

DATE: 03/04/2008 at 04:15:00 PM

BRIEFING FOR: CONGRESSIONAL COURTESY BRIEFING

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FROM: Mike Pool California State Director 916 978-4600

SUBJECT: CLEAR CREEK MANAGEMENT AREA (CCMA) - IMPLEMENTATION OF 2006
ROD AND RMP AMENDMENT

PURPOSE OF THE BRIEFING DOCUMENT:

This document provides an update on the status of the Clear Creek Management Area, implementation of the 2006 ROD for route designations, and ongoing planning efforts.

ISSUES:

Current Issues: 1) Route designation has been completed, providing an OHV route network of 242 miles. The U.S. Fish and Wildlife Service has issued a biological opinion (BO) on this decision determining that it will not jeopardize the continued existence of any listed species, including the San Benito evening primrose. 2) EPA is continuing to study exposure to naturally occurring asbestos to recreational users of the CCMA, especially risks to children. The study is scheduled to be completed May 2008. BLM and EPA will determine in a public process, the best response to the study to protect the health of CCMA visitors. (3) A notice of intent to prepare a resource management plan for the CCMA was published in July of 2007 to initiate scoping for the RMP addressing the broad range of issues at Clear Creek. (4) A notice of intent to collect fees at the CCMA was published in the Federal Register in June of 2007 and fee collection began in January 2008. (5) Conflict has also evolved relating to use of routes and areas through private lands and abandoned mines. (6) Additional concerns include erosion of soils caused by OHV use, and transport of sediments containing mercury and the naturally occurring asbestos within the watershed.

The 75,000-acre Clear Creek Management Area in western Fresno and southern San Benito counties, about 30 miles east of King City, overlies a serpentine rock formation which contains high levels of naturally occurring asbestos. Due to the intensity of OHV use which was impacting rare plant habitat, water quality, and was contributing to significant downstream delivery of mercury and asbestos-laden sediments, the BLM decided to revise its land use plan for the area in 1991. The 1995 amendment to the Hollister RMP re-evaluated land use decisions that existed at the time. The amendment was based upon new information, which became available on the asbestos related health risks and rare plant species. The RMP amendment responded to these new issues and addressed existing public uses within both the CCMA and the Serpentine ACEC. The ROD (1999) documented approval and selection of the modified alternative 3. Under this alternative the CCMA is managed under a "limited use" designation, where vehicle use is restricted to designated routes and areas. The record of decision (ROD) for the Clear Creek management plan amendment (1999) committed BLM to a future designation process for routes and areas. The ROD (1999) also committed BLM to a public process for determining the boundaries for the expansion of the San Benito Mountain Research Natural Area (SBMRNA) to approximately 4,082 acres.

BLM issued a notice of availability (NOA) for a draft RMP amendment and environmental impact statement on July 19, 2004. Planning criteria included providing for the needs of the public land user, while protecting sensitive species and habitat. Based on public comment and involvement, a proposed RMP amendment and final EIS were completed in September 2005. Formal consultation was conducted with the U.S. Fish and Wildlife Service (FWS) in compliance with the Endangered Species Act. The FWS issued a biological opinion for the CCMA on September 2, 2005, which found that BLM's proposed action was not likely to jeopardize the continued existence of the San Benito evening-primrose. All protests to the director were resolved prior to approving the ROD. The BLM issued the ROD on January 13, 2006 approving the CCMA RMP amendment and route designations. This action designated a route network of

242 miles and expanded the boundaries for the San Benito Mountain Research Natural Area. The route network reflects a significant reduction in the miles of routes, particularly, significant reductions in the number of stream crossings, and routes associated with riparian and sensitive species habitat areas. BLM has determined that the decisions best meet the purpose and need for administering the CCMA. The ROD incorporates a comprehensive monitoring program to ensure that implementation of the decisions achieves BLM goals and objectives for protection of natural resources. BLM is aggressively implementing measures identified in the 2006 ROD in compliance with the 2005 BO.

Based on current conditions and a health risk assessment provided by the Environmental Protection Agency (EPA) in 2005, BLM continues to implement a dry season closure for the CCMA from June to October 15. Based on comments the BLM received from the EPA in December 2004 concerning public exposure to naturally occurring asbestos at the CCMA, further land use decisions for the CCMA will be addressed in a new RMP after the EPA releases a study on human health risk in 2008.

Two notices of intent to sue were filed in 2004, one by CNPS and CBD alleging violations of the ESA involving the rare serpentine plant species, and the second by the Salinas Ramblers, American Motorcyclist Assn., California Assn. of 4WD Clubs, et al. alleging violations of the ESA due to inadequate management of OHV access. On November 9, 2004 CNPS and CBD filed suit in U.S. District Court and the Blue Ribbon Coalition and other OHV groups have been granted intervenor status in that suit. Plaintiffs first claim against BLM relating to failure to re-initiate consultation with FWS was dismissed. Subsequent to submittal of a report to the District Court in June 2006, documenting implementation of the Clear Creek ROD, the entire lawsuit was dismissed in September 2006.

Clear Creek and the San Benito River (which ultimately flow into the Monterey Bay Marine Sanctuary) have been placed on the EPA's list of impaired water bodies. BLM is cooperating with the U.S. Geological Survey and regional water quality board to reduce mercury and asbestos impacts to the surface water. Several abandoned mine lands have already been restored. The Central Coast Regional Water Quality Control Board has established a "Total Maximum Daily Load" for mercury in the Clear Creek watershed. To date, water quality monitoring on occasion shows that elevated levels of mercury, in excess of the daily load, continue to migrate downstream into the Hernandez Reservoir.

MAIN DECISION OR MESSAGE:

BLM's goal for management of OHV use at the CCMA is to provide for quality recreation opportunities, while reducing impacts to sensitive resources. BLM is committed to a collaborative process that will achieve a balance between OHV recreation and the protection of natural and cultural resources, and reduce potential health risks to the visiting public.

BUREAU PERSPECTIVE:

It is critical that the ROD be implemented on a timely basis with respect to signing open routes and barrens. BLM will continue to work with federal and state agencies, private landowners and other interested stakeholders to resolve resource issues and user conflicts.

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