

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

### **1.1 Introduction**

This environmental assessment (EA) documents the analysis of effects associated with the proposed re-issuance of 20-year special use permits for 70 recreation residences located in Mill Creek Canyon, on the Wasatch-Cache National Forest and Salt Lake Ranger District. 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 reauthorize this recreation use under a new special use permit.

### **1.2 Background**

Recreation residences, sometimes referred to as summer homes, are an historic and well-recognized recreation experience for thousands of National Forest visitors. 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 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 in the 1920s. By the 1950s, most of the developed public recreation sites and summer homes were in place. Generally, summer home groups are organized and administrated 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 home lots respectively. No vacant, "in-lieu" lots have been designated in any of the three Mill Creek Canyon tracts. In-lieu lots are sometimes used to relocate a summer home to a lot more appropriate for the use. Since no in-lieu lots have been designated in Mill Creek Canyon, they are not discussed further in this EA.

The 2003 Forest Land and Resource Management Plan for the Wasatch-Cache National Forest (Forest Plan) calls for the recreation residence program to continue and for the Forest Service 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. Operations and maintenance requirements for recreation residences are listed in the special use permit, the permit's Operations and Maintenance Plan and in the Wasatch-Cache Recreation Residence Administrative Guide (February, 2006). In addition, each special use permit requires that homeowners comply with all applicable laws, regulations, and ordinances of Federal, State, and local government.

### 1.2.1 Description of Project Area

Three project areas, surrounding each of the three tracts, form the basis for the analysis of the direct impacts addressed in this EA. The County road extending up Mill Creek Canyon 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 4 miles up Mill Creek on the Porter Fork tributary on the south side of the county road, near the Mill Creek Guard Station and Terraces Picnic Area. Access to 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 5 miles up Mill Creek on the south side of the County road, near the Elbow Fork trailhead. Finally, the Firs tract is located about 6 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 Township 1 South, Range 2 East, Sections 25, 26, 27, 34, and 36. 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 tract. Thus the project areas for Porter Fork, Elbow Fork, and Firs tracts is approximately 15-20, 1/2, and 9-14 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 exposure. 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 sideslopes and mixed conifer forest vegetation is common on north-facing and upper elevation slopes.

Mill Creek Canyon is managed for relatively intensive recreation day use. 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 recreation 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 authorized to 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 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. 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, a decision was made to authorize Porter Fork Summer Homeowner's Association to construct and operate a tract-wide water system that would bring them into compliance with State and local laws and regulations. Much of the work involved in installing this new system was completed in the fall of 2006. It is expected that in the spring and summer of 2007 all homes will be connected to this system. This EA incorporates this information in its analysis and is a part of the proposed action.

### **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.

## **1.3 Proposed Action**

The Forest Service proposes to authorize continued recreation residence use at 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 will be effective January 1, 2009 and will expire December 31, 2028. These new permits will replace the existing Recreation Residence Term Special Use Permits that expire on December 31, 2008. As noted above, there are no in-lieu lots in Mill Creek Canyon and no additional recreation residences beyond the existing 70 units will be authorized. In addition to reauthorization of use the existing summer home lots, the proposed action also includes 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 all 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, 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. Since it is not possible to know whether this situation will actually occur, the Proposed Action assumes all homeowners will comply.

## **1.4 Purpose and Need**

On September 1, 2005 a review was completed by Forest Service resource specialists to determine whether recreation residence was consistent with the Forest Plan and other applicable laws and regulations. Based on the input provided by this group, it was

determined that recreation residence use at the three tracts was consistent, or could be modified to be consistent, with the Forest Plan and other requirements. The primary areas which raised questions whether use was not currently consistent with the Forest Plan included:

- Riparian and stream channel modifications.
- Potential associated impacts to fish and aquatic species.
- Improvements for which no approval documentation can be located and which is inconsistent with the Recreation Residence Administrative Guide, or other Forest Service requirements.
- Compliance with Salt Lake City ordinances pertaining to water diversions and use.
- Consistency with State and Salt Lake Valley Health Department regulations for home and cabin water use.

The purpose of the project 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 National Forest System 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 (NEPA) requires that an environmental analysis be conducted to determine the effects of continuing recreation residence use for another 20-year permit. Existing permits for recreation residences for the Mill Creek area will expire December 31, 2008.

The needs to be met for this action include the following:

- Making a decision whether to continue recreation residence for the 70 summer home permits in a timely fashion relative to their common expiration date.
- Updating existing 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.

#### **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 outline management requirements across an entire National Forest. Management Prescription Categories (MPCs) provide the "zoning" in Wasatch-Cache Forest Plan. Recreation residences in Mill Creek

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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 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 continuance.

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 current compliance, an interdisciplinary team of Forest Service resource specialists reviewed the Mill Creek Canyon tracts and documented their findings in a Consistency Review. 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**

The Wasatch-Cache National Forest Recreation Residence Administrative Guide (Administrative Guide) was last updated in February 2006 and serves both as an administrative tool for the Forest Service and a reference for recreation residence permit holders on the Forest. The guide describes the desired conditions for a typical lot, its cabin, structures and improvements. Major sections of the guide 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.

## **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. 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. Faye Krueger, 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 removal or modification of unauthorized improvements. Formal public and homeowner notification of the NEPA process for permit reissuance began with the listing of the proposal in the Summer 2006 Forest Schedule of Proposed Actions. Direct public contact 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 actions or who were potentially affected by the proposed action.

A total of 10 written responses were received. This included seven letters from Firs permit holders, a letter from Salt Lake Public Utilities and a letter from the Utah Environmental Congress association. No written comments were received from Porter Fork permit holders or from the Elbow Fork permit holder related to the proposed action. One comment was received from a Porter Fork permittee concerning the Mill Creek dog issue that is outside the scope of this analysis. No other written comments were received from Porter Fork permit holders or from the Elbow Fork permit holder related to the proposed action.

### **1.6.1 Issues**

The Interdisciplinary Team developed a list of issues based on comments received during public scoping. Concerns raised by team members were also discussed and added to the issues list. The ID Team then examined the list to determine if the issues identified were significant issues that will be analyzed in Chapter 3, “Affected Environment and Environmental Consequences”. Issues were considered non-significant 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 non-significant issues that could be resolved administratively. A complete summary of the comments received during scoping that help explain why certain issues were not considered significant, is documented in the project file and

available upon request from the Salt Lake Ranger District. Significant issues are those which are the subject of detailed analysis in this EA. They include the following:

### **Fish and Wildlife**

- What will be the effect of continued recreation residence use 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 continued summer home use affect Riparian Habitat Conservation Areas?
- How will continued recreation residence 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 continued 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 use affect water quality and quantity? What will be the effects on stream, floodplains, and wetland function?
- Will recreation residence permit holders be in compliance with State and local government requirements 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?
- 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?

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