

Written Testimony for:

Richard D. Almy
Past President, Lake Wenatchee Homeowners Association
Former Director, National Forest Homeowners
Member, Cabin Coalition 2

Before the:

U.S. House of Representative Natural Resources Subcommittee on National Parks, Forests and Public Lands hearing on H.R. 4888: "To revise the Forest Service Recreation Residence Program as it applies to units of the National Forest System derived from the public domain by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes."

April 22, 2010

Recreation Residence Permit Fees on the National Forest

Introduction of the Problem

In the late 1960's, the Forest Service revised their rules for establishing fees for Recreation Residence special use permits from a flat fee to a fee based on the appraised value of the lots, multiplied by 5%. Since that time, all three intervening appraisal cycles have resulted in repeated problems and numerous cabin owner appeals. Congress has been approached before to address the severe impact of a flawed fee-setting process.

The current process for determining a fee for the right to own and use a recreation residence on National Forest System land does not reflect the value of what is actually received. The Cabin User Fee Fairness Act of 2000 (CUFFA) was drafted with the intent of establishing a fair fee by including the permit restrictions in the appraisal valuation of the lot. The sponsor of the legislation, Senator Larry Craig reaffirmed this in his letter to Undersecretary Mark Rey on July 2, 2008. However, the law, as enacted, allows for a Forest Service implementation that ignores the negative impact of the restrictions. In short, CUFFA fails to value the actual use.

Senator Craig: "As original sponsor of the Cabin User Fee Fairness Act, I would like to bring to your attention some problems in its interpretation that are having adverse impact on some special use permit holders. Because of the Forest Service's exclusion of some property attributes, cabin lot appraisals are being made that seem to be much higher than the market values of such properties should be."

"I believe the text of the law is clear, and it was definitely my intent, to ensure the fair and consistent appraisal of cabin values in order to set cabin use fees using relevant market factors. The lack of an open market for these special use cabins is an obstacle for setting an appropriate fee, but the law's text as well as basic common sense can shed light on what market factors to consider and what the appropriate end results should be. Unfortunately, current Forest Service protocol evidently does not adequately consider the myriad restrictions in force on the appraised lots, which are market factors that would depress the valuation of these lots on the open market."

An often heard argument, in support of the current fee determination system under CUFFA, takes the position that, even with very high fees, some cabin owners can profit enormously at the time of sale. They argue that the

profits are due to the location of the cabin, rather than the structure. It is said that high annual fees compensate the US Taxpayer for those sale profits. In effect, the cabin owner pays a higher than market annual fee to adjust for a projected future profit. This logic assumes that a cabin can sell regardless of the fee. However, market evidence does not support this conclusion. Cabins in forests across the nation are currently finding no buyers because of the high fees and the uncertainties about the fee setting process. The loss of cabins due to unaffordable fees and the inability to sell is real and the consequences are severe (Exhibit 1A, Realtor Summary).

The many conditions and restrictions (Exhibit 1B) imposed by the permit and Forest Service guidelines are excluded from the appraisal valuation process and, the Forest Service argues, are included in the historic 5% multiplier that is applied to the fee simple appraised lot value to set the annual fee. The appropriateness of this 5% multiplier to fee simple valuation remains unsupported by the Forest Service and does not adequately adjust for the limited term of the permit, a limited bundle of rights, the lack of investment risk to the U.S. government, nor the substantial differences between the cabin program and other public and private markets in determining a fair market value for this use. There is a vast difference between the bundle of rights held by an owner of property in fee title and the handful of privileges and significant liabilities a cabin owner confronts under the terms of the Special Use Permit. The *Comparison of Recreational Home Site Leases*, a National Forest Homeowners study completed in January 2010 (Exhibit 1C), clearly confirms this point and further demonstrates that CUFFA-determined cabin fees far exceed "market" rates when compared to similar leased (or permitted) recreation land uses. The Cabin Fee Act of 2010 (CFA), in contrast, would establish rates that more fairly reflect "average market rates and revenues".

The appraisal process that was employed before CUFFA 2000 and appraisal results under CUFFA have resulted in unfairly high fees. CUFFA was purportedly the answer, but resulted in the same old process. It was not an improvement. Cabin owners are not complaining about having to pay higher, -based fees, but *do* object to unfairly high fees determined by a flawed fee-setting process under CUFFA.

The *Economic Impact Survey, Final Report*, National Forest Homeowners, April 2009, demonstrates that the vast majority of cabin owners are middle class. Survey data confirms that there are *many* cabin owners with annual CUFFA fees starting at \$5,000 and they go up from there. These folks are *not* wealthy and very much fit the picture of average Americans. The mischaracterization of cabin owners as wealthy, which is sometimes heard and based on some very high profile exceptions, diverts the conversation away from the real issue, which is appraisal subjectivity and the extreme variation in annual fees under CUFFA, that range from \$125 to \$76,000 for a recreation residence permit holder's restricted use of public lands. Furthermore, an individual's financial status or 'ability to pay' should not be the litmus test for determining a fair fee for a use, as has been often heard. In fact, such an argument carried to its logical conclusion, implies eventually that *only* the very rich would have access to these cabins. Illustration 1A demonstrates these concerns.

The data in Illustration 1A were provided by Ted Freeman, Chief Appraiser of the Forest Service (Feb. 2010). They are from current CUFFA appraisals, representing approximately 44% of the nearly 14,000 recreation residences nationally. Of these completed appraisals (6,727), more than 35% have seen fee increases of 200% or higher. Also notable is that 19% of the new fees exceed \$5,000, 8.5% exceed \$7,000 and 3.7% exceed \$10,000. Over 29% are at or above the national breakpoint. These very high fees have resulted in cabin owners requesting and

paying for second appraisals. In many cases, these second appraisals have produced results considerably different than the original appraisal, demonstrating the inconsistencies and subjective nature of this process.

An example of this occurred near Wilson, Wyoming on the Black Canyon tract (Illustration 1B). The initial CUFFA appraisal resulted in an annual fee of \$27,250. The second appraisal, paid for by the cabin owner (\$4,000), resulted in a fee of \$19,250. In this case, the District Ranger decided to average the two for the final fee determination of \$23,250. Regardless of which appraisal is used, either of these fees is clearly unaffordable and has completely depressed any sale possibilities at Black Canyon. In this example, the consequences of the appraisal process and the vagaries of CUFFA are devastating to these cabin owners.

When annual fees reach the \$4,000 - \$6,000 range, the affordability and desirability of the Program for many cabin owners is lost, especially considering that many of these cabins have limited seasonal access (some less than three months) and limited or no utilities. (Some cabin owners must even carry their human waste home with them!) If an owner is forced to sell, we often find that the high fee can depress the sale price of the cabin. In some areas, these high fees have already made cabins unmarketable. The short story is, the costs outweigh the benefits and no buyer (however wealthy) is inclined to buy a cabin facing such fees. The May 2007 auction at Lake Wenatchee resulted in no bidders at an opening price of \$50,000. Also, we often hear that people of wealth did not become wealthy because of poor financial decision making. Furthermore, as fees keep escalating and marketability dries up, a perverse incentive is created to stop maintaining or investing in the cabin. This incentive is not in anyone's interest.

We believe that without change to the current fee-setting mechanism, that at least 15% of cabins (2,100) will be lost due to the inability to sell and inability to afford the fee. This cabin loss would lead to a 30% loss of revenue (\$12M) to the government, because it is those cabins with "higher than market" fees that will be lost (refer to illustration 1A) and *this is only in the current appraisal cycle*. What will the consequences be in the next round of appraisals, if the flawed fee-setting process is allowed to continue? Will another 15% of the cabins be lost when those owners are unable to sell? We believe the very existence of the Recreation Residence Program is threatened.

Though certainly well intended, CUFFA failed to achieve a consistent and fair fee determination process. Congressional action is necessary, particularly in these times of economic stress and strain, to correct the problem once and for all and sustain the opportunity for family-oriented recreation through the Recreation Residence Program. In the absence of such action, the Recreation Residence Program will dwindle and family legacies will be lost. The demonstrated Program benefits for the public and Forest Service will also be lost and forest stewardship by cabin owners eliminated. We seek Congressional support to re-evaluate the fee-setting process and enact the Cabin Fee Act of 2010 (CFA) that comprehensively addresses these concerns with objective, fair and appropriate solutions and avoids the consequences of doing nothing.

Deficiencies of the Appraisal Process or "Why CUFFA doesn't work."

CUFFA *attempts* to define "market value" within the appraisal process. However, the process compares the permitted cabin lots to fee simple ownership of land, effectively ignoring the negative restrictions imposed by the permit and its inherent risks. This approach results in an inflated "market price" for such a restricted use. The 5% factor, said by some to appropriately adjust for the restrictions, is not sufficient. Simply changing the percentage will not produce fair results, either. The 5% factor results in cabin owners paying for the full fee simple value of

the land every 20 years, but never owning the land. Interestingly, we have heard field comments made by Forest Service appraisal staff that the 5% factor is probably too high. However, lowering it still does not solve the problem overall and would substantially reduce program revenues.

A fee that is based on a lower percentage may be fair at the high end but unfair at the low end. Conversely, a fee that may be fair at the low end will result in a fee that is unjust at the high end. Commonly, the geographic proximity of resort areas unfairly results in high fees for modest cabin tracts. The Comparison of Recreational Land Lease Study clearly demonstrates that the CFA produces above “average market revenues” for similar leased (or permitted) recreation land use and that CUFFA fees far exceed “market” rates as depicted in Illustration 1C.

An appraisal paradigm has many deficiencies. Below is a short list of a few of the more important deficiencies of the appraisal process. These deficiencies add to administrative headaches for the Forest Service and cabin owners alike.

- It does not provide adequate adjustments for *severe use restrictions* that are imposed by the term special use permit and Regional and National FS guidelines.
- It is a *subjective process* using opinions of value that vary from one appraiser to the next. How rigorous the process varies Forest to Forest, based on an individual’s interpretation of the data and attitude toward the Program. Upon second appraisals, District Rangers can choose the original appraisal, the second appraisal or something in between. We have seen examples of all these responses.
- It fails to account fully for the *limited season of use* in many areas. Some cabins become accessible only after July 4th and heavy snow can fly in September. Others are adjacent to lakes with dams and face serious drawdowns beginning in September, resulting in a less desirable location.
- It requires *vast amounts of time* and preparations both by the cabin owner and the Forest Service. Commonly, 20 to 40 page documents have been prepared by cabin owners to present to contract appraisers, as preparation for the appraisal. Add to this that the appraisal process itself, within a given Forest, often takes over six months to complete. The personnel and time costs are high.
- The process often requires *repeat appraisals* that lead to questionable conclusions. A glaring example just occurred on the Okanagon-Wenatchee National Forest, where implementation of the 1990’s appraisal has been completely withdrawn due to lack of supporting documentation. We now have cabin fees around the nation being based on appraisals from the 1970’s, the 1990’s and the 2000’s. This is not a system that is “fair” or “works”.
- The entire appraisal cycle takes five to nine years to implement and must be repeated every ten years.
- The *process is expensive*, costing nearly \$1M annually.

The fact is that the ability to build and occupy a cabin on public land is subject to the requirements of a Term Special Use Permit. The cabin structure itself is the cabin owner’s only property interest. The land remains owned by the public under the management of the Forest Service. A cabin owner does not have any sort of leasehold interest in the underlying land. *Therefore, using a land value appraisal process to value the use of the land is a questionable process and poor application of logic.*

Congress has recognized cabins as an appropriate and authorized recreational use since at least 1915, as one among many multiple uses of the National Forests. Most cabin owners are middle class and have small cabins (many are 800 – 1,200 sf) that are used as a family gathering place to pass on to children and grandchildren an

appreciation for the outdoors, a connection to nature and good forest stewardship. The Recreation Residence Program provides an opportunity for members of the public to have cabins on the National Forest, but excessive and inconsistent pricing of this opportunity using the procedures under CUFFA is undermining the very purpose of the Program. CUFFA does nothing to further the availability of the Program to the general public or maintain long-term public interest and, we believe, puts the Program on a path to extinction.

Over 95% of cabin owner respondents to the 2009 NFH Cabin Sales and Appraisal Survey said that they were dissatisfied with the appraisal process under CUFFA. Concerns about the failure of CUFFA are nationwide. Also recognizing the problem, many Forest Service representatives in the field have suggested we seek legislative change to address the failure of CUFFA. Mr. James Sauser, USFS Region 6 Special Uses, has been quoted in news articles about the failures of the appraisal process: "The appraisals are time consuming and result in fees that are either too high or too low." (The Seattle Times, Sept. 9, 2009.) Finally, the 10-year appraisal cycle can take five years or more to implement. In fact, due to Forest Service budget deficiencies, the process in Region 5 is expected to take nine years to complete according to the Recreation Residence Assessment provided by the Pacific Southwest Region. Change is needed! We believe that constructive change is exactly what the CFA is all about.

Goals and Principles of the Cabin Fee Act of 2010 (CFA).

The relationship between cabin owners and the government is complex due to interdependent equity interests; the cabin owner owns the structure and the government owns the land. When a cabin is sold, both the land (location) and the structure influence the selling price. Separating these two influences, or equity interests, is difficult and subjective. There is no simple or absolute answer. *The CFA, which is widely supported by cabin owners, acknowledges the difficulties of setting a Program with shared interests and offers a new approach!*

The CFA institutes a predictable and affordable annual fee while addressing the location factor by establishing a Transfer Fee upon sale. The fee-setting process in the CFA acknowledges the need for fair compensation to the U.S taxpayer. It also recognizes that cabin owners *contribute to land and location values at their expense*. In complying with the terms of the permit, cabin owners are responsible for removing nearby diseased or hazard trees, noxious and non-native vegetation and nearby wildfire fuels. Utility infrastructure, *provided by the cabin owner*, becomes part of the land, including water and sewage disposal systems. Further, on many Forests, *cabin owner-purchased water rights* are reverting to the land and government ownership!

The goal of the CFA is to ensure the long-term viability of the Recreation Residence Program.

To achieve this goal, the following basic principles guided and informed the writing of the CFA. The fee determination process for Recreation Residences on National Forest System Lands, as embodied in the Cabin Fee Act of 2010, must provide:

1. For the long-term viability of the Recreation Residence Program.
2. An affordable, but "market-determined" fee now and in the future for average Americans.
3. A simple, understandable and predictable fee determination process (fee certainty).
4. A revenue neutral process, that maintains current government revenues and guarantees a fair "market" rate of return to the US Taxpayer for the use of public lands.

5. A mechanism to address the complexities of shared interests in the Program, both on an annual use basis and upon sale of a cabin. An understanding of mutual shared interests relative to "location" must be a central and guiding consideration.
6. For fees that are imposed when actual benefits are received. This applies both for the annual use and upon sale, when the actual market for cabins on National Forest System lands reveals the actual market value and the financial wherewithal is available to pay the Transfer Fee.
7. For maintaining the ability to sell cabins at a fair and reasonable price.

If the Cabin Fee Act of 2010 (CFA) becomes law, we submit that the following Program benefits will be greatly enhanced and encouraged.

Merits of the Cabin Fee Act of 2010

1. The documented and extensive forest stewardship work of cabin owners will be allowed to continue and be encouraged to expand on local Forests.
2. The opportunity for genuine partnerships with the Forest Service will be further encouraged and enhanced through collaborative dialogue, thereby improving the overall process of administration and removing a material cause of conflict between the local Forest Service and cabin owners.
3. Program administration will be simplified and adequately funded from fees retained sufficient to cover Forest Service costs.
4. Sorely needed revenue streams to state and local governments will continue unabated.
5. Support for local businesses and local employment will flourish, as cabin owners continue their regular patronage of nearby businesses, ensuring the viability of local rural communities.
6. The U.S. Taxpayer are guaranteed a fair market revenue stream for the limited use of their public lands.
7. The significant time delays of implementation are avoided.
8. The windfall profits issue is eliminated.

Refer to Illustration 1D, *Comparison of the Cabin Fee Act to the current fee determination process as defined by CUFFA*.

Comparison of CUFFA to the Cabin Fee Act

Loss of Cabins: The Sales Data and Appraisal Survey data show almost 30% of cabin owners will reach their breakpoint of affordability in the current CUFFA appraisal cycle. When these folks can't sell, we estimate roughly 15% of cabins (2,100) will have to be torn down or removed at the owner's expense. U.S. Treasury revenue loss will be approximately 30% of the total potential fees (\$12M) while local governments and communities will suffer. Cabin losses will also reduce donated labor and high quality forest stewardship provided by cabin owners.

Reasonable Annual Fee: The CFA establishes a User Fee, indexed annually from a rank order of current market data, but sets the fee at an affordable level that helps maintain cabin value and does not destroy the ability to sell the cabin if the current owner cannot or chooses not to pay this new fee.

Annual Fee Range: Instead of fees ranging from \$125 to the astonishing \$76,000 annually, the User Fees will range from \$500 to \$4,000 per year.

Transfer Fee: A Transfer Fee will capture any value influence of the cabin lot's location on the National Forest and is paid if that value influence is actually realized by the sale. This fee addresses the possibility of windfall profits, which is an issue raised by the Forest Service.

Predictability: Cabin owners will have full knowledge of the indexed annual User Fee, and both the seller and buyer can factor the Transfer Fee into their pricing at the time of sale.

Administrative Process: The complexity and expense of the long, drawn out appraisal process is replaced with a cost effective and simple fee-setting system; and Program administration will be simplified and adequately funded from retained fees sufficient to cover Forest Service costs.

Program Revenues: The CFA provides comparable long-term annual revenues to the U.S. Treasury after consideration of cost savings related to elimination of appraisals and revenue not collected from cabins that will be lost from the Program if CUFFA stands unchanged.

Cost Savings to Forest Service: In addition to reducing the administrative workload, *all* appraisal costs are eliminated. This will save the Forest Service nearly \$1 million annually, plus the Forest Service will retain revenue from fees sufficient to cover the cost to administer the Program.

The Act is a solution that works for all parties.

Summary and Conclusions

The Recreation Residence Program is threatened. Thankfully, Congress has already made the commitment to the health of the Program by recognizing it as a valid use of the National Forests. The failures to correct the problems with the fee determination system have only recently been exposed under the current appraisals. Congressional action is therefore needed.

The Cabin Fee Act of 2010 offers a new approach that will simplify and improve the fee determination process. It will encourage local partnerships, collaboration and dialogue with the Forest Service while reducing the administrative burden and government expense. We are committed to a new direction and ask for your support of the Cabin Fee Act of 2010.

Illustration 1A

Annual Cabin Fees as Determined under CUFFA Appraisals

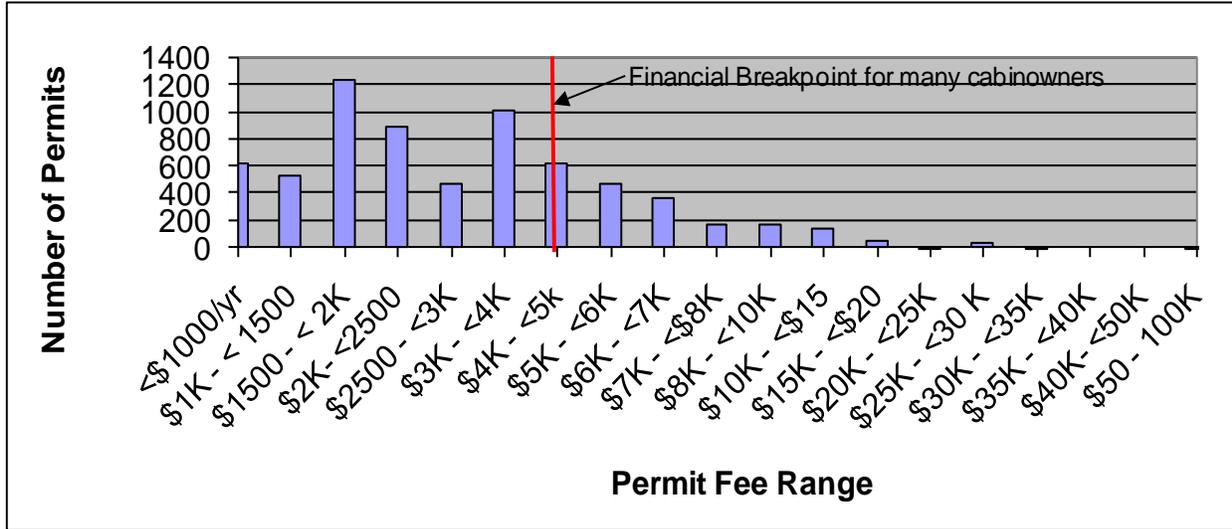


Illustration 1B

**Black Canyon Tract, Wilson, Wyoming
Annual CUFFA Fee \$23,250**



These cabins are not on a lake or river and have no view, no water and no electricity. They are accessed by a deeply rutted mud two-track road. The cabin on the right has been for sale for 3 years for less than \$125,000. Buyers have shown interest, but that interest vanishes once the \$23,250 fee is disclosed. The fee has destroyed all cabin value.

Illustration 1C

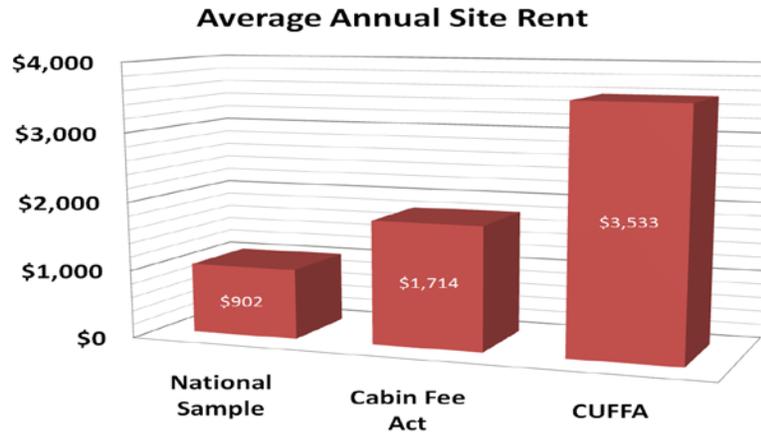


Illustration 1D

Comparison of the Cabin Fee Act to the current fee determination process as defined by CUFFA

Standards	Current CUFFA	CABIN FEE ACT (CFA)
Cabin Retention (est. cabins remaining by 2016)	2,100 lost (11,900)	100% Retained (14,000)
Average Annual Permit Fee (projected with full implementation)	\$1,571 (2010) \$3,533 (2016)	\$1,714
Annual Permit Fee Range	\$125 - \$76,000	\$500 - \$4,000
Transfer Fee Upon Sale	No	Yes
Future Permit Fee Increases	High?	Modest
Predictable Fee	No	Yes
Administrative Process and Costs	Complex High	Simple Low
Program Revenue (2010 estimated)	\$22 Million	\$25 Million
Forest Service Cost Savings	No	Yes

Exhibit 1A

Realtor Summary: Effect of CUFFA Permit Fees on the Health of the Recreation Residence Program

Cabin owners in many parts of the country are having difficulty selling their cabins. It has been said that cabins are not selling due only to the current downturn in the real estate market. This is an easy answer with little need for justification because everyone knows the market is at historic lows. However, this fails to acknowledge the impact of unreasonably high fees on the Recreation Residence Program. To get an understanding of this impact, we contacted real estate professionals across the country to get their perspectives about cabin sales on Forest Service lands under the CUFFA appraisal process. Their letters are attached for your consideration.

These letters come from Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Wisconsin and Wyoming. The collective experiences clearly demonstrate that the current and anticipated high fees are unreasonable and negatively impact the ability to sell cabins. If current cabin owners cannot pay the fees and potential buyers are unwilling to pay them, cabin values and program revenues will decline. Long-term, these unreasonably high fees will threaten the very existence of this valued and valid program for family-oriented recreation.

Respectfully submitted,

National Forest Homeowners and Coalition 2

Letters attached from the following real estate professionals:

Everett J. Jones, Jr.; Everett J. Jones, Real Estate, Inc., Douglas, AZ
Carol Butler, Broker Owner; American River Canyon Realtors, South Lake Tahoe, CA
Lori Akers, Realtor; Century 21 Jeffries Lydon, Chico, CA
Lynn Morton, Broker; Sierra Crest Real Estate, June Lake, CA
Patty Schwartzkopf, Realtor; Coldwell Banker Mammoth Real Estate, Mammoth Lakes, CA
Chucker Twining, Broker Associate; Prudential California Realty, Twain Harte, CA
Jason T. Roth, Associate Broker; Coldwell Banker Conklin & Company, Ketchum, ID
Elinor Williamson, Realtor; Clearwater Montana Properties, Inc., Seeley Lake, MT
Marianne Pearsall, Realtor; Coldwell Banker Select Realty, Incline Village, NV
Linda Barron, Broker; Cascade Realty at Crescent Lake, Crescent Lake, OR
Craig E. McKern, Appraiser, P.C.; McKern Appraisal, Eugene, OR
Barbara Bailey, Associate Broker; Puget Sound Real Estate, Tacoma, WA
Scott McKinney, Broker; McKinney Realty, Cable, WI
David Veihman, Owner/Associate Broker; Jackson Hole Real Estate Associates, Jackson, WY
Ellen Linn, Associate Broker; Jackson Hole Real Estate Associates, Jackson, WY



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To Whom It May Concern:

My name is Jason Roth and I am an Associate Broker with Coldwell Banker/Previews International/Conklin & Co. in Ketchum Idaho. I have been a licensed Realtor in Blaine County, Idaho since 2000. I have knowledge of and experience with the market value of fee simple real property, of recreational residence lots and of cabins and improvements on Forest Service lots in Blaine County, Idaho.

During 2008/2009, I have held three listings on cabins in the Valley View Summer Home Tract in the Sawtooth National Forest. I also own a cabin in that same tract, and previously provided data on comparable lots to the Forest Service contract appraiser in 2007.

I have shown all three cabin listings to several prospective buyers over the course of the 2008 and 2009 selling seasons (May-Oct.). In total, we have had one of the listings under contract (deal failed) and have received another offer to purchase from a different Buyer. With every showing, talks and negotiations faltered when it was disclosed to the prospective Buyers that the possible new annual fee at Valley View might range from \$4,500-\$6,200.

Nobody can dispute that we remain stalled out in a harsh and unprecedented economic downturn. However, it is my opinion that this fact might be but a minor factor concerning the marketability of the usually in-demand cabins at Valley View. These cabins are not recession proof. However, the unrealistic, unreasonable and wholly unsustainable annual fee increase threat has, in my opinion, rendered cabin values (and cabin owners) severely damaged.

I also dispute some people's claims that, if left unchecked, the higher fees would create a 'haven for the rich'. By and large, these folks didn't get that way by doing dumb things. A \$5,300-\$6,200 yearly fee to "rent" a heavily-restricted lot that you can only access 5-6 months out of the year is a deal-killer for any astute potential cabin owner.

I continually review comprehensive studies of property values based on extensive data from real estate sales in Blaine County. I am qualified to provide professional opinions regarding the fair market value of real property, as well as recreational residence lots, cabins and related improvements in Blaine County.

Regarding the 2008 Valley View appraisal, it is my belief that the Forest Service failed to provide an accurate reflection of the fair market value of a vacant lot. Additionally, property values in Blaine County have plummeted since 2007, further clarifying the unrealistic appraisal value. Finally, the proposed 2010 and forward annual base fee is so large that it renders the permit holder's cabin virtually unsalable.

Respectfully,

[Signature] Date: 2/19/10
Jason T. Roth
Associate Broker

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Conditions and Restrictions Affecting Recreation Residence Special Use Permits

Application to all permittees:

- The use of the cabin lot by the permittee is not exclusive. The only portion of the lot to which a permittee has exclusive use is the area underlying the cabin. The general public is free to use all land not physically occupied by the cabin.
- Can only obtain a permit for the right to keep improvements on Forest Service land for a maximum term of 20 years.
- Permit termination can be made for another use during that term, unlike a lease whose term is definite.
- In the event of permit termination by the Forest Service for some other use, although fees are ramped down, the improvements must be entirely removed at the expense of the permit holder. This expense is complicated by the remote nature of the cabins. As a result, loans to finance the purchase of a cabin are nearly impossible to obtain.
- In the event that the Forest Service determines it needs the lot for another use, termination can happen in less than 10 years, resulting in a payment to the permittee of the “equitable” (determined by the Forest Service) value of improvements but avoiding the permittees’ expense to remove those improvements.
- Notwithstanding the non-exclusive right to use the lot to which the cabin is connected, the permittee is responsible for both on and off-lot liabilities, such as the removal of hazard trees.
- A cabin cannot be the permanent residence of its users. Neither can one be rented out except for a minimum time period, and then only after prior approval of the permit administrator.
- In the event of substantial damage or destruction, rebuilding is not assured. A new determination is made as to whether a new cabin should exist on that site, and it may take years before a decision is made. Further, there is an option to provide an alternative location, but such option is limited and entirely left to the permit administrator’s philosophy about recreation residences.
- The permit is never transferred. A new owner must apply to the Forest Service after the Bill of Sale is completed for a new permit. A cabin owner during the sale process cannot make binding representation that the Forest Service will reauthorize the use.
- If the recent changes to the permit prevail, the permit will be considered a ‘license’ and not a contract. In addition, all water rights held by the permittees are of questionable ownership. Rules are changed without notice or permittee input.
- Permit fees set by capricious and unpredictable process that often create undue stress and render cabins unmarketable.
- Permittees subject to O & M plan specifications that do not apply in private market.

Regional and Local Forest and/or Ranger Restrictions (vary from location to location):**

- Limit on size of cabin, varies region to region (900 – 1500 sq. ft.).*
- Limit on size of deck, porch/patio, varies region to region.*
- Cabin may have an open loft, but a full 2nd story is not permissible.*

Exhibit 1B continued

- No guest cabin or auxiliary sleeping quarters.* One outbuilding for storage allowed, limit on size & varies by region.*
- Reconstruction or alteration of improvements requires advanced Forest Service approval: and all construction (including materials) must be reviewed in light of the National Historic Preservation Act, the Endangered Species Act (flora and fauna), the Clean Water Act, and archeological concerns. Inspection by all the people responsible for these areas of concern often takes a great deal of time.
- Exterior colors, including roofs, must have Forest Service approval. Location of and specification for materials protecting wood piles mandated.
- Fences/gates are not permitted. Satellite dishes are not permitted. Yard lights by approval only on buildings, no automated safety lights.
- No new permanent outdoor fireplaces are permitted. Fire rings of a temporary nature may be acceptable in some areas, while in others even a charcoal barbeque on a deck is prohibited.*
- Only native plantings are permissible. Minimal lawn area allowed in some cases.
- Removal of vegetation, including hazard trees only with Forest Service permission and at cabin owner's expense.
- Local rules often conflict with fire-safe mandates.
- Any exterior repairs/alterations must have Forest Service approval, whether other governmental agencies' requirements are needed or not, i.e. county building permits.
- Cabin owners assume all risk of loss to their improvements resulting from acts of God or from a catastrophic event. The Forest Service will conduct an analysis and determine if rebuilding will be allowed.

*Note: Existing improvements can currently remain if outside these guidelines. However, during replacement, maintenance and change of ownership of the cabin, and sometimes to obtain a new permit upon expiration of the prior permit, the Forest Service can require compliance with Forest Service standards. Requirements under the National Historic Preservation Act often result in limited ability to change the cabin in any way whatsoever. **Further Note: This listing is not all-inclusive, as local decisions can and often do impose additional restrictions on use, maintenance and exterior impacts.

Comparison of Recreational Home Site Leases

On behalf of the National Forest Homeowners and Cabin Coalition 2

We have gathered as much lease data as we could find through the Internet, NFH homeowners, public and private lessors and lessees, and other contacts. At times, we were able to talk to both lessee and lessor of a property. We often asked for their best estimates of items such as average fees. We did not try to sort through leases but added every lease we found with adequate information. Often leads on leases did not result in sufficient information and those leases were not included. There are undoubtedly many more leases to be found. These results do not cover all leases for some entities such as PacifiCorp, Pacific Gas & Electric, State of Montana, etc. But we believe this is a representative sample of leases throughout the United States.

At times we had to keep owners' names private to obtain their information. We felt the gain outweighed the loss of a specific name and location.

With the exception of CUFFA projected fees, all of the fees are for 2009. The projected average CUFFA fee at full implementation is based on current USFS appraisals and NFH's projection of the results of future appraisals. Having said that, we believe the average will be somewhat less because a significant number of homeowners will be unable to sell their cabins or to pay the fees on their cabins.

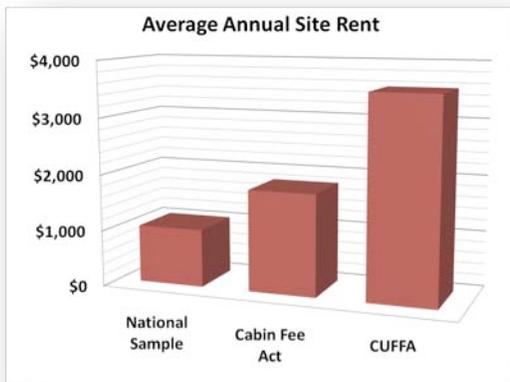
USFS cabin owners are permit holders, not lease holders, and the rights and privileges they enjoy are more limited and less valuable than those accorded lessees.

Interestingly, a few public lessors were less forthcoming with information than private lessors. We are appreciative of all the help we received; most were generous with their time and energy.

Barry & Karen Davis Eagles Nest Tract, Humboldt-Toiyabe NF 40 Casper Drive, Cody, WY 82414 USFS Retired. Former Shoshone National Forest Supervisor.	Rob Scanland Thomas Canyon Tract, Humboldt-Toiyabe NF 1300 Pinion Hills Dr., Carson City, NV 89702 Private and public appraisal work including USFS.
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Executive Summary

The basic premise under which we began this project is that as recreational home site users, we should be paying market rent for the rights, privileges and restrictions conveyed by our recreation site permit. The purpose of the attached Recreational Home Site lease survey is to provide a yardstick, which can be used to judge whether the current USFS-CUFFA fee model is a good indicator of market rent. It has been our experience, in the real estate market, that over a period of time market rent is a more stable factor than property value. This is a flaw in the current USFS-CUFFA fee model. Looking back over the last decade we have all seen property values rise precipitously and in many cases fall just as sharply. Over the same period of time, real estate rents have also moved up and down, but generally at a much more gradual rate. The following twenty lease comparables provide a random sample of what market site rent is over a broad cross section of the country. The leases provide a range of public, quasi-public and private lessors, and a variety of lease features, lease tenure and site amenities. In some ways, the leases surveyed are comparable to the USFS-CUFFA permit and fee model and in others they vary significantly. For this summary we have elected to look at the leases in aggregate and make some observations, both in comparison to the USFS-CUFFA permits and to the proposed Cabin Fee Act (CFA).



The comparable lease survey information represents 11,538 recreational home site leases. The weighted average¹ annual site rent is \$902. This represents a national sample of current market site rent. The USFS-CUFFA fee model, based on the 2007-2009 appraisal cycle, represents 14,000 site permits. The weighted average annual site rent under CUFFA (when fully implemented) is projected to be \$3,533. The proposed Cabin Fee Act (CFA), also for the USFS 14,000 site leases, will result in a weighted annual average of \$1,714 per site. This can be seen illustrated in the bar graph.

The national site lease sample data gathered shows that the current market rent is substantially lower than what the USFS-CUFFA model requires. The proposed Cabin Fee Act (CFA), although still higher than the national sample, does a better job of estimating an appropriate site rent by removing the highly variable element of

property value from the market rent determination.

The comparisons demonstrate several other issues as well. First, most cabin leases are not as restrictive as permits on National Forest System lands. Certainly, some of the fee rate differences appear justified when restrictions are taken into account. The severest restrictions are not allowing the site to be used as a permanent dwelling and limiting the size of the structure. Second, high fees, say above \$3000, are rather limited in this sample and represent leases where restrictions are minimal and amenities are very high. Those above \$3000 are lakefront properties on premier lakes. On the other end are the timbered cabin sites at Lake Cushman, WA that lease for \$158 per year.

¹ The weighted average is obtained by multiplying the individual lot fees times the number of lots. The results are added and then divided by the total number of lots.

Summary Comparison Table (Page 1 of 2)

No.	Property Owner	Site Status	Location	No. Lots	Weighted Avg. Fee per Year	Fee Adjustments	Lease Length	Annual Fee Range	Basis of Fee
1	Tacoma City Light	Public	Lake Cushman, WA	3,200	\$158	CPI (every 5 yrs.)	99 yrs	\$130 - \$584	User Fee (A)
2	St. of Washington	Public	North Woods, Swift Reservoir, WA	210	\$1,906	CPI (every 10 yrs.)	100 yrs	\$1,800 - \$2,500	User Fee
3	St. of Montana	Public	Placid and Seeley Lakes, MT	179	\$2,842	CPI + RE index (annual)	15-25 yrs	\$1,500 - \$7,000	5% appraised Fee Value
4	St. of Montana	Public	Flathead, Echo, McGregor, & Rogers Lakes, MT	127	\$5,183	CPI + RE index (annual)	15-25 yrs	\$2,500 - \$6,000	5% appraised Fee Value
5	St. of Idaho	Public	Payette Lake, ID	167	\$8,097	Appraised every 5 years	10 yrs	\$1,500 - \$24,000	2.5% County appraisal
6	St. of Idaho	Public	Priest Lake, ID	354	\$8,000	Appraised every 5 years	10 yrs	\$6,000 - \$10,000	2.5% Independent. appraisal
7	St. of Wyoming	Public	Statewide	20	\$1,000	CPI 10 year moving avg.	25 yrs	\$1,000 - \$2,300	5.5% Estimated Value
8	St. of Utah	Public	Statewide	30	\$1,500	Not Known	20-30 yrs	\$1,000 - \$3,000	3.5% State appraised
9	St. Louis County, MN	Public	St. Louis County, MN	1,260	\$395	CPI (periodic)	Annual	\$300 - \$500	User Fee
10	State of Pennsylvania	Public	Statewide	4,000	\$200	Periodic new fee	10 yrs	\$200	User Fee
11	Bureau of Reclamation	Public	Lake Conconully, WA	82	\$900	New fee every 5 years	20 yrs	\$900	Not Known
12	Bureau of Reclamation	Public	Alcova Lake, WY	100	\$3,250	New fee every 5 years	Annual	\$2,750 - \$4,000	5 % Appraised Value
13	Pacific Gas & Electric	Private	Bucks Lake, CA	71	\$2,577	Annual	10 yrs	\$2,200 - \$2,600	Appraised less restrictions
14	Pacific Gas & Electric	Private	Philbrook Lake, CA	44	\$1,250	Annual	10 yrs	\$1,200 - \$1,300	Appraised less restrictions
15	Minnesota Power	Private	St. Louis, Cass, Morrison, & Lake County, MN	1,500	\$800	Annual	30 yrs	\$100 - \$2,000	2.5% County appraised
16	PacifiCorp	Private	Merwin Lake, WA	40	\$12,000	CPI	15 yrs	\$8,000 - \$15,000	% times Est. Fee Simple
17	PacifiCorp	Private	Northwestern Lake, WA	55	\$5,645	CPI	5 yrs	\$3,000 - \$6,000	Negotiated User Fee
18	Private Rancher	Private	Northeastern Nevada	5	\$1,000	None	14 yrs	\$1,000	User Fee
19	Private Family	Private	Sierra Mountains, Northern CA	81	\$1,869	Annual	Annual	\$1,825 - \$2,125	User Fee
20	Private Rancher	Private	Northern CA	13	\$275	Fixed	99 yrs	\$275	User Fee
			Combined Public/Private Totals	11,538	\$902				
	FS CUFFA (gross)	Public	National	14,000	\$3,533	IPD-GDP + reappraisal	20 yrs	\$125 - \$76,000	5% appraised Fee Value
	CFA (proposed)	Public	National	14,000	\$1,714	IPD-GDP + Transfer Fee	20 yrs	\$500 - \$4,000	User Fee
(A) User Fee is the lessor's fair market return on the use of the site.									

Summary Comparison Table (Page 2 of 2)

No.	Property Owner	Location	Property Owner Restrictions			
			Permanent Occupancy	Public Access	Structure Size Limit	Special Restrictions
1	Tacoma City Light	Lake Cushman, WA	Yes	No	No	Few
2	St. of Washington	North Woods, Swift Reservoir, WA	Yes	No	No	Few
3	St. of Montana	Placid and Seeley Lakes, MT	Yes	Restrictive public access	No	Few
4	St. of Montana	Flathead, Echo, McGregor, & Rogers Lakes, MT	Yes	Restrictive public access	No	Few
5	St. of Idaho	Payette Lake, ID	Yes	Yes	No	Few
6	St. of Idaho	Priest Lake, ID	Yes	Yes	No	Few
7	St. of Wyoming	Statewide	Yes	No	No	Very Few
8	St. of Utah	Statewide	Yes	No	No	Very Few
9	St. Louis County, MN	St. Louis County, MN	No	Yes	Yes	Moderate
10	State of Pennsylvania	Statewide	No	Yes	Yes	Many
11	Bureau of Reclamation	Lake Conconully, WA	No	Yes	Yes-stay in footprint	Moderate
12	Bureau of Reclamation	Alcova Lake, WY	No	Yes	Yes	Few
13	Pacific Gas & Electric	Bucks Lake, CA	Yes-but not practical	No	Yes	Moderate (B)
14	Pacific Gas & Electric	Philbrook Lake, CA	Yes-but not practical	No	Yes	Moderate (B)
15	Minnesota Power	St. Louis, Cass, Morrison, & Lake County, MN	Yes-with permission	No	No	Moderate
16	PacifiCorp	Lake Merwin , WA	Yes	Yes	No	Moderate
17	PacifiCorp	Northwestern Lake, WA	Yes	Yes	No	Moderate
18	Private Rancher	Northeastern Nevada	Yes	No	No	Very Few
19	Private Family	Sierra Mountains, Northern CA	Yes-but not practical	No	Yes	Few
20	Private Rancher	Northern CA	Yes-but not practical	No	No	Very Few
	FS CUFFA (gross)	National	No	Yes	Yes	Many
	FS UF/TF (proposed)	National	No	Yes	Yes	Many
(B) Can be asked to leave in 180 days						