

VERTICAL TIMES

The National Publication of the Access Fund
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Wrestling with Liability: Encouraging Climbing on Private Land

page 9



CHOOSING YOUR CONSERVATION STRATEGY 6
THE NOTORIOUS HORSETOOTH HANG 7
QUEEN CREEK/OAK FLAT: NEGOTIATIONS CONTINUE 12



“All the beautiful sentiments in the world weigh less than a single lovely action.”

— James Russell Lowell

First of all, I want to take a moment to thank you for all you’ve done to support us. Without members and donors like you, we would fall short of accomplishing our goals.

I recently came across some interesting statistics in the Outdoor Foundation’s annual Outdoor Recreation Participation Report. In 2008, 4.7 million people in the United States participated in bouldering, sport climbing, or indoor climbing, and 2.3 million people went trad climbing, ice climbing, or mountaineering.

It is also interesting to note that less than 1% of these climbers are members of the Access Fund. And the majority of our support comes from membership. We are working on climbing issues all across the country, from California to Maine. While we have had many successes and our reach is broad, just imagine what would be possible if we were able to increase our membership base: more grants, more direct support of local climbing organizations, and, ultimately, more climbing areas open and protected. We could use your help.

Chances are a number of your climbing friends and partners aren’t current Access Fund members. Please take a moment to tell them about our work and the importance of joining us, not to mention benefits like discounts on gear, grants for local projects, timely information and alerts about local access issues, and a subscription to the *Vertical Times*.

In this issue of the *Vertical Times*, we continue our tradition of covering a climbing access issue in depth. In our feature article, frequent contributor Laura Snider explores some of the liability issues surrounding climbing on private land. The Access Fund and our partners in the Outdoor Alliance have been working on strengthening recreational use statutes for many years. I hope this article helps to illustrate why our continued work on this issue is so important.

Thank you again for your generous support this year. With the holidays fast approaching, we’ve created an easy way for you to help spread the word. Our Holiday Packs (see the back of this issue) include a one-year membership and tons of other great items. They are an amazing value and make the perfect gift for your climbing friends.

Happy Holidays,

A handwritten signature in black ink that reads "Brady Robinson".

Brady Robinson
Executive Director



New in the AF store

Bad hair day? The new Access Fund cap is sure to solve your coiffeur woes. With an off-centered AF logo, moderately structured forehead, and adjustable Velcro back, it is stylish and comfortable. On sale now at www.accessfund.org/store.

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Chris Archer



Ruth Gorge Geometric | Mixed Media on Canvas | © Renan Ozturk

Storm Mountain

I just joined after learning what the Access Fund does along with Kent Mountain Adventures up on Storm Mountain and the Monastery camp cleanup. I live in the nearby subdivision (Cedar Springs/Cedar Park), and I doubt that our communities know that climbers take on this responsibility. I'd like to help spread the word and maybe bring more people from my community to your cleanup—the image of climbers helping out communities really goes a long way.

— TONY DAVIS,
Colorado

AF: Tony, we're psyched that you were able to help out with the Storm Mountain clean-up day. Yes! Please help spread the word. We would love to have more members of the surrounding community working together with climbers to steward these precious resources. Give us a shout if there's anything we can do to help your efforts.

Thanks for the Toilet

I just wanted to pass on my personal thanks from the Friends of Indian Creek for the six grand. We are currently putting together other sponsors to help us get the Bridger Jack toilet facility completed. The BLM continues to be excited about it, and we know climbers are going to get a lot of use from it. I appreciate the support from the Access Fund. As always, you're doing a great job.

— SAM LIGHTNER JR,
Friends of Indian Creek, Utah

AF: You are welcome! Thanks to you and the Friends of Indian Creek for all your hard work on Indian Creek and surrounding areas.

Website Confusion

Recently, you have changed your login protocol. Your format is structurally confusing. It says that my last name is to be entered into the "password" field. No problem. However, it also instructs me to enter my member number into the "username" field. No such field exists. Please inform me how to log into your site. Thank you.

— AL SHAVER,
Monterey, CA

AF: Al, sorry for the confusion. We just redesigned our website and moved all of the content over to a new platform; obviously, some things got mixed up in the migration. Your member number goes into the "Login Name" field. We've updated the language on the site, so it should be clearer now. Thanks for bringing this to our attention!

The Beta on Anchor Replacement

We know that you're invested in maintaining safe anchors and bolts at your crags. And although the Access Fund does not get involved in anchor replacement, we do have some friends out there that can help. Both the [American Safe Climbing Association](http://www.safeclimbing.org) (www.safeclimbing.org) and the [Anchor Replacement Initiative](http://www.climbing.com/community/ari) (www.climbing.com/community/ari) provide support for volunteers replacing bolts and anchors.



The Access Fund wants to hear from you. Share your thoughts, ideas, and perspectives on access issues. Tell us what we're doing well. Tell us where we could improve. E-mail your comments to holly@accessfund.org.

Close Encounters with Yosemite Tourists

Yosemite Facelift Report from Amy Ansari, Access Fund grassroots coordinator

Decked out in a blaze orange safety vest and matching orange trash grabber, I had my eyes glued to the ground in search of the next Snickers wrapper, empty Mountain Dew bottle, or dirty diaper. A flash of light broke my concentration. I looked up to find myself surrounded by 20-plus tourists, fresh off the bus, snapping pictures of me.

“My god,” one woman said. “I cannot believe all the trash people can leave. Are you one of those volunteers with the Facelift?”

“I am,” I said, proudly pointing to my bright green volunteer badge.

Ken Yager, founder of the Yosemite Facelift, told me about moments like this. But I didn’t believe it until I saw it firsthand—all 20 tourists tucked their cameras safely into their fanny packs and started picking up trash with me.

By day four, 1,800 volunteers had collected an astounding 45,000 pounds of trash!



Arkansas Climbers Coalition Update

The Arkansas Climbers Coalition has been busy with new projects this year. These include recommendations to Buffalo National River on fixed anchors, organizing two Adopt a Crag events, and submitting a grant for a new pit toilet. For more information visit <http://arkansasclimbers.ning.com>.

New Regional Coordinator in Maryland

Chris Irwin will be providing support to climbers on access issues in Maryland and is currently on the board of the Mid Atlantic Climbers. For more information, contact Chris at chris@midatlanticclimbers.org.



Clifton Branch of Maine Climbers Alliance

Last year we welcomed the Maine Climbers Alliance (MCA) as a new affiliate organization to our grassroots network. This year, MCA has grown with a new branch in Clifton, Maine. For more information, contact Ryan Howes at rjhowes@unity.edu.

Local Climbing Organization 101: Board Meetings

Here are a few simple tips from successful LCOs that can help keep meetings on track.

Always create and circulate an agenda. Ask board members a week before the meeting for agenda items. Send the completed agenda to all board members the day before the meeting.

Have a facilitator. Meetings can easily get off topic. Appoint someone to give time limits and keep people moving forward with the agenda.

Come to formal resolutions. When a decision needs to be made, cast a formal vote. It can be as simple as a raise of hands. If further research is needed to make a final decision, appoint a committee and assign action items.

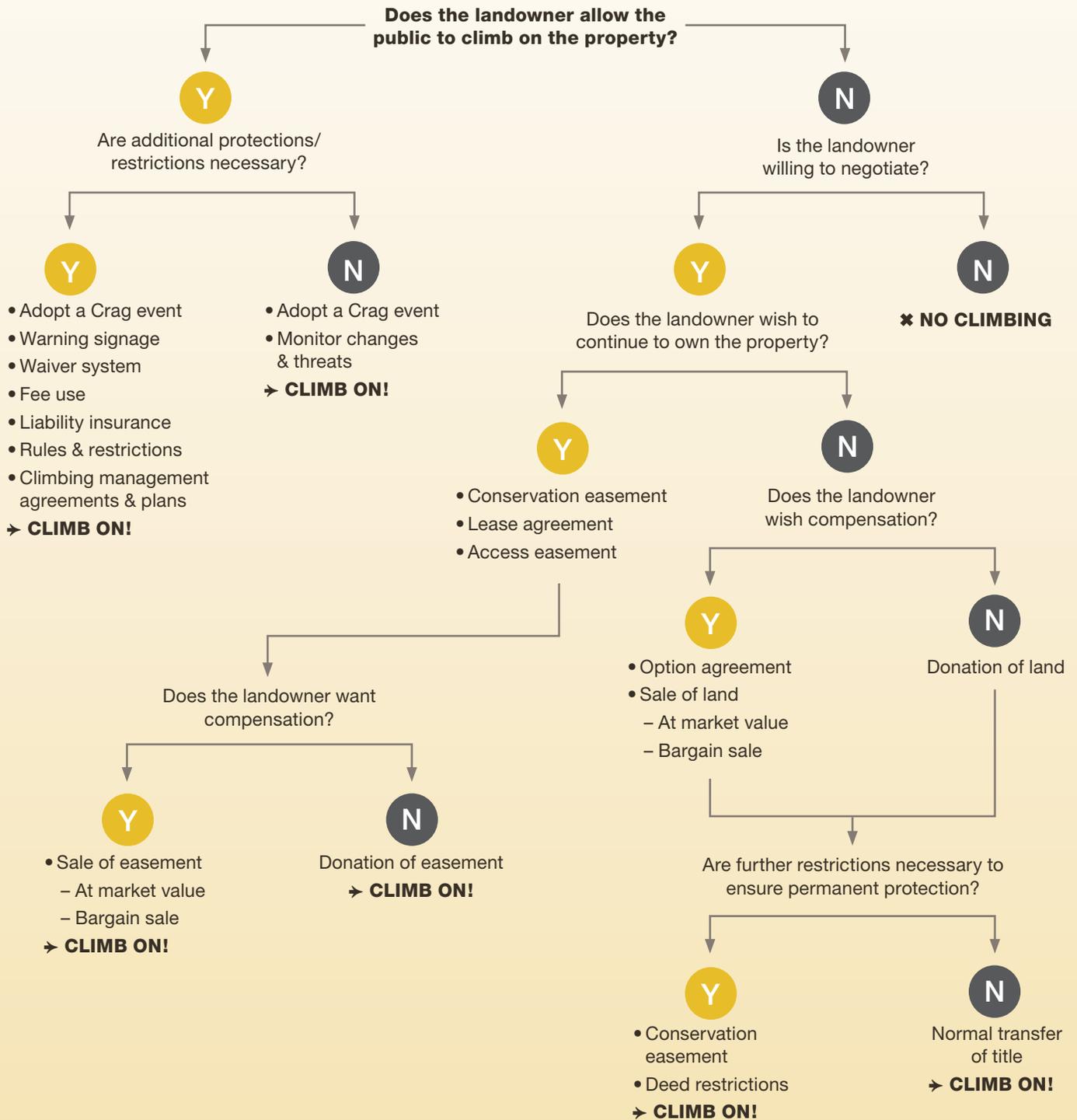
Always recap your meeting. Close each meeting by recapping what was discussed and restating action items and deadlines.



To submit an update for your local climbing organization or area, contact Amy Ansari at amy@accessfund.org.

Choosing Your Conservation Strategy

Navigating the ins and outs of obtaining and managing climbing access on private land can be cumbersome and confusing. The strategy you choose will depend on your unique situation. The chart below will help get you pointed in the right direction. Visit www.accessfund.org/ConservationStrategies for more information on the strategies recommended below.



THE HANG

In 1991, somewhere in the dark corners of the Washington Bar and Grill in downtown Ft. Collins, CO, the Horsetooth Hang was born. Local climbers Craig Luebben and John Shireman started the event as a major climbing competition. Within a few years, it had evolved into a festival and trash cleanup event focused on giving back to the local community and raising money for climbing-related nonprofit groups.

Each year, over 100 climbers and locals gather at Horsetooth Reservoir with two goals: to climb and to clean up hundreds of pounds of trash around their beloved boulders. But perhaps the most notorious aspect of “The Hang” is the costumes. Each year has a different theme, like wild west, super heroes, or semi-formal wear. This year, participants came donning Lycra in the electric colors and patterns made infamous by climbers in the 80s. We sense a revival in the air.

“The Hang is a chance for the Fort Collins climbing community to come together,” states organizer Reed Woodford from the Northern Colorado Climbers Coalition. “Fort Collins often gets overshadowed by other climbing areas in Colorado, but we have this place in America where bouldering began. It’s pretty awesome.”

Horsetooth Reservoir is used by many different groups, including boaters, hikers, and picnickers. The Hang helps draw attention to climbers in a positive manner. “Here at the Access Fund, the Horsetooth Hang is one of our favorite events,” says Grassroots Coordinator Amy Ansari. “We love seeing climbers combining their stewardship work with such camaraderie and a sense of fun.”

Rumor has it that the after-party is pretty hot as well, featuring slide shows by some of the country’s best climbers and plenty of beer and pizza from Uncle’s and New Belgium Brewery.



If you live in Colorado or just happen to be passing through the first weekend in October, get yourself to Ft. Collins to experience this event for yourself.

The Horsetooth Hang is made possible by the generous support of Neptune Mountaineering. Visit www.horsetoothhang.net or www.nococlimbing.org for more information. ■



In Memory of Craig Luebben

We send our condolences to the family of Craig Luebben, who was killed in a mountaineering accident on August 9. Craig was a climbing icon, adventurer, lover of life, and generous beyond words. He will be missed dearly in the Colorado community and beyond.



The A Team at Little River cleanup

The Race is On

We have more teams than ever competing for this year's TeamWorks golden toothbrush award and \$1,000 cash grant. The competition is fierce, with new teams in Minnesota, Colorado, Texas, and the Southeast. The top three contenders (at the time we went to print) are:

Taking the lead:

The A team (Adrenaline Climbing Gym), Suwanee, Georgia

A close second:

TBA Ballers (Tennessee Bouldering Authority), Chattanooga, Tennessee

Coming in third:

E Unit (Escalade Climbing Gym), Kennesaw, Georgia

These stats can change drastically from day to day, so keep logging your stewardship hours and get your scorecards in!

TeamWorks is a competition that rewards youth climbing teams across the country who have the most volunteer service hours at the crag. For more information or to register a team, visit www.accessfund.org/teamworks or contact Amy Ansari at amy@accessfund.org. ■



Powered
by Climbers

We'd like to thank you for your continued support of the Access Fund — you make it possible!

Please consider giving an additional, tax-deductible donation by December 31. Make your gift today by check or credit card. Use the enclosed envelope or make your gift online at www.accessfund.org/donate. ■

WRESTLING with LIABILITY

Encouraging Climbing on Private Land

By Laura Snider

Rick Weber likes to cruise around his 400-acre verdant Kentucky spread, walking the seven-plus miles of sandstone cliffs in Muir Valley to see what the climbers are up to—or maybe to catch a belay himself.

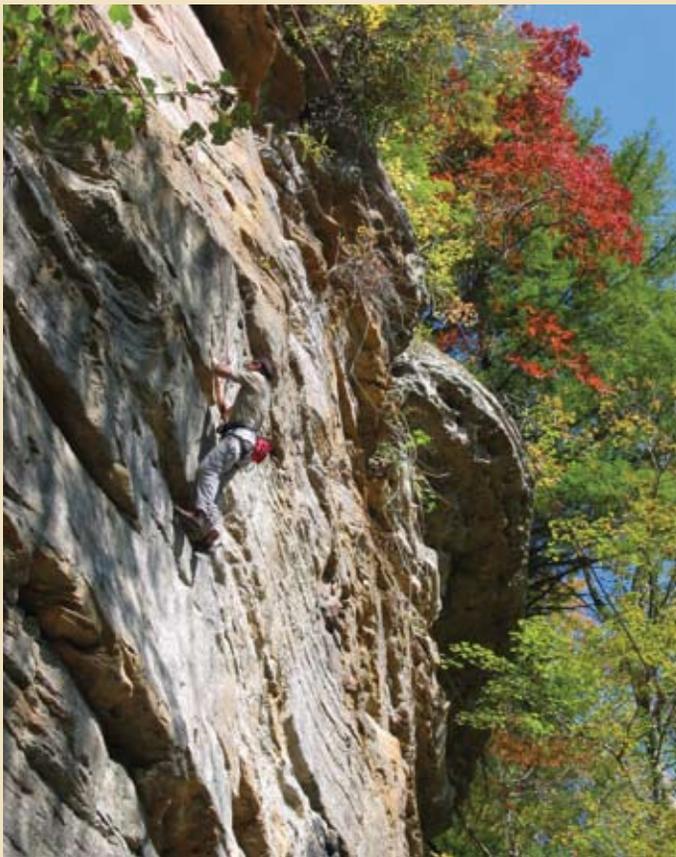
For the most part, the climbers who visit Muir Valley — a rhododendron-choked slice of Appalachian heaven that Rick and his wife have turned into a nature preserve and climbing park — are a well-behaved lot. But he worries. He knows that accidents happen.

Rick and his wife, Liz, are retired now, and Muir Valley is their nest egg. To lose it in a legal battle over liability, sued over a climbing accident, for example, would be devastating. When the pair bought the property in 2003, they knew they wanted to open it up to fellow climbers, but they needed to make sure they were protected as well. After doing some homework, chatting with the Access Fund, and reading up on state law, Rick was convinced that they could open up their private land under the protection of Kentucky's recreational use statute.

“Yes, we’re concerned,” Rick says. “But we’re not going to worry about it. We’re told that we have a reasonably safe

legal position. We could batten down the hatches and not stick our neck out, but then you don’t get the benefit of sticking your neck out.”

The Webers—being climbers themselves and having



Climber enjoys the fall foliage in Muir Valley

bought Muir Valley specifically for its tempting ribbon of sandstone cliffs—are rare in the arena of private landowners who wrestle with whether, and how, to allow climbing on their properties. But the type of land-use statutes that enable the Webers to host 14,000 climber visits a year (and still sleep at night) are not rare. All 50 states have recreational use statutes, which are meant to encourage recreation on private lands by shielding the property owners from liability. But these laws vary both in their protection and the types of recreation they cover, and the ways that landowners, or their lawyers, interpret these statutes vary even more.

Part of the Access Fund’s work over the years has been to help private landowners—and local climbing organizations wrestling with private-property access issues—understand their state’s laws. Sometimes this means convincing people that rock climbing is as legitimate a recreational activity

WHAT ARE

Recreational Use Statutes?

In the 1950s, states began to pass laws designed to encourage private landowners to open their properties to hunters, anglers, and other recreationalists by limiting the landowner's liability. Now, all 50 states have these laws, called recreational use statutes, and many have updated them at least once. Not all of the statutes are the same, and they don't all offer the same level of direction, but they do have general commonalities.

Recreational users: Many states list a few types of recreationalists as examples, but the list is usually not inclusive. Only Alabama, Colorado, Vermont, Virginia, and Washington specifically name rock climbing, but in most states, rock climbing would fit under the general definition of recreation.

Fees: In most states, landowners are only protected if they do not charge a fee, although in some cases, fees to cover maintenance or property taxes are allowed.

Duty to keep safe: None of the states specifically require landowners to keep their properties safe for anyone who might use the land to recreate, but in some cases, a "duty to keep safe" isn't mentioned at all, leaving it more open to interpretation.

Duty to warn: Again, none of the states specifically require landowners to warn people about potentially hazardous conditions, structures, or activities on their properties. Landowners do have duty to warn of known hazards, but they have no duty to inspect for hazards.

Assurance of safety: In most states, the law says that opening your lands to others does not mean that you're vouching for the safety of the land or the activity.

Liability for willful and wanton misconduct: And while landowners aren't required to guarantee that a recreationalist won't get hurt on their property, they are liable, in most cases, for "willfully or wantonly" failing to guard against dangerous situations.

Make sure that you check out your own state's statutes. A good starting point is the American Whitewater Association's website at www.AmericanWhitewater.org/archive/article/123.

as fishing or hunting. Sometimes it means lobbying state legislatures to change their statutes. And even though many of the recreational use statutes have been in place since the 1950s and '60s, the work is far from done. "Liability issues are becoming even more and more of a factor," says Brady Robinson, AF executive director. "This is something that's not going away."



Rick and Liz Weber

Managing both ends of the spectrum

The Webers take a hands-on approach to managing Muir Valley. All climbers are asked to sign a waiver, and they're warned about the usual suite of climbing risks, including rock fall and the possibility of protection failing. And when Rick is out walking around on the property, he will even intervene when he sees egregious safety issues. But a 25-minute drive away, another piece of private property that also allows rock climbing is being managed on the opposite end of the spectrum.

The Pendergrass-Murray Recreational Preserve is owned by the Red River Gorge Climbers' Coalition, which bought the property in 2004, just a year after the Webers bought Muir Valley. The coalition also relies on Kentucky's recreational use statute, which says that if the group doesn't charge an entrance fee to climb on the property, doesn't promise the land is safe, and doesn't "maliciously" avoid pointing out an obviously dangerous situation, then a hurt climber can't sue them. But the coalition still differs from the Webers in the way they manage the land. They feel that they will have a stronger legal position, in case of a lawsuit, if they are as hands-off as possible. The preserve managers don't want to be asked where to put a route, how to place a bolt, or which belay style is best, for example.

Both positions are valid, says AF Access Director Joe Sambataro, partly because either may be defensible, depending on how you argue it. Not all recreational statutes have been tested across the states, and, therefore, in many instances no judge has added a precedent for how the law will be interpreted. Interpretation of these kinds of laws could include what kinds of activities are protected.

Loss of protection, loss of climbing

Until recently, Illinois's recreational use statute defined recreation as "any activity undertaken for conservation,

resource management, exercise, education, relaxation, or pleasure on land owned by another.” Now, the state legislature has changed the law to define recreation, for the purpose of the statute, as the “entry onto the land of another to conduct hunting or recreational shooting or a combination thereof or any activity solely related to the aforesaid hunting or recreational shooting.” In this new change to the law, hunting and recreational shootings are not examples; they now sum up the entire legal definition of recreation in the state of Illinois. This has caused a big loss for local climbers.

“With this change, any private property owner in Illinois can be held liable for a hiker’s sprained ankle, an equestrian’s injury from being thrown from a horse, a drowning from a fishing accident, or a climber’s ground-fall injury,” wrote Eric and Kathy Ulner, who own the Draper’s Bluff climbing area in southern Illinois, in an open letter to the climbing community. “We never thought we would see the day that we would have to close Draper’s Bluff to climbing. ... We are left with no choice, though, but to close our property to anyone. We have but one house to live in and are not willing to risk it to pay off the grieving family of a climbing fatality or lifelong rehab expenses of a spinal injury.”

The Ulners close their letter by asking climbers to lobby the legislature, hoping to reopen the land when the law again protects them from liability. The Access Fund is collaborating with the Illinois Climbers Association to create an advocacy strategy to help influence a change in the Illinois statute.

Keeping rec statutes strong

Beyond definitions of what is or is not covered by recreational use statutes, most of these laws have a few general rules in common. Most recreational use statutes, for example, do not require landowners to inspect their properties for dangerous conditions or to warn visitors of potential unknown hazards. And in most states, landowners cannot charge an entrance fee and still retain liability protection under the law. In general, the recreational use statutes in some states offer far stronger protection than in others. But even in states with robust protection, landowners are still often wary.

“Liability is one of those things that, especially in this country, no matter what protections were put in place, people will always be wary,” says the AF’s Sambataro. However, these laws are only one kind of risk management that landowners can employ. There are other strategies, including

waivers and signs, to mitigate risk. Sambataro continues, “Part of what climbers and local groups can do to help keep climbing areas open is reach out to landowners and help educate them about the protections afforded by recreational use statutes and other risk management strategies.”

While local climbing organizations are spreading the word about recreational use statutes in their individual areas, the Access Fund is working with its partners on Capitol Hill, including the Outdoor Alliance, to make sure these liability protections stay in place across the nation and to strengthen them where necessary. ■

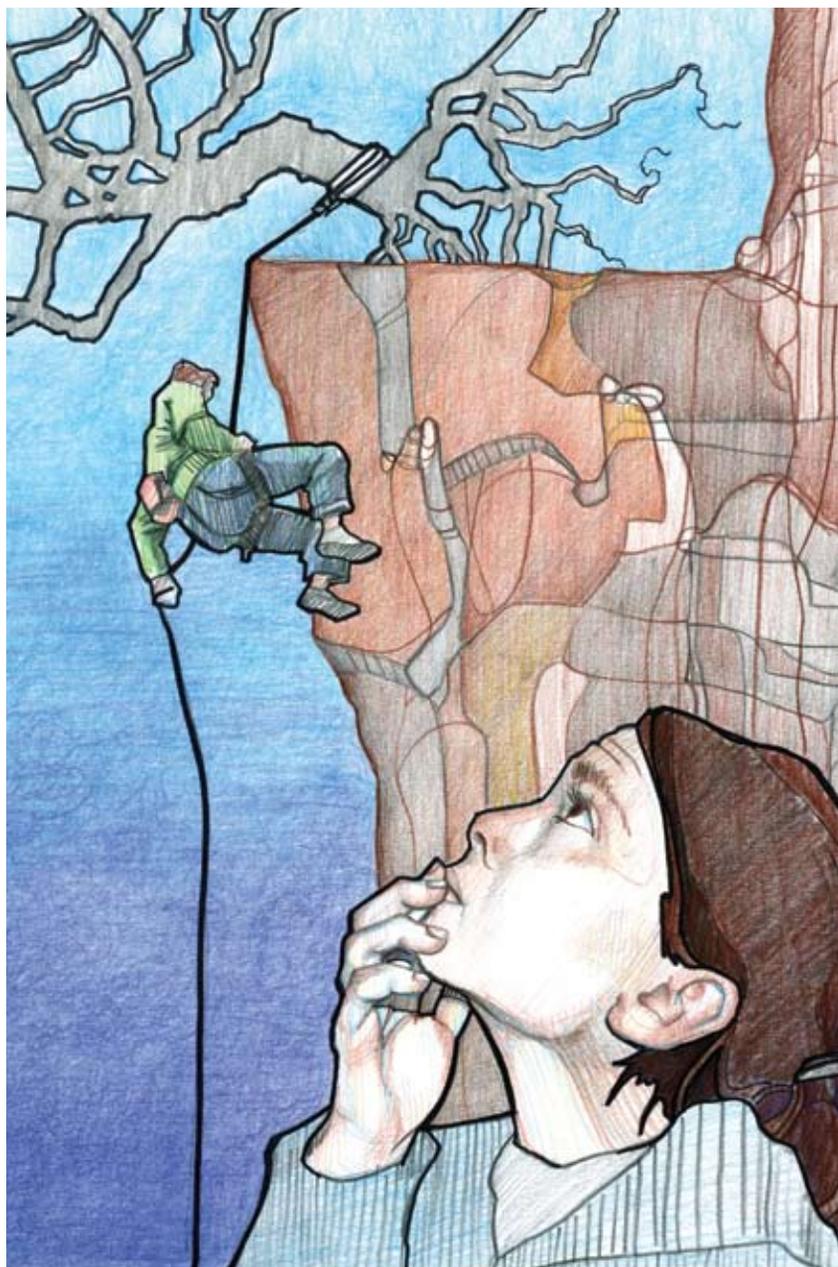
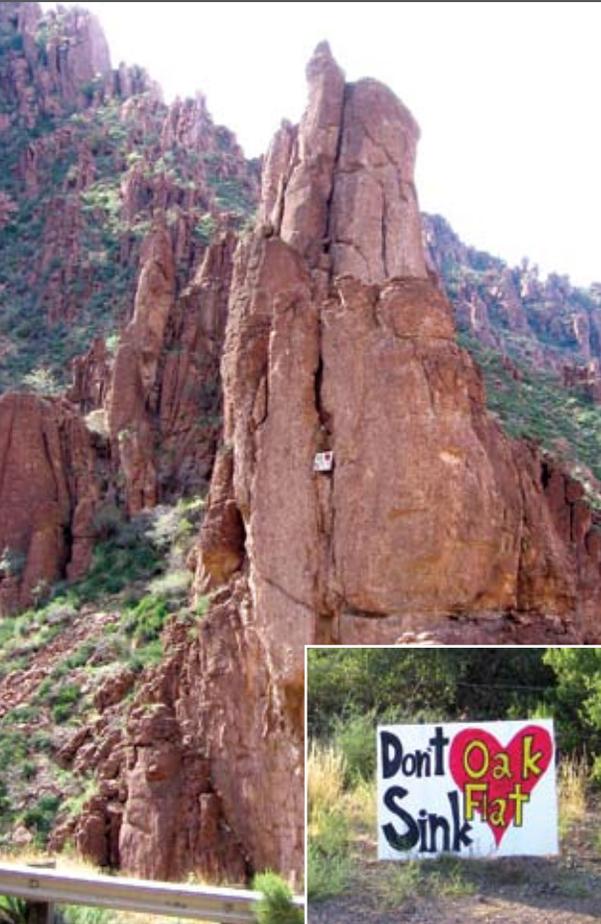


Illustration by Kristin Marine



Local activists show their support of preserving Oak Flat
Photos courtesy of Kirra



Resolution Copper Mining equipment at Oak Flat
Photo courtesy of Kirra

NEGOTIATIONS

QUEEN CREEK/OAK FLAT

CONTINUE

Just one hour east of Phoenix, climbers can find thousands of routes and boulder problems nestled in the desert landscape commonly known as Oak Flat/Queen Creek. Since 2004, Resolution Copper, a foreign-owned mining company, has been attempting to obtain ownership of the publicly owned Oak Flat parcel via a congressional land swap. Resolution Copper’s goal is to extract a large copper ore deposit that sits near and potentially under Oak Flat. The land exchange and resulting mining operations will destroy or eliminate the majority of the climbing area.

Over two years ago, members of the Arizona rock climbing community formed the Queen Creek Coalition (QCC), building on the success of the Friends of Queen Creek, to look after climber interests with regard to the proposed land exchange.

During a recent subcommittee hearing in the US Senate, Senator Jon Kyl and other representatives of the mining company mistakenly asserted that “climbers’ concerns had been taken care of.” The QCC is engaging congressional and Obama administration leaders to let them know that climbers’ interests have not been adequately addressed given the immense loss of climbing resources the land exchange and subsequent mine would entail.

One potential compromise that Resolution Copper suggested is the transfer of the popular Pond climbing area to the US Forest Service (USFS) to preserve climbing resources. However, in an unsettling turn of events, the US Department of Agriculture (USDA) stated that the transfer of the Pond crag to USFS is “not in the public’s interest” due to liability and other concerns. Yet climbing is supported and endorsed on USFS land all across the country. Given this precedent for collaborative climbing management on USFS land, the USDA’s most recent statement concerning the Pond is puzzling.

Senator Jon Kyl and other representatives of the mining company mistakenly asserted that “climbers’ concerns had been taken care of.”

The QCC and Access Fund are working with Congress and the USFS to address the issues raised by the USDA concerning the Pond, and are staying on top of the continually moving parts of this complex legislative process. A firm resolution is unlikely in the near future. No strong call to action is required right now.

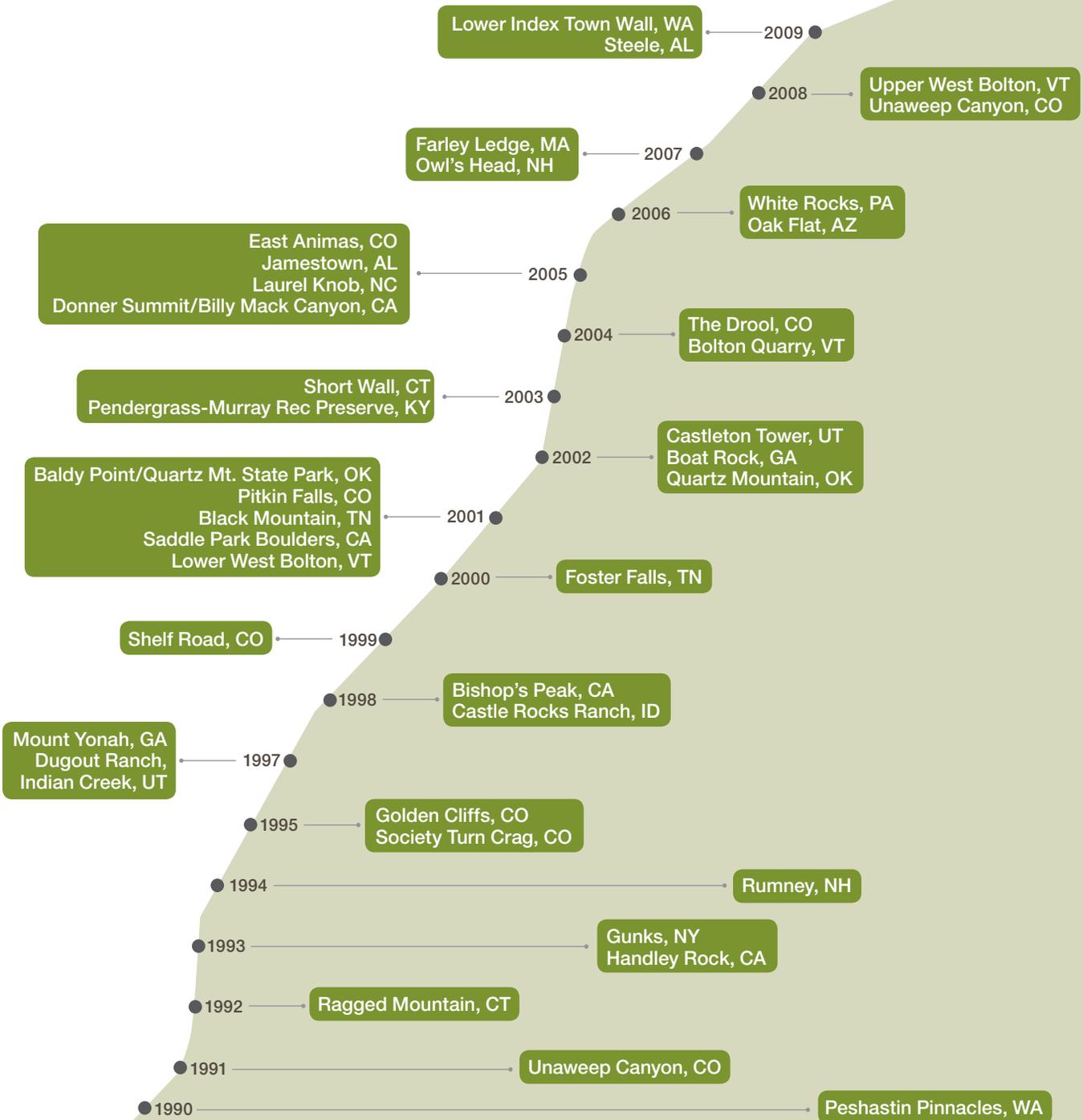
The QCC will periodically hold open meetings that climbers can attend. The latest positions, meeting minutes, and contact information can be found at www.queencreekcoalition.com.

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Access Fund's Rich History of Land Conservation

As we unveil the new Access Fund Land Conservation Campaign, we thought it appropriate to take a look back at the Access Fund's history of land conservation. The projects below, undertaken in partnership with dozens of local climbing organizations, government agencies, and land trusts, have helped protect over 12,500 acres for climbing. Visit www.accessfund.org/acquisitions for more information on these projects.



Corporate Partners

These partners are businesses that put their money where their mouth is to support the future of climbing. Please consider the important contribution these partners make to your climbing future. They support the Access Fund and you. We encourage you to support them!

TITANIUM - \$50,000+

Eastern Mountain Sports (EMS)

DIAMOND PLUS - \$35,000+

Recreational Equipment, Inc. (REI)

DIAMOND - \$20,000+

Alpinist Magazine

Black Diamond Equipment, LTD

Climbing Magazine

Dead Point Magazine

Rock & Ice Magazine

Urban Climber Magazine

PLATINUM PLUS - \$15,000+

GORE-TEX® Products

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ASHA Carpets

Boulder Rock Club/Colorado

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SILVER - \$2,500+

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OUTDOOR RESEARCH

The Access Fund would like to recognize corporate partner Outdoor Research (OR) for hosting a slide show event with Washington Climbers Coalition (WCC) that raised over \$2,000 for the Index Climbing Fund. The folks at OR donated swag for a raffle and auction, as well as 10% of the day's sales to help the WCC raise money for the purchase of Lower Index Town Wall. Way to go, OR!



Shipton Contours | Mixed Media on Canvas | © Renan Ozturk

Renan Ozturk

As in climbing, so in art, so in life. In all three the full spectrum of emotions come into play. At times there will be uncertainty, insecurity, and fear. At other times there will be inspiration and things will flow effortlessly. Ultimately it is amazing that we are here at all. The more time we spend expressing ourselves through actions and thoughts, the more richly we have lived. Climbing and art are two of the greatest vehicles I have found to carry me this direction.

— Renan Ozturk

We hope you have enjoyed the artwork in this issue of the Vertical Times, courtesy of Access Fund ambassador Renan Ozturk. Look for more of his work at www.rockmonkeyart.com.



The Access Fund
P.O. Box 17010
Boulder, Colorado 80308

GIVE THE GIFT OF ACCESS Holiday Packs Have Arrived!

The holidays are just around the corner, and you can get the ultimate stocking stuffers for the climbers on your list right here. Filled with a one-year Access Fund membership and oodles of swag from our corporate partners, there's nothing better for the climbers in your life.



Basic Holiday Package - \$75

(includes shipping) over \$120 retail value!

- A one-year Access Fund membership to help keep your crags open
- A one-year subscription to *Rock & Ice* magazine (a \$30 value)!
- Access Fund organic cotton T-shirt from prAna
- Omega Pacific biner engraved with "Access Fund"
- prAna Signature Hemp Cap to keep your noggin cool
- RESTOP bag system: just because a bear goes in the woods doesn't mean you should
- Higher Ground Roasters' Access Fund Brew
- Seasonal flavored CLIF Bars (think gingerbread and pumpkin spice)



SUPER Holiday Package - \$95

(includes shipping) over \$180 retail value!

- **The Basic Holiday Package plus...**
- Access Fund Piton Bottle Opener—show your support while cracking a cold one
- MSR Mug Mate makes café-quality brew for the outdoor java junky
- Marmot Fleece Gloves to keep your mitts warm on long belays
- Falcon Guides' *Flakes, Jugs, & Splitters: A Climber's Guide to Geology*

Order today at
www.accessfund.org/holiday

Order by December 17 to assure delivery by December 24.

While supplies last! Access Fund reserves the right to substitute products with a product of equal or greater value. Additional \$10 shipping and handling fees for non-US orders; Colorado residents will be charged sales tax.



Photo shows the SUPER Holiday Package