OHMVR COMMISSION MEETING
Victorville, CA 92392

May 2, 2014

STAFF REPORT: BLM Clear Creek Management Area

STAFF: Dan Canfield, Planning Manager

SUBJECT: BLM Clear Creek Management Area
Resource Management Plan Record of Decision

Summary

On February 12, 2014, the Bureau of Land Management (BLM) Hollister Field Office published the Clear Creek Management Area (CCMA) Resource Management Plan (RMP) Record of Decision (ROD).

The CCMA RMP ROD eliminates Off-Highway Vehicle (OHV) Recreation from the 30,000 acre Serpentine Area of Critical Environmental Concern (ACEC) within the CCMA. Highway licensed vehicles will be allowed in the Serpentine ACEC with travel restricted to a designated vehicle touring route. Public access to the Serpentine ACEC is allowed by permit only with vehicle touring limited to five days per year and pedestrian access limited to twelve days per year. The ROD does provide limited OHV recreation opportunities for ATVs and ROVs in portions of the CCMA outside the Serpentine ACEC.

At the February 28, 2014, OHMVR Commission meeting, the Commission voted unanimously to submit a letter to the BLM appealing the CCMA RMP ROD. On March 13, 2014, the Commission appeal letter was submitted to the BLM (see Attachment 1).

On April 3, 2014, an OHMVR Commission Committee (Pérez and Cabral) visited the CCMA and toured the Serpentine ACEC as well as the portions of CCMA outside the Serpentine ACEC.

Discussion

The CCMA was a popular OHV recreation area administered by the Hollister Field Office of the BLM. Located in the Diablo Mountains of Central California, the CCMA spans parts of southern San Benito County and western Fresno County. The CCMA is comprised of approximately 75,600 acres. In 1984, the BLM designated approximately

30,000 acres within the CCMA as the Serpentine ACEC. The majority of CCMA OHV routes lie within the Serpentine ACEC.

In May 2008, the BLM temporarily closed the CCMA based on health concerns related to naturally occurring asbestos (NOA) identified in a 2008 study conducted by the Region 9 office of the U.S. Environmental Protection Agency (EPA Region 9). The EPA Region 9 findings were presented in a May 2008 risk assessment study entitled, “Clear Creek Management Area Asbestos Exposure and Human Health Risk Assessment.” The EPA Region 9 study stated that the NOA inhalation health risks to individuals participating in various recreational activities, including OHV recreation, were “of concern.” The February 2014 CCMA RMP ROD reopened the Serpentine ACEC to limited public access but excludes OHV recreation from the Serpentine ACEC.

Commission Action

For information only

Attachments

Attachment 1: OHMVR Commission Appeal Letter

State of California • The Natural Resources Agency
OFF-HIGHWAY MOTOR VEHICLE RECREATION COMMISSION

COMMISSION MEMBERS
Paul Slavik, *Chair*
Diana Pérez, *Vice Chair*
Ted Cabral
Breene Kerr
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March 13, 2014

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Subject: Appeal of BLM Clear Creek Resource Management Plan Record of Decision

Agency/Docket Number:
L1610000.PQ0000/LLCAC09000
Document Number:
2014-02799

NOTICE OF APPEAL

This letter should serve as official Notice of Appeal pursuant to Title 43: Code of Federal Regulations (CFR), Part 4, for the Bureau of Land Management (BLM) Clear Creek Management Area (CCMA) Resources Management Plan (RMP) Record of Decision (ROD).

California State Parks, Off-Highway Motor Vehicle Recreation (OHMVR) Commission, at its February 28, 2014 meeting, received a report from the BLM Central California District Manager on the CCMA RMP/ROD. The OHMVR Commission subsequently unanimously voted to appeal the BLM CCMA ROD.

STATEMENT OF STANDING

Pursuant to Title 43 CFR, 4.410(b) The OHMVR Commission has standing to issue this appeal:

> §4.410 Who may appeal.
>
> (b) A party to a case, as set forth in paragraph (a) of this section, is one who has taken action that is the subject of the decision on appeal, is the object of that decision, or has otherwise participated in the process leading to the decision under appeal, e.g., by filing a mining claim or application for use of public lands, by commenting on an environmental document, or by filing a protest to a proposed action.

The OHMVR Commission commented on the CCMA RMP Environmental Impact Statement (EIS) and filed a protest against the proposed CCMA RMP thus establishing standing to appeal. The EIS comment letter and RMP protest letter are attached.

STATEMENT OF REASONS

The OHMVR Commission appeals the TRANS-E3.5. Implementation Decision from the CCMA ROD.

1. **TRANS-E3.5. Implementation Decision**: Vehicle use in the Tucker, Condon, Cantua, and San Benito River Zones would be limited to highway licensed vehicles and ATV/UTV use only on designated routes (including potential routes and route construction proposals) identified on the Proposed Action Map in Appendix I.

This decision will allow highway licensed motorcycles (e.g. dual sport motorcycles) and off highway licensed All-Terrain Vehicles (ATVs) and Recreation Off-Highway Vehicles (ROVs) as defined by the California Vehicle Code (CVC 111 and CVC 500) on routes/trails at CCMA outside the Serpentine ACEC but prohibit off-highway licensed motorcycles (OHMs) from those same routes/trails.

Dual sport motorcycles have a similar wheelbase, tire surface and engine capacity to OHMs. ATVs and ROVs, which are to be allowed on Clear Creek routes/trails, require highway licensed tow vehicles to provide transport to the BLM facility, and sufficient areas to park and unload. Given the wider wheelbase associated with ATVs and ROVs, a wider larger unloading area and associated route system will be needed as compared with that off OHMs. OHMs would certainly be able to utilize the same parking/unloading areas and routes/trails of the larger ATVs and ROVs.

This decision to allow dual sport motorcycles and ATVS/ROVs but prohibit OHMs is inconsistent with OHV management practices employed by the BLM statewide and appears to be an arbitrary and unreasonable decision. The OHMVR Commission appeals this Implementation Decision and requests that OHMs be included along with ATVs and ROVs as allowed vehicles.

Additionally, The OHMVR Commission appeals the following Decisions from the CCMA ROD.

2.

REC-USE-D4. Land Use Plan Decision: Manage the Condon Zone with an emphasis on enhancing hunting opportunity and other non-motorized recreation opportunities, while providing for limited motorized opportunities.

REC-USE-E1. Implementation Decision: Provide motorized access on designated routes in the Serpentine ACEC for highway-licensed vehicles only.

REC-USE-E3. Land Use Plan Decision: Manage the Tucker and Cantua Zones with an emphasis on enhancing hunting opportunity and providing access for other non-motorized recreation opportunities.

REC-USE-E4. Implementation Decision: Improve access and enhance facilities (i.e. trails, designated camp sites, staging areas) to support non-motorized recreation opportunities in the Cantua Zone.

These decisions, taken as a whole, systematically eliminate or ignore opportunity for OHM recreation, the segment of the outdoor recreation community suffering the most from loss of opportunity in the Serpentine ACEC portion of CCMA. These decisions appear to be contrary to the BLM's multiple-use mission. The OHMVR Commission appeals these Decisions and requests that opportunities for OHM recreation at CCMA, outside the Serpentine ACEC, be improved and enhanced along with the other outdoor recreation options identified in these decisions.

Thank you for the opportunity to file this appeal.

Sincerely,

Paul J. Slavik

Paul Slavik, Chair
OHMVR Commission

cc: Major General Anthony L. Jackson, USMC (Ret) Director
Christopher Conlin, OHMVR Division Deputy Director

Attachments