

Testimony of Randal O'Toole, Cato Institute
on the Federal Lands Recreation Enhancement Act
before the
Subcommittee on Public Lands and Environmental Regulation
Natural Resources Committee
U.S. House of Representatives
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Thank you, Mr. Chairman and members of the subcommittee, for inviting me to testify today about the Federal Lands Recreation Enhancement Act of 2004. As it happens, before I was informed of this hearing, I had written a paper on this subject that the Cato Institute is releasing today, and I ask that this paper be included as a part of my testimony.

The Recreation Enhancement Act effectively prohibited the Forest Service, Bureau of Land Management, and Bureau of Reclamation from charging fees for dispersed recreation, as a result of which recreation is free on more than 98 percent of the lands managed by these agencies. While the law allows entrance fees on national parks and wildlife refuges, charging a single fee to cover all the many and varied recreation experiences on these lands makes no more sense than for a grocery or clothing store to try to earn its income from single entrance fee.

I will argue today that when Congress reauthorizes this law, it should allow and encourage all federal land agencies to charge fair market value for all forms of recreation. Furthermore, the agencies that collect the fees should be allowed to keep just half of those fees, while the other half should go to the U.S. Treasury as compensation for present and past appropriations for public land management.

In making these arguments, I am wearing three different hats. First is my hat as senior fellow for the Cato Institute, the nation's premiere free-market think tank. As a free-market advocate, I know that user fees will do more than merely help cover the costs of public land management. Although that is a nice bonus, the real role of user fees is to create incentives for both users and resource managers. Those incentives will insure, for example, that users will not overuse resources and that managers will create new opportunities for recreation.

A 1990 Forest Service report estimated that, at "market-clearing prices," the value of national forest recreation was three times greater than the value of all other national forest resources combined. Even if these estimates were wildly inflated, recreation fees should be enough to completely cover the annual appropriations to most of these agencies. Such fees would obviously create significant incentives for land managers to cater to recreation users.

At the same time, there is no reason to expect that these fees would be a burden on recreation users. Americans today spend more than \$650 billion a year on outdoor recreation, and market-rate fees would amount to no more than 3 percent of this total.

My second hat is as an environmentalist. Some may say, "He can't be an environmentalist; he works for the 'evil' Koch brothers!" In fact, I have never met the Koch brothers and have no idea how they feel about recreation fees. But I have met the heads and funders of many of the nation's leading environmental groups, as during the 1980s I worked for the nation's leading environmental think tank dedicated to national forest issues.

In that capacity, I was hired by many of the nation's major environmental groups, including the Audubon Society, Greenpeace, National Wildlife Federation, Natural Resources Defense Council, Sierra Club, and the Wilderness Society, to write more than 100 different research papers and reports. My work was covered in *Newsweek* and *U.S. News & World Reports* and led one Forest Service official to tell a reporter, "Randal O'Toole has had more influence on the Forest Service than all of the environmental groups combined."

As an environmentalist, I want to protect habitat for endangered species and other fish and wildlife; healthy natural ecosystems; and clean rivers and streams. But my research in the 1980s found that the best way to protect these resources is through incentives, not mandates, and that the best incentives are created by user fees. Of all potential public land user fees, fees from dispersed recreationists provide the best proxy for these resources. Thus, allowing agencies to charge for dispersed recreation will effectively create incentives for managers to protect wildlife habitat, natural ecosystems, and water quality.

My third hat is as a recreationist. I live 500 feet from a national forest boundary; I cross-country ski, bicycle, and hike hundreds of miles a year on federal lands; and I have seen the effects of pinched budgets on recreation facilities. Dispersed recreation fees can help correct these problems and encourage federal land managers to create new opportunities for recreation.

Fees will do more than just improve recreation on federal lands, however. The federal government owns close to half the lands in the West, which means it sets the price for many resources. If it gives away dispersed recreation, other landowners will have little incentive to offer such recreation on their lands.

We know from experiences in the South, where federal lands are much less extensive, that when private landowners charge fees, the revenues they collect lead them to greatly alter their land-management practices in order to make their lands more attractive to recreationists. This includes going far beyond legal requirements to protect endangered species and other wildlife habitat and water quality. User fees for dispersed recreation on federal lands in the West would encourage other landowners to charge such fees, thus possibly doubling the opportunities for recreation.

One question raised by my recommendations is why should the agencies get to keep half of recreation fees, instead of all of the fees as they do under the Recreation Enhancement Act. My research has shown that allowing agencies to keep all fees on top of receiving appropriations for resource management gives those agencies incentives to

overuse the resources. On the other hand, allowing them to keep no fees gives them no incentive to protect the resource. While 50 percent is somewhat arbitrary, it should be enough to create powerful incentives without promoting overuse.

Opponents of dispersed recreation fees make several arguments why they are special and should be allowed free access to public lands while all other public land users have to pay for what they use. I address these arguments in detail in my Cato paper. But my real argument for dispersed recreation fees is that everyone will benefit from such fees, including taxpayers, public lands, and recreationists themselves.

Policy Analysis

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Improving Incentives for Federal Land Managers The Case for Recreation Fees

by Randal O'Toole

Executive Summary

In 2004, Congress allowed federal land managers to charge recreation fees only for certain kinds of recreation. In general, while national parks and wildlife refuges can charge entry fees, managers of other federal lands can only charge for developed recreation, such as campgrounds, not dispersed recreation, such as hiking and backpacking. As a result, recreation is free on 98 percent or more of the lands managed by the Forest Service, Bureau of Land Management, and Bureau of Reclamation. The 2004 law expires in 2014, giving Congress an opportunity to revisit this restriction.

Congress should allow federal land agencies to charge market rates for all forms of recreation. Fees can help pay for maintenance and improvements of recreation areas, and will create incentives for both recreation users and recreation providers. Without these incentives, agency managers have little reason to cater to the needs and preferences of dispersed recreationists.

Incentives will also help land managers resolve conflicts over land uses. Off-road vehicles, for example, are not compatible with wilderness hiking. Fees that determine actual market values will help land managers reduce these conflicts by setting aside an appropriate amount of land for each use.

Unlike users of developed recreation, dispersed recreationists prefer experiences of solitude and are willing to pay extra to enjoy such solitude. That means this type of recreation comes closest to being a proxy for ecological health. Supporters of long-term ecological health should support dispersed recreation fees in order to give land managers an incentive to protect ecosystems.

Particularly in the West, federal lands are such a dominant presence that they heavily influence the market price for recreation and other resources. By giving away dispersed recreation, the federal government reduces to nearly zero the value of such recreation to private landowners. Charging fees will encourage private landowners to collect fees as well, leading to increased recreation opportunities for everyone.

However, if the land agencies are allowed to keep 100 percent of the fees as well as appropriations for recreation, they will have an incentive to overproduce, and so will lose money on recreation. To avoid this, Congress should allow the agencies to keep just half the revenues they collect, while the other half should be returned to the Treasury to compensate for appropriations out of tax dollars spent on the federal lands.

Randal O'Toole is a senior fellow with the Cato Institute and author of The Best-Laid Plans: How Government Planning Harms Your Quality of Life, Your Pocketbook, and Your Future, as well as numerous reports and articles on federal land management.

When fees are charged for something that was previously free, there is a backlash from people who believe they had a right to use that resource at no cost.

Introduction

The Federal Lands Recreation Enhancement Act of 2004 gives the Forest Service, National Park Service, and other federal land agencies limited authority to charge recreation fees and to keep those fees to maintain and improve recreation sites.¹ The 2004 law is more restrictive than the law it replaced, but it expires in 2014, giving Congress an opportunity to reconsider those restrictions.

Prior to 1996, Congress allowed federal land agencies to charge fees for only a limited range of recreation activities, including developed campgrounds and national park entry fees. Moreover, under the Land and Water Conservation Fund Act of 1965, most recreation fees were deposited into a fund dedicated to buying more land.² Most of this fund was spent directly by Congress, and the agency managers who collected recreation fees had no authority over where the monies were spent, giving them no incentive to actually collect the fees.

National parks, for example, sometimes didn't bother to keep staff at entry stations, which allowed people to get in for free. Frustrated by having to pay to maintain campgrounds without getting to keep any of the revenues, the Forest Service contracted out many campgrounds to private operators who could keep the fees to cover their costs and merely pay a small royalty to the government.

In 1996, Congress inserted a provision into the Interior appropriations bill (which also covers the Forest Service) creating a "fee demonstration program." The program allowed each agency, including the Forest Service, Park Service, Bureau of Land Management, and Fish and Wildlife Service, to start up to 50 projects demonstrating recreation fees. The agencies were allowed to keep revenues from the projects and at least 80 percent of those revenues were to be spent on the sites where the fees were collected. The 1997 appropriations bill expanded the number of projects per agency to 100, and the 2001 bill removed any limit on the number.

In the three years before the fee demo pro-

gram began, the agencies collected an average of about \$93 million in annual recreation fees. By 2001, they had more than doubled that amount, collecting more than \$200 million a year.³ About 20 percent of this money was spent collecting the fees, while the rest went to maintenance and improvements of recreation sites.

Opposition to Fees

Anytime someone starts charging fees for something that had been previously free, a backlash develops among people who believe that they had a right to use that resource at no cost. Public land recreation fees were no exception to this rule, and several anti-fee groups quickly formed, including Free Our Lands, the Western Slope No-Fee Coalition, and Wild Wilderness. A few of the major environmental groups, particularly the Sierra Club, also opposed the fee demonstration program.⁴

These groups agreed that loggers, miners, ranchers, and other nonrecreation users of public lands should pay fees. They even agreed that recreationists should pay for developed recreation such as campgrounds. However, they strongly opposed fees for "dispersed recreation," such as hiking, backpacking, hunting, and fishing.

Scott Silver, the founder of Wild Wilderness, summarized his reasons for opposing fees in a 2005 article. Fee-demo, he said:

- "is exclusionary and discriminatory in recognition of the fact that it disproportionately affects low-income persons";
- is "double taxation" because people pay for recreation in their income taxes as well as through fees;
- "alters one's relationship to the land and adversely impacts one's experience and one's sense of responsibility to the resource";
- "changes one's expectation such that the more one pays, the more one expects," and "higher expectations ne-

cessitate the expenditure of additional money to meet those expectations and that an upward spiral of ever-higher fees results”;

- “will result in increased development of commercially oriented recreational products, goods, and services”; and
- is “part of a larger privatization agenda.”
- Silver concludes, “Almost everyone who is opposed to Fee-Demo quite simply feels in his or her gut that free access to wild nature is an American birthright.”⁵

Michael Zierhut, founder of Free Our Forests, is particularly concerned with the possible commercialization of recreation. He says the advocates of fees are part of a “recreation industrial complex” that includes Walt Disney Company, Kampgrounds of America, and Delaware North, which operates concessions in Yosemite and other national parks. Allowing groups like these to operate campgrounds and other public-land facilities, Zierhut fears, could lead these groups to open “theme park” attractions” on those lands.⁶

Sunny Sorensen, chair of the Sierra Club’s Fee Demo Subcommittee, added a new argument. “Since a portion of the fee is retained at the site where it was collected,” she said, “the program encourages agencies to favor activities and partnerships that generate income rather than manage the public’s natural resources for long-term ecological health.”⁷

Fee opponents also sometimes argue that fees should be proportional either to the cost to taxpayers of providing recreation or to the environmental impact of that recreation. Since they presume that dispersed recreation has lower costs and lower environmental impacts than other public land activities, they conclude that fees for such recreation should be negligible.

The Purpose of Fees

Some of these arguments might be superficially persuasive to anyone who doesn’t

understand the purpose of markets and pricing. The goal of prices is not to make sure that producers earn a profit or even cover their costs but to send signals to both producers and users about the relative value of various products. In the context of public lands, the term “incentives” makes more sense than “signals,” because prices are meaningless to land managers if they don’t create incentives for those managers.

As economist William Niskanen observed in 1971, budgets create incentives for public agencies just as profits create incentives for the private sector.⁸ “Budgets control everything an agency does,” agreed David Osborne and Ted Gaebler in their 1992 bestseller, *Reinventing Government*.⁹ When agency budgets come solely from appropriations, agency managers do what the appropriators want. But funding an agency at least partly out of user fees gives agency managers incentives to increase those fees by pleasing the users.

Economists often use the term “signals” to describe the function of prices because they assume producers will respond to prices in ways that will maximize their profits. Government agencies act differently from private producers: on one hand, they can draw upon taxes to cover their costs, while on the other hand, they may not be allowed to keep any receipts they collect. If they cannot, they have no incentive to respond to the people who are paying those revenues. For example, under the Land and Water Conservation Act, managers were able to collect fees but not keep those fees, giving them no incentives to protect scenic beauty and other things valued by recreationists.

Many people believe that incentives should not play a role in public land management because managers should just do what is right. As Ludwig von Mises argued, however, in the absence of prices, “there would be no means of determining what was rational,” so government economic planners would necessarily produce wasteful and inefficient plans.¹⁰

The Forest Service proved this when it attempted to engage in long-term economic

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Estimates made in the 1980s suggest that the market value of national forest recreation was three times greater than all other resource values combined.

planning in the 1980s, writing plans for all of the 100 or so national forests.¹¹ The agency contracted with university economists to estimate the value of all of the resources on the national forests. With regards to recreation, they defined 10 different kinds of recreation, ranging from “camping, picnicking, and swimming” to hunting, fishing, and “winter sports.” Economists from Colorado State University estimated the value of each of these kinds of recreation in each of nine Forest Service regions for each of the next five decades.¹² The Forest Service calculated three different values: actual revenues, the market-clearing price, and the market price plus consumer surplus.

Based on these and other data, the national office of the Forest Service set timber, recreation, and other targets for each of the agency’s nine regions. The nine regional offices disaggregated those targets to the national forests in their regions. Planners on each national forest wrote plans that attempted to meet those targets.

The Forest Service spent at least \$1 billion on this planning effort. Yet the recreation values and other data collected for the plans barely scratched the surface on what was needed to write a sound plan. The 10 different kinds of recreation each included a wide variety of different kinds of recreation. Camping, picnicking, and swimming are obviously three different things. Winter sports include snowmobiling and cross-country skiing, two sports that are somewhat incompatible with one another.

Even within one kind of recreation, the values are going to vary widely within a region. The value of picnicking in the Angeles National Forest, a short drive from Los Angeles, is going to be very different from picnicking in the Modoc National Forest, in remote northeastern California. Yet both are in the same region and so the same values were used for both. Weekend recreation will have a different value from weekday recreation, and summer recreation will have a different value from spring or fall recreation, yet the Forest Service used the same

values for all of these. The numbers became even more problematic when looking to the future. Forests can take a century to grow, so the Forest Service wanted values for the next five decades, yet it simply assumed that values for all decades after that would be fixed at the fifth-decade level.

The regional and forest offices could have refined the data, but the Forest Service didn’t have the budget or time to do so and perhaps didn’t trust local planners to come up with reasonable numbers, so the Washington office ordered local planners to use the recreation values estimated by the Colorado State University economists. Even if individual forest offices had developed local numbers, the computer models they used allowed for only a limited number of inputs and so they couldn’t have incorporated many of those values into the models. In any case, all predictions about future values were little more than guesswork.

The result was that recreation played very little role in forest planning. There was no reason to expect that it would have played a role; as noted above, at that time the Forest Service wasn’t allowed to charge fees for most recreation or to keep any recreation fees that it did collect, so managers had no incentive to pay attention to recreation demand or to accurately find the “right” way to manage the recreation resources of the forests.

For what it’s worth, the estimates made as a part of the 1980s forest planning process suggest that recreation was—and is—by far the most valuable use of the national forests. Because of Congressional restrictions on recreation fees, recreation brought in only 3 percent of national forest receipts in 1989. But the estimated market-clearing price of recreation, including hunting and fishing, was three times greater than all other values combined.¹³

There are a lot of problems with these numbers, only some of which are described above, but the same problems apply to Forest Service estimates of timber, minerals, and other values as well. All things consid-

ered, it seems likely that if the Forest Service were allowed to charge market prices for recreation as it does for timber, it could collect far more money from recreationists than it ever did from timber sales, which were once the source of most national forest revenues.

By extension, recreation would also be the most valuable use of national parks and fish and wildlife refuges. A small percentage of Bureau of Land Management lands hold valuable energy resources, but otherwise recreation outweighs other values of those lands as well.

In total, the Forest Service estimated that the market value of the 272 million visitor-days of national forest recreation in 1989 was about \$5.2 billion.¹⁴ A visitor-day is defined as 12 hours, so this works out to an average of about \$20 per day, ranging from less than \$9 per day for “camping, picnicking, and swimming” to nearly \$65 per day for hunting.

If these numbers can be converted to present-day dollars using gross domestic product inflators, they would be about 80 percent greater, or about \$36 a day on average. In recent years, the national forests have seen about 165 million visits a year lasting an average of 19.4 hours each, for a total of about 267 million visitor-days.¹⁵ At \$36 a day, these would be worth about \$9.6 billion.

More recently, Colorado State University economists have estimated that national park outdoor recreation is worth about \$43 per day.¹⁶ The Park Service estimates that there were about 102 million days of recreation on the national parks in 2012, which at \$43 per day would have a total value of about \$4.4 billion.¹⁷

The Bureau of Land Management estimates that there were about 67 million visitor-days of recreation on its lands in 2011, and that it collected fees for less than 10 percent of those days.¹⁸ If those visitor-days are worth about \$36 each—the same as on the national forests—then their total value is about \$2.4 billion.

The Bureau of Reclamation hosts about 90 million visitor-days of recreation each

year.¹⁹ Fish and Wildlife Service refuges draw about 40 million visitors a year who stay an average of five hours per visit, for a total of about 17 million visitor-days of recreation each year.²⁰ If these are all valued at \$36 per day, the total value of recreation visits for all five agencies would be nearly \$20 billion per year.

These numbers are almost certainly highly optimistic. But even if they are several times too high, the resulting revenues would be enough to cover the costs of all agency operations as well as exceed the revenues from any other resource.

Although \$20 billion a year, or even a significant fraction of that, sounds like a lot of money to ask recreationists to pay, outdoor recreationists already spend close to \$650 billion a year on gear, travel, food, lodging, and other recreation goods and services.²¹ Market-priced recreation fees on the federal lands would add no more than about 3 percent to this total.

Why Recreationists Should Support Fees

Silver’s and Zierhut’s arguments against recreation fees are at least partly based on the assumption that the main purpose of such fees is merely to recover some of the costs to taxpayers of providing recreation. But their arguments largely disappear if the purpose of recreation fees is to act as incentives for managers and users.

Fees are “exclusionary and discriminatory.” Few people argue that prices for food or shelter, both of which are much more important to survival than outdoor recreation, are “exclusionary and discriminatory.” Few even argue that prices for developed recreation, whether campgrounds or Disneyworld, are exclusionary and discriminatory. What is different about dispersed recreation that makes it more susceptible to being exclusionary and discriminatory?

Prices give producers incentives to provide goods for a wide range of incomes and tastes.

Market-priced recreation fees would add no more than 3 percent to the amount outdoor recreationists already spend on gear, travel, and other recreation goods and services.

Fees will positively affect recreation activities because they give managers incentives to enhance recreation resources.

Low-income people may eat more hamburger and less filet mignon; they may live in smaller homes built of lower-quality materials; but for the most part Americans of all incomes have adequate food and shelter.

In the same way, prices would give land managers incentives to provide a wide range of recreation experiences, some of which would cost very little and some of which might be very expensive. The results are inclusive, not exclusive; and the fact that managers would engage in price discrimination—that is, provide some forms of recreation at a higher cost than others—merely gives everyone the chance to decide for themselves what activities are worth the cost.

Fees are “double taxation.” No one says that charging for timber, oil and gas, or domestic forage on public lands is double taxation. If the public lands are owned by all 310 million Americans, then it is only right that users should pay the government, as representative of all other Americans, to use any particular resource. Moreover, in this age of unsustainable government deficits, it is not likely that federal funds will be sufficient to cover the costs of managing the public lands.

The advantage of paying for recreation and other activities through fees rather than through taxes is that fees give managers incentives to cater to the users who pay those fees. Recreation may be more valuable than other uses, but if other users are willing to pay market prices and recreationists are not, then managers will have incentives to cater to the other users even if it means less or lower-quality recreation.

A fee “adversely impacts one’s experience.” Being invited to someone’s home for dinner and then being presented with a bill for the food would arguably impact one’s experience. But no one would say that restaurants should offer their food for free in order to provide the highest-quality experience.

The reality is that fees will positively affect recreation activities because the fees would give managers incentives to enhance recreation resources. Trails will be better

maintained and conflicts with other resources would be minimized.

When International Paper began charging recreation fees in its southern forests, for example, it reduced the size of its harvest units by two thirds and started leaving large no-cut buffer strips along all lakes and reservoirs. The result was a significant increase in both game and nongame wildlife as recreation and wildlife became important profit centers for the company.²²

Fees will lead to “an upward spiral of ever-higher fees.” This is exactly the opposite of what happens in the real world. Instead, competition between producers helps drive down prices. This doesn’t mean that producers won’t try to find ways to earn more revenue by providing value-added experiences. But it does mean that there will always be relatively low-cost and affordable forms of recreation available.

Fees will “result in increased development of commercially oriented recreational products” such as “theme-park attractions.” This seems to be a combination of two fears: one is that private companies may be involved in the provision of recreation services on public lands; and the other is that fees will lead the public lands to all be developed into some sort of Disney-like resort.

The reality is that private companies were involved in recreation services on public lands long before the fee-demo law. Private concessionaires under contract with the Park Service or its predecessors always provided hotels, transportation, restaurants, and other services on national parks. The Forest Service contracted out campground management to private companies well before the fee-demo law was passed. Indeed, a law such as the fee-demo law allowing the Forest Service and other agencies to keep recreation fees gives them incentives to keep those activities in house rather than contract them out.

The fear that fees will somehow turn public lands into theme parks is completely unwarranted. Developed recreation is capital-intensive, but not land-intensive. Disneyland occupies just 85 acres and serves over 10

million visitors a year; the Magic Kingdom (the equivalent of Disneyland at Walt Disney World) is 107 acres and serves 17 million visitors a year.²³ Disney owns 25,000 acres in Walt Disney World and has permanently set aside 7,500 of them as wilderness while it has developed only about 7,100 acres for hotels, theme parks, and other uses.²⁴

Considering that the federal government owns well over 600 million acres of land, it would make no sense to ever dedicate more than a tiny fraction of those acres for any kind of developed recreation. Moreover, the United States has about 1.5 billion acres of private land, and these lands are more likely to be used for intensive recreation.

Instead of reducing opportunities for dispersed recreation, fees are likely to increase them. The nation has more than 800 million acres of private forests and rangelands, many of which have scenic and other recreation values comparable to those on public lands. So long as public land recreation is free or priced well below market value, private landowners have little reason to cater to recreationists. Once public agencies charge fees, private landowners will have incentives to make their lands more attractive to recreation users as well.

Fees are “part of a larger privatization agenda.” People don’t have to support privatization to believe that public land management could be improved if land managers were more responsive to users, and particularly recreation users who prefer amenities such as scenic beauty, wildlife, and clean water. In fact, given the nation’s unsustainable debt and the fact that public lands today cost taxpayers more than \$5 billion a year, environmentalists should support fees as the best way to ensure a stable source of funding for public lands.

“Free access to wild nature is an American birthright.” There is nothing in the Constitution or other founding documents that promises people free access to wild nature or anything else. If anything, what those documents promise is that the heavy hand of government won’t be used to take from

some people in order to give to others simply because the latter have more political power. Political demands that some public land users pay for their use while others get free access are hypocritical and self-defeating in that those who want free use give managers no incentives to provide what they want.

Fees “favor activities and partnerships that generate income rather than manage the public’s natural resources for long-term ecological health.” This is a variation on the “public managers should do what is right” argument. The problem is that, whether funded out of tax dollars or fees, land managers are not likely to get signals encouraging them to manage for “long-term ecological health,” partly because this goal is so vague that it is subject to broad interpretation.

The most likely result of relying on land managers to “do the right thing” is that managers will follow their incentives, whatever they are, and then argue that whatever they are doing promotes long-term ecological health. Given that incentives come in the form of fees from timber cutting, livestock grazing, and other extractive uses, the incentives created by fees from dispersed recreationists are most likely to correlate with what the Sierra Club means by long-term ecological health, so the Sierra Club should strongly support such fees.

“Fees should be proportional to taxpayer cost or environmental impact.” When agency managers act to maximize their budgets and are allowed to keep a share of user fees, dispersed recreationists actually undermine the forms of recreation they prefer when they insist that fees be proportional to cost or environmental impact. If fees are proportional to cost, then agencies will maximize their budgets by emphasizing the highest-cost forms of recreation that people are willing to pay for. If fees are proportional to environmental impacts, then agencies will maximize their budgets by emphasizing activities with the greatest impacts. Either way, dispersed recreation users lose as lands they would want to use end up being dedicated to other uses.

Public land recreation fees will increase opportunities for dispersed recreation by giving owners of private forests and rangelands incentives to make their lands more attractive to recreation users.

Although the Forest Service has more fee sites than all other agencies combined, more than 98 percent of national forests are available for public use free of charge.

The Recreation Enhancement Act

Despite the flaws in the no-fee arguments, fee opponents persuaded Congress to limit fees for dispersed recreation. The Federal Lands Recreation Enhancement Act in 2004 allowed the Park Service and Fish and Wildlife Service to charge entry fees to units of the National Park System and wildlife refuges.²⁵ Otherwise, the agencies were only allowed to charge for developed areas such as campgrounds, boat landings, and other facilities with specified improvements such as refuse collection and flush toilets.²⁶ Fees “for dispersed areas with low or no investment” were specifically prohibited.²⁷

After this law was passed, fee opponents have challenged fees charged under the act in court. In notable victories, the Ninth and Tenth Circuit Courts ruled that agencies could not collect fees from people using a developed recreation area if those people did not actually use the improvements, such as toilets, that the Recreation Enhancement Act requires in order to charge fees.²⁸ This greatly complicates the fee-collection process for the agencies.

Another problem posed by the act is a requirement for a public involvement process when determining whether and how much to charge to use a particular site.²⁹ Private businesses, such as Costco or Macy’s, could not effectively operate if they had to conduct a public involvement process for pricing every product on their shelves.

A further problem with the law is a requirement that agencies offer national passes that are acceptable at many fee sites run by all of the different agencies.³⁰ A standard national pass is \$80 for most people, but senior citizens may purchase a lifetime pass for just \$10.³¹ Even the \$80 pass seriously erodes the ability of agencies to collect the fees they need to maintain recreation areas.

Despite the restrictions, the Forest Service and four bureaus in the Department of the Interior collected \$260.6 million in 2011. About 15 percent of this went into col-

lection costs and virtually all of the rest was used to improve recreation sites.³²

Of the 397 units of the National Park System, the Park Service uses its fee-collection authority to charge entrance fees at 184. Of 541 wildlife refuges, the Fish and Wildlife Service charges entry fees at 141.³³

The Bureau of Reclamation says it has more than 300 recreation sites but charges fees at just one.³⁴ The Bureau of Land Management (BLM) has identified 65,700 recreation sites and charges fees at 430 of them.³⁵

The Forest Service has identified 20,800 recreation sites and charges fees under the Recreation Enhancement Act at 4,000 of these sites. Fees are also collected, mostly by contractors, at 2,300 other national forest sites; most of these other fees are not retained by the Forest Service.³⁶

Despite having more fee sites than all the other agencies combined, 98 percent of Forest Service lands are available to public use free of charge.³⁷ Recreationists can use an even greater share of BLM and Bureau of Reclamation lands without paying fees. Funding for recreation on these lands must come out of increasingly scarce tax dollars. More important, the lack of fees means that land managers have no idea how much recreation is really worth, nor do they have incentives to consider it when making resource decisions.

Reauthorizing Recreation Fees

The Recreation Enhancement Act will expire in December 2014. In reauthorizing the law, Congress should allow the agencies to charge market-rate fees for any and all recreation on the federal lands. However, in place of the current formula, which allows the agencies to keep 100 percent of the fees they collect, Congress should allow them to keep only half the fees. The remaining half should be returned to the Treasury in compensation for expenditures on recreation and other resources out of general funds.

Allowing a government agency that is funded out of tax dollars to keep all of the fees it collects gives it an incentive to over-produce any resource. Put another way, it gives it an incentive to lose money on that resource. The ideal solution is to fund it out of fees alone, with no tax support. My previous Cato Policy Analysis, "A Matter of Trust," describes one way that this could work for the federal lands.³⁸

The reauthorization of recreation fees is not likely to embrace such broad reform. But allowing federal agencies to keep 100 percent of fees as well as tax dollars will create an obstacle for later reform. Since the agencies will end up spending all those fees and appropriated funds, any proposals for funding them exclusively out of fees would necessarily reduce their budgets, and leave reformers vulnerable to charges that they are "costing jobs."

Allowing the agencies to keep half of the fees they collect would help prevent that from happening. While 50 percent is an arbitrary number, it should be significantly greater than 0 percent to create incentives and significantly less than 100 percent to minimize disincentives to overuse and overspend on a resource. On many parks, forests, and other federal lands, returning half of fees to the Treasury is likely to fully compensate the appropriations to those lands for recreation. This would make a transition to an all-fee system relatively painless.

Implementing Recreation Fees

Given the legal authority to charge market rates for any and all forms of recreation, and the ability to keep half of those fees, public land agencies would no doubt engage in a variety of experiments with fee collection. At the present time, fees are mainly collected for entering national parks and wildlife refuges, developed campgrounds, and a few other developed areas. Expansion should include fees for hiking, camping on nondeveloped

areas, hunting, fishing, and other forms of dispersed recreation.

Fees could be monitored through the use of visible permits, such as stickers on motor vehicles or ski-lift-type passes worn on a coat or backpack. Eventually, it will probably become efficient to use electronic passes similar to the transponders used for modern toll roads.

For many forms of recreation, agencies will offer either daily or annual passes, but the annual passes will cover only selected areas, not the entire National Park System or other broad areas. In many cases, each member of a party will need individual passes, rather than the current system that often allows one pass per vehicle no matter how many are in the vehicle.

A typical recreation outing might require people to purchase several passes. One might be a general entry pass into a national forest, park, or other federal land unit. Separate permits might be needed for each night of camping; other permits would be required for fishing, swimming, boating, or other activities. This sounds complicated, but people are used to paying separately for food, shelter, transportation, telecommunications, and other goods and services. No one expects to pay one bill for food; we pay for each individual item we purchase. Similarly, many people pay separate amounts for wireless phones, land-line phones, internet, and cable or satellite television.

It is likely that the land management agencies would soon discover many of the marketing techniques that are used by the private sector. For example, they might provide various forms of "value-added recreation" that would offer recreationists extra services such as guided tours and training. They might also offer multiple classes of recreation, perhaps by guaranteeing exclusive usage of certain areas during certain weeks of the year.

Recreation fees would resolve conflicts over heavily used areas. Currently, the right to run rafts or kayaks on a number of rivers is determined by a lottery system. These

Land-management agencies might provide various forms of "value-added recreation," offering recreationists extra services such as guided tours and training.

Fees averaging just 50 cents per hour would be enough to offset all agency expenditures on recreation, fish, and wildlife.

include parts of the Colorado, Green, Rio Grande, Rogue, Salmon, Selway, Snake, and several other rivers. Commercial outfitters are usually guaranteed a number of permits, while private parties may have to wait for years to get a permit. The fee system would allow anyone willing to pay the fee access to the river, providing space was available, without waiting or necessarily hiring an outfitter. People unable to afford frequent access to popular river segments, such as the Grand Canyon, would still have the opportunity to run many other rivers in the United States.

When resources are distributed politically, every interest group has an incentive to demand the maximum amount for itself, since the cost of asking the most is no greater than the cost of asking for a more reasonable amount. To win the most, they turn the debate into a moral battle so that anyone who accepts less than the maximum amount appears to be a sell out. In contrast, when resources are distributed using market pricing, members of potential interest groups have to consider how much they are willing to pay for their share of the resource. If they are not willing to outbid competing users, they will settle for what they are willing to pay for. Unlike the political system, which creates win-lose situations, markets create win-win situations because users get what they are willing to pay for and producers have an incentive to find ways to provide more of any use whose value exceeds its costs.

Hunters and anglers would be expected to pay fees to hunt and fish on federal lands on top of the state licenses they buy. In most places, the state owns the fish and wildlife and charges a fee for that, but landowners have a right to charge to hunt or fish on their land. Since the landowners—in this case, the federal government—provide the habitat for the fish and wildlife, allowing agencies to charge fees will give them incentives to protect that habitat.

In 2012, Congress appropriated nearly \$12 billion to the Forest Service, Bureau of Land Management, Bureau of Reclamation, National Park Service, and Fish and Wild-

life Service.³⁹ Of this, about \$2.5 billion was spent on recreation on federal lands and another \$0.7 billion supported fish and wildlife habitat management on federal lands.⁴⁰

If the market value of recreation on these lands is truly \$20 billion—meaning an average fee of about \$3 per visitor-hour or \$36 per 12-hour visitor-day—it would be enough to offset all of the costs of managing these lands. Even if the agencies were able to collect only one-sixth of this value, or an average of about 50¢ per visitor-hour, it would offset current agency expenditures on recreation, fish, and wildlife.

Conclusion

Allowing federal land agencies to charge market fees for all forms of recreation would produce numerous benefits:

- Fees would cover at least some of the costs of maintaining and improving recreation areas and potentially could offset funds appropriated for recreation;
- Fees would give land managers incentives to cater to recreation values;
- Fees would help managers resolve conflicts between resources;
- As the closest proxy for natural ecosystem values, dispersed recreation fees would give managers incentives to emphasize such natural ecosystems;
- Funding an increasing share of agency costs out of recreation and other user fees will leave federal lands less vulnerable to budgetary shortfalls that seem inevitable given current federal budget difficulties;
- Recreation fees on federal lands would raise the market price for recreation on private lands, both increasing recreation opportunities and giving private landowners incentives to consider recreation and natural ecosystem values.

Based on estimates of recreation values

prepared for the Forest Service and National Park Service by economists from Colorado State University, this paper estimates that the market value of recreation on federal lands is on the order of \$20 billion. Even if agencies are able to collect only a sixth of this amount, it would offset all current spending on federal land recreation and fish and wildlife programs. Eventually, the agencies should be able to be self-sustaining out of revenues collected from recreationists and other public land users.

Until they are self-sustaining, Congress should allow the agencies to keep half of all recreation fees, while the other half should be returned to the Treasury to offset appropriations for recreation and other land management. This will also smooth the path to making the agencies completely self-sustaining in the long run. For all these reasons, both recreation users and advocates of sound land management should support a broad range of user fees on the federal lands.

Notes

1. 16 U.S.C. Chapter 87, § 6801.
2. 16 U.S.C. Chapter 1, Subchapter LXIX, part B, 4601-9.
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4. Jenny Coyle, "'Pay to Play' Fee Demo Should End," *The Planet Newsletter*, September 2001, sierraclub.org/planet/200109/alerts.asp.
5. Scott Silver, "The Recreation Fee Demonstration Program and Beyond," *The George Wright Forum* 22, no. 2 (2005): 73.
6. Michael Zierhut, "Fee Demo: The Shift from Public to Corporate Trust," New England Public Forest Advocates, nepfa.org/feehistory.html.
7. Coyle, "'Pay to Play' Fee Demo Should End."
8. William Niskanen, *Bureaucracy and Representative Government* (Chicago: Aldine and Atherton, 1971), p. 38.
9. David Osborne and Ted Gaebler, *Reinventing Government: How the Entrepreneurial Spirit Is Transforming the Public Sector* (New York: Plume, 1992), p. 117.
10. Ludwig von Mises, "Economic Calculation in the Socialist Commonwealth," translated from the German by S. Adler, reprinted by Ludwig von Mises Institute (1990), mises.org/pdf/econcalc.pdf, p. 14.
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12. C. F. Sorg and J. B. Loomis, *Empirical Estimates of Amenity Forest Values: A Comparative Review*, Forest Service report GTR-RM-107, (Ft. Collins, CO: Forest Service, 1984).
13. *The Forest Service Program for Forest and Rangeland Resources: A long-Term Strategic plan, Recommended 1990 RPA Program* (Washington: Forest Service, May 1990), p. 6-54.
14. *Ibid.*, tables E-11 through E-19.
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16. Pam Kaval and John Loomis, *Updated Outdoor Recreation Use Values with Emphasis on National Park Recreation* (Ft. Collins, CO: National Park Service, 2003), p. 1.
17. *Annual Summary Report for 2012* (Washington: National Park Service, 2013), tinyurl.com/but3mn5.
18. *Public Land Statistics 2011* (Washington: Bureau of Land Management, 2012), p. 196.
19. Kevin Price, *Desalination Research at the Bureau of Reclamation* (Washington: Bureau of Reclamation, 2010), p. 4.
20. *Final Strategic Plan for the National Wildlife Refuge System, FY 2006–2010* (Washington: Fish and Wildlife Service, 2006), p. 3; Natalie R. Sexton, Alia M. Dietsch, Holly M. Miller, Lynne Koontz, and Adam N. Solomon, *National Wildlife Refuge Visitor Survey Results: 2010/2011* (Washington: Fish and Wildlife Service, 2012), p. 1.
21. Outdoor Industry Association, *The Outdoor Recreation Economy* (Boulder, CO: Outdoor Industry Association, 2012), p. 7.

22. Terry Anderson and Don Leal, "Environmentalists: Nature's Entrepreneurs," special edition, *Perc Reports* (December 1998), p. 10, tinyurl.com/5eoen2.
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24. Louis Mongello, "Walt Disney World History 101," (2005) gather.com, tinyurl.com/444jgh5.
25. Public Law 108-447, § 3(e)(1).
26. Public Law 108-447, § 3(g)(2).
27. Public Law 108-447, § 3(d)(1)(C).
28. *Scherer v. United States Forest Serv.*, 653 F.3d 1241 (10th Cir. 2011); *Adams v. United States Forest Serv.*, 671 F.3d 1138 (9th Cir. 2012).
29. Public Law 108-447, § 4.
30. Public Law 108-447, § 5.
31. Public Law 108-447, § 5(b)(1).
32. Forest Service, *Implementation of the Federal Lands Recreation Enhancement Act: Triennial Report to Congress* (Washington: Department of the Interior, 2012), p. vii.
33. *Ibid.*, p. vi.
34. *Ibid.*, p. vii.
35. *Ibid.*, p. vi.
36. *Ibid.*
37. *Ibid.*, p. 3.
38. Randal O'Toole, "A Matter of Trust: Why Congress Should Turn Federal Lands into Fiduciary Trusts," Cato Institute Policy Analysis no. 630, January 15, 2009, pp. 10-14.
39. Forest Service, *Fiscal Year 2013 President's Budget: Budget Justification* (Washington: Forest Service, 2012), p. 1-6; Department of the Interior, *Fiscal Year 2013: The Interior Budget in Brief* (Washington: Department of the Interior, 2012), pp. BH-12, BH-41, BH-63, BH-74.
40. *Fiscal Year 2013 President's Budget: Budget Justification*, p. 5-1; *Fiscal Year 2013: The Interior Budget in Brief*, pp. BH-13, BH-64, BH-75.