

## GEORGE OCHENSKI: Right on cue – Forest Service abuses fee authority in wilderness



12 HOURS AGO • BY [GEORGE OCHENSKI](#)

They say “timing is everything” and that’s certainly the case with last week’s column about federal land management agencies abusing fee authority granted to them by a complacent – and somewhat clueless – Congress. Only days later, the issue blew up nationally when the U.S. Forest Service decided to make permanent an agency rule that

requires journalists and others who take pictures in wilderness areas to first receive permission from the agency and then pay fees for a permit to do so or face significant fines and penalties.

The focus of last week’s column was HR5204, a bill that extends and broadens the existing – and much lamented – authority for federal land management agencies to charge fees to the public for virtually all uses of federal lands. Citing numerous abuses of that authority in the recent past, the column lauded the fact that the bill was not tacked on to the House’s must-pass continuing resolution to fund the government.

But here’s the deal: the bill to allow even more and higher fees came out of the House Resources Committee on which Montana’s lone congressman, and now Republican Senate candidate, Steve Daines sits. And it came out by unanimous consent, which means neither Republican nor Democratic members of the committee objected to its passage nor asked for a roll call recorded vote. In other words, they really didn’t think through the past fee abuses, which are well documented in lawsuits against the agencies, nor the potential for future abuses of fee authority.

A mere three days after the column hit print, the front pages of Montana’s newspapers screamed out the headline “Permit required for cameras in wilderness?” And sure enough, the article on the Missoulain’s front page pointed out that “the Forest Service would consider the nature of a proposed project before approving a special use permit then charge fees of up to \$1,500 for commercial filming and photography in federally designated wilderness areas.”

In an unbelievable response, Liz Close, the Forest Service’s acting wilderness director, defended the rule, saying the Wilderness Act of 1964 prohibits commercial enterprise in wilderness. But apparently that prohibition can be set aside as long as the Forest Service decides that your goal will be flattering to wilderness and that you cough up the bucks for a permit.

Predictably, journalists came unglued at the blatant violation of the First Amendment right of free press, especially regarding prior restraint. As a spokesman for the National Press Photographers Association put it, “What if they deny you a permit because they don’t like the story you’re working on?”

Suddenly, like so many public policy issues these days, it’s only after-the-fact that Congress

wakes from its stupor in a reactive mode. While not a single member of Montana's congressional delegation had anything to say about runaway agency fees for the public to access land they already own and pay for through their federal taxes, once the issue hit the press they came out of the woodwork with their supposed concern for Montanans who access federal lands on a regular basis.

Montana's U.S. Sens. Jon Tester and John Walsh, both Democrats, shot off a joint letter to the Forest Service demanding a rewrite of the rules. But they ignored the onerous fees and concentrated on the inhibition of free speech. In a welcome, but supremely ironic move, U.S. Rep. Steve Daines, R-Mont., addressed the fees, writing: "I have serious concerns about excessive fees that not only could deter Montanans' access to public lands, but also limit the ability of the press to offer new coverage about our public lands, which are essential to our way of life and our state's economy." Which begs the question, didn't Daines think about this when his House committee recently passed the latest federal lands fee bill by unanimous consent?

Predictably, once the firestorm blew up nationally, the Forest Service started backpeddling, extended the public comment period, and claimed to be "looking forward to talking with journalists and concerned citizens" to "clarify" the rule.

But the reality is that Congress has grievously erred in allowing federal agencies to generate their own revenue by levying fees on the public without oversight and approval. It's not too late to rectify that situation, and the best first step would be to repeal the existing fee authority and start over. So let's see, who will take the lead? Or will they simply wait to react when federal land management agencies once again abuse the general public?

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