

Dear USFS, Ms. Gardunio and other concerned citizens of the United States.

I am writing to you to provide my comments regarding the Blue Lakes Visitor Use Management Plan Environmental Assessment 61979. After reviewing your proposed actions in detail, I want to express serious concerns with your Adaptive Management approach.

I live in Arizona and frequent our National Forests here locally. I also grew up in the Rifle area, I am a Rifle Bear. My mother and her family grew up and lived in Montrose, I still have family in Montrose. I am very familiar with Blue Lakes and have been there on more than one occasion. Gorgeous area and should be managed properly so that generations to come can enjoy it also.

Problem:

I am particularly concerned with the portion of your plan to impose a hiking permit = hiking fee = taxation without representation. This is unconstitutional first and foremost and amounts to nothing more than another government agency over-reaching and intruding on civil liberties. The USFS is the last place I would expect to observe this type of behavior, yet here it is.

I am well aware of the local culture in the Ridgeway, Ouray, Telluride, and surrounding small communities. Growing up we referred to the area as SnobVille, so I would not be surprised to learn that a group of locals were behind this endeavor. Essentially, this will increase to the point that only the privileged elite will be able to visit certain areas of our PUBLIC LANDS. The USFS would be wise to remember they manage our National Forests, they do not own them.

The US constitution in Article 1, the 16th Amendment, built in protections against taxation without representation. The agency charged with collecting taxes is the IRS, not the USFS. Hence, the USFS needs congressional approval to start collecting taxes, which would require a vote by Congress, whose members are elected by the people, hence the key word, representation. The USFS does not have the authority to use this back door sneaky and illegal tax collecting method.

This poor leadership that management is exhibiting is an unintended consequence from affirmative action. Leaders have been appointed / promoted into positions that fill a checkbox, but they are completely unqualified to fill and lead responsibly. Any responsible leader would have realized this is an illegal and immoral endeavor.

The US constitution, particularly under the 14th Amendment, has guaranteed that its citizens can move without restrictions on public property, in the most basic form (walking/hiking/running), free from taxation and coercion by public officials. For this same reason, we are not required to stop at county and/or state lines while traveling around the country to pay a toll fee. The USFS is grossly overreaching its authority and is completely straying from its mission.

The type of behavior that the USFS is displaying here reminds me of local Mafia tactics, where they charge local businesses for protection, aka, if you hand over the money voluntarily, we won't rob you.

Other government entities over the years have attempted to sneak an illegal back door tax in. The Supreme Court in each case has upheld the rights of citizens. I would highly caution the USFS in engaging further in this illegal type of activity.

Solution:

Here in Arizona, we have several unique and beautiful areas as well. One such example is the Fossil Springs and Fossil Creek area in the Coconino National Forest. For many years a local power plant ran a small hydroelectric plant in the area. They built a dam near the springs, ran the water into a 5-mile flume to the hydro electric plant, and then the water went back into the creek.

Unintended consequence, they destroyed a 5-mile section of a very delicate ecosystem. Environmentalists won their victory about 20 years ago and rightfully so. The plant was closed, and it was a 4-year project to remove every trace.

I had visited the springs every year prior to the removal of the plant. Interestingly enough, the 10-mile hike round trip kept the foot traffic at a reasonable level. The moment the water was restored to the creek, it was a disaster! The upper portion of the canyon road at Strawberry was closed, and the lower road in from Camp Verde was over-run. Littering knew no bounds, boom-boxes blared every type of music you didn't want to listen to, and entire groups of people were plopping down right on the trail, and you couldn't even walk by.....

The management of the Coconino National Forest immediately took control of the situation and provided a legal, sane, and responsible solution. THEY DID NOT IMPOSE A HIKING TAX! They built designated parking areas, built picnic tables, and installed outhouses at the parking areas. They used large boulders to block off user trails.

Since the PARKING near the trailhead is now limited, they implemented a first come first server permit system April through September. Citizens, in return for purchasing a permit, park near the trailhead, have restroom facilities, picnic facilities, and trash removal services all provided for them. During the winter, there are no restrictions or fees.

There is a summer ranger posted at the road junction 5-miles below the parking lots, they verify permits to park. They do not stop any foot traffic hiking up the road to the trail head. Furthermore, they also allow a vehicle without a permit to drive up to the trailhead, allowing passengers to disembark, and then the vehicle returns to the area outside the Fossil Creek Canyon and parks and the driver is allowed to hike to the trail head unimpeded. A citizen is also allowed to legally park near Strawberry AZ and hike down the canyon trail directly to the springs and no hiking tax is levied.

The Coconino National Forest did a great job. I have been to the creek/springs almost every year since, and the foot traffic is very reasonable, and the area is maintained, no boom boxes, no trash..... and all citizens of the United States can now once again enjoy this beautiful area.

Conclusion:

I read your documentation about the Wilderness Act. I have no idea how you concluded the Wilderness Act gave you permission to impose a hiking tax. What I have read is the Wilderness Act specifically prohibits the federal agency of the USFS from collecting taxes. This should not be confused with fee's for campground or parking sites that provided a direct service. I am well aware of the rules when the USFS is legally allowed to charge a fee.

The Wilderness Act gave management tools to manage, (remember you do not own). Certain areas can be designated as no camping etc., as an example of a management tool. I have not found one single word in the Wilderness Act that says, "hey tax the non-locals in an effort to keep them out of our little fiefdom!" The USFS is discriminating against certain groups of citizens here with this proposal.

As long as a citizen of the United States is passing through, leaving nothing but footprints, the USFS has no right and no authority to be an illegal tax collector.

I'm semi-retired now and plan to move back to Colorado in three or four years. My job goes with me on a laptop, I can work from anywhere. My guess is the USFS is simply going through the motions of making a local public announcement and has most likely kept it hush-hush as possible. My guess is the USFS has already made a decision and will proceed with this illegal endeavor.

I plan on frequent hiking trips to the Blue Lakes. When my path crosses with a ranger and I am issued a citation, I will first fight the citation in court, and then I will sue the USFS for trampling on my civil liberties.

This leads to another problem for the USFS. How is a Ranger going to articulate his reasonable suspicion to the court for stopping a hiker and demanding to see the hiking permit??? Sounds like illegal detainment, search, and seizure to me. Another constitutional violation, the 4th Amendment.

At a DUI checkpoint on a roadway, police can slow traffic, they cannot stop traffic. They can have a consensual conversation, "have you been drinking tonight". However, at a check point, motorists are not required to roll down the window and engage with police officers. They are allowed to proceed freely if they wish. They cannot stop traffic and demand to see a valid driver's license as there is no reasonable suspicion. The USFS is opening a can of illegal worms here they will regret later doing so.

I appreciate and cherish Wilderness Areas as many free citizens of the United States do and enjoy the opportunity to be able to visit primitive and unconfined areas for recreation. However, you and the USFS are attempting to overstep your authority by imposing an illegal tax and limit opportunity in an area that was originally designated a National Forest because it provided "unconfined" recreation.

You manage our National Forests; you do not own them. They are public lands.

Best regards,

Scott Brown