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## *Outdoor Recreation*

### Energy, Environment and Natural Resources: Natural Resources

WilmerHale's premier natural resources lawyers have extensive experience advising and representing ski and outdoor recreation industry clients seeking to develop resorts and facilities; expand existing services and boundaries; renew, transfer or acquire permits; initiate infill projects; and pursue operations beyond the winter season. Our team, which includes several former federal and state government officials, interfaces regularly with federal, state and local regulators on behalf of clients and provides in-depth legal analysis of environmental permits, National Environmental Policy Act (NEPA) documents, land management planning documents, and specific regulatory and legal issues.

Our familiarity and relationships with relevant agencies—including the US Forest Service (USFS), National Park Service (NPS), and Fish and Wildlife Service (FWS)—allows us to help clients effectively navigate the development and implementation process in order to bring their Master Development Plans and auxiliary strategic plans to fruition. We work with clients to find the most efficient ways to achieve their key objectives, engaging with regulators, environmental groups and local communities early on to identify mutually beneficial solutions to potentially controversial issues.

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## *Experience*

### **PERMITTING**

- Counseling a major ski resort on public lands issues related to the largest ski resort expansion in North America in more than a decade.
- Securing federal, state and local land use approvals for dozens of ski areas and winter recreation programs, including ski area permits, permit renewals and other special use authorizations.
- Assisting a ski area—the first permitted on US federal lands in more than a decade—in obtaining federal, state and local approvals.
- Counseling numerous resorts on issues involving water quality and related water infrastructure development in order to support year-round operations.
- Serving as public lands and environmental counsel for a large ski resort regarding on-mountain improvements in preparation for an international alpine ski event.
- Serving as federal public lands and local land use counsel to a ski and golf club with regard to on-mountain ski area expansions, permitting and land use issues.
- Providing consultation to a major ski resort and its holding company on various matters, including federal permitting in support of the development of numerous ski and summer resort operations on public lands across the United States.
- Assisting a ski resort seeking to expand its spring and summer offerings, including interfacing with the Department of the Interior and other stakeholder groups.
- Representing a Midwest ski resort operator in the acquisition of water rights from the project area of a Federal Energy Regulatory Commission–licensed hydropower operation.
- Providing federal public lands counseling to a ski resort and its shareholders regarding the construction of a gondola connecting neighboring ski resorts, including working closely with the USFS and California state regulatory entities.

### **COMPLIANCE**

- Representing ski areas before the USFS and Department of Agriculture in connection with regulatory developments affecting operations, such as the Ski Area Water Clause and evolving state minimum wage requirements.
- Counseling ski resorts on NEPA compliance and the development of Habitat Conservation Plans under the Endangered Species Act (ESA), as well as related permitting and enforcement matters.
- Advising ski areas on the addition of heli-skiing operations and other regulatory matters related to expanded recreation opportunities and resort operations.
- Counseling ski areas in drafting and updating Master Development Plans, Annual Operation Plans and other strategic plans essential to regulatory compliance.
- Assisting a trade association for ski area owners and operators with legislative policy, regulatory and public lands developments impacting the ski industry.
- Representing a ski resort with regard to public lands and development matters, including USFS master development planning.

## LITIGATION

- Representing a publicly traded ski company in a dispute over the possession of ski terrain at a resort, winning summary judgment dismissing the resort's claims that its lease should be extended and of alleged violations of a right of first refusal and prohibition on sale. The remaining litigation concluded when the resort's parent company sold the resort.
- Representing a ski resort in district court, appellate court and US Supreme Court litigation, and advising on water quality, public lands, NEPA and ESA compliance.
- Representing one of the nation's preeminent ski areas in its defense of a federal land exchange.
- Representing a family-owned ski area in litigation arising from a developer's planned encroachment on ski terrain.
- Representing a ski resort in an administrative appeal after the USFS denied approval for the construction of two chairlifts, arguing that the decision was unlawfully departed without justification from a prior tentative ruling and appeared to outsource the US Secretary of Agriculture's congressionally delegated authority to grant ski area permits within national forest lands to private parties—specifically, environmental groups concerned about the proposed projects.