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Comments: To:United States Forest Service

From: Aaron Wernham, MD, MS

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Re: Public comment on:

*United States Forest Service proposed Forest Service Manual (FSM) 2355 Climbing Directives

*National Park Service draft Wilderness Stewardship Reference Manual directive, "Evaluation and Authorization Procedures for Fixed Anchors and Fixed Equipment in National Park Service Wilderness Areas."

I. My stance on the proposed directives

a. Introduction: The National Park Service (NPS) and the United States Forest Service (USFS) have proposed a fundamental restructuring of the ways that climbers and other users use, experience, and enjoy public wilderness areas. Whereas climbing in wilderness areas has been authorized, encouraged, fostered, and supported by the NPS and USFS for generations, the new directive would declare all fixed anchors - and therefore safe climbing on thousands of established climbing routes - prohibited unless authorized by a minimum requirements analysis (MRA). This proposal poses significant risks for the health and safety, recreational experience, and business and financial interests of millions of climbers and public land users across the United States and the world.

b. Health and Safety: This 180-degree about-face by the federal government threatens the health and safety of climbers in America's wilderness areas. The directive provides no funds or staffing resources to allow land managers to promptly assess any proposals for new climbs, or more importantly, to conduct MRAs, develop climbing management plans, or otherwise evaluate established climbing routes. This impacts established, well-known anchors on thousands of established climbing routes.

In the USFS proposal, section 2355.32 section 5 creates particular concern: whereas currently climbers and well-established climbers' organizations routinely survey and maintain the safety of anchors in many wilderness areas, this section restricts such maintenance to "emergencies," unless already authorized by an MRA or climbing management plan.

The NPS proposal eliminates virtually all anchor maintenance prior to required agency planning and review, stating "On routes that have not yet been evaluated, climbers may make emergency replacements of pre-existing fixed anchors if necessary to exit the climb in the safest and most expeditious manner possible. All other replacements must be evaluated through an MRA before being approved though a park-specific planning process may provide more direction regarding replacement of fixed anchors."

The inevitable bureaucratic delays caused by this added workload with no changes in agency staffing will cause unavoidable and deadly safety risks. Climbers rely on historical knowledge, word of mouth, signage, print and online guidebooks, climbing journals, blog posts, podcasts, and many other sources to understand the nature of climbing routes, including the quality, position, and state of repair of climbing anchors. By requiring that all anchor placement and repair be permitted by an MRA (other than in emergencies), the NPS and USFS directive will lead - over time - to anchors that are less frequently and carefully maintained on thousands of established, widely-known climbing routes. The NPS and USFS have, furthermore, not proposed any means of communicating effectively with the international climbing community about known changes in the status of fixed anchors, nor any way to ensure the ongoing safety of well-established anchors that are not undergoing routine inspection and maintenance because of the lack of an MRA. In turn, as climbers continue to climb on well-known, well-established climbing routes and encounter unanticipated changes in the anchors, it is highly likely that there will

be more frequent accidents resulting in serious injuries, deaths, and emergency rescue and recovery operations.

c. Threatening the wilderness experience of both climbers and non-climbing wilderness users, by eliminating heretofore encouraged and promoted uses of public lands: By declaring all fixed anchors prohibited, the rule gives individual superintendents and land managers discretion to alter or eliminate the ability of the estimated 45 million climbers worldwide (including more than 10 million U.S. climbers) to pursue climbing in the areas and on climbing routes where climbing began, grew, and continues to develop as a wilderness activity. It is no exaggeration to say that serious climbers often plan and train for years with the goal of visiting one of the many historically significant and premier climbing areas that exist on public lands managed by the NPS and USFS, and climbing world-renowned and historic climbing routes. The NPS and USFS directives, therefore, threaten the ability of millions of climbers to plan, experience, and pursue lifelong aspirations on our public lands. Beyond the directly impacted climbing community, seeing famous climbs and people climbing them is an experience that many non-climbing public land users seek and enjoy when visiting NPS and USFS lands.

The proposed directives represent a marked departure from prior federal policy and practice with regard to climbing. In Yosemite National Park, Grant Teton National Park, and countless other marque public lands, the federal government's materials highlight climbing as a central and even formative part of the history of conservation and preservation of these wilderness areas. For example, for many decades the NPS and its concessionaire in Yosemite have highlighted the interwoven history of conservation and climbing in the part through brochures, guided tours, films, and presentations. With nothing further than a brief public comment period and an updated "directive," the USFS and NPS seek to declare virtually every climbing route they have ever incorporated in public educational and promotional materials as illegal because of the climbing anchors needed to ascend them.

Surely, a change in federal policy that holds such significant potential consequences for millions of users warrants deeper consideration, and greater opportunities for input, guidance and partnership with users in individual parks and wilderness areas.

d. Threatening business and financial interests: The rule gives individual land managers almost complete power - with minimal requirements for review - over the financial interests of countless guiding, equipment, tourism, and hospitality businesses. These business interests include, for example, professional climbers whose income depends on climbing on NPS and USFS lands; climbing guiding companies; climbing gear manufacturers who make specialized equipment that is used largely on lands regulated by the USFS and NPS; hotels and restaurants frequented by climbers in and near USFS and NPS lands; tourism companies that benefit from and rely on the fame of climbing and climbers to draw non-climbers to visit and explore NPS and USFS lands; and undoubtedly many others. Decisions with the potential to impact or eliminate the livelihoods of tens of thousands of business owners and employees should not be left to the sole discretion of land managers.

e. Incorrect Interpretation of the Wilderness Act: The NPS' and USFS' decision that fixed anchors (as defined by the NPS and USFS) are "installations" under the Wilderness Act is flawed.

The NPS defines as "fixed anchors" (and therefore as "installations") bolts, pitons, slings, fixed ropes, and ice screws, and other unspecified types of anchors. The USFS defines fixed anchors bolts or pitons that are left in place, and fixed equipment as equipment other than a fixed anchor that is left in place to facilitate climbing.

Although the agencies note that there is no de minimis standard for determining what constitutes an installation, these definitions stretch interpretation of the Wilderness Act to an unreasonable degree. In most examples I have found, the Wilderness Act definition of installations has been applied to buildings, bridges, or roads. In contrast, most fixed anchors are hard to see: with a trained eye, experienced climbers can find them when we know where to look, but most users will not notice them from the ground. Indeed, on taller and more remote cliffs, they would be entirely invisible to people on the ground without a high-powered telescope. This is not to say there are no

examples to be found where a non-climber might notice and dislike seeing a climbing anchor, but land managers already have authority to manage these on a case-by-case basis, and they do so.

By and large, then, this appears to be a broad-brush solution to a problem that does not exist in most climbing areas. Moreover, defining climbing anchors as installations raises many questions about other common uses of NPS and USFS lands. Consider, for example, the innumerable fishhooks left by sport fishers in lakes and streams. While harder to see, these certainly impede my own use of these lands as wading or swimming in popular fishing spots carries a risk of being impaled by a fishhook. Shall we now define fishhooks as illegal installations? What about manure and the ensuing fly infestations, and hoofprints and trail damage left by horses and pack animals: are these illegal installations? Tracks left by ATVs would most certainly qualify: they are visible, permanent, and most certainly degrade the wilderness character of users: are these permanent installations? What about tracks left on the tundra by hikers in Denali National Park, where off-trail hiking is encouraged by the NPS: surely, these tracks-which will endure for decades or centuries in the fragile and climate-vulnerable permafrost ecosystem-are far more visible and damaging examples of permanent installations than a climbing bolt?

The NPS and USFS already have and use considerable discretion in regulating the placement and maintenance of fixed anchors in wilderness areas. Defining them as "installations" is needless, and appears to represent an overinterpretation of what the framers of the Wilderness Act intended.

II.Standing: I have standing to comment on the proposed directives as a climber of more than 40 years. I dropped out of school at the age of 14 to climb in Yosemite fulltime, and have climbed extensively throughout the United States, on countless climbs on NPS and USFS lands for much of the last 45 years. I am also a mountain runner, hiker, and backpacker who has travelled thousands of miles of NPS and USFS trails engaged in these non-climbing activities. Related to the USFS and NPS rationale for this action, I would observe that I rarely notice and have never been bothered by climbing anchors while engaged in these non-climbing activities with my friends and family.

I am also a lifelong conservationist, and contribute both volunteer time and funding to organizations that seek to protect and preserve public lands as well as climbing access and safety.

Finally, I am a physician and an expert on incorporating public health and safety concerns into National Environmental Policy Act (NEPA) analysis and decision-making, having written academic articles, drafted guidance for the National Academies, and provided training for NEPA leadership in multiple federal agencies.

III.National Park Service regulations prohibit the use of a categorical exclusion for this proposed directive; NEPA regulations also suggest that both USFS and NPS should conduct an EIS: The NPS cannot use a categorical exclusion for this proposed directive. Department of Interior NEPA regulations at 43 CFR Part 46, section 205 require that the NPS provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect and require additional analysis and action. Section 46.215 defines extraordinary circumstances as those that "have significant impacts on public health or safety." Fixed anchors exist - by definition - for safety. They are safety anchors. As detailed in section I.b. of my comments above, the NPS forbids maintenance or replacement without express approval: this action unquestionably impacts public health and safety, and a categorical exclusion is inappropriate.

NPS and USFS must also look to NEPA and the Council on Environmental Quality's (CEQ) regulations on NEPA to determine how NEPA applies to this proposed federal action.

Section 101 of NEPA established public health and safety as a fundamental purpose of the Act and a central responsibility of the Federal Government. The Act requires that federal agencies in their actions "assure for all people safe, healthful, productive, and aesthetically and culturally pleasing surroundings" and "attain the widest range of beneficial uses of the environment without degradation, risk to health and safety..."

In the current and proposed Phase 2 CEQ regulations, health and safety are fundamental considerations in determining whether a proposed federal action is likely to have significant impacts and, therefore, whether to conduct an environmental impact statement (EIS). To determine significance, agencies must assess the degree to which the proposed action may adversely affect public health and safety.

Given that the proposed directives of both the NPS and the USFS will significantly change federal policy on the use of safety anchors on public lands, this proposed action has significant environmental effects as defined by CEQ, and an EIS is required.

Thank you,

Aaron Wernham