

KEEP THE SESPE WILD & FREE

The Newsletter of the Keep the Sespe Wild Committee

PO Box 715, Ojai, CA 93024

(805) 921-0618 • www.sespecwild.org

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SENATE HOLDS FEE HEARINGS IN D.C.



The September 17 hearing on recreation fees in the Senate Committee on Energy & Natural Resources was a lively affair. Western Slope No Fee Coalition President Kitty Benzar was called as a witness & offered numerous examples of agency abuse and

the over-reach of their recreation fee authority.

Chair Lisa Murkowski, Ranking Member Maria Cantwell, and the other Senators in attendance paid close attention to the testimony and have instructed the federal public lands agencies to respond to Benzar's comments.

This was perhaps the most heartening of many forest fee program oversight hearings since the advent of the Fee Demo program back in 1996. Yes, that is almost a full twenty years ago now that we have been critiquing the inequitable manner in which the U.S. Forest Service has been levying fees, particularly those where access to undeveloped public lands has carried a price tag.

The usual Congressional oversight hearing on public lands fees under the current fee law, the FLREA (in place since 2004), has invited a wide range of witnesses to testify, including the lobby for motorized recreation interests, who in fact claim to have been responsible for the creation of the original Fee Demo program. Then there are usually representatives from the outfitter/guide industry.

This time around, the invited witnesses were only Kitty Benzar of Colorado's Western Slope No Fee Coalition, and David Brown of America Outdoors, along with Peggy O'Dell of the Park Service and Mary Wagner, Associate Chief of the Forest Service.

The other unusual factor about this hearing is that the hearings are generally held at the public lands subcommittee level, and chaired by the chair of that subcommittee. These hearings were held at the full committee level and attended from start to finish by the Chair, Lisa Murkowski (R – Alaska) and ranking member Maria Cantwell (D – WA).

These two Senators were in agreement with most of the testimony from Kitty Benzar, and backed up her points with their own comments.

Senator Murkowski referred to a licensed day-care owner in Alaska who was ticketed by a Forest Service employee for having lunch with her day-care kids at a picnic table without a forest fee pass. This took place around the same time as she was touring her home state with the Chief of the U.S. Forest Service, Thomas Tidwell, who we are certain received an earful about the incident. The day-care owner's ticket was withdrawn.

You may listen to the fee hearing on the Energy Committee's website; it is 75 minutes long. Skip the first 22 minutes of the archived webcast, as the hearing started late. Search:

www.energy.senate.gov/public/

Then click on the date of the hearing, Sept. 17 to get to the right page to see the webcast and the text of the testimony.

The Senators also mentioned their interest in writing new legislation to succeed the current FLREA fee law. We have some optimism that the critical comments made at the hearing will be taken into account in new fee legislation that the Senate Energy Committee may prepare.

The following themes emerged from the hearing:

- (1) High administrative costs have resulted in fees being spent to collect more fees.
- (2) The use of "specialized recreation" permits to charge for ordinary hiking or horseback access to undeveloped public lands.
- (3) The building of trailhead facilities purely to allow new access fees to be levied.
- (4) Allowing the private contractor who runs the recreation.gov campground reservation service to charge \$9 or \$10 for each online or phone booking they take from the public.

HIGHLIGHTS FROM KITTY BENZAR'S TESTIMONY TO THE COMMITTEE

In multiple appearances before committees in both the Senate and House, I have provided numerous examples of how the Forest Service and BLM are evading the restrictions on fees that are in the current statute. They have amply demonstrated their ability to use any small ambiguity or conflicting language to go far beyond congressional intent as expressed in the law and by the law's authors. Any reform or revision of FLREA must be crystal clear as to what fees are allowed and, even more importantly, what fees are not.

"Pay to play" has transformed our National Forests and BLM lands from places where everyone has a basic right to access into places where we can be prosecuted for not having a ticket of admission. Our National Parks, where modest entrance fees have long been well accepted, are now priced at a level that makes it difficult for many families to visit them, & further increases are being proposed.

For these past nineteen years the federal land management agencies have viewed American citizens as customers rather than owners, and have increasingly managed basic access to outdoor recreation as an activity that must generate revenue, rather than as an essential service that promotes a healthy, active population.

(The FLREA) is also a regressive tax. It puts the burden of public land management on the backs of Americans who live adjacent to or surrounded by federal land. In rural counties in the West, where in many cases over 80% of the land is federally managed, public lands are an integral part of life. Citizens in these areas, who are often just scraping by financially, should not have to buy a pass just to get out of town.

Fee Demo and FLREA have been a financial failure as well. GAO reports have revealed hidden administrative costs, fees being collected far in excess of operating costs, and agencies being unable to provide accurate and complete accountability for their fee revenue.

If Congress decides that fee retention is to continue, then it is imperative that the restrictions and prohibitions on where, and for what, fees can be charged must be spelled out very clearly, and

there must be a procedure for citizens to challenge fees that do not appear to comply with the law. Strong congressional monitoring and regular audits must be included.

A particular concern to many people is the de facto privatization of public lands through the widespread use of private concessionaires and contractors to operate recreational facilities and programs, often outside of the bounds of FLREA.

Fees for use of developed facilities such as campgrounds are reasonable and have been well accepted, and we support them. Fees are not reasonable when they are charged for access to undeveloped or minimally developed places. Legislation should ensure that the agencies do not have an incentive to add facilities just because they want to be able to charge and retain fees.

New legislation should ensure that:

- fees are focused on use of developed or specialized facilities for which there is a demonstrated need;
- entrance fees are limited to National Parks and Wildlife Refuges;
- concessionaire fees are governed by the same requirements as agency fees;
- fees for special uses are carefully defined & never applied to private, non-commercial use of undeveloped or minimally developed areas;
- no incentive is given to the agencies that would encourage them to install facilities for the purpose of creating additional fee sites and revenues;
- ironclad agency financial accountability is established and collection costs are not allowed to exceed 15% of revenue;
- ongoing congressional monitoring and oversight, including regular audits, is required.

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SESPE FIRE NEAR CHORRO GRANDE

A fire broke out on the north side of Hwy. 33 by the Chorro Grande trailhead on August 02, burning around 282 acres up the hill towards Pine Mountain before being declared fully contained on August 12. The cause of the fire is still under investigation, though the fact that it started by a highway must raise suspicion of arson.

The Forest Service is to be commended for getting a great deal of resources on the scene really quickly; there were over 500 firefighters and 10 air tankers. This, along with the lack of high winds, prevented the fire spreading from the chapparal up into the trees at higher elevations and into the remote areas of the 200,000 acre Sespe Wilderness.

Where other fires in the Sespe watershed over the past 15 years have been measured in the tens of thousands of acres and taken many weeks till they burned out, the Chorro Fire's containment was swift, efficient - and fortunate. 282 acres is less than half a square mile.



Hiking down the Sespe Gorge below Tar Creek.

QUAGGA MUSSELS IN LAKE PIRU

The quagga mussel infestation in Lake Piru continues to worsen since their discovery there in December 2013. At a quagga workshop open to the public on 8/13, hosted by United Water, the managers of Lake Piru, it was stated that quaggas there are breeding even faster than at Lake Mead, because of the warmer summer temperatures here. This is quite an achievement, as quaggas are already known to each produce a million offspring every year.

United Water sought public input from stakeholders at their day-long workshop, although we do not believe that local stakeholders are likely to come up with new solutions from one day's information. The workshop was more of a public relations exercise.

What was not mentioned by United Water was their own responsibility for allowing their lake and water supply to become contaminated by quagga mussels.

The problem for water agencies is that quagga mussels attach to hard surfaces and can quickly choke off the water pipelines that carry water through dams. This will be particularly troublesome, and very expensive to clear, when the quaggas spread further downstream on the Santa Clara River to United's other facility there, the Freeman Diversion Dam near Saticoy. From this structure buried pipelines carry water for agricultural irrigation for miles across the farmland of the Oxnard Plain.

The directors of Casitas Water District have for a number of years required a 35-day quarantine period to prevent boats from introducing quaggas to Lake Casitas. Quaggas will dry up and die in summer in a boat's engine cooling pipes, which can contain two



The lower pool at Second Narrows on the Sespe Gorge is now deep enough in places to require a swim, after years of being uniformly shallow due to high levels of sedimentation.

The El Nino wet winter that is forecast should clear out the remaining sediments that have filled up so many pools on the Sespe below Hotsprings Canyon since the Day Fire, improving trout habitat - as well as swimming opportunities.

High flows will also wash away many of the exotic fish species, such as catfish and bluegill, that are currently present in Sespe Creek, allowing the endangered native trout to repopulate with less competition.

They will also clear out most of the acres of cattails and other riparian vegetation that are making hiking the Sespe Gorge more difficult. And the exotic invasive tamarisk as well.

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Ojai, CA 93024

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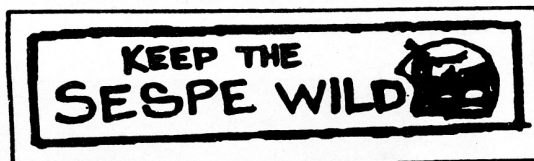
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gallons of water, with up to 250 quagga larvae present. United Water never bothered to protect their lake, their water supply and their customers from this threat by a simple quarantine, as was in place at Lake Casitas.

What's more, United Water has still not instituted any realistic measures to prevent the spread by departing boats of quagga larvae to other lakes. The easiest method to prevent the spread of quaggas beyond Lake Piru is a heat treatment, where very hot water is pumped through a boat engine's cooling pipes for a few minutes, killing any quagga larvae. United Water's carelessness has already led to the quagga infestation of the first body of water (Lake Piru) in southern California that is not connected to the Colorado River water supply, which was infested back at Lake Mead. While Lake Piru is too low for boat launches at present, staff there had heard nothing last week of any plans

to heat treat departing boats' cooling systems. Nor has United Water signed up for a boat registry that is designed to track which lakes that power boats are visiting.

The smart option would have been for United Water to drain Lake Piru while it is at a historic low in the drought. This would take a concerted political and agency effort, but the stakes could not be higher – the opportunity to use the heat of summer to dry out the lakebed naturally, leaving only isolated pools for expensive chemical treatment. It would also be a nationwide first, and bring considerable acclaim to United Water.

KSWC suggested this to United Water last summer, but their manager & staff said, no way. The potential remains for future drought years.

