

October 19, 2006

Laura Joss
Superintendent, Arches National Park
PO Box 907
Moab, UT 84532-0907

**RE: Arches National Park May 9, 2006 Improper Rulemaking
Negatively Affects Climbing Opportunities**

Dear Laura:

Thanks for taking the time to talk with me over the past several months about the recent Delicate Arch climbing controversy, the May 9, 2006 changes to the Arches National Park (Arches NP) compendium, and plans for potential new climbing policies to be developed in an upcoming management planning initiative. As I have expressed to you before, while the Access Fund does not in any way condone the various unfortunate events that took place earlier this year at Arches, we also regret that the result of these high-profile controversies is evidently new rules that negatively affect all climbers.

I write today to not just point out what we see as an inadequate rulemaking process in the May 9, 2006 compendium changes, but also to begin the conversation with you as to how the climbing community might help to uphold your management obligations to prevent unacceptable impacts to park resources while at the same time develop lesser restrictive measures than were implemented last May with regards to climbing and fixed anchors in particular.

In short, the Access Fund is concerned that Arches NP has not followed proper administrative process in amending its compendium and also restricted opportunities for the many rock climbers hoping to scale Arches NP's world-famous sandstone towers. Importantly, the Access Fund urges Arches NP to terminate this unnecessary public use limitation and pursue climbing management policies to address this loss of recreational opportunities as soon as possible.

The Access Fund

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.

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. Utah is one of our largest member-states and much of our out-of-state membership climbs in Arches NP.

The May 9, 2006 Rulemaking Substantially Limits Climbing Opportunities and Significantly Alters Public Use Patterns in Arches National Park

On May 9, 2006 Arches NP issued a statement (“Arches National Park Announces Climbing Closures”) notifying the public that park staff had updated and amended the Arches NP compendium. These rule changes (which simply added the climbing restrictions in neighboring Canyonlands National Park’s compendium) closely followed on the heels of the controversial and much publicized events in early May in Arches National Park by an individual which resulted in no rule violations or citations issued. Although no park rule was technically broken, these events generated much controversy and outcry among the general public and climbing community. Although these were just the acts of one or a few individuals, only days later Arches NP modified its park-specific rules in ways that significantly alter the range of climbing opportunities in the park thus affecting the use patterns of all climbers at Arches.

Arches NP’s May 9, 2006 compendium amendment specifically clarified what the climbing community and Moab locals always knew to be the case, to wit:

all rock climbing or similar activities on any arch or natural bridge named on the United States Geological Survey 7.5 minute topographical maps covering Arches National Park are prohibited.

The press release also announced that “slacklining in Arches National Park is prohibited” and summarily justified both regulations on grounds related to health, safety, environmental and scenic protection, and park user conflict mitigation.

Additionally, an online versionⁱ of Arches National Park’s May 9, 2006 compendium amendment added the following restrictions significantly affecting climbers:ⁱⁱ

No new permanent climbing hardware may be installed in any fixed location. If an existing bolt or other hardware item is unsafe, it may be replaced. This will limit all climbing to existing routes or new routes not requiring placement of fixed anchors.

Climbing anchors and/or protection points may not be placed with the use of a hammer except to replace existing belay and rappel anchors and bolts on existing routes, or for emergency self-rescue.

Closures and Public use Limits

The Access Fund views the May 9, 2006 changes to fixed anchor policies at Arches NP to result in a “significant alteration” to the use patterns of climbers and a substantial departure from the climbing policies that governed Arches for over 40 years of active climbing. These new climbing restrictions amount to new public use limits implemented by Arches NP without following the National Park Service’s own rulemaking process which requires a Federal Register notice.ⁱⁱⁱ However, review of the Federal Register reveals no such notice of the new climbing restrictions at Arches NP.

As you know, the Code of Federal Regulations outlines the National Park Service’s required process for “closures and public use limits.”^{iv} Under these regulations a superintendent may impose public use limits based upon numerous grounds but must, except in an emergency situation which is not the case here, “prepare a written determination justifying the action” that sets out specific reasons for the new public use limit or closure and an explanation of “why less restrictive measures will not suffice.” This explanation must precede any implementation of the implementing a public use limit or closure.^v

The explanation given by Arches NP on May 9, 2006 for these new rules is based upon a “determination that such action is necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural resources and avoidance of conflict among visitor use activities.” This basic reasoning lacks an explanation how each of the new banned activities (fixed anchors, slacklining) would impair the stated park values and resources in need of maintenance and protection. Further, this basic statement gives no indication, as required, why less restrictive measures will not suffice even though some obvious alternatives exist.

I understand that you are considering addressing climbing management policies, including the fixed anchor issue, in an upcoming backcountry management plan for Arches sometime in the next few years. However, in the interim, especially since this is not an emergency and Arches NP did not comply with controlling regulations in

implementing the new public use limits related to climbing fixed anchors, the Access Fund feels that this public use limit should be terminated^{vi} and that Arches NP should proceed as soon as possible to develop final climbing policies either in the upcoming backcountry management plan or a stand-alone planning document. Either of these options can both protect the park resource while also complying with NPS management policies and the climbing policies of other national parks such as Rocky Mountain and Yosemite that accommodate basic levels of fixed anchor use for climbing.

The Access Fund would like to also suggest some climbing management options that may address any concerns you may have regarding fixed anchors or other climbing impacts. I will follow up on this letter in the next week with a phone call to see what your schedule might allow for a brief meeting to talk about the issues raised in this letter.

As always, feel free to contact me at any time: 435-259-0693, jason@accessfund.org. Thank you for your attention to this important matter.

Sincerely,

Jason

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Cc:

Rick Potts, NPS, National Wilderness and Recreation Programs Manager
Steve Matous, Access Fund Executive Director
Sam Lightner, Access Fund Board of Directors, Arches climber
Ralph Ferrara, Arches climber

ⁱ See <http://home.nps.gov/applications/parks/arch/ppdocuments/ARCHCompendium20061.pdf>

ⁱⁱ The online May 9, 2006 compendium amendment also included the following:

1. If an existing software item (sling, runner etc.) is unsafe, it may be replaced.
2. Software (webbing, accessory cords, etc.) that is left in place shall match the rock surface in color.
3. The intentional removal of lichen or plants from rock is prohibited.

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4. The physical altering of rock faces such as chiseling, glue reinforcement of existing holds, and gluing of new holds is prohibited.
 5. The use of motorized power drills is prohibited.
 6. Fixed ropes may not be left in place for more than 24 hours. Fixed ropes left in place longer than 24 hours shall be considered "abandoned property" and removed.
 7. The use of chalk for climbing must be of a color that blends with the native rock.

ⁱⁱⁱ 36 CFR § 1.5(b). Except in emergency situations, a closure, designation, use or activity restriction or condition, or the termination or relaxation of such, which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, adversely affect the park's natural, aesthetic, scenic or cultural values, require a long-term or significant modification in the resource management objectives of the unit, or is of a highly controversial nature, shall be published as rulemaking in the Federal Register.

^{iv} See generally 36 CFR § 1.5 and 1.7 for required notice related to such closures.

^v 36 CFR § 1.5(c). Except in emergency situations, prior to implementing or terminating a restriction, condition, public use limit or closure, the superintendent shall prepare a written determination justifying the action. That determination shall set forth the reason(s) the restriction, condition, public use limit or closure authorized by paragraph (a) has been established, and an explanation of why less restrictive measures will not suffice, or in the case of a termination of a restriction, condition, public use limit or closure previously established under paragraph (a), a determination as to why the restriction is no longer necessary and a finding that the termination will not adversely impact park resources. This determination shall be available to the public upon request.

^{vi} 36 CFR § 1.5(a)(3) Consistent with applicable legislation and Federal administrative policies, and based upon a determination that such action is necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of facilities, or the avoidance of conflict among visitor use activities, the superintendent may:

Terminate a restriction, limit, closure, designation, condition, or visiting hour restriction imposed under paragraph (a)(1) or (2) of this section.