

**U.S. Department of Interior  
Bureau of Land Management**

**CLOSURE ORDER**

Pursuant to 43 CFR 8364.1, notice is hereby given that the BLM is seasonally restricting access to portions of public lands within the Clear Creek Management Area (CCMA) located in the southern portion of San Benito County and western Fresno County, California. **All public access, including motorized and non-motorized recreation use is restricted on public lands within the Serpentine ACEC from June 4, 2005 through October 15, 2005.** These lands are located in portions of T.17 S., R. 11 E.; T. 17 S., R. 12 E.; T. 18 S., R 11 E.; T. 18 S., R. 12 E.; T. 18 S., R. 13 E.; T. 19 S., R. 13 E.

This seasonal closure is necessary to ensure visitor safety and protect public land users from potential health risks associated with naturally occurring asbestos found within the restricted area. Dry soil conditions and high dust generating potential from public use activities during this time period create a significant hazard and risk associated with exposure to asbestos.

**Except for travel on San Benito County roads, all public access and motorized vehicle travel will be allowed only by written authorization of the Hollister Field Manager.** The following persons are exempt from the identified restrictions:

- 1) Federal, State, or local law enforcement officers, while engaged in the execution of their official duties.
- 2) BLM personnel or their representatives while engaged in the execution of their official duties.
- 3) Any member of an organized rescue, fire-fighting force, or emergency medical services organization while in the performance of their official duties.
- 4) Any member of a federal, state, or local public works department while in the performance of an official duty.
- 5) Any person in receipt of a written authorization of exemption obtained from the authorized officer from the Hollister Field Office.
- 6) Private landowners with in-holdings within the restricted area who have a responsibility or need to access their property, and persons with valid existing rights-of-way or lease operations, or representatives thereof.

During the closure period, the area will be clearly posted. Closure signs will be posted at main entry points to all locations affected by this Notice. Maps of the area will be posted with this notice at key locations that provide access into the closure areas, and may be obtained with further information at the Hollister Field Office, 20 Hamilton Court, Hollister, California 95023.

Seasonal closure orders may be implemented as provided in 43 CFR, subpart 8364.1. Violations of this closure are punishable by a fine not to exceed \$1,000 and/or imprisonment not to exceed 12 months.

**BLM**

**Hollister Field Office, 20 Hamilton Court, Hollister CA. 95023, 831 630-5000**

**Approved By:**

*George E. Hill*  
George E. Hill

**Assistant Field Manager, Hollister Field Office, BLM**

**Date: May 25, 2005**

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
HOLLISTER FIELD OFFICE  
ENVIRONMENTAL ASSESSMENT**

**Clear Creek Management Area Seasonal Use Restrictions  
EA-CA-190-05-21**

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
HOLLISTER FIELD OFFICE**

**ENVIRONMENTAL ASSESSMENT**

**DATE INITIATED:** 5/11/2005

**DIRECTORY/FOLDER:** m\NEPA\fy 2005\dry season use restrictions

**CONTROL NUMBER:** CA-190-EA05-21

**CASE FILE/SERIAL NUMBER:**

**PROPOSER:** BLM

**PROJECT:**

**LOCATION:** Clear Creek Management Area – Hazardous Asbestos Area

**AFFECTED ACREAGE:** 30,000

**7.5' QUADRANGLE:**

**LAND STATUS:** MIXED OWNERSHIP

**SPECIAL DESIGNATION AREA:** Serpentine ACEC

**AUTHORITY:**

**LAND USE PLAN CONFORMANCE:**

The proposed action is subject to and in conformance with the Clear Creek Management Plan of 1995 (as amended) and in accordance with Title 43 Code of Federal Regulations 1610.5-3, and Title 43 Code of Federal Regulations 8360.

## I. INTRODUCTION

- Clear Creek Management Area

The Clear Creek Management Area (CCMA) spans 75,000 acres and includes approximately 60,000 acres of public land administered by the Bureau of Land Management (BLM). The CCMA is located in southern San Benito and western Fresno counties. Visitors have been using CCMA extensively for off-highway vehicle (OHV) recreation for many years. Other recreation activities also occur within the CCMA, including hunting, rock-hounding, wildlife watching, and hiking. Visitation to the area during the dry summer months averages 1200 visitors per month. The BLM's CCMA Proposed Resource Management Plan (RMP) Amendment and Final Environmental Impact Statement (CCMA EIS), published in August 1995, state that the area is frequently hot, dry and dusty between May and October. The soil moisture during this time is at the lowest level annually and therefore, the potential for generating dust is greatest. Because of higher than average rainfall, the dry season this year is expected to occur from early June to mid-October.

There are approximately 440 miles of roads and trails within CCMA available to visitors. San Benito and Fresno counties own and maintain several roads as well.

- Serpentine Area of Critical Environmental Concern

Approximately 30,000 acres of the CCMA are in the Serpentine Area of Critical Environmental Concern (ACEC). The serpentine soils within the ACEC contain high concentrations of naturally occurring asbestos and support an environment with a unique assemblage of plant and animal species. The ACEC is the focus of this environmental assessment (EA).

More complete descriptions of CCMA and the Serpentine ACEC are part of the CCMA Proposed RMP Amendment and Final EIS EIS.

## II. PURPOSE AND NEED FOR THE ACTION

The purpose of this action is to:

- Implement dry season closures, as identified in the CCMA RMP
- Reduce risks to human health from airborne asbestos
- Respond to EPA's Technical Memorandum titled "Human Health Risk Assessment – Asbestos Air Sampling Clear Creek Management Area, California, September 15, 2004."

The need for this action arises from the following factors:

- Need to Consider Measures to Implement the 1999 CCMA Plan

BLM has been managing the CCMA since 1999 under an approved management plan. BLM identified use restrictions, including dry season closures, in the 1995 RMP/EIS but has not fully implemented them. This EA considers implementing such restrictions in light of new information provided by the US Environmental Protection Agency (EPA).

BLM has attempted to use chemical dust control on selected main roads as a way to reduce asbestos emissions and mitigate hazard to people from breathing asbestos. These techniques have not been successful, and the costs to implement projects to stabilize dust have been very high.

- Need to protect the public from hazardous asbestos.

BLM and other state and federal agencies are chiefly concerned with protecting human health and safety. BLM must determine how to appropriately protect the public from the health risks associated with airborne asbestos at the CCMA.

- EPA Risk Assessment Indicates Higher Risk Than Previously Thought

With technical advice from EPA, BLM has already implemented measures to ensure BLM employee safety at CCMA with regard to airborne asbestos exposure. Air sampling studies being undertaken by EPA are part of an ongoing risk assessment at CCMA. The studies indicate a higher risk to people from exposure to airborne asbestos in CCMA than EPA and BLM had previously thought. Based on preliminary EPA results, BLM may need to restrict the public's presence in the CCMA and thus may reduce risk to the public from asbestos exposure during the dry season.

Analysis of airborne asbestos exposure in this EA relies on EPA's Technical Memorandum titled "Human Health Risk Assessment – Asbestos Air Sampling Clear Creek Management Area, California, September 15, 2004." EPA collected air sampling data for the Technical Memorandum in September of 2004. EPA is currently analyzing air samples from November 2004 and February 2005. EPA may continue to collect, additional samples in 2005; however, EPA has stated that initial analysis of 2004 results indicates significantly higher levels of airborne asbestos fibers than stated in previous studies published as part of BLM's 1995 CCMA EIS. EPA expects to produce a final report from this study by July 2006.

- Related BLM Actions

The use restrictions under consideration in this EA relate to other actions BLM is undertaking at CCMA. Those actions include route designation (Final

EIS expected in June 2005) and the Resource Management Plan (Draft RMP/EIS expected in 2006). BLM is also working with EPA to address potential naturally occurring asbestos issues in other parts of California.

Use restrictions may be necessary for appropriate interim management of the CCMA while the EPA completes its scientific studies.

### **III. DESCRIPTION OF ALTERNATIVES**

#### **Common to all alternatives except No Action:**

BLM would:

- Consider all actions to be interim pending EPA's final risk assessment results expected in July 2006.
- Allow overnight camping at the Oak Flat campground and in the Condon Peak and Wright Mountain areas, all of which are outside the Serpentine ACEC.
- Not allow overnight camping within the Serpentine ACEC from June 1 to October 15.
- Require users to register and obtain a permit before entering the Serpentine ACEC.
- Authorize in writing from the BLM Hollister Field Office manager public access beyond that described in the selected alternative on a case by case basis after BLM staff complete an activity-based risk assessment

BLM has no authority to restrict use or close roadways owned by San Benito County without their concurrence and approval. These routes include Clear Creek/New Idria Road (R001), T158, R015, and the western portion of R011. BLM will consult and inform San Benito County about the alternatives and the proposed action.

#### **Alternatives:**

##### **No Action**

- Makes no change from current management.
- Leaves the Serpentine ACEC route network open to public use, subject to provisions in the Clear Creek Resource Management Plan, as amended.

##### **Alternative 1**

- Closes the Serpentine ACEC to motorized vehicles from June 4 to October 15.

- Holds BLM public meetings to discuss strategies for long-term risk reduction to people.

#### **Alternative 2 – Proposed Action**

- Closes the Serpentine ACEC completely to the public from June 4 to October 15.
- Holds BLM public meetings to discuss strategies for long-term risk reduction to people.

#### **Alternative 3**

- Allows use on BLM roads R016 and R017 to fully enclosed vehicles from June 4 to October 15 provided that county roads R001, R011, and R015 remain open.
- Otherwise, closes the Serpentine ACEC to motorized vehicles from June 4 to October 15.
- Holds BLM public meetings to discuss strategies for long-term risk reduction to people.

#### **Alternative 4**

- Closes the Serpentine ACEC completely to motorized vehicles until EPA completes its exposure and risk assessment.

#### **Alternative 5**

- Closes the Serpentine ACEC to the public until EPA completes its exposure and risk assessment.

#### **Alternative 6**

- Allows motorized and non-motorized use with a required signed informed consent statement.
- Requires visitors to sign a statement that they are informed about the risk in the area and about methods for reducing risk based on existing health and safety precautions employed by BLM employees.
- Holds BLM public meetings to discuss strategies for long-term risk reduction to people.

### **IV. ENVIRONMENTAL CONSEQUENCES**

Chapter 4 of the Clear Creek Management Area (CCMA) Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS)(August 1995) discusses impacts of general use restrictions. The analysis of environmental consequences focuses on the impacts of alternative means of implementing use restrictions. Impacts to the following critical elements of the human environment would either not be adversely affected or would not change from those discussed in the Clear Creek Management Area (CCMA) Proposed

Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS) (August 1995):

- Cultural and paleontological resources
- Environmental justice
- Farm lands – prime or unique
- Floodplain
- Invasive and nonnative species
- Native American Religious concerns
- Threatened, endangered, or sensitive species and habitats
- Wastes, hazardous or solid
- Water quality – drinking or ground
- Wetlands and riparian zones
- Wild and scenic rivers
- Wilderness

Cumulative impacts would not change from those discussed in the CCMA Proposed RMP and Final EIS (August 1995) on pages 137 and 138.

## **IMPACT ASSUMPTIONS**

### **Recreation**

Historically, recreational use of the Serpentine ACEC drops significantly in the dry and hot summer months. Visitation of the CCMA has averaged 1200 visitors per month between June 1 and October 15. A recent state regulation that may further limit use by off-road motorcycles and ATVs in CCMA during the dry season is the "Red Sticker" program. OHV's in the 2003 and newer model years that do not meet emission standards established by California Air Resources Board (CARB) are issued a Red Sticker rather than a Green Sticker. Red Sticker vehicles are not allowed to be operated in specific air quality districts during specific seasons. In the case of CCMA, the closed season is May 31 through October 1. It is difficult to quantify the additional limitation in use this may add to the dry season at CCMA. Visitation during the rest of the year has averaged 5000 visitors per month, depending on weather conditions. Assumptions about visitation rely on data in BLM's Recreation Management Information System.

Longer restrictions on use would affect more users. Restrictions on use from October 15 to June 1 would affect significantly more users than restrictions on use between June 1 and October 15. Motorized recreation is the use that most visitors to the CCMA engage in. Restrictions on motorized use would affect more visitors than restrictions on non-motorized use.

### **Air Quality**

Recreational vehicle riding in the Serpentine ACEC disturbs soil and creates airborne asbestos. Motorized recreation creates a greater disturbance to soil

than non-motorized recreation and leads to higher densities of airborne asbestos along OHV routes. The BLM 1995 FEIS states that the CCMA is frequently hot, dry, and dusty between May and October. Soil moisture during this period is at the lowest level annually. Therefore, the potential to generate dust is greatest in this period.

### **Human Health and Safety**

Visitor exposure to airborne asbestos is a human health concern. A higher level of exposure to airborne asbestos leads to a greater health risk. Motorized recreation leads to a higher level of exposure to airborne asbestos than non-motorized recreation. Data on exposure levels from motorized recreation during drier conditions come from EPA's Asbestos Exposure Assessment September Technical Report (see Attachment 1).

## **IMPACTS BY ALTERNATIVE**

### **No Action**

#### **Recreation**

Recreation visitation would not change. This alternative would lead to the highest recreational use of the alternatives.

#### **Air Quality**

Mechanical disturbance of soil would not change. This alternative would lead to the highest concentrations of airborne asbestos among all alternatives.

### **Human Health and Safety**

Visitor exposure to airborne asbestos would continue at current levels. This alternative would lead to the greatest human health risk. (Refer to Attachment 1 for current exposure levels).

### **Alternative 1**

#### **Recreation**

This alternative would have an adverse effect on the recreational opportunities of the fewer than 5400 visitors anticipated to use motorized vehicles in the Serpentine ACEC between June 1 and October 15. BLM would not allow these visitors to engage in vehicular recreation in the Serpentine ACEC. This alternative would impact more visitors than No Action, Alternative 3, and Alternative 6; it would impact fewer visitors than Alternative 2, Alternative 4, and Alternative 5.

#### **Air Quality**

This alternative would have less soil disturbance than No Action, Alternative 3 and Alternative 6; it would have higher soil disturbance than Alternative 2, Alternative 4, and Alternative 5.

#### **Human Health and Safety**

This alternative would lead to a lower human health risk from airborne asbestos than No Action, Alternative 3 and Alternative 6; it would lead to a higher human health risk from airborne asbestos than Alternative 2, Alternative 4, and Alternative 5.

### **Alternative 2 – Proposed Action**

#### **Recreation**

This alternative would affect adversely the recreational opportunities of all of the approximately 5400 visitors anticipated to use the Serpentine ACEC during this period. BLM would not allow these potential visitors to enter the Serpentine ACEC to recreate. This alternative would impact more visitors than No Action, Alternative 1, Alternative 3, and Alternative 6; it would impact fewer visitors than Alternative 4 and Alternative 5.

#### **Air Quality**

This alternative would have less soil disturbance than No Action, Alternative 1, Alternative 3, and Alternative 6; it would have more soil disturbance than Alternative 4 and Alternative 5.

#### **Human Health and Safety**

This alternative would lead to a lower human health risk from airborne asbestos than No Action, Alternative 1, Alternative 3, and Alternative 6; it would lead to a higher human health risk from airborne asbestos than Alternative 4 and Alternative 5.

### **Alternative 3**

#### **Recreation**

This alternative would adversely affect the recreational opportunities of the fewer than 5400 visitors anticipated to use motorized vehicles in the Serpentine ACEC from June 1 to October 15. BLM would not allow these visitors to use motorized vehicles in the ACEC except on two roads. This alternative would impact more visitors than No Action and Alternative 6; it would impact fewer visitors than Alternative 1, Alternative 2, Alternative 4, and Alternative 5.

#### **Air Quality**

This alternative would have less soil disturbance than No Action, and Alternative 6; it would have more soil disturbance than Alternative 1, Alternative 2, Alternative 4, and Alternative 5.

### **Human Health and Safety**

This alternative would lead to a lower human health risk from airborne asbestos than No Action and Alternative 6; it would lead to a higher human health risk from airborne asbestos than Alternative 1, Alternative 2, Alternative 4, and Alternative 5.

## **Alternative 4**

### **Recreation**

The motorized vehicle closure of the Serpentine ACEC in this alternative and Alternative 5 would be significantly longer than in all other alternatives. This alternative would impact more visitors than No Action, Alternative 1, Alternative 2, Alternative 3 and Alternative 6; it would impact fewer visitors than Alternative 5.

### **Air Quality**

This alternative would have less soil disturbance than No Action, Alternative 1, Alternative 2, Alternative 3 and Alternative 6; it would have more soil disturbance than Alternative 5.

### **Human Health and Safety**

This alternative would lead to a lower human health risk from airborne asbestos than No Action, Alternative 1, Alternative 2, Alternative 3 and Alternative 6; it would lead to a higher human health risk from airborne asbestos than Alternative 5.

## **Alternative 5**

### **Recreation**

This alternative would reduce recreational use more than all other alternatives. All potential visitors would not be allowed to enter the Serpentine ACEC to recreate for the longest period of all alternatives.

### **Air Quality**

This alternative would have less soil disturbance than all other alternatives.

### **Human Health and Safety**

This alternative would lead to a lower human health risk from airborne asbestos than all other alternatives.

## **Alternative 6**

### **Recreation**

Recreational use would not be expected to significantly decrease under this alternative. BLM would require visitors to sign an informed consent statement

before they enter the Serpentine ACEC. This requirement may dissuade some visitors from entering the ACEC or from engaging in motorized recreation. This alternative would reduce visitation more than No Action; it would reduce visitation less than Alternative 1, Alternative 2, Alternative 3, Alternative 4, and Alternative 5.

#### **Air Quality**

This alternative would have less soil disturbance than No Action; it would have more soil disturbance than Alternative 1, Alternative 2, Alternative 3, Alternative 4, and Alternative 5.

#### **Human Health and Safety**

This alternative would reduce exposure to airborne asbestos because of slightly decreased visitation. Some users may choose to adopt the risk-reducing actions contained in the consent statement. Because risk-reducing technologies are expensive, not available nearby, not comfortable, and not typically used by visitors, BLM does not expect visitors' use of these technologies to increase significantly. This alternative would lead to a lower human health risk from airborne asbestos than No Action; it would lead to a higher human health risk from airborne asbestos than Alternative 1, Alternative 2, Alternative 3, Alternative 4, and Alternative 5.

### **CONSULTATION**

EPA

San Benito County

California State Parks Off-Highway Motor Vehicle Recreation Division

### **NOTIFICATION**

The BLM Hollister Field Office manager has prominently posted notification of the proposed action and analysis in the Hollister Field Office public area.

### **DOCUMENT REVIEW**

  
Planning and Environmental Coordinator

5/25/2005  
Date

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
HOLLISTER FIELD OFFICE

**FINDING OF NO SIGNIFICANT IMPACT/DECISION RECORD**

**Project Title**

**CA-190-EA05-21**

**DECISION:** It is my decision to approve and implement the Proposed Action as evaluated in the attached environmental assessment (also see Attachment 2, Closure Order).

**FINDING OF NO SIGNIFICANT IMPACT:** Upon review of the Environmental Assessment associated with the proposed action and the Clear Creek Management Area Proposed Resource Management Plan Amendment and Final Environmental Impact Statement, I find that the proposed action will not significantly affect the quality of the human environment. Specific factors I have considered in making this finding include the following:

- Visitor use will not be significantly impacted because use restrictions in the Proposed Action occur during a time of minimal visitation and will be limited to 4 and a half months.
- Air quality would be improved as a result of the Proposed Action
- Human health risks associated with airborne asbestos would decline as a result of the Proposed Action.

Because I find no significant impact on the quality of the human environment, preparation of an Environmental Impact Statement (EIS) pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 is not required.

**RATIONALE FOR DECISION:** The Proposed Action best implements decisions contained in the Clear Creek Management Plan, as amended. It also reduces risks to human health from exposure to airborne asbestos and provides protection to human health during the time that a full assessment of exposure and risk is being conducted by the Environmental Protection Agency. The Proposed Action does not result in any unnecessary or undue environmental degradation and is in conformance with the Hollister Resource Management Plan, as amended; the Clear Creek Management Plan, as amended; and with other applicable law, regulation and policy. My decision is based on these findings and on the finding of no significant impact described above.

Reviewed by:

Sky Murphy  
Environmental Coordinator

May 25, 2005

Date

Approved by:

Jeff Hill  
Assistant Field Manager  
Hollister Field Office

May 25, 2005

Date

APPEAL:

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in Title 43 Code of Federal Regulations (CFR) Part 4 and the enclosed Form 1842-1. If an appeal is taken, a notice of appeal must be filed in the Hollister Field Office, Bureau of Land Management, U.S. Department of the Interior, 20 Hamilton Court, California 95023, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If the appellant wishes to file a petition pursuant to regulation for a stay of the effectiveness of this decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If a stay is requested, the appellant has the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success on the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay