

**Bureau of Land Management**  
Hollister Field Office

**Clear Creek Management Area**  
**Correspondence History**

1. EPA letter to BLM Hollister, March 3, 2010
2. OHMVR Division letter to BLM Hollister, April 19, 2010
3. OHMVR Commission letter to Congressional Representatives, June 21, 2011
4. BLM response letter to OHMVR Commission, July 20, 2011
5. Department of Parks and Recreation Director letter to Congressional Representatives, August 30, 2011
6. EPA letter to Congressional Representatives, September 29, 2011
7. OHMVR Division letter to BLM Hollister, November 19, 2012



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

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DEPT. OF PARKS AND RECREATION  
DIVISION OF OFF HIGHWAY  
MOTOR VEHICLES RECREATION

Rick Cooper  
Hollister Field Office  
Bureau of Land Management  
20 Hamilton Court  
Hollister, CA 95023

Subject: Clear Creek Management Area Draft Resource Management Plan and Draft  
Environmental Impact Statement, San Benito and Fresno Counties, California  
[CEQ #20090411]

Dear Mr. Cooper:

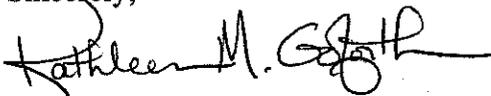
The U.S. Environmental Protection Agency (EPA) has reviewed the above referenced document. Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's (CEQ) NEPA Implementation Regulations at 40 CFR 1500-1508, and our NEPA review authority under Section 309 of the Clean Air Act.

The Clear Creek Management Area (CCMA) is an area of naturally occurring asbestos. Asbestos is a known human carcinogen. EPA's Clear Creek Management Area Asbestos Exposure and Human Health Risk Assessment (2008) determined that the asbestos exposures for many recreational activities at CCMA exceed the acceptable risk range for carcinogens. Our risk assessment also led to the following conclusions about asbestos exposures and health risks at CCMA: (1) the higher the asbestos exposure, the higher the risk of developing asbestos-related disease; (2) reducing the exposure to asbestos will reduce the risk of developing asbestos-related disease; and (3) children are of special concern because in a majority of activity-based samples at CCMA, the concentration of asbestos measured in the child's breathing zone exceeded the asbestos concentration in the companion adult sample. Furthermore, a child's life expectancy exceeds the latency period for asbestos-related disease.

EPA supports the Bureau of Land Management's (BLM) Preferred Alternative because it will help protect human health and safety and significantly improve environmental resources at CCMA. We have, therefore, rated this Draft Environmental Impact Statement (EIS) as LO - Lack of Objections (see enclosed "Summary of Rating Definitions"). We recommend, however, that the Final EIS provide additional clarifying information regarding potential environmental impacts of the CCMA management alternatives and measures to mitigate those impacts.

We appreciate the opportunity to review this Draft EIS, and request a copy of the Final EIS when it is officially filed with our Washington, D.C., office. If you have any questions, please call me at (415) 972-3521 or call Jeanne Geselbracht at (415) 972-3853.

Sincerely,



Kathleen M. Goforth, Manager  
Environmental Review Office

Enclosures: Summary of EPA Rating Definitions  
EPA's Detailed Comments

Cc: Mazier Movassaghi, California Department of Toxic Substances Control  
James Goldstein, California Air Resources Board  
Jeff Wright, California Air Resources Board  
Robert Fletcher, California Air Resources Board  
Daphne Greene, California Department of Parks and Recreation  
Steve Ross, California Department of Toxic Substances Control  
Richard Stedman, Monterey Bay Unified Air Pollution Control District  
Hector Guerra, San Joaquin Valley Air Pollution Control District  
Doug Gouzie, Central Coast Regional Water Quality Control Board  
Pam Buford, Central Valley Regional Water Quality Control Board  
Alex Gonzalez, California State Lands Commission  
Connie Rutherford, U.S. Fish and Wildlife Service, Ventura  
Maria Barcos-Wallace, U.S. Occupational Safety and Health Administration, San Francisco

# SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

## ENVIRONMENTAL IMPACT OF THE ACTION

### *"LO" (Lack of Objections)*

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

### *"EC" (Environmental Concerns)*

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

### *"EO" (Environmental Objections)*

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

### *"EU" (Environmentally Unsatisfactory)*

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

## ADEQUACY OF THE IMPACT STATEMENT

### *Category 1" (Adequate)*

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

### *"Category 2" (Insufficient Information)*

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

### *"Category 3" (Inadequate)*

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

**EPA's Detailed Comments**  
**Clear Creek Management Area Draft Resource Management Plan and Draft EIS**  
**March, 2010**

**Resource Impacts**

For several resources, the Draft EIS presents the environmental impacts of the Preferred Alternative and the other alternatives in relative terms. However, a more quantitative comparative analysis should be presented to more clearly describe the differences in magnitude and significance of the direct, indirect, and cumulative impacts between the alternatives. For example, the Draft EIS does not provide emissions estimates for criteria air pollutants under each alternative.

**Recommendation:** The Final EIS should provide the projected emissions of criteria air pollutants for each of the alternatives and discuss the predicted effectiveness of measures to mitigate these emissions under each of the alternatives. The Final EIS should describe the air quality monitoring and mitigation effectiveness monitoring that would be conducted under each of the alternatives.

The Draft EIS does not present the average sediment yield predictions for different areas (e.g., undisturbed soil, barren hillclimbs, and the road network) of the CCMA under each alternative. This information would be useful in characterizing how each alternative would affect soil resources, water quality, watershed conditions, and aquatic life in the CCMA. In addition, based on Dynamac (1998)<sup>1</sup>, five mine areas in the CCMA were determined to pose the greatest risk to water quality from metals contamination (Draft EIS, p. 206). It is unclear from the Draft EIS what actions BLM has conducted since the publication of that study to reduce surface water contamination in CCMA watersheds, and what the results are for water quality monitoring conducted since that time, including monitoring conducted since the closure of the CCMA in May, 2008.

**Recommendation:** The Final EIS should provide the following information:

- The predicted average sediment yields for the affected areas inside and outside of the CCMA and a discussion of whether sediment reduction targets would be met under each alternative;
- The potential direct, indirect, and cumulative impacts of sediment yield on surface water quality, watershed conditions, and aquatic life, in quantitative terms, under each alternative;
- A description of the water quality, watershed, soil, and aquatic resource monitoring, as well as mitigation effectiveness monitoring, to be conducted under each of the alternatives.
- A description of the activities BLM has conducted to improve water quality and watershed conditions over the last decade;

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<sup>1</sup> Geomorphic Field Evaluation of Serpentine Soil Barrens, Clear Creek Management Area. Dynamac Corporation Environmental Services. 1998.

- A discussion of monitoring results and trends for water quality, watershed conditions, and total maximum daily loads over the last decade; and
- The goals and predicted effectiveness of measures proposed to mitigate impacts to soil resources, water quality, watershed conditions, and aquatic life.

### **Dust Suppression Measures**

The Draft EIS identifies several dust suppression and surface hardening measures that could be implemented “as needed” on major routes under all alternatives. While the costs of various measures are estimated and compared in Table 3.3-1, neither the feasibility nor the potential effectiveness of each of these measures is discussed in the Draft EIS. In addition, it is unclear what BLM’s decision criteria would be for selecting a specific method, how likely implementation would be, and how many miles of routes and which routes would be treated. Information regarding the feasibility and effectiveness of mitigation measures is essential to analyzing the realistic environmental impacts of alternatives. If the proposed mitigation is significantly underfunded or infeasible for other reasons and, therefore, not implemented, the potential environmental impacts could be significantly different than what is predicted for each alternative. In addition, the cost of each measure should be compared against its effectiveness so that BLM can make an informed decision about whether the project, as proposed, is cost-effective.

For example, BLM’s 1999 Record of Decision for the CCMA (p. 10) committed to dust suppression at staging areas and along approximately 30 miles of main transportation routes “as appropriate” to reduce dust generation and associated asbestos exposure. However, we understand that only a few miles of roads were ever dust suppressed with water a few times between 1999 and 2004 because water was not available and road watering was not found to be very effective (pers. comm. between George Hill, BLM, and Jeanne Geselbracht, EPA, 9/9/04). In light of the projected cost, BLM’s past findings regarding feasibility and effectiveness, and EPA’s health risk assessment findings under moist soil conditions, we do not believe road watering has been proved to be a feasible or effective measure for the CCMA.

**Recommendation:** The Final EIS should identify the goals of the dust suppression and surface hardening measures identified in Table 3.3-1, include an evaluation of the feasibility and effectiveness of these measures, identify the decision criteria BLM would consider in selecting such measures, and describe how likely implementation of each measure would be. The Final EIS should also describe the effectiveness monitoring that would be conducted under each alternative to determine how well dust suppression and surface hardening measures are working and discuss contingency measures that may be needed if monitoring indicates that initial measures are not as effective as predicted.

### **Typographical errors**

Page 334: First paragraph refers to Figure ES-1 of EPA’s Risk Assessment, but this figure does not appear in the Draft EIS.

Page 353: The first line of section 4.2.7.1 should say “ $\geq 18$ ” rather than “ $\leq 18$ .”

Page 193: Paragraph 2 states, "The air basin is designated as non-attainment for the Federal PM10 and PM2.5 standards." Please note that, although the San Joaquin Valley Air Basin is in non-attainment for PM2.5, it is in maintenance status for the PM10 standard.

Page 449: Paragraph 1 reiterates this misstatement and should be rectified.

Page 449: Paragraph 7 also states that San Benito and Fresno counties are in non-attainment for the PM10 National Ambient Air Quality Standards. This should be changed to indicate that San Benito County is in attainment for PM10, and Fresno County is in maintenance status for PM10.



April 19, 2010

Bureau of Land Management  
Attn. CCMA RMP/EIS,  
Hollister Field Office  
20 Hamilton Court  
Hollister, CA 95023

**RE: CCMA Draft RMP/EIS**

Dear Bureau of Land Management,

The Off-Highway Motor Vehicle Recreation Division (Division) is pleased to provide the following comments on the Clear Creek Management Area Draft Resource Management Plan/Environmental Impact Statement (Draft RMP/EIS). The Division hopes these comments assist the Bureau of Land Management (BLM) in fulfilling its mission "to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations."

**Scope of the Draft RMP/EIS**

The Division is concerned by the basic scope of the Draft RMP/EIS. As stated in its Introduction, the Draft RMP/EIS is a "stand alone" document designed exclusively to guide the management of the Clear Creek Management Area (CCMA). Alternatively, the Hollister Field Office Resource Management Plan (Hollister RMP) (2007) provides for management by BLM's Hollister Field Office of the remaining areas beyond the bounds of CCMA. Thus, the BLM presents a mutually exclusive situation in which management actions proposed in the Draft RMP/EIS are limited solely to the CCMA, independent of the surrounding area.

Accordingly, the Division is concerned all relevant alternatives and other impacts are not thoroughly addressed within the Draft RMP/EIS. In particular, the Draft RMP/EIS offers no consideration to viable options or substitutes for the CCMA recreational opportunities. Instead, the establishment of new OHV recreation areas outside the CCMA is relegated to the Section 1.3.3 – "Issues Considered but Not Further Analyzed" (page 8). The subsequent suggestion in the Draft RMP/EIS (page 9) that the Hollister Field Office and OHMVR Division work together at a later date to find additional OHV recreation areas elsewhere in the Hollister Field Office, while a welcome proposal, is seemingly counter to the scope of the document and not a satisfactory solution. In fact, the Hollister RMP offers no OHV recreational opportunity on par with the CCMA. Indeed, few areas in the country offer a OHV experience like that provided at CCMA. The Division believes it essential for the BLM to examine every possibility before this important OHV recreation area is permanently lost.

### **Regarding the "Purpose and Need" of the Draft RMP/EIS**

The BLM asserts the need for the CCMA RMP/EIS arises from numerous changes in circumstances since the current land use plan decisions were adopted. As evidence, the BLM suggests the existing RMP and subsequent amendments do not address current public health and safety and resources protection issues in CCMA. However, the list of factors that illustrate the "Purpose and Need" for the RMP appear disingenuous:

- First, the BLM claims the May 2008 CCMA Asbestos Exposure and Human Health Risk Assessment (Health Risk Assessment) prepared by the United States Environmental Protection Agency (EPA) "provides significant new information that must be incorporated into a land use plan to evaluate the public health risk associated with BLM land use authorizations."
- Second, the BLM asserts the "current management plan does not specifically address listing and/or additional habitat needs for species protected under the federal 1973 Endangered Species Act (ESA), including the California condor, red-legged frog, and tiger salamander."
- Lastly, the BLM suggests "changes in social and economic conditions in San Benito County, the San Joaquin Valley, and the entire State of California have led to increased demand for use of public lands for recreation and energy production as well as an increased awareness and social value placed on the cultural and natural resources in the Planning Area."

Of the three items listed above, the first (asbestos) is clearly the driving force of the entire document. However, the significance and accuracy of the information presented in the Health Risk Assessment is subject to debate. The second item is irrelevant to the Draft RMP/EIS. The California condor does not exist within the CCMA and is only found to be "potentially present within the CCMA" (pg. 174). The red-legged frog is present fifteen miles or more downstream from the CCMA and has never been recorded in or near the CCMA (pg. 174). Further, the tiger salamander has "never been recorded in the environs of CCMA" (pg. 174). The third item, changes in socio-economic conditions, is poorly supported. The purported increase in demand and social awareness are not demonstrated in the discussion of the affected environment.

### **Uncertainties in EPA report**

The BLM actions are prompted predominantly by the EPA's Health Risk Assessment. The BLM believes the Health Risk Assessment "provides significant new information that must be incorporated into a land use plan to evaluate the public health risk associated with BLM land use authorizations."

However, the EPA report included substantial caveats regarding the accuracy and assumptions used to develop the report. The following items appear in the "Limitations of the Assessment":

- "... there are assumptions and variables that can cause the calculations to either overestimate or underestimate the actual risk."
- "The CCMA assessment may overestimate or underestimate risk if EPA's measurements of exposure and the assumptions of exposure frequency are either greater or less than actual conditions."
- "Additional uncertainty is introduced because both the IRIS and the OEHHA toxicity values for asbestos are based on epidemiological studies of work place exposures to intermittent high asbestos concentrations over extended periods. While the concentrations measured for activities at CCMA are significantly elevated, the exposure is infrequent and episodic."
- "Because there is no clear mode of action for asbestos-induced disease and no threshold for cancer health effects, using a direct time-weighted extrapolation from the longer, chronic occupational exposures to shorter-term, episodic exposures may underestimate or overestimate the risk."
- "The risks could be much lower because the exposures may be too infrequent or the total retained fiber burden too few to initiate the asbestos disease process."

Given the uncertain conclusions of the document, it seems inappropriate for BLM to rely on the document to guide substantial and controversial land management actions. Decisions based on such variable and imprecise studies should be cautiously and conservatively implemented, if at all. Instead, the preferred alternative reduces the acreage available within the Area of Critical Environmental Concern (ACEC) for OHV recreation to 1.5% of the area, defined as a "Scenic Route," and restricts use in the ACEC to single vehicle class during the day. Such a dramatic reduction of opportunity should only be recommended if the supporting documentation is considerably more definitive.

The Division believes serious questions have been raised about the Health Risk Assessment, such as identification and differentiation of chrysotile and amphibole asbestos, asbestos-related epidemiology, appropriateness of risk models, and activity based sampling methods. The Division contends further research and characterization of the potential hazard at the CCMA is warranted. Since the preferred alternative effectively closes the CCMA to OHV recreation, the Division finds it imperative the hazard risk be independently verified before a final decision is made.

### **Waiver of Liability and Indemnification of Risk**

A waiver of liability has been consistently proposed as an option to allow continued recreational use of the CCMA. However, BLM dismisses the concept of a waiver for recreational users of CCMA in the discussion of Section 4.2.6.2 Mitigation (page 352). In the BLM's view, "developing a waiver of liability, or establishing indemnification of risk, would have no beneficial impacts on public health and safety because neither approach would actually reduce exposure to airborne asbestos or improve overall protection of human health and the environment."

The Division disagrees with this assertion and contends a waiver should be considered as a practical option to mitigate the concerns of the BLM. The prospect of a waiver of liability should give a reasonable individual cause to consider participating in an activity at that location. On an individual basis, potential exposure to airborne asbestos may be reduced or avoided should a person opt not to enter the CCMA due to the waiver and potential hazards identified therein.

The waiver discussion in the Draft RMP/EIS continues, "... the potential for waivers of liability or indemnification of risk as 'stand-alone' mitigation measures for human health and safety do not satisfy the purpose and need for the CCMA RMP/EIS."

This statement is contrary to the stated purpose of the Draft RMP/EIS, which is to "establish goals, objectives, and management actions for BLM-administered lands in CCMA that address current issues, knowledge, and conditions." Requiring a waiver is undeniably a management action within the purview of BLM, and there is no obligation that it be implemented on a "stand alone" basis. Furthermore, BLM finds the waiver of liability to be an acceptable tool when used in conjunction with other management circumstances in the Draft RMP/EIS, including the preferred alternative. For example, requiring "... signed waivers of liability to indemnify BLM against risk of tort claims associated with CCMA visitor use and exposure to airborne asbestos fibers" is presented in the Management Actions Common to Alternatives B through G (page 41). A similar statement also appears in the presentation of the preferred alternative (page 86) and in the discussion of mitigation measures (page 351).

The Draft RMP/EIS further states, the action of providing waivers of liability or indemnification of risk as "stand-alone" mitigation measures, "would likely have major long-term adverse impacts on human health and the environment due to the perception that exposure to airborne asbestos fibers above the acceptable risk range established under the EPA Superfund Act is permissible and authorized by the Federal government."

This statement is entirely speculative in nature. The statement also contradicts Table 2.6-2, which presents a comparison of impacts to public health and safety and hazardous materials (page 100). Discussing HAZMAT Mitigation Measures, this table identifies "*moderate* (emphasis added) adverse effects from signed waivers of liability..." The justification for the different level of impact is unknown. Moreover, it is counterintuitive that a waiver disclosing potential risks would serve to lessen the public's perception of the risk.

**Alternative OHV Recreational Management Strategies Not Considered**

The EPA's Health Risk Assessment of CCMA demonstrated that risk regarding exposure to naturally occurring asbestos is present when different recreational activities are conducted at CCMA, including OHV recreation. The Health Risk Assessment did not evaluate how the risk might be lowered if mitigative management measures were implemented. Consequently, mitigative OHV management measures - short of eliminating OHV recreation at CCMA - were not truly given consideration from a risk analysis perspective. The Division believes there are many management strategies that could be implemented that could reduce asbestos exposure risk, such as seasonal operation of CCMA, trail re-routing and reducing trail widths, and limiting single-track trail use to motorcycles only. These and similar strategies should be evaluated from a health-based risk assessment perspective to determine if risk from potential asbestos exposure is reduced to a degree that is acceptable by BLM.

The Division is troubled by the ramifications of this proposed RMP/EIS and its adverse impacts to OHV recreation. As always, the Division is prepared to work closely with the BLM in developing alternatives which will lead to reopening the CCMA to continued OHV recreation.

Sincerely,



Daphne C. Greene  
Deputy Director  
OHMVR Division



DEPARTMENT OF PARKS AND RECREATION  
Off-Highway Motor Vehicle Recreation Commission  
1725 23<sup>rd</sup> Street, Suite 200  
Sacramento, California 95816  
(916) 324-5801

Ruth Coleman, Director

June 21, 2011

The Honorable Doc Hastings  
Chair  
United States House of Representatives  
Committee on Natural Resources  
1203 Longworth House Office Building  
Washington, DC 20515

The Honorable Ed Markey  
Ranking Member  
United States House of Representatives  
Committee on Natural Resources  
2108 Rayburn House Office Building  
Washington, DC 20515

The Honorable Rob Bishop  
Chair  
United States House of Representatives  
Subcommittee on National Parks,  
Forests and Public Lands  
123 Cannon House Office Building  
Washington, DC 20515

The Honorable Raúl Grijalva  
Ranking Member  
United States House of Representatives  
Subcommittee on National Parks,  
Forests and Public Lands  
1523 Longworth House Office Building  
Washington, DC 20515

Dear Chair Hastings, Ranking Member Markey, Chair Bishop, and Ranking Member Grijalva,

As the Chairman of the State of California Off-Highway Motor Vehicle Recreation (OHMVR) Commission (Commission), and at the direction of the Commission members, I am writing to **request your consideration and support for the reopening of the Clear Creek Management Area (CCMA)**, a 33,000 acre recreation area located in San Benito and Fresno counties. The CCMA is managed by the Bureau of Land Management (BLM), Hollister Field Office, and until recently provided sustainable recreational opportunities for motorized access to thousands of people who visit the area to enjoy a variety of outdoor activities including rock-hounding, camping, hunting, and off-highway motor vehicle (OHV) recreation.

Since May 2008, the CCMA has been subject to a temporary closure order based on health concerns identified in a May 2008 study conducted by the United States Environmental Protection Agency, Region 9 Office (EPA Region 9), related to naturally occurring asbestos present in the area. We believe the EPA study did not fully consider available management options which the BLM could employ to allow continued public access to the area in a safe and responsible manner. It appears the EPA instead overstated the risks to human health from exposure to naturally occurring asbestos based on "worst case" scenarios only.

In March 2010, the OHMVR Division of California State Parks commissioned an independent, OHV-specific risk assessment of naturally occurring asbestos exposure within the Serpentine Area of Critical Environmental Concern (ACEC) of the CCMA. This study, conducted by scientists from the International Environmental Research Foundation (IERF), the Department of Physics at Harvard University, and the Center for Applied Studies of the Environment, at the City University of New York, concluded that management and operational strategies could be effectively employed at the CCMA to allow OHV recreation without exposing the public to unacceptable risk from exposure to naturally occurring asbestos.

The Commission, composed of members appointed by the Governor and Legislature, is charged with ensuring high quality outdoor OHV recreational opportunities are available for the people of California through maintaining and improving areas for sustainable OHV recreation. Since the mid-1970s, OHV use has been the predominant recreational activity at the CCMA which has been recognized as one of the top ten OHV recreation areas in the nation. The OHMVR Program has awarded the BLM nearly \$7,000,000 in grants which have been used for maintenance and improvements of the CCMA.

The closure of the 63,000 acres of the CCMA concerns the Commission greatly. In April 2011, the Commission convened in Hollister, California, to hear presentations regarding the CCMA and CCMA risk assessment investigations given by representatives of the Hollister Field Office of the BLM, EPA Region 9, and the IERF team. After presentations, the Commission engaged the scientists and representatives in a panel discussion about the merits and shortcomings of each investigation and BLM's proposed management strategies for the CCMA. The Commission also received comments from the public concerning the temporary closure and related significant socio-economic and recreational impacts associated with the loss of OHV recreation at the CCMA. At this meeting, and many others that have been held regarding the closure of the CCMA, hundreds of members of the public turned out expressing their concerns and frustrations.

The Commission appreciates the determination and dedication of the EPA Region 9 and BLM Hollister Field Office in their efforts to address the naturally occurring asbestos issue at the CCMA. The Commission takes public health issues seriously and in no way wishes to minimize the importance of the efforts of the BLM and the EPA Region 9 to address potential health concerns regarding naturally occurring asbestos. However, the approach taken by the EPA is not consistent with President Obama's Memorandum on Scientific Integrity, dated March 9, 2009, which underscores the "public must be able to trust the science and scientific process informing public policy decisions". EPA Administrator Lisa Jackson and Interior Secretary Ken Salazar issued follow-up memos which reaffirmed the need to foster honesty and credibility in science conducted and used by the agencies.

The Commission believes the EPA report did not look objectively at scenarios in which the CCMA could be reasonably managed to allow for continued use by the public, and failed to consider management options that would mitigate risks of exposure to naturally occurring asbestos. The EPA report based risk analysis on year-round activities at the CCMA. Thus, by failing to consider the seasonal operation being employed by the BLM, the report does not provide an objective analysis of the risks of allowing continued access by the public to their public lands. The EPA's approach presents significantly skewed and biased conclusions that under no conditions can the area be opened to OHV recreation.

In November 2009, the BLM Hollister Field Office issued a Draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) to guide the management of public lands in the CCMA. The BLM suspended finalization of its CCMA RMP/EIS pending the release of the IERF study and an examination and discussion of the IERF study findings. The Draft RMP/EIS provides seven (7) alternatives for the management of the CCMA, ranging in scope from no action to prohibition of all public access. The BLM's preferred alternative prohibits OHV recreation within the Serpentine ACEC but would allow limited dirt-road touring by highway-registered vehicles within the eastern third of the area (an apparent departure from the recommendations of the EPA study). Public health and safety risks would be mitigated by requiring permits for restricted access into the Serpentine ACEC. Vehicle touring would be limited to less than five (5) days/year and pedestrian activity limited to less than twelve (12) days/year.

The BLM's proposed preferred management strategy could be responsibly and effectively modified to allow OHV recreation without significant risk to public health. The IERF study commissioned by the OHMVR Division expressly demonstrates that OHV recreation, specifically motorcycle trail riding, can occur safely under management scenarios similar to those proposed by the BLM for vehicle touring within the CCMA - namely, visitation limited to five (5) days per year. In fact, under the conditions of its risk analysis, the IERF study demonstrates the health risk from exposure to naturally occurring asbestos while riding motorcycles at the CCMA is less than the risk of dying by cancer from smoking one (1) cigarette per year.

Based on the presentations, panel discussion, and public comments heard at the Commission's April 2011 hearing, and our review of the associated documents, the principle position of the Commission is the continued and proposed permanent closure of the CCMA does not appear to be supportable nor in the best interest of the public. OHV recreation may occur under managed conditions that will mitigate human health risk associated with naturally occurring asbestos exposure at the CCMA. The Commission requests the BLM lift the temporary closure order and reopen the CCMA, October through May, consistent with BLM's operational strategy at the CCMA prior to issuing the temporary closure. Further, we request the BLM actively and collaboratively engage and work with the OHMVR Division staff to implement an appropriate management program for future OHV recreation at the CCMA.

On behalf of the Commission, I thank you for your consideration of this request. Please feel free to contact me at 415-717-1027, or Daphne Greene, the California State Parks Deputy Director charged with management of the OHMVR Division, at 916-324-5801, should you have any questions or require additional information.

Sincerely,  
**Original Signed by**

Eric Lueder, Chairman  
Off-Highway Motor Vehicle Recreation Commission

cc: United States House Committee on Natural Resources  
Subcommittee on National Parks, Forests and Public Lands  
Sam Farr, US House of Representatives California  
Devin Nunes, US House of Representatives, California  
Dianne Feinstein, US Senator, California  
Barbara Boxer, US Senator, California  
Ken Salazar, Secretary of the Interior  
Bob Abbey, Director, Bureau of Land Management  
Peter Ditton, Acting California State Director, BLM  
Rick Cooper, Field Manager, Hollister Field Office, BLM  
Lisa P. Jackson, Administrator, US EPA  
Jerelean Johnson, Remedial Project Manager, US EPA Region 9  
Luis Alejo, California State Assembly, 28<sup>th</sup> District  
David Valado, California State Assembly, 30<sup>th</sup> District  
Anthony Canella, California State Senate, 12<sup>th</sup> District  
Michael Rubio, California State Senate, 16<sup>th</sup> District  
John Laird, Secretary for The California Natural Resources Agency  
Ruth Coleman, Director, California State Parks  
Daphne Greene, Deputy Director, OHMVR Division  
Off-Highway Motor Vehicle Recreation Commissioners



## United States Department of the Interior



### BUREAU OF LAND MANAGEMENT

Hollister Field Office  
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July 20, 2011

*In Reply Refer to:*  
1610(P)  
CAC09000

Mr. Eric Lueder, Chairman  
California Off-Highway Motor Vehicle Recreation Commission  
1725 23<sup>rd</sup> Street, Suite 200  
Sacramento, CA 95816

Dear Chairman Lueder:

Thank you for providing us a copy of the Commission's June 21, 2011, letter to the Senate Committee on Energy and Natural Resources and the Subcommittee on Public Lands and Forests. Your letter addressed concerns and recommendations related to the Clear Creek Management Area (CCMA) in the Bureau of Land Management (BLM) Hollister Field Office.

The BLM recognizes that the CCMA has been a popular destination for many outdoor activities, and that the off-highway vehicle riding opportunities provided in this area are particularly important and unique. This area presents BLM a difficult management challenge due to public health and safety concerns, given the unusual circumstance of having the largest Serpentine formation in the nation and extremely high concentrations of naturally occurring asbestos in the soil underlying this popular recreation destination.

As you indicate in your letter, in 2008, based on the results of the Environmental Protection Agency's (EPA) Asbestos Exposure and Human Health Risk Assessment, BLM issued a temporary closure order for the CCMA. The State of California's Department of Toxic Substance Control and the Office of Environment Health Hazard Assessment concurred with BLM's decision to issue a temporary closure while we continued to evaluate appropriate allowable uses in the Serpentine area.

As the BLM continues to work on completing the proposed Resource Management Plan and Final Environmental Impact Statement for CCMA, we remain committed to working with the Commission and all interested parties to identify reasonable management and operational strategies that could allow for enhanced public access and use of the area.

Decisions about public use in the area will be designed to reduce risks to public health based on the best available information. The BLM will continue to consider new and credible

information related to human health risk for visitors to CCMA. Adaptive management criteria that might be applied for the Serpentine ACEC could be based upon significant new information or circumstances such as 1) a change in the regulations for asbestos (i.e. classified as non-carcinogenic), 2) lower or higher toxicity values for chrysotile in agency approved risk models, or 3) activity-based studies demonstrate reduced exposures from implementation of mitigation measures and a long-term management strategy.

We appreciate the efforts of the California Off-Highway Motor Vehicle Recreation Division to provide the Bureau with additional data on the health risks at the CCMA presented in the recent International Environmental Research Foundation study, and the Commission's support and interest in working with us to gather additional data to ascertain if possible safe public use scenarios could be developed for the CCMA.

The completion of the Resource Management Plan will not interfere with this intent and adaptive management options allowing for flexibility to consider future changes in CCMA land use allocations for recreation and other uses. BLM remains committed to working with the California Off-Highway Motor Vehicle Recreation Division and the Commission to examine new management and operational strategies for recreation use in CCMA.

I look forward to continued dialogue and progress on finding responsible management solutions that protect the public health and safety, while allowing for use and enjoyment of the CCMA. If you have any further questions please feel free to contact me at (831) 630-5010.

Sincerely,



Rick Cooper

Hollister Field Manager

cc: Daphne Greene, Deputy Director, OHMVR Division



(916) 653-8380

August 30, 2011

The Honorable Doc Hastings  
Chair  
United States House of Representatives  
Committee on Natural Resources  
1203 Longworth House Office Building  
Washington, DC 20515

The Honorable Ed Markey  
Ranking Member  
United States House of Representatives  
Committee on Natural Resources  
2108 Rayburn House Office Building  
Washington, DC 20515

The Honorable Rob Bishop  
Chair  
United States House of Representatives  
Subcommittee on National Parks,  
Forests, and Public Lands  
123 Cannon House Office Building  
Washington, DC 20515

The Honorable Raúl Grijalva  
Ranking Member  
United States House of Representatives  
Subcommittee on National Parks,  
Forests, and Public Lands  
1523 Longworth House Office Building  
Washington, DC 20515

Dear Chair Hastings, Ranking Member Markey, Chair Bishop, and Ranking Member Grijalva,

I am writing to comment on a letter sent by the Off Highway Vehicle Commission on July 21, 2011. The commission articulated their concerns about restrictions to off highway vehicle recreation opportunities at the Clear Creek Management area imposed by the Bureau of Land Management. In particular they expressed many concerns with the findings of a recent Environmental Protection Agency (EPA) study on the potential harm that might come from exposure to naturally occurring asbestos in the serpentine soils of the area. This Commission is charged to promote safe and responsible off highway vehicle opportunities. They take this mission seriously and that includes seeking to minimize restrictions on historic recreation.

While I do not wish to take issue with any of the specifics of their claims, I want to take this opportunity to clarify that the Commission is an independent body comprised of gubernatorial appointees (5), as well as appointees from the Senate (2), and Assembly (2). As such, the views of the Commission are theirs alone and do not necessarily reflect the views of the Administration. In particular, the Administration does not share the view articulated in the letter that "the approach taken by the EPA is not consistent with President Obama's Memorandum on Scientific Integrity". The Administration believes that the EPA report does reflect appropriate scientific methods and scientific integrity.

The Honorable Doc Hastings, et al  
August 30, 2011  
Page Two

We do not expect parties to agree on conclusions or methodologies, and it is entirely appropriate for the public to engage in reasonable debate. We do not, however, believe that any party operated without scientific integrity.

Thank you for your consideration in this matter.

Sincerely,



Ruth Coleman

cc: Subcommittee on National Parks, Forests and public Lands  
Sam Farr, US House of Representatives California  
Devin Nunes, US House of Representatives, California  
Dianne Feinstein, US Senator, California  
Barbara Boxer, US Senator, California  
Ken Salazar, Secretary of the Interior  
Bob Abbey, Director, Bureau of Land Management  
Peter Ditton, Acting California State Director, BLM  
Rick Cooper, Field Manager, Hollister Field Office, BLM  
Lisa P. Jackson, Administrator, US EPA  
Jerelean Johnson, Remedial Project Manager, US EPA Region 9  
Luis Alejo, California State Assembly, 28<sup>th</sup> District  
David Valado, California State Assembly, 30<sup>th</sup> District  
Anthony Canella, California State Senate, 12<sup>th</sup> District  
Michael Rubio, California State Senate, 16<sup>th</sup> District  
Jared Blumenfeld, Regional Administrator, US EPA, Region 9  
John Laird, Secretary, California Natural Resources Agency  
Daphne Greene, Deputy Director, OHMVR Division  
Off-Highway Motor Vehicle Recreation Commissioners



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

SEP 29 2011

OFFICE OF THE  
REGIONAL ADMINISTRATOR

The Honorable Doc Hastings  
Chair  
United States House of Representatives  
Committee on Natural Resources  
1203 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Ed Markey  
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The Honorable Raul Grijalva  
Ranking Member  
United States House of Representatives  
Subcommittee on National Parks, Forests, and  
Public Lands  
1523 Longworth House Office Building  
Washington, D.C. 20515

Dear Chair Hastings, Ranking Member Markey, Chair Bishop, and Ranking Member Grijalva:

The U.S. Environmental Protection Agency, Region 9 (EPA) received a copy of the June 21, 2011, letter sent to you by the State of California Department of Parks and Recreation Off-Highway Motor Vehicle Recreation (OHMVR) Commission. The letter concerns the asbestos exposure and risk assessment that EPA conducted at the Clear Creek Management Area (CCMA) and the public use decisions that the Bureau of Land Management (BLM) has made as a result of the findings of our assessment.

As acknowledged in the enclosed August 30, 2011 letter from Ruth Coleman, Director, California Department of Parks and Recreation, the OHMVR Commission letter incorrectly states that the approach taken by EPA for the CCMA assessment is not consistent with President Obama and Administrator Lisa Jackson's directives concerning scientific integrity and that our approach "presents significantly skewed and biased conclusions..." I assure you that EPA takes our responsibility to provide the best science to the American people very seriously and the CCMA assessment meets this stringent objective. The statements in the letter misrepresent the facts of the CCMA assessment.

The EPA CCMA asbestos exposure and risk assessment was conducted with the support of the State of California Environmental Protection Agency's (CalEPA) Department of Toxic Substances Control (DTSC) and Office of Environmental and Health Hazard Assessment (OEHHA), and our report was reviewed by U.S. EPA Headquarters, the Centers for Disease Control Agency for Toxic Substances Disease Registry, and DTSC and OEHHA prior to release. Both DTSC and OEHHA have briefed the OHMVR Commission and Division several times on the assessment's findings and conclusions and have written letters reiterating "CalEPA's

continuing full support of the USEPA risk assessment” and agreeing that “...the methodology and conclusions contained in the [Region 9 assessment] document were scientifically justified...” Copies of those letters are enclosed for your information. DTSC and OEHHA are the State of California agencies with jurisdiction and responsibility for science on the health effects of toxic substances. The OHMRV Commission’s mission is to “provide leadership statewide in the area of off-highway vehicle recreation.”

The Clear Creek Management Area is a 75,000 acre recreation area located in San Benito and Fresno counties in central California and administered by the BLM. CCMA includes a rock body of approximately 31,000 acres which contains the largest asbestos deposit in the United States. Recreational use of CCMA by hikers, campers, hunters, botanists, rock collectors, and off-highway vehicle users can disturb the soils of the CCMA, creating the potential for asbestos exposure and increased health risk.

In 2004 and 2005, EPA measured the asbestos concentrations which would be found in the breathing zones of individuals participating in typical CCMA recreational activities. EPA representatives participated in motorcycle and all terrain vehicle (ATV) riding, sports utility vehicle (SUV) driving, hiking, camping, and vehicle washing. These activity scenarios were based on previous exposure studies at CCMA and typical use patterns as communicated by BLM and CCMA off-highway vehicle enthusiasts. We found that motorcycle riding, ATV riding, and SUV driving had the highest exposure levels, in some cases exceeding the U.S. Occupational Safety and Health Administration 30-minute excursion level for asbestos. Our data were consistent with previous exposure studies of CCMA recreational activity conducted by the University of California, Berkeley, and BLM. Trailing riders had higher exposure levels than lead riders, and the asbestos levels EPA measured in the simulated breathing zones of children, who are frequent visitors and riders at CCMA, were higher than the asbestos levels for the corresponding adult riders in 64% of the air samples. Further, our data showed elevated exposures in both dry and moist soil conditions.

The asbestos exposure values that EPA measured were then used to estimate excess lifetime cancer risks for seven CCMA use scenarios which combined the individual activities of the exposure assessment into typical day, weekend, or work visit experiences. For example, excess lifetime cancer risks were estimated for someone who visits CCMA for a weekend by combining time-weighted risk values for driving into the area in an SUV, riding a motorcycle during the day, camping in CCMA at night, riding again the second day, and then cleaning the vehicle before leaving. The scenarios were developed with input from BLM and CalEPA. Risks were estimated for one, five, and 12 CCMA visits a year, consistent with typical use patterns and past CCMA risk studies. Risks were calculated for a child who visits CCMA for 12 years, an adult who visits for 30 years (consistent with EPA guidance and CCMA visitor use), and someone who visits for 30 years beginning as a child and then continuing as an adult. Two of the scenarios were conducted for BLM employees who work in CCMA one, 60, and 120 days a year.

Risks were estimated using both the U.S. EPA Integrated Risk Information System (IRIS) and the CalEPA OEHHA toxicity values for asbestos. Both agencies classify asbestos as a known human carcinogen. EPA did not estimate non-cancer risks from the asbestos exposures because the Agency does not currently have a toxicity value for non-cancer effects of asbestos. Nevertheless, epidemiological studies indicate that non-cancer effects from exposure to asbestos can be significant, and, in some studies, exceed the cancer risk.

When excess lifetime cancer risks were estimated for the CCMA asbestos exposures, there was no combination of scenario, toxicity value (IRIS and OEHHA), or visits per year that was below the lower end of U.S. EPA's Superfund program acceptable risk range of 1 in 10,000 to 1 in 1,000,000 excess lifetime cancers. EPA calculations estimated that making five or more visits to CCMA per year for a 30 year recreation period, to participate in weekend riding, day use riding, weekend hunting, or a combined rider/workday, could put adult recreational users at an excess lifetime cancer risk above EPA's acceptable risk range. Only day use hiking had risk estimations within the acceptable range. The highest IRIS risk estimations were two excess lifetime cancers in 1,000 for 12 visits per year for weekend riding and 120 visits per year for BLM worker SUV patrol.

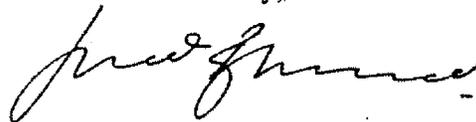
Using the State of California OEHHA asbestos toxicity value, which is more stringent than the U.S. EPA IRIS value, even one visit per year for recreational scenarios weekend riding, day use riding, weekend hunting, or a combined rider/workday put users above the acceptable risk range. At the upper end of the risk range, excess lifetime cancer risk estimations using the OEHHA value indicate that recreational users riding motorcycles 12 weekends per year, and workers performing SUV patrol duties at CCMA for 120 days per year during a 30-year career, are estimated to have a lifetime excess cancer risk of 1 in 100.

EPA's overall conclusion was that the asbestos exposures that we measured at CCMA are high and the resulting health risks are of concern. Children are of particular concern because their measured exposures were generally higher and their life expectancies exceed the latency period for asbestos-related disease.

When our CCMA Asbestos Exposure and Risk Assessment report was released in May 2008, BLM concurrently issued an immediate temporary closure of CCMA pending revision of the Resource Management Plan (RMP) for the area. BLM had previously issued a summer closure of the CCMA in 2006 in response to our initial asbestos exposure data. EPA and BLM held a public meeting immediately following release of the study to present the results and answer questions about the exposure and risk assessment and the CCMA closure. In addition, EPA has participated in numerous meetings and workshops related to the BLM RMP process, and recently made a presentation to the OHMVR Commission and answered questions from the Commissioners.

I hope that you find the information provided in this letter helpful. If you have questions, please do not hesitate to contact me at 415-947-8702, or my congressional liaison Jim Vreeland at 415-947-4298.

Sincerely,



Jared Blumenfeld

Enclosures

cc: ✓ Sam Farr, U.S. House of Representatives  
✓ Devin Nunes, U.S. House of Representatives  
✓ Dianne Feinstein, U.S. Senate  
✓ Barbara Boxer, U.S. Senate  
✓ Ken Salazar, Secretary of the Interior  
✓ Bob Abbey, Director, Bureau of Land Management  
✓ Ruth Coleman, California Department of Parks and Recreation  
✓ John Laird, California Secretary for Natural Resources  
✓ Matthew Rodriguez, California Secretary for Environmental Protection  
✓ George Alexeeff, Ph.D., Acting Director California Office of Environmental Health  
Hazard Assessment  
✓ Deborah Raphael, Director, Department of Toxic Substances Control  
✓ Daphne Greene, Deputy Director, OHMVR Division  
Off-Highway Motor Vehicle Recreation Commission



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Major General Anthony L. Jackson,  
USMC (Ret) , *Director*

November 19, 2012

Rick Cooper, Hollister Field Manager  
Bureau of Land Management  
20 Hamilton Court  
Hollister, CA 95023

Subject: May 29, 2012 Meeting – BLM and OHMVR Clear Creek Management Area

Thank you for your participation in the meeting of May 29, 2012, held at the Off-Highway Motor Vehicle Recreation Division office in Sacramento. The summary minutes from the meeting are attached. The discussion regarding the basic scientific issues underlying the Clear Creek Management Area (CCMA) studies were helpful and informative to all in attendance. The discussion notes identify areas of agreement and define some areas of concern among the group.

As BLM proceeds with the completion of the CCMA Resource Management Plan (RMP) decision process, the Division asks that the BLM make provisions in the RMP to continually evaluate new scientifically sound information and adapt management options accordingly.

Regards,

Philip B. Jenkins  
Acting Deputy Director

Enclosure

cc: James G. Kenna, BLM State Director  
Angie Lara, BLM Associate State Director  
Este Stifel, BLM Central California District Manager

Summary – CCMA  
5/29/12

#### A. Areas of Agreement

1. Activity Based Methodology is an effective approach
2. Location under discussion is the area within the ACEC Boundary
3. Staging/Camping No Longer Occur - Agreed it is appropriate to disregard risk factors related to staging/camping within the ACEC in future risk calculations
4. Capping does reduce risk, but would still need to be monitored and measured to determine exposure as time goes on
5. Key Elements to evaluate risk: Duration, Frequency, and Concentration
6. Lead Rider is exposed to much less risk

#### B. Areas of Concern

1. Trailing Rider Effect
  - Normal riding styles – are there possibilities to lower risk?
    - o Require distance between riders?
      - Is trailing rider effect less pronounced on trails than it is on roads?
      - At what distance does trailing rider receive significantly less exposure?
    - o Would using monitors in helmet provide significantly lower exposure levels than monitors placed on chest?
2. “Wet Season Riding”
  - No consistent rain patterns at CCMA
  - How much rain, and at what frequency, would there need to be to significantly reduce risk factors? No solid information in this regard has been collected.
3. Clear Creek Road – Road vs. Trail riding
  - Riders avoid dust trail when riding on trails, but encounter higher levels of dust when riding on roads. Data in the existing studies does not provide the ability to support if riders on trails experience lower levels of exposure or not.
    - o Capping road may be a solution
      - Exposure levels after capping would need to be evaluated. New risk calculation could possibly be made based on trail riding exposure levels and reduced exposure on roads.
      - The relative distances traveled on roads vs. traveled on trails and the resulting reduction in risk that might be expected from capping the roads needs to be evaluated.

#### C. Opportunities for additional research

- Rider behavior to avoid dust & areas where most dust would be encountered – roads vs trails & the efficacy of capping roads.
- Efficacy of 1-way roads & trails to limit dust.
- Climate studies of the areas rainfall patterns. Soil studies on moisture content and generation of dust.
- Further research to evaluate risk during moist conditions in the days and weeks following a rain event.