

**Testimony of David Corbin, Aspen Skiing Co.  
September 26, 2013**

Thank you for the opportunity to testify today on behalf of Aspen Skiing Co., Colorado Ski Country USA (CSCUSA) and the National Ski Areas Association (NSAA).

Created in 1945, Aspen Skiing Company today is a privately held ski resort operator and hospitality company, offering skiing and winter recreation on four mountains: Aspen Mountain, Aspen Highlands, Buttermilk and Snowmass. Our terrain is situated on both private and public lands. We hold four Special Use Permits with the United States Forest Service and host nearly 1.4 Million skier visits per year.

CSCUSA, initially formed to market and promote Colorado's skiing across the globe is today a trade association directly representing twenty-two Colorado ski areas and the ski industry more broadly, in domestic and international marketing, communications, governmental matters and public policy, including environmental and legislative issues.

NSAA represents over 90 percent of the ski industry nationally, including 121 member ski areas that operate on National Forest System lands under a special use permit from the U.S. Forest Service. These 121 public land resorts accommodate the majority of skier visits in the U.S. and are located in 13 states.

At the outset, I would like to emphasize that Aspen Skiing Co. completely concurs with and supports Colorado Ski Country and NSAA regarding water rights and the exercise and protection of those rights in Colorado. Aspen Skiing Company, our fellow federal permittees, and our trade organizations value and respect our partnerships 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. We are united in looking to the Colorado General Assembly to take action to protect water rights in this state, 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 in this state and the mountain communities that depend on them.

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 in which we hold historic rights which essentially enabled us to open Snowmass 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. Over the past six months, in communicating to the public on this new policy, the agency has stated that its objective is to sustain ski areas and the rural economies dependent on them. However, a Forest Service water policy that unilaterally takes water from these private parties, who have separately acquired, paid for and developed these water resources, will have the absolute opposite effect. It would unfairly strip our water investments from us, devalue and harm our businesses and deter us from improving our snowmaking infrastructures in the future. Consequently, it will not sustain ski areas and rural economies, but instead serve to stifle and constrain those businesses and economies.

The ski industry offered a new approach to a ski area water clause this spring in conjunction with the Forest Service's public process on developing a new 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) 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.

In closing, there is no better time for the Colorado General Assembly to take swift and resolute action toward protecting the rights of its citizens and its water laws. A bill or Joint Resolution from the General Assembly that condemns the Forest Service's policy of taking water rights without compensation and undermining state water laws would complement the ski industry's approach of offering a compromise that does not include U.S. ownership of private ski area water rights. It would also contribute to and inform the public process now underway.

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