

KEEP THE SESPE WILD & FREE

The Newsletter of the Keep the Sespe Wild Committee

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JUNE 2014

ADVENTURE PASS COURT VICTORY!

In a ruling on April 28, Senior U.S. Judge Terry J. Hatter Jr. found that the United States Forest Service (USFS) cannot charge Adventure Pass fees to hikers who park their vehicles and head off down the trail without using any developed facilities, such as picnic tables and bathrooms, that may be adjacent to the parking area.

The USFS has been levying fees and ticketing parked cars at trailheads across Southern California, and around the nation, since the enactment of the nationwide Federal Lands Recreation Enhancement Act (FLREA) in 2004, whether or not the forest visitors used any nearby developed facilities.

In a Tucson case, *Adams vs. U.S. Forest Service*, the San Francisco federal Appeals Court ruled in 2012 that the FLREA fee law does not allow the agency to charge fees solely for parking. This ruling was binding in nine western states, but the USFS continued to charge visitors for parking, and to ticket cars at trailheads both locally and further afield.

The current case, *Richard Fragosa et al vs. Randy Moore et al*, was intended to require the USFS to follow the 2012 ruling and to cease charging for parking both at trailheads and anywhere within USFS-designated High Impact Recreation Areas (HIRAs) throughout the Adventure Pass area, which encompasses large parts of the four Southern California National Forests. In this regard, the ruling by Judge Hatter has been spectacularly successful.

Locally, fees and tickets for parked cars must now cease at the popular Piedra Blanca Trailhead in Rose Valley, gateway to the upper Sespe Wilderness, unless one uses the facilities there.

In the Santa Barbara area, the situation along Paradise Road is more complicated, as fees there are levied by a concessionaire at an entry kiosk. This ruling should result in immediate free kiosk entry to those not visiting the many developed campgrounds along several miles of forest roads past the kiosk. However, the greater likelihood is that the kiosk staff will continue to charge fees to all passing cars, whatever their destination, regardless of the law.

The FLREA nationwide fee law has clearly prohibited fees solely for parking your vehicle at a trailhead since 2004, and the U.S. Forest Service must now cease charging these fees immediately.

As Judge Terry J. Hatter Jr. wrote in his ruling, “the Forest Service is prohibited from charging a fee solely for parking.” There is no ambiguity there.

In some areas Forest Service signs stating that fees are required in the area you are entering have been removed; this was frequently in accordance with proposed nationwide FLREA revisions in the past year.

At present, local Forest Service staff state that they are still awaiting word from D.C. Headquarters as to how to respond in the field to the April court ruling. Fee opponents and their attorneys are prepared to file for contempt if the Forest Service does not clearly revise its website, signage and enforcement practices to reflect the April court ruling.

Forest Service envelopes requesting a fee to be mailed in are still being placed on vehicle windshields at Rose Valley’s Piedra Blanca trailhead. On our recent visits there, about half the parked vehicles still displayed Adventure Passes. That’s way too many.

The next area that may see a legal challenge in the same vein is the Pacific Northwest.

Congress must still at some point soon revisit the FLREA and reauthorize it or amend it. It was recently extended for one more year. Given the state of partisan dysfunction in Washington D.C. these days, don’t expect action on this matter any time soon.

FROM THE SAN GABRIEL VALLEY TRIBUNE EDITORIAL, May 12:

“It’s been more than two years since the United States Ninth Circuit Court ruled the United States Forest Service’s absurd, desperate “Adventure Pass” illegal, but the rangers here wouldn’t listen.

Somehow misunderstanding the fact that it’s a federal court with federal jurisdiction, the bureaucracy in the Angeles, San Bernardino, Los Padres and Cleveland national forests pretended that

the ruling, which happened to be in Arizona, didn't apply to their mountains, and continued to charge Americans for the privilege of, for instance, parking for a minute by the side of the road on a scenic highway.

They continued to bully and scare those who wanted to simply get out of town for a few hours by insisting that the pieces of paper motorists were supposed to put on their dashboards were "required" for anyone who wanted to take a hike.

The major problem is that this was nuts, and unenforceable, as many who simply practiced civil disobedience on the issue found out. If you got a "ticket," you didn't have to pay it, and no one did anything about that. But a policy by federal agents that encourages scofflawism by otherwise law-abiding people is a very dangerous precedent to set."

NEW LOCAL WILDERNESS BILL

Congresswoman Lois Capps (D-Santa Barbara) introduced legislation in Washington D.C. in May, the Central Coast Heritage Protection Act, H.R. 4685, which will protect 245,500 acres of wilderness, create two scenic areas encompassing 34,500 acres, and safeguard 159 miles of Wild and Scenic Rivers in Los Padres National Forest and the Carrizo Plain National Monument.

In Ventura County, H.R. 4685 would add about 14,800 acres to the existing Sespe Wilderness, mostly along the eastern edge of the Hwy. 33 corridor, and 51,800 acres to the Matilija Wilderness, including White Ledge Peak north of Lake Casitas and the Dry Lakes Ridge Botanical Area, west of Hwy. 33.

Over 20 miles of Sespe Creek would be added as Wild & Scenic River mileage, all of the headwaters and one mile upstream of Los Padres Forest's boundary near Fillmore. This would protect all of Sespe Creek within Los Padres Forest – 31.5 miles are already protected as a Wild & Scenic River, downstream of Howard Creek in Rose Valley.

Sixteen miles of Matilija Creek would also be added to the federal Wild & Scenic River system in Rep. Capps' proposal.

The Ventura and Santa Barbara Boards of Supervisors have both passed resolutions in recent weeks in support of this legislation. The Ojai Valley Chamber of Commerce has also voiced support, noting the importance of the adjacent wilderness experience in attracting tourism dollars to gateway communities such as Ojai.



The pool at the former Lion Camp in Rose Valley was fairly full this spring after the late heavy rains in Feb./March.

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QUAGGA MUSSEL UPDATE

Our last newsletter proposed a bold plan to drain Lake Piru in order to eliminate the quagga mussel infestation there. The lake is at a historic low because of the drought, and quaggas have never yet been eliminated from any body of water they have contaminated. They likely arrived at Lake Piru in the cooling system of a visiting power boat.

At this point, quaggas are well established in the lake and in the Santa Clara River downstream to the estuary at McGrath State Beach. The only places where they will not become permanent inhabitants are in those river segments that dry out most years. Quaggas do not survive around a month of drying out in the heat of summer.

United Water are still preparing a quagga mussel control plan. The word control is pretty much a joke, as one quagga can produce a million offspring a year, and warm local Southern California waters are perfect for their breeding.

KSWC did some initial groundwork for the proposal to drain Lake Piru. United Water is required by the State of California to release water downstream from Lake Piru's Santa Felicia Dam to allow for endangered steelhead trout to survive in the Santa Clara River.

Several environmental organizations strongly defend these steelhead flows. However, environmentalists also clearly understand the permanent degradation of fisheries habitat that a quagga infestation would cause.

KSWC was able to reach agreement from two environmental organizations with a long-term interest in the Santa Clara River, that they would neither oppose nor support the draining of Lake Piru to attempt to eliminate the quagga mussels there, if such a plan met with approval from the appropriate State and Federal agencies. We believe other such organizations would also have agreed to this, meaning that United Water would not have been facing lawsuits from these organizations protesting any interruption of the steelhead release flows.

We spoke with United Water's General Manager Mike Solomon about the proposal to drain Lake Piru, as this proposal would require the environmental community and United Water to be collaborating and approaching the appropriate State and Federal agencies together. Mike Solomon however dismissed the lake draining proposal, saying it would never work. We wish he had agreed instead to seek the input of quagga biologists as to the details required to make the lake draining successful.

At this point, there is not adequate time in 2014 to get moving with the lake draining plan. Agency approval would take months at best (even with the assistance of those state and federal legislators we had approached and who wanted to help), and the draining and drying out process would likely take 3 months, which all would have to be completed before early rains in perhaps October. With a wet winter potentially ahead of us, the window of opportunity to eliminate quaggas by draining Lake Piru may never again be available.

Even if the lake had been drained and the quaggas there eliminated, the infestation on the lower Santa Clara River would have remained.

Future hopes for relief from the quagga menace must rest on the discovery and introduction of biological controls to keep the quagga population at a minimal level.

FRACKING IN THE SESPE OILFIELD

Seneca, who now operate all the oil wells in the Sespe Oilfield north of Fillmore, recently requested to deepen three wells there. Ventura County staff approved their plan, but this approval was overturned when Los Padres ForestWatch noticed that it had been improperly granted. Proper procedures had been carelessly neglected by both Seneca and by County staff, and in fact full public review and analysis under the Ca. Environmental Quality Act will be needed.

Most of Seneca's wells in the Sespe Oilfield have been routinely fracked, according to the State agency DOGGR (Division of Oil, Gas & Geothermal Resources), including 10 in the past 3 years.



A Seneca oil well in the Sespe Oil Field in the process of fracking in 2013. The containers are full of fracking fluids.

Seneca is also planning to drill 8 new wells, all due to be fracked, in the Los Padres Forest section of the Sespe Oil Field. (Part of this oil field sits on private lands, part on the public lands in Los Padres Forest.) The new wells would be on existing drilling pads, but 2 miles of new pipelines are being proposed also.

Although the 8 new wells are to be on federal land, the new California fracking regulations coming into effect this year and next will definitely apply to the proposal. The total of 18 wells to be fracked in the Sespe Oil Field will make this the most concentrated fracking oil field in the central coast area of Southern California.

Los Padres ForestWatch and CFROG (Citizens for Responsible Oil & Gas, a Ventura County watchdog group) are monitoring the progress of this application for 8 new wells, and will ensure that a full analysis of environmental concerns is forthcoming.

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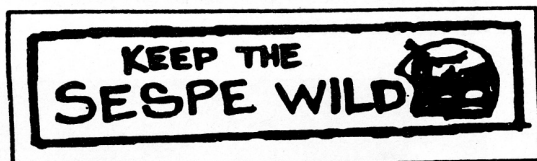
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**MISSING FIREFIGHTER FOUND DEAD IN
SESPE GORGE**

A firefighter missing for nearly two weeks from an overnight campsite deep in the lower Sespe Gorge north of Fillmore was found dead at the base of a steep cliff after the Search & Rescue ground search had been called off. The circumstances of his demise, particularly why he was anywhere near where his body was found, will remain a mystery.

For some reason, the story of this missing hiker caught the attention of news organizations across the nation. Local print media covered the search, but clearly had not looked at maps of the Sespe, as their descriptions of the locations was completely inadequate; thus we are describing what we heard

from Search & Rescue personnel involved in the search. Michael Herdman had hiked the Sespe Gorge several times; his companion Tyler Byars had not. They camped for the night at a beach about a mile down from Stone Corral Creek. On Friday night about midnight, under a full moon, Michael set off barefoot after his dog, which had run off. He was never seen alive again. The dog made it back up Alder Creek to the Dough Flat trailhead a week later, very hungry. Searchers combed the Sespe, putting in over 5,000 man-hours. Then a helicopter saw his body, about a quarter mile south of Stone Corral Creek, at 1,200 feet above the creek, where he had fallen and died. There is no logical reason for him to be there, up on the west cliffs above the Sespe. His dog could not have run up there.