

NATIONAL PARKS

Judge sides with group seeking e-bike ban

Rob Hotakainen, E&E News reporter • Published: Wednesday, March 31, 2021



A man bikes on a road at Grand Teton National Park. A judge has ruled that a lawsuit can continue against a policy allowing electric bikes in national parks. NPS
A federal judge ruled yesterday that e-bike opponents can move forward with their legal challenge of a National Park Service policy that allows use of electric bicycles.

Judge Rudolph Contreras of the U.S. District Court for the District of Columbia said that NPS made a "nonsensical" argument in seeking to dismiss the case filed by the advocacy group Public Employees for Environmental Responsibility (PEER).

The lawsuit challenges an August 2019 order signed by then-Interior Secretary David Bernhardt that required NPS to regulate e-bikes in the same way as human-powered bicycles on nonmotorized trails ([Greenwire](#), Aug. 30, 2019).

One day later, P. Daniel Smith, then the NPS acting chief, followed up with a directive that told park superintendents to update their policies within 30 days. NPS then published its updated final rule in the *Federal Register* in November of last year.

According to court documents, 380 NPS park units now allow the use of e-bikes.

In arguing for a dismissal of the lawsuit, NPS said PEER should have to challenge each decision made by the 380 park units, since the policy gave superintendents discretion on where e-bikes could be used.

Such an "outcome is nonsensical," Contreras said in his [ruling](#).

He added that "the court's 'plain reading' of the Smith directive comes to a very different conclusion" and noted that parks were told to move on the orders from Washington "as soon as possible."

NPS officials changed the language in the final e-bike rule that went into effect on Dec. 2, saying e-bikes "may be allowed" by park superintendents. In addition, they said the new rule would replace Smith's order.

The judge, however, said the parks had already acted and that Smith's directive "reflected the settled NPS position on e-bikes and created legal consequences and obligations for park superintendents," regardless of the new language in last year's rule.

"The court struggles to see how defendants can claim that the Smith directive did not 'authorize the use of e-bikes in any park,'" wrote Contreras, who was appointed during the Obama administration.

With e-bikes rapidly growing in popularity, Bernhardt and other supporters said the order signed two years ago was intended to make public lands more accessible to many Americans, including older people and those with disabilities. A park service spokesperson defended the policy at the time, saying the use of e-bikes "enhances fun and healthy recreational opportunities" for park visitors.

Opponents counter that high-speed e-bikes pose a threat to both wildlife and park visitors, while spooking horses on mixed-use trails and degrading backcountry experiences.

In the lawsuit, PEER said NPS has yet to do a detailed environmental review of its e-bike policy, even though the agency has now had plenty of time to do it.

"The unanswered question is, why would the Biden administration defend this ill-conceived Trump/Bernhardt initiative?" PEER Senior Counsel Peter Jenkins said today. "This blanket e-bikes approval is the epitome of the worst way to make natural resource policy."

Jenkins said the policy allowing e-bikes was "hatched by industry lobbyists, not by national park professionals," noting that NPS had no Senate-confirmed director for the entire Trump administration.

"After the court's strong ruling, we will be happy to continue to litigate if necessary, but we are open to discussing next steps forward with the new park service leadership when they take office," he said.

NPS did not respond to a request for comment.

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