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First name: Aaron

Last name: Wernham

Organization:

Title:

Comments: To:United States Forest Service

From: Aaron Wernham, MD, MS

Bozeman, Montana

Re: Public comment on:

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

*National Park Service (NPS) draft Wilderness Stewardship Reference Manual directive, "Evaluation and Authorization Procedures for Fixed Anchors and Fixed Equipment in National Park Service Wilderness Areas."
Submitted January 22, 2024; Amended version submitted January 23, 2024

I. Potential impacts of and considerations regarding the proposed USFS and NPS directives on climbing anchors

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 many decades, 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) or other formal approval process. 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 would impact established, safety anchors on thousands of well-known, 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."

In both the NPS and USFS proposals, requiring MRA or other forms of approval will lead to deadly safety risks. With no required timeline for conducting MRAs, climbing management plans, or other forms of analysis and no funds attached to these new directives to staff the NPS and USFS to carry out the required analyses promptly, there will be inevitable bureaucratic delays caused by this added workload. Anchors-including bolts, fixed pitons, webbing, and other forms of anchor-can deteriorate over time and require continual reassessment and repair or replacement when safety risks are detected. 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 directives will govern the judgements by thousands of climbers on thousands of different climbs, each and every day. Every climber on every route with a fixed anchor - including both experienced climbers and those who may lack the experience needed to accurately assess the safety of various types of anchors - will be forced to make judgements about the state of repair anchors that are no longer being regularly assessed and maintained by experienced, local experts and climbers' coalitions. Restricting the repair and replacement of bolts, slings, pitons, and other fixed anchors to "emergencies" only will, cumulatively, result in many more unsafe decisions. Indeed, in the case of slings - which need to be removed and replaced much more frequently than bolts and naturally deteriorate with exposure to sunlight and weather - climbers will be forced to rely on older slings. Relying on older, weathered slings is a frequent cause of climbing accidents and death, and more failures of sling anchors under the proposed directives seem like a near certainty. For these reasons, it is likely, therefore, that the directives as currently written will cause readily preventable and deadly safety risks: serious injuries, emergency rescue and recovery operations, and deaths will result.

Communication about the status of climbing routes and anchors is a related concern. Climbers rely on historical knowledge, word of mouth, signage, print and online guidebooks, climbing journals, blog posts, podcasts, and other sources to understand the nature of climbing routes, including the quality, position, and state of repair of climbing anchors. The NPS and USFS have 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. Without extensive, carefully planned and well-executed communications by the NPS and USFS with the climbing community, it is likely that accidents and deaths will result.

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 many iconic areas and climbing routes where climbing began as a sport and way of life, and where it 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, millions of public land users who are not climbers themselves plan trips and travel to national parks and wilderness areas in hopes of seeing famous climbs and people climbing them. The interests of these users must also be considered.

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 promotional and interpretive 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 an outsized ability to determine - with minimal requirements for review or opportunity for public engagement - the financial success and viability 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.

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 in the Wilderness Act 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 wilderness user 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.

Defining climbing anchors as installations also raises questions about other common uses of NPS and USFS lands. If there is no de minimis standard for interpreting the meaning of "installations" in the Wilderness Act, many other artifacts left behind by human use would seem to be in need of assessment. Consider, for example, the innumerable fishhooks left by sport fishers in lakes and streams. While perhaps harder to see than many climbing anchors, they are present in any area in which fishing is allowed, and they certainly impede my own use of these lands since 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 that is left on and becomes an ever-present feature of many trails (along with the ensuing fly infestations)? What about 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?

Defining climbing anchors as "installations" is needless, and appears to represent an overinterpretation of what the framers of the Wilderness Act intended.

f. Existing NPS and USFS authority allow adequate regulation of climbing anchors:

The NPS and USFS already have and use considerable discretion in regulating the placement and maintenance of fixed anchors in wilderness areas. Working with local climbers, climbers' coalitions, and national groups such as the Access Fund and the American Alpine Club, wilderness managers historically and currently define rules and limitations appropriate to the area in question. These rules have resulted, for example, in prohibition of climbing, prohibition of climbing during certain seasons (such as when raptors are nesting), prohibition of bolts, requirements for permitting any new routes or fixed anchor placement, allowing only hand drilling of bolts and not

power drilling, and a host of other area-specific, appropriate, and protective measures. Because these regulations are designed with climbers and in light of the specific uses, wilderness concerns, and safety issues in each area, they pose minimal safety risks and climbers and climbing-related businesses can readily adjust.

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. Ironically, I also became physician specifically because of the experiences, friendships, and skills and mindset that I learned as a climber. I make this point because climbing is, arguably, unlike any other wilderness activity in the depth of psychological, spiritual, and transformative impacts it can have on participants.

I am 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 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.

I am a member of the American Alpine Club and the Access Fund.

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.Recommendations:

a.The National Park Service and United States Forest Service should withdraw the proposed directives: Given that the NPS and USFS can regulate the establishment, maintenance, and use of climbing anchors under existing authority, the new directives are needless. Blanket imposition of these directives across all NPS and USFS-governed climbing areas will result in needless safety risks, damage to local businesses and employees, and a vast, unfunded increase in the amount of work required by local land managers and staff, and appear to offer little benefit.

b.The NPS and USFS should withdraw language in the proposed directives that restricts maintenance and replacement of existing anchors: As detailed above, the proposed restrictions to maintenance and replacement of existing fixed anchors creates extensive, deeply concerning safety risks. If the NPS and USFS continue to develop these directives, maintenance and replacement of existing anchors should be allowed until otherwise restricted or limited by an MRA, climbing management plan, or other local park or wilderness area decision process.

c.The National Park Service and United States Forest Service should conduct an environmental impact statement to inform decisions on these proposed directives: Should the NPS and USFS elect to continue developing these directives, an EIS should be conducted.

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." To state the obvious: 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.

d. The NPS and USFS must develop area-specific, detailed, effective plans to communicate with the local, national, and international climbing about the status of anchors on established routes: If the NPS and USFS decide to continue with development of these directives, the agencies must develop and implement plans to prevent the injuries, rescues, and deaths that are likely to result from deterioration of anchors on existing routes. These plans should address all forms of communication typically used by climbers: guidebooks, climbing journals, online climbing guides, blog posts, word of mouth.

e. The NPS and USFS should work with local climbing and tourism-related businesses to assess potential impacts and develop mitigation plans: If the NPS and USFS decide to continue with development of these directives, the agencies should carry out detailed, area and region-specific analyses of the economic and employment impacts, and work with the affected communities to develop appropriate mitigation. An EIS would provide the appropriate mechanism for such analysis and mitigation.

Thank you,

Aaron Wernham