



## History of the USDA Forest Service 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 3/1000<sup>th</sup> of one percent of all National Forest lands. Over 3 million recreation visitor days occur each year on this small footprint and, in 2016, the permit fees paid by cabin owners totaled over \$30 million<sup>i</sup>.

Summer homes for fishing and hunting date back 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<sup>ii</sup> opened the then-new forest reserves to the public, making it possible for federal managers to permit additional use of these resources. However, the one-year renewable permit that allowed cabin construction in these early years made investment risky and only marginally popular. Congress eliminated this obstacle in 1915 with the passage of the Occupancy Permits Act of March 4, 1915<sup>iii</sup> 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 are often passed from one generation to the next—and, in some cases are now used by the fourth and fifth generations of their original builders. In other cases, the cabin improvements have been sold. In either case, the American public retains ownership of the underlying National Forest lands.

In the early era, families traveled substantial distances in primitive vehicles over rough and 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, many cabin owners banded together to provide water systems, electricity, fire protection, road and trail maintenance. At its peak, the program authorized nearly 20,000 cabins. In 1968, the Forest Service saw a growing conflict between public access and cabin development and issued a directive to not develop any more new tracts, extending this moratorium to no new lots within existing tracts in 1976, thus capping the number of cabins in the program. Today, fewer than 14,000 cabins are administered by the agency. More than 5,000 permitted cabins were taken out of this program through land exchanges, removal by the permittee, or destruction by natural disasters.

## **Nature of Permit Rights and Restrictions**

The rights and responsibilities of cabin owners have evolved over nearly a century. While long guided by Forest and Regional guidelines, management of this program by the Forest Service is now governed by the agency's Recreation Residence Policy, published June 2, 1994,<sup>iv</sup> as well as Regional directives which affect the rights and privileges of cabin owners.



As might be expected in the use of federal lands by private individuals, restrictions on use of these cabins under the Policy are numerous. Permit terms are limited to a maximum of 20 years. Year-round permanent residency is not allowed, nor is use as a rental property except for incidental rental (generally a 14-day maximum annually), with prior written approval by the Forest Service. Typical forest or regional restrictions also include limitations on the square footage of the structure and any adjacent decks, types and numbers of vehicles that may be stored near the cabin (no recreational vehicles, boats, their trailers, or motor homes), outbuildings (limited to one in many cases), fencing (prohibited), landscaping and planting, and color of paint. Individual permits contain additional restrictions reflecting unique local circumstances and management needs. In addition, most of these cabins are now classified as historic and some tracts and individual cabins have been listed in the National Registry of Historic Places, which may further limit changes to one's cabin.

Common to all permits, 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 surrounding grounds. All land within a recreation residence tract is open to the general public, who may hike, picnic or camp, with some limitations, 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 often provides a valuable buffer between more intensive day uses or campgrounds and less intensive uses such as backcountry or wilderness areas.

## **Determination of Special Use Fees**

The process of determining the annual special use fee paid by each permittee has long been an issue with this program. While the recreation residence program was an important source of internal funding of the agency's recreation budget into the 1930's, by 1963 special use revenues from the cabin program were not covering the costs of administering the program. Forest Service policy called for fees to be calculated based on five percent of the value of comparable private lands used for similar purposes, yet a review by the General Accounting Office in 1963 found that this guidance was not generally being followed.

Following the GAO review, the Forest Service appraised permit sites and raised fees. The Pacific Southwest Region (Region 5) did this in 1963 and, again, in 1968. However, since these appraisals resulted in substantial fee increases, the Forest Service decided to phase in the increases incrementally over five years. The result of that phased implementation meant that the fees were again below market value by the time they were fully implemented.

Attempting to create a fee system that would adjust for fluctuations in the real estate market, the Forest Service implemented a new fee determination system in the Recreation Residence Policy published in the Federal Register on June 2, 1994. This process used the fee established in the period 1978-1982 as an initial base and adjusted that fee annually using the Implicit Price Deflator for Gross Domestic Product [IPD-GDP], with new appraisals scheduled to be done at the end of the 20-year interval in 1998-2002.

Soon after initiating new appraisals in 1997, it became clear that the appraisal instructions and process were unable to sufficiently adjust for the limitations imposed on cabin usage on a consistent basis, thereby often resulting in fee increases that would be unaffordable for middle class families. Working with Congress, a three-year effort resulted in passage of the Cabin User Fee Fairness Act in October 2000.



### Cabin User Fee Fairness Act of 2000 (CUFFA)<sup>v</sup>

Following a 5-year drafting effort, CUFFA's implementing regulations were published by the Forest Service on April 3, 2006, and became final on May 3, 2006. Under the CUFFA legislation, fee determination was intended to be based on the principle of better capturing the market value for use and occupancy of forest land. Although CUFFA focused on the adjustments to value in order to ensure that the lot being appraised did not overvalue what the Forest Service provided, appraisal results beginning in 2007 quickly demonstrated a failure of the appraisal-based system. Completed appraisals did not accurately reflect local or regional limitations on use or the fair market value of the rights and privileges inherent in the cabin permit. Resulting fees in some places were so high that cabins were unable to be sold. In the most extreme cases, valuations of \$100,000 and higher resulted in annual fees ranging from \$5,000 to a high of \$30,000.

### Cabin Fee Act

In late 2007, cabin organizations once again came together to address the high fees arising in the first round of appraisals being completed under CUFFA regulations. Through dedication and persistence, a seven-year effort by cabin leadership from national, regional and local cabin organizations with the strong support of House and Senate members and their staffs saw passage of the Cabin Fee Act<sup>vi</sup> on December 3, 2014. Implemented in 2016, the Cabin Fee Act used the appraisal valuations completed

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under CUFFA to assign each cabin to the appropriate location on a bell curve of 11 fee tiers ranging from an annual use fee of \$650 to \$5,650, thus ensuring that no individual cabin use fee was too high (or too low). The Cabin Fee Act put a cap on the upper values to reflect the limitations on the use of the federal land inherent in a permit for a cabin while ensuring a fair return to the Federal Treasury commensurate with the results of the previous fee system.

### **Providing Sustainable Recreation for Future Generations**

Since passage of the Organic Administration Act in the late 1800's, the Forest Service's Recreation Residence program has been a consistent and successful provider of forest-based recreation. Indeed, the importance of this program is reflected in the following language from the Forest Service Recreation Residence Policy:



***Recreation residences are a valid use of National Forest System lands. They are an important component of the overall National Forest recreation program and have the potential of supporting a large number of person-days. They may provide special recreation experiences that might otherwise be available. It is Forest Service policy to continue recreation residence use and to work in partnership with holders of these permits to maximize benefits of these residences.<sup>vii</sup>***

This is not a flashy program, but one that is aimed at enabling and providing family-oriented recreation in our National Forests. With predictable and fair use fees, the cabin program will continue to fulfill an important role in modern society: that every so often one must 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.

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<sup>i</sup> U.S. Forest Service, Final Cabin Fee Act Workbook, 2016.

<sup>ii</sup> Ch. 2, 30 Stat. 11, as amended; 16 U.S.C. 473-475, 477-482, 551

<sup>iii</sup> Ch. 144, 38 Stat. 1086, as amended; 16 U.S.C. 497

<sup>iv</sup> 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.

<sup>v</sup> Title VI, Department of the Interior and Related Agencies Appropriations Act, 2001 [P.L. 106-291]

<sup>vi</sup> National Defense Authorization Act, Subtitle B, Section 3024, Public Law 113-291.

<sup>vii</sup> 59 FR 28727; U.S. Dept of Agriculture, Forest Service 1994a:2347.1