

**National Ski Areas Association's
Testimony to the House Natural Resources Committee's
Subcommittee on Water and Power
"Federal Impediments to Water Rights, Job Creation and Recreation: A Local
Perspective"
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Testimony

Thank you for the opportunity to testify today on behalf of the National Ski Areas Association. NSAA has 121 member ski areas that operate on National Forest System lands under a special use permit from the US Forest Service. These public land resorts accommodate the majority of skier visits in the U.S. and are located in the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Hampshire, New Mexico, Oregon, Utah, Vermont, Washington and Wyoming. The ski industry generates \$12.2 billion in economic activity annually, and public land ski areas accommodate 60% of the skier/snowboarder visits in the U.S.

Collectively, ski areas have invested hundreds of millions of dollars on water rights to support and enhance their operations. Water is crucial to ski area operations and ski area water rights are considered valuable assets to ski area owners. Water is crucial to future growth of ski areas, and that future growth directly impacts the rural economies associated with ski areas. Ski areas are major employers in rural economies, employing 160,000 people, and help drive job creation in rural and mountain economies.

I would like to address how draconian Forest Service water clauses that require transfer of ownership of water rights negatively affect a ski area's bottom line -- and ultimately jobs in rural economies.

USFS water clauses that demand transfer of ownership of ski area water rights to the United States substantially impair the value of these ski area assets. In the short term, the taking of these assets by the government could cause a ski area to go into default on a loan because water rights are assets, and their removal could result in violation of debt/equity ratio loan covenants. In the long term, they hinder a ski area's ability to obtain access to capital for growth and expansion in the future by lowering the valuation of the ski area's assets. They create uncertainty with respect to a resort's ability to make adequate snow and operate successfully in the future, because the US won't guarantee that our water, once in their name, will continue to be used for snowmaking and resort operations. Most importantly, these types of water clauses provide a disincentive for ski areas to acquire more water rights in the future. Ask yourself this question: why would a ski area invest any more on water rights in the future if they are going to be taken by the government? It would not be a sound business practice to acquire assets that are going to be taken away from you. If ski areas stop investing in water rights for the future, the outlook for the rural economies dependent on them would be bleak.

The Forest Service has started a new public process to develop a ski area water clause. The agency states over and over again in its announcements on this process that the objective is to sustain ski areas and the rural economies dependent on them. However, a Forest Service water policy that takes water from these private parties will have the absolute opposite effect. It will not sustain ski areas and rural economies, it will stifle the growth and expansion that help fuel job creation in rural and mountain economies.

Just last week, in conjunction with the Forest Service's new public process on water rights, the ski industry offered a new approach to a ski area water clause. This new approach would address the Forest Service's concerns about having sufficient water for the future, but does not involve government seizure of assets.

Briefly, we offered a two part framework:

- (1) Ski areas will demonstrate for future projects which require water for implementation that sufficient water is available to support the projects. This would be a part of the review and approval process going forward for proposals that include on mountain facilities or snowmaking;
- (2) Upon sale of a ski area, resorts will provide an option to purchase at fair market value sufficient water to reasonably run the ski area to a successor ski area owner. If the successor ski area declines to exercise such option, the ski area would offer it to the local government; if the local government declined to exercise the option, the Forest Service would have the option to buy the water.

As a condition of supporting this approach, all previous water clauses must be expressly declared unenforceable, superseded, and null and void, and would be removed from every ski area permit.

Ski areas are offering this alternative approach because it demonstrates that the agency doesn't need to own the water rights to meet its stated objectives. We are also tired of the politicization of water and the uncertainty that is created as policies shift from administration to administration. The uncertainty that we have lived with in our day to day operations for decades is not good for business. We need certainty in order to plan for our future and achieve a high level of growth. It is for these reasons that we offer this alternative. Make no mistake, however, that if the agency ignores our alternative approach and proceeds to issue yet again a water policy that unlawfully takes our water rights, we will challenge that policy in federal court, and we will prevail.

In closing, I would like to point out that the Forest Service has an opportunity to boost rural economies by moving forward with policy on four-season use of ski areas. Four season use was approved by Congress in 2011. It will allow ski areas to become four season employers and expand their businesses greatly in the summer months. We still don't have a policy from the Forest Service, and the reason is that we are objecting to the agency's water policy. Congress gave the agency 18 months to come up with regulations and policy under the Recreational Opportunity Enhancement Act of 2011, and next month is the 18th month since

passage of the bill. We have not even seen a draft of this policy, and a final policy is not expected until at least a year from now. We need a reversal of priorities here in order to boost rural economies. The message to the agency is this: focus on four season uses, and stop trying to take our water rights.

Thank you for your consideration of this testimony.