**National Ski Areas Association**
**Testimony to the U.S. House Committee on Natural Resources**
**Subcommittee on National Parks, Forests and Public Lands**

**H.R. 2476- Ski Area Recreational Opportunity Enhancement Act of 2009**

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Chairman Grijalva, Ranking Member Bishop, and members of the Subcommittee, thank you for the opportunity to appear before you today. On behalf of the National Ski Areas Association I am pleased to provide the following testimony in support of H.R. 2476, the Ski Area Recreational Opportunity Enhancement Act.

NSAA has 121 member ski areas that operate on National Forest System lands. These public land resorts are in the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Hampshire, New Mexico, Oregon, Utah, Vermont, Washington and Wyoming. Vail Resorts owns and operates five resorts on public lands in Colorado, Nevada and California.

At the outset, NSAA would like to thank Congresswoman DeGette and Congresswoman McMorris Rodgers for their leadership on this bill.

## Background

Public land resorts work in partnership with the US Forest Service to deliver an outdoor recreation experience unmatched in the world. Our longstanding partnership—dating back to the 1940s, is a model public-private partnership that greatly benefits the American public. The recreation opportunities provided at public land resorts help benefit rural economies, improve the health and fitness of millions of Americans, provide kids great outdoor experiences and promote appreciation for the natural environment. Over the past five years, we have averaged 57.8 million skier/snowboarder visits annually, and about 60% of those visits occurred on public land. Yet ski areas occupy less than one-tenth of one percent of Forest Service lands.

Ski areas are the perfect place to accommodate these large numbers of forest visitors and not just in the winter. It is important to remember that ski areas are *developed* sites. They inspire appreciation for the natural environment, but they also represent a built environment that is accessible and convenient for visitors. Ski areas already have the parking lots, bathrooms, trails and other facilities to accommodate millions of summer visitors. Use of developed ski areas during all times of the year allows the Forest Service to provide recreation opportunities to millions of visitors in a controlled and mitigated environment thus alleviating the impacts *elsewhere* on the forests.

In addition to the recreation and conservation benefits that ski areas provide throughout the year there are economic benefits that must be considered. Summer and year-round recreation can transform ski areas and their rural communities from single season destinations into year-round destinations. Year-round visitation increases year-round employment opportunities in rural resort communities, creating a more stable workforce and local economy. It should also be noted that public land resorts generate permit fees for the Forest Service from all revenues generated by activities at ski areas.

**Summer and Year-Round Activities**

Summer and year-round activities are not new to ski areas. Resorts across the country have offered summer activities for decades, with scenic chairlift rides dating back to the 1960s. These activities include mountain biking, scenic chairlift rides, hiking, ziplines, alpine slides, climbing walls, Frisbee golf and others. Until very recently, the authorization of summer activities at public land resorts occurred without issue. Many ski area special use permits reference "year-round" or "four season" resorts. The Forest Service Manual expressly encourages the year-round use of resort facilities. Even Congress recognized the four-season nature of resorts back in 1996 by including the term "gross year-round revenue" in our fee system (16 USC 497c). Resorts have acted in reliance of these authorities, and the federal government has collected fees on summer activities, for decades.

So why are we here? NSAA strongly supports H.R. 2476 to create a national comprehensive approach to growing seasonal and year-round recreational opportunities. Such an approach will provide for more consistent decision making and more accurately reflect what is now taking place at modern four-season resorts. Specifically, H.R. 2476 clarifies the Forest Service's authority to permit appropriate seasonal or year-round recreational activities and facilities subject to ski area permits issued by the Secretary under section 3 of the National Forest Ski Area Permit Act of 1986 (16 USC 497b). The bill is also an opportunity to update the language used to describe snow-sports to better reflect the wide range of snow sports (including snowboarding, snow-biking, etc) taking place at modern ski areas. NSAA notes and appreciates the discretion and guidance the bill provides to the Secretary to make site-specific decisions on appropriate activities and facilities that are natural resource-based, outdoor developed recreation that harmonize with the natural environment of the public lands.

In the 110$^{th}$ Congress, the Administration testified in support of the bill and stated that further clarifications would assist the Forest Service in its interpretation and implementation. In a recent Senate legislative hearing on H.R. 2476's Senate companion bill (S. 607) the Administration re-stated its support for this legislation with technical amendments. NSAA agrees that the Forest Service could benefit from clarification on what summer and year-round activities may be permissible at public land resorts, and which are not. There does not seem to be much debate over some of the more traditional summer uses at ski areas. Hiking, chairlift rides, mountain biking, concerts and Frisbee golf have been approved at ski areas across the country without much fan fare. At issue here are the more modern recreation features and those that

are likely to arise in the future. NSAA is in favor of providing the Forest Service more clarity in its decision making and respectfully offers the following suggestions.

First, *existing authorized* summer and year-round facilities or activities at public land resorts should be grandfathered in the bill. For example, authorization for alpine slides, zip lines, mountain bike parks, climbing walls and other amenities that have received Forest Service approval should not be changed or revoked as a result of this Act.

Second, the *types* of summer and year-round facilities that have already been authorized by the Forest Service on public land should not be considered "prohibited." Authorization of summer or year-round activities at resorts should be viewed as a two step process. The first step is determining if the class of activities or facilities should be prohibited outright or deemed permissible. Assuming that it is not prohibited, the second step is to determine the appropriateness of that activity or facility *in a particular location*. To improve future Forest Service decision making, the types of existing activities and facilities that have been approved by the agency should be deemed to pass this first hurdle. Another way of stating this is to say that existing activities and facilities are deemed to be in compliance with the provisions of Section 3, paragraph (4)(c)(2) of the bill. Certainly these types of facilities need to undergo site specific approval, but resorts ought to have the opportunity to at least *propose* them to the Forest Service for site-specific consideration. Some good examples of these types of existing facilities are alpine slides and ziplines. Alpine slides exist in various parts of the country on public land. However, with the exception of the Pacific Northwest, resorts in most ski states are not even allowed to submit a proposal for a new alpine slide. Although several ziplines exist at ski areas on public land and have been constructed in the past two years, other locations across the country are not permitted to submit a proposal for one. More clarity for the agency should bring this inconsistency and arbitrariness to an end. Again, these features need site specific review and analysis. However, as a class of facilities, they should not be considered prohibited in any part of the country.

To identify which summer or year-round uses are existing as of the date of enactment, the Forest Service should conduct a brief survey. As there are only 121 resorts operating on Forest Service land, this task should not be difficult. The results of the survey should be submitted to the Senate Committee on Energy and Natural Resources and to the House Committee on Natural Resources within 180 days of enactment.

Third, it would be helpful to the Forest Service if the Committee provided guidance on the intention of paragraph (4)(c)(2) of the bill. While the development of amusement parks on public lands should not be permitted under this bill, at the same time, a collection of recreation or amusement-related features may be authorized --and in many cases already have been under existing approvals. For example, amusement park features as we traditionally use that term, such as Ferris wheels are not natural resource-based, do not follow the contour of the mountain, and are not appropriate. However, a collection of features such as alpine slides, zip lines and climbing walls should not be considered an "amusement park" for purposes of this bill. Moreover, more modern features such as year-round bob sled rides or mountain or alpine coasters that

substantially follow the contour of the natural terrain may also be considered permissible. Photos of these activities have been provided to the Committee.

Likewise, guidance to the Forest Service regarding water parks would be helpful. While the development of water parks on public lands should not be permissible, at the same time, a collection of recreation features or activities that may require or benefit from the use of water may be authorized under the bill--and in many cases already have been under existing approvals. A log flume and similar activities that exist at traditional water parks may not be appropriate in the view of the Committee, but naturally appearing pools, water-related mountain bike features, or summer tubing operations that utilize water and substantially follow the contour of the natural terrain may be permissible.

Finally, we would welcome the removal of the "primary purpose" test from paragraph (4)(c)(3) of the bill. Removal of this provision will provide clarity to the agency, because there is already a revenue-based test existing in the Code of Federal Regulations that is more objective than this proposed "primary purpose" test. Under existing Forest Service regulations (36 CFR § 251.51), a ski area must derive the preponderance of its revenues from "the sale of lift tickets and fees for ski rentals, for skiing instruction and trail passes for the use of permittee-maintained ski trails." This existing revenue-based test is more objective and is less likely to invite litigation over ski area summer proposals than the proposed "primary purpose" test.

Thank you for the opportunity to appear here today and for your consideration of H.R. 2476.