



U.S. Forest Service

Background Information Regarding Ski Area Permit and the Water Rights Clause



Recreation, including skiing and snowboarding, is an important multiple use of National Forest System (NFS) lands as well as an economic engine for rural economies. The Forest Service has allocated about 180,000 acres of land for ski areas across the U.S.

Addressing water rights in ski area permits allows the Forest Service to ensure that sufficient water remains available to support the ski areas, the recreation opportunities they provide, and local dependent communities.

Special use permits are issued by the Forest Service to authorize use and occupancy of Federal lands for specific purposes. Ski area special use permits are typically issued and reissued for a 40-year term to account for the significant capital investment that is usually necessary to operate a resort.

Clauses in special use permits specify the terms and conditions with which the permit holder must comply, and a permittee's failure to abide by them can be cause for suspension or revocation of the permit.

Clauses addressing water rights have been included in ski area permits for over 40 years. Since 1980, the Forest Service has included a clause in ski area permits that requires U.S. ownership of water rights for water on NFS lands. The basis for this clause is a policy that directs the Forest Service to "claim a possessory interest" for water rights in the name of the U.S. when they support multiple uses on NFS lands (FSM 2541.32, para. 2).