

**VIA EMAIL**

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13 April 2007

Jim Micheals  
Project Manager  
California State Parks  
Gold Fields District  
7806 Folsom-Auburn Road  
Folsom, CA 95630

**RE: ACCESS FUND URGES AUBURN STATE RECREATION AREA  
GENERAL MANAGEMENT PLAN TO EXPLICITLY SET FORTH  
ROCK CLIMBING AS A PERMITTED ACTIVITY**

Dear Mr. Micheals,

I write on behalf of the Access Fund to urge the Auburn State Recreation Area (ASRA) General Management Plan to explicitly set forth rock climbing as an activity permitted on lands within the management jurisdiction of ASRA.

Rock climbing, ice climbing, bouldering and mountaineering are appropriate, sustainable, low impact, legitimate and longstanding use of our nation's public lands and are practiced in many places nation-wide on both federal and state owned and managed land.

Throughout our National Park System, climbing is considered a "welcomed and historical use." In National Parks like Yosemite, Joshua Tree, and Rocky Mountain, climbing has been a popular pursuit for more than half a century. Climbing is also a welcomed and historical use on other agency lands including hundreds of sites managed by the US Forest Service, Bureau of Land Management, US Fish & Wildlife Service, and Army Corp of Engineers.

At the state and regional level, climbing is equally popular and reasonably managed. State parks in New Hampshire, New York, Pennsylvania, West Virginia, North Carolina, Colorado, South Dakota, Utah, Washington and California, to name but a few, offer a variety of rock climbing opportunities. In California, Castle Crags, Malibu, Mt. Diablo and Castle Rock State Parks, have a long history of rock climbing. In fact, in 2000, during the General Management Planning process, Castle Rock not only acknowledged climbing as a legitimate use of the state park, but declared "rock climbing an integral part of planning and focus for the Castle Rock Ridge area of the park". Given the appropriate acceptance of climbing as a permitted use on state and federal public lands elsewhere, we encourage ASRA to reconsider Order 03-691-02 issued on April 15, 2003 and specifically permit climbing and recognize climbing as a legitimate, valued and positive use of ASRA managed lands.

## **The Access Fund**

As the nation's only national advocacy organization whose mission keeps climbing areas open and conserves the climbing environment, the Access Fund works with land managers from coast-to-coast to allay and address their concerns about potential liability exposure resulting from recreational rock climbing, as well as questions about climbing's impact on the environment. In fact, the Access Fund has signed memoranda of understanding (MOU) with both the BLM (<http://accessfund.org/pdf/AF-BLM-MOUfinal.pdf>) and USFS (<http://accessfund.org/pdf/AF-03-MOU-USFS.pdf>) relating to any climbing initiatives within their areas of management. A 501(c)3 non-profit supporting and representing over 1.6 million climbers nationwide in all forms of climbing—rock climbing, ice climbing, mountaineering, and bouldering—the Access Fund is the largest US climbing organization with over 15,000 members and affiliates. Many of our members live and recreate in California, and in particular in the Bay and Lake Tahoe regions. Indeed, California is our largest membership state.

The Access Fund promotes the responsible use and sound management of climbing resources by working in cooperation with climbers, other recreational users, public land managers and private land owners. We encourage an ethic of personal responsibility, self-regulation, strong conservation values and minimum impact practices among climbers. Working towards a future in which climbing and access to climbing resources are viewed as legitimate, valued, and positive uses of the land, the Access Fund advocates to federal, state and local legislators concerning public lands legislation; works closely with federal and state land managers and other interest groups in planning and implementing public lands management and policy; provides funding for conservation and resource management projects; develops, produces and distributes climber education materials and programs; and assists in the acquisition and management of climbing resources. For more information about the Access Fund, visit [www.accessfund.org](http://www.accessfund.org).

## **Tradition of Rock Climbing at ASRA**

Technical rock climbing has been practiced in the Old Limestone Quarry located in the ASRA since the late 1980's. The original climbers established approximately seven rock climbing routes and currently there are almost fifty established rock climbing routes within the Auburn State Recreation Area. The rock consists primarily of large highly featured limestone, which is ideally suited to climbing. Furthermore, the relative lack of climbing cliffs and climbing opportunity within a 50-mile radius of greater Sacramento makes ASRA an indispensable and unique resource for the climbing community. Other state areas such as Mt. Diablo and Castle Rock State Parks, which are currently being managed under the same usage plans as those in effect at the Auburn SRA, allow technical rock climbing on their rock cliff faces.

## **Purpose and Need for Evaluation of Rock Climbing in the General Management Plan Process**

We appreciate the ASRA's evaluation of rock climbing as an accepted use and feel that the acceptance of rock climbing as a legitimate use of ASRA's public land squarely fits with the State Park Systems Strategic Priority of "meeting California's changing recreation needs" through Goal 1: "The Department will expand recreation opportunities in State Park System units"(see <http://www.parks.ca.gov/pages/21491/files/initiatives7.pdf>). We feel that ASRA's reaching out to rock climbers to be included in the planning process squarely fits with O.1.3 of the Strategic Initiatives which ensures recreation interests are understood and fully considered in park unit General Plans. In addition, the Access Fund feels that this process is a premier example of the State Parks' goal to develop broad-based partnerships— as users, supporters, stakeholders and partners by "involving its close friends and stakeholders; and fostering a cadre of new partners with kindred interests". For this reason, we feel that preserving and providing for all types of human-powered recreational opportunities, and specifically rock climbing, on ASRA land should be woven into the General Management Plan.

In the Access Fund's communications with many of the locals, including Aaron Rough, Dr. Gordon Ainsleigh, and Access Fund Regional Coordinator Zack Chandler, it concerns us that ASRA's past evaluation of rock climbing and its impacts reflects certain common, yet unjustified, fears, and it is our hope that more accurate information about climbing activities may help in the overall analysis. The Access Fund herewith offers some observations based on our fifteen years of working with land managers across the country on climbing-specific issues.

#### *Governmental Immunity and Liability*

As ASRA attorneys will indicate, governmental agencies typically enjoy sovereign immunity for all tort claims arising from the public's use of federal, state, county, and municipalities' lands unless expressly waived by statute. Historically, government agencies have enjoyed immunity for the consequences of the decision of land managers regarding climbing. These decisions, based on the land manager's evaluation of a myriad of competing concerns, are discretionary and, consequently, immune under the discretionary function exception of the Federal Tort Claims Act and similar state tort claims acts ("Act").

When the liability protections of the Act and its exception are coupled with the protections offered by state statutory liability protections in the form of the California Recreational Use Statute (Government Code 831.7), finding sovereign liability becomes almost an adjudicatory impossibility. For example, Castle Rock State Park acknowledges the popularity of rock climbing to the Park and also specifically mentions liability protections provided by Government Code Section 831.7 in its General Management Plan. ". . .presence of appealing climbing routes, the growing interest in this sport, and the convenient location of this park to the Santa Clara Valley has made rock climbing an integral part of planning and focus for the Castle Rock Ridge area of the park. Rock climbing is one of the traditional uses of the park occurring prior to the State's acquisition, and several types and ability levels of climbing are practiced. The unit issues

special event permits for climbing instruction, and notice is given that rock climbing is a “hazardous recreational activity,” as defined in Government Code Section 831.7.”

In support of this proposition you will find a cursory evaluation of relevant federal and state statutory and case law authority, including “attractive nuisance” law, in the attached document, “Risk Management for Climbing.” This overview is intended to provide background on the issue of sovereign immunity, and is not intended as legal advice.

#### *Environmental Concerns*

The Access Fund works with resource managers around the country, on a variety of public and private lands, to help protect natural resources in areas visited by climbers. The Access Fund and local climbers would be pleased to work more closely with the ASRA to identify and mitigate the environmental and wildlife impacts associated with climbing.

It has been our experience, based on working with hundreds of resource managers throughout the country, that the goals of resource protection and providing for recreational use are not mutually exclusive, and that most resource and wildlife protection goals can be accomplished without the need for permanent closures through a combination of education, cooperation with the climbing community, and site-specific prescriptions. Climbers are strong supporters of the environment, open space and conservation. In some cases, the presence of climbers is particularly appreciated as a deterrent to youthful partiers who litter, start fires, and are loud and disrespectful of other people and the environment. Climbers also know it is important to be respectful of the areas in which they climb if they want to continue to climb there, whether the property is private or public.

#### *Fixed Anchors*

The Access Fund has helped all the major federal land agencies develop nationwide management guidelines for the use and placement of climbing fixed anchors in federally designated wilderness areas. Fixed anchors are small metallic safety tools commonly used in technical climbing.

In our experience, concerns about fixed anchors are almost never related to the resource impacts that may be associated with the placement and use of these traditional climbing tools, but rather to philosophical convictions. We maintain that any decisions regarding fixed anchors should be grounded in a firm understanding of resource capacity, associated impacts, and acceptable rates of change to the natural and social environment.

It is the Access Fund’s position that fixed anchors are neither necessary nor appropriate for all climbing routes or even all climbing areas. However, the need for fixed anchors to provide the desired climbing experience should be evaluated before any decisions are made to restrict the use of these tools. The Access Fund believes that the appropriate level of fixed anchor use should be established on an area-by-area basis.

#### **Conclusion**

The Access Fund is confident that both national and local climbing activists can address whatever concerns you may have regarding climbing at Auburn State Recreation Area. To this end, the Access Fund and the local climbing community are prepared to assist you any way we can. I have enclosed a copy of the Access Fund publication, "Climbing Management: A Guide to Climbing Issue and the Production of Climbing Management Plan," for your reference. If you have any questions or need additional information regarding the Access Fund or language that allows for climbing in Auburn State Recreation Area please don't hesitate to contact the me at 1-888-863-6237, x112; [deanne@accessfund.org](mailto:deanne@accessfund.org).

We very much appreciate your consideration of this important matter.

Respectfully,

Deanne Buck  
National Programs Director  
The Access Fund

Cc:

Scott Nakaji, District Superintendent Gold Fields District, California State Parks (via mail)  
Jay Galloway, Auburn Sector Superintendent (via mail)  
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Encl. Risk Management (attached via email)  
Climbing Management Plan (via mail)

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