

USFS, ski resorts at odds over water rights

By Jason Blevins, Denver Post

The U.S. Forest Service will soon launch a national public process as it renews efforts to install a ski-permit rule requiring operators to transfer water rights used on public land to federal government.

A U.S. District judge in Denver last month overturned the new Forest Service rule, arguing that the agency had ran afoul of procedural guidelines when it sculpted new 2011 and 2012 permitting regulations requiring ski area operators to transfer water rights to the federal government as a condition of the ski area permit.

Judge William Martinez sided with the National Ski Areas Association, which had sued the Forest Service in January 2012 to stop the new permit water rules. The Forest Service this week announced it would begin a public process this spring – following federal procedural rules this time – gathering input from ski areas, ski area communities and others as it sculpts a regulation addressing water rights.

The agency will work to develop rules that keep water connected to the land, not the permit-holder.

“We would like to keep a situation where the water that is being used in the future – that is necessary and dependent for that ski area to operate – stays with that ski area for snowmaking and ski area operations,” said Rocky Mountain Regional Forester Daniel Jirón. “With climate change and other thing we are seeing, being able to maintain water at the ski area is going to be really, really important.”

The national process this spring will gather ski-area

operators, business and residents in resort-dependent communities and anyone who depends on outdoor recreation, Jirón said.

Geraldine Link, public policy director for the National Ski Areas Association, said the group welcomed the public process and was eager to participate.

“We hope that all water rights owners will participate in the public process given the significant percentage of water that arises on National Forest System lands,” she said.

The process launched this week when the Colorado House agricultural committee heard testimony on a water rights bill. House Bill 1013 would prohibit a landowner from conditioning a special-use permit on the transfer of privately owned water rights. The bill was amended and a vote delayed until next week.

Jirón, who testified before the committee on Monday, said he wants to work closely with the state’s 22 ski areas operating on national forest land and the communities that rely on the \$1.5 billion generated by those ski hills. He also said any new water-rights regulation would comply with Colorado’s complex water laws.

Jirón hailed the state’s ski area executives as “extremely professional, dedicated people ... committed to skiing and committed to the industry.” But he wondered who would be in charge in 40 years.

“We have seen lots of changes in other kinds of industries,” he said, noting that ski-area permits last for 40 years and the Forest Service needs to think “long haul” about the future value of water and whether future owners could be compelled to sell water instead of run a ski hill. “It is not unreasonable to envision corporate changes where we are not working with these same people. Would they have the same dedication or would they see it as an asset? You see that in other

industries. We have to look longer than just the current group or even the next group.”