

Arizona Daily Star

Forest Service user fee upheld

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Upholding a system that officials say is as essential as it is unpopular, a federal judge in Tucson has tossed out a lawsuit filed by four Tucsonans seeking to get rid of fees to hike and park in the Catalina Mountains.

In response, an official with a Colorado-based group that has fought the fee system said the group will turn to Congress to try to eliminate the fee program, which it says hurts lower-income people and deprives people of their right to use public lands.

WHAT'S AT STAKE

Since 1996, the Forest Service has charged user fees all over the West to people who hike, park and, in some cases, picnic at and near many recreational sites. In Tucson, fees of \$5 a day and \$20 annually are charged to people who drive and park along the Mount Lemmon Highway. The fee isn't charged to vehicles that park within the unincorporated village of Summerhaven but is charged in areas along public land except in designated scenic parking areas such as Windy Point. By comparison, it costs a rancher \$1.35 a month and \$16.35 annually to run a head of cattle on federal land.

HOW THE MONEY IS USED

In the Catalinas, the Forest Service has used fees to replace restrooms, erect interpretative signs, and to build, maintain and improve trails and facilities such as visitor centers and bathrooms. It has also used fees to do law enforcement work, install a water tank and build directional signs, said Heidi Schewel, a Coronado National Forest spokeswoman.

WHAT'S THE BEEF

The suit was filed by environmental activist and state Rep. Daniel Patterson, Gaye Adams and Greg Lewis of the Arizona No Fee Coalition, and Christine Wallace, like the others an avid hiker and backpacker in the Catalinas. It was a class-action suit on behalf of thousands of annual visitors to Mount Lemmon. The suit charged that fees are charged to park at numerous trailheads and three primitive campgrounds that don't contain all the amenities such as developed parking, permanent toilets and trash receptacles and interpretive signs and picnic tables where the federal law says fees can be charged.

The service has designated most of the highway a High-Impact Recreational Area, which is eligible for charging fees under the law. The suit also charged that the possibility of criminal prosecution for people who don't pay the fees has a chilling effect on the plaintiffs' right to use the forest for hiking, dispersed camping or enjoying the views.

THE RULING

On March 8, U.S. District Judge Raner Collins upheld the service's right to charge fees in the entire High Impact Recreation Area even though some of the trails, campgrounds and other lands along the roadway don't have the required amenities. The service's interpretation of the federal law is reasonable, particularly because the service has also established four other criteria that must be met before a local forest unit can charge a fee in a High Impact Recreation Area, Collins wrote.

"The plain language of the statute does not limit their ability to combine multiple areas so long as the area has the minimum amenities or services" spelled out in the federal law, Collins wrote.

THE REACTIONS

"Obviously, we are disappointed. ... It went against us, and said that the Forest Service can charge for anything and everything they wanted to on Mount Lemmon," said Kitty Benzar, president of the Colorado-based Western Slope No Fee Coalition. "We're going to look for a legislative solution, so the courts will know what Congress wants. This law is ambiguous and complicated and isn't working."

The Forest Service's Schewel said the Federal Lands Recreation Enhancement Act, under which fees are charged, was put into effect to increase the quality of services some federal agencies provide. The service's emphasis on spending the fee money is on "increasing public service," she said.

"Some individuals exercised their rights to challenge that in court, and the judge agreed with our attorneys' motion to dismiss," Schewel said.

Contact reporter Tony Davis at 806-7746 or tdavis@azstarnet.com