

Willamette & Deschutes National Forest,

Should the comment deadline be extended, or if additional materials become available, I reserve my right to modify, amend, supplement, or re-submit my comments.

1. I backpack, hike, fish, climb, do photography, and swim in the Mt. Jefferson and Three Sisters wilderness at least 5 times per year and have as much as 10 times in a year over the last decade. This fee would make it more difficult for me to access these lands because I sometimes include a friend at short notice and will be unable to accommodate such situations. Additionally the fee and quota will not allow me to access off trail locations where I usually camp and do not encounter other people or signs of humans. This will deter me from going to these locations and doing my usual activities.
2. The fee is unprecedented, however on page 18 of the Final Decision, item 6, says:

*Finding of No Significant Impact - The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration. This is not a precedent-setting decision. Similar projects have occurred across the Forest Service and National Park Service."*

This lie is in contrast to public record statements made to the Statesman Journal by previous Deschutes Forest Supervisor and project co-lead Matt Peterson, published May 10<sup>th</sup>, 2019: <https://www.statesmanjournal.com/story/news/2019/05/10/oregon-wilderness-permits-three-sisters-mount-jefferson-mount-washington-forest-service/1165219001/>

**“But both Allen and Peterson said having limited entry on such a large scale — across three wilderness areas and 450,000 acres — is an idea without much precedent.**

A limited entry system will be in effect at 79 different trailheads for overnight use and 30 for day use. That's going to require hiring new wilderness rangers and having a streamlined distribution system.

**"There's a level of uncertainty because it hasn't been done before on this scale,"** Peterson said.”

It is hard to understand how the Final Decision can state that similar projects have occurred across the Forest Service and National Park Service when in fact there is a direct quote from Peterson stating there has not been a previous project of this scope before. Did Matt Peterson lie to the public or was he ignorant of existing Forest Service regulations where a project in such scope exists? If there is a similar project can you please refer to another example of multiple wilderness areas requiring quota limited fee permits for all overnight stays for 5 months of the year within a National Forest?

3. The proposed fee violates FLREA in multiple areas. The FS is asking for comments under authorization from FLREA to charge as a Special Recreation Permit fee, defined as such:

§6802. (h) The Secretary may issue a special recreation permit, and charge a special recreation permit fee in connection with the issuance of the permit, for specialized recreation uses of Federal recreational lands and waters, such as group activities, recreation events, motorized recreational vehicle use.

Backpacking, day hiking, and disbursed unimproved camping are not forms of Special Recreation. Standard and Expanded Amenity fees prohibit entrance fees to Wilderness for non-specific use (hiking, backpacking). This is an end-run around that prohibition and a defacto entrance fee for any overnight use, and an entrance fee for 19 trailheads, including off-trail entry to wilderness areas. This is the FS's interpretation of FLREA section h and not within the intent originally proposed. Therefore fees for the permit must be zero.

Please see original congressional testimony on FLREA in 2005:

<https://www.govinfo.gov/content/pkg/CHRG-109shrg26620/html/CHRG-109shrg26620.htm>

Mark Rey, Under Secretary for Natural Resources and Environment, Department of Agriculture:

#### SPECIAL RECREATION PERMITS:

REA authorizes the Secretary to issue a special recreation permit and charge a fee in connection with the issuance of a permit for specialized recreation uses of Federal lands, such as group activities, recreation events, and motor vehicle use. The Forest Service issues special use permits under this authority for short-term commercial recreation uses, such as outfitting and guiding, and recreation events.

The permit fee revenue collected and expended on the ground will be of great benefit to recreation visitors as well as to the permit holder. Facilities used by commercial outfitters such as trails and trailheads will be better maintained which will improve the ability of permit holders to provide high quality recreation services to the public.

This authority is also used to issue special recreation permits to individuals for activities such as, white water river trips, off-highway vehicle (OHV) use and, in a limited number of cases, wilderness use. These permits are issued when we provide additional services beyond normal operation and maintenance, including constructing and maintaining specialized trails for OHVs and **providing wilderness experiences in areas that receive high use.**

We currently require a wilderness permit and permit fee for 8 of our 406 Congressionally designated wilderness areas that are within the National Forest System. These 8 areas had a permit prior to the enactment of REA that was authorized under the LWCFA. They include areas such as the Boundary Waters Canoe Area Wilderness on the Superior National Forest in Minnesota and the Desolation Wilderness Area on the Eldorado National Forest in California. Each of these areas has special circumstances such as an allocated visitor use system, reserved and designated campsites, and, in a

few areas, an aerial sewage removal program that entail costs beyond those incurred in our normal wilderness management program.

We are developing criteria to guide to our field managers in determining when such a fee is appropriate. **We do not anticipate a large number of additional fee areas. We have no intention to use the fee authority as a tool to reduce recreation visitor use.** Any decision to implement a permit system to allocate use in wilderness areas to meet management objectives will be made through our land use management planning process and associated recreation capacity analysis.

- a) Going first, FLREA never actually enumerates that wilderness access for disbursed unimproved camping, or day hiking for individuals is a Special Recreation. FLREA states Group Activities, Recreation Events, and Motorized Recreational Vehicle use. In numerous District 6 FS unit statements that mention how FLREA dollars are spent, Recreation Special Uses reference organized events, groups, guides, and outfitters, and not individuals. This would be a significant change of precedent.
- b) When looking at the intent, one must ask why the FS would require overnight permits at trailheads that currently do not meet usage thresholds if the Undersecretary suggests it is only for areas that receive high use and a wilderness experience will be provided. Do Deschutes and Willamette National Forests contend that their Final Decision will cause other areas to receive high use and thereby a degraded experience which requires additional management? It would seem the FS should re-assess their proposal if a side effect is causing increase environmental degradation of new sections of wilderness that do not currently experience this effect.
- c) The Undersecretary states that they do not anticipate a large number of additional fee areas. And yet we have 3 wildernesses and 79 trailheads that will be fee areas, across 450,000 acres of land. Does the FS contend this is not a large number of additional fee areas?
- d) The Undersecretary states that they have no intention to use fee authority of a tool to reduce recreation visitor use, and yet this very effect will happen. The cost for fees for a party of 8 for 10 days increases from \$0 to \$406. The fees specifically would affect me and make it unlikely for me to visit and especially for long trips. The FS has not provided any substantial explanation for how low income people will be able to access the wilderness areas for overnight use.

4) Effect on Low income populations. The Final Decision, Page 16 states:

**Civil Rights and Environmental Justice**

Executive Order 12898 on environmental justice requires federal agencies to identify and address any disproportionately high and adverse human health or environmental effects on minority and low income populations.

The Forest Service has not presented a credible explanation for how low income populations will access these areas which will require fees. Until a completed system is adopted and presented for comment, it is premature to enact any fees. The FS has not addressed the low income provision.

5) Public process requirements for the proposed fee has been incomplete. The Draft Decision has 38 pages of information about the proposal. The Final Decision has 42 pages. The Fee proposal is literally listed as a press release. That's not a proposal. It's an incompetently under-detailed presentation of fees and appears to be a mere afterthought compared to prior steps.

a) The Forest Service has not provided a sufficient opportunity for public involvement or participation in the developing of recreation fees, has not established guidelines for public involvement,

and has not established guidelines for how the agency will demonstrate on an annual basis how it will inform the public of the use of recreation fee revenues.

b) Notice documents have been insufficient:

- a) In March 2019, the Forest Service said: “The public will have the opportunity to learn more about and comment on each of these items . . . annual pass option . . . volunteer pass . . . passes/permits to underserved communities.”
- b) The FS states in the Final Decision that truck and trailer parking at some trailheads will be reserved for stock use. But this has not been addressed how this will be enacted. Currently the FS says that such parking has been developed in the past but not effectively enforced. This means the FS has been derelict, incompetent, or simply ineffective at their jobs. It does not bode well for a much larger enforcement process
- c) In October 2019 the Forest Service’s press release stated that it was seeking authorization through FLREA and sought “the public’s engagement on the specifics of the fee structure.” But the documents made available during the current comment period do not provide the public with necessary information about any of these items.
- d) In addition, the public cannot comment and participate because it lacks information about the Forest Service’s rationale for the fee or the fee amount. We have no information about how the Forest Service developed these fees or how the proposed fees compare to fees in other areas. We also lack any information on which to comment about cancellations, weather problems, how the Forest Service will address day-of or last minute passes, how low income people will be included in the pass system.

c) Upcoming Resource Advisory Committees, Recommendations, Final Decision

- a. Without a substantive proposal to comment on, the public cannot meaningfully comment, and the Resource Advisory Committees will not be able to receive a proper proposal, and any recommendation the RACs make to the Forest Service can only be arbitrary, capricious, or contrary to law.

6) The final decision says:

Pg. 12: We certainly have been implementing most of them across the project area over the last three decades, including visitor education and **enforcement**, site specific regulations for camping and campfires, limited group size, and two small limited entry areas.

Pg: The number of visitors in the wilderness is exceeding our staff’s capacity for quality education and enforcement.

And yet Appendix D – Past and Ongoing Management Actions in Wilderness areas is completely devoid of any mention of enforcement as a first level action.

7) the EA states:

**Consideration:** Peoples’ preparedness level, risk taking, and decision making are outside of the scope of this project. **A portion of permits will become available the day of or day before a trip**, allowing spontaneous planning based on weather or other factors

The FS’s fee proposal does not indicate how this will be administered. It is inadequate.

8) The FAQ provided in regards to fees states:

**Q. Are you shutting people out of accessing public lands, especially wilderness?**

A. In terms of acreage, the Deschutes and Willamette National Forests manage approximately 3.2 million acres in total. The three wildernesses that will be affected by a limited entry system are approximately 437,000 acres. The limited entry system will affect public access for overnight use to 13% on the total acres of the two national forests. For day-use only 19 of 79 trailheads within the three wildernesses will be within the limited entry system.

This is a disingenuous response as it actually is shutting people out of camping in wilderness, all 437,000 acres. We are only talking about Wilderness so why obfuscate discussing lands where less people want to recreate?

**Q. What is the proposed fee?**

A. The Forest Service has proposed the following structure for the special use permit fee:

- No special use permit fees for youth 12 and under, though each person requires a limited entry reservation regardless of age.
- Day-use permit fee \$3.00 per person (needed at 19 trailheads, **60 trailheads no fee**)

By the FS's own statement, there would be no cost to go to any of the other 60 trailheads and recreate? This is confusing to the population while the Northwest Forest Pass is still active.

9) The fees disproportionately impact human users and do not take into consideration the deleterious impacts of dogs and horses. Under the proposed fee structure, a family of 4 taking a 2 hour walk in the woods would have to pay more than the same family traveling with 4 horses and 4 dogs. The numerous ways that stock and pets impact the land and user experience is well documented in the research. And yet, there is absolutely no fee to bring these animals into the wilderness? Horses impact soils and trails, spread weeds and eat native vegetation. Dogs, which are often off-leash despite any rules in place otherwise, chase and scare away wildlife, harass other hikers and dogs and contaminate water and soils with their feces.

If fees are being imposed to offset impacts, then fees must also apply to dogs and stock.

10) fees must be set to zero. They are not allowed under FLREA. The project is unprecedented in scope and cost. No accounting has been provided. No estimates were made on fee revenues or statements of required revenue for full enforcement. EA states that the FS has been entirely unable to provide adequate enforcement already, even with Northwest Forest Pass funds at a majority of trailheads. If the FS cannot provide a sound accounting budget for the revenues and expenditures for compliance and enforcement of this project then fees need to be zero.