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LAW & ORDER

Let it snow!

Warmer winters have increased demand among ski-resorts for weather-related insurance

As the ski season in the northern hemisphere approaches, both skiers and ski resorts are hoping for abundant snowfall, well aware climate change has led to unpredictable weather and warmer temperatures.

Ten of the warmest winters globally since 1880 have occurred since 1995 and the most recent winter was the fourth-warmest in recorded history.

For ski resorts, higher temperatures mean low snowfall, a shorter ski season and fewer skiers visiting ski resorts – all consequences of climate change that are detrimental to their business.

While low snowfall is unpleasant, the trend of rising winter temperatures is especially unwelcome because warm weather not only correlates to low snowfall, but high temperatures also affect the snowmaking capabilities of ski resorts.

Although snowmaking is time-consuming and costly, it allows resorts to keep trails open and attract skiers even when natural snowfall is low. Snowmaking has become a vital component to running most ski resorts, particularly in the eastern and mid-western US, and below-freezing temperatures are a precondition for the snowmaking process.

During the 2011/12 season, one ski resort in the western US spent more than 1,000 hours making snow to attract skiers and maintain business when snowfall levels were low.

Although temperatures remained low enough for western US ski resorts to make snow, ski resorts in the eastern US were less fortunate. A combination of high temperatures and rain thwarted the snowmaking process, forcing ski resorts to open a minimal number of trails.

This ski season, only 421 of Vermont's 1,200 ski trails were open at the beginning of January, where in past years more than 800 trails were often in operation around that time.

To minimise losses associated with climate change, ski resorts have sought out various insurance policies to help reduce the risks and lost profits caused by unfavourable weather. Some insurers have recognised the growing demand among ski resorts for such weather-related policies and have developed unique insurance policies for ski resorts.

The insurance policies, known as "weather insurance", provide ski resorts with numerous coverage options. Available policies include coverage for seasonal snow accumulation, where ski resorts can seek coverage for too little snowfall over a certain period of time or for the entire winter season.

Other existing policies provide insurance coverage for low snowfall before special events and holiday weekends, where ski resorts expect high sales, and for temperature insurance, providing coverage in case the temperature is too high during peak snowmaking periods.

In 2000, a similar insurance policy was marketed towards ski resorts by MDM Group Associates. At first, larger ski resorts in Colorado, such as Vail, Crested Butte and Telluride, purchased the policy.

The insurance policy by MDM covered more than weather-related losses, allowing ski resorts to recover if their ski season figures dropped below normal levels. In particular, the policy provided a fixed payment for each paid skier day below certain targeted levels for the season, regardless of whether the low skier turnout was caused by warm weather.

The high premiums associated with the policy, however, deterred some ski resorts from purchasing coverage, but those that did were satisfied. A combination of low snowfall and the Y2K scare resulted in a low number of skiers visiting the large ski resorts in 1999/2000 and MDM paid out more than $20m to ski resorts who purchased the policy.

One of the biggest beneficiaries of the policy was Vail Resorts, Inc. The company, which then owned and operated four Colorado ski resorts, purchased MDM's insurance policy for the 1999-2000 season and collected $13m from MDM after seeing a 9% decline in skiers from the previous year.

Although ski resorts benefited from purchasing the offered insurance, no ski resorts purchased the insurance policy for the 2001/02 ski season, choosing instead to take a risk with the weather, rather than paying high insurance premiums.

While MDM's insurance policy saw a decline in demand, ski resorts continued to purchase weather insurance through other insurance carriers.

In a case of first impression in the US, in May 2012, New Jersey's Mountain Creek Resort filed suit against Everest Indemnity Insurance Company in an attempt to force the insurer to pay a claim under a weather insurance policy underwritten by the company.

Mountain Creek purchased the policy before the 2011/12 season as a way to minimise potential losses after spending millions renovating the resort.

The policy provided coverage on the chance temperatures during the 16-day period from December 12 to December 27 – which is the peak snowmaking and holiday skiing period – exceeded 33°F for more than 10 days. The policy would pay $284,970.00 for each day above 33°F, up to a maximum of $1,700,000. Mountain Creek claims the average temperature exceeded 33°F for all 16 days; Everest claims the temperature exceeded 33°F for only nine days.

The issue in Mountain Creek's suit with Everest is grounded in a contractual dispute, with the primary question being where the two parties agreed the temperature measures would be taken. Although the issue is narrow, the case can impact the future of weather insurance and whether ski resorts will purchase similar policies.

A decision favouring Mountain Creek will increase premiums for policies, while a decision favouring Everest Insurance Company will likely deter ski resorts from purchasing such policies in the future.

This is similar to the situation that arose in 2000, when MDM paid out more than $20m and the following year no ski resorts purchased the favourable policy because of the high premiums.

The agreement between Mountain Creek and Everest appointed a Massachusetts-based company, Weather Analytics, to calculate the temperature, but Mountain Creek believes the calculations were inaccurate as to the actual temperature at the mountain from December 12 to 27, 2011. The heart of the issue is how the temperature was determined and the accuracy of the readings.

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The future market for weather insurance policies for ski resorts remains unsettled and the unpredictability of the weather further complicates matters. While the 2011/12 ski season saw high temperatures and minimal snowfall, the previous ski season in 2010/11 saw record snowfall and optimal skiing conditions.

Given the unpredictability of winter weather at present, ski resorts may overlook purchasing expensive insurance policies, and take a calculated risk, hoping for naturally favourable winter weather. ■