



DEPARTMENT OF PARKS AND RECREATION
Off-Highway Motor Vehicle Recreation Commission
1725 23rd Street, Suite 200
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(916) 324-5801

June 21, 2011

The Honorable Jeff Bingham
Chair
United States Senate Committee on
Energy and Natural Resources
703 Hart Senate Office Building
Washington, DC 20510

The Honorable Lisa Murkowski
Ranking Member
United States Senate Committee on
Energy and Natural Resources
709 Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
Chair
United States Senate
Subcommittee on Public Lands
and Forests
223 Dirksen Senate Office Building
Washington, DC 20510

The Honorable John Barrasso
Ranking Member
United States Senate
Subcommittee on Public Lands
and Forests
307 Dirksen Senate Office Building
Washington, DC 20510

Dear Chair Bingham, Ranking Member Murkowski, Chair Wyden, and Ranking Member Barrasso,

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.

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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,



Eric Lueder, Chairman
Off-Highway Motor Vehicle Recreation Commission

cc: United States Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands and Forests
Dianne Feinstein, US Senator, California
Barbara Boxer, US Senator, California
Sam Farr, US House of Representatives California
Devin Nunes, US House of Representatives, 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, 28th District
David Valado, California State Assembly, 30th District
Anthony Canella, California State Senate, 12th District
Michael Rubio, California State Senate, 16th 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