

1 February 1, 2010

To the U.S. Forest Service

Re: Proposal to change concessionaire policy regarding acceptance of interagency passes.

The policy directive seeks to abrogate previous agreements between the United States Forest Service and owners of discount camping passes, primarily retirees who have purchased life time passes. It seeks to eliminate or radically reduce discounts at Forest Service campgrounds for holders of lifetime Senior and Access passes.

As a preliminary matter, the proposed directive is written in a manner which obscures its mechanism and intent. The directive's claims for policy modification are stated in terms starkly different from those whose rights would be diminished under the modifications and is almost Orwellian in its attempt to conceal what is truly going on. Ideas of breach of trust, of violating the public trust, are the essence of my objection to the policy change. This criticism even extends to the manner in which the Forest Service colors its proposal.

In addition to the aforementioned which speaks to matters of form, the directive violates the public interest and the public trust on two substantive levels.

First, the “revised policy” transfers, takes, economic rights from individual citizens - the right to purchase - at discount - overnight stays in Forest Service Campgrounds, and transfers those rights back to the Forest Service through the mechanism of concession contracts. This commenter struggles whether to define the proposal as a deceptive business practice executed in the original sales transaction for these passes, or just out and out right theft through the revocation of the right through a “change of policy.”

This directive harms current pass holders, primarily older citizens. It takes economic rights and benefits from citizen pass holders – the right to use some campsites for free and others at a 50% discount – rights which pass holders purchased and paid for – and through the elimination of the right, transfers the economic benefit via increased campsite revenues to park concession operators who, going forward, will be allowed to charge the full campsite rate save a token discount.

Second, public lands were originally reserved to benefit a democratic public, the general public, so everyone, rich and poor, could enter merely by virtue of their citizenship. The very reason we have public lands is for the common benefit. These lands were explicitly reserved so as not to be market commodities. This policy directive therefore betrays the public interest in terms of the public body, our collective rights, together.

After reading the proposed policy change, one would suppose our National Forests were no longer “public lands” but “concessioner lands.” The provisions of this directive elevate the interests of concessioners above those of the general public in stark and dramatic ways. Public lands are not a market product for the Forest Service to sell to enhance the profitability of concession holders, yet this is how the proposed directive reads throughout its length.

I draw your attention to the following content, “...concessioners have raised five concerns....”

“...it would not be economically viable to require concessioners to...,” “...these requirements, in addition to the camping fee discount, would be detrimental to the economics of the concessions...,” and “Concessioners are concerned that the Agency will remove these sites from concessions to satisfy the expectations of Interagency Pass holders and thus eliminate viable business opportunities.”

This commenter understands fully the Forest Service is under budgetary pressure as are many functions of government at all levels. None-the-less, the line between operations once funded with general government revenue but now funded with enterprise contracts effectively operates to transfer a public commodity, access to public lands, to the private sector for sale as a market commodity.

This encroachment is a slippery slope. At what point does the Federal Lands Recreational Enhancement Act (FLREA) erect a turnstile at every trailhead to shut middle class families out of their own public lands, much less families of even more modest means such as retirees. Furthermore, by any other name, the fee increases under FLREA have operated as backdoor taxes.

The Forest Service, in its attempt to balance its books and under the guise of a “policy directive,” has crossed ethical boundaries not unfairly described as theft. When clearly seen, the financial management practices of FLREA have caused Forest Service managers to seek to confiscate the discount rights of senior citizens – duly purchased and paid for - and then transfer as much as 90% of it back to the Forest Service through lease payment from concession operators.

There can be no more fundamental breach of the public trust than theft. The authors of this proposal deserve to be sanctioned.

Please place this letter in the administrative record and add me to the list of Interested Parties.

This author directs his comments to broad principles affecting the public trust and the public interest. In doing so, he wishes to acknowledge Kitty Benzar, President, Western Slope No Fee Alliance. Her comments underscore in far more exacting terms, the technical, legal, historical and legislative reasons for rejecting this proposed policy change.

I respectfully ask you to reject this proposal out of hand.

Sincerely,
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