

**Decision Notice
And
Finding of No Significant Impact**

**Camp Creek Recreation Residences
USDA Forest Service
Cave Creek Ranger District, Tonto National Forest
Maricopa County, Arizona**

Background

Forest Service policy requires the agency to evaluate the continuation of recreation residence use and consistency with the *Tonto National Forest Land and Resource Management Plan* (Forest Plan) before issuing new 20-year term permits. This decision amends the Forest Plan allowing the authorization and use to continue. This decision authorizes the reconstruction of ten recreation residences destroyed in the Cave Creek Complex Fire of 2005, and issuance of 41 recreation residence term special use permits for a 20-year period upon permit expiration. Prior to the 2005 fire, a total of 44 recreation residences were occupied. Since the fire, one permit was turned back to the Forest and two were revoked. Therefore, 41 recreation residence permits would be renewed and ten residences would be authorized to be rebuilt.

The Camp Creek Recreation Residence tract is located approximately seven miles north of Scottsdale, Arizona in Maricopa County on Forest Road 24. The tract is within *Management Area 1F* in the Forest Plan. This management area includes all lands in the Cave Creek District except for portions of two wilderness areas and the Verde River corridor.

The purpose and need for action arose for the following reasons:

- The term special use permits expire in December, 2009 and the Forest Plan requires a determination of consistency check prior to re-issuance of the permits.
- It was determined that the recreation residences may not be consistent with the Forest Plan.
- The Cave Creek Complex (CCC) Fire in 2005 burned 11 residences. Forest Service policy (*FSH 2709.11*) states, "Following destruction or substantial damage of a recreation residence by catastrophic events or natural causes, allow rebuilding, if the lot can be occupied safely and the use remains consistent with the Forest Land and Resource Management Plan (Forest Plan)."

This decision to authorize permit re-issuance and the proposed rebuilding of burned residences was described and evaluated in the *Camp Creek Recreation Residence Continuation Determination Environmental Assessment* (EA) in compliance with the *National Environmental Policy Act* (NEPA). The EA analyzes and discloses the anticipated effects of the proposed action, a no action alternative, as well as a third

alternative due to the existence of recreation residences within the floodplain. The proposed action, Alternative 2, proposes to renew 41 recreation residence term special use permits for a 20-year period. The alternative includes direction and requirements for rebuilding ten residences that were destroyed by fire. This alternative would amend the Forest Plan so the Camp Creek Recreation Residence Tract is consistent. (EA, Appendix G). The EA is available for review at the Cave Creek Ranger District office and the Tonto National Forest Supervisor's Office.

Decision and Rationale

Based upon my review of the alternatives, I have decided to approve the permitting and reconstruction strategy described under Alternative 2. This decision amends the Forest Plan to allow the re-permitting of recreation residences and rebuilding of the burned residences. Recreation residence owners must be in compliance with their existing permit before a new one is issued. Alternative 2 is consistent with law (*16 USC Section 6202*), regulation (*36 CFR 251*), the Forest Plan, and Forest Service policy. Forest Service policy is described in *FSM 2347.1 and 2711.3 and FSH 2709.11*. The amendments to the Forest Plan would not be significant pursuant to *FSH 1909.12 § 5.32*. This alternative also best meets the purpose and need of the EA and Forest Service policy (*FSM 2347.1*) which states *recreation residences are a valid use of National Forest System lands* and the mission of the Tonto National Forest Plan (Forest Plan p.19) *to manage for multiple use in a manner that is compatible with other resource production and use...*

Alternative 2 amends the Forest Plan dedicating the land base necessary for the Camp Creek recreation residence tract to continue. The vegetative management goal will be changed to have 30% ground cover in the residence tract. Project specific actions will achieve the goals for riparian improvement and fish and wildlife habitat conservation. The Forest Service will coordinate reconstruction of the ten burned residences with the permit holders. Mitigation measures mentioned in Table 2-2 (EA, pgs. 20-23) will be incorporated. Two footbridges that provide access to the residences in the Grapevine and Middle Camp Creek units will be reconstructed. The water systems and road maintenance activities will be reauthorized under new special use permits.

In addition to the selected alternative, I considered two other alternatives which are summarized below. A comparison of the effects of these alternatives is found in Chapter 3 of the EA. A fourth alternative was not carried forward because it was determined that it was similar to Alternative One. Alternative uses were considered and recreation residence use was determined to be the best use.

Alternative 1: (No Action). In this alternative, recreation residence use would cease within ten years from the time the current term special use permits expire. Rebuilding ten residences destroyed by fire would not be authorized. Thirty-one residences that are unaffected by fire or flood would be issued permits for a period not to exceed ten years. This alternative does not meet the purpose and need of the EA. Further, "recreation residences are a valid use of National Forest System lands" (*FSM 2347.1*).

Alternative 3: (Modified Proposed Action). This alternative was developed in response to natural resource issues and addresses the need to be consistent with the Forest Plan. This alternative addresses the need for compliance with *Executive Order 11988* and Forest Service policy (*FSM 2527*) regarding the management of structures and facilities within a floodplain. The alternative would move the recreation residence tract closer to the Forest Plan Management Area 1F watershed, riparian, and wildlife habitat resource objectives. The alternative includes direction and requirements for rebuilding residences that were destroyed by fire in 2005. The alternative includes provisions to reduce the impacts to riparian habitat and water resources by reducing the number and type of structures that are located within both intermittent and perennial stream channels. This alternative was not chosen because the recreation residences predate *Executive Order 11988*. The 15 residences within the 100 year floodplain will be permitted with pertinent clauses in the permit providing direction should they be damaged by flood. We acknowledge the chance of a 100 year flood event within the scope of this 20 year project is minimal.

Public Involvement

The proposal was listed in the Forest's *Schedule of Proposed Actions* beginning in January, 2006. The project proposal and request for scoping comments were mailed to approximately 92 members of the public and other agencies on February 2, 2006. On February 17, 2006, the Cave Creek District Ranger and the District Recreation Officer met with officers and board members of the Camp Creek Community Association (CCCA) to discuss the request for comment letter and the analysis process.

Although the 30-day period for providing scoping comments ended March 6, 2006, comments continued to be accepted until May of 2006. Seventeen comments were received in the form of letters, facsimiles, or email. On March 31, 2006, the District Ranger and key staff attended the annual CCCA meeting to discuss the analysis. On April 10, 2006, a letter was sent to the president of the CCCA responding to the questions raised during previous meetings. Meetings with recreation residence permit holders were also held on February 17 and August 28 of 2006; April 27, 2007; and January 24, March 10, May 21 of 2008.

In August 2008, a draft EA was provided to those that had expressed interest in the project. The public was also notified of the opportunity to comment through a legal notice published in the East Valley Tribune on 8/2/2008. Based on public comment, the Draft EA was revised and reissued on April 17, 2009. The public was again notified of the opportunity to comment through a legal notice published in the Arizona Capitol Times on 4/17/2009. The Draft EA was posted on the website on May 1, 2009. Eighty-seven comment letters were received in response to this opportunity. The majority of the comments supported Alternative 2. I considered these comments in reaching my decision.

Finding of No Significant Impact

After considering the context and intensity of the environmental effects described in the EA, I have determined that these actions will not have a significant effect on the quality of the human environment as defined in the Council on Environmental Quality implementing regulations at *40 CFR 1508.27*. Thus, an environmental impact statement (EIS) will not be prepared. I base my finding on the following:

Context: The action is a site-specific action that by itself does not have international, national, regional or statewide importance. Effects are limited to the locale of the project area.

Intensity: The following discussion is organized around the ten significance criteria described in NEPA regulations at *40 CFR 1508.27*.

- 1) My finding of no significant environmental effects is not biased by the beneficial effects of the action. Both beneficial and adverse impacts were considered in the analysis. Permitting the existing residences will not have an adverse effect on the environment as long as they remain in compliance with their permits. Construction to rebuild the burnt residence will result in minor, short term disturbances without lasting overall effects.
- 2) No significant effects on public health and safety were identified. While construction does pose some hazards to workers, these actions are not expected to present significant hazards to workers or the public.
- 3) There are no known unique characteristics associated with the tract except riparian values. Riparian conditions will not be adversely affected by the permitting or rebuilding. Therefore, the project will not adversely affect parks, prime farm lands, wetlands, wild and scenic rivers, or other resources considered to have unique characteristics.
- 4) The effects on the quality of the human environments are not likely to be highly controversial. The environmental analysis process has documented expected environmental effects from my decision. These effects have been disclosed in Chapter 3 of the EA and the selected action has been designed and mitigated to address the various issues raised. The analysis represents the judgment and expertise of resource management professionals who have applied their knowledge to similar projects and resources in the past. The management practices proposed are commonly-used resource management practices described in agency directives, meet Forest Plan standards, and are used by other land management agencies. While some members of the public are opposed to recreation residences, this action is not highly controversial within the context of the *National Environmental Policy Act*.

- 5) The effects analysis indicates the effects are not uncertain, and do not involve unique or unknown risk. The Forest Service has considerable experience with the types of activities to be implemented. The effects described in the EA are based on the judgment of experienced resource management professionals using the best available information.
- 6) The decision to reissue recreation residence permits to compliant cabins and rebuild ten residences does not establish a precedent for future actions with significant effects. Future actions will be evaluated through the NEPA process and will stand on their own as to environmental effects and project feasibility.
- 7) The cumulative impacts of the action on soils, vegetation, terrestrial and aquatic wildlife resources were considered in the EA in Chapter 3 and in a variety of specialist reports (See project record). The direct and indirect effects of the proposal are expected to be minor in the short term and neutral over the long term. None of the effects are considered significant for reasons described herein. No past or future actions have been identified that will combine with the effects of the proposed action to cause cumulatively significant effects.
- 8) The historic Camp Creek Recreation Area (CCRRA) has been recognized as a Heritage resource and has been assigned an inventory number of AR-02-12-01-1197. The mitigation methods outlined in EA, Chapter 2 will result in a determination of *No Adverse Effect* to heritage resources.
- 9) A wildlife analysis was conducted for aquatic and terrestrial species. No endangered, threatened species are known to occur within the project area. No trend toward federal listing was documented for sensitive species.
- 10) This selected alternative is in full compliance with all federal, state and local laws imposed for environmental protection. Chapters 1-3 of the EA documents the analysis for this project which does not threaten or violate any federal, state or local law imposed for the protection of the environment. This project is fully consistent with the *Tonto Land and Resource Management Plan* (Forest Plan) as amended and the *National Forest Management Act* (NFMA), *Clean Water Act*, and the *Federal Land Policy Management Act of 1976* and was developed with consideration of the best available science.

Based on the above considerations, I have concluded that this project is in compliance with statutes imposed for the protection of the environment and that this is not a major federal action that will significantly affect the quality of the human environment. Therefore, an Environmental Impact Statement is not needed.

Findings Required by Other Laws and Regulations

National Forest Management Act. The Forest Plan was adopted on October 1985 and has been amended several times. The Camp Creek Recreation Residence tract falls

within Management Area 1F. The plan amendment will make the residential tract fully consistent with the mission and goals listed on pages 19-22 of the Tonto Forest Plan, as well as the standards and guidelines.

My conclusions regarding the effects of Alternative 2 are based on a review of the record that demonstrates a thorough consideration of relevant scientific information, responsible opposing views, and the acknowledgement of incomplete or unavailable information, scientific uncertainty and risk. Based on the documentation in the record, I conclude the best available science was considered in developing and analyzing the proposal.

Multiple Use Sustained Yield Act. The selected alternative will not impair land productivity and is therefore consistent with this law.

Endangered Species Act. No threatened or endangered species were found.

National Historic Preservation Act. A Heritage Resource Investigation was completed with a finding of no adverse effect on cultural resources.

Executive Order 12898 (Environmental Justice). This decision does not impose disproportionately high adverse human health or environmental effects on minority or low-income populations.

Implementation Date

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, five business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

Administrative Review or Appeal Opportunities

This decision is subject to administrative review (appeal) pursuant to *36 CFR Part 215*. Appeals under *36 CFR 215* must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Appeal Deciding Office at:

USDA Forest Service
ATTN: Regional Forester
333 Broadway SE
Albuquerque, NM 87102

The Appeal Deciding Officer is Corbin Newman, Regional Forester. The office business hours for those submitting hand-delivered appeals are: 8:00 a.m. through 4:30 p.m., Monday through Friday, excluding holidays. Electronic appeals must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), or Word (.doc) to appeals-southwestern-regional-office@fs.fed.us. In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification. Appeals, including attachments, must be

filed within 45 days from the publication date of this notice in the Arizona Capitol Times, the newspaper of record. Attachments received after the 45-day appeal period will not be considered. The publication date in the Arizona Capitol Times, newspaper of record, is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

Individuals or organizations who submitted comments during the comment period specified at 36 CFR 215.6 may appeal this decision. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14.

Recreation residence permittees also may appeal this decision under 36 CFR 251. A *Notice of Appeal* must be consistent with 36 CFR 251.90 and filed simultaneously with the Appeal Reviewing Officer and the Deciding Officer within 45 days from the date of this decision. Appeals should be sent to:

Corbin Newman, Appeal Reviewing Officer, .333 Broadway SE, Albuquerque, NM 87102; and to Gene Blankenbaker, Project Deciding Officer, 2324 E McDowell Rd, Phoenix, AZ 85006.

Appeals may be filed electronically. Electronic appeals must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), and Microsoft Word (.doc) to appeals-southwestern-tonto@fs.fed.us and appeals-southwestern-regional-office@fs.fed.us. The appeal must have an identifiable name attached or verification of identity will be required. A scanned signature may serve as verification on electronic appeals.

The Deciding Officer is willing to meet with permit applicants or holders to hear and discuss any concerns or issues related to this decision. This decision may be implemented during an appeal unless the Reviewing Officer grants a stay under 251.91.

Contacts

For additional information concerning this decision or the Forest Service appeal process, contact Colleen Madrid, Cave Creek District Ranger, at (480) 595-3300 (email: cmadrid@fs.fed.us) or Tammy Pike, Project Leader at (480) 595-3320 (email: tpike@fs.fed.us). Their mailing address is 40202 N. Cave Creek Road, Scottsdale, AZ 85262.



GENE BLANKENBAKER
Forest Supervisor

7/21/09
DATE