



# MANAGER'S REPORT

DATE: July 14, 2015  
TO: Mayor and Borough Assembly  
FROM: David B. Sosa, Borough Manager

## 2015 Season-End Report of Commercial Skiing-Related Permits

Haines Borough Code 5.18.080 (F)(6) Commercial ski tours, commercial ski productions and special ski competition events states the following:

"The borough manager shall compile a season-end report to be submitted to the borough assembly annually during the first meeting in July. The report shall include the number of skier days used by each permitted company as compared to previous years, and it shall include any verified permit infractions along with correspondence and other information documenting reasons for the infractions."

Attached are the following documents:

1. 2015 Skiing-Related Permits Issued
2. 2015 Skier Day Allocations
3. 2015 Commercial Ski Tour Summary of Skier Day Use
4. Commercial Ski Tour Skier Day Comparison Report 2007-2015

Documents pertaining to complaints received and the results of the investigations are available on the borough's website: [www.hainesalaska.gov/administration/2015-heliskiing-information](http://www.hainesalaska.gov/administration/2015-heliskiing-information)

### Summary:

Three commercial ski tour permits were issued. All 2600 skier days allowed by code were allocated between the three companies for 2015. A total of 1645 days were reported as used during the season. Additionally, this year, I issued one commercial ski production permit and one special ski competition permit.

Seven complaints were received, and the manager and staff conducted the investigations including analysis of GPS data. One complaint involved a deviation from the map and attributed it to commercial ski tour activities. That deviation did take place for weather-related safety reasons but was actually related to the special ski competition. No other complaints were substantiated.

To conduct spot checks, the borough asked for GPS data from each operating commercial ski tour company covering five separate random days. The report and follow up investigation of the reports are the result of collaboration with Takshanuk Watershed Council and conversations with BLM. There were two violations involving Alaska Heliskiing, and that company was fined \$150.00 per violation for a total of \$300.00. In addition, two landings by SEABA occurred on

Bureau of Land Management (BLM) property and were permitted by BLM. The feedback from the BLM was as follows:

In your case, it is clear that the Haines Borough's code closure (closing the subject BLM area to heliskiing) is preempted by federal law as it applies to BLM lands because it impermissibly conflicts with federal law, in that it stands as an obstacle to the full purposes and objectives of FLPMA in this instance (i.e., BLM's implementation of FLPMA allowing for heliskiing in the subject area). See U.S. Supreme Court's decision in *California Coastal Comm. v. Granite Rock Co.*, 480 U.S. 572 (1987): <https://supreme.justia.com/cases/federal/us/480/572/case.html>

State and local governments may not prohibit land use activities on federal lands which the federal land managers have authorized pursuant to federal law. In this regard, the Borough's role is limited to working with BLM to propose closures, requirements, or restrictions for such activities.

Accordingly, SEABA was not found in violation for these landings.

Respectfully,  
David B. Sosa  
Borough Manager  
Haines, Alaska

# 2015

## Skiing Related Permits Issued

		Notes
<b>Commercial Ski Tours</b>	<b>Dates of Operation</b>	Maximum 3 Permits Available
Alaska Heliskiing	2/28 - 4/25	
SEABA	2/26 - 5/3	
Alaska Mountain Guides	no operation	
<b>Commercial Ski Production</b>	<b>Production Dates</b>	Maximum 2 Permits Available either/or
Matchstick Productions	3/21 - 4/15	
<b>Special Ski Competition</b>	<b>Date of Event</b>	" " "
Freeride World Tour	3/23	



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Manager's Report – Heliskiing Allocations Update

**October 14, 2014**

Haines Borough Code 5.18.080 establishes a maximum of 2,600 skier days to be allocated by the Manager among three heliski companies. Alaska Heliskiing (AH), Southeast Alaska Backcountry Adventures (SEABA), and Alaska Mountain Guides (AMG) have requested a combined 3,200 skier days for the 2015 heliski season. When this occurs, it falls to the Borough Manager to decide how to allocate skier days between permitted companies. HBC 5.18.080(C)(2) lists the following factors to be considered when making allocation decisions:

- a. The quality of the operating and safety plans submitted by the permittee.
- b. The economic impact of the allocation on the permittee.
- c. The safety and well-being of the general public.
- d. Historic use of skier days by the permittee.
- e. The interests of the borough in the promotion of tourism.
- f. Past safety record of the permittee.
- g. The applicant's past record of compliance with borough ordinances related to commercial ski tours.
- h. The existence and terms of any voluntary agreement between the borough and the applicant pertaining to operational practices of the applicant.

I have decided to issue skier days for the 2015 season as follows:

	2013			2014			2015	
	Requested Allocation	Initial Allocation	Final Allocation	Requested Allocation	Initial Allocation	Final Allocation	Requested Allocation	Allocation
AH	1400	1050	1250	1400	1400	1400	1750	1450
SEABA	1000	1000	1000	1100	950	950	1000	1000
AMG	450	450	250	450	250	250	450	150
Total	2850	2500	2500	2950	2700	2700	3200	2600

These numbers represent the allocation for the 2015 season.

The reason for the reduction in Alaska Heliskiing's allocation is two-fold. AH requested 1750 days based on an erroneous assumption that there would be a requirement to apply skier days to a potential ski competition. Per code, skier days are only applied to ski tours and ski productions (HBC 5.18.010 and 5.18.080 (C)). AH subsequently reduced their request to 1500 days. The remaining reduction of 50 days is based on the findings of the Clerk's research and analysis of the company's 2013 safety/ compliance record, which notes in part the following:

Alaska Heliskiing was found in violation of **Haines Borough Code 5.04.080 Conditions applicable to all permits;** A permittee is responsible for complying with all municipal, state, and federal ordinances, statutes, and regulations applicable to the permittee's activities.

The reason for the reduction in AMG's allocation is based on historical use.

Alaska Mountain Guides used no skier days in 2014, 2013 and only 5 skier days 2012.

Any permittee receiving less than a requested allocation may appeal this initial allocation decision to the borough assembly by filing a notice of appeal with the borough clerk no later than 15 days from the date of this decision.



David B. Sosa

Borough Manager

**2015  
Commercial Ski  
Tours  
Skier Day Use**

	<b>Skier Days</b>	<b>Reported Deviations from Flight Guidelines?</b>	<b>Accidents?</b>	<b>Wildlife Observation?</b>	<b>Notes</b>
Available	2600				
<b>AK Heli Totals</b> allocation	<b>998</b> 1450	No	No	None	Days Reported thru 4/25 FINAL
<b>SEABA Totals</b> allocation	<b>647</b> 1000	Yes *	No	None	Days Reported thru 5/3 FINAL
<b>AMG Totals</b> allocation	<b>0</b> 150	No	No	None	Did not operate in the Haines Borough FINAL
<b>Combined Totals</b>	<b>1645</b>				

\* See specific bi-weekly activity reports and/or GPS spot check reports for more information

Haines Borough

**Permitted Commercial Ski Tours - Skier Day Use**  
**Comparison Report 2007-2015**

	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>
skier days available	2600	2600	2600	2600	2600	1200	**1200	1000	1000
photo days available	Now included with skier days					140	**260	140	140
<b>AK Heli</b> skier day allocation	1450	1400	**1150	1490	1450	750	650	650	650
<b>skier days used</b>	<b>998</b>	<b>792</b>	<b>1103</b>	<b>1232</b>	<b>1363</b>	<b>659</b>	<b>**664</b>	<b>445</b>	<b>281</b>
photo day allocation	N/A					90	90	100	100
<b>photo days used</b>	N/A					<b>53</b>	<b>**117</b>	<b>122</b>	<b>40</b>
<b>SEABA</b> skier day allocation	1000	*1000	1000	870	750	450	350	350	350
<b>skier days used</b>	<b>647</b>	<b>121</b>	<b>868</b>	<b>722</b>	<b>560</b>	<b>615</b>	<b>**406</b>	<b>320</b>	<b>222</b>
photo day allocation	N/A					10	10	20	20
<b>photo days used</b>	N/A					<b>24</b>	<b>**11</b>	<b>8</b>	<b>20</b>
<b>AMG</b> skier day allocation	150	*200	**350	200	200	New permittee in 2011			
<b>skier days used</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>8</b>				

\* On 2/19/14, the borough manager approved a transfer of 50 skier days from AMG to SEABA.

\*\* On 4/19/13, the borough manager approved a transfer of 100 skier days from AMG to AK Heli.

\*\*\* 2009 - Emergency Ordinance 09-04-205 added 200 skier days and 120 photo days to the code-allowed 1,000 and 140. The ordinance did not stipulate specific operator allocations. AK Heli and SEABA both used some of the additional days allowed under the emergency ordinance, so they did not inappropriately exceed their initial allocation.