

**Testimony of:
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**Subcommittee on Public Lands and Forests of the
Senate Committee on Energy and Natural Resources
on S. 607, the Ski Area Recreational Opportunity Enhancement Act
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Introduction

Thank you Mr. Chairman, and members of the subcommittee, for this opportunity to testify today. My name is Ryan Bidwell and I am the Executive Director of Colorado Wild, a membership-based conservation organization based in Durango, Colorado. I am also the chairperson of the Ski Area Citizens Coalition, a broad group of more than 25 local, regional and national organizations that annually research and publish the Ski Area Environmental Scorecard which evaluates more than 80 ski resorts across the West on their environmental stewardship practices. It is as an avid skier and conservationist that I make my remarks today on the Ski Area Recreational Opportunity Enhancement Act, S. 607.

I am presenting my testimony today on behalf of Colorado Wild and its members, but also on behalf of The Wilderness Society, Natural Resources Defense Council, Colorado Mountain Club, WildEarth Guardians, Save Our Canyons, Sierra Nevada Alliance, Greater Yellowstone Coalition, and Oregon Wild. We appreciate the opportunity to share our perspectives on S.607 at this hearing. Our organizations, representing more than 1.8 million members and activists nationwide, are committed to the fair and sustainable management of our public lands. We have also been working with Senator Udall and other members of the Colorado delegation on various iterations of this bill for several years and have previously submitted suggestions for minor amendments to the bill that would permit our organizations to support this legislation.

Our National Forests play an invaluable role in providing healthy and engaging outdoor opportunities for the American public. Whether it's just a family hike on a trail, or an activity taking place under the auspices of a special use permit issued to a third party, public lands can and should provide appropriate and well-managed recreational opportunities without degrading the resources upon which those activities depend.

In light of this general principle, my testimony today aims to communicate five points:

1. Our organizations support amending the Ski Area Permit Act of 1986 to address its outdated elements, and to facilitate *appropriate* year-round recreation at ski areas;
2. As introduced, the proposed amendments could authorize virtually any type of recreation activity or facility within ski area permit boundaries, and result in a dramatic shift away from the outdoors-oriented, natural resource-dependent recreation that National Forests should provide;
3. S. 607 could open large acreages of pristine, undisturbed National Forest land with important natural values to unnecessary and inappropriate impacts;
4. S. 607 may provide an unfair competitive advantage to ski area permit holders over other National Forest permittees and local businesses;
5. Overly broad amendments to the Ski Area Permit Act would perpetuate the same uncertainty and inconsistent land management policies that have led to the desire to amend the current law.

Accordingly, we support amending S.607 to clarify the types of recreational activities and facilities that may be authorized, concentrate new facility construction in appropriate areas, and to level the playing field for other recreational businesses. We believe only minor amendments would be required in order to permit our organizations to support this legislation.

Background

Approximately 125 of America's privately-operated ski resorts are located on federal land, with all but one of those managed by the U.S. Forest Service (the other is on land managed by the Bureau of Land Management). These ski areas operate under special use permits issued by the agency for up to 40 years. Roughly half of the approximately 60 million skier visits that occur in the U.S. each winter occur at ski areas located on National Forest lands. While many of these ski areas have a long history, the special use permits governing their operation on public land were inconsistent and somewhat haphazard until passage of the Ski Area Permit Act in 1986. National Forest Ski Areas are now subject to renewable 40-year special use permits, a consistent fee system, and a special set of regulations governing their management.

Despite some standardization provided by the 1986 Act, ski area permits remain highly variable in certain respects, largely as a result of historical factors and the discretion of local Forest Service officials. Most notably, ski permit areas vary dramatically in size. Some ski areas have large acreages included in their permit that extend far beyond existing developed ski runs. For example, the largest ski area in the U.S. is Vail Mountain in Colorado with a permit area encompassing 12,590 acres, only 8,850 of which are within the existing ski area footprint (5,290 of which are developed for skiing). In other words, there are 3,740 acres—nearly 6 square miles—of undeveloped forest within Vail's permit area. The situation is similar at many ski resorts located on National Forest lands.

While ski lifts and lodges extend into the backcountry, the nature and seasonal aspect of snowsports limit their impacts on natural values in some important respects. Lands within ski area permits often see very little human visitation or disturbance during spring, summer and autumn. Therefore, without appropriate guidelines, summer recreation facilities that import amusement park features into these settings could greatly aggravate the impacts on sensitive lands.

Lands within ski area permits are not just meant for skiing. They are havens for wildlife and include vital habitat for threatened and endangered species. These lands are also the source of clean drinking water for many Americans, prime areas for hunting, fishing and other outdoor activities, and include some of our most beautiful scenic areas and opportunities for solitude. Some lands within ski area permits are so wild they are included in National Forest Roadless Areas and are protected by applicable rules and regulations. For all these reasons, unregulated expansion of year-round recreational impacts into the backcountry portions of ski area permit areas could greatly increase the environmental impact of ski resorts on public lands.

National Forests Provide a Unique, Healthy and Natural Recreation Experience

With this background in mind, let me describe the kind of unique, healthy, and natural recreation experience our National Forest ski areas currently provide—the experience we should strive to preserve. As communities adjacent to ski areas have become more and more intensely developed and urbanized, ski areas on public lands continue to provide a breath of fresh air and a natural respite. While in town there may be hotels and discos and traffic, National Forests where ski areas are located allow individuals to escape into the trees and play year-round in the kind of natural environment that is increasingly scarce in our modern world.

Therefore, while we agree that it is reasonable and even desirable for ski areas to provide year-round recreational opportunities, we believe it is of fundamental importance that any amendments to the Ski Area Permit Act preserve our National Forests' uniquely natural recreation experience and sustain the mountain environments in which these activities occur. Because S. 607 lacks clear guidance to the Forest Service on how these values are to be preserved, we are concerned that S. 607 will create more uncertainty and problems than it aims to solve.

Permitted Activities and Facilities Should be Limited to Appropriate Uses of Public Land

National Forest ski areas should continue to contrast with urbanization and provide opportunities for the healthy, natural resource-dependent recreation that is increasingly unavailable in other settings.

- We support skiing and other snowsports on public lands as traditional natural resource dependent outdoor recreation, and as important economic drivers for our states and mountain communities;
- We also support recreation other than snowsports on public lands within ski area permit boundaries during spring, summer and autumn, but it is essential that we preserve our public lands' natural beauty while providing year-round recreational opportunities at ski areas;
- National Forests, including ski areas, should continue to offer recreation opportunities not available elsewhere, emphasizing non-urbanized, natural resource dependent recreational experiences.

As currently drafted, S.607 lacks clear guidelines for the types of summer and year-round recreational activities and facilities that could be permitted at National Forest ski areas. Because they are already developed and accessible, ski areas are unquestionably logical locations to concentrate year-round recreational activities that are customary on public lands, like mountain bike trails, hiking and picnicking areas, and wildlife viewing areas. However, as currently drafted, S.607 leaves the door open to inappropriate, urbanized recreation like roller coasters and water parks that are unrelated to and degrade the user experience of natural National Forest lands. As identified in current Forest Service policies, recreation at ski areas should continue to be dependent on the natural setting, and provide recreational opportunities that are generally not available on private lands or in non-forested settings such as urban areas.

Make no mistake, this concern is not unfounded. Vail Mountain in my home state of Colorado has recently proposed a large, permanent, roller coaster that would descend the ski mountain. Las Vegas Ski and Snowboard Resort is proposing a suite of permanent developments including a concert amphitheater and its own roller coaster. These examples would clearly be just the tip of the iceberg if responsible guidelines on the construction of recreation facilities are not included in any legislation.

We agree with the National Ski Areas Association that ski areas are great locations to get kids into the woods and exposed to public lands. In fact it was at Loon Mountain on the White Mountain National Forest in New Hampshire that I learned to ski and first visited National Forest lands. Yet the learning opportunity and the chance to promote healthy and active lifestyles for our nation's youth will be lost if visitors find the same types of recreational facilities in the mountains that they left behind at home in their city or suburb.

We believe the best strategy for ensuring that inappropriate facilities are not constructed within ski area permits is to amend S. 607 with additional language to clarify the characteristics of recreational activities and facilities that are to be permitted. We believe this strategy is preferable to developing a list of prohibited activities because it will better stand the test of time as new recreational pursuits emerge in the future.

Facilities Should be Concentrated in Already Developed Areas

In addition to the acreage already developed with ski runs and lifts, many ski area permits go beyond these lands and cover large, entirely undeveloped National Forest areas that offer important wildlife habitat and wildlife migration corridors, backcountry recreation, and scenic viewsheds. As I mentioned, nearly 6 square miles of undeveloped land fall within Vail Mountain's ski area permit. Similarly 2,400 acres within Loveland Ski Area's permit in Colorado overlaps with undeveloped inventoried roadless National Forest land.

S.607 provides no guidance to the Forest Service as to where year-round recreational facilities should occur, potentially threatening large acreages of pristine, undisturbed National Forest land with inappropriate impacts. For those activities that are not readily provided on private lands, we recommend concentrating any new recreational facilities in the areas already modified by trail, lift, lodge, and other developments in order to reduce the adverse effects of these installations.

The Amendments Should Not Create an Uneven Playing Field

Ski areas are not the only permit holders on National Forest land that provide recreational opportunities for the public. Yet, as introduced, S.607 could provide a significant competitive advantage to ski areas over other National Forest special use permit holders and local businesses in mountain communities.

S.607 would allow 40-year non-competitive permits for ski companies to operate non-skiing activities within ski area permits. In contrast, special use permits for other outfitters and guides that provide outdoor recreation programs on public lands – often very small businesses completely dependent upon this source of income – are generally available through a competitive process for only 1, 5, or 10 year time frames. While the significant costs of ski lifts, snowmaking and other infrastructure investments at ski areas justifies the longer permit time frame for winter ski facilities, those same financial circumstances do not apply to the year-round, non-skiing uses contemplated here. In the interest of fairness, non-skiing recreational activities permitted for ski companies should be held to the same standards as other permittees.

S.607 could give also ski companies a competitive advantage compared to other existing recreational providers that are in town and lack access to public lands. Existing local business and communities that provide year-round facilities such as rock climbing walls and mountain bike skills courses could be undercut by ski companies that, if permitted for these same activities, have access to vast acreages of public land. Accordingly, we believe that it is important that the economic implications of S.607 to existing business owners be more thoroughly understood and considered.

The Amendments Must Foster Clear and Consistent National Forest Management

One of the reasons for this bill is the current unpredictable interpretation and inconsistent management regarding year-round recreational activities at National Forest ski areas. The current lack of guidance on what activities are permitted has resulted in significant problems for the Forest Service. Without proper guidance, determinations regarding allowable facilities and activities have been largely left to the discretion of Forest Service line officers. The result has been wildly inconsistent determinations that result in industry frustration and resentment when

one ski area is permitted to undertake an activity that another was denied, or when there is inequity between a ski company and a small guiding company. For example, alpine slides have been constructed at Winter Park in Colorado and Mt. Hood Ski Bowl in Oregon, while other resorts' requests to install these temporary structures have been denied.

As currently drafted, S.607 does not solve this problem. We believe the Subcommittee should clarify the guidance language in the amendments, and we are ready to help with that process. With the proper drafting, we can achieve a Ski Area Permit Act that ensures year-round recreation at ski areas encourages healthy, natural, outdoor-dependent exploration and discovery of the public's National Forests in a manner that is fair, sustainable, and consistent nationwide.

Thank you for considering these remarks and for the opportunity to address the Subcommittee.