

CCMA RMP/EIS Comments  
Attention: Planning Coordinator  
Bureau of Land Management  
Hollister Field Office  
20 Hamilton Court  
Hollister, CA 95023

10 MAR -3 PM 12:42

BURE

Enclosed are some of my comments on the Nov. 2009, Draft RMP/EIS, prepared by the Hollister office of the BLM, for the Clear Creek Management Area.

This is NOT one of my substantive comments:

**For a document that took a year and a half to produce, it is of very poor quality.**

Bruce Brazil  
438 Fairway St.  
Hayward, CA 94544

CCMA RMP/EIS Comments  
Attention: Planning Coordinator  
Bureau of Land Management  
Hollister Field Office  
20 Hamilton Court  
Hollister, CA 95023

The following is my comment on the Nov. 2009, Draft RMP/EIS, prepared by the Hollister office of the BLM, for the Clear Creek Management Area.

The risk characterizations for child exposures has two major flaws:

1. The risk assessment doesn't take into consideration the smaller lung capacity of the child.
2. The risk assessment doesn't take into consideration that a child would not ride the same length of time or distance that an adult would.

**(1) Lung Capacity**

The Draft RMP/EIS relies heavily on the May, 2008, CLEAR CREEK MANAGEMENT AREA ASBESTOS EXPOSURE AND HUMAN HEALTH RISK ASSESSMENT.

This assessment does not take into consideration that the lung capacity of children is less than for an adult. If less air is inhaled, there will be a decreased potential number of fibers inhaled.

Normal adult lung capacity is 3 to 5 liters (3,000 to 5,000 milliliters). Normal lung capacity can be calculated as milliliters of air per kilogram of body weight. The equation for women is 50 to 60 milliliters of air for each kilogram of body weight (55 ml x kg), and for men the equation is 70 milliliters per kilogram of body weight (70 ml x kg). Sometimes the milliliters (or ml) is given in cubic centimeters (or cc). One cc = one ml. (<http://www.madsci.org/posts/archives/2003-04/1050155434.An.r.html>)

Examples of, and not limited to, where children's lung size must be taken into consideration within the DEIS:

Alternatives C, D,

"Limit Access to Serpentine ACEC to visitors over the age of 18."

Page 322

**4.2.1.1 Assumptions**

**Asbestos Exposure Scenarios Under Each Alternative**

The following general principles were used to calculate the human health risk from exposure to asbestos by alternative presented in Tables 4.2-2 to 4.2-10.

1. Risk calculations will be performed for the 30-year adult, 30-year combined (12-year child + 18 year adult), and 12-year child exposures.

**Child Exposures Tend to Be Higher**

Figure 5 shows the ratio between the child and adult samples collected at the same time on the same sampler. With the exception of the camping activity, the majority of child exposures exceeded the exposure recorded for the paired adult sample. In total, the asbestos concentration in the child sample exceeded the concentration in the adult sample 64% of the time.

**(2) Riding Time or Distance**

It cannot be assumed that a person under the age of 18 would ride a motorcycle or ATV the same time or distance as an adult. The younger the child, the shorter the riding time and distance would be expected. Neither the May, 2008, CLEAR CREEK MANAGEMENT AREA ASBESTOS EXPOSURE AND HUMAN HEALTH RISK ASSESSMENT, nor the DEIS have taken that into consideration when doing the risk assessments.

Appendix E, page 21, of the 2006 CCMA ROD, states that:

*Information about the spectrum of visitors to the CCMA is of poor quality. BLM needs much more information about the people who are visiting the Area because their thoughts and opinions about BLM services for the Area can guide resource and recreation management. Also, demographic information from visitors and from nearby residents can help BLM plan better for future changes in recreation management. Another aspect for monitoring is remote sensing with electronic counters to record numbers of vehicles at major entrance points and selected locations. This visitation information is important in understanding recreation use patterns and in developing strategies to address recreation use demand .*

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**Conclusions**

The Draft RMP/EIS has used the findings of the EPA that are not correct due to lack of compensating for the smaller lung capacity of children.

The Draft RMP/EIS does not contain factual data to substantiate that a child would ride an ATV or motorcycle the same time and distance as an adult.

According to 40 CFR 1502.24:

“Methodology and scientific accuracy

Agencies shall insure the professional integrity, **including scientific integrity**, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix.”

**Needed Actions**

All portions of the Draft RMP/EIS that refer to a child's potential health hazard due to potential exposure to chrysotile must be removed or corrected with factual and documented data before the decision is made on the Final ROD/RMP/EIS..

All portions of the Draft RMP/EIS that include age restrictions must be removed or substantiated with factual and documented data before the decision is made on the Final ROD/RMP/EIS..

Thank you for taking the time to consider my comment.

Bruce Brazil

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The following is my comment on the Nov. 2009, Draft RMP/EIS, prepared by the Hollister office of the BLM, for the Clear Creek Management Area.

There is a problem in the Draft RMP/EIS concerning **Waivers of Liability** that must be addressed.

The following three sections of the Draft RMP/EIS, while written differently, state that signed waivers would reduce risk to public health and safety and/or minimize exposure to hazardous materials and airborne asbestos fibers. This is not true. They would not mitigate exposure to hazardous materials and airborne asbestos fibers. They are not part of a HAZARD program. They are part of a legal program. A signed waiver would be to indemnify BLM against risk of tort claims.

**DEIS Page 41**

**HAZ-BG4.** , *Issue supplementary rules to minimize exposure to hazardous materials and airborne asbestos fibers, considering technical and budgetary constraints and overall effectiveness of the human health and safety mitigation measures identified below.*

- **Require signed waivers of liability** to indemnify BLM against risk of tort claims associated with CCMA visitor use and exposure to airborne asbestos fibers.

**DEIS page 86**

**HAZ-BG4.** *Considering technical and budgetary constraints, and overall effectiveness of the human health and safety mitigation measures identified below, issue supplementary rules to minimize exposure to hazardous materials and airborne asbestos fibers.*

- **Require signed waivers of liability** to indemnify BLM against risk of tort claims associated with CCMA visitor use and exposure to airborne asbestos fibers.

**DEIS page 351**

**4.2.6.2 Mitigation**

*Under Alternative B, mitigation measures to reduce risk to public health and safety include restricting authorized land uses, restricting annual visitor use days, making improvement to major routes, voluntary use of personal protective equipment, **requiring visitors to sign waivers of liability**, and taking other corrective action(s) to comply with Federal, State, and local regulations.*

The following section of the Draft RMP/EIS confirms the problem of relating a waiver of liability to reducing risk to public health and safety and/or minimizing exposure to hazardous materials and airborne asbestos fibers.

**Waivers of Liability and Indemnification of Risk**

*During public scoping, authorization of access into the Serpentine ACEC based on signed waivers of liability (i.e. indemnification of risk), was identified as a potential mitigation measure to inform visitors of the health risk associated with exposure to asbestos to determine their own willingness to accept the risk of exposure to asbestos in CCMA. In other words, this measure would allow individuals to “ride at their own risk”, and reflects the preferred approach identified by the majority of the public scoping comments. However, 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. Therefore, 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. Furthermore, these actions 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.*

**Needed Actions**

Statements referring to waivers of liability as a mitigation measure to the risk to public health and safety and/or minimize exposure to hazardous materials and airborne asbestos fibers must be deleted from the Draft RMP/EIS and not included in the Final RMP/EIS and ROD.

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Thank you for considering my comment.

Bruce Brazil

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The following is my comment on the Nov. 2009, Draft RMP/EIS, prepared by the Hollister office of the BLM, for the Clear Creek Management Area.

Some statements, assumptions, and conclusions in the Draft RMP/EIS rely on unsubstantiated visitor statistics from the EPA CLEAR CREEK MANAGEMENT AREA ASBESTOS EXPOSURE AND HUMAN HEALTH RISK ASSESSMENT. In the EPA Assessment, section 5.1.4, it states that:

*Based on national recreational survey data and statements made by CCMA users, the 1992 PTI HRA estimated an RME for the Clear Creek Area of 5 off-road vehicle rides of approximately 5.4 hours in duration per year. Some users indicated that they rode for longer periods and more frequently, so PTI also used a "high estimate" of 12 off-road rides per year.*

The EPA's reliance on the 1992 PTI HRA is flawed for the following reasons:

1. The report is now 18 years old and may not reflect the current status.
2. The national recreational survey data cannot be used because it does not specifically address the CCMA.
3. There is no documentation on the statements made by the CCMA users. There is no documentation defining the CCMA users, such as how many made statements, how old the users were, what sort of recreation they participated in while in the CCMA, or how often they visited the CCMA. To do reliable statistical analysis, valid information is necessary.
4. The statement in the 1992 PTI HRA contradicts the information in the 1991 EPA Superfund ROD which states:

*FOR EXPOSURE TO AIR DURING OFF-ROAD VEHICLE ACTIVITY, IT WAS ASSUMED THAT A 20-YEAR OLD MALE DRIVES FOR THREE HOURS PER DAY, 16 DAYS PER YEAR FOR FIVE YEARS (THE AVERAGE CASE).*

That is in contrast to the 5.4 hours ride duration and 30 years of visits that the EPA used in their CCMA Health Risk Assessment.

*According to 43 CFR 1502.24, Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements.*

The assumptions made in the 1992 PTI HRA are therefore arbitrary and capricious and cannot be relied upon by the EPA when they did their CLEAR CREEK MANAGEMENT AREA ASBESTOS EXPOSURE AND HUMAN HEALTH RISK

ASSESSMENT. Furthermore, the decisions made within the Draft RMP/EIS pertaining to the visitors should not use the information contained in the EPA assessment.

The Hollister office of the BLM has known that they lacked quality information about the spectrum of CCMA visitors.

Appendix E, page 21, of the 2006 CCMA ROD, states that:

*Information about the spectrum of visitors to the CCMA is of poor quality. BLM needs much more information about the people who are visiting the Area because their thoughts and opinions about BLM services for the Area can guide resource and recreation management. Also, demographic information from visitors and from nearby residents can help BLM plan better for future changes in recreation management. Another aspect for monitoring is remote sensing with electronic counters to record numbers of vehicles at major entrance points and selected locations. This visitation information is important in understanding recreation use patterns and in developing strategies to address recreation use demand .*

Since the signing of the 2006 CCMA ROD, the Hollister office of the BLM has had the opportunity to acquire quality information about the spectrum of visitors to the CCMA but has failed to do so.

**NEEDED ACTION**

All entries in the Draft RMP/EIS that were derived from the EPA's Health Risk Assessment about the visitors to the CCMA must be removed and not used in the final ROD and EIS.

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Thank you for taking the time to consider my comment.

Bruce Brazil

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There is conflict in the DEIS in the usage of the Waivers of Liability.

One section of the DEIS (page 352) states that a Waiver of Liability *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*. However, all of the Alternatives except "A" include a Waiver of Liability. While the Waiver of Liability would have not beneficial impact on public health and safety, there must be a reason that the BLM included it in the Alternatives. That reason has not been stated in the DEIS.

**ACTION NEEDED**

A statement for the reason of inclusion of a Waiver of Liability must be included in each of the Alternatives that contain a Waiver of Liability.

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Thank you for taking the time to consider my comment.

Bruce Brazil

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The following is my comment on the Nov. 2009, Draft RMP/EIS, prepared by the Hollister office of the BLM, for the Clear Creek Management Area.

There are two problems in the Draft RMP/EIS that must be addressed.

1. The action of *rock hounding* has not been defined.
2. The action of *rock hounding* has not been studied.

These are problems because:

1. Within the Draft RMP/EIS there are 27 instances of the action *rock hounding*. This action has not been defined in the Draft RMP/EIS. A definition is important to show what would or would not be allowed in any of the Alternatives and/or the Final EIS and Rod. A definition is also needed so that proper testing for potential asbestos exposure levels can be done.

2. The action of *rock hounding* can disturb the soil and puts the person closer to the soil. This action cannot be equated with hiking or hunting. There was no testing by the EPA to show the potential asbestos exposure level for this recreational activity, therefore, no conclusions about the potential asbestos exposure can be made.

43 CFR 1502.24 requires scientific integrity of the discussions and analyses in environmental impact statements. The Draft RMP/EIS has failed to present any analysis of the action of *rock hounding*.

43 CFR 1502.24 Methodology and scientific accuracy

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix

### **Needed actions**

1. A definition of *rock hounding* must be added to the Draft and Final RMP/EIS and ROD.
2. *Rock hounding* must be changed to separate entries in the Draft and Final RMP/EIS and ROD and not grouped with hiking and hunting.
3. Air sampling and analysis while *rock hounding* must be performed to establish its potential health hazard before any conclusions can be entered into the Draft and Final

RMP/EIS and ROD.

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Thank you for taking the time to consider my comment.

Bruce Brazil

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The following is my comment on the Nov. 2009, Draft RMP/EIS, prepared by the Hollister office of the BLM, for the Clear Creek Management Area.

There is a **problem** with the selection of Alt. E as the Preferred Alternative.

Alt E eliminates all motorized recreational use outside of the ACEC and all OHV use in the ACEC.

According to 43 CFR 2410.1 :

(b) All present and potential uses and users of the lands will be taken into consideration. All other things being equal, land classifications will attempt to achieve maximum future uses and **minimum disturbance to or dislocation of existing users.**

Selection of Alt. E would not fulfill the requirements of 43 CFR 2410.1.

Page 522 of the DEIS states:

4.15.2.4 Recreation (and Transportation) Management Actions

Although still an inconsequential level compared to Central Coast and Diablo Range economies, it is likely that some individual businesses, like motorcycle shops in Salinas and Hollister, would continue to rely greatly on OHV recreation activity in CCMA, which currently represents about **80 percent of total use in the CCMA.**

**2005 BLM Hollister Field Office Appendix A  
CCMA Proposed Plan Amendment and Final EIS  
Route Continuity Page 6**

Recreation use of OHV's is the dominant form of recreation in the CCMA.

**Needed Action**

To comply with 43 CFR 2410.1, an alternative that allows recreational OHV use must be selected.

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Thank you for considering my comment.

Bruce Brazil

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There are two (2) **PROBLEMS** with the following section of the Draft RMP/EIS:

**Draft RMP/EIS**  
**1.4 Planning Criteria**  
Page 10

**Consider the extent to which the revised plan reduces accelerated erosion and offsite transport of asbestos fibers on vehicles and clothes due to off-highway vehicle use.**

**Problem 1.**

Erosion and offsite transport of asbestos fibers are two totally unrelated potential problems.

**Problem 2.** There is no proof provided in the Draft RMP/EIS to show that asbestos fibers from the CCMA are being transported offsite on vehicles due to off-highway use.

There are no air quality reports of asbestos fibers from the CCMA being present in the air outside of the CCMA.

There is no report showing asbestos fibers from the CCMA on clothes being transported offsite from the CCMA.

The statements that asbestos fibers are being transported offsite has not been verified. The unverified assumption that asbestos fibers from the CCMA were being transported offsite was used to make decisions on sections of some of the possible Alternatives such as and not limited to the need for public wash racks.

The unverified assumption that asbestos fibers from the CCMA were being transported offsite was used in some of the scenarios of use in the EPA CLEAR CREEK MANAGEMENT AREA ASBESTOS EXPOSURE AND HUMAN HEALTH RISK ASSESSMENT such as and not limited to vehicle cleaning and vacuuming. Therefore some of the conclusions of the EPA report were based on the unverified assumption that asbestos fibers from the CCMA were being transported offsite from the CCMA.

According to 40 CFR 1502.24

**A. Monitoring**

Land use plan monitoring is the process of (1) tracking the implementation of land use planning decisions (implementation monitoring) and (2) collecting data/information necessary to evaluate the effectiveness of land use planning decisions (effectiveness

monitoring). In Appendix C, each resource program identifies desired land use plan decisions.

Effectiveness monitoring is the process of collecting data and information in order to determine whether or not desired outcomes (expressed as goals and objectives in the land use plan) are being met (or progress is being made toward meeting them) as the allowable uses and management actions are being implemented. A monitoring strategy must be developed as part of the land use plan that identifies indicators of change, acceptable thresholds, methodologies, protocols, and timeframes that will be used to evaluate and determine whether or not desired outcomes are being achieved.

:

“Methodology and scientific accuracy”

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. **They shall identify any methodologies used** and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement.

The Draft RMP/EIS failed to identify any methodologies used in making their conclusions that asbestos fibers from the CCMA were being transported offsite from the CCMA.

According to 43 CFR 1610.1

“(8) Intervals and standards for monitoring and evaluating the plan to determine the effectiveness of the plan and the need for amendment or revision.”

In the Draft RMP/EIS, there is no mention of no air samples being taken offsite from the CCMA. Therefore, there is no baseline to determine if changes made within the CCMA would affect the air quality offsite from the CCMA.

According to the **BLM Planning Handbook**, pages 32 & 33:

**A. Monitoring**

“Land use plan monitoring is the process of (1) tracking the implementation of land use planning decisions (implementation monitoring) and (2) collecting data/information necessary to evaluate the effectiveness of land use planning decisions (effectiveness monitoring). In Appendix C, each resource program identifies desired land use plan decisions.

Effectiveness monitoring is the process of collecting data and information in order to determine whether or not desired outcomes (expressed as goals and objectives in the land use plan) are being met (or progress is being made toward meeting them) as the allowable uses and management actions are being implemented. A monitoring strategy must be developed as part of the land use plan that identifies indicators of change, acceptable thresholds, methodologies, protocols, and timeframes that will be used to evaluate and determine whether or not desired outcomes are being achieved.”

## **Needed Actions**

1. Erosion and offsite transport of asbestos fibers must be listed separately in the planning criteria.

2. In the Planning Criteria of the Draft RMP/EIS, it must state that there is no verified data to support the claim that asbestos fibers from the CCMA are being transported offsite from the CCMA.

The Draft RMP/EIS must state that there is no verified data to show a need for a public wash station.

All references in the Draft RMP/EIS to the EPA CLEAR CREEK MANAGEMENT AREA ASBESTOS EXPOSURE AND HUMAN HEALTH RISK ASSESSMENT that are related to the claim that asbestos fibers from the CCMA are being transported offsite from the CCMA, such as and not limited to vehicle cleaning, must either be removed or a statement added to each that no such verification of claims exists.

If the above changes are not made, the Draft RMP/EIS will not meet the requirements of 40 CFR 1502.24, 43 CFR 1610.1, and BLM Planning Handbook section A., Monitoring.

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Thank you for taking the time to consider my comment.

Bruce Brazil

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The following is my comment on the Nov. 2009, Draft RMP/EIS, prepared by the Hollister office of the BLM, for the Clear Creek Management Area.

There are problems on pages 359, 360, 362, 364, 365, 366, 368, 369, and 370 in the sections of **Motorized Vehicle Use Conflicts**.

These sections of the Draft RMP/EIS do not contain any documented evidence of conflicts between motorized vehicles and other forms of recreation.

According to the **BLM Planning Handbook**, pages 32 & 33:

**A. Monitoring**

*“Land use plan monitoring is the process of (1) tracking the implementation of land use planning decisions (implementation monitoring) and (2) collecting data/information necessary to evaluate the effectiveness of land use planning decisions (effectiveness monitoring).”*

With no documented evidence of conflicts between motorized vehicles and other forms of recreation, Monitoring of changes brought about by the plans cannot be done.

This section has only taken one side of the possible mitigation solutions. Restriction of non-motorized recreation must also be considered. According to information in the DEIS, 80% of the recreation in the CCMA was motorized.

**NEEDED ACTION**

The contents in the section of **Motorized Vehicle Use Conflicts** on all pages listed above must be removed if documented evidence of conflicts between motorized vehicles and other forms of recreation cannot be established.

The Hollister office of the BLM must also address as a mitigation possibility, restrictions on non-motorized recreation.

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Thank you for taking the time to consider my comment.

Bruce Brazil

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There is a problem in the Draft RMP/EIS that needs to be resolved. There is no definition of the word "*hunting*".

There are 119 instances of the word *hunting* in the Draft RMP/EIS. There can be many opinions of what constitutes hunting and its application within the Draft RMP/EIS. For some, it is the quest to take game animals. For others, it could be trying to locate an object or place as in geocaching. For the taking of game animals, it could entail either total foot traffic or the scouting of an area by motorized travel. Deer and wild boar have been the main mammals that have been hunted within the CCMA. I have heard that Elk have also moved into the area. Upon a successful hunt, retrieval of any of these mammals would be very difficult without motorized access. It would be a shame to leave a carcass behind because the successful hunter was unable to retrieve it.

**Action needed**

The word *hunting* must be defined in the Draft RMP/EIS to clarify the activities allowed or restricted in the Alternatives and final EIS and ROD.

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Thank you for taking the time to consider my comments.

Bruce Brazil

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Section 4.2.9 **Cumulative Effects**, has nothing to do with cumulative effects.

This section is a dissertation on pneumoconiosis and contains no connection with cumulative effects.

**ACTION NEEDED**

The contents of Section 4.2.9 must be totally removed before any consideration for the final ROD/EIS/RMP is initiated.

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Thank you for taking the time to consider my comment.

Bruce Brazil

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The scarcity of public OHV recreational land was not given adequate consideration in the development of the preferred alternative.

According to the following, it is the responsibility of the Hollister office of the BLM to give adequate consideration to replacement of lost OHV recreational opportunity.

H-1601-1 — LAND USE PLANNING HANDBOOK – (Public)  
Page 22

*i. In developing alternatives, the BLM must consider the relative scarcity of the values involved and the availability of alternative means and sites for realizing those values (43 U.S.C. 1712(c)(6)).*

The Draft RMP/EIS states that approximately 80% of the visitors to the CCMA are there for OHV recreation. The Hollister office of the BLM has the only public lands within 100 miles of the CCMA available for OHV recreation. The emergency closure of the CCMA has impacted the ability of Hollister Hills SVRA to provide OHV recreational opportunity to all that wish to go there. The preferred alternative does not replace ANY of the lost OHV recreational opportunity that would occur if that alternative were enacted.

There are no statements within the Draft RMP/EIS explaining why recreational OHV opportunity that would be lost from the prohibition of recreational OHVs from the ACEC could not be replaced on other areas within the CCMA.

The preferred alternative does not meet the best potential for multiple use.  
H-1601-1 — LAND USE PLANNING HANDBOOK – (Public)  
Page 22

7. Select a preferred alternative

*By evaluating the alternatives in the EIS, the BLM must determine which combination of potential planning decisions contained in the alternatives **best meets multiple and sustained yield mandates of Section 103(c) of FLPMA (43 U.S.C. 1702(c)).** If any one alternative contains the desired combination of potential planning decisions, then that alternative should be identified as the preferred alternative. If the combination of potential planning decisions is drawn from different alternatives, then those potential planning decisions should be compiled into a new alternative (identified as the preferred alternative) and the impacts analyzed accordingly.*

**40 CFR 1508.20 Mitigation.**

(e) Compensating for the impact by replacing or providing substitute resources or environments.

**ACTION NEEDED**

Statements must be included in the Draft RMP/EIS that:

1. Show the amount of recreational OHV opportunity that is available within 100 miles of the CCMA and the impact that each of the alternatives will have on that opportunity.
2. Explain why recreational OHV opportunity in any part of the CCMA was not included in the preferred alternative, or add to the preferred alternative an amount of recreational OHV opportunity similar to what would be lost from the proposed restrictions within the ACEC.

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Thank you for considering my comment.

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A legal boundary for the CCMA Serpentine ACEC does not exist.

In the 1999 CCMA ROD, one of the items to be completed after the signing of the ROD was to formalize the boundaries of the ACEC. Please reference the following two statements from the 1999 CCMA ROD:

1999 ROD

*and to formalize the expanded boundaries of the existing Area of Critical Environmental Concern based upon 1992 soil surveys.*

*17. The re-mapped ACEC will be legally described to reflect serpentine soil mapping surveys. The San Benito Mountain Wilderness Study Area (WSA) will be managed under Interim Management Policy for WSA's until officially designated or dropped.*

The declaration of new boundaries was never entered into the Federal Register. Notification in the Federal Register is a requirement to legally describe the boundaries.

In a document from Timothy Moore to Rick Cooper, dated 03/13/2008 is the following statement by Timothy Moore:

*BLM's EEIS/Record of Decision was signed January 1, 1999 and on page 12, it states, "...The remapped ACEC will be legally described to reflect serpentine soil mapping surveys. However, BLM did not ever complete this task, so the expansion of the 1999 Serpentine ACEC remains undescribed, and was not published in the Federal Register.*

With no legally binding boundaries, all entries concerning the Serpentine ACEC in the CCMA Draft RMP/EIS have no substance. Legal boundaries are necessary to denote where and what type of activities can take place within the CCMA.

#### **ACTION NEEDED**

All entries, references to, or decisions made by use of the boundaries of the Serpentine ACEC must be removed from the Draft ROD/EIS as they must be considered as arbitrary, capricious, and have no legal standing..

All entries, references to, or decisions made by use of the boundaries of the Serpentine ACEC must be removed from consideration when the Final EIS and ROD are produced.

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Thank you for taking the time to consider my comment.

Bruce Brazil