

Statement of  
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Of Colorado

On Introduction of a Bill to Clarify Authority of Secretary of Agriculture regarding additional recreational uses of National Forest System lands subject to ski area permits

July 17, 2008

Madam Speaker, today I am introducing a bill to revise the 1986 law dealing with use of National Forests for ski areas in order to reflect current ways those areas are used and to provide clear authority for the Forest Service to allow additional recreational uses of those areas.

I have long thought it is in the national interest to encourage Americans to engage in outdoor recreational activities that can contribute to their health and well-being, and that National Forest lands, including ski areas, can play a role by providing opportunities for such activities.

And my interest in the subject was heightened earlier this year when representatives of the National Ski Areas Association brought to my attention the fact that the National Forest Ski Areas Permit Act of 1986, which speaks only to “nordic and alpine skiing,” does not reflect the full spectrum of snowsports for which ski areas are now used, and what they described as the absence of clear authority for the Forest Service to permit use of ski areas for other summer, seasonal, or year-round outdoor recreational activities and facilities in support of those activities.

To better understand the matter, I sent a letter asking the Under Secretary of Agriculture for Natural Resources and the Environment whether current law could be clearer on those points. Under Secretary Mark Rey replied that the 1986 legislation indeed did not address those matters and that, if requested, the USDA “would be happy to work with you to amend” the law to provide the Forest Service with clear authority regarding such activities and facilities.

I did request and receive technical suggestions from the Forest Service, and have considered their input as well as suggestions from the National Ski Areas Association and other interested parties in developing the bill I am introducing today.

The bill intentionally uses a number of terms and phrases based on the terminology of the Forest Service’s regulations, manual, or other official documents because those terms and phrases are familiar not only to the Forest Service but also to permittees and others with an interest in the management of the National Forests. Thus, as used in the bill the term “developed recreation” means recreation that occurs at an area which has been improved or developed for that purpose – such as camping in constructed campgrounds or developed opportunities for off-highway-vehicle use as well as downhill skiing. Similarly, the term “natural-resource-based recreation” is intended to have the same meaning as when used in the Forest Service manual 2300 (Recreation, Wilderness, and Related Resource Management).

It also should be noted that the bill deals only with the 1986 National Forest Ski Areas Act, and would not in any way affect any other law applicable to management of the National Forests or any permits issued under any of those laws.

Ski area permits under the 1986 law do give their holders a priority with respect to commercial use of the lands subject to the permits, but they do not preclude general use of those lands by the public for compatible, non-commercial uses, and the bill would not change that. In fact, the bill does not affect the status, the duration, or any other provision of any permit already issued under the 1986 law, nor does it provide for any new permits. Instead, it makes clear that the Forest Service is authorized – but not required – to allow a current or future holder of a permit under the 1986 law to provide opportunities for additional developed recreational activities (and to place

associated facilities) on the lands covered by that permit if the specified requirements are met and if the Forest Service decides it would appropriate for that to occur.

And it would not affect any existing or future permit related to use of lands that are not subject to ski area permits under the 1986 law or in any way reduce or otherwise modify the extent to which the Forest Service can allow any particular use on any of those lands outside ski areas.

Madam Speaker, this is a narrowly-targeted bill that I think can be valuable regarding an important aspect of the management of the National Forests and in facilitating the provision of additional opportunities for seasonal and year-round recreational activities on the parts of those lands that are subject to permits under the 1986 law. I think it deserves the approval of our colleagues, and for their reference I attach a more detailed outline of its provisions:

#### Outline of the Bill

Section 1 sets forth findings regarding the basis for the legislation, and states its purpose. The findings note that it is in the national interest to provide, and encourage Americans to take advantage of, opportunities to engage in outdoor recreational activities that can contribute to their health and well-being; that National Forests, including those areas used for skiing, can provide such opportunities during all four seasons; that increased use of ski areas for that purpose can reduce impacts on other National Forest lands; and that it is in the national interest to revise the National Forest Ski Area Permit Act. The purpose is to amend that 1986 law so as to reflect that other snowsports, in addition to nordic and alpine skiing, occur at ski areas and to clarify the Forest Service's authority to permit additional appropriate seasonal or year-round recreational uses of lands subject to permits under that law.

Section 2 would amend the National Forest Ski Area Permit Act of 1986 in three ways:

- (1) by replacing current language that refers only to "nordic and alpine skiing" with broader terminology to reflect that additional ski areas are also used for additional snowsports, such as snowboarding.
- (2) by providing specific authority for the Forest Service to authorize the holder of a ski area permit under the 1986 law to provide additional recreational opportunities (and to have associated facilities) on lands covered by that permit. This authority is limited to activities and facilities that the Forest Service determines appropriate, that encourage outdoor recreation, and that harmonize to the natural environment to the extent practicable. The bill makes clear that the activities and facilities will be subject to such terms and conditions as the Forest Service determines appropriate. It also specifies that no activity or facility can be authorized if the agency determines that authorization would result in the primary recreational purpose of lands covered by a permit under the 1986 law would not be skiing or other snowsports.
- (3) Finally, the bill would delete from the 1986 law obsolete language related to a deadline for conversion of previously-issued ski-area permits to permits under the 1986 law, while retaining the requirement that regulations be promulgated to implement that law – a requirement that will apply to the law as it would be amended by the bill.

Section 3 specifies that the bill will not affect any authority the Forest Service now has under laws other than the National Forest Ski Area Permit Act of 1986, including authority with respect to recreational activities or facilities.