



## WYOMING SENATE DISTRICT 25

April 5, 2023

The Honorable Mark Gordon  
Governor of Wyoming  
State Capitol  
200 West 24th Street  
Cheyenne, WY 82002

Ms Bridget Hill  
Attorney General for Wyoming  
109 State Capitol  
200 W. 24th Street  
Cheyenne, WY 82002

Dear Governor Gordon and Attorney General Hill,

Greetings. I hope that you are both doing well.

I have been trying to learn more about the liability that State Parks would incur with the placement and operation of a via ferrata in Sinks Canyon State Park within my Senate District. I think there is considerable exposure to the State of Wyoming, and I ask (I guess especially to Madam General) you to show me where I am wrong.

As you are both aware, I am not a lawyer. My research is based considerably on visits I have had attorneys in Cheyenne and my own reading as a layman with some knowledge gained by my experience with the statutes in this area.

I draw guidance from two places in said statutes and suggest that substantial liability does exist for the State of Wyoming due to actions of the State Parks Department with respect to the via ferrata development and other undertakings.

While many activities of government are protected from liability, commonly called "governmental immunity", Wyoming law contains an explicit exception for recreation areas and public parks. Here is the section:

*WS 1-39-106. Liability; buildings, recreation areas and public parks.*

*A governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while acting within the scope of their duties in the operation or maintenance of any building, recreation area or public park.*

Secondly, the Wyoming Recreation Safety Act (W.S 1-1-121 to 123) relieves a recreation operator from liability for the “inherent risk” of a recreational activity. As I understand, the key to thinking about the impacts of this law is to be sure to separate risks that are inherent to an activity from risks that not.

In the case of a via ferrata, inherent risks might include things like encountering a rattlesnake on the approach, scraping yourself on a rock, falling a few feet while protected by a safety rope, and such. Non-inherent risks could include failure to properly wear a climbing harness or helmet, not fully clipping in with a carabiner, possibly some situation aggravated by another client, or some defect or failure of the via ferrata itself, conceivably due to design or maintenance issues.

If the via ferrata is deployed and operated by a private contractor, the conclusions remain the same.

Unless I am missing something significant, it seems to me that the combination of these two avenues should cause the State of Wyoming’s leaders to pause and think about liability issues on this development and potentially others. I look forward to your thoughts.

My very best wishes to both of you,



Senator Cale Case, PhD