

**Testimony of Congressman Sam Farr**  
H.R. 1838, the Clear Creek National Recreation Area  
and Conservation Act  
House Natural Resources Committee  
Subcommittee on Public Lands and Environmental Regulations

Mr. Chairman, members of the Subcommittee, thank you for this opportunity to speak to you about H.R. 1838, the Clear Creek National Recreation Area and Conservation Act and I want to thank you for your co sponsorship of the previous version of H.R. 1838. I also want to thank our colleagues Mr. Valadao and Mr. Denham for joining me as original cosponsors, as well as, our southern California colleague, Mr. Paul Cook as a cosponsor. This bill truly represents a bipartisan collaboration and I am proud to have them join me in working to advance this modest bill.

H.R. 1838 protects and enhances in three ways the public's access to and enjoyment of some of the unique public lands managed by the Bureau of Land Management (BLM) in Central California. First, the bill re-designates the Clear Creek Management Area (CCMA) as the Clear Creek National Recreation Area (CCNRA) and reopens it to off road vehicle (OHV) recreation. Second, the bill designates the adjacent Joaquin Rocks landscape as wilderness and finally designates 5 BLM identified streams in the area as National Wild & Scenic Rivers.

These actions together encapsulate the efforts of both the OHV community and California's wilderness advocates and ensures that this legislation has a broad base of support from the community and local electeds. I would now like to take the opportunity to describe these three facets of the bill in more detail.

### **Clear Creek**

The Clear Creek stream gives its name to approximately 65,000 acres of mountainous land managed by the BLM that lies in the Diablo Mountains between the coastal Salinas Valley and California's great inland Central Valley. Designated by the BLM as the CCMA, this area includes a significant concentration of serpentine rock at the surface which leaves many stretches of open barren slope ideally suited to OHV recreation. BLM recognized this and managed approximately 30,000 acres of the CCMA for public OHV recreational use. As OHV recreation grew in popularity through the 1960s, 70s, and 80s, Clear Creek became a haven for dirt bike enthusiasts and others drawn to its open spaces and challenging terrain. By 2005, annual use had grown to over 35,000 visitors, including hikers, campers, hunters, rock collectors, but primarily OHV users.

In 2008, the U.S. Environmental Protection Agency (EPA) released a study that concluded the naturally occurring asbestos prevalent in the CCMA's serpentine soils posed an unacceptable cancer risk to members of the public, especially OHV users, recreating within its boundaries. People familiar with the CCMA area had long understood that its serpentine rock

contained uncommon concentrations of asbestos. Indeed, throughout the 1960s and 70s, the Atlas Asbestos Company operated an asbestos mine in the CCMA. In 1984, the BLM designated approximately 31, 000 acres within the CCMA that had the highest concentrations of serpentine soils as the Clear Creek Serpentine Area of Critical Environmental Concern (ACEC).

In the years leading up to 2008, BLM increasingly had taken measures to minimize the recreating public's asbestos exposure. However, until the EPA's report, the BLM lacked any clear quantification of the risks associated with OHV use. With those risk numbers at hand, BLM leadership felt that it could no longer permit the OHV and other uses that it had up to that point. So on May 1<sup>st</sup>, 2008, BLM issues a temporary closure order for the CCMA and initiated the National Environmental Policy Act (NEPA) process to reach a decision on a long term plan. In February of this year, the BLM completed that process with the release of its final Record of Decision for the CCMA. That decision allows limited public access to but makes permanent the 2008 ban on OHV use within the CCMA.

The 2008 closure sparked an intense outcry from the OHV community. Obviously, people resented losing access to one of the premier OHV locations in the western United States and one at which many of them had been riding at for years. The surrounding communities felt the loss of visitor income when people stopped traveling to Clear Creek. BLM's public meeting on the subject of the closure regularly drew hundreds of people. Many argued that the EPA's study over sampled the amount of asbestos an OHV user would typically be exposed to riding at Clear Creek. In 2011, the State of California Department of Parks and Recreation's Off-Highway Motor Vehicle Recreation Commission even sponsored an alternative analysis of EPA's data that concluded the health risk to OHV use in the CCMA was far less than that identified by EPA.

H.R. 1776 stands for the proposition that the Americans ought to have a greater degree of freedom in judging the risks that they can accept while recreating on our public lands. I have no doubt that riding a motorcycle at Clear Creek is risky and that riders face additional risks from asbestos exposure. And I do not question the good intentions of BLM's leadership in making the management decisions that they did in the face of the health risks outlined by EPA. It was an understandable reaction in today's risk adverse world. But should we banish all risk from public lands recreation? Hunting, skiing, rock climbing, mountaineering, diving, boating, surfing, kayaking, and any number of other outdoor sports pose risks. In some cases, people lose their lives or suffer serious injury while engaged in one of these recreational activities. Provided the risk is not so overwhelming and the person recreating knows the nature and magnitude of the risk, the federal government ought not to substitute its own judgment in place of the individual knowingly taking on the risk.

H.R. 1776 establishes the CCMA as the Clear Creek National Recreation Area (CCNRA). It directs the BLM to reopen the CCNRA to of OHV recreation. It provides for BLM to reuse its 2006 route plan developed prior to the 2008 shutdown on an interim basis

while it develops a long term plan. Within these parameters, the bill provides BLM the broad discretion to implement measures to minimize the recreating public's exposure to asbestos. It also gives the BLM the authority to levy a recreational user fee and apply the proceeds to the management of OHV recreation at CCNRA and to contract with qualified state or local government agencies to manage all or a portion of the CCNRA's recreational activities. Finally, the bill requires an extensive public information effort to fully inform people recreating within the CCNRA of all known and suspected asbestos related health risks associated with recreation within the CCNRA.

### **Joaquin Rocks Wilderness and Wild and Scenic Rivers Designation**

Just to the east of the Clear Creek Management Area and wholly outside the traditional OHV riding areas lays a little known natural wonder called the Joaquin Rocks. H.R. 1776 would designate approximately 21,000 acres of this feature and the surrounding ridgeline as federal wilderness all which is located entirely on Bureau of Land Management administered lands in the southern Diablo Range

The area takes its name from the legendary Joaquin Murieta, believed by some to be a heroic figure in early California and an outlaw by others. The Joaquin Rocks are said to have provided a secluded hiding place for him and his band during the 1850s. The area also shows archeological evidence of past Native American occupation. Rising up over 4,000 feet from the valley floor, the striking Joaquin Rocks are the centerpiece of this remote area. These three scenic 250' tall monoliths are the eroded remnants of an ancient vaqueros sandstone formation.

The area features numerous rugged canyons. Oak woodlands cloak the numerous spur ridges that descend down to the valley. Vegetation in the area includes, blue oak, California juniper, grey pine, chaparral, and native grasslands. Due to the cooler climate provided by its elevation, the area delivers outstanding displays of native wildflowers well into summer. The steep cliffs of the Joaquin Rocks—and the numerous other towering sandstone formations found throughout the area—are host to species of falcons, hawks and owls. These formations could also provide potential nesting habitat for the California condor which has been reintroduced into the nearby Gavilan Range. One of the peaks of the Joaquin Rocks - La Centinela - hosts a unique vernal pool supporting fairy and tadpole shrimp.

H.R. 1776 also designates several streams outside the OHV riding area for National Wild and Scenic River Act protection. While the Clear Creek area receives very little rain, it boasts several year round and ephemeral streams. Its unique serpentine soils and unusual year-round flowing streams support numerous rare plants and sensitive wildlife species, while offering diverse outdoor recreation opportunities. As a result, the Bureau of Land Management (BLM) identified several streams in the area as eligible for National Wild & Scenic River protection. These include:

Larios Canyon – 5.25 miles. Larios Canyon Creek possesses outstandingly remarkable historical and cultural values. Larios Canyon Creek also supports foothill yellow-legged frog (a BLM sensitive species), Idria short-tailed scorpion (a state-listed species at risk), and San Benito fritillary (a sensitive plant).

San Carlos Creek – 5.51 miles. The East Fork supports several sensitive plants and its upper segment is located within the San Benito Mountain Research Natural Area and San Benito Wilderness Study Area.

Cantua Creek – 7.68 miles. Cantua Creek supports several sensitive wildlife and plant species, including foothill yellow-legged frog, western pond turtle, two-striped gardner snake (a state species of special concern), and two sensitive plants – San Benito fritillary, and San Joaquin spearscale. It is also the second longest creek on public lands in the NRA.

Picacho Creek – 2.65 miles. Picacho Creek possesses outstandingly remarkable recreational and ecological values. The creek supports foothill yellow-legged frog and two-striped gardner snake.

White Creek and Tributaries – 10.11 miles. White Creek and its tributaries possess outstandingly remarkable historical and cultural values. The creek supports foothill yellow-legged frog and the San Benito evening primrose (a sensitive plant).

## **Conclusion**

Mr. Chairman, as the Subcommittee moves forward to mark-up, I would like to request your assistance in making several changes to the bill. As with any piece of legislation, several suggested improvements have come to light since its introduction. Accordingly, I ask the Subcommittee to accept the following amendments:

- 1) An updated date for the proposed Joaquin Rocks wilderness to accommodate a new map that reflects a revised wilderness boundary to accommodate a proposed OHV trail;
- 2) Additional language to remove the current wilderness study area status of the San Benito Mountain Wilderness Study Area; and
- 3) Additional language to clarify the bill's intention to maximize the feasible miles of OHV trail that the BLM would manage for OHV use within the boundaries of the newly designated Clear Creek national Recreation Area.

In closing Mr. Chairman, I want to recognize several people who have played an important role in shaping this legislation. Don Amador from the Blue Ribbon Coalition and Gordon Johnson from the California Wilderness Alliance are the odd couple of California public lands policy. Their collaboration provided the initial inspiration for this bill and helped resolve

countless details over the course of its drafting. I also want to thank the BLM's local staff who has been extremely helpful and professional throughout this process. And finally I want to thank two constituents of mine who never let me forget how important Clear Creek was to them: Ed Tobin with the Salinas Ramblers Motorcycle Club is a tireless organizer who has kept the Clear Creek riding community focused on the public and political process; and Ron DeShazer, a forklift operator in Salinas and a long time Clear Creek rider, who has come to every one of my town hall meetings for the last six years to calmly ask for Congressional assistance to reopen Clear Creek to public OHV use.