

Decision Notice
& Finding of No Significant Impact

Recreational Residence Rebuilding and the Issuance of
New 20-Year Permits for the North Fork San Gabriel
Recreation Residence Tract and the San Dimas Canyon
Recreation Residence Tract

USDA Forest Service
San Gabriel River Ranger District, Angeles National Forest, Los Angeles County, California

Decision and Reasons for the Decision

Background

The North Fork San Gabriel Tract was severely impacted by the Curve fire, which started on September 1, 2002, destroying 50 (81%) of the structures. The San Dimas Canyon Tract was impacted by the Williams fire, which started on September 22, 2002. The Main Fork of the San Dimas Tract lost 34 (87%) of the structures, while the West Fork lost 26 (71%) structures.

Forest Service Handbook (FSH) 2709.11, R5 Supplement No. 2709.11-2000-1, Section 41.23 (6) provides the following direction: "Following destruction or substantial damage (greater than 50 percent) 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 Resources Management Plan."

The 1994 National Policy set direction for issuing new term permits for recreation residences. Decisions to issue new recreation residence term permits, following expiration of the current term permit, requires a determination of consistency with the current Forest plan. When recreation residence use is consistent with the Forest plan, it shall continue (Forest Service Manual 2721.23e). The environmental assessment (EA) documents the analysis of four alternatives to meet this need.

Decision

Based upon my review of all alternatives, and from comments received, I have decided to implement Alternative 3, which is known as the Modified Proposed Action. Rebuilding will be permitted on lots that are next to roads meeting county emergency access codes. The rebuilt and existing cabins would receive new 20-year recreation residence term permits upon expiration of the current permits on December 31, 2008, provided they meet applicable county, state and federal requirements.

In the North Fork San Gabriel Tract four existing cabins (Lots 123, 127, 136 and 161) and three rebuildable lots (Lots 155, 156 and 157) would be permitted under this Decision Notice. **Eight existing cabins (Lots 11, 12, 13, 18, 21, 38, 39 and 40), located in Gates 1 and 2, are withdrawn from this alternative. The US Fish and Wildlife Service (F&WS) recently designated the lower portion of the North Fork San Gabriel River as critical habitat for the**

Santa Ana sucker (*Catostomus santannae*), a Federally Listed Threatened species. The issuance of 20-year term permits for this group of cabins will be addressed in a separate decision document pending an existing request for consultation on recreation residences before the F&WS, dated October 2001. A total of seven lots would be permitted for the North Fork San Gabriel Tract, with eight additional lots pending the F&WS finding (15 lots total).

In the Main Fork San Dimas five existing cabins (Lots 21, 26, 33, 35 and 67), one rebuildable lot (Lot 85), and two in-lieu lots (Lots 7 and 84) would be permitted. A total of 8 lots would be permitted for the Main Fork San Dimas.

In the West Fork San Dimas ten existing cabins (Lots 8, 10, 24, 28, 45, 49, 51, 52, 56, and 80) would remain. No in-lieu or other rebuildable lots were identified, for a total of 10 lots permitted in the West Fork San Dimas.

Permittees with existing cabins would be considered existing, non-conforming. Prior to receiving new term permits effective January 1, 2009, existing cabin permittees would have to be in compliance with the terms and conditions of their current special use permit, correct any deficiencies described in the Recreation Residence Consistency Review Checklist (RRCR) and meet county codes for septic/sanitary systems and potable water systems for any apparent or obvious health and safety deficiencies. New construction would conform to county, state and federal codes current to the time of construction.

Road or trail access to Lots 123, 127, 136, 155, 156, 157 and 161 in the North Fork San Gabriel Tract would remain the same. Maintenance costs for the Gate 4 permittees (Lots 155, 156 and 157) of the North Fork San Gabriel tract are estimated to be \$735 annually, or \$7,350 over ten years. Maintenance costs would be shared by Gate 4 permittees. Access to Lots 11, 12, 13, 18, 21, 38, 39 and 40 will be addressed along with the issuance of 20-year term permits in a separate decision document. The EA estimated that immediate costs for culverts and river crossing for Gate 1 (Lots 11, 12 and 13) would be approximately \$35,000; for Gate 2 (Lots 18, 21, 38, 39 and 40) would be approximately \$80,000. These costs would be shared by the respective permittees at each gate location (EA page 24 and Table 2, page 15). The estimated costs for Gates 1 and 2 may change pending the F&WS ruling.

Road access to the cabins in the Main and West Fork San Dimas Canyon Tract would be repaired or reconstructed to standards of road maintenance level 2, traffic level D, at an immediate estimated cost of \$25,000 for each road, but would not be repaired or reconstructed to previous standards. Costs would be shared by the permittees respective to each fork. Annual maintenance costs for the Main and West Fork of the San Dimas Canyon Tract are expected to average \$14,500 per fork, or \$145,000 over ten years.

Due to changes in conditions associated with the recent wildland fire and subsequent debris flows and flash flooding, the West Fork and Main Fork channels of the lower San Dimas have altered stream flows. In many sections the road is now in the streambed. Channelization of the streambeds and road stabilization would cause significant adverse affects (see Alternative 2 in the EA). It would be several years before natural down cutting of the channels allowed for separate road and channel locations, with no guarantee that subsequent debris flows or flood events would not again affect the channel levels.

In addition to these environmental concerns, the safety and well being of all users of national forest system lands, and for those providing emergency services, are taken very seriously. Past occupancy and use of a lot does not always equate to being the safest or well intentioned when conditions have changed (Term Special Use Permit Clause IX, B, and 36 CFR 251.64).

I have taken these factors into consideration when determining the access and suitability of a lot for rebuilding. Therefore, all existing cabins in the West Fork San Dimas (Lots 8, 10, 24, 28, 45, 49, 51, 52, 56 and 80), four existing cabins in the Main Fork San Dimas (Lots 21, 26, 35 and 67), and four existing cabins in the North Fork San Gabriel (Lots 123, 127, 136 and 161) will receive new recreation residence term permits per the terms and conditions mentioned above. **However, in the event that structures are lost due to any natural or catastrophic event, the existing permittees will not be allowed to rebuild and may be offered in-lieu lots elsewhere, if available. This statement will be included on the face of the recreation residence term permit for the above-mentioned Lots.** Depending upon the outcome of the existing request for consultation on recreation residences before the F&WS, this statement may also apply to North Fork San Gabriel Lots 11, 12, 13, 18, 21, 38, 39 and 40.

This statement **will not** be applied to the following Lots: on the Main Fork San Dimas; an existing cabin, (Lot 33), one rebuildable lot (Lot 85), or two in-lieu lots (Lots 7 and 84), and the rebuildable lots on the North Fork San Gabriel (Lots 150, 151 and 152) because they do not require stream channel access and meet current emergency access standards.

In-lieu lots for current term special use permit holders may be available in other recreation residence tracts located on the San Gabriel River Ranger District of the Angeles National Forest, and if demand is sufficient in-lieu lots may be made available within recreation residence tracts elsewhere on the Angeles National Forest. Permittees requesting an in-lieu lot will be required to post a (refundable) construction bond of \$20,000 (Code of Federal Regulations (CFR) 36, Part 251.56, (e)). Permittees that would like consideration for an in-lieu lot must contact me, District Ranger Marty Dumpis, by July 26, 2004. Requests must be in writing, mailed to Marty Dumpis, District Ranger, San Gabriel River Ranger District, 110 N. Wabash Avenue, Glendora, CA 91741.

Permittees who chose not to rebuild or apply for an in-lieu lot by the above date will receive a letter stating that their existing Recreation Residence Term Special Use Permit is revoked (Term Special Use Permit, Clause X, B). The condition to remove any improvements and restore the lot required by Clause X, A would be waived. Those lots on which the improvements were destroyed by the wildfires have already been restored to a condition approved by the authorized officer.

Recreation residences are a valid use of National Forest System lands, and an important component of the overall National Forest recreation program. It is Forest Service policy to continue recreation residence use and to work in partnership with holders of these permits to maximize the recreational benefits of these residences [Forest Service Manual (FSM) 2347.1].

The existing recreation residence term special use permits will all expire on December 31, 2008. This decision will allow for authorizing a continuing use of recreation residences within the two tracts that is consistent with the Forest Plan, and minimizes the environmental effects and hazards of continued occupancy. Issuance of permits allows for use, occupancy, and

maintenance of recreation residences and the associated lots. Permittees are required to meet the following general conditions:

- 1) Permit holders must be in compliance with the terms and conditions of their current Term Special Use Permit, FS-2700-5a and CFR 36 Part 251.56;
- 2) Permit holders must be in compliance with State of California and Los Angeles County standards for sanitation and water systems, which allows for existing, non-conforming (Term Special Use Permit (Permit), Clause IV, A);
- 3) Each permit holder will have an Operations and Maintenance (O&M) Plan showing specific actions necessary to maintain compliance (Permit, Clause II);
- 4) If a threatened, endangered, or sensitive species is found that affects any tract for the duration of the permit, the forest biologist will be notified to determine mitigation measure for protection of the species (Permit, Clause XI, G);
- 5) Permits and O&M Plans will be prepared prior to fall of 2008, and will be issued effective January 1, 2009.

Forest Service Handbook 2709.11, 41.23a, 3 states, "Ensure the current use is in full compliance with the terms of the permit before issuing the new term permit." The environmental analysis must be conducted with the assertion that permit holders are in compliance because a decision to issue permits requires the holder to be in compliance to receive that permit. Not to require compliance would violate Forest Service regulations and policy. The Purpose and Need is to continue recreation residence use, which requires compliance for permit issuance.

Other Alternatives Considered

In addition to the selected alternative, I considered three other alternatives. A comparison of these alternatives can be found in the EA on pages 13-33.

Alternative 1

No Action

Under the No Action alternative, current management plans would continue to guide management of the project area. No rebuilding would occur, and the current 27 cabins would receive new term special use permits upon expiration of their permits on December 31, 2008. I did not select Alternative 1 because the EA identified rebuildable and in-lieu lots within each Tract, which are consistent with the Forest Plan. In addition, the majority of the respondents to the EA requested a modified Alternative 2, which is Alternative 3 (EA, Appendix E).

Alternative 2

Alternative 2 would have permitted the maximum reconstruction of cabins lost in the fires, and the re-issuance of new term special use permits upon expiration of current permits on December 31, 2008. Roads in each tract would conform to County of Los Angeles, state and federal guidelines. The Main and West Fork of the San Dimas would be channelized and a minimum of three concrete culverts installed in the North Fork San Gabriel. The roads, channelization and culvert placements are estimated to cost \$8,046,818 and would be at permittee expense. A total of 83 term special use permits would be issued for the North Fork San Gabriel and San Dimas Canyon Tracts in January of 2009. In-lieu lots may be provided elsewhere.

I did not select Alternative 2 because the impacts to the environment would likely be significant, and an environmental impact statement would be required. Access and maintenance costs to the permittees would be very high. Additional costs and delays would result if an environmental impact statement were conducted. In addition, many of the respondents to the EA concurred with the findings of the EA that Alternative 2 would require an Environmental Impact Statement as well as requesting a modified Alternative 2, which is Alternative 3 (EA, Appendix E).

Alternative 4

Alternative 4 would phase out the North Fork San Gabriel and San Dimas Canyon Tracts. In-lieu lots may be provided elsewhere (Term Permit, Clause X, B). No rebuilding would occur. Existing cabins would be given 10 years continued use from the date of decision, or the permittee would have the option of allowing the government to purchase the recreation residence. At the end of ten years the recreational residence special use for the two tracts would cease, the area would be restored and both tracts would revert to alternative public use. If this alternative were selected, a separate environmental analysis for the alternative public uses would be conducted.

The existing 27 permittees with standing cabins would have to be in compliance with the terms and conditions of their special use permit, correct any deficiencies described in the Recreation Residence Consistency Review Checklist (RRCR) and meet county codes for septic/sanitary systems and potable water systems. Per the terms of their permit, a permittee may be paid damages if the permit is revoked in the public interest, or at the end of the ten-year term, and would be responsible for the removal of their improvements and site restoration. Site restoration is estimated to range from \$10,000 to \$25,000 per site.

An estimate of \$75,000 per cabin, or a total cost to the government of \$2,100,000 is possible if all permittees were paid for damages. The payment of damages in the event that permits are revoked in the Public Interest (Term Permit, Clause VII, B), is subject to the availability of funds or appropriations. Actual costs may be higher or lower, depending upon appraisal figures at the time of the accepted payment of damages.

I did not select Alternative 4 because it would require additional environmental analyses, one to analyze the alternative public uses and possibly another within two years of the permit termination if conditions had changed since the original decision to phase out the tracts (Term Special Use Permit Clause IX, A, 2, c). If significant or adverse effects associated with alternative public uses were discovered, an environmental impact statement may be required. Depending upon the decision, a Forest Plan amendment may be required. Costs to the government may exceed \$2,100,000, with a loss of \$192,250 in revenue over a ten-year period (EA page 27). In addition, the majority of respondents to the EA requested a modified Alternative 2, which is Alternative 3 (EA, Appendix E).

Public Involvement

A proposal to issue new recreation residence term special use permits for all existing permittees with lots meeting the consistency review was listed in the Angeles National Forest's Schedule of Proposed Actions on each quarter beginning with the December 2002 issue. A scoping letter was mailed February 16, 2003, to 700 permit holders, public individuals and agencies, and posted on the Angeles National Forest website, for comment. The Notice of Proposed Action was

published in the Legal Notices section of the Los Angeles Times on February 20, 2003. The Notice of Proposed Action was also published in the Legal Notices section of the San Gabriel Valley Tribune on February 24, 2003 (EA page 9).

Letters dated December 1 and December 21, 2002 were mailed to all permittees explaining the process that would be done to determine if rebuilding would be allowed. The December 21, 2002 letter included all the forms and checklists that would be used from the consistency review through the county building process if rebuilding were allowed.

Using the comments from the public, other agencies, tribal authorities and newspaper articles (see *Issues* section of the EA, page 10), the interdisciplinary team identified several issues regarding the effects of the proposed action. Main issues of concern included no rebuilding of recreation residences, habitat restoration of the tracts, the cost of meeting codes are too expensive, especially the cost of building roads to county fire codes, and that the use of the public land around the cabins has changed because of the increasing influx of visitors who disturb the recreational residence experience. The permit states that if the permit is revoked in the public interest, the holder shall be paid damages (see EA page 27). To address these concerns, the Forest Service developed the alternatives described above.

The Environmental Assessment and a summary of the Consistency Review Findings were mailed to all (141) North Fork San Gabriel and San Dimas Canyon Tract permittees, public agencies and individuals, and posted on the Angeles National Forest website for comments on October 25, 2003. A legal notice and invitation to comment was published in the Inland Valley Daily Bulletin, the Los Angeles Times and the San Gabriel Valley Tribune on October 27, 2003. The comment period closed November 28, 2003. Two hundred eighty eight (288) comments (email, FAX, letter and phone calls) were received (Appendix E). Code of Federal Regulations (CFR) 36 Part 215, Notice, Comment, and Appeal Procedures, describes the comment procedures.

Based upon the 36 CFR Part 215 procedures, and the comments associated with the Environmental Assessment, 46 respondents suggested, "...fire victims in these tracts could be required to make a binding commitment (e.g. post a bond of rebuilding intent)...". In addition, an overwhelming majority of the respondents requested either Alternative 2 or a modified version of Alternative 2 (e.g. Alternative 3) be selected. I have taken these comments into consideration with my decision to select Alternative 3.

Finding of No Significant Impact

After considering 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 considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

- 1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.**

The beneficial effects of the action do not bias my finding of no significant environmental effects.

2. The degree to which the proposed action affects public health or safety.

There will be no significant effects on public health and safety. Compliance with state and county regulations related to sanitation and water systems will ensure the likelihood of safer community and small water systems that deliver water to the cabins. Testing and permitting wells and small systems, and treatment of surface water through chlorination or filtration will ensure that water systems meet standards for potable water. Access to rebuilt sites and in-lieu lots will meet County, State and Federal standards for fire fighter and residence safety. Roads will be stabilized. Fewer numbers of permittees would be using the tracts, reducing associated recreation residence environmental impacts and threat of wildfire (EA, pages 30-34).

The Forest Service recognizes that the State and Counties have the authority and jurisdiction, through the Clean Water Act, to regulate and enforce individual wastewater disposal systems by way of regulations, standards and codes. We further recognize that these regulations, standards, and codes apply to recreation residence wastewater disposal systems because they are privately built, owned, and operated. The counties have determined that if recreation residences comply with the standards and regulations they have established, water quality is being maintained in adjacent rivers and lakes (EA pages 50-52; Appendix D).

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

There will be no significant effects on unique characteristics of the area, because there are no such areas to be affected. See discussion under Item 8 below concerning historic and cultural resources, and Item 9 concerning the Endangered Species Act.

A number of lots are within areas considered to be flood prone, and many have flooded in the past. There is a continued risk of loss of life and property due to future flooding, as well as changes in floodplain response due to the influence of flood protection walls and accelerated overland flows associated with the development. Both tracts are identified as having high geologic hazards due primarily to the potential for future mass wasting and debris flows (landslides). Fire will continue to pose future threats to both natural and cultural resources.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

The effects on the quality of the human environment are not likely to be highly controversial. The recreation residence program has been in place for over 85 years, and exists on many National Forests across the nation. There are over 14,500 recreation residences under permit nationally and over 6,000 in California. The maximum number of lots consistent with the Angeles National Forest Land and Resources Management Plan will be permitted within the two tracts. Permittees whose lots are not consistent with the Forest Plan may be offered in-lieu lots elsewhere. There is no substantial scientific controversy related to effects disclosed in the EA, therefore, there is no significant effect.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

We have considerable experience with the types of activities to be implemented. Many of the recreation residences have existed within these tracts since the 1920's and 1930's. Adverse effects to the environment are reduced or eliminated through permit administration and permit compliance. The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk (EA pages 43-56).

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The action is not likely to establish a precedent for future actions with significant effects. Alternative 3 is specific to the North Fork San Gabriel and San Dimas Canyon Tracts. Land allocations for recreation residence tracts are determined through land management planning. The Act of March 1915, as amended, and the Cabin Users Fee Fairness Act of October 2000 recognizes that recreation residences are a privilege, not a right, and provide a unique recreation experience to a large number of cabin owners, their families, and guests. Alternative 3 ensures, to the maximum extent practicable, that the National Forest System recreation residence program is managed to preserve the opportunity for individual and family-oriented recreation while meeting the standards and guidelines of the Forest Plan. The permit contains clauses providing revocation for public interest. Issuance of permits does not establish a precedent for future actions, nor does it represent a decision in principle about a future consideration.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

The action would not cause significant cumulative effects on biological and physical resources, even when considered in relation to other actions. (EA pages 54-56).

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

The action will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. Rebuilding will occur in previously disturbed areas and existing structures will remain (EA page 33).

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973. The *Angeles National Forest San Gabriel River Ranger District San Dimas and North Fork San Gabriel Recreation Residence Re-building and Permit Reissuance Biological Evaluation/Biological Assessment and Wildlife, Fish and TES Plants Input* (Hamann, September 18, 2003) determined that no species will be adversely affected by the proposed action, pending further determination from the United States Department of Interior Fish and Wildlife Service regarding the lower section of the North Fork San Gabriel Tract (see Biological Assessment for Recreation Residences (Angeles National Forest, 2000) and the Biological and Conference Opinions (US Fish and Wildlife Service, 2001).

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA (EA pages 1; 34). The action is consistent with the Angeles National Forest Land and Resources Management Plan (EA pages 56-57).

Findings Required by Other Laws and Regulations

The EA has been completed pursuant to Forest Service Handbook 1909.25. The issues and comments brought up by concerned citizens are addressed in Appendix E, Response to Comments. The EA is sufficient for me to determine whether or not to allow rebuilding and to proceed with the issuance of new 20-year Term Permits for Recreation Residences.

This decision to allow rebuilding and issuance of recreation residence term special use permits under Alternative 3 is consistent with the intent of the forest plan's long term goals and objectives, standards and guidelines, listed on pages 4-5, 22, 46 and 47 of the plan.

Implementation Date

This project will be implemented on or after the fifth (5th) business day following the close of the appeal-filing period if no appeal is filed within the 45-day time period. When an appeal is filed, implementation may occur on, but not before, the fifteenth (15th) business day following the date of appeal disposition.

Administrative Review or Appeal Opportunities

This decision is subject to appeal in accordance with 36 CFR 215.7. A notice of appeal must be in writing and clearly state that it is a Notice of Appeal being filed pursuant to 36 CFR 215.7. Appeals must be filed with Jody Noiron, Forest Supervisor, Angeles National Forest, 701 N. Santa Anita Ave., Arcadia, CA 91006-2799 within 45 days of the date of legal notice of this decision in the Inland Valley Daily Bulletin.

Contact

For additional information concerning this decision or the Forest Service appeal process, contact

Marty Dumpis, District Ranger, San Gabriel River Ranger District, 110 N. Wabash Avenue, Glendora, CA 91741

s/ Marty Dumpis
MARTY DUMPIS
District Ranger
San Gabriel River Ranger District

April 12, 2004
Date

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