



August 11, 2009

Will Metz, Supervisor  
Cleveland National Forest  
10845 Rancho Bernardo Rd #200  
San Diego, CA 92127

**Re: Access Fund Comments to Cleveland National Forest Proposed Seasonal Raptor Closure Protocols**

Supervisor Metz:

I write today on behalf of the Access Fund to express concerns related to the status of the Cleveland National Forest's (CNF) draft protocols for managing seasonal raptor closures and associated public land access closures.

**The Access Fund**

As you know, the Access Fund is the only national advocacy organization whose mission keeps climbing areas open and conserves the climbing environment. 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. California is our largest member state.

Over the past few years the Access Fund provided comment letters<sup>1</sup> to the CNF on their raptor management plans, met with Washington DC-based USFS officials regarding the CNF's expansive public land closure proposals, talked with the Larry Fisher at the Institute for Environmental Conflict Resolution to set up a collaborative process that might identify a reasonable solution to this conflict, met with US Congressman Hunter's office, worked closely with the Allied Climbers of San Diego to determine a reasonable climbing advocacy position on this issue, and attended one of the collaborative meetings facilitated by Lewis Michaelson. We remain concerned that the CNF is creating new precedent for how climbing closures are implemented to protect speculative nesting habitat for birds not listed as endangered or threatened on the federal or California state list. If the CNF goes forward with its latest draft protocols, the CNF will forging new land management policy that has not been developed (or even proposed) anywhere else.

**Cleveland National Forest Seasonal Raptor Closure Protocols**

The Access Fund has the following specific concerns with respect to the protocols developed by the CNF for managing cliff nesting raptors:

---

<sup>1</sup> [http://www.accessfund.org/atf/cf/%7B1F5726D5-6646-4050-AA6E-C275DF6CA8E3%7D/CA\\_Cleveland\\_20\\_4.16.2007.pdf](http://www.accessfund.org/atf/cf/%7B1F5726D5-6646-4050-AA6E-C275DF6CA8E3%7D/CA_Cleveland_20_4.16.2007.pdf), [http://www.accessfund.org/atf/cf/%7B1F5726D5-6646-4050-AA6E-C275DF6CA8E3%7D/CA\\_Cleveland%20raptors\\_23\\_1.31.2007.pdf](http://www.accessfund.org/atf/cf/%7B1F5726D5-6646-4050-AA6E-C275DF6CA8E3%7D/CA_Cleveland%20raptors_23_1.31.2007.pdf)



The CNF would unreasonable and unnecessarily restrict seasonal access to valuable climbing resources for nesting raptors that have multiple alternate nesting resources available in the region and that are not listed as threatened or endangered. In the case of Prairie Falcons and American Peregrine Falcons, both species are highly adaptable to human presence (including climbers) as is evidenced at both Eagle Peak and Corte Madera. The CNF has failed to provide (despite multiple FOIA requests) verifiable scientific-based data showing active and historical nesting locations (and records of any human disturbance) to justifying a need to implement climbing restrictions. Even if the CNF can demonstrate active nests, the draft protocols would overly restrict climbing access (contrary to successful protocols used elsewhere in California) by implementing unusually large buffer zones.

The CNF's draft protocol for closing climbing routes in areas that have had a falcon nest within a 5 year period is unnecessary and without legal authority. Any seasonal advisory should be put in place only after nesting activity has been confirmed. The CNF continues to add nesting locations<sup>2</sup> to its list of CNF areas governed by the draft protocols and thus increasing its monitoring burden. However, the CNF has been unable to complete its required monitoring (the reason why no data has been produced?) further restricting public lands when no conflict exists. The Golden Eagle, Prairie Falcon and Peregrine Falcon need to be treated separately. A blanket policy for all raptors is inappropriate. The 5 year standard applies only to the Golden Eagle<sup>3</sup> under the protections afforded by the Bald and Golden Eagle Protections Act and related National Management Guidelines. Prairie Falcon and Peregrine Falcon nest sites should only be placed under advisory once nesting has been confirmed for the season.

The seasonal buffers used by the CNF are too large and restricts far too much public land. Appropriately sized seasonal buffers need to be established that are site specific, species specific, and based on best available science. The Allied Climbers of San Diego have provided you with several examples of successful (for birds and climbers) lesser restrictive practices use in California. Nonetheless, the CNF evidently remains determined that its protocols be the most restrictive in the state (and likely the country).

Finally, the collaborative process facilitated by the Institute for Conflict Resolution has not led to a more trusting and collaborative relationship between climbers and the CNF for several reasons:

- The CNF continues to withhold crucial data related to nesting activity and success, and previous revisions to the protocol drafts (some which reflects the interest of climbers) continue to be watered down to the point where the current protocol essentially represents the initial CNF closure proposal. Yet, the CNF has continues to work closely with the Wildlife Research Institute

---

<sup>2</sup> For example, Indian Flats is a new location not previously discussed in the collaborative meetings yet is included in the latest draft protocols.

<sup>3</sup> Also, most of the local literature on Golden Eagle nesting outlines that nesting activity begins in January not December as the CNF's draft protocol requires.



who consistently advise overly conservative and highly restrictive management policy for the few quality climbing areas in the region.

- The CNF continues to misinform the public about the legal status of falcons (i.e., they are not “threatened” or “endangered”).
- The latest version of the draft protocols does not reflect discussions and agreements made from past collaborative meetings.

The Access Fund believes that the FS does not have legal authority to restrict public access to protect speculative nesting habitat for falcons. In any case, the CNF must comply with NEPA requirements and solicit public comments to their latest draft protocols before they are finalized. The “Golden Eagle, Peregrine Falcon, and Prairie Falcon Pilot Program and Monitoring Protocol” that is designed and implemented by the CNF is essentially an annual “project” and scheduled “action” and therefore should be subject to NEPA and proper environmental review which would include an analysis of impacts based on a variety of potential actions taken.

\* \* \*

We urge you to consider more reasonable and accepted closure practices to protect cliff-nesting raptors that are consistent with land management practices around the country. At the very least the CNF should broaden its consultants who advise on the scope of necessary buffer zones for closures. The CNF should also consult its USFS Office of General Counsel to determine its legal authority to establish speculative nesting preserves on common US Forest Service land for birds that are not listed as threatened or endangered.

Sincerely,

Jason Keith  
Policy Director  
The Access Fund

Cc: The Honorable Duncan Hunter, US House of Representatives  
Jeff Brown, Executive Director, Allied Climbers of San Diego  
Brady Robinson, Executive Director, The Access Fund  
Tom Donnelly, Access Fund Regional Coordinator