

# Committee on Natural Resources

Rob Bishop, Chairman  
Markup Memorandum

June 20, 2017

To: All Natural Resources Committee Members

From: Majority Committee Staff, Aniela Butler  
Subcommittee on Federal Lands, (x6-7736)

Markup: **H.R. 1913 (Rep. Jimmy Panetta)**, To establish the Clear Creek National Recreation Area in San Benito and Fresno Counties, California, to designate the Joaquin Rocks Wilderness in such counties, and for other purposes.  
**June 22 & 27, 2017; 1324 Longworth HOB.**

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## **H.R. 1913 (Rep. Jimmy Panetta), “Clear Creek National Recreation Area and Conservation Act”**

### **Summary of the Bill**

H.R. 1913, introduced by Rep. Jimmy Panetta (D-CA-20), is a bipartisan bill that designates approximately 63,000 acres of land in California known as the Clear Creek Management Area as the “Clear Creek National Recreation Area” (CCNRA); designates approximately 21,000 acres of land adjacent to the CCMA as the “Joaquin Rocks Wilderness”; and releases the 1,500-acre San Benito Wilderness Study Area back into multiple-use.

### **Cosponsors**

Rep. Paul Cook (R-CA-08), Rep. Jeff Denham (R-CA-10), and Rep. David Valadao (R-CA-21)

### **Background**

In 2008, the U.S. Environmental Protection Agency found that naturally occurring asbestos (NOA) in the Clear Creek Management Area’s (CCMA) serpentine soils posed a significant public health risk, particularly to off-highway vehicle (OHV) users.<sup>1</sup> Later that year, the Bureau of Land Management (BLM) temporarily closed the CCMA and initiated a process to develop a long-term Resource Management Plan (RMP) governing recreational uses in the area. In 2014, BLM issued a Record of Decision for a RMP that closed the 30,000-acre Serpentine Area of Critical Environmental Concern (ACEC), once considered a premiere OHV recreational

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<sup>1</sup> United States Environmental Protection Agency, “U.S. EPA Risk Assessment: Clear Creek Management Area Asbestos Increases Long-Term Cancer Risk”, 04/30/2008, <https://yosemite.epa.gov/opa/admpress.nsf/1ef7cd36224b565785257359003f533f/8fa475ab3f99c22a8525743b007d88d1!OpenDocument>

site within the CCMA, to all OHV use.<sup>2</sup> In 2010, the State of California’s Off Highway Motor Vehicle Recreation Division commissioned an independent risk assessment of NOA exposure within the Serpentine ACEC of the CCMA. This report, completed by the International Environmental Research Foundation, found a minimal health risk to OHV users from exposure to NOA in the CCMA.<sup>3</sup> Citing this report, local communities and OHV groups urged BLM to re-open the area to recreational use and develop a management strategy to properly mitigate the exposure of higher than acceptable levels of NOA and resultant risks to human health.

H.R. 1913 requires BLM to re-open and re-designate the CCMA as the Clear Creek National Recreation Area (CCNRA). The bill also mandates the development of a permanent RMP, in consultation with appropriate stakeholders, that specifically includes a hazards education program to inform visitors about NOA exposure and its associated health risks; creates a user fee program for motorized vehicle use and guidelines for the use of funds collected for the management and improvement of the CCNRA; designates trails, roads, and other areas for OHV use to provide a substantially-similar recreational experience prior to the closure of the CCMA; incorporates appropriate decisions from prior applicable management, activity, or wildlife habitat management plans; uses information gathered under studies of land within the CCNRA; and allows the Secretary of the Interior to enter into cooperative agreements with State or local government agencies to manage all or a portion of the recreational activities within the CCNRA. In addition, the bill also designates approximately 21,000 acres of adjacent land as the “Joaquin Rocks Wilderness Area” and releases approximately 1,500 acres known as the San Benito Wilderness Study Area back into multiple-use.

During the 114<sup>th</sup> Congress, a similar version of this bill, H.R. 1838, introduced by retired Rep. Sam Farr, passed the House by voice vote.

## **Major Provisions of the Bill**

### **Section 1: Short Title**

### **Section 2: Definitions**

### **Section 3: Establishment of Clear Creek National Recreation Area**

- Designates approximately 63,000 acres in California as the “Clear Creek National Recreation Area”

### **Section 4: Management**

- Directs the Secretary of the Interior to prioritize environmentally responsible OHV recreation; facilitate hunting, hiking, gem collecting, and the use of motorized vehicles,

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<sup>2</sup> Bureau of Land Management, “Clear Creek Management Area Proposed RMP/Final EIS”, 02/12/2014, <https://eplanning.blm.gov/epl-front-office/eplanning/legacyProjectSite.do?methodName=renderLegacyProjectSite&projectId=68803>

<sup>3</sup> International Environmental Research Foundation, “Preliminary Analysis of the Asbestos Exposures Associated with Motorcycle Riding and Hiking in the Clear Creek Management Area (CCMA) San Benito County, California”, March 8, 2011, [http://ohv.parks.ca.gov/pages/1140/files/ierf\\_ccma\\_final\\_3\\_8\\_11-web.pdf](http://ohv.parks.ca.gov/pages/1140/files/ierf_ccma_final_3_8_11-web.pdf)

mountain bikes and horses; issue special recreation permits for motorized and non-motorized events in the CCNRA; and reopen the CCNRA for recreational uses, particularly OHV recreation;

- Allows the Secretary of the Interior to manage the CCNRA in accordance with the 2006 Clear Creek Management Area RMP Amendment and Route Designation Record of Decision, along with additional natural resource protection information not available in 2006, pending the completion of a permanent RMP;
- Directs the Secretary of the Interior to complete a comprehensive RMP, in consultation with appropriate stakeholders, that specifically includes a hazards education program to inform visitors about NOA exposure and its associated health risks; creates a user fee program for motorized vehicle use and guidelines for the use of funds collected for the management and improvement of the CCNRA; designates trails, roads, and other areas for OHV use to provide a substantially-similar recreational experience prior to the closure of the CCMA; incorporates appropriate decisions from prior applicable management, activity, or wildlife habitat management plans; uses information gathered under studies of land within the CCNRA; and allows the Secretary of the Interior to enter into cooperative agreements with State or local government agencies to manage all or a portion of the recreational activities within the CCNRA; and
- Exempts the management of the CCNRA from the National Oil and Hazardous Substances Pollution Contingency Plan

#### **Section 5: Joaquin Rocks Wilderness**

- Designates approximately 21,000 acres of land in Fresno and San Benito Counties as the “Joaquin Rocks Wilderness Area”

#### **Section 6: Release of San Benito Mountain Wilderness Study Area**

- Releases approximately 1,500 acres known as the San Benito Wilderness Study Area back into multiple-use

#### **Section 7: Clarification Regarding Funding**

- Specifies that nothing in the Act authorizes funding to carry out the requirements of the Act

#### **Cost**

A Congressional Budget Office cost estimate has not yet been completed for this bill. However, the Congressional Budget Office estimated that a similar version of this bill introduced during the 114<sup>th</sup> Congress would cost \$5 million over a 5 year period.<sup>4</sup>

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<sup>4</sup> House Report 114-585 – Clear Creek National Recreation Area and Conservation Act.

### **Administration Position**

The administration position is unknown during this time. However, during testimony during the previous Congress at a Subcommittee on Federal Lands legislative hearing, BLM conveyed general support for the conservation designations in the bill but relayed concerns that changes in management could increase the exposure of public land users and employees to NOA.<sup>5</sup>

### **Anticipated Amendments**

None.

### **Effect on Current Law (Ramseyer)**

None.

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<sup>5</sup> Statement of Kristin Bail, Assistant Director, National Landscape Conservation System & Community Partnerships, Bureau of Land Management, Department of the Interior, before the House Natural Resources Committee, Subcommittee on Federal Lands on H.R. 1838, Clear Creek National Recreation Area & Conservation Act. December 9, 2015.