
File Code: 2720
Date: July 8, 2022

Chris Sorensen
Vice President/General Manager
Keystone Resort
PO Box 38
Dillon, CO 80435

NOTICE OF NONCOMPLIANCE, CEASE AND DESIST, OPPORTUNITY TO CURE

Dear Chris:

This is a notice of noncompliance regarding special use authorization DIL528901, issued to Vail Summit Resorts, Inc dba Keystone Ski Resort Inc on December 30, 1996, for the purpose of constructing, operating, and maintaining a winter sports resort on the White River National Forest, known as the Keystone Resort.

On July 6th, 2022, the Forest Service observed unauthorized road construction associated with the Bergman Bowl Enhancement project at Keystone Resort. This construction included:

- Grading a road through the alpine tundra along the *minimal* access route authorized to the top terminal of the Bergman Chairlift. Grading along this route was not authorized.
- Grading an 1,830-foot route segment beyond the authorized acres/areas of disturbance, not salvaging topsoil as required, and burying a stream with graded material.

As a result, Keystone is in noncompliance with section II.A of special use authorization DIL528901 which states “nothing in this permit shall be construed to imply permission to build or maintain any improvement not specifically named in the Master Development Plan and approved in the annual operating plan, or further authorized in writing by the authorized officer.” In addition, Keystone is in violation of 36 CFR 261.10(a) which prohibits “Constructing, placing, or maintaining any kind of road, trail, structure, fence, enclosure, communication equipment, significant surface disturbance, or other improvement on National Forest System lands or facilities without a special-use authorization, contract, or approved operating plan when such authorization is required.”

CEASE AND DESIST

Based on past experience with road construction in sensitive alpine areas, I am not optimistic Keystone will be successful in repairing or restoring the newly graded road that was constructed to the top terminal of the Bergman chair lift. To prevent additional unrepairable damage, and in accordance with section VIII.B of special use authorization DIL528901, this letter also serves as a cease-and-desist order for the following activities associated with the Bergman Bowl project:



- All grading, permanent and temporary road construction, and the use of logging-related heavy equipment off roads.
- All vehicle and equipment access above tree line.

Other project activities may continue consistent with the February 18, 2021, Decision Notice, in coordination with Forest Service permit administrators.

OPPORTUNITY TO CURE

The cease-and-desist will remain in place until the resource damage is evaluated and the Forest Service approves a written plan that describes how damaged areas will be restored, how construction will proceed without causing further damage and comply with the project decision, and how communication will be improved to prevent similar situations moving forward. This plan will be developed by Keystone. In approving the plan, the forest will consider what additional NEPA or environmental analysis is needed to address this unauthorized construction prior to moving forward with implementation.

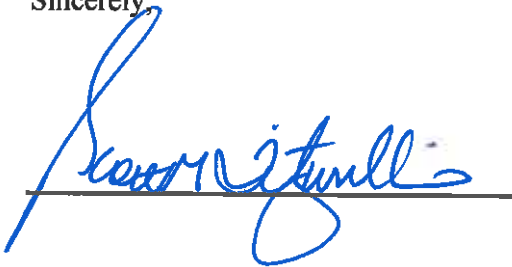
CONCLUSION

Vail Resorts and the White River National Forest worked closely in cooperation over the course of many years to design, analyze, and authorize a project at Bergman Bowl that reflected care for the fragile alpine environment at the site. In cooperation, we specifically worked to minimize grading and roadbuilding and to avoid damage to alpine tundra as much as possible. We both understand that alpine areas are extremely fragile and are notoriously difficult or impossible to restore. These unauthorized access roads and lack of communication with my staff prior to construction display an overall lack of care for protecting the environment and is concerning to me.

Resource specialist from my staff will be on site today (July 8, 2022) to assess the situation at Bergman Bowl and determine what immediate actions we will require of you to begin restoration efforts.

District Ranger Adam Bianchi will contact you early next week to schedule a with you to discuss the situation in more detail. I appreciate your attention to this matter.

Sincerely,



SCOTT G. FITZWILLIAMS
Forest Supervisor

Enclosures

cc: Adam Bianchi, Don Dressler, Bill Rock (wrock@vailresorts.com)

