



## Historical Summary: USDA Forest Service's Recreation Residence Program

The Recreation Residence Program was arguably the first effort made by the USDA Forest Service to formally provide recreational opportunities for the public. Today, land set aside for this purpose is less than .002% of all National Forest lands. Over 600,000 recreation visitor days occur each year on this small footprint, and fees paid by cabin owners—approximately \$12.5 million each year—more than pay for the program's administrative costs according to the Forest Service's own accounting. Evidence of the tradition of summer homes for fishing and hunting dates to the early 1870s, pre-dating by at least two decades the establishment of federal forest reserves in 1891. The Organic Administration Act of 1897 opened the forest reserves to the public, making it possible for federal managers to permit additional use of these resources. However, the one-year permit that allowed cabin construction in these early years made investment risky and, as a consequence, only marginally popular. Congress eliminated this obstacle in 1915 with the passage of the Act of March 4, 1915 providing the authority to set aside land, not exceeding five acres, for construction of summer homes with multi-year occupancy permits. These permitted, privately owned cabins may be inherited—and, in some cases are now used by the fourth and fifth generations of their original builders— or the improvements sold, however, in either case, the Forest Service continues to retain ownership of the underlying land.

In this early era, families traveled rather substantial distances in primitive vehicles over uncertain roads in order to build modest cabins on roughly quarter-acre forest lots. For many of these tracts, the means of access today continues to be primitive and may involve a final stretch on foot or by boat. Weather in some forests limits access to fewer than six months each year. As technology became available in some of these rural areas, cabin owners banded together to provide water systems, electricity, fire protection and road and trail maintenance. At its peak, the program authorized nearly 20,000 cabins. Today, fewer than 15,000 cabins are administered by the agency, nearly 5,000 having been taken out of public land ownership through land exchanges or lost to natural disasters.

## Nature of Permit Rights and Restrictions

The rights and responsibilities of cabin owners have evolved over nearly a century. Congressional concern about lack of consistent management in the program led in 1969 to issuance of 20-year term Special Use Permits and a system of appraisals to establish the undeveloped and restricted value of each cabin lot. Annual cabin fees are pegged at 5% of the fair market



value; this assumes a theoretical unencumbered ownership estate, even though what is actually granted in the permit is a restricted possessory interest. Permits began to re-issued beginning in 2005 with 90% of the inventory reissuance by the end of 2008. The agency's Recreation Residence Policy governs management of this program by the Forest Service, published June 2, 1994. Except for modifications in appraisal methodology enacted by Congress in 2000 (which follows), few changes have been made in this Policy.

As might be expected in the use of federal lands by private individuals, restrictions on use of these cabins under the Policy are numerous. Year-round permanent residency is not allowed, nor is use as a rental property. Typical restrictions also include limitations on the square footage of the structure; types of vehicles that may be stored near the cabin (no recreational vehicles, boats or motor homes), outbuildings (generally forbidden), fencing (prohibited), garden cultivation and color of paint. Individual permits contain additional restrictions reflecting unique local circumstances and management needs. In addition, many of these cabins are now classified as historic and some tracts have been listed in the National Registry of Historic Places.

Further, the right to occupancy and use is not exclusive. An owner's family has the right to security and privacy only within the walls of their cabin, not on the grounds. All land within a recreation residence tract is open to the general public, who may hike, camp or picnic on lands between the cabin structures. Many cabin associations welcome and encourage other forest visitors, sponsoring interpretive trails and information kiosks to foster responsible shared use of tract sites and the forest resources that surround the area. A cabin tract can be used as a valuable buffer between more intensive day uses or campgrounds and less intensive uses such as backcountry or wilderness areas.



## Special Use Fees and "CUFFA"

Problems with the appraisal process used to establish the special use fee for each permit became apparent in 1997 as the Forest Service began updating 20-year-old valuations of the lots upon which cabins have been built. Five percent of the appraised value of the lot becomes the base fee, adjusted annually by an index. It was expected that this index would keep up with inflation. Nevertheless, many of the appraisals in the 1990's under the old rules resulted in fee increases that would be unaffordable for middle class or young families. In addition, so-called "spikes" occurred at a number of tracts, resulting in lots valued at, in the worst case, \$660,000, with an annual fee of \$30,000. Fees of \$5,000 per year were not uncommon.

Cabin owners sought congressional relief from exorbitant increases in fees and the seemingly erratic application of appraisal methodology. On its own initiative, the Forest Service contracted with The Appraisal Foundation for an assessment of the agency's appraisal program. The Foundation reported, "Based upon our review of the various materials, it is obvious that there have been significantly different interpretations of certain provisions of Forest Service Handbook 5409.12, 6.9 - Exhibit 06 [instructions to appraisers], which are partially responsible for the differences in valuations." In October 2000, Congress enacted specific appraisal policy, commonly known as the Cabin User Fee Fairness Act of 2000 (CUFFA). Regulations were promulgated by the Forest Service on May 3, 2007,vii and became final on April 3rd.



Fee determination under CUFFA was supposed to be based on the principle of better capturing the market value for use and occupancy of forestland. It was intended to do so by focusing on the adjustments to value that must be made to ensure that the lot being appraised, and what the Forest Service provides, is not overvalued. Many appraisals done under the old system used comparable sales that cabin owners believed were not equivalent to the cabin lot, as too urban, or in a dissimilar economic

neighborhood. Adjustments for local or regional limitations on use were not allowed. CUFFA was intended to remedy this.

Nevertheless, the subsequent appraisals have been a disappointment. the Forest Service and, thus, the appraisers on the ground are interpreting CUFFA so as to preclude adjustments for most of the restrictions that CUFFA was intended to allow. We are now seeing the results of the failure of CUFFA to fix the problem of attempting to fix a fee for the cabin use based upon a value of the underlying land: fees are going up from \$4,900 to \$21,650 per year. A Coalition of cabin owner groups (Cabin Coalition 2) has reconvened, and is working on this issue.

## The Cabin Coalition 2

The Cabin Coalition 2 came together in late 2007 to address issues arising from the performance of the first round of appraisal under CUFFA done the summer of 2007 on some forests. It consists of the National Forest Homeowners, American Land Rights Association, Washington State Forest Homeowners Association, Oregon Forest Homeowners Association, California Forest Homeowners, Sawtooth Forest Cabin Owners Assn. (Idaho), Priest Lake Association (Idaho), Lake Wenatchee Summer Home Assn. (Washington), and individual members in Wyoming, Arizona, Florida, and Tennessee.

C2, as it is known, has been grappling with the issues and now has a proposed solution which it believes has the best chance of resulting in fees for the recreation residence special use permit in an amount that preserves this opportunity for individual and family-oriented recreation by Americans of ordinary means. See the CFA/C2 button on this website for more information about this effort.

Since passage of the Organic Administration Act in the late 1800's, the Forest Service's cabin program has been a consistent and successful provider of forest-based recreation. It's not a flashy program, and neither are the families and friends that participate. Whatever the current economic obstacles and uncertainties, these will settle out in time. The cabins will continue to fulfill an important role in modern society: that every so often one has to go back to the basics, to reestablish a connection with the natural world. Cabins provide this rare setting, capable of nurturing and inspiring people of all ages and all abilities.

i. *USDA Forest Service*. ii. *Ch. 2, 30 Stat. 11, as amended; 16 U.S.C. 473-475, 477-482, 551* iii. *Ch. 144, 38 Stat. 1086, as amended; 16 U.S.C. 497* iv. *Forest Service, U.S. Department of Agriculture, "Recreation Residence Authorizations; Notice," Federal Register, Vol. 59, No. 105, June 2, 1994 (Washington, D.C.: U.S. Government Printing Office), pp. 28714-28741.* v. *J. Carl Schultz, Jr., Jay Luse and Stephanie Coleman, "Supplemental Report to the Evaluation of the Appraisal Organization of the USDA Forest Service, Forest Service*

*Handbook, 5409.12, 6.9-Exhibit 06, 'Required Specifications for Appraisal of Recreation Residence Sites,'" (Washington, DC: The Appraisal Foundation, April 18, 2000), p. 7.* vi. *Title VI, Department of the Interior and Related Agencies Appropriations Act, 2001 [P.L. 106-291]* vii. *Forest Service, U.S. Department of Agriculture, "Procedures for Appraising Recreation Residence Lots and for Managing Recreation Residence Uses Pursuant to the Cabin User Fee Fairness Act," Federal Register, Vol. 71, No. 73, April 3, 2006 (Washington, D.C.: U.S. Government Printing Office) pp. 16622-16657.*

