

## **CLIMBING ON PUBLIC LAND: APPROACHING LAND MANAGERS & PUBLIC OFFICIALS**

Rock climbing is a legitimate and longstanding use of our nation’s public lands. Rock climbing, ice climbing, bouldering and mountaineering are practiced in many places on our nation’s diverse public lands. Throughout our National Park System, as administered by the National Park Service, 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. 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. County and city parks also provide climbing opportunities.

However, not all land managers are aware of these cooperative relationship, and it can be intimidating to consider approaching a public land manager who may be unaware of the existence of climbing resources in his/her district. It becomes even more daunting when the resources are of world-class quality and have gained popularity among local climbers, yet there is little awareness on the part of the land managers regarding climbing uses, needs, and impacts. It is best to think long-term when trying to decide whether or not to contact the land manager. Most public agencies will eventually find out if climbing exists on the lands they manage, and therefore it is usually a matter of how and when they find out. The following information will help you identify and address potential areas of concerns that a land manager might raise and provide you with a process for approaching land managers about the existence of a climbing area.

Step One: Identify the Agency.....	2
Step Two: Approaching the Agency.....	3
Step Three: Address Potential Concern.....	4
Step Four: Building the Relationship.....	6
Step Five: What if Everything Doesn't Go as Planned?.....	7

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*Please note that the information contained in this publication is for informational purposes and should not be construed as legal advice. For answers to specific questions concerning your situation, you should consult a knowledgeable attorney who can advise you regarding your particular circumstances.*

## Step One: Identify the Agency

Recreational and USGS maps can be used to assess who manages the land on which you wish to recreate and can be found at your local outdoor retail shop and online county government sites. You will need to have an idea of the general location of the property in order to utilize the maps. Roads that circumvent the property, aerial photos, landmarks such as rivers, streams, hills, and the approximate acreage of the parcel can help identify the parcels on the tax maps.

Once you have identified the parcel, you will be able to assess if access to the crag crosses any property lines that would require you to contact adjacent land managers or owners as well. After you have ascertained the managing agency or owner, you may then want to contact the appropriate agency(s) to confirm boundary lines.

Public lands may be divided up into “federally managed” or “locally-controlled” lands, and the way in which you approach the agency may depend on the ownership type, as they may have different concerns and opinions about allowing recreational activities to occur on their land.

The following are the different types of federally managed lands:

- » National Park Service (NPS)
- » United States Forest Service (USFS)
- » Bureau of Land Management (BLM)
- » United States Fish and Wildlife Service (USFW)
- » Army Corps of Engineers (ACE)
- » Bureau of Reclamation (BuREC)
- » National Guard

Locally-controlled public lands include:

- » State, County, and City Parks
- » City and County lands
- » Regional Parks

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Once you have identified the land management or governmental agency, you will want to do some research into the inner-workings and history of the agency. Find out if the agency or governmental entity manages other lands that are open for public use and what uses are allowed. Ask around and network to learn if there is a pro-recreationist, or better yet, a climber, on staff. At the very least there is usually someone designated to work with park users on recreational issues.

If you are dealing with locally-controlled land, widen your circle. Are there local politicians who are climbers? Talk to those individuals and ask them who and how to approach the agency. Make a list of who you can rely on for assistance, who you may call “allies” and who you might call “potential opponents.” The more you are able to make climbing “familiar” to the agency, the easier it will be to build a cooperative relationship.

## Step Two: Approaching the Agency

Once you have a contact name and information, the next step is to decide how to approach the agency. Most land managers prefer to be approached in person. However, if the land manager or governing board knows about climbing and has closed off the land or responded negatively to the presence of climbers, a diplomatic letter might be a better introduction. Irrespective of the approach, it is always best to start the conversation letting the managing agency know how unique and valuable the resource is for the climbing community. It is also a good idea to have a plan with solutions to any known or potential aversions the agency may have to people climbing on that particular public land unit. Not only will you be prepared to address concerns, but you will also increase your credibility by acknowledging and being knowledgeable of their concerns. Establishing your credibility with the land manager or governing board will be one of the major goals of your first meeting. Following are additional techniques to increase yours and the climbing community's credibility with the land manager:

- » Come from a cooperative position and seek to illustrate common ground. Stress your appreciation of the land and the resources and the concerns of other user groups. Create affiliation by identifying issues you can both agree on and work from there. Perhaps key concerns are trash dumping, park budget cuts, or the threat of development adjacent to the park. Ask how you and your group can help the park fight these threats. Also, make a list of your goals, break them down into objectives and actions. Don't forget to list things you don't want as well. Why? Because time (yours *and* theirs) is precious and every thing you do must directly help the cause.
- » Put together a brochure or presentation about your climbing community – discuss what you have done and your track record. Be sure to include references and information about clean-ups and Adopt-a-Crags and your affiliation with the Access Fund.
- » Think about it from the land manager's point of view and plug the right person in the right situation. For instance, if the land manager's niece climbs, you may want to talk to her first. Or, if a member of the county board is also a local attorney in town and someone in your climbing posse is also an attorney, it would be a good idea to have that person be the liaison.
- » It is important to approach the agency on behalf of the climbing community and not have 6 individuals come to the land manager separately. This requires a certain level of organization on the climbers' part to delegate one person as the liaison and spokesperson for the community and channel all correspondence through him/her.
- » Be patient, building relationships take time. Also, be persistent—it may take a long time to accomplish your goal and you want to make sure the land manger thinks you're in it for the long run.

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- » Consider coalition building with other climbing groups and tapping into the resources and expertise of climbing organizations, such as the New River Alliance of Climbers, who have a fantastic relationship with the National Park Service or the Eastern Sierra Climbers Coalition, who work very closely, successfully, and collaboratively with both the BLM and the USFS.
- » Sign up for the Access Fund Action Network forum at: <http://groups.yahoo.com/group/AFGrassrootsNetwork/>

## Step Three: Address Potential Concern

Land managers and local officials may be reluctant to acknowledge climbing access for a myriad of reasons. Typically, the land manager, especially with locally-controlled land, is concerned about **liability, loss of agency control of the property, and degradation of the property by disrespectful users or overuse.**

Most of these issues are resolved by developing a trusting relationship with the land manager. For instance, if the land manager comes to the climbing community's liaison about a concern over trash and graffiti and the climber promptly responds with a clean up and a notice on the local website, the land manager will gain trust in the climbing community's commitment to the health of the land.

### First impressions

Communication is very often improved by the degree of professionalism shown. There are enough distractions to derail dialogue without things like clothing, climbing lingo, or attitude getting in the way. Same goes for letters, e-mail and phone calls - keep them short, clear, respectful, and to the point. Return calls as soon as possible, even if it's to say "Thanks for calling; I'll get back to you by Friday." (and do call by Friday!).

Nothing gets attention better than up front honesty and the ability to move past disagreements. Don't get stuck on obstacles, make a note and come back to the issue later if you think it is worth your time.

Understand before you seek to be understood. This is an old proverb, but it really helps if you understand the system, priorities and constraints the land managers must deal with. Listen to them before making your plea for the climbing community. Scope out the following about the situation: the budget cycle, the availability of staff to help, other priorities the land manager has to deal with (short and long term), the politics, and traditions and trends associated with the park.

### Climbers, Conservation, and Stewardship

Responsible conduct by climbers is important. What should land managers expect from the people who use their land? It will be important for the land manager to discuss the standard of conduct expected,

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provide clear information about their needs and constraints, and how they expect the land to be cared for and used.

## **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. Land managers will also have concerns about the use of fixed anchors outside of existing or proposed wilderness areas.

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. Remember: land managers don't care about climbing style; they only care about climbing impacts. Don't draw them into the ethical debates of the climbing community as it will only leave the impression that climbers lack unity and can't back up their proposals. 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. 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 appropriate level of fixed anchor use should be established on an area-by-area basis.

## **Liability**

Liability is often a concern of publicly managed lands and it will be important to be well-informed of the laws that provide protections against liability prior to meeting with the land manager or local official. For more information on liability protections, please see: Access Fund: Risk Management.

### *Governmental Immunity and Liability*

Federal, state, and municipal governments typically enjoy sovereign immunity for all tort claims arising from the use of public lands unless expressly waived by statute. Historically, government agencies have enjoyed immunity for the consequences of the decision of federal land managers and local officials 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 of the employees' job. When the liability protections of governmental immunity and its exception are coupled with the protections offered by states' statutory liability protections in the form of Recreational Use Statutes, finding sovereign liability becomes almost an adjudicatory impossibility.

### *Assumption of Risk Doctrine*

People assume the risk of injury or damage if they voluntarily or unreasonably expose themselves to injury or damage with knowledge or appreciation of the danger and risk involved. This doctrine is fundamental to all forms of outdoor recreation including climbing. Assumption of risk

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requires knowledge of the danger, and consent to it. As a practical matter assumption of risk has broad applicability to recreational rock climbing and is frequently used as a defense in recreational sports lawsuits. In other words, someone engaged in an obviously risky activity like rock climbing assumes the risk of any injury as a result simply by engaging in the activity.

## **Conclusion**

When land managers do not have to fear open-ended liability, they are more likely to welcome climbers (and others). For a climbing advocate, knowledge of the laws affecting land manager liability is an indispensable tool for a successful dialogue among all recreational users and land managers.

## **Step Four: Building the Relationship**

Congratulations! You approached the land manager or county agency, established a relationship, and assuaged his or her fears about liability and impact of the climbing environment. Through your efforts, the land manager feels comfortable working with climbers as a legitimate user group. By adopting the following suggestions, you can help assure that the land manager or local official remains happy and the crag remains open.

### **Maintain an open dialog.**

Check in regularly, be available via email or the phone, and try to get together with the land manager on an annual basis. By spending quality time with the land manager not only do climbers foster good relations, but it can make a world of difference in their perception of climbers.

### **Address their concerns in a timely manner.**

Respond promptly to all requests of the land manager and be sure to follow-up once the concern has been resolved. If the regular liaison to the climbing community will be out of town, give the land manager a back-up name and contact information. This simple gesture demonstrates that climbers are a responsible group.

### **Perform routine cleanups and trail maintenance.**

Nothing shows that you care about the land and the climbing more than a clean-up of the area. Mitigating climbers' and other users' impacts is a great way to build the confidence of the land manager. Consider participating in the Access Fund's Adopt-a-Crag program as an avenue to demonstrate the conservation-nature of climbers.

### **Promote responsible behavior by climbers at all times.**

Develop a code of ethics for the area, make them publicly available and representative of the community, and don't be afraid to speak up when the conduct of others is not in line. Let other climbers know that the bad acts of a few can spoil the privileges that the entire climbing community enjoy.

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**Consider keeping the land manager apprised of any publicity that is likely to increase use of the area.**

The visitor capacity of an area is the maximum number and type of visitors that an area can accommodate, given desired future environmental conditions, climber experience, and the land manager expectations. Visitor-capacity issues may arise when climber levels increase to the extent that use adversely affects the climbing experience, environmental resources, or infringes on the expectations of the land manager. While sharing the sweet lines might seem like a good idea, if that land manager isn't prepared for an influx of activity it could adversely affect your relationship.

## **Step Five: What if Everything Doesn't Go as Planned?**

Approaching a land manager or a public official can be a scary proposition. What if they say no? What if they say yes, but with conditions? Presenting a land manager with alternative management options to compliment an all-or-nothing decision may become an appropriate step. It is important to be patient and to think about a long-term objective when you decide to work cooperatively with the land manager. You may not get the result you want in the first meeting, but you have taken the first step to building a relationship with that person.

### **Be persistent**

End all conversations with a summary of what you have agreed on, what each of you will do with the information, a date for your next meeting, and any items or information that should be discussed at that next meeting. Stick with the person with whom you have been working. If there is a need to involve different people, be sure to keep your liaison aware of those conversations.

### **Find as many helpers, partners, and supporters to help spread the work load and add credibility**

Delegate! Face it, you are going to need help because the last thing you want to do is burn out half way through the process. It may be helpful to look beyond your group for partners because the most attractive proposal to land managers is the one that has more than one proponent, brings commitment, and involves the community. Don't be afraid to call the local newspaper, they are always looking for stories and photo opportunities.

### **Scope out other sources of support**

Remember there are many organizations out there purposefully built to assist people like you. For example, the Access Fund has staff who has experience with a wide range of issues and agencies. Local politicians may also be of assistance in charting the political waters. Sometimes local academic institutions have information that can help you understand the bigger picture with studies on recreation trends, economic impacts, and demographics.

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## Keep good notes

You will be more effective, learn more, and leave a better legacy of your efforts if you take good notes. Keep everything associated with the proposal in one place including a calendar, note book, and binder. Good things take time to develop, but in this highly mobile society people move on, so in case you leave for another job, or the ranger leaves for another park, keep accurate records on file. That way new participants can rapidly get up to speed and momentum will not be lost.

## Conclusion

Approaching a land manager or public official can be a scary proposition. What if they say no? What if they say yes, but with conditions? It is important to be patient and to think about long-term objectives. You may not get the result you want in the first meeting, but you have taken the first step to building a relationship with that person.

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