

# **Environmental Assessment**

## **Mill Creek Canyon Recreation Residences**

**May 2008**



**Salt Lake Ranger District, Uinta-Wasatch-Cache National Forest  
USDA – Forest Service  
Salt Lake County, UT**

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## **Chapter 1 - Purpose and Need for Action**

### **1.1 Introduction**

This environmental assessment (EA) documents the analysis of effects associated with a proposal to continue recreation residence use for 70 summer homes located in Mill Creek Canyon, on the Wasatch-Cache National Forest and Salt Lake Ranger District. The general area where these recreation residences are located is shown in Figure 1. The current permits for these summer homes will expire December 31, 2008. This EA is not a decision document, but is intended to disclose those impacts important in making a decision whether to continue this recreation use under a new special use permit.

### **1.2 Background**

Recreation residences, sometimes referred to as summer homes, are a historic and well-recognized recreation experience for thousands of National Forest visitors around the country. Recreation residences on National Forest System lands were first authorized in 1915 to encourage recreation in National Forests. These cabins are privately owned, but are set on National Forest System (NFS) lands and thus require agency authorization for the occupancy and use. This authorization takes the form of a special use permit issued for each lot where a summer home is located. The person to whom the permit is issued is typically referred to as the "permittee", or "holder".

The first special use permit for a summer home in Mill Creek Canyon was issued in the 1920s. Construction of developed recreation sites in Mill Creek, such as picnic areas, also began about the same time. By the 1950s, most of the developed public recreation sites and summer homes were in place. Generally, summer home groups are organized and administered as "tracts" and each tract usually has a homeowner's association, elected representatives, and works with the Forest Service on issues of community interest.

Within Mill Creek Canyon there are three separate tracts - Porter Fork, Elbow Fork, and Firs. Within these tracts, there are 45, 1, and 24 summer homes, respectively. Over the years since their establishment, the lots where each summer home is located were authorized under a series of special use permits. The 20-year term for the current permits for all of these recreation residences expires on December 31, 2008.

The 2003 Revised Forest Land and Resource Management Plan for the Wasatch-Cache National Forest, or "Forest Plan" (WCNF 2003) calls for the recreation residence program to continue. It is agency policy to work in partnership with holders of these permits to maximize their recreational benefits. A host of requirements are a part of this use of the National Forest. For instance, summer homes must be used at least 15 days per year, but cannot be used as a principal residence. Requirements for recreation residences are listed in the special use permit, the permit's Operation and Maintenance Plan (O&M Plan) and in the Wasatch-Cache National Forest Recreation Residence Administrative

Guide (Administrative Guide). In addition, each special use permit requires homeowners to comply with all applicable laws, regulations, and ordinances of Federal, State, and local government.

### **1.2.1 Description of Project Area**

Three project areas, encompassing each of the three tracts, form the basis for the analysis of the direct and indirect impacts in this EA and are shown in Figure 2. The Salt Lake County road extending up Mill Creek Canyon beginning at about 3900 South and I-215, provides primary access to all three areas. The entire area is located in Salt Lake County and is a part Salt Lake City's municipal watershed; though at the current time the water is not used for culinary purposes. Mill Creek Canyon is one of three local canyons that are extremely popular with recreationists and it supports the largest concentration of developed recreation facilities on the Salt Lake Ranger District.

Specific to each of the project areas, the Porter Fork tract is located about four miles up Mill Creek along Porter Fork Creek, near the Mill Creek Guard Station and Terraces Picnic Area. Access into the Porter Fork Tract is provided by Forest Road 018. This road is gated and closed to general public motorized use, but serves as a trail for access to the Mount Olympus Wilderness. The single cabin comprising the Elbow Fork Tract is located about five miles up Mill Creek on the south side of the County road, near the Elbow Fork Trailhead. Finally, the Firs Tract is located about six miles up Mill Creek on the north side of the County road, near Clover Springs Picnic Area and the Alexander Basin Trailhead.

The general area of Mill Creek Canyon includes all or portions of sections 25, 26, 27, 34, and 36, Township 1 South, Range 2 East. For the purposes of this analysis, the individual project areas are comprised of the contiguous area occupied by all the lots within each tract, as well as spaces between lots, roads and other facilities internal to the tract. Thus, the project areas for Porter Fork, Elbow Fork, and Firs Tracts are approximately 20, 1/2, and 14 acres, respectively.

The Mill Creek drainage area is characterized by a relatively narrow canyon, within which Mill Creek itself and a number of tributary perennial and ephemeral streams are located. Vegetation in the area is varied and greatly dependent on elevation and aspect. Riparian vegetation is found in perennial stream corridors and typically has an overstory of cottonwood, box elder, and other deciduous trees. Above the stream corridors, Gambel oak and maple shrub communities occur on lower elevation, south-facing side slopes and mixed conifer forest vegetation is common on north-facing and upper elevation slopes.

Mill Creek Canyon is managed for relatively intense day use recreation. Twelve developed picnic areas and associated facilities are located within the canyon. In addition, Mill Creek has an extensive non-motorized trail system and a handicapped fishing area. Two restaurants operate in the canyon; one is located on NFS land and operates under a special use permit, while the other is on private land. In addition, the

Boy Scouts of America operate a large camp in the lower section of the canyon on their property. During summer months the area is heavily used by visitors for such activities as hiking, biking, picnicking, fishing, bird watching, dog walking, etc. Winter activities in the area include cross country skiing and snowshoeing. Through a partnership with Salt Lake County Department of Parks and Recreation, fees are charged by the County and the Forest Service is reimbursed for the more intensive management necessitated by the heavy recreation use in the canyon.

### **1.2.2 Recreation Residence Improvements**

Within each of the three project areas, homeowner-constructed features such as homes, decks, sheds, walkways, roads, driveways, patios, permanent grills, and water systems are a visible part of the surroundings. These “improvements” are authorized either in the special use permit for a given lot or, if they serve a community purpose, they are authorized in a permit issued to the tract association. In a few cases, improvements are located slightly beyond the boundaries of any lot, such as a spring development and water line. These are usually authorized in a permit to an individual summer homeowner as an off-lot improvement, a group of adjacent homeowners, or to the tract association. Improvements for each tract associations are summarized below.

#### **Firs Tract**

*Roads* – The Firs homeowner’s association holds a special use permit for its internal road systems that was issued in 1949. It does not address a number of features associated with the road, such as two bridges and gates, signs, and several short spur roads. This permit needs to be updated to incorporate these existing improvements and to include standard clauses for modern special use permits. This EA will provide the environmental analysis to support a decision whether to update the tract’s road use permit in this way.

*Water System* – This use was also authorized in the 1949 road use permit. Combining road and water uses in the same special use permit is not consistent with current Forest Service policy. The analysis in this EA will provide the information necessary to determine whether to reauthorize this use in a separate special use permit and include in it a short segment of trail accessing the water system.

*Community Improvements* - A number of long-existing miscellaneous improvements are located in the Firs tract that are not authorized in any of the summer home permits, or in the Association's permit. These include several short trail segments, a bench, and the group meeting area/sports court.

#### **Porter Fork Tract**

*Tract Road System* – Currently, the main road that serves the Porter Fork Tract (Forest Road 018), its bridge over Mill Creek, and associated gate are not authorized, even though they were constructed many years ago. Since this road is not open to public motorized use and the Forest Service would have no need for the road, independent of the

summer homes, these facilities must be authorized in a special use permit issued to Porter Fork Summer Homeowner's Association. Consequently, this EA is intended to provide the information necessary to determine whether to issue a special use permit to the association for these facilities and several, short internal spur roads.

*Water System* – On September 14, 2006, the Forest Service approved construction and operation of a tract-wide water system that would bring Porter Fork into compliance with State and local laws and regulations. This system was installed later that fall and most homeowners have connected to the system and most of the old system of multiple diversions and pipes have been removed.

### **Elbow Fork Tract**

This single-home tract does not have a homeowner's association, as such. However, the EA will examine the effects of including this cabin's existing water system in the summer home permit.

#### **1.2.3 In-Lieu Lots**

“In-lieu” lots are those lots within a tract that are currently not occupied, but which are identified as possible replacement sites for existing dwellings. As this environmental analysis proceeded, issues related to stream and riparian impacts were highlighted. As a consequence, an interdisciplinary team of Forest Service biologists and other resource specialists (IDT) identified two new lots the Porter Fork tract which could be used to relocate homes to sites more removed from the stream corridor. These in-lieu lots are located just above the confluence of Porter Fork and Mill Creek drainages and would be separated from the Porter Fork Creek by the main tract road (Figure 3). As time goes on and the opportunity presents itself, homes located very near the stream and with little buffer, or in an otherwise less desirable location, could be relocated. Regardless, at the tract level no additional use would occur if either or both of these in-lieu lots were utilized, since the homes on currently occupied lots would be removed and the sites restored.

### **1.3 Proposed Action**

The Forest Service Proposed Action is to allow continued recreation residence use at the 70 summer homes in the Porter Fork, Elbow Fork, and Firs recreation residence tracts for a 20-year period, beginning on January 1, 2009. The new permits would be effective January 1, 2009 and would expire on December 31, 2028. These new permits would replace the existing recreation residence term special use permits that expire on December 31, 2008. In addition, the Proposed Action includes designating the two in-lieu lots described above in Porter Fork and authorizing the existing tract improvements identified above in section 1.2.2.

Over the past few years, homes in the three tracts have been inspected and homeowners have been notified of instances where action is needed to make their use consistent with

the terms and conditions of their special use permit and other requirements. The actions needed included such items as removing structures from riparian areas, removing playground type equipment and zip lines, restoring vegetation around cabins to natural vegetation and refraining from watering vegetation, bringing home and tract water systems into compliance with Salt Lake Valley Health Department and Salt Lake City Department of Public Utilities requirements. Much of this work has been completed, or is underway.

It is required that each homeowner be in compliance with all terms and conditions of their current authorization before a new 20-year permit can be issued when their current permit terminates on December 31, 2008. Homeowners who fail to bring their use into compliance will be required to remove their home and all improvements from the National Forest and rehabilitate the site (FSM 2721.23(j)). Since it is not possible to know whether this situation will actually occur, the analysis of the Proposed Action in this EA assumes all homeowners will comply. Based on inspections conducted in 2006 and 2007, there are a number of recreation residences in the three tracts where work may be needed to come into compliance. This is summarized in Appendices C and D.

## **1.4 Purpose and Need**

The purpose of the Proposed Action is to provide for continuation of recreation residence use within the three existing tracts in Mill Creek Canyon in accordance with the Forest Plan and applicable Forest Service direction. Recreation residences are identified under national policy as a valid use of NFS lands. It is agency policy to continue recreation residence use and to work in partnership with the holders of these permits to maximize the recreational benefits of these residences. The Cabin User Fee Fairness Act of 2000 directed the Forest Service "to ensure to the maximum extent practicable, that the NFS recreation residence program is managed to preserve the opportunity for individual and family-oriented recreation..." The National Environmental Policy Act of 1969, as amended, (NEPA) requires that an environmental analysis be conducted to determine the effects of continuing recreation residence use for another 20-year permit.

The needs for this action include the following:

- Addressing the fact that all existing permits for recreation residences for the Mill Creek area will expire on December 31, 2008.
- Updating permits to incorporate existing improvements which are consistent with Forest Service requirements and policy, but which have not been previously identified.
- Properly authorizing existing tract association improvements.
- Identifying additional requirements and mitigation measures which are needed to assure compliance with Forest Service policies and permit conditions.
- Designating lots within the Porter Fork tract where recreation residences could be relocated in order to minimize environmental impacts.

### 1.4.1 Wasatch-Cache Forest Plan Direction

Much like a County land use plan, Forest Plans provide the fundamental framework for determining what uses of the land are appropriate in specific areas and outlining management requirements across an entire National Forest. Management Prescription Categories (MPCs) provide the “zoning” in the Wasatch-Cache Forest Plan. Recreation residences in Mill Creek Canyon are located in two MPCs. MPC 4.5 applies to most areas in the canyon corridor and emphasizes developed recreation uses, such as campgrounds, picnic areas, ski areas, and recreation residences. Areas within 300 feet of streams fall within MPC 3.1A, where the emphasis is on watershed protection and aquatic habitat management. In 3.1A areas, a primary goal is protection and restoration of proper hydrologic function of streams and adjacent riparian areas.

Forestwide management direction also includes standards and guidelines which address recreation residences. They include the following:

- Allow no net increase in the number of recreation residences (S29).
- Before issuing recreation special use authorizations, ensure that each proposal clearly demonstrates why use of National Forest system lands is necessary ... Use the process identified in FSH 2709.11 to determine whether special use proposals will be accepted for detailed review under NEPA. Provide only for authorizations that meet the tests of prudent, reasonable, and absolutely in the public interest (G81).
- Recreation residence tracts (including Elbow Fork, Firs, and Porter Fork) will continue to be allocated as special use development areas (G82).

Appendix A of this document contains a complete list of references pertaining to recreation residence special use permit administration and process for determining whether to continue this use in the future.

Forest Service policy (FSM 2721.23e(1)) requires that recreation residence permit holders be in compliance with the Forest Plan and other applicable requirements before they can be issued a new authorization when their current one expires. In order to assess compliance, the IDT reviewed the Mill Creek Canyon tracts and documented their findings in a Consistency Review (WCNF 2005). In it, they determined that the recreation residence tracts were consistent with the Forest Plan in areas pertaining to recreation, cultural resources, vegetation, wildlife, transportation. In other areas, such as requirements for aquatics and riparian areas, the team found that actions could be reasonably taken to make recreation residence use consistent with the Forest Plan.

While the Consistency Review was undertaken at the tract level, compliance for each individual recreation residence is required before a new permit can be issued. Those permit holders who do not undertake the actions necessary to bring their homes into compliance with the Forest Plan, the terms and conditions of their existing permit, and other applicable requirements may not be issued a new 20-year authorization. This may require homeowners to remove their home and all other improvements from the National Forest.

## **1.4.2 Recreation Residence Administrative Guide**

Prior to 2006, the only specific guidance related to how recreation residences should be managed and administered was contained in the terms and conditions of the individual special use permits and a brief set of guidelines included in the prior, 1985 Forest Plan for the Wasatch-Cache National Forest (WCNF 1985). These did not contain adequate direction for what uses might be appropriate on summer home lots, establish limits for more urban types of improvements, include standards for environmental protection, nor include other measures that would have helped both homeowners and the Forest Service permit administrator. To address that need, in 2005 a draft Recreation Residence Administrative Guide was developed for the Wasatch-Cache National Forest and sent to homeowners for comment. Following review of comments and further editing, the final Administrative Guide was put into place in February 2006 and copies were again sent to all recreation residence permit holders (WCNF 2006a). As this EA was being prepared, a revision to the Administrative Guide was completed (WCNF 2008). Hereafter in this EA, the Administrative Guide referred to is this updated version.

The Administrative Guide describes the desired conditions for a typical lot, its cabin, structures, and other improvements. Major sections of the document include recreation residence use, permit administration, general recreation residence guidelines, construction and reconstruction, building style and design, general lot improvements and management; as well as exhibits for forms, non-compliance and historic properties. The 2008 revision incorporated mostly minor editorial changes. It also includes a section instituting more specific restrictions for those summer homes located near streams and riparian areas. These riparian protection measures are included in Chapter 3 of this EA as Table 1.

## **1.5 Decision to Be Made**

The decision to be made is whether or not to continue recreation residence use at the three Mill Creek Canyon tracts for another 20-year term, and if so, under what terms and conditions. In addition, the decision includes consideration of whether to authorize, and in some cases amend the authorization for, a number of long-existing improvements in the three tracts. Finally, a part of the decision to be made includes whether to designate two in-lieu lots in the lower Porter Fork drainage, near the confluence with Mill Creek. Brian Ferebee, Acting Forest Supervisor, is the Forest Service official responsible for making these decisions.

## **1.6 Scoping and Public Involvement**

Informally, recreation residence permit holders were informed of the upcoming permit reissuance process beginning in 2003 at annual tract association meetings and in a number of letters sent to them regarding the need to remove or modify unauthorized improvements. Formal public and homeowner notification of the NEPA process for permit reissuance began in March 2006, when a scoping letter was sent to agencies, organizations, recreation residence owners at Mill Creek Canyon, and members of the

public who had previously expressed interest in being informed of proposed Forest Service actions, or who were potentially affected by the proposal.

A total of ten written responses were received during the scoping process. This included seven letters from Firs permit holders, a letter from Salt Lake City Department of Public Utilities and a letter from a local environmental organization. No written comments were received from either Porter Fork or Elbow Fork permit holders related to the proposal. A single comment letter was received from a Porter Fork permittee concerning the Mill Creek dog issue that was outside the scope of this analysis.

A 30-day public comment period followed release of the Preliminary EA on June 28, 2007. During this period, eight written or email comments were received. Appendix B summarizes the individual comments received during this phase of public involvement and provides an agency response for each.

### **1.6.1 Issues**

An IDT developed a list of issues that are the subject of detailed analysis in this EA and which are listed below. In developing this list, the team considered the input received during the public involvement process, incorporated the technical expertise of each group member. Those issues that were critical to making reasoned choice among the alternatives under consideration, were ones where legal or agency policy requires analysis and disclosure, or where the potential exists for significant environmental effects were identified for detailed review in Chapter 3. Issues were not carried into detailed review if they were: 1) outside the scope of the proposed action; 2) conjectural or based on inconclusive or incomplete evidence; or 3) already resolved by law, policy, or regulation. In addition, comments about homeowner's compliance with the terms and conditions of their existing permits were considered issues that could be resolved administratively. A complete summary of the comments received during scoping that help explain why certain issues were not considered in detail, is documented in the project file and available upon request from the Salt Lake Ranger District. The issues that are the subject of in-depth analysis include the following and address the questions of how continued recreation use, including existing tract improvements and the addition of two in-lieu lots, would impact the resource areas below.

#### **Fish and Wildlife**

- What will be the effect on aquatic life, including threatened, endangered, and Forest Service sensitive species, such as the Bonneville Cutthroat trout? As a component of the aquatic ecosystem, how will the use affect Riparian Habitat Conservation Areas?
- How will continued use affect wildlife, including threatened, endangered, and Forest Service sensitive species? What will be the impact to migratory bird species and Forest Service management indicator species?

### **Vegetation**

- How will recreation residence use affect vegetation, including threatened, endangered, and Forest Service sensitive plant species?
- To what extent will recreation residence use affect the spread of noxious and non-native invasive plant species?

### **Soil and Water**

- How will recreation residence uses affect water quality and quantity? What will be the effects on streams, floodplains, and wetland function?
- Will recreation residence permit holders be in compliance with State and local government requirements for water use and stream and spring diversions?
- To what extent will continued recreation residence use affect soils, including the effects of bare soil conditions created by vehicle and pedestrian traffic within each tract?

### **Recreation, Wilderness, Scenery, and Historic Resources**

- How will visual resources in Mill Creek Canyon be affected by continued recreation residence use and associated improvements?
- How will summer home use affect access and the recreation experience and safety for other visitors to Mill Creek Canyon?
- How will the adjacent Mount Olympus Wilderness Area be affected by continued recreation residence use of the Porter Fork Tract?
- What will be the effect on homes and other improvements that are eligible for National Register of Historic Places, including those which are located in riparian areas?





