

VIA E-MAIL (hard copy to follow)

April 16, 2007

Kirsten Winter
Cleveland National Forest
10845 Rancho Bernardo Rd #200
San Diego, CA 92127

Subject: Allied Climbers of San Diego Comments to Proposed Seasonal Closures at Corte Madera Mountain, Eagle Peak, and Rock Mountain dated February 26, 2006.

Dear Ms. Winter:

Thank you for the opportunity to comment on the Cleveland National Forest (CNF) proposed action to implement seasonal nesting closures at Corte Madera Mountain, Eagle Peak, and Rock Mountain. In addition to said subject, this letter serves as a follow-up to comments to the first scoping letter of December 11, 2006 and to discussions with staff at the Cleveland National Forest. Outlined in this letter are issues that concern the Allied Climbers of San Diego (ACSD) regarding the CNF's proposed closures.

Purpose and Need for Environmental Analysis and Assessment

The CNF's decision to undertake an Environmental Assessment (EA) is an excellent opportunity to acquire public input on the project and further investigate the reasons for proposing seasonal nesting closures. Per NEPA regulations (40 CFR 1508.9) an EA must provide the following information: 1) need for action, 2) project alternatives, 3) environmental impacts of action and alternatives, and 4) list of persons and agencies contacted. Therefore, ACSD will structure its comments to address these requirements.

In general, ACSD is concerned that the current Proposed Action reflects certain unjustified fears and unsubstantiated opinions and has not included appropriate and accurate information about climbing activities. ACSD feels that the CNF has not provided enough information in either scoping letter to justify a need for action and that the scoping letters of December 11, 2006 and February 26, 2007 do not properly consider, evaluate, or take into account the negative effects that the Proposed Action will have on rock climbing. For this reason, we feel that preserving climbing opportunities on CNF land should be woven into all alternatives proposed in the EA. This letter includes suggestions for study alternatives and provides additional information that should be used in analyzing the environmental, social, and economic impacts of the Proposed Action.

Value of Impacted Recreational Resources

Per CNF's proposal over 500 acres per each nest, active or not, would be inaccessible for all recreational activities. Eagle Peak and Corte Madera Mountain are 2 of only 3 large rock cliff faces found in San Diego County that provide vistas for hikers and high-quality safe multi-pitch rock climbing experiences for climbers that can not be found unless one leaves the county. By closing these areas the CNF will be removing over 65 percent of the rock climbing opportunity found within the CNF. This would be a significant impact

to the rock climbing community and yet the proposed action makes no mention of this effect. ***Please analyze and address in the EA how impacts to the loss of these significant recreational resources for climbers will be mitigated.***

The statement within the proposal that no official trails will be affected by the closures is misleading and implies to the public that recreational resources will not be affected. In fact, popular legal-use trails to the peak of Corte Madera Mountain and Eagle Peak are within the boundary limits and will be closed. Review of the summit registers clearly indicates the popularity of the trails and the value of these peaks to climbers and hikers alike. Scouting troops, hiking clubs, and families have all signed the registers stating how wonderful their experience was on the trails and on the summit. Closing the trails would negatively affect many forest users that use these trails. A seasonal closure during the winter and spring months precludes access for forest users almost year round due to the south facing orientation of the cliff faces, high heat, and unsafe conditions found during the summer in the backcountry. This point was well made by San Diego's most popular backcountry-trail author, Jerry Schad, in his sentiments about how this season may be San Diegan's last chance to visit Eagle Peak should the CNF enact closures. [1]

Corte Madera Mountain has been being climbed for over fifty years and has historical documentation of rock climbing activities and routes since the 1970's. Approximately 150 routes are found on this 500 foot granite cliff offering this nation's climbers some of the most challenging climbs they will ever encounter. The Eagle Peak climbing area, though almost no printed documentation exists, also has a long history of climbing and some of the less steep routes on this cliff were most likely originally climbed in the mid 1960's. This area now has over 100 routes of some of the best quality granite climbing found in the entire country. This was echoed to me in a personal comment made during a recent visit to Eagle Peak by the world's best rock-climber, Chris Sharma.[2]

Simply put, to lose these valuable climbing resources would be a huge blow to both local and national climbers. Closing these cliffs would also have a significant economic impact. Climbers would no longer spend their money in San Diego County by venturing to the San Diego area to climb at these cliffs if the cliffs are closed, and local climbers would have to travel outside of San Diego County rather than climb locally during San Diego's only climbing season. Out-of-town and local climbers alike will then spend their recreational dollars elsewhere to buy food, gas, lodging, etc. which will result in a negative effect on local economies. ***Please analyze and address in the EA all economic impacts that will result from the CNF's proposal and identify appropriate mitigation.***

Data to Support Need for Closures

CNF's premise for the closures is that nesting raptors need protection from recreational users at these cliffs. CNF has not presented evidence for this position. ***Please provide in the EA factual evidence that climbers at the specified closure areas are actually impacting nesting raptors; not hearsay of a random non-climbing rappel incident by military personnel or others, in unspecified locations, as suggested by Dave Bittner*** [3]. In fact, according to data collected by the Wildlife Research Institute (WRI) [WRI being

[1] <http://www.sdreader.com/php/roamshow.php?id=20070308>

[2] http://en.wikipedia.org/wiki/Chris_Sharma; <http://www.alliedclimbers.org>

[3] Personal communication w/ Dave Bittner after taping of Full Focus segment:
http://www.kpbs.org/tv/full_focus?id=7191

the most current ref. cited in CNF's proposal], urban sprawl resulting in loss of habitat and prey base, electrocution, accidental poisoning, shootings, drownings, starvation, car strikes, barbed wire fences, predation, and even other eagles are the documented factors responsible for golden eagle deaths. Together with drought conditions, these are the factors associated with drops in reproduction success rates in San Diego County: 2003 drought year – 14 GE young fledged at .27 young per territory; 2006 non-drought year – 30 young fledged at .68 young per territory.[4] Other references cited by the CNF use generalized observations of different raptor species in different geographical regions influenced by a variety of disturbance variables to justify the stated need for closures when focused studies should be used. ***Please provide in the EA focused studies that: a) exclude other disturbance variables; b) are specific to the target species; c) are specific to the San Diego region; d) are specific to the closure areas, and the large climbing cliffs within these areas.***

Golden Eagle and Prairie Falcon Status

Golden eagles and prairie falcons are not listed under the Endangered Species Act. Prairie falcons have a stable population within San Diego County and are even described as such in the closure proposal. Prairie falcons are estimated at over 5,000 pairs nationwide, with a stable regional population, and an increasing national population. The golden eagle is declining regionally, but is increasing nationally. The decline in eagle numbers in San Diego County has been empirically attributed to loss of habitat due to increased urban sprawl and increasing frequency and severity of drought conditions, not recreational activities. Additionally, in particular, golden eagles in San Diego are documented to have been electrocuted by power lines, caught in hunting traps, hit by vehicles, succumbed to predators, and even drowned while hunting prey. And though deaths do occur, the golden eagle has a wide range throughout North America whose numbers are on the rise with a current estimated population of up to 70,000. The overall status of the species must be taken into account.

Therefore, given the status of both the prairie falcon and the golden eagle and that recreation activities such as rock-climbing have not been documented or proved to be responsible for mortality or unsuccessful nesting of either species at the climbing cliffs within the proposals, ACSO feels that the need for a management action by the CNF as proposed is unnecessary and based on unjustified fears and unsubstantiated opinions.

Data for Proper Analysis of Closures

The CNF's proposal is vague and lacks sufficient data to make a proper review of the stated need for closures. Currently, there is no differentiation between what nest locations are active, recent, alternate, or historic. Data should be provided that identifies the results of consistent monitoring of fledgling success and any effect recreation has had on these nests. Until information is both proved and provided, a proper review of the closures can not be completed. ***Please include information in the EA that factually provides: 1) where golden eagle and/or prairie falcons nest; 2) accurate and detailed maps that identify specific locations of individual nests; 3) status of each specific nest identified, relative to CNF's classifications of active, recent, alternate, or historic;***

[4] Wildlife Research Institute [<http://www.wildlife-research.org/>]; Wildnews – vol. 6

4) differentiation between golden eagle nests and/or prairie falcon nests for each specific nest identified; 5) comprehensive monitoring data for each specific nest identified.

Closure Areas Should Not Include Historical and Speculative Nesting Locations

The nesting locations outlined in the maps are inaccurate and appear to outline speculative nesting habitat, not actual nesting locations. Banning recreational activities for a species that is not actually nesting within a recreation area is unnecessary and does nothing to help nesting raptors in the region. Nesting protections should only be applied to active nests when the need for protections are clearly identified. Federal guidelines for protection of nesting eagles focus solely on active nests and recommend a 330-foot buffer only. The Bald and Golden Eagle Protection Act (BGEPA) Draft Management Guidelines suggest a 330-foot buffer around active eagle nests during the nesting season, not the ½ mile closure that is unnecessarily being proposed as part of this action. [5]

Inconsistent Closure Boundaries

The closure boundaries are inconsistent. The proposal text outlines a ½ mile radius around nests, but adds a list of other variables that would also affect closure areas like topography and ease of enforcement. A ¼ mile is proposed from the bottom of cliff faces, which is in direct conflict with the ½ mile distance previously mentioned. Hillsides in full view of nesting locations are not included for closure while other areas well outside both the visible and audible range are included for closure. The closure areas appear to avoid all off-road trails even though these trails occur in direct view, audible range, and within the ½ mile radius of the proposal's stated nesting locations. The maps have been modified and closure distances range from 750 feet to 3,750 feet from identified nesting location bubbles. In the case of the Rock Mountain closure, the nesting resource is not within Forest Service property, yet a closure that follows the parcel lines is being proposed. ***Please address in the EA how the CNF will specifically manage these resources that are not within their jurisdiction.*** The CNF proposal appears to be arbitrary in application by closing areas that do not have active eagle nests while not including for closure those areas which do experience high-use hiking and do have known active eagle nests nearby, such as Morena Butte.[6] ***Please address in the EA a clear, scientifically based justification for varying the closure boundaries. If the variation in closure boundaries is to benefit some recreational users over others, please address in the EA a clear, scientifically based analysis and reasonable decision for this action and identify mitigation for impacts for the excluded recreational group.***

Land Management Plan Compliance

The closures, as proposed, are not in compliance with the 2005 Cleveland National Forest Land Management Plan (CNFLMP).[7] Management actions are to be implemented to protect sensitive species, of which the golden eagle and prairie falcon are not – See USDA Forest Service Pacific Southwest Region Sensitive Animal Species List.[8] Appendix D of CNFLMP outlines the specific order in which management actions must

[5] <http://www.fws.gov/migratorybirds/issues/BaldEagle/Mgmt.Guidelines.2006.pdf>

[6] Wildlife Research Institute [<http://www.wildlife-research.org/>]; Wildnews – vol. 6

[7] <http://www.fs.fed.us/r5/cleveland/projects/forestplan/cleveland-part2.pdf>

[8] <http://www.fs.fed.us/r5/projects/sensitive-species/sensitive-animals.html>

be implemented. Conservation education, perimeter control, and management presence must be completed before taking direct action and closing recreational areas.

CNF staff appears to be circumventing the CNFLMP since they have not engaged in educational outreach or performed any of the items outlined in the land management plan. Golden eagles and prairie falcons are not at the brink of extinction and do not require an immediate seasonal closure for supposed nesting locations. In fact, there is no proof that there is a conflict between recreational uses and raptors at these locations. All Alternatives in the EA should adhere to the CNFLMP and implement conservation and education along with any needed monitoring and studies before resorting to direct action measures. ***Please address in the EA how the CNF justifies circumventing the CNFLMP to establish said closures and a valid scientific analysis and legal justification for closures for species not considered sensitive by the Forest Service.***

Authority for Closures

The CNFLMP does not provide the authority for closure of recreational areas for protections of species not listed as endangered, threatened, candidate, or sensitive. Neither the golden eagle nor prairie falcon meet these classifications and therefore do not require additional protections. The Migratory Bird Treaty Act (MBTA) does not provide the authority to close recreational areas. The Migratory Bird Treaty Act specifically protects migratory birds and nests from possession, sale, purchase, barter, transport, import, export, and take. Take is defined as means to pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempts to pursue, hunt, shoot, wound, kill, trap, capture, or collect (50 CFR 10.12). Recreational uses, such as hiking and rock climbing, would not result in any of these activities. The Migratory Bird Treaty Act does not consider disturbance to be take and, therefore, the Migratory Bird Treaty Act does not provide the legal authority for this closure. ***Please provide in the EA a clear legal analysis for the CNF's reasoning behind using the CNFLMP and the MBTA as the framework for the CNF's stated legal authority to close these well established recreational areas.***

The Bald and Golden Eagle Protection Act (BGEPA) does include disturb within its definition of take. This definition of take would only apply to bald and golden eagles, not to other raptor species such as the prairie falcon. It is also important to note that the U.S. Fish and Wildlife Service (FWS) has not defined disturb and recently released a draft EA to define disturb under the BGEPA. Currently, within this draft EA, the preferred alternative is to define disturb to require both an effect to individual eagles and a biological impact, such as nest abandonment. The FWS may also define disturb to require an action directed at one or more eagles that results in death or injury of the eagle(s). It is highly unlikely that recreational activities, including rock climbing, will meet either definition of disturb as proposed by the FWS. The recreational areas in the CNF's proposal are large. If nests are present within these areas they are most likely only in a few locations. Any biological impacts can be minimized via Conservation Education, which is required to be implemented before any Perimeter Control as detailed in Part 3 Appendix D of the 2005 Cleveland National Forest Land Management Plan.[9] ***Please identify in the EA alternatives that propose conservation education, perimeter control, and management presence before proposing overly restrictive seasonal closures.***

[9] <http://www.fs.fed.us/r5/cleveland/projects/forestplan/cleveland-part2.pdf>

Closure Duration Flexibility

After implementing steps outlined in the CNFLMP, should the CNF find future closures to be necessary in any part of the CNF, the addition of language that would allow for closure duration flexibility would be a step in the right direction. If future closures are enacted on CNF lands these closures should be put in place seasonally after identified nests are found to be actively in use. In the spirit of having established Memorandum Of Understanding “07MU11050200004” between the U.S.D.A., Forest Service Cleveland National Forest and The Allied Climbers of San Diego (ACSD)^[10], effective March 3, 2007, ACSD proposes that the CNF and ACSD work together to then engage in joint seasonal, routine monitoring of nest activity and fledgling status and that this monitoring be the determinant of duration of any future closures. This flexibility on closure details would allow for both protection of the nests and for recreational activity once the nest is no longer active. An EA should be performed to provide additional specific details on flexibility for closure duration and timelines.

If active eagle nests are observed, a reasonable 330-foot buffer should be enforced. One-half mile is an impractical and unnecessary buffer. The 330-foot buffer requirement has been implemented for the golden eagle in the past and is again being proposed as part of the Draft National Bald Eagle Management Guidelines.^[11] A 330-foot buffer around an observed nest would not significantly curtail recreation activities while still providing adequate protection for eagles to rear their eggs and fledge their young.

Recommendations for Environmental Assessment

The following alternatives should be analyzed as part of the EA:

1. No closure alternative (No project alternative). CNF should start with public education and signage near the nesting resources. Further studies and research should then be completed to identify resource use and impact.
2. No formal seasonal closure. Voluntary advisories for all active prairie falcon and eagle nests in the CNF of 330-feet. This protection measure would inform the public of how to properly recreate in the vicinity of active nests through active education measures on the web, on forest service message boards, and at trail heads. Public outreach and education would be supported by Ranger presence. Monitoring of nest status and fledgling success could then be performed that analyze the benefit of voluntary advisories.
3. No formal seasonal closure for prairie falcons (no need exists as the falcon population is stable and the CNF has no legal authority or justification for implementing falcon closures). Formal 330-foot seasonal closures for active eagle nests only (under legal authority of the Bald and Golden Eagle Protection Act) as recommended by the BGEPA Draft Guidelines.

[10] www.alliedclimbers.org/fs/mou.pdf

[11] <http://www.fws.gov/migratorybirds/issues/BaldEagle/Mgmt.Guidelines.2006.pdf>

Once again, thank you for the opportunity to comment on the proposed seasonal closures for Corte Madera Mountain, Eagle Peak, and Rock Mountain. Dave Bittner, Director of the Wildlife Research Institute of Ramona, stated during the Full Focus episode which aired on our local KPBS (referenced previously in foot-note 2), that there are hundreds of cliffs in San Diego County for nesting raptors. The other hundreds of cliffs which Dave Bittner mentioned are most likely the locations where falcons and eagles actually are nesting. Climbers are not climbing at these locations because they are not suitable for climbers. These areas are suitable for continued nesting and do not pose a conflict as they are not safe areas for climbing activity. ACSD feels the CNF should identify these areas for monitoring and develop management strategies that look to the future in being able to handle the increased recreational use that will no doubt occur due to continued urban growth and development in the San Diego region. ACSD would like to help and can be instrumental in developing a relationship between the CNF and climbers which would allow climbers to assist the CNF in this endeavor by bringing their expertise in rock skills and backcountry knowledge to volunteer under the CNF's guidance.

Please, when considering how best to manage the Cleveland National Forest, as Chief Forester Gifford Pinchot put it, “[for] the greatest good of the greatest number in the long run”, we ask that you keep climbers in mind and the value that these limited few large rock cliff faces hold for us, and the considerable amount of our free time that we have spent exploring, enjoying, and communing with nature in these beautiful landscapes.

Please do not hesitate to contact me at (619) 508-4665 should you have any questions.

Sincerely,

Jeff Brown
Executive Director
The Allied Climbers of San Diego, Inc. (ACSD)

Cc Peggy Hernandez, CNF Forest Supervisor
Graciela Terrazas, Palomar District Ranger
Tom Gillett, Descanso District Ranger
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