

# WESTERN SLOPE NO-FEE COALITION

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Testimony  
Before the Committee on Resources  
United States House of Representatives

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Mr. Chairman and distinguished members of the Subcommittee;

Thank you for the privilege of testifying before you today concerning HR 3283, The Recreational Fee Demonstration Program, and Public Ownership of Public Lands.

I am Robert Funkhouser, President of the Western Slope No-Fee Coalition, a coalition that has come to represent hundreds of organizations and millions of Americans nationwide in advocating for the continued tradition of public ownership of public lands and the rejection of the access tax approach to public land management. Our mission is to end the Recreational Fee Demonstration Program, to require more accountability within the land management agencies, and to encourage Congress to adequately fund our public lands.

The current Fee Demo program began as an appropriation rider in 1996 and has been extended five times through the appropriations process. After eight years of a demonstration program it is clear that the program has not been a success outside of possibly the National Park System. After eight years it is clear that Americans do not support fees to access federally managed public land and waters. It is clear that Americans prefer fiscal responsibility to the seemingly endless use of appropriated funds for capitol infrustrure. And after eight years it is clear that Americans will not give up their ownership of their public lands to become customers and trespassers.

The legislation before us today, HR 3283 authorizes the National Park Service as well as the Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service, and the Bureau of Reclamation to charge a basic access tax of Americans that simply set foot or tire on any of the 640 million acres managed by these agencies. The Fee Demo Program, as we know it, long ago stopped being a “user fee” and became an access or entrance fee.

The premise that the American public, not the management agencies, owns our public lands, and pays to maintain them through our taxes is alive today as much as ever. The owner is the citizen of the United States who voted and sent to Congress the Representatives and Senators who make up this body. Congress then established agencies to manage certain Forests and public domain lands, to provide fair, equitable means by law and regulation for the goal and benefit of settlement, resource development and recreation activity. Every citizen of the United States has the statutory right as well as the Constitutional heritage to enter the forests and public domain lands to explore, or recreate in those resources. If we allow the agencies to charge a fee or require a permit to enter these lands then we have given ownership of the lands to the agencies and taken it away from the people. Under HR 3283 access these public lands would now be a privilege you pay for and no longer a right. The Fee Program as we know it today and even more so with this proposed legislation represents an across the board double taxation on the taxpayer.

The National Parks differ greatly from the Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Forest Service, and Bureau of Reclamation in regards to fee collection authority. The Parks, unlike the other agencies, have a long history of charging entrance fees. They have the existing collection infrastructure, a higher level of development and service that the public expects.

Fee authority for the Parks is about fee retention. It is about allowing the National Park Service to retain the fees that the agency has been collecting for decades. In the BLM, the Fish and Wildlife Service, and the Forest Service the Fee Demo Program is about establishing new fees and it is this new authority that has been so controversial and unpopular that we are opposed to.

Although we do not oppose a fee program in the National Parks, ( but not the language of HR 3283), we do have serious concerns about the incentive this authority brings with it to maximize revenues beyond what is fair and equitable to the American taxpayer. The National Park Service, under Fee Demo, has doubled and sometimes tripled the entrance fees at some National Parks. On top of that the agency now charges for such basic services as parking and mass transportation. The agency is also charging additional fees for such activities as backcountry hiking and trailhead use.

The public knows full well the difference between the National Parks and the lands and waters managed by the Bureau of Land Management, US Fish and Wildlife Service, Bureau of Reclamation, and the Forest Service. To start with they know that the National Parks is where the tollbooths are. The National Parks is where it costs \$50.00, in some locations, to enter with their families. The public knows that there is a vastly higher level of infrastructure that needs to be maintained in the Parks and a higher level of service.

Yet, even with fee retention authority for the last eight years the National Parks are still in financial trouble. Visitation is down, at least partially due to the cost of entrance fees,

and the NPS is cutting back on services. Much of the budgetary woes that plague the Parks is due to the enormous maintenance needs of its aging infrastructure.

As opposed to the implementation of the Recreational Fee Demonstration Program in the National Park Service, Fee Demo has proven to be a failure in the Forest Service, BLM, and Fish and Wildlife agencies. These fees were formerly limited to developed campgrounds and a few highly developed recreational sites carefully defined by Congress in the Land and Water Conservation Fund Act of 1965. Under Fee Demo, fees have been allowed to spread to hundreds of undeveloped and minimally developed areas. Americans are now being charged fees for such basic services as picnic tables, roads, and trails, and for access to vast tracts of undeveloped public land.

The fundamental dilemma is, does the American public demand that all 640 million acres of public land be managed as National Parks as HR 3283 calls for? Is the public really demanding that the land management agencies spend hundreds of millions of taxpayer dollars to build capital infrastructure to “enhance” what God has already given us?

Or, would the public and the local land managers be better served by taking a course that emphasizes the use of our limited resources to maintain what we already have first? To adhere to fiscal responsibility in emphasizing maintenance and operations over uncontrolled growth. A course that upholds public ownership and public access and at the same time gives our local land managers the tools they need to accomplish their mission.

In all the thousands of contacts I have had with organizations, individuals, local and State governments in the last few years on this subject I do not recall anyone advocating for the kind of agency growth that the incentives created by this legislation would produce. The incentive to “build it and they will pay” is clearly not in the public’s best interests. Nor, can we as a nation afford to maintain that level of capital infrastructure. Again, look what’s happening to the Parks. It becomes a vicious circle: The more the government develops its public lands – the more maintenance is required – the more fees are imposed – the fewer number of people who can enjoy these special places. And in this circle, we lose access to our natural areas. This “Spiral of Government Growth” is also known as “Empire Building.” Examples of this are widespread.

The BLM at the Escalante National Monument are building three new visitor centers. One alone costs over \$10,000,000. At the same time Monument managers want to start charging for backcountry use and car camping because they do not have the funds to deal with those uses.

At the Maroon Bells in Pitkin County, Colorado the Forest Service has built a toilet for \$1,600,000, but has to charge a fee because they say they don’t have the funds for toilet paper.

The Forest Service at Yankee Boy Basin in Ouray, Colorado threatened to close this world class jeeping and hiking area unless the Fee Program was allowed citing lack of funds for toilet maintenance. The following year the Forest Service spent over \$650,000 to expand a concessionaire run campground across the highway.

Furthermore, the use of appropriated funds as well fee revenue to establish a higher level of capital infrastructure and service on the public lands allowed by this legislation competes directly with the private sector located in the communities adjacent to these lands. The loss of tourist dollars, jobs, and tax revenue in these local communities to taxpayer-subsidized land management agencies or their partners would be irreplaceable. Many of these local governments are already hurting because of the under funding of PILT.

HR 3283 is 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 such as mine in western Colorado, where 87% of the land is federally managed, public lands are an integral part of life. To mandate that those local residents carry a heavier burden of funding our land management agencies is unjust and unfair. The nation as a whole has and should continue to provide adequate funding. There is much that the Federal Government funds that I will never benefit from, for instance most discretionary spending.

HR 3283 is also a regressive tax because it discriminates against lower income and working Americans. A Forest Service study showed that 23 percent of lower income Americans no longer visited our public lands due to the fees. It stated that 49 percent of all Americans regardless of income use the public lands significantly less due to the fees.

Opposition to the current Fee Demo program has been overwhelming and widespread. It is clear that even more Americans will oppose this "National Public Lands Access Tax" that HR 3283 represents. From New Hampshire to California, from Idaho to Arizona, Americans from all walks of life and all political persuasions are raising their voices against this program. Resolutions of opposition have been sent to Congress by the state legislatures of Colorado, Oregon, California, and New Hampshire. Thirteen counties in western Colorado alone, as well as counties, cities, and towns across the nation have passed resolutions opposing the program. Hundreds of organized groups oppose Fee Demo, and civil disobedience to it is rampant.

Fee Demo has been a financial failure as well. The General Accounting Office recently released the findings of an audit concerning the Fee Demo program in the Forest Service (GAO-03-470). They found that in FY2001 the Forest Service used \$10 million of appropriated funds for administration of the Fee Demo program and to augment

collection costs. This \$10 million, almost one-third of their total fee revenues, had been previously unreported in the agency's annual report to Congress. The GAO also found that the agency had been under-reporting the costs of administration, collection, and fee enforcement. Although the Forest Service claimed the program was a success, with gross revenue in FY2001 of \$35 million, the truth is that the program brought in far less than \$15 million because the cost of overhead, collection, and enforcement was well over 50%.

Until the GAO audits the BLM and Fish and Wildlife Service Fee Demo programs, their true financial results are uncertain, but as it stands, the net revenues for these two agencies in FY2001 are estimated at less than \$4 million.

The Fee Demo program has changed the mission of the land management agencies from one of resource management and stewardship to one of revenue generation. It allows the three agencies to appropriate their own funds without any congressional oversight. This creates a perverse incentive to maximize revenue at the public's expense, and has resulted in excesses of implementation and enforcement such as charging fees for unimproved backcountry areas, forest wide fees, simple picnic tables, and parking.

Under Fee Demo, it is not just the public that has suffered. The agencies are experiencing an increasingly strained relationship with local communities and the public as a whole. The land management agencies are a tentative guest in many communities to begin with. When they assume a heavy enforcement role, as Fee Demo forces them to do, it erodes any positive relationship that had been built. Gene Chandler, the New Hampshire Speaker of the House, has said, "This program drives a wedge between local governments and public on one hand and the federal land management agencies on the other." The longer the wedge stays in place, the harder it will be to repair the damage. Volunteerism suffers and community involvement suffers.

HR 3283 further encourages the focus on revenue generation over stewardship and service. HR 3283 revokes the ability of our seniors to purchase a lifetime Golden Age Passport for entrance to our National Parks. Seniors on limited budgets will now have to purchase an annual pass to enter not only the Parks, but to access any of our public lands.

HR 3283 would make criminals out of taxpayers. The legislation calls for a Class B misdemeanor for those that have entered upon public land without a pass. It is clear that compliance with Fee Demo is, indeed, dismal. The program has not won over the hearts and minds of the public and a Big Stick approach will only alienate more Americans. If a \$100 fine has been insufficient to deter the public from using their public lands, a \$5,000 fine most likely will. Citizens should not face jail time or a \$5,000 fine for simply walking in the woods without paying the \$5.00 fee.

HR 3283 would take away the Constitutional presumption of innocent until proven guilty. Again, in an effort to enforce the unenforceable our Constitutional protections are being trampled on.

HR 3283 is forcing a square peg in a round hole.

The American taxpayer has already done their part. Surely we as a nation are above charging for public restrooms, dirt roads, parking and picnic tables.

We believe that Fee Demo is not the solution. Nor is it all about more appropriated funds. There are already funds available that with re-prioritization can be used to address maintenance needs and to keep public lands operating.

We firmly believe that the solution is a matter of will.

- The will of Congress to hold the agencies truly accountable for the appropriated taxpayer dollars that they already receive each year. Again, the GAO has reported that the Forest Service “has not been able to provide Congress or the public with a clear understanding of what the Forest Service’s 30,000 employees accomplish with the approximately \$5 billion the agency receives every year.” It is time to bring “Sound Fiscal Science” to public land management.

- The will of Congress to tear down the firewall between the Capital Infrastructure budget and recreation budgets so that those millions can be used for maintenance and operations, not for building more visitor centers and paved parking lots that only add to the maintenance needs of the agencies.

- The will of Congress and the agencies to find effective avenues for appropriated dollars to get to the ground. Operations and maintenance at the local level should be paramount.

- The will of Congress and the agencies to restrict the pilfering of recreation, operations, and maintenance budgets for other purpose so that the local agency managers have the funds they need to fulfill their goals and objectives.

- The will of Congress to create incentives that encourage the agencies to identify their maintenance backlogs and encourage them to be addressed.

- And the will of Congress to adequately fund these agencies through the appropriations process. Adequate funding goes hand in hand with accountability and redirecting priorities.

Fee Demo is an attempt to introduce the concept of “direct taxation” into the management of our public lands, completely reversing the previous system of public ownership supported by public funding. The Land and Water Conservation Fund Act (LWCF) of 1965 contained carefully crafted language defining what services were appropriate to charge fees for, such as developed campgrounds and mechanized boat launches. It also specified what services are prohibited from charging a fee, such as roads, visitor centers, scenic overlooks, toilets, and picnic tables either singly or in any combination. Those guidelines served the American public well for over thirty years.

We believe that the public will support fees, for the agencies outside of the National Parks, for services only as specified under the Land and Water Conservation Fund Act and that the provisions restricting fees should be kept intact. We believe that all funding for these agencies should come from our tax dollars, through the appropriations process with more oversight, not less.

We urge those of you on this Committee to recognize the distinct differences between the National Parks and the land managed by the other agencies. We urge you to choose the financially responsible course, to maintain what we already own first, to stop this “Spiral of Government Growth”, and to uphold Public Ownership of Public Lands. We ask you not to support this legislation, HR 3283.

Mr. Chairman, and members of the Subcommittee, thank you for your consideration of this important issues.





