THANK YOU FOR YOUR COOPERATION?

Forest Service Moves to Intimidation to Collect More Entrance Fees

*Here's how the Forest Service bullies us into donating many millions of dollars to the federal government. Read this and you'll think twice before filling that envelope with your hard-earned cash.*

By Bill Schneider, 10-21-10

On September 29, I wrote about a [historic court decision](#) overturning the Forest Service’s (FS) policy of charging an entrance fee to visit or park in the Red Rock High Impact Recreation Area (HIRA) in Arizona’s Coconino National Forest. In my commentary, I not only urged the FS to forego appealing the ruling but also to throw in the towel and comply with the court decree and stop charging the fee--and then purge the National Forest System of all 95 HIRAs.

I’m one for three.

Almost surprisingly, the FS decided against appealing and hence punishing Jim Smith, a regular guy who likes to hike and park for free on the land he owns, with years of litigation. I dearly hope this decision marks a change in the sentiment in the Obama administration’s Solicitor General’s office, but it seems more likely that Smith’s case was simply so solid the FS had no grounds for appeal. In any regard, though, before you applaud the victory and start thinking the federal government has suddenly become more reasonable and benevolent, you need to hear what the bosses at the Coconino National Forest did in the aftermath of the court decision.

Almost before the judge’s signature had dried, the Coconino sent out a press release with the title “Red Rock Country Continues to be a Fee Area.” It contained no explanation of why the agency had chosen to ignore the court decree, only a lot of concern about not having enough money to hire rangers to collect fees--not one word about what the agency
was doing, which is, at the least, an unprincipled stretch of the law of the land. (When I find out precisely how the FS plans to skate around the decision, I’ll let you know.)

In the meantime, can you say “above the law?”

But the FS disregarding this court decision and keeping illegal HIRAs in place isn’t the worst news. The Red Rock situation now segues into a bigger issue--how the FS basically bullies public land users throughout the country into “donating” many millions of dollars in fees to the federal government when people have no legal obligation to pay.

(WARNING. If you already have high blood pressure, you might not want to read the rest of this column.)

The Red Rock case is only one of several the FS has had to fight in recent years to enforce its quasi-legal entrance fee program, so now the agency has come up with a plan to fleece public land users without having to defend it at the courthouse. It’s all outlined in an internal memo, which I’m sure the FS would just as soon you didn’t see (so if interested, click here to read it), but here’s the basic message: The FS has a new strategy for intimidating people into paying fees they have no obligation to pay.

The mechanism is a new invention called a Notice of Required Fee (NRF). If you find one under your windshield wiper, there’s no reason to fill the envelope and drop it in the nearest iron ranger or mailbox. Most people do, though, because of how the FS has deviously designed it. (Click here to see the entire form.)

“NRFs look like tickets, walk like tickets and quack like tickets, but an NRF is NOT A TICKET! Only a Violation Notice is a ticket,” Kitty Benzar of the Western States No-Fee Coalition told NewWest.Net in an email.

She speculated that the Coconino National Forest plans have the Red Rock area “continue to be a fee area” by starting to issue NRFs instead of Violation Notices (like the one Smith received) at least in undeveloped parts of the HIRA. That’s what FS has done in other fee hot spots such as Mount Evans in Colorado, the Mount Lemmon and Tonto National Forest in Arizona and throughout “Adventure Pass Country,” the National Forests of California.

The truth is, people who use National Forest backcountry and park at trailheads to go hiking, biking, camping, climbing or otherwise use the undeveloped federal
land, including in HIRAs such as Red Rock Country, Mount Lemmon or Mount Evans, do not have to pay the entrance fee. And if they're issued an NRF, they still do not have to pay the entrance fee. People only have to pay if they use developed areas with “amenities” like toilets, interpretive displays or picnic tables.

Or as Benzar puts it: “Anyone who pays a NRF is essentially making a voluntary donation to the Forest Service.”

But since the NRF has been intentionally designed to look like a ticket, most people pay. Who can blame them for paying when they read this bold-faced statement on the envelope:

“Failure to pay the required fee may subject you to criminal enforcement under 16 U.S.C. 6811 and 36 CFR 261.17. To remedy this Notice, enclose a personal check or money order for the $5.00 recreation use fee payable to the USDA Forest Service in the attached envelope. Postage must be added to the envelope.”

That thinly veiled threat is only true if and when the FS follows up the NRF on a future visit to your National Forests with a real ticket, a Violation Notice, which can subject public landowners to criminal prosecution for daring to enter a National Forest without paying the access fee.

So, I say, pitch NRFs in the trashcan, if you can find one. If enough people do, the FS might get the message.

If you read the internal memo, you can understand why the FS likes the NRF concept. Previously, National Forest recreation tax collectors sometimes issued warning notices (Non-Compliance Violations or Opportunity to Pay Notices). When issuing these warnings, though, the federal agency could not put you in its criminal database called LEIMERs (Law Enforcement and Investigations Management Attainment Reporting System), but by issuing NRFs, the agency can and does put you in LEIMERS.

“They (FS) can only prosecute you if they follow the NRF with a Violation Notice,” assured Benzar, “but your license plate might go on a list, and you might be more likely to get a Violation Notice later. It’s basically a threat to break your knees later if you don’t comply now. They like to issue NRFs so they don’t have to waste time defending them in court.”

The FS now knows courts will likely dismiss tickets issued in places or for activities where they aren’t legally authorized to do so, such as parking at undeveloped trailheads to go hiking, she said, “but there is money to be made from intimidation (ask Tony Soprano), and that’s what a NRF is--an intimidation tool.”
How bad is this? I think I’ll put it mildly. It’s a sneaky, mean-spirited, downright embarrassing ruse. Intimidation has replaced enforcement because, it seems, the current entrance fee program isn’t enforceable.

And then the FS twists that knife another half-turn at the bottom of the faux ticket where it states: “Thank you for your cooperation.” Ouch!

I wonder how high-profile political appointees like Agriculture Secretary Tom Vilsack or Forest Service Chief Tom Tidwell can even look in the mirror after condoning such irresponsibility. Or perhaps they don’t even realize how low their recreation managers have gone to continue collecting entrance fees.

To read NewWest.Net’s extensive coverage of the recreation fee issue, click here.