:

Rampart Reservoir, Pike National Forest,

Haviland Lake Picnic Area, San Juan National Forest

Cordova Pass Picnic Area, San Isabel National Forest

Kenosha Pass Picnic Area, Pike National Forest

Freeman Mesa Picnic Area at Ruedi Reservoir, White River National Forest

Heaton Bay Picnic Area at Lake Dillon, White River National Forest