

June 18th, 2008

“Paying to Play: Implementation of Fee Authority on Federal Lands”

Dear Mr. Chairman and distinguished members of the subcommittee:

My name is Peter Wiechers. I've been kayaking and rafting on the Kern River for more than 27 seasons. In the late 1980s into the early 1990s I managed one of the local rafting companies, Kern River Tours. In 1990, I completed my Master's thesis – an economic study of sorts of the commercial rafting business on the Kern River- at California Polytechnic State University, San Luis Obispo. For the past thirteen years I have been employed as a History and Science teacher at Camp Erwin Owen, a residential boys' juvenile probation camp near Kernville, California.

The following testimony is basically a chronology of my –stepped up- attempts over the last ten months to gain public participation in the program previously known as Kern River Rec Fee Demo. Prior to this -since about the year 2001, and to no avail - I did make periodic (yearly or twice yearly) requests of the Sequoia National Forest for public participation in this program.

This testimony includes the following:

- The ongoing, coordinated and planned actions by officials of the Sequoia National Forest to deny public participation/oversight in the program previously known as Kern River Rec Fee Demo.
- Fragmented and confused financial accounting/reporting of the Sequoia National Forest with regard to the program previously known as Kern River Rec Fee Demo.
- Denial of meaningful possibilities for public participation in the California R-RAC program: inadequate public notification by the R-RAC office, incorrect notification by the Sequoia National Forest as well as the withholding of significant evidentiary information by the Sequoia National Forest prior to the January 2008 R-RAC meeting and the withholding of the aforementioned meeting minutes by the California R-RAC.
- June 5, 2008 Forest Service HIRA meeting. Kernville, California says No to the HIRA

Public Participation/Oversight Denied

For about ten years the Sequoia National Forest has been collecting a 3% tax on the Kern River commercial outfitters (Rec Fee Demo program at its inception, FLREA since 2005.) During the late 1990s, the Sequoia held periodic public meetings addressing the use of these funds. Sometime during or just after the year 2000 the Sequoia National Forest ceased soliciting public involvement in

this program. From the years 2001 through 2006 I made periodic general requests about usage of this money. These requests included letters to Ms. Cheryl Bauer of the Sequoia's Kernville office, requests to Forest Service employees in the Kernville office, and requests of the Kern River Rangers whom of which were being paid via this program. The only help I ever received was from the River Rangers who would tell me things like "Some of this money is being used to pay our salaries," and "We've told Cheryl that people are asking about this." In August of 2006 I sent a certified letter to Ms. Bauer (of which I have on file), again requesting public participation in this program. This request remained unanswered.

Eleven months later in July of 2007 I witnessed an encounter along side the lower river at Democrat Beach between one of the Kern River Rangers and a friend of mine. Samantha was being chastised -not for the fact that her paperwork for being on the river was out of order, but- for the fact that she had not secured the proper paperwork for her friends whom she was guiding down the river. The ensuing argument involved the merits of bureaucracy and paperwork and the specific annoyance of the Sequoia National Forest –under threat of penalty- requiring everybody to submit a filled out piece of paper every time they paddle the Kern River. At one point the discussion became a bit heated and the Ranger told me "soon you are going to be paying a fee for kayaking this river, there's a new law that was just passed by Congress and you are going to have to start paying for your permit." It was on this day that I first learned of the existence of "The Federal Lands Recreation Enhancement Act" or FLREA. It was also brought to my attention at that time that the Forest Service was going to raise the Forks of the Kern reservation fee from \$2 to \$10.

A few days later, I then again sent another request –via certified mail- to Ms. Bauer's office requesting information regarding the Rec Fee Demo program. Also at this time I began to inquire more strongly about the usage of Rec Fee Demo funds over the prior six years and I began asking the Sequoia questions about Kern River access projects that seemed a bit askew, e.g., the Granite Put-In on the Lower Kern, completed in early 2006, with "No Parking" signs installed at the time of its completion, where parking remains prohibited today, and access restricted. I also began making inquiries into other projects with outward irregularities: the Royal Flush Portage, and the Johnsondale Bridge River Access.

As of today the Sequoia National Forest continues to deny all public participation/oversight in the program previously known as Rec Fee Demo (3% Kern River outfitters fee). This is a continuing and reoccurring theme in the next three sections.

Questionable Financial Accounting/Reporting

In September of 2007 I received a packet of information in the mail from Sequoia Forest Supervisor Ms. Tina Terrell (signed for her by Ms. Nancy Ruthenbeck.) In this letter it was stated to me "The information requested (yearly accounting of from 2001 to the present Kern River Rec Fee Demo

expenditures/revenues) is enclosed and addresses all of your concerns in all three of your letters regarding the 3% Kern River Rec Fee Demo expenditures/revenue.”

I have concentrated my efforts on fiscal years 2004, 2005, and 2006 (Sequoia officials have told me that under FLREA reports for 2007, 2008 and 2009 are not required to be disclosed until sometime in 2010.)

“Our financial accounting system is a nightmare.” – Ms. Mary Cole, Sequoia National Forest Landscape Architect, Lake Isabella Senior Center, March 21st, 2008.

Fiscal Year 2004

Within the packet of information provided to me by the Forest Supervisor are two pages of computer printouts (Attachments 1 and 2) which include: whiteout, cross-outs, and hand written entries. This seems to have been done for the purpose of matching the dollar amounts (receipts and expenses) of the Kern River Rec Fee Demo 2004 report to Congress (Attachment 3). The receiving of these computer screen printouts did not as the Forest Supervisor stated in her accompanying letter “address all of your concerns,” but rather, it raised my concerns. The altered computer screen printouts were not the only strange things that arrived in this packet: it also included a hand written list with entries such as “Batteries \$9.42, Contact Cement \$1.89.”

On this same report to Congress stated expenditures are \$29,814. This amount is listed as having accomplished the following: completed 90% of the Johnsondale Bridge Access Improvement Project (excavation of a hillside, installation of two permanent pit toilets, bus and trailer roadway, parking including handicapped parking, and a 150 yard walkway down to the river). Also stated is that this same \$30,000 paid for two seasonal river rangers, paid for signage, purchased supplies and continued to care and police BLM restrooms for river access sites *and* maintained (a little used and now defunct) Forest Service Kern River Website.

Overall, during fiscal year 2004, the Sequoia National Forest reported receiving \$73,204.48 from the Kern River outfitters and \$46.00 from the Forks of the Kern Reservation fee. This combined with \$108,388.00 carry over from 2003 (Forest Service Kern River Rec Fee Demo reported receipts minus expenses for 2003) yields a total of \$181,638.48. However, in the Sequoia Forest’s report to Congress total receipts are listed as only \$133,143.00. This leaves unaccounted receipts of almost \$50,000.

The Johnsondale Bridge River Access was paid for by the California Department of Boating and Waterways. This is not mentioned in any of these reports to Congress. As a side note, in the Sequoia’s March 2008 Recreational Facility Analysis this river access point (and the Delonagha river access on the Lower Kern) were both proposed to become “High Impact Recreation Areas.” With one

of the main criteria qualifying these as fee areas is that they “are areas of substantial federal investment.” I’m not sure how that works.

Fiscal Year 2005 In this year, the Sequoia’s financial accounting leaves the realm of questionable. According to the Sequoia’s record of outfitter collections (Attachment #4), outfitter receipts totaled \$114,916.39. However, the total amount deposited into Recreational Special Uses (of which the outfitters fee is far and away the major component, but not the only one) was only \$73,430.10. (Attachment 5) Under this accounting, \$40,000 of the outfitters fees never made it to the Recreation Special Uses Account. Equally unexplainable is the fact that total expenses listed under Recreation Special Uses is only \$1,241.59. (Attachment 5) According to this report, among other things, two full time seasonal River Rangers were salaried out of this \$1,242.59.

Fiscal Year 2006 According to this year’s program summary (Attachment 6) Special Use Revenues (mainly outfitter’s fees) were \$148,244, with expenses being listed as only \$14, 278. This again is highly questionable (accomplishments under Special Uses includes the hiring of two River Rangers.) Moreover, under the category of Rec Fees (mainly campgrounds) there is a deficit of more than \$50,000. According to these figures almost the entirety of the campground deficit had to have been taken from the outfitter’s fees. That’s more than one-third of the account. According to FLREA, up to 40% of collected funds from an area can be transferred to another area if the Secretary of Agriculture deems this amount to be a surplus. Apparently, this also can be done without public disclosure. As a side note, I have not once heard Sequoia officials volunteer this information. Instead, its usually stated something more like this, “FLREA allows us to keep 95% of the funds here in the local area for local projects.”

The California R-RAC Program – Participation Denied

As earlier stated, in July of 2007 I learned of the proposal to increase the Forks of the Kern reservation fee (Recreation Special Use). Because of the complete lack of accountability on the part of the Sequoia National Forest regarding the program previously known as Kern River Rec Fee Demo, I attended two public meetings regarding this: one in Lake Isabella, California, the other in Ridgecrest, California. I voiced these objections in person and sent a letter on May 31st to the Sequoia National Forest requesting that no fees related to the Kern River program be increased or initiated until the Rec Fee Demo money had been accounted. Nonetheless, the Sequoia Forest went ahead with this fee increase proposal and sent it along to the California R-RAC.

Around Christmastime, I still had not heard from the Sequoia Forest regarding the R-RAC meeting. As such, I sent a letter to Ms. Mary Cole requesting the time, date and location of the meeting. On Friday, January 4th, 2008 I received a response from Forest Supervisor Ms. Tina Terrell. In this letter, Ms. Terrell stated:

- a tentative meeting date in less than two weeks
- the tentative location of the meeting to be in Arcadia, California

- uncertainty whether or not the Forks of the Kern fee increase would even make it to the agenda "...the RRAC will have the final decision on what proposals they will review."

I then went to the federal register and discovered that the R-RAC would indeed be meeting on January 14, and 15 but in Monrovia California, not Arcadia. I also found contact information there for Ms. Marlene Finley, Designated Federal Official. Included were Ms. Finley's address, phone number, and email contact. I tried to send my concerns of the Rec Fee Demo/Forks of the Kern reservation fee to Ms. Finley via the email address given in the Federal Register. This address, mfinley@fs.fed.us was continually returned to me with the message "No such user Action: failed." (I have a copy of one such failure notice on file.) I then called the phone number in the federal register leaving a message with Ms. Finley requesting whether or not the Forks of the Kern fee increase would be on the agenda.

On the following Monday, January 7th, 2008 I sent a letter to Ms. Finley notifying her of the nonfunctioning email address. Also within this letter I sent a packet of information requesting that the R-RAC reject this fee increase. This packet included a copy of my previously mentioned August 31, 2007 fee-objection letter and a copy of a letter sent to Ms. Cheryl Bauer of the Sequoia Forest on August 12, 2007 requesting among other things accountability of the Rec Fee Demo money. On this same Monday, I also once again called Ms. Finley. Being sent to voice mail, I again requested to know if the Forks of the Kern Fee increase was going to be on the meeting's agenda.

On the next day –still not having heard from Ms. Finley- Tuesday, January 8th I mailed a duplicate packet of the previous day's mailing to Ms. Finley. Being that the meeting date was now less than one week away, I sent this second packet via certified mail. That afternoon I did receive a voice mail message from Ms. Finley: "What will be covered at next week's meeting will be posted on our website shortly...I will be looking for your comments in the mail." I then began checking the R-RAC website for the meeting's agenda. This agenda appeared, if I remember correctly (this is something I did not write down), on Wednesday January 9, 2008. This agenda listed nothing at all about the Forks of the Kern reservation fee increase. The only thing mentioned at all about the Sequoia Forest was under Monday January 14, 2008, 9:00am, Introductions, Overview of S. California and Sequoia NF Standard Amenity Area Fees (High Impact Recreation Areas).

The next day, Thursday January 10, 2008, I received a call at work from Ms. Mary Cole of the Sequoia Forest confirming that the R-RAC meeting would be held the following Monday and Tuesday in Monrovia. I asked her if the Forks of the Kern issue would be discussed. She replied that she did not know, that the committee would be making that decision and went on to state, "It's out of our hands."

On Friday January 11th I again checked the Federal Register and the California R-RAC site. Neither had any mention of the Forks of the Kern Fee increase proposal. At 12:30pm I left a voice mail message with Ms. Finley again asking if the Forks of the Kern issue would be on the meeting's agenda. At 1:42pm I received a voice mail message from Ms. Finley confirming that in fact the Forks of the Kern fee increase would be on the agenda, that it would be discussed at 10am on Tuesday January 15th. This amounted to not quite three business days notice of the agenda item.

After a bit more than three weeks passing I checked the R-RAC website to find out what had happened that the January meeting. Being that there was nothing noted about it, I sent another letter to Ms. Finley (February 8, 2008) requesting:
-how each R-RAC member voted on the proposed fee increase
-how my concerns had been addressed by the Committee

About one month later, March 3, 2008 having still not received a response, I sent a duplicate letter to Ms. Finley via certified mail. Two days after my duplicate letter had been signed for at Ms. Finley's office, a response from Ms. Finley was mailed to me that indicated the following:

1. The R-RAC requested Ms. Terrell to address the concerns raised in my letter (the first of which was Kern River Rec Fee Demo accountability)
2. The R-RAC asked Ms. Terrell why a permit drawing was needed when the quota on the Forks of the Kern had never been filled.
3. Ms. Terrell explained that the permit system was needed to protect the environment, and to ensure that those people traveling from across the country would have a permit when they arrived to do their private rafting trip.
4. All R-RAC meeting minutes would be posted on the R-RAC website.
5. The R-RAC had voted 9-1 for the fee increase that I had opposed.

Being experienced with the Forks of the Kern run, and having never met any rafters who had traveled across the United States to conduct a private trip there I went to the Kernville Ranger station to see if I could find out how many people were in fact using this reservation system and their state of origin (and whether they were rafting or kayaking, doing day trips or overnight trips.) A helpful person working in the office told me that they did not have that data in Kernville, to get that type of information I would need to contact the Porterville office. However, she said that she was fairly certain that less than ten -possibly some number quite a bit less than ten- total permits were issued for the Forks of the Kern for the previous year.

I then wrote a letter on March 14, 2008 to Ms. Terrell in the Sequoia's Porterville office requesting among other river usage data, exactly how many users of the Forks of the Kern reservation system traveled across country and conducted a private rafting trip on the Forks of the Kern. I did not receive a response, so the following week, March 21st, I attended a Sequoia Forest workshop (dealing with the raising of campground fees) at the Senior Center in Lake Isabella. At this

workshop I again asked Ms. Terrell for the city and state of origin of those people having used the Forks of the Kern reservation system during the previous year. Ms. Terrell responded by informing me that there were privacy laws in existence and that she was not at liberty to give out personal information about people traveling from within California or from other states to the Kern River. I then restated that I only wanted the city and state of origin of these reservation permit holders, no personal information. She told me that she would not give the information to me. I then asked only for the state of origin. She responded by telling me something about how I always dominate her time at these workshops and she could not give me all of the time and attention that I demand then turned and walked away.

Ten days later on March 24, I read an article in the *Sacramento Bee* about the California R-RAC. The article identified Nate Rangel as a member of the R-RAC. I had recognized Nate's name from about fifteen years ago when I was managing Kern River Tours. Nate was the head of the California division of America Outdoors, an outfitters trade group. I then tracked down Nate, spoke to him on the phone and told him that I was trying to get the information about the origins of the holders of the Forks of the Kern reservation permits (as he had been told by Ms. Terrell at the R-RAC meeting that many of them come from across the country.) Nate assured me that this information would be sent to me.

On April 4, I received a letter from the Forest Supervisor, Ms. Terrell stating the following: "Persons that use this system come from a considerable travel distance. In the last two years they have come from the Southern California area, with at least two hours traveling time..." and "The permits from previous years have been placed in storage and it will take more time to locate them and retrieve the information you have requested." She went on to state "Enclosed are the documents that were given to the California Recreation Resource Advisory Committee in January for their meeting. They were used to reach their decision to support the increase in the fee for private boaters participating in the drawing."

The main document was a seven page Business Plan that I had never seen before:

Business Plan for Forks of the Kern River Private
Boater Permit Drawing Kern River/Tule River Ranger
Districts Sequoia National Forest, December 20, 2007

During the end of December and the first two weeks of January while I was sending emails, certified letters, checking websites, and making phone calls trying to determine the location of the R-RAC meeting and if in fact the Forks of the Kern reservation fee increase was going to be on the R-RAC's agenda, this Business Plan had long since been completed and was waiting for presentation.

Nonetheless, on page five of the December, 2007 Forks of the Kern Business Plan is the statement:

“Collections fluctuate each year depending on the length of the whitewater season which is determined by the amount of snow pack. For example, in 2007 the snow pack was 5% of normal and the season was very short.”

Above this statement on the same page is a chart showing the amount of money that was paid by users of this system from 1998 through 2007. Who ever compiled this chart and stated a correlation between reservation fee money collected and length of season completely failed to consider length of season in his conclusions. For example, the three heaviest years of snow pack for this decade were 1998, 2005, and 2006. These were by far and away also the three longest paddling seasons of the decade. However, the average amount of reservation fees collected for these three years was just a bit over \$57. This approximates to something less than an average of 29 persons using the reservation system during these three long seasons. On the other hand, the three lightest years of snow pack (among the shortest seasons of the decade), 1999, 2004, and 2007 had an average collection amount of about \$51. This approximates to an average of just over 25 persons using this reservation system during these three very short paddling seasons. Contrary to the statement given in the Business Plan, on the Forks of the Kern there is no correlation between snow pack (length of season) and usage of the reservation system. One trend that can be noted is that the use of the reservation system peaked in 2001 with 67 users, then showed a general decline thereafter. It is interesting to note, that during this peak season of usage, the snow pack was only 66% of normal. Of further note, the more accurate figure in ascertaining a season's length is “unimpaired runoff” not snow pack. This is the actual amount of water that makes it to the river from the snow pack. A wet year following a dry year will have a lesser amount of runoff than a wet year following a wet year.

For the record the Sequoia's Business Plan statement that the snow pack percentage for the Kern River basin was 5% of normal in 2007 is a false statement. The correct figure is 19% of normal. Furthermore, the predicted April 1, 2007 unimpaired runoff for the Kern River drainage was 33% of normal. Even though 2007 was a very dry year, runoff was much more than might have been expected because 2006 had been a very wet year. All of these figures came from the California Department of Water Resources (DWR.)

Attempts by Sequoia National Forest Officials
to Mislead the Residents of the Kern River
Valley, California

All of the emails mentioned in this section can be located on pages 7-8 in the attachments.

On Sunday May 18th, 2008 I received notice from a Kern Valley economic development group that the Sequoia National Forest was proposing fees for access to the Forks of the Kern. I went to the Sequoia's website but could not find this announcement. I then sent an email to Ms. Mary Cole (the contact person listed) asking for information about the proposed fee area (email, 5/18/08, 3:46pm).

The following morning, Monday May 19, I met with Mr. Ameen Khan, assistant to Senator Barbara Boxer in the Senator's Fresno field office (this had been previously scheduled.) I presented to Mr. Khan a chronology (a binder of around 100 pages) of my last ten months of experiences with the Sequoia National Forest which included having been misled and lied to numerous times. I left the binder with Mr. Khan. He in turn promised to contact Sequoia officials about these transgressions.

That afternoon I received a response from Ms. Cole regarding my difficulties in locating the exact locations of the two proposed HIRAs. She directed me to the link on the Sequoia's website that would provide me with this information. On the Sequoia's website, I was able to locate the official announcement of the new fee areas (dated May 9th, 2008.) This announcement confirmed that in fact one new fee area was being proposed somewhere along the Lloyd Meadow Road and another HIRA was being proposed somewhere along the road that parallels the Upper Kern River. The announcement included "To view the maps of the proposed HIRAs please visit our website at www.fs.fed.us/r5/sequoia/maps This link led to a page of map links, ten in all. None of these links had anything to do with any proposed HIRAs. Wanting to find out if the Forks of the Kern river access was in fact going to be the HIRA along the Lloyd Meadow Road and wanting to find out where along the Upper Kern River the other HIRA was to be, I again contacted Ms. Cole (email 5/19/08, 4:55pm.) In this email, I stated to her that there was no map of these HIRAs from the link given. I additionally stated that each of these roads is at least 15 miles long, and requested that she locate for me these HIRAs. Her response was that she would forward my request to the webmaster (5/20/08, 7:16am.) Three days later on Friday I received another message from Ms. Cole stating that my name had been put on the RFA and Rec Fee mailing lists. She also asked if I had been able to find the information I was seeking (the maps of the proposed HIRAs.) I wrote back to her (5/23/08, 11:41am) stating that I had not been able to locate the maps and again asked if the fee was in fact going to be a Forks of the Kern Special Recreation Fee. She responded stating that if would not be a Special Recreation Fee, that there would be a fee for the Lloyd Meadow and Upper Kern areas. I then responded to her (5/23/08, 3:17pm) again asking *where* in these areas are these two proposed HIRAs. I also stated to her that the press release regarding the establishment of these two HIRAs had been issued more than two weeks prior, that the meetings were to begin in less than two weeks, and that the exact location of these HIRAs remained a mystery.

Eight minutes later I received from Ms. Cole the link to the map showing that the Upper Kern HIRA encompassed the *entire* length of the Upper Kern Road, and that the Lloyd Meadow HIRA encompassed the *entire* length of the Lloyd Meadow Road (including the two mile dirt road and parking lot that yields access to the Forks of the Kern.)

The Kernville Meeting I arrived at the Kernville Ranger Station at 5:40pm on Thursday June 5. To locate parking I had to drive around the block, past the crowd that was still trying to file inside, to the post office where I found an empty space. Once inside, I had to push myself into a small hot room where I was literally

shoulder to shoulder with more than 100 angry Kern Valley residents. (I know that there were more than 100 people in attendance because I printed up 105 where-is-the-money type handouts, all of which I distributed and were eagerly received.) For the first few minutes, Sequoia officials tried to run the meeting like a high school science fair, or a shopping experience at IKEA: the annoyed citizens were supposed to file through a few at a time, in small groups, then quickly file out. It did not work this way, the crowd demanded a meeting. Mr. Rick Larsen, the District Ranger, took the initiative, stood on a chair (one of the few chairs in the room) and began to speak. The questions came out in rapid fire: "What do you do with the campground fees you've been collecting at the lake for the last three years?" "How much of the money collected for the campgrounds, stays in the campgrounds?" "Why are the campgrounds just as trashed out today as they were when you started collecting fees three years ago?" "What have the 3% funds collected from the rafting companies been used for?" "What is the total amount you have collected from them to date?" "Do you have separate accounts for each of these areas?" "Where are your Business Plans?" "Why did you try to sneak this in?" "Can we get answers to these questions in the near future?"

The answer to all of these questions was...they did not have an answer.

On at least three occasions Sequoia officials tried to break the crowd up into small "brainstorming" groups. That was a big no-go. Members of the local Chamber's of Commerce denounced the huge HIRA map that was prominently displayed.

"That" was never shown to any of us one of them said. Kate DeVries representing herself and her husband tribal elder David Laughing Horse quietly demanded "Can you account for the last three years of Lake Isabella campground fees? Yes or No?" Mr. Larsen began to answer with an explanation. Ms. DeVries forcefully reiterated "Yes or No?" Mr. Larsen responded "The short answer is no."

For a period of time the discussion focused on the new word, HIRA: Question: "Does this mean we will have to pay just to park our car up-river?" Mr. Larsen's answer: "No, you will not have to pay to park your car." Question: "Well, what will we have to pay for?" Answer: "You will only have to pay if you recreate." Question: "So, what if I just get out of my car and walk down to the river?" Answer: "You will have to pay." Question: "I will have to pay even if I just get out of the car to look at the flowers?" Answer: "Yes." A woman standing behind me wondered aloud if this now meant that she and her friends who pick up trash along the river as both community service and a social activity would now have to purchase a \$50 pass to do so. Somebody answered her with the observation that HIRA is a four letter word.

This continued strong for more than an one and one-half hours. Near the meeting's end, I stated aloud "I've been attending these meetings since August of last year never was there any indication at any of them that there would be these HIRAs of such magnitude." I then posed the question to the Sequoia officials, "How did you come up with this?" Mr. Rick Larsen, District Ranger, pointed his finger at me and exclaimed "It was because of you Peter! You did it!"

George Orwell warned about this stuff when he wrote *Animal Farm*. Now, there's a certain species of barnyard animal making itself comfortable on our front porch. Mr. Chairman and Distinguished Members of the Subcommittee, please don't open the door.