

[REDACTED] stated that BLM only provided comments to EPA pertaining to the report, and not suggestions on changing any content within the report. [REDACTED] compiled all of the comments into one document titled "BLM Final Comments on Draft EPA Risk Assessment," and forwarded it to EPA (Attachment 11). EPA provided responses to the comments submitted by BLM (Attachment 12). [REDACTED] and [REDACTED] understood that the CCMA-AEHHRA report was EPA's document and that BLM had no authority to require any changes within the document.

### Document Reviews

During their interviews, we showed interviewees copies of emails concerning comments and edits provided by BLM officials, regarding EPA's CCMA-AEHHRA draft report. All interviewees opined that the emails were from BLM officials trying to get a better understanding of EPA's findings. Some of the emails concerned scientific questions, while others concerned management and administrative issues. Following are some of the more pertinent emails that were reviewed during the interviews:

Email from [REDACTED] to [REDACTED], [REDACTED], and others dated April 11, 2008 (See Attachment 2)

*Agent's Note: This was the email provided to DOI-OIG by our complainant, [REDACTED] as part of [REDACTED] complaint.*

During our interview of [REDACTED] and [REDACTED] after reviewing the email, [REDACTED] opined that it seemed like EPA provided conflicting information to BLM regarding asbestos toxicity. Neither [REDACTED] nor [REDACTED] thought that [REDACTED] was acting inappropriately by emailing [REDACTED] comment concerning the "perhaps zero" fragment to EPA officials. It seemed to them that [REDACTED] wanted clarification from EPA concerning this matter. [REDACTED] seemed to be thinking ahead to the possibility of litigation concerning this matter, and wanted EPA to be more assertive with their statements (See Attachment 5).

During our interview of [REDACTED] and [REDACTED] after reviewing the email, [REDACTED] stated that EPA officials used to include standard language in their reports that stated that they may have overestimated the asbestos exposure risk and the risks could be much lower, even zero. This "boiler plate" language was included in the first draft of the CCMA-AEHHRA report, but they realized after comments provided by [REDACTED] that they made a mistake. EPA officials did not actually think that the asbestos exposure risk at CCMA could be zero. Instead, they concluded that the exposures and risks at CCMA were severe. EPA officials realized that leaving the language in the report would have undercut their message to the public. [REDACTED] denied that there was some sort of collusion between EPA and BLM officials concerning this matter. [REDACTED] further explained that by EPA officials stating that the actual risks concerning asbestos toxicity parameters could perhaps be zero, they meant that if the area was not being utilized then the public was not exposed to it and therefore, there would be no risk of asbestos exposure. [REDACTED] confirmed that deleting the phrase "perhaps zero" from the report did not change the conclusions, the science, or the risk calculations concerning the toxicity of asbestos at CCMA. [REDACTED] explained that [REDACTED] took out the phrase from the report because [REDACTED] realized it was taking them in the "wrong direction." [REDACTED] reiterated that EPA officials were measuring actual asbestos exposures at CCMA, and not hypothetical exposures (See Attachment 6).

Subsequent to [REDACTED] interview, [REDACTED] provided this writer a copy of the Federal Register, dated September 24, 1986, titled "EPA-Guidelines for Carcinogen Risk Assessment" (Attachment 13). The document states, in part, that "...It should be emphasized that the linearized multistage procedure leads to a plausible upper limit to the risk that is consistent with some proposed mechanisms of

carcinogenesis. Such an estimate, however, does not necessarily give a realistic prediction of the risk. The true value of the risk is unknown, and may be as low as zero. The range of risks, defined by the upper limit given by the chosen model and the lower limit which may be as low as zero, should be explicitly stated. An established procedure does not yet exist for making 'most likely' or 'best' estimates of risk within the range of uncertainty defined by the upper and lower limits estimates."

[REDACTED] explained in an email that the language in the aforementioned Federal Register concerning the "perhaps zero" statement was not specifically addressed in any of the updated guidelines (Attachment 14). [REDACTED] email further stated that "The uncertainty inherent in risk assessments of carcinogenic potential is mainly related to two factors: the certainty of the toxicological data and the certainty of the exposure data. A compound may be a suspected carcinogen because it caused tumors/cancer in a laboratory animal in one or two studies. Assumptions then have to be made whether the effect seen in the affected animals can be translated to expect similar effects in humans. There can be a large range of uncertainty related to the validity of that translation. On the exposure side, risk assessors frequently have to make assumptions of exposure based on modeling of data of chemical concentrations in environmental media. The degree of extrapolation that must be made from the smokestack data to the lung exposure introduces additional levels of uncertainty. In the case of a risk assessment based on animal data and modeled from media samples of air, water, or soil, the uncertainties may be sufficient that 'perhaps zero' would be a valid and reasonable descriptor of the lower range of the risk. To be transparent in our communications with the public, we would want to keep that language in a risk assessment where there was a high degree of uncertainty based on toxicological and/or exposure information. Those conditions did not exist with the CCMA risk assessment. Asbestos is a known carcinogen based on numerous human epidemiological studies. The exposure data was taken from measurements of asbestos concentrations in the breathing zone of individuals during typical CCMA recreational activities. While every risk assessment has inherent uncertainties, those associated with the CCMA risk assessment were not of the nature that 'perhaps zero' was a valid or reasonable descriptor." [REDACTED] noted that this is thoroughly explained in the "Major Findings" section of EPA's CCMA-AEHHRA report (See Attachment 1).

During our interview of [REDACTED] after reviewing the email, [REDACTED] explained that what was estimated in the CCMA-AEHHRA was a theoretical asbestos risk. Even though the risk of asbestos exposure is a theoretical issue and could, in fact be zero, the cancer risk derived from the exposure could never be zero. [REDACTED] stated that having the fragment "perhaps zero" removed from the report did not create an impact or make a change on the information provided to the public (See Attachment 7).

During our interview of [REDACTED] and [REDACTED] after reviewing the email, [REDACTED] noted that the email did not ask EPA to make any changes. [REDACTED] intention with the email was to make sure EPA officials were prepared to answer any questions concerning the fragment "perhaps zero" at public meetings. [REDACTED] reiterated that EPA officials alone decided to take the "perhaps zero" fragment out of the report. [REDACTED] agreed with taking the aforementioned "perhaps zero" fragment from the "Executive Summary" (See Attachment 10).

Memorandum from [REDACTED] to [REDACTED] and [REDACTED] Geologist, BLM-HFO, dated February 8, 2008 (Attachment 15)

*Agent's Note:* [REDACTED] comments pertained to requests for clarification of EPA's CCMA-AEHHRA assessment methods, data validation, data quality, sampling locations, weather conditions, precipitation data, and other scientific matters.

During our interview of [REDACTED] and [REDACTED] after reviewing the memorandum, [REDACTED] believed that [REDACTED] was asking for more information or explanations. Sometime during the summer of 2008, EPA officials created a document responding to all of the comments they received from [REDACTED] as well as from other BLM officials (See Attachment). [REDACTED] stated that EPA officials took [REDACTED] comments as advice that they needed to explain their data better to get the point across (See Attachment 6).

During our interview of [REDACTED] after reviewing the memorandum, [REDACTED] stated that [REDACTED] questions were legitimate questions to which EPA provided answers. The questions were mostly technical comments that required explanations from EPA officials. Most of the toxicity data that EPA officials obtained came from occupational experts and previous analyses (See Attachment 7).

During our interview of [REDACTED] and [REDACTED] after reviewing the memorandum, [REDACTED] stated that it concerned technical comments [REDACTED] had on the first CCMA-AEHHRA draft report after receiving it from [REDACTED] for review (See Attachment 4). The comments concerned questions about the methodology that EPA used during the assessment and the assumptions that EPA made. [REDACTED] described EPA's draft report dated February 2008 as a limited amount of text with some graphs, and opined that the methodology used by EPA was not described well in their draft report. [REDACTED] noted that BLM included some of the comments that [REDACTED] provided in the document that they submitted to EPA (See Attachment 11). [REDACTED] opined that EPA addressed most of the questions and comments that BLM provided to them (See Attachment 12).

Letter from City of Santa Cruz Police Officer Ken Deeg to California's 17<sup>th</sup> District Congressman Sam Farr, dated April 7, 2010 (Attachment 16)

*Agent's Note: In his letter, Deeg stated, in part, that BLM purposely softened the roadway using a tractor at CCMA to create dustier conditions just prior to the EPA assessment.*

During our interview of [REDACTED] and [REDACTED] after reviewing the letter, [REDACTED] stated that EPA officials took photos of CCMA that showed some tractor tracks. The photos were taken at a staging area at the CCMA, which was outside the actual sampling area. If a tractor was to drive over a specific area at CCMA, the tracks would be present for a long time, so there was no way to tell how long the tracks had been there before the samplings (See Attachment 6).

During our interview of [REDACTED] after reviewing the letter, [REDACTED] reiterated that the asbestos samplings at CCMA by EPA officials were true, accurate, and concerned real recreational work activities. [REDACTED] opined that the presence of tractors in the area would not have created a difference in the asbestos exposure measurements or the air samplings because the geological composition of the area was the same (See Attachment 7).

During our interview of [REDACTED] and [REDACTED] after reviewing the letter, [REDACTED] recalled that Deeg asked [REDACTED] if [REDACTED] knew of any maintenance work conducted at CCMA before the EPA assessment. [REDACTED] checked with [REDACTED] staff and no one knew of any work conducted at CCMA prior to EPA's assessment. Based on BLM's Health and Safety Plan, no work is conducted at CCMA during the dry season. However, BLM could have run a caterpillar through the area to work on something else or on another site. Also, equipment operators could have "touched up" a bad spot on a road, if noticed, for safety reasons. [REDACTED] did not agree with the public's assumption that BLM graded the roads at CCMA to create dustier conditions before EPA's assessment was conducted. [REDACTED] further explained that one of BLM-HFO's responsibilities has always been to periodically maintain the roads and trails

within the CCMA. The work conducted to maintain the roads at CCMA would be representative of the activities that occurred in the area. [REDACTED] also disagreed with the allegations that BLM manipulated the soil at CCMA to change the results of EPA's CCMA-AEHHRA. It was not clear to [REDACTED] how any road work at CCMA prior to EPA measuring the soil samples would have changed the results of the assessment.

### BLM's CCMA EIS/RMP

During [REDACTED] complaint call to this office, [REDACTED] stated that based on recommendations listed on a BLM-HFO CCMA EIS/RMP, the BLM-HFO spent \$1.6 million to construct a decontamination facility at CCMA (Attachment 17). The report also recommended that BLM-HFO permanently closed CCMA for OHV access (See Attachment 2).

### Witness Interviews

During our interview of [REDACTED] and [REDACTED] we asked about their knowledge of BLM-HFO's RMP/EIS for CCMA. According to [REDACTED] and [REDACTED], their involvement with this report was only when BLM officials asked them legal questions concerning the report. National Environmental Policy Act (NEPA) coordinators were also involved in the review of this report. Per Council on Environmental Quality (CEQ) and NEPA regulations, BLM provided the public 90 days to provide comments and questions concerning BLM's CCMA RMP/EIS. Because BLM's publication of the notice of availability of the RMP/EIS for public comments with the Federal Register was delayed, BLM extended the 90 day period to an additional 45 days. Neither [REDACTED] nor [REDACTED] reviewed BLM's contract to build a vehicle and personnel asbestos decontamination facility at CCMA. They agreed, however, that there should be no regulatory problems with the contract, as long as it was completed in accordance with established regulations (See Attachment 5). Subsequent to their interview, [REDACTED] provided this office a copy of BLM's request to the Office of Hearing and Appeals (OHA) to issue the closing decision of CCMA, which was approved by OHA on April 30, 2008 (Attachment 18).

During our interview of [REDACTED] and [REDACTED] we asked about their knowledge of BLM-HFO's RMP/EIS for CCMA. [REDACTED] stated that EPA's involvement with the CCMA was only to conduct the CCMA-AEHHRA. BLM is ultimately responsible for deciding how to better manage the CCMA after receiving the results from the assessment. EPA only acted as an advisor to BLM concerning this matter when needed (See Attachment 6).

### Interview of [REDACTED]

During our interview of [REDACTED] and [REDACTED] we asked about BLM-HFO's CCMA RMP/EIS. [REDACTED] stated that it was [REDACTED] responsibility to determine which one of the alternatives listed in the CCMA RMP/EIS was the best course of action to take to manage the CCMA for the next 20 years. The decision being worked on is one that includes gating some areas and managing them by permitting use of the land to a limited number of visitors (i.e. private land-owners). BLM will provide for some OHV use and street licensed vehicle use in the Condon Peak Recreation Area, which is composed of about 11 miles of trails inside the CCMA (See Attachment 10).

[REDACTED] stated that BLM-HFO held three public meetings that allowed concerned citizens the opportunity to make comments regarding the draft CCMA RMP/EIS. Prior to the meetings, BLM-HFO provided a "question and answer" period to the public, where BLM officials provided answers to

questions submitted by the public. Prior to the draft CCMA RMP/EIS being completed, BLM-HFO held five public scoping meetings in 2007 and 2008, which helped BLM officials develop the management alternatives for the RMP/EIS. Per requests from the public, BLM increased the time frame for the public to submit comments for 45 additional days.

I provided for review, a copy of an email from [REDACTED] to [REDACTED] dated February 19, 2008, concerning [REDACTED] comments on BLM's CCMA RMP/EIS management alternatives (Attachment 19). In the email, [REDACTED] stated to [REDACTED] that [REDACTED] analyzed the risk numbers included in EPA's CCMA-AEHHRA report, and came up with a management alternative that would allow up to five weekends of OHV use at CCMA, if certain steps were followed. [REDACTED] reportedly attached a Microsoft (MS) Excel spreadsheet titled "CCMA Rider Risks2.xls" in [REDACTED] email to [REDACTED] (Attachment 20). According to Deeg, who forwarded the email to this writer, [REDACTED] (NFI) reviewed the properties of the spreadsheet, and noted that the file was created on February 15, 2008 (Attachment 21). However, according to [REDACTED] the data in the spreadsheet came from a draft copy of BLM's draft RMP/EIS that was not completed until the fall of 2008. After reviewing the email, [REDACTED] disagreed with the following statement Deeg wrote in his email to this writer: "I explained (to [REDACTED] conclusions in the email did not add up to the attachment [REDACTED] provided to [REDACTED] regarding the email." [REDACTED] stated that [REDACTED] took EPA's data and [REDACTED] assumptions into consideration when compiling the numbers in the spreadsheet. [REDACTED] agreed with [REDACTED] statement. [REDACTED] stated that [REDACTED] provided the spreadsheet to [REDACTED] and explained to [REDACTED] that the spreadsheet was the spreadsheet that [REDACTED] referred to in [REDACTED] email to [REDACTED] dated February 19, 2008. [REDACTED] stated that [REDACTED] asked [REDACTED] for another attachment that [REDACTED] thought was included in [REDACTED] email. [REDACTED] thought [REDACTED] may have been confused by the format of the email and may have erroneously deducted that the email contained another attachment. [REDACTED] stated that [REDACTED] compared the draft RMP/EIS to the spreadsheet developed by [REDACTED] [REDACTED] agreed that the data between the spreadsheet and the RMP/EIS did not match.

[REDACTED] stated that [REDACTED] did not expect the data between the aforementioned spreadsheet and the RMP/EIS to match. [REDACTED] explained that, in [REDACTED] email, [REDACTED] just asked the rhetorical question, "what if we implemented certain mitigation measures in the asbestos areas." [REDACTED] noted that [REDACTED] made some big assumptions, such as calculating the risks to drive in or to hike, not allowing anyone to camp in the asbestos affected area, paving the road if BLM had "\$1.0 million," etc. The purpose of the spreadsheet was to propose other mitigation measures that could lower the risks of asbestos exposure at CCMA. [REDACTED] stated that the mitigation measures proposed by [REDACTED] would have slightly lowered the risks of exposure, but the risks would still stay in the marginal area of acceptability or unacceptable. [REDACTED] noted that [REDACTED] helped BLM-HFO by providing a process to analyze data to see what management measures BLM-HFO could implement at CCMA. Not allowing people to camp or sleep in the asbestos affected area was something BLM-HFO could do administratively. However, paving the road at CCMA was expensive and [REDACTED] did not think that paving a road at an asbestos affected area would reduce the risk of exposure since dust still gets on the roadway. Because of this, [REDACTED] chose not to pave the road at CCMA. [REDACTED] explained that the data provided to [REDACTED] by [REDACTED] was different than the data in the CCMA RMP/EIS because [REDACTED] did not make some of the same assumptions [REDACTED] did. [REDACTED] stated that this was one of the reasons why BLM officials did not make their final decision concerning the management of CCMA until the CCMA-AEHHRA data was provide to them by EPA.

[REDACTED] explained that a decontamination facility for the CCMA was built in the late 1980s as a support mechanism for BLM's responsibilities in managing the Atlas Superfund site located within the CCMA. Because of prior litigation, BLM has the continuing responsibility to provide security around the Atlas

Superfund site. The decontamination facility is necessary for any management work that BLM officials perform in the CCMA. Even if the area is to permanently remain closed or if it will be partially closed to OHVs, BLM officials would still be responsible for conducting limited management work at the CCMA. BLM officials opted to build a new decontamination facility, instead of remodeling the one built in the 1980s, based on recommendations provided by OSHA and DOI-Office of Occupational Health and Safety (OOHS) Industrial Hygienist [REDACTED] suggesting that the decontamination facility needed to be located as close as possible to the CCMA. The original decontamination facility was located about nine miles away from the CCMA. The new facility will allow for CCMA workers to decontaminate before exiting the affected areas. The facility also needed to be upgraded to handle all of the equipment BLM officials use at CCMA. BLM set aside funds to decommission the original decontamination facility. The construction of the facility was completed in June 2010. BLM was short on funds, so there are still some tasks on the project that need to be completed. The total cost of the construction project will be around \$2.4 million when completed.

### Access Roads at CCMA

During the course of our investigation, Deeg sent an email to this writer stating that San Benito County closed the county roads within CCMA in May 2008 after BLM-HFO closed the area (Attachments 22 and 23). In March 2010, San Benito County voted to re-open the county roads within CCMA. Deeg was concerned with BLM believing that they had the legal authority to keep people off the county roads at CCMA. Deeg reported that [REDACTED] was directing BLM rangers to cite people who used the county roads at CCMA.

### Witness Interviews

During our interview of [REDACTED] and [REDACTED] stated that [REDACTED] met with [REDACTED] during the week of March 28, 2010, to discuss the issues concerning the San Benito County roads inside the CCMA. San Benito County claimed ownership of these roads inside CCMA, but does not maintain them. Per their jurisdiction, according to their interpretation of California Desert District's RS 2477, San Benito County passed a resolution in March 2010 to reopen the county roads within CCMA. There is no paperwork stating that San Benito County owns the roads inside CCMA. This matter is currently being debated between BLM and San Benito County (See Attachment 5).

During our interview of [REDACTED] and [REDACTED] noted that San Benito County gave up maintaining the roads within the CCMA a long time ago because of concerns of asbestos exposure risk (See Attachment 6).

### Interview of [REDACTED]

During our interview of [REDACTED] and [REDACTED] explained that San Benito County had historically documented some roads inside the CCMA on their inventory, claiming ownership of the roads. There is no official "right of way" with BLM on roads located in public lands. Over the years, BLM had accepted that some of the roads inside CCMA were county roads, based on the San Benito County's interpretation of California Desert District's RS 2477. In 1994, San Benito County decided not to maintain their roads at CCMA because of the danger of exposure to asbestos (See Attachment 10).

After completion of the CCMA-AEHRA, [REDACTED] explained to San Benito County that BLM needed to control access to the roads within CCMA. San Benito County initially closed the roads at CCMA, but after receiving a lot of pressure from the OHV community, the county reopened the roads.

Because of that, BLM has been responding to some trespass situations from the open county roads to the closed areas at CCMA. Per California Highway Patrol requirements, only highway licensed vehicles can use the open roads inside CCMA. However, [REDACTED] instructed BLM rangers to only cite vehicles that go off the roads into the closed areas at CCMA. BLM is still planning on gating the road network at CCMA. BLM would still allow private land owners at CCMA to use the roads to get to their properties. [REDACTED] understood that this decision could lead to litigation with San Benito County, if the county chooses to. San Benito County can argue that historically these roads have been under their jurisdiction, but they would have to go through a judicial hearing and have a Judge make the decision.

**SUBJECT(S)**

Name: [REDACTED]  
Grade: [REDACTED]  
Title Position: [REDACTED]  
Post of Duty: Bureau of Land Management-Hollister Field Office

**DISPOSITION**

No criminal referral was made. The allegations against [REDACTED] in this matter were not substantiated. This matter will be closed with no further investigative steps conducted.

**ATTACHMENTS**

1. Final copy of EPA's CCMA-AEHHRA report, dated May 2008
2. IAR – Telephonic Contact with [REDACTED] dated January 21, 2010
3. Email from [REDACTED] to [REDACTED], and others, dated April 11, 2008
4. Draft copy of EPA's CCMA-AEHHRA report, dated February 2008
5. IAR – Interview of [REDACTED] and [REDACTED] dated April 29, 2010
6. IAR – Interview of [REDACTED] and [REDACTED] dated June 15, 2010
7. IAR – Interview of [REDACTED] dated July 8, 2010
8. Letter from the office of [REDACTED] to [REDACTED] dated April 22, 2010
9. Letter from the office of [REDACTED] to [REDACTED] dated May 4, 2010
10. IAR – Interview of [REDACTED] and [REDACTED] dated August 11, 2010
11. Copy of "BLM Final Comments on Draft EPA Risk Assessment," dated March 4, 2008
12. Copy of "EPA Response to BLM Final Comments on Draft EPA Risk Assessment," dated July 17, 2008
13. Copy of Federal Register – "EPA Guidelines for Carcinogen Risk Assessment," dated September 24, 1986
14. Email from [REDACTED] to OIG Special Agent (SA) [REDACTED], dated August 10, 2010
15. Memorandum from [REDACTED] to [REDACTED] and [REDACTED] dated February 8, 2008
16. Letter from Deeg to Congressman Farr, dated April 7, 2010; and supporting documents
17. BLM's draft CCMA RMP/EIS, dated November 2009 (CD-ROM)
18. BLM's request to OHA for closure of CCMA, approved by OHA on April 30, 2008
19. Email from [REDACTED] to [REDACTED] dated February 19, 2008
20. Copy of "CCMA Rider Risks2.xls" spreadsheet attached to [REDACTED] email to [REDACTED] dated February 19, 2008
21. Email from Deeg to SA [REDACTED], dated July 8, 2010
22. Email from Deeg to SA [REDACTED], dated May 13, 2010

23. Letter from former BLM-HFO Field Manager [REDACTED] to [REDACTED], EPA,  
dated May 20, 2005