

February 16, 2006

Bernard Fagan, Room 7252  
National Park Service  
Office of Policy  
1849 C Street, NW, Washington, D.C. 20240

**RE: National Park Service Proposed 2005 Management Policies Revision**

Dear Mr. Fagan:

This letter comments on the National Park Service's (NPS) 2005 draft Management Policies (draft MPs) on behalf of the Access Fund. As more fully explained herein, the Access Fund urges that NPS to abandon the rewriting of the NPS management policies and keep the existing 2001 policies intact. The current 2001 policies are serving the parks well and could serve the parks even better if implemented more consistently and appropriately.

**The Access Fund**

The Access Fund is a 501 (c) 3 non-profit advocacy group representing the interests of climbers throughout the United States and is America's largest national climbing organization, with over 15,000 members and affiliates from across the country. We advocate on behalf of approximately 1.5 million climbers in the United States.

The Access Fund's mission is to keep climbing areas open and to conserve the climbing environment. Preserving the opportunity to climb and the diversity of the climbing experience are also fundamental to our mission. Working in cooperation with climbers, other recreational users, public land managers and private land owners, the Access Fund promotes the responsible use and sound management of climbing resources. We encourage an ethic of personal responsibility, self-regulation, strong conservation values and minimum impact practices among climbers. The experiences found only in our national park system are some of the core opportunities the Access Fund seeks to preserve.

**The National Park Service and Climbing**

Most climbers in the United States have, will, or aspire to climb in America's national parks. Indeed, the National Park Service oversees some of the nation's most significant and world-famous technical climbing areas such as Denali National Park and Preserve in Alaska, Yosemite National Park in California, Rocky Mountain and Black Canyon of the Gunnison national parks in Colorado, City of Rocks National Reserve in Idaho, Canyonlands and Zion national parks in Utah, New River National River in West Virginia, and Grand Teton National Park in Wyoming. Each of these parks represent a truly world class climbing area sought out by climbers from around the world.

There is a long tradition of climbing in America's national parks. Technical climbing in Yosemite, for example, goes back to the mid-1860s and continues today as one of that park's primary user groups. Mount Rainier (1870s), the Grand Tetons (1890s), and Rocky Mountain National Park (1860s) are also NPS units with long and interesting climbing histories. In many cases, technical climbing had been on-going at these areas long before Congress turned them into national parks under the jurisdiction of the NPS.

Given the central position that NPS lands occupy for climbing in the United States, the Access Fund seriously considers any changes to park policy and works hard with local land managers and climbers to maintain the unique conditions of climbing environments in our national parks. Accordingly, we have helped cultivated an impressive tradition among the climbing community of conservation activism and stewardship in our national parks. Our Adopt-A-Crag program has spearheaded dozens of cleanups and trail maintenance projects across the country in NPS parks. Additionally, each year the Access Fund directs membership dollars and corporate and community partner support into our Access Fund Grants Program, and many of our grants have benefited specific national parks. Climbing Preservation Grants are awarded for conservation projects, land acquisitions, scientific studies, local climber activism, and climber education around the country. Examples of Access Fund grants awarded at NPS units include Obed Wild and Scenic River in Tennessee, Joshua Tree and Yosemite national parks in California, and Denali National Park and Preserve in Alaska.

## **NATIONAL PARK SERVICE MANAGEMENT POLICIES**

NPS management policies fill in the details not addressed by Congress in the many laws governing national parks. Management policies define, among other things, what constitutes an "impairment" of park resources and provide guidance on how to manage specific park resources and various recreational uses including climbing. The management policies also govern how the NPS manages special status resources and land designations such as wilderness areas. The NPS completed the last revision to the MPs in 2001 after seven years of work. The Access Fund believes that the current 2001 policies provide an appropriate amount of guidance, if followed consistently and properly, to accommodate visitor use while maintaining the primary NPS mission purpose of preserving parks for current and future generations.

### **The Existing 2001 NPS Management Policies**

The existing management policies (2001) for the National Park Service, if implemented more consistently and rigidly on both sides of the resource protection and visitor use mandates, will accomplish many of the accommodations that the proposed 2005 MPs seek to accomplish with regards to visitor use, resource protection, and wilderness management. The 2001 MPs, therefore, need not be amended to achieve many of the key policy objectives associated with the draft 2005 MPs.

The current 2001 MPs already hold the promise of ensuring appropriate public access to our parklands while maintaining the NPS's preservation mission. In applying "Visitor

Use” principles, current NPS management policy is to “encourage visitor activities that . . . foster an understanding of, and appreciation for, park resources and values, or will promote enjoyment through a direct association with, interaction with, or relation to park resources.” There is, without question, scarcely an activity that enables visitors to more directly interact with park resources than climbing, and many NPS units could better foster this kind of direct interaction of park lands by encouraging more climbing opportunities. That is, viewing climbing as a positive experience that should be accommodated in our parks, not an activity to guard against.

With respect to “Visitor Use”, the current 2001 MPs also provide that “restrictions will be based on the results of study or research” and that “restrictions placed on recreational uses that have been found to be appropriate will be limited to the minimum necessary to protect park resources and values, and promote visitor safety and enjoyment.”<sup>1</sup> These well stated principles, however, sometimes are lost in translation when applied to climbing resources at various NPS properties. Indeed, some NPS units have not consistently limited recreational restrictions to the “minimum necessary” to protect park resources and values. Other times management decisions are not clearly based on the results of study or research as required by the current MPs. For example, Great Falls Park in Virginia has proposed, without adequate scientific documentation, to close climbing areas to protect a state-listed special status species; Canyonlands and North Cascades national parks have prohibited new fixed anchor placements when lesser restrictions could be implemented to accomplish desired resource conservation; and Yosemite National Park supplies more hotel accommodations at the expense of campsites which conflicts with NPS policies to promote a direct association with park values (which, presumably, is not to provide luxury resort lodging).

However, just because the NPS does not always appropriately apply its current management policies does not mean that those policies need amendment – the NPS simply needs to revisit how they apply some of their current policies. To the extent that the NPS follows its own current guidelines more closely and consistently to accomplish their mission (of protection and enjoyment) concerns regarding improper visitor use restrictions will be much less, obviating the need for a rewrite.

A positive example of the potential effectiveness of the existing 2001 policies includes New River Gorge National River in West Virginia where an expansive climbing closure was proposed by the park to protect undocumented peregrine falcons (which had been delisted from the ESA), but without appropriate authority or scientific documentation to justify such a vast climbing closure (miles of popular rock climbing). A reassessment of the 2001 NPS management policies led the NPS at the New River Gorge to implement lesser climbing restrictions that nonetheless continue to protect park resources and values, as well as the potential for future peregrine nesting. The Access Fund proposed a similar approach by more park units within the NPS.

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<sup>1</sup> Section 8.2, “Visitor Use” (2001).

## The Proposed 2005 NPS Management Policies

Climbers greatly value the unique experiences they have in park environments where land managers diligently protect against natural resource impairment. The NPS management policies rewrite seems to dilute these protections and appears to calibrate the management standards of our national parks with the lesser stewardship mandates of inherently different public land designations, such as those in the National Forest System and under Bureau of Land Management jurisdiction. In general, the Access Fund is concerned that the proposed revision to the 2005 NPS management polices could lead to the following:

- A lessened impairment standard that guides NPS efforts to protect park resources for future generations, and changes to the NPS mission by seeking to balance “park purposes”<sup>2</sup> which could improperly increase administrative developments and allow for previously unauthorized uses. See section 1.4.3 (2005).
- A reduction in scientific justifications for park management decisions which could allow for arbitrary management and easier impairment of park resources. See section 8.1.2 and 8.2.2 (2005).
- A weakening of protections for air quality, water and wildlife which could in turn negatively affect the experiences of all that visit the parks to enjoy their unique environments. See section 8.2 and section 4 (2005).
- The proposed policies would define “public use” as the primary purpose of wilderness which in turn downplays the preservation of wilderness character as the singular statutory purpose of the Wilderness Act. Moreover, the proposed policies would emphasize visitor safety as a major goal of wilderness management, and allow new administrative developments in wilderness. These developments could significantly alter the wilderness climbing experience that the Access Fund seeks to protect. See section 6.2 and 6.3.1 (2005).

## National Park Service Mission

The 2001 MPs state that the NPS Organic Act’s mandate is “to conserve park resources and values.” The 2001 MPs further explains that Congress intended the primacy of a high “impairment standard” to guide managers when there is a “conflict between conserving resources and values, and providing for enjoyment of them, conservation is to be predominant.” Though courts have consistently ruled that the Organic Act requires

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<sup>2</sup> The 1916 NPS Organic Act states that:

“(The National Park Service) shall promote and regulate the use of the Federal areas known as national parks, monuments and reservations hereinafter specified...by such means and measures as conform to the fundamental purpose of the said parks, monuments and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” 16 U.S.C. § 1 (1994).

resource protection to be the primary goal of the NPS<sup>3</sup>, the 2005 MPs appear to improperly elevate the “enjoyment” mission of the National Park Service.<sup>4</sup> The Access Fund is concerned that such a balancing could substantially compromise the NPS’s strong and time-tested anti-impairment standard, and thus would fundamentally change how our parks are managed and viewed by the public. While the Access Fund believes that some recreational opportunities within the NPS system are unreasonably restricted, a better interpretation of current policies under Visitor Use could provide these opportunities while *also* preserving the current impairment standard.

## SPECIFIC CONCERNS

### Use of Parks

While the Access Fund agrees conceptually with many suggestions proposed in the 2005 MPs<sup>5</sup> to accommodate public uses, the current 2001 MPs already require the NPS to impose restrictions on appropriate uses (such as climbing) only to the minimum extent necessary. See Section 8.2 (2001). However, some aspects of suggested changes for the 2005 MPs are rather troubling. For example, in Section 8.1 (2005) the NPS proposes to more easily allow new park uses that may be restricted *after* the use has already caused unacceptable impacts. The Access Fund is concerned that existing recreational opportunities such as climbing may be negatively impacted by any new or existing use that is allowed to cause unacceptable impacts to our parks and their climbing environments. Previously, a new use would be allowed only after NPS study, but the new MPs thus dilute a park manager’s responsibility to protect park resources by requiring proof that the new use will *not* cause an unacceptable impact *before* restricting the activity. This new analysis process in the proposed 2005 MPs is, quite simply, backwards considering the primacy the Organic Act gives to the impairment standard. The NPS could do better accommodating existing appropriate low-impact park uses by more properly following Section 8.2 (2001), but the Access Fund is concerned that change to the high standard for impact evidence will only work against NPS efforts to prevent new unacceptable impacts.

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<sup>3</sup> The Organic Act and subsequent amendments provide the Park Service broad authority to regulate recreational and other uses in order to ensure compliance with its most fundamental legal obligation: to protect resources unimpaired for future generations. Federal courts have reaffirmed this obligation. For example, in *NRA v. Potter* (1986), the District Court for the District of Columbia stated: "In the Organic Act Congress speaks of but a single purpose, namely, conservation."

<sup>4</sup> The 2005 MPs state that “The Park Service recognizes that activities in which park visitors engage can cause impacts to park resources and values, and the Service must balance the sometimes competing obligations of conservation and enjoyment in managing the parks. The courts have recognized that the Service has broad discretion in determining how best to fulfill the Organic Act’s mandate.” 1.4.3 – The NPS Obligations to Conserve and Provide for Enjoyment of Park Resources and Values. But see fn 3, *supra*.

<sup>5</sup> Such as Section 1.4.3.1 which states that appropriate uses may include uses whose impacts can be successfully mitigated or eliminated through visitor education, temporal, spatial, or numerical limitations on the use, the application of best available technology, or the application of adaptive management techniques.

## **Rock Climbing and Mountaineering in the National Park System**

### Climbing Management Plans and Fixed Anchors

The Access Fund has a long tradition of working with the NPS concerning specific climbing management policy within our parks. Our work has both helped to produce many climbing management plans at the unit level as well as assistance towards a national policy with all the federal land management agencies concerning policies for managing the use and placement of fixed anchors in designated wilderness.

If the NPS does make changes to the 2001 MPs, we urge the NPS to specifically acknowledge the long-standing importance of recreational climbing within many of our national parks and provide direction for NPS land managers towards best climbing management practices including climbing management plans.<sup>6</sup> Continued communication between climbers/mountaineers and the NPS regarding climbing issues and public needs will be necessary to ensure that park resources are protected and that any NPS restrictions on appropriate climbing opportunities are only the minimum necessary. The Access Fund urges the NPS to acknowledge climbing in the MPs and providing park planners with guidance on reasonable and appropriate management of the activity, including a revision to Director's Order 41 providing for the appropriate use of necessary climbing fixed anchors in designated NPS wilderness.

### **Natural Resource Management**

The Access Fund is also concerned that sound and air quality in our national parks may suffer under the proposed 2005 MPs. The new policies<sup>7</sup> seem to increase opportunities for impacts to the natural peace and quiet of the parks. Under the new Section 8.2, the NPS would need a specific plan to identify unacceptable impacts to the "soundscape," apparently allowing for more currently unauthorized uses such as motorized vehicles and plane overflights. Many climbers use planes and motorized vehicles to assist them in approaching climbing objectives, but the NPS should be careful in opening up more uses that may impact the natural peace and quiet of our parks. Moreover, Section 4 appears to reduce the standards for protecting air quality and scenic views in our parks by accepting more human caused air pollution, and air pollution would have a direct impact on the experiences of climbers in many of our national parks.

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<sup>6</sup> Please consult the attached Access Fund publication *Climbing Management: A Guide to Issues and the Production of a Climbing Management Plan* (2001) which will be updated summer of 2006. For an updated edition, log onto [www.accessfund.org](http://www.accessfund.org) later this year.

<sup>7</sup> The 2001 policies preventing "activities that unreasonably interfere with...the atmosphere of peace and tranquility, or the natural soundscape maintained in wilderness and natural, historic, or commemorative locations within the park" is replaced in the 2005 version with "an unacceptable impact is an impact that would unreasonably interfere with the park's desired conditions, as identified through the park's planning process."

## Wilderness

Wilderness peaks, cliffs, glaciers and rock outcroppings are some of the most unique climbing opportunities afforded climbers in the United States and the Access Fund is especially concerned that the proposed policies would dilute the meaning of “wilderness characteristics” leading to the degradation of genuine wilderness climbing opportunities. The new MPs may provide for more wilderness uses and allow park managers more opportunity to permit degradation of wilderness characteristics. The proposed MPs also seem to improperly elevate the six “public purposes” of the Wilderness Act (*i.e.* recreational, scenic, scientific, educational, conservation, and historical uses) as equal to the obligation to preserve wilderness character.<sup>8</sup>

Section 6.3.1 of the draft MPs could limit future wilderness designations within the NPS system, thus by extension limiting future wilderness climbing opportunities.<sup>9</sup> Moreover, the draft 2005 MPs focus improperly on ensuring visitor safety in NPS wilderness and thus potentially leading to unprecedented recreational developments (“administrative facilities”) within wilderness areas such as cabins, campsites, toilets, shelters and signs. The Access Fund is concerned that this policy will lead to a slippery slope of management actions leading to fundamental changes in the wilderness character of our parks. Many of our national parks were intended to protect wild and challenging environments (not safe uses) and an over-emphasis for public safety would not only fundamentally change Congressional intent but also the wild nature of the parks as well.

## CONCLUSION

The Access Fund urges that NPS to abandon the rewriting of the NPS management policies and keep the existing 2001 policies intact. The current 2001 policies are serving the parks well and could serve the parks even better if implemented more consistently and appropriately. Either way, revising the MPs now is unnecessary and could lead to the degradation of our national parks in all the ways noted above directly affecting the experiences of the growing numbers of recreational climbers in the United States.

The mission of the National Park Service is to preserve our national parks unimpaired for future generations. The proposed policy revisions may lead to a fundamental change in park mission and management potentially resulting in widespread impacts to our parks. The Access Fund is concerned that climbing opportunities in the national parks could be fundamentally and negatively altered if the new policies are implemented aggressively. Potential changes include impacts to the peace and tranquility, or the natural soundscapes, increased motorized recreation, weakened protections for air and water quality, and less opportunities for wilderness climbing experiences.

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<sup>8</sup> See section 6.1 (2005).

<sup>9</sup> By weakening interim protection for lands deemed suitable for wilderness designation and thus “release” lands from interim protection earlier.

Thank you for the opportunity to comment on the proposed changes to the NPS management policies.

Sincerely,

Jason Keith

Policy Director  
The Access Fund

cc: Steve Matous, Access Fund Executive Director  
Access Fund Board of Directors