

## MY TURN – OP-ED

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“Trail Fees are Hurdles to Many”

By Kristi Laguzza-Boosman

In the *MVN* article, “Local fights forest-fee ticket” (9/30/09), Okanogan-Wenatchee National Forest representative Jocelyn Biro states that the Federal Lands Recreation Act (FLREA) enacted in December, 2004 (not 2005) allows the Forest Service to charge a fee at undeveloped sites located in a so-called “High Impact Recreation Areas.” I would encourage Ms. Biro to actually read the Federal Lands Recreation Enhancement Act of 2004. Section 3, subparagraph (d)(1)(B) states that the Forest Service is *prohibited* from imposing fees for general access unless specifically authorized under Section 3. Section 3, subsection (f)(4)(D) imposes six requirements *before* the Forest Service can impose a standard amenity fee. These are: designated developed parking; a permanent toilet facility; a permanent trash receptacle; interpretive sign, exhibit, or kiosk; picnic tables, and security services.

Nowhere in FLREA does Congress authorize the U.S. Forest Service to designate large tracts of federal lands “High Impact Recreation Areas” (HIRAs) for the purpose of extracting additional fees from citizens in undeveloped areas lacking the necessary amenities. The term “HIRA” does not even appear in FLREA. It appears to be an interpretation of the USFS, not a fact of law. In fact FLREA specifically tries to prevent this arbitrary abuse of the citizenry by requiring a certain standard of amenities before a fee can be charged.

So shaky are the legal underpinnings of HIRAs that Forest Service attorneys have worked hard to prevent them from undergoing a thorough legal review. The tactic appears to be to appeal any cases lost in the lower courts, try to select a more sympathetic judge, and, if all else fails, drop the charges before the defendant can appeal the legality of HIRA designations to a higher court for full review. In this way the USFS can claim a win without undergoing the legal scrutiny HIRAs so desperately deserve.

The USFS appears to be overstepping their authority by requiring fees at sites that do not meet the standards set by Congress. For example, I received a \$75 ticket for failing to pay a fee at the Cedar Creek trailhead near Mazama. This site is located in a large gravel pit with no designated developed parking. It’s hard to know where in the gravel pit it’s safe to park. An old, dented trash can is chained to the outhouse where it could easily be broken into by bears, cougars, or raccoons. The Cedar Creek interpretive sign is so full of bullet holes that it’s illegible, and the closest picnic table (unless I want to also pay an additional camping fee) is over 15 miles away. This is not what Congress had in mind.

In addition to legal questions, the ethics of charging the public a fee to access their own lands is questionable. In research I conducted in 2007 on this issue, I discovered that two separate studies (one by the NE Research Institute and one by Western Washington

University) determined that trail fees reduced the ability of low-income people to access public lands by nearly 50% and all other users by over 30%. These findings are in line with Washington State's experience where the Legislature, in 2003, passed a law charging a \$5 parking fee for all visitors to Washington State Parks. The law was rescinded in 2006 due to the precipitous drop in park visitation that occurred after the fee law went into effect. Not surprisingly, FLREA is having a similar impact on visitation to our national forests which have dropped by 37% in Washington and Oregon, 42% in the NE region of the US, and 74% in Alaska since the fee program began.

FLREA is also in conflict with the Forest Service's goal of encouraging more families to enjoy our National Forests. Newly appointed U.S. Forest Service Chief, Tom Tidwell, stated he plans to focus, in part, "on reaching out to children to make them more aware of and comfortable with National Forests." A local Forest Service flyer encourages parents to take their kids to the forest. It cites concerns over issues such as nature-deficit disorder in children and the need to engage in healthy, outdoor activities. The author then asks parents, "Could one of the major hurdles your children have getting outdoors be you?" In fact, a major hurdle preventing parents from taking their children to the National Forests appears to be USFS trail fees.

The problem here is not the Methow Valley Ranger District, whose trail fee maintenance budget is constantly being cut. The problem is USFS administration, whose own budget records show a 66% increase in Congressional appropriations in the last decade that are somehow not making it to the local level. Instead they're being used up in USFS administrative overhead, while the burden of paying for trail fee maintenance is shifted to the public who are already taxed for this same service. So unpopular are trail fees that a bill is now pending in the Senate that would repeal FLREA entitled *S.868 The Fee Repeal and Expanded Access Act*. I would encourage citizens to contact Senators Murray and Cantwell and ask them to support this legislation, and ask Congresswoman McMorris-Rogers to sponsor a similar bill in the House. FLREA is a bad law. HIRAs may be no law at all. People should not be charged twice to access public lands.

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