

FRIENDS OF CLEAR CREEK MANAGEMENT AREA

A DIVISION OF CTUC, A 501c3 NON-PROFIT

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Re: Clear Creek Management Area Resource Plan & Environmental Impact Statement (CCMA DRMP/EIS)

Thank you for the opportunity to comment on the Clear Creek Management Area Resource Plan & Environmental Impact Statement (CCMA DRMP/EIS) released on December 4, 2009, in the Federal Register.

Friends of Clear Creek Management Area (FOCCMA) a division of California Trail Users Coalition, a 501c3 non-profit organization, requests that these comments be incorporated as part of the official record of the Clear Creek Management Area Resource Plan & Environmental Impact Statement (CCMA DRMP/EIS) covering the Clear Creek Resource Management Area.

This comment letter does not supplant any of the rights and privileges of our members, associated clubs, businesses, and organizations to submit comments of their own and retain their individual standing.

FOCCMA has over one thousand active members who are environmentally concerned individuals that believe in proper stewardship of land resources by using prudent and planned management strategies for recreational activities on public lands. Our recreational activities include camping, hunting, fishing, hiking, enjoyment of the outdoors, and motorized uses such as recreational driving and off-highway riding. We have been following the planning process for the Clear Creek Management Area (CCMA) since the inception. Our members, affiliated organizations, and the associated business community are all deeply disturbed and disappointed in the direction the BLM and EPA has taken in the management CCMA.

As the growth of off-highway vehicle sales and use has increased by 1500% in the last 5 years in the State of California, the need for increased off-highway areas to accommodate this growth has become more important than ever. And yet, this document proposes to close thousands of acres of land historically used for off-highway recreation, without accurately assessing the cumulative effects of this closure, or analyzing the financial and social ramifications this will have on the off-highway, mining and mineralogical communities.

In summary, Friends of Clear Creek Management Area is in support of the concept of properly managed off-highway recreation on public lands. But we feel the Bureau of Land Management has failed to develop a CCMA DRMP/EIS that utilizes sound science, and the latest available information, technology and data available. The document has also failed to display full and complete disclosure of consequences. And has failed to fully incorporate public input in the development of the document. In our review of the CCMA DRMP/EIS we have found that it is replete with assertions, conclusions, and findings that are not supported by sound science, analysis or the latest data and studies available.

Please reply to Mike Wubbels, Executive Director, Friends of Clear Creek Management Area at: info@focccma.org

Sincerely,

Mike Wubbels
Executive Director
Friends of Clear Creek Management Area

Comment #1

The Clear Creek Management Area Draft Environmental Impact Statement/Draft Resource Management Plan states numerous times that the analysis of public health and safety is “based primarily” on the EPA *Clear Creek Management Area Asbestos Exposure and Human Health Assessment*.

Referring to the following paragraphs:

4.2.2 Limits and Constraints of the Analysis

“The BLM’s analysis of public health and safety in this RMP/EIS is based primarily on *the EPA’s CCMA Asbestos Exposure and Human Health Risk Assessment (2008)*”.

4.2.4.2 CCMA Asbestos Exposure and Human Health Risk Assessment (EPA 2008)

“After the exposure data was collected for the various individual activities, the activities were used to calculate risk for seven CCMA use scenarios. Risk estimate calculations were then conducted for the scenarios. The scenarios were designed to make the risk estimations better reflect the typical activities an individual would participate in during a typical day or weekend visit to CCMA and to provide more useable information to BLM and the public regarding health risk associated with these activities.”

Discussion:

The BLM has omitted a critical piece of information from the Clear Creek Management Area DRMP/DEIS: The Clear Creek Management Area Asbestos Exposure and Human Health Assessment did not achieve the goal of providing BLM with information on asbestos exposures from typical CCMA recreational activities. Instead, the *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* provided the BLM with information of atypical CCMA recreational activities due to the recreational activity exposure calculations being skewed towards dry (summer like) conditions, subsequently the BLM has no data representing “typical” asbestos exposures.

The Clear Creek Management Area Draft Environmental Impact Statement/Draft Resource Management Plan states numerous times that the analysis of public health and safety is “based primarily” on the EPA *Clear Creek Management Area Asbestos Exposure and Human Health Assessment*. The BLM also states that the goal of the EPA’s Assessment was to provide more robust and useable information on asbestos exposures from “typical CCMA recreational activities”.

The Clear Creek Management Area Asbestos Exposure and Human Health Assessment also uses the term “typical” 17 times to describe the goal of their recreational activities exposure assessment.

On October 22, 2004 the Bureau of Land Management and EPA approved a document titled “Sampling and Analysis Plan for Asbestos Air Sampling Clear Creek Management Area San Benito County, California”. (attached see Exhibit D)

The purpose of the *Sampling and Analysis Plan for Asbestos Air Sampling Clear Creek Management Area San Benito County, California*” was to set-fourth Asbestos Air Sampling guidelines and procedures. The Air Sampling was to take place over three different periods, “dry” testing in September, “moist” testing in November and “wet” testing in February.

Per 1.2.2. Purpose *Sampling and Analysis Plan for Asbestos Air Sampling Clear Creek Management Area San Benito County, California* : “The purpose of this task is to prepare a Sampling and Analysis Plan (SAP) for the collection of asbestos fibers from personal space breathing air samples.

Per 1.2.2. Purpose *Sampling and Analysis Plan for Asbestos Air Sampling Clear Creek Management Area San Benito County, California* : “The personal breathing space air samples will be collected such that they reflect typical visitor recreational activities and work activities performed by BLM personnel. The results of the air sampling program will be used to support a subsequent human health risk assessment”.

Table 1 *Sampling and Analysis Plan for Asbestos Air Sampling Clear Creek Management Area San Benito County, California* (shown below) lists the number of Asbestos Air Samples that were to be collected during the three different test periods (three test periods are designated by season dry/moist/wet). Per the *Sampling and Analysis Plan for Asbestos Air Sampling Clear Creek Management Area San Benito County, California* an equal amount of samples from the three testing sessions (labeled as “events”) were to be used as this would better reflect “typical” recreational visitor use, however the actual testing conducted violated this approved plan.

Activity	No. of Events	No. of Samples per Event	Total No. of Samples
Lead motorcycle riding, event = typical day	3 (on three separate days)	2 (20- mile loops)/day	6
Trailing motorcycle, event = typical day	3 (on three separate days)	2 (20-mile loops)/day	6
Trailing motorcycle, event = a typical day	3 (on three separate days)	2 (20-mile loops)/day	6
Lead SUV, event = one road loop	3 ten-mile loops	1	3
Trailing SUV, event = one road loop	3 ten-mile loops	1	3
Lead ATV lead, event = one riding day	3 (on three separate days)	2 (10 mile loops)	6
Trailing ATV, event = one riding day	3 (on three separate days)	2 (10 mile loops)	6
Hiking	2 (on two days)	1	2
Camping	1	1	1
Heavy Maintenance	1	1	1
Light Maintenance	2 (on same day)	1	2
Vehicle Wash with power spray	2 SUV (two days)	1	2
Vehicle Wash with water hose	2 SUV (two days)	1	2
Vehicle vacuum with HEPA	2 SUV (two days)	1	2
Vehicle vacuum without HEPA	2 SUV (two days)	1	2
Ambient Air - 12 hr. samples over 48 hr.	4 (at 3 locations)	1	12
Performance Evaluation	1	1	1
TOTAL NO. SAMPLES			63

The *Sampling and Analysis Plan for Asbestos Air Sampling Clear Creek Management Area San Benito County, California* clearly states that there were to be an equal amount of samples collected during each of the three separate events and that these equal amount of samples were to be used in the final Human Health Risk Assessment, however the actual testing conducted by the EPA did not follow the approved guidelines.

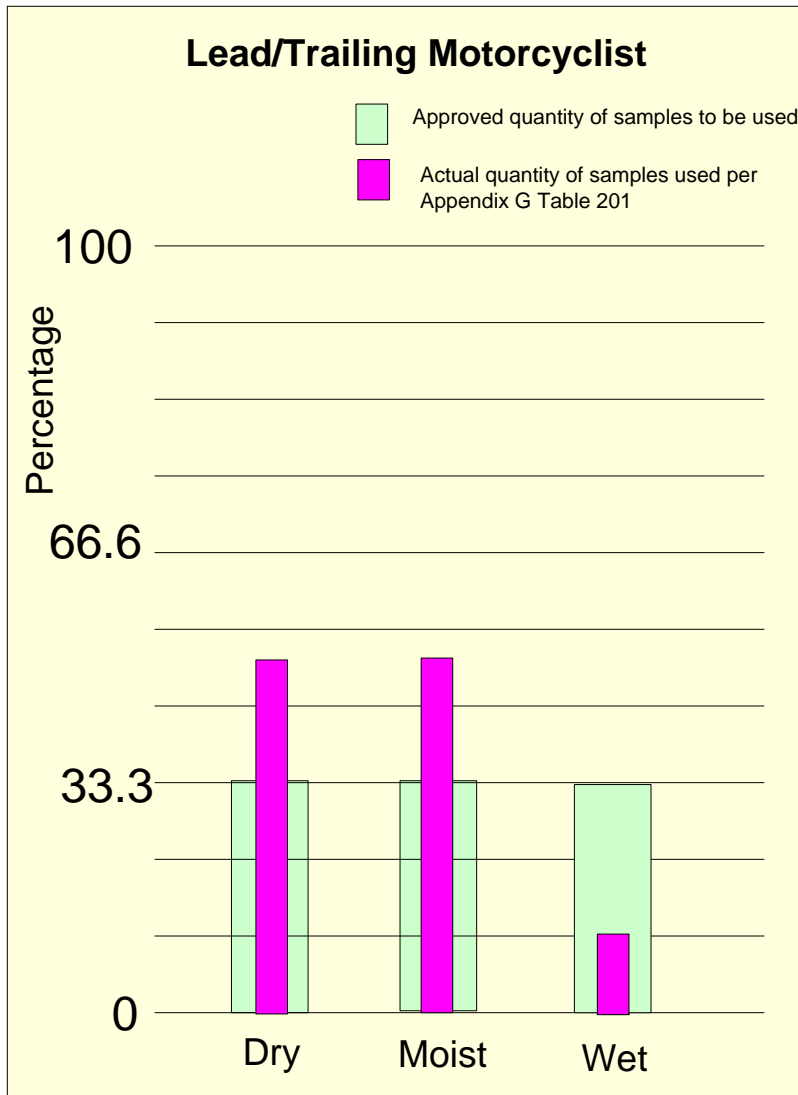
Example of how the *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* did not follow the established guidelines and subsequently did not provide the Bureau of Land Management with data of “typical recreational asbestos exposures”:

Table 1 *Sampling and Analysis Plan for Asbestos Air Sampling Clear Creek Management Area San Benito County, California* states that there were to be a total of 18 samples used for all Motorcyclist calculations (Lead and Trailing Motorcycle Riders combined). The 18 samples were to be made-up of an *equal amount* from each of the three separate Events (dry/moist/wet) in order to represent “typical” recreational asbestos exposures, however this did not happen.

Per **Appendix G Table 201** of the *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* a total of 29 Asbestos Air Samples were used in the Human Health Assessment when calculating Motorcyclist exposures, of the 29, 13 were from the first “event” (moist season), only 3 were from the second “event (wet season) and 10 were from the third testing session (dry season). Furthermore 3 of the 29 samples were from the September 15,2004 “Pilot” testing session.

Per **4.1.1.3** *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* “The September 15, 2004 event was a one-day pilot, intended to test and refine field sampling methods and to gain practical experience with the sampling methods”. Not only was the September 15, 2004 testing experimental in nature, it was not to be included in the final Health Assessment per Table 1 of the *Sampling and Analysis Plan for Asbestos Air Sampling Clear Creek Management Area San Benito County, California*.

Approved quantity of Samples vs. Actual Samples used



This use of an unequal amount of samples (more dry than moist/wet) guaranteed high Asbestos Exposure Data and the subsequent Closure of the Clear Creek Management Area.

Not only did the EPA fail to follow their own guidelines to include an equal amount of samples from the three separate “events” (dry/moist/wet testing sessions), their calculations also included “pilot” data that was collected during a separate fourth event (“dry” season) and that was not intended to be included in the human health assessment. Appendix G, Table 201 of the *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* lists the September 15, 2004 “Pilot Test” data as being used in the final risk calculations.

The use of an unequal amount of samples (more dry than moist/wet) also occurred in calculating all SUV and ATV exposures.

Using more samples from the “dry” season than any other season (moist/wet) nearly guarantees failure being that both the EPA and BLM acknowledge that asbestos exposure levels (dust) are highest during the “dry” season. In fact, the EPA in many of their calculations used more “dry” samples than “moist” and “wet” combined.

Technical Memorandum *Human Health Risk Assessment-Asbestos Air Sampling Clear Creek Management Area, California September 15, 2004* (attached-see **Exhibit A**) states “The dry season is assumed to contribute more asbestos fiber-containing dust to the air, while the wet season is assumed to have comparably less asbestos containing dust in the air. On the other hand more motorcycle riders use the CCMA during the cooler weather wet season.” The *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* also makes similar statements throughout the document.

A BLM Toxicologist sent an electronic message to the BLM on 2/2/2008 after reviewing the Draft EPA *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* expressing his concerns over the dataset being *skewed* towards “dry” and the lack of “moist/wet” samples.

See attached: **Exhibit B**

The Bureau of Land Management Denver Operations Center also remarked about the abundance of “dry” samples and the lack of “moist/wet” samples in an electronic message.

See attached: **Exhibit C**

Skewing- Encarta Dictionary

transitive verb distort something: to misrepresent the true meaning or nature of something

In summary:

The *Sampling and Analysis Plan for Asbestos Air Sampling Clear Creek Management Area San Benito County, California* states that an equal amount of Asbestos Air Samples were to be used from each of the three separate “events (dry, moist and wet testing periods) in order to duplicate “typical recreational asbestos exposures”.

The EPA failed to follow these approved guidelines and complete this task.

The Clear Creek Management Area DRMP/DEIS and the CCMA Asbestos Exposure and Human Health Risk Assessment also state nearly 20 times that the goal of the Asbestos Air Sampling was to duplicate “typical recreational exposures”.

The EPA failed to follow these approved guidelines and complete this task.

Subsequently the *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* provided data to the BLM of *atypical* visitor use being that the asbestos exposure data was not collected per the approved guidelines and subsequently an inordinate amount of samples from the third “event” (dry session) were collected and used in the Human Health Risk Assessment, furthermore “pilot” test data was also included in the final calculations.

Conclusion:

The *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* did not provide the Bureau of Land Management with any asbestos exposure data representative of “typical recreation” (their goal) within the Clear Creek Management Area, therefore the Bureau of Land Management has no data, information or reason to base a closure on. Subsequently the Clear Creek Management Area must remain “open” to all public use.

The Bureau of Land Management must adopt **Alternative A** (no change) as the final Alternative being that the Bureau of Land Management has not data representing typical recreational exposures to naturally occurring asbestos within the Clear Creek Management Area.

Comment # 2

Referring to the following paragraphs:

Page ES-1 Executive Summary

“In 2004, as part of the process of evaluating the Atlas site for possible delisting from the federal National Priorities List, EPA Region 9 initiated an asbestos exposure and human health risk assessment for the CCMA. The goal of the assessment was to use current asbestos sampling and analytical techniques to update the 1992 BLM Human Health Risk Assessment and provide more robust information to BLM on the asbestos exposures from typical CCMA recreational activities and the excess lifetime cancer risks associated with those exposures. The assessment was conducted consistent with U.S. EPA policy and guidance, including the Risk Assessment Guidance for Superfund (RAGS) (EPA/540/1-89/002), and with the encouragement of the California Air Resources Board (CARB) and the California Department of Toxic Substances Control (DTSC). Data for the exposure assessment was collected using activity-based sampling, simulating typical CCMA recreational activities and collecting samples from the breathing zone of participants, and the samples were analyzed using transmission electron microscopy (TEM). In addition, as families are frequent visitors to CCMA, the assessment evaluated exposures and risks to children (using adult samplers), as well as adults.”

4.2.2 Limits and Constraints of the Analysis

“The BLM’s analysis of public health and safety in this RMP/EIS is based primarily on *the EPA’s CCMA Asbestos Exposure and Human Health Risk Assessment (2008)*”.

4.2.4.2 CCMA Asbestos Exposure and Human Health Risk Assessment (EPA 2008)

“After the exposure data was collected for the various individual activities, the activities were used to calculate risk for seven CCMA use scenarios. Risk estimate calculations were then conducted for the scenarios. The scenarios were designed to make the risk estimations better reflect the typical activities an individual would participate in during a typical day or weekend visit to CCMA and to provide more useable information to BLM and the public regarding health risk associated with these activities.”

Discussion:

Within these three paragraphs the BLM states that the Clear Creek Management Area EIS/RMP analysis of public health and safety is “based primarily” on the EPA *Clear Creek Management Area Asbestos Exposure and Human Health Assessment*. The BLM also states that the goal of the EPA’s Assessment was to provide more robust and useable information on asbestos exposures from “typical CCMA recreational activities”. *The Clear Creek Management Area Asbestos Exposure and Human Health Assessment* also uses the term “typical” 17 times to describe the goal of their recreational activities exposure assessment.

The BLM has omitted a critical piece of information from the Clear Creek Management Area DRMP/DEIS: The Clear Creek Management Area Asbestos Exposure and Human Health Assessment did not achieve the goal of providing BLM with information on asbestos exposures from typical CCMA recreational activities. Instead, the *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* provided the BLM with information of atypical CCMA recreational activities due to the EPA data collection taking place on routes that had recently been altered by the Bureau of Land Management and/or the EPA in a manner that guaranteed high asbestos exposure levels.

The following four Photographs were taken by the EPA during the September 2005 testing session on the actual Routes that were used by the EPA during all of the Motorized Recreational Activity (Motorcycle, ATV, SUV) Asbestos Exposure Testing.

See attached: Exhibit H Actual Photograph Locations and EPA testing routes

Photograph 1



Photograph 2



Photograph 3



Per the Bureau of Land Management, the Bureau of Land Management conducted “grading” or “dragging” activities on this route just prior to the September 2005 EPA testing. Notice the “fresh” and or recent Bulldozer track in the lower left corner of the picture. Also notice the several parallel lines following the general path of the road, the appearance of these lines are consistent with the appearance of a road that had been “dragged” by a Bulldozer.

Photograph 1



Fresh Bulldozer Track

Blade scrape

Photograph 2



Car/Truck Tire Markings

Fresh Bulldozer Track

In the lower left corner of Photograph 2 there is a Bulldozer Track that appears to be relatively new. Also there are several Car/Truck Tire Markings that also appear new however these marking do not go over the Bulldozer Track, instead the Bulldozer Track goes over the markings indicating that the Bulldozer Track is even newer than the Car/Tire Tracks.

It is highly unlikely that the Car/Tire Tracks were created before the September 2005 testing being that the Clear Creek Management Area was under a temporary “dry season” closure when this photograph was taken. Or in other words, when this photograph was taken it was illegal for any member of the Public to be on BLM land within the Clear Creek Management Area

Photograph 3



Photograph 3 (zoomed-in on Bulldozer Markings)



Photograph 4



Photograph 4 (zoomed-in on Bulldozer Markings)



Per the Bureau of Land Management the route shown in Photographs 1, 2, 3 and 4, were “dragged” by a Bureau of Land Management Bulldozer immediately prior to the EPA testing in September 2005.

“Dragging” is a term commonly used to describe when a Bulldozer operates in reverse and drags its main-blade behind in an effort to smooth out a road/route by increasing the amount of loose soil and moving the loose soil to fill in “ruts” or “holes” in the road. This procedure is common to road/route maintenance throughout the Nation however it is not common for this procedure to be conducted when soils are dry due to the soil being difficult to “sculpt” or “non-pliable”. “Dragging” is typically not conducted during dry conditions due to the creation of excessive amounts of loose soil and the subsequent *excessive* dust created by travel over the road/route following the procedure.

Per the Land Manager of the Hollister Field Office of the Bureau of Land Management no road/route maintenance activities occur during the dry summer/fall months in the Clear Creek Management Area due to increased dust production

See Attached: Exhibit E

4.2.2.4 Estimates of Asbestos Emissions Reductions, Cost, Effectiveness, and Feasibility of Mitigation Measures of the Clear Creek Management Area Draft Resource Management Plan/Draft Environmental Statement references a EPA report titled “ *A study of Airborne Asbestos from a Serpentine Road in Garden Valley, California*” when describing effects of dust production on a road/route that is covered with Serpentine and/or Naturally Occurring Asbestos. The majority of the Routes within the Clear Creek Management Area are covered/contain Serpentine and/or Naturally Occurring Asbestos (NOA).

Page 26 of the EPA report titled “ *A study of Airborne Asbestos from a Serpentine Road in Garden Valley, California*” clearly indicates that activities that disturb the soil may increase Naturally Occurring Asbestos (NOA) emissions into the air.
(attached-see Exhibit F)

“Other activities, particularly if they occur on or near roads, driveways or walkways that are surfaced with materials that contain NOA, may result in release of NOA to air. Rototilling, lawn mowing, clearing vegetation, digging and recreational activities in areas that contain NOA or are secondarily impacted by NOA emissions may resulting release of NOA fibers and potential increased exposure over ambient conditions.

Certainly a Bulldozer “dragging” or modifying the surface of road within the Clear Creek Management Area would increase dust production and subsequent asbestos exposure concentrations.

In summary:

The Clear Creek Management Area Draft Resource Management Plan/Draft Environmental Statement states in 11 different locations that the goal of the EPA's Assessment was to provide more robust and useable information on asbestos exposures from "typical CCMA recreational activities". *The Clear Creek Management Area Asbestos Exposure and Human Health Assessment* also uses the term "typical" 17 times to describe the goal of their recreational activities exposure assessment.

The Land Manager of the Hollister Field Office The of the Bureau of Land Management has indicated that road/route maintenance during the dry summer/fall months within the Clear Creek Management Area does not occur, in fact the Bureau of Land Management may have policies in place prohibiting such an act.

The September 2005 EPA testing took place on routes that had recently been "dragged" which is not "typical" for any route within the Clear Creek Management Area during the dry season.

The Bureau of Land Managements intent by "Dragging" the very routes that the EPA testing was scheduled to be conducted on is questionable, and to this date the Bureau of Land Management has only acknowledged that this activity was outside their normal operating procedures.

The September 2005 EPA testing did not achieve the goal of providing asbestos exposure data of "typical" Clear Creek recreational activities, subsequently the Bureau of Land Management has included "atypical" asbestos exposure data.

Conclusion:

All of the Routes that the EPA used in the Motorized Recreational Exposure Testing (to be used in the Asbestos Exposure and Human Health Assessment) were manipulated by a Federal Agency in a way that guaranteed high Asbestos Exposure Levels and subsequent failure.

The BLM must remove all references of the *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* from the Clear Creek Management Area Draft Resource Management Plan/Draft Environmental Statement.

Comment #3

Referring to the following paragraph:

4.2.4.2 CCMA Asbestos Exposure and Human Health Risk Assessment (EPA 2008)

“After the exposure data was collected for the various individual activities, the activities were used to calculate risk for seven CCMA use scenarios. Risk estimate calculations were then conducted for the scenarios. The scenarios were designed to make the risk estimations better reflect the typical activities an individual would participate in during a typical day or weekend visit to CCMA and to provide more useable information to BLM and the public regarding health risk associated with these activities.”

Discussion:

The Seven Alternatives included in the Clear Creek Management Area Draft Environmental Impact Statement/Draft Resource Management Plan do not include any Motorized Recreation (OHV) within the Clear Creek Management Area during the “Dry Season” therefore the Human Health Risk Calculations cannot include any data collected during the “Dry Season” (CEQ Regulations 1502.21 and 1508.25).

Conclusion:

The Clear Creek Management Area Asbestos Exposure and Human Health Assessment includes data collected during the “Dry Season”, therefore the BLM must remove all references to the *Clear Creek Management Area Asbestos Exposure and Human Health Assessment* from the Clear Creek Management Area Draft Resource Management Plan/Draft Environmental Statement.

References:

Clear Creek Management Area Asbestos Exposure and Human Health Assessment

Technical Memorandum Human Health Risk Assessment-Asbestos Air Sampling Clear Creek Management Area, California September 15, 2004

Sampling and Analysis Plan for Asbestos Air Sampling Clear Creek Management Area San Benito County, California

Electronic document from Karl Ford to multiple employees of the BLM

Electronic document from the Denver Operations Center of the BLM to the EPA

Merriam-Webster Dictionary

Encarta Dictionary