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CLASS ACTION SUITS TO BE FILED TUESDAY IN ARIZONA, COLORADO

Public Land Owners Taking RAT, Forest Service to Civil Court

By Bill Schneider, 5-05-08

Enough is enough, say the owners of our national forests. And they may have finally found a way to spike the Recreation Access Tax or RAT.

After years of working through cumbersome administrative channels and several rounds in criminal court, people interested in reasonable and free access to their public land have dragged the Forest Service (FS) into civil court. In addition to asking injunctions against collecting “illegal” fees while the case is being litigated and if successful the fee program terminated, the plaintiffs in the class action complaints--to be filed tomorrow morning in Arizona and Colorado--want all fee collection signs removed and all fees collected through the years under the program returned to the people who shouldn't have had to pay them.

Suffice to say, it's panic time in the FS offices back in Washington, D.C.

“We're so excited to finally find a way to challenge these illegal fees,” Kitty Benzar of the Western Slope No Fee Coalition (WSNFC) told *NewWest.Net* in an interview today. “The criminal strategy wasn't working because the FS would just drop the charges when we took it to court. By going to civil court, the plaintiffs are in control. The FS is the defendant so they can't drop the suit.”

Benzar's group is not a party in the lawsuits but has assisted the plaintiffs and their lawyers in preparing the litigation.

The Arizona lawsuit has four plaintiffs, including Daniel Patterson, Southwest Director of Public Employees for Environmental Responsibility (PEER), who was ticketed on Mount Lemmon last winter while recreating in area with no “amenities,” physical improvements such as campgrounds, picnic tables and toilets, as required by the law the FS is using to impose and increase fees, the Federal Lands Recreational Enhancement Act (FLREA). The other three plaintiffs are Gaye Adams, Greg Lewis and Christine Wallace, who has already been in criminal court several times to challenge the Mount Lemmon fee program.

In Colorado, Mount Evans recreation users and local residents David Scherer and John Licht are listed as the plaintiffs. Mount Evans almost lost its long-controversial fee program last summer when the Colorado Department of Transportation decided to enforce its rules against charging a fee to drive on state highways such as State Highway 5 leading to the top of Mount Evens, but after a high-level, closed-door, unannounced meeting with the FS, the state backed down and allowed the federal agency to continue charging what the plaintiffs consider an illegal fee.

“The FLREA, known as the Recreation Access Tax or RAT, prohibits the Forest Service from charging fees for parking, undeveloped camping or scenic overlooks,” the WSNFC stated in a soon-to-be-distributed press release. “The law also forbids fees for hiking, horseback riding or driving through National Forest land without using any facilities or services.”

Nonetheless, the press release states, the FS has continued charging for parking, hiking, undeveloped camping driving through national forests, and other recreational access even when the public land user does not use any facilities.



Class action lawsuit claim these and other fees are unlawful. Photo courtesy of the Western Slopes No Fee Coalition.

Attorney Mary Ellen Barilotti, who filed both class action complaints and who represented Wallace in her criminal actions, stated in the press release that civil court is the only avenue for obtaining a definitive ruling on whether the Forest Service has overstepped its authority.

“Since these are class action complaints,” Benzar added, “more plaintiffs can be added. Anybody who feels they’ve paid a fee they shouldn’t have can join as a plaintiff.”

Benzar told *NewWest.Net* that public land users interested in becoming plaintiffs in the class action complaints should contact Barilotti at mebarilotti@msn.com.

To read the actual complaints, [click here](#).

To read <NEWWEST.NET'S< I>long list of articles on recreation fee issues, [click here](#).

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