



FOREST SERVICE AUTHORITIES, DEFINITIONS AND POLICY RELATED TO WATER RIGHTS FOR SKI AREA PERMITS



Forest Service Authority to Manage Lands

- Congress is empowered to “make all needful rules and regulations respecting the . . . property belonging to the United States” (Property Clause of the U.S. Constitution)
- Congressional authority over federal lands is “without limitations.” (Supreme Court in Kleppe v. New Mexico, 426 U.S. 529, 539 (1976)).

Forest Service Authority to Regulate Land Uses

- The Secretary has the authority to “make such rules and regulations and establish such service as will insure the objects of the [national forests], namely to regulate their occupancy and use and to preserve the forests thereon from destruction” (Organic Administration Act of 1897, 16 U.S.C. § 551).
- Ski area special use permits are “subject to such reasonable terms and conditions as the Secretary deems appropriate.” (16 U.S.C. § 497(b)(7); Forest Ski Area Permit Act of 1986)

Permit--a special use authorization which provides permission, without conveying an interest in land, to occupy and use National Forest System land or facilities for specified purposes, and which is both revocable and terminable. (36 CFR 251.51)

Ski area--a site and attendant facilities expressly developed to accommodate alpine or nordic skiing and from which the preponderance of revenue is generated by the sale of lift tickets and fees for ski rentals, for skiing instruction and trail passes for the use of permittee-maintained ski trails. A ski area may also include ancillary facilities directly related to the operation and support of skiing activities. (36 CFR 251.51)