

Data Submitted (UTC 11): 10/24/2019 8:52:40 PM

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Title:

Comments: Response to Proposed Recreation Fees

Response to: Special Recreation Permit Fee

By: Kathleen S. Roche, 63255 Stonewood Drive, Bend, OR 97701

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10/24/2019

I only represent myself and am not paid for these comments. I am a retired Forest Service employee with 29 years of experience with the agency including a 6-month detail as the Recreation and Special Uses Staff Officer on the Shasta-Trinity National Forest. I provided input to the Central Cascades Wilderness Management Project Environmental Assessment in which I explained how it is inappropriate to require a permit

I have the following comments regarding your request for input regarding the proposed special recreation permit fee as a part of the new limited entry system for day and overnight use in three Central Cascades wildernesses. Under the Organic Act, the lands managed by the Forest Service are open unless closed by an order issued by the Forest Supervisor. This is the intent of Congress and now to add insult to injury you want to charge a fee plus a processing fee through Recreation.gov.

Under the Federal Lands Recreation Enhancement (FLREA), the Forest Service can establish fees only upon meeting certain very specific conditions.

16 USC Ch. 87: FEDERAL LANDS RECREATION ENHANCEMENT

§6802. Recreation fee authority

(a) Authority of Secretary

Beginning in fiscal year 2005 and thereafter, the Secretary may establish, modify, charge, and collect recreation fees at Federal recreational lands and waters as provided for in this section.

(b) Basis for recreation fees

Recreation fees shall be established in a manner consistent with the following criteria:

- (1) The amount of the recreation fee shall be commensurate with the benefits and services provided to the visitor.
- (2) The Secretary shall consider the aggregate effect of recreation fees on recreation users and recreation service providers.
- (3) The Secretary shall consider comparable fees charged elsewhere and by other public agencies and by nearby private sector operators.
- (4) The Secretary shall consider the public policy or management objectives served by the recreation fee.
- (5) The Secretary shall obtain input from the appropriate Recreation Resource Advisory Committee, as provided in section 6803(d) of this title.
- (6) The Secretary shall consider such other factors or criteria as determined appropriate by the Secretary.

In your letter requesting input, you do not address all of these factors. This information is required to make the collection of fees justified.

Under FLREA 6802(h) Special recreation permit fee: 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. Your proposal to collect fees does not conform to these requirements and as such is not an appropriate application of this law.

In addition, your proposal seems to fit the criteria described that limit charging a fee for recreation. I added the highlights to the section below.

(d) Limitations on recreation fees

(1) Prohibition on fees for certain activities or services

The Secretary shall not charge any standard amenity recreation fee or expanded amenity recreation fee for Federal recreational lands and waters administered by the Bureau of Land Management, the Forest Service, or the Bureau of Reclamation under this chapter for any of the following:

- (A) Solely for parking, undesignated parking, or picnicking along roads or trailsides.
- (B) For general access unless specifically authorized under this section.
- (C) For dispersed areas with low or no investment unless specifically authorized under this section.
- (D) For persons who are driving through, walking through, boating through, horseback riding through, or hiking through Federal recreational lands and waters without using the facilities and services.
- (E) For camping at undeveloped sites that do not provide a minimum number of facilities and services as described in subsection (g)(2)(A).
- (F) For use of overlooks or scenic pullouts.
- (G) For travel by private, noncommercial vehicle over any national parkway or any road or highway established as a part of the Federal-aid System, as defined in section 101 of title 23,1 which is commonly used by the public as a means of travel between two places either or both of which are outside any unit or area at which recreation fees are charged under this chapter.
- (H) For travel by private, noncommercial vehicle, boat, or aircraft over any road or highway, waterway, or airway to any land in which such person has any property right if such land is within any unit or area at which recreation fees are charged under this chapter.
- (I) For any person who has a right of access for hunting or fishing privileges under a specific provision of law or treaty.
- (J) For any person who is engaged in the conduct of official Federal, State, Tribal, or local government business.
- (K) For special attention or extra services necessary to meet the needs of the disabled.

I reiterate my comments to permit proposal system as this collection of fees also will collect additional data that can be used against citizens visiting the National Forests. Under the fourth amendment to the US constitution, the privacy act of 1974 and other laws and statutes there is a legal precedent that the US government does not have the right to collect information from citizen unless there is probable cause or reasonable suspicion of a crime. In this instance, you propose extensive collection of personal data by requiring permits to enter the wilderness and collection of additional information in collecting fees.

I urge you to re-consider both your requirement for permits and the associated fees as both appear to be inconsistent with law, regulation and policy and impose upon the public. In addition, I expect that this will have a large negative effect on the recreation and tourism economy of central Oregon.