

**Aspen Skiing Co.'s  
Testimony to the House Natural Resources Committee's  
Subcommittee on Water and Power  
On H.R. 3189  
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Aspen Skiing Co.  
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**Testimony**

Thank you for the opportunity to testify today on behalf of Aspen Skiing Co. Aspen Skiing Co. owns and operates four resorts in Colorado, Aspen Mountain, Aspen Highlands, Snowmass and Buttermilk. During its winter peak, ASC employs approximately 3,400 people in Pitkin County, Colorado, hosts nearly 1.4 Million skier visits annually, and pursuant to four Special Use Permits issued by the United States Forest Service, operates on National Forest System land, as do 120 other ski areas nationally. Collectively, these 121 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.

At the outset, I would like to emphasize that Aspen Skiing Co., our state association Colorado Ski Country USA, and the national association, NSAA, are united in our support of H.R. 3189, the Water Rights Protection Act. We would like to thank the sponsors of this legislation, and I would like to especially thank Colorado Congressmen Tipton and Polis, for working together to protect the rights of ski areas.

Aspen Skiing Co. greatly values and respects our partnership with the U.S. Forest Service. We likewise take seriously our responsibilities with respect to stewardship of the land and water resources arising from it. At the same time, we view protection of ski area water rights, typically privately acquired, developed and applied and unrelated to the original issuance of our Special Use Permits, as essential to our business sustainability and as a top priority for the ski industry as a whole.

The ski industry is united in looking to Congress to take action to protect water rights and to protect the state laws that govern water rights allocation, administration and adjudication. We collectively believe that protecting water rights from encroachment by the federal government will help ensure the future success of ski areas on public land and the mountain communities that depend on them.

The proposed Water Rights Protection Act would prohibit the Forest Service from requiring that ski areas apply for water rights in name of the U.S. or transfer water rights to the U.S. as a condition of our special use permit. As such, the Act would prohibit the Forest Service from issuing the very ski area water clause that it issued in 2012, that was the subject of a legal challenge and law suit brought by the National Ski Areas Association last year. The proposed law would protect ski area water rights and provide certainty to ski areas and other water rights holders that the federal government is not going to seize these valuable property rights without compensation. This will benefit ski

areas and the rural economies dependent on them. Finally, it upholds state water law. For all of these reasons, the ski industry wholeheartedly supports H.R. 3189.

By way of background, water is an essential element of our business and snowmaking insures that we are able to operate and offer winter recreation in any given year, even in years of low snowfall. Although Aspen Skiing Company's domestic use per year is comparatively modest, less than 3 million gallons a year, we use on average from 200 to 250 million gallons a year to make snow, which returns to the watershed in the form of ground water and surface runoff each spring. Our cost in water, labor and energy to make and distribute this snow is roughly \$2 M to \$2.5 M per year. Our sources of supply include rivers and streams, wells and springs, and municipal providers. We have acquired and hold a wide array of rights and interests in water, some of which include conventional stream and ditch appropriations dating back to 1882. Others include a recent \$3 MM investment in a storage reservoir fed by a stream from which we've historically drawn, which essentially enabled us to open Snowmass ski area last year despite a very dry fall and early winter.

The magnitude of our operational costs, acquisition and investment in water rights and infrastructure is not unusual. Collectively, ski areas invest hundreds of millions of dollars on water rights to support and enhance their operations and water rights are considered highly valuable assets to ski area owners. These water rights have been and are presently obtained by ski areas under long standing State law.

Water is crucial not just to our current operations, but to our very sustainability and on-going vitality as recreational businesses, particularly in an era of drought and warming temperatures. For reasons both altruistic and commercial it is in our own interests to protect, conserve and optimize the sensible use and application of our water resources.

Beyond our own viability and commercial health, ski areas are major employers in rural economies helping maintain employment and driving job creation in rural and mountain economies. The physical and economic sustainability of ski areas directly impacts the future health, maturation and growth of rural economies associated with ski areas.

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. The taking of these assets by the government hinders a ski area's access to capital, creates uncertainty with respect to a resort's ability to make adequate snow and operate successfully in the future, and most importantly, provides a huge disincentive for ski areas to invest in water rights and infrastructure in the future. Ask yourself this question: why would a ski area invest in water rights and infrastructure if they are simply going to be taken by the government? It is obviously not sound business practice to acquire and improve assets that are going to be taken from you. Unfortunately, the impact of such a punitive disincentive does not stop with the ski area. In so far as it adversely affects our business sustainability over time, it inevitably ripples through our companion rural economies.

The Forest Service is now in the process of developing a new ski area water clause. It is our hope that this proposed legislation will positively shape the forthcoming policy.

Like the proponents of this bill, the ski industry will not accept a Forest Service water policy that takes private water rights from ski areas. As an alternative, the ski industry offered a new approach to a ski area water clause in conjunction with the Forest Service's ongoing public process on water policy. This new approach would address the Forest Service's concerns about having sufficient water for future ski area operations, but does not involve government seizure of assets.

Briefly, we offered a two part framework:

- (1) For future projects which require water for implementation, ski areas will demonstrate that sufficient water is available to support those 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 an express condition of supporting this approach, water clauses previously imposed upon ski area permittees by the agency must be declared unenforceable, superseded, and null and void, and would be removed from every ski area permit.

We offered this compromise to demonstrate our willingness to work constructively toward resolution of this issue, and to demonstrate that the federal government need not take and own these private water rights to accomplish its objectives of ensuring ski area operational sustainability and local economic health, which we share. The bill under consideration today and the ski area's alternative approach to water policy are complimentary. We urge passage of this bill as soon as possible to send a clear message to the Forest Service to shape its policy and write its rules and regulations in a manner that respects water rights and state water law.

Thank you for the opportunity to address this Committee. I would be happy to answer or respond to any questions you may have.