

CLEAR CREEK NATIONAL RECREATION AREA AND  
CONSERVATION ACT

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MAY 23, 2016.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. BISHOP of Utah, from the Committee on Natural Resources,  
submitted the following

R E P O R T

[To accompany H.R. 1838]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1838) to establish the Clear Creek National Recreation Area in San Benito and Fresno Counties, California, to designate the Joaquin Rocks Wilderness in such counties, to designate additional components of the National Wild and Scenic Rivers System, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Clear Creek National Recreation Area and Conservation Act”.

**SEC. 2. DEFINITIONS.**

In this Act:

- (1) **MANAGEMENT PLAN.**—The term “management plan” means the Plan for the Recreation Area prepared under section 4(c).
- (2) **RECREATION AREA.**—The term “Recreation Area” means the Clear Creek National Recreation Area.
- (3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.
- (4) **STATE.**—The term “State” means the State of California.
- (5) **OFF HIGHWAY VEHICLE.**—The term “off highway vehicle” means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, snow, or other natural terrain and not intended for use on public roads.

**SEC. 3. ESTABLISHMENT OF CLEAR CREEK NATIONAL RECREATION AREA.**

(a) **IN GENERAL.**—To promote environmentally responsible off highway vehicle recreation, the area generally depicted as “Proposed Clear Creek National Recreation Area” on the map titled “Proposed Clear Creek National Recreation Area” and dated December 15, 2015, is established as the “Clear Creek National Recreation Area”, to be managed by the Secretary.

(b) **OTHER PURPOSES.**—The Recreation Area shall also support other public recreational uses, such as hunting, hiking, and rock and gem collecting.

(c) **MAP ON FILE.**—Copies of the map referred to in subsection (a) shall be on file and available for public inspection in—

- (1) the Office of the Director of the Bureau of Land Management; and
- (2) the appropriate office of the Bureau of Land Management in California.

**SEC. 4. MANAGEMENT.**

(a) **IN GENERAL.**—The Secretary shall manage the Recreation Area to further the purposes described in section 3(a), in accordance with—

- (1) this Act;
- (2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
- (3) any other applicable law.

(b) **USES.**—The Secretary shall—

- (1) prioritize environmentally responsible off highway vehicle recreation and also facilitate hunting, hiking, gem collecting, and the use of motorized vehicles, mountain bikes, and horses in accordance with the management plan described in subsection (c);
- (2) issue special recreation permits for motorized and non-motorized events; and
- (3) reopen the Clear Creek Management Area to the uses described in this subsection as soon as practicable following the enactment of this Act and in accordance with the management guidelines outlined in this Act and other applicable law.

(c) **INTERIM MANAGEMENT PLAN.**—The Secretary shall use the 2006 Clear Creek Management Area Resource Management Plan Amendment and Route Designation Record of Decision as modified by this Act or the Secretary to incorporate natural resource protection information not available in 2006, as the basis of an interim management plan to govern off highway vehicle recreation within the Recreation Area pending the completion of the long-term management plan required in subsection (d).

(d) **PERMANENT MANAGEMENT PLAN.**—Not later than 2 years after the date of the enactment of this Act, the Secretary shall create a comprehensive management plan for the Clear Creek Recreation Area that—

- (1) shall describe the appropriate uses and management of the Recreation Area in accordance with this Act;
- (2) shall be prepared in consultation with—
  - (A) appropriate Federal, State, and local agencies (including San Benito, Monterey, and Fresno Counties);
  - (B) adjacent land owners;
  - (C) other stakeholders (including conservation and recreational organizations); and
  - (D) holders of any easements, rights-of-way, and other valid rights in the Recreation Area;
- (3) shall include a hazards education program to inform people entering the Recreation Area of the asbestos related risks associated with various activities within the Recreation Area, including off-highway vehicle recreation;
- (4) shall include a user fee program for motorized vehicle use within the Recreational Area and guidelines for the use of the funds collected for the management and improvement of the Recreation Area;
- (5) shall designate as many previously used trails, roads, and other areas for off highway vehicle recreation as feasible in accordance with this in order to provide a substantially similar recreational experience, except that nothing in this paragraph shall be construed as precluding the Secretary from closing any area, trail, or route from use for the purposes of public safety or resource protection;
- (6) may incorporate any appropriate decisions, as determined by the Secretary, in accordance with this Act, that are contained in any management or activity plan for the area completed before the date of the enactment of this Act;
- (7) may incorporate appropriate wildlife habitat management plans or other plans prepared for the land within or adjacent to the Recreation Area before the date of the enactment of this Act, in accordance with this Act;

- (8) may use information developed under any studies of land within or adjacent to the Recreation Area carried out before the date of enactment of this Act; and
- (9) may include cooperative agreements with State or local government agencies to manage all or a portion of the recreational activities within the Recreation Area in accordance with an approved management plan and the requirements of this Act.
- (e) ACQUISITION OF PROPERTY.—
- (1) IN GENERAL.—The Secretary may acquire land adjacent to the National Recreation Area by purchase from willing sellers, donation, or exchange.
- (2) MANAGEMENT.—Any land acquired under paragraph (1) shall be managed in accordance with—
- (A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);
- (B) this Act; and
- (C) any other applicable law (including regulations).
- (3) IMPROVED ACCESS.—The Secretary may acquire by purchase from willing sellers, donation, exchange, or easement, land, or interest in land to improve public safety in providing access to the Recreation Area.
- (f) PRIVATE PROPERTY.—
- (1) ACCESS TO PRIVATE PROPERTY.—
- (A) IN GENERAL.—The Secretary shall provide landowners adequate access to inholdings within the Recreation Area.
- (B) INHOLDINGS.—For access purposes, private land adjacent to the Recreation Area to which there is no other practicable access except through the Recreation Area shall be managed as an inholding.
- (2) USE OF PRIVATE PROPERTY.—Nothing in this Act affects the ownership, management, or other rights relating to any non-Federal land (including any interest in any non-Federal land).
- (3) BUFFER ZONES.—Nothing in this Act creates a protective perimeter or buffer zone around the Recreation Area.
- (4) VALID RIGHTS.—Nothing in this Act affects any easements, rights-of-way, and other valid rights in existence on the date of the enactment of this Act.
- (g) WATER RIGHT EXCLUSION.—Nothing in this Act—
- (1) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the Recreation Area; or
- (2) shall affect any water rights existing on the date of the enactment of this Act.
- (h) HUNTING AND FISHING.—Nothing in this Act—
- (1) limits hunting or fishing; or
- (2) affects the authority, jurisdiction, or responsibility of the State to manage, control, or regulate fish and resident wildlife under State law (including regulations), including the regulation of hunting or fishing on public land managed by the Bureau of Land Management.
- (i) MOTORIZED VEHICLES.—Except in cases in which motorized vehicles are needed for administrative purposes or to respond to an emergency, the use of motorized vehicles on public land in the Recreation Area shall be permitted only on roads, trails, and areas designated by the management plan for the use by motorized vehicles.
- (j) GRAZING.—In the Recreation Area, the grazing of livestock in areas in which grazing is allowed as of the date of the enactment of this Act shall be allowed to continue, consistent with—
- (1) this Act;
- (2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
- (3) any regulations promulgated by the Secretary, acting through the Director of the Bureau of Land Management.
- (k) WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Recreation Area is withdrawn from—
- (1) all forms of entry, appropriation, and disposal under the public land laws;
- (2) location, entry, and patenting under the mining laws; and
- (3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.
- (l) FEES.—Amounts received by the Secretary under the fee structure required by subsection (c)(3)(G) shall be—
- (1) deposited in a special account in the Treasury of the United States; and
- (2) made available until expended, without further appropriation, to the Secretary for use in the Recreation Area.

(m) RISK STANDARD.—The National Oil and Hazardous Substances Pollution Contingency Plan (section 300 of title 40, Code of Federal Regulations), published pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), shall not apply to the Secretary’s management of asbestos exposure risks faced by the public when recreating within the Clear Creek Recreation Area described in section 3(b).

**SEC. 5. JOAQUIN ROCKS WILDERNESS.**

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 21,000 acres of Federal lands located in Fresno County and San Benito County, California, and generally depicted on a map entitled “Proposed Joaquin Rocks Wilderness” and dated January 14, 2015, is designated as wilderness and as a component of the National Wilderness Preservation System and shall be known as the “Joaquin Rocks Wilderness”.

**SEC. 6. RELEASE OF SAN BENITO MOUNTAIN WILDERNESS STUDY AREA.**

(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the San Benito Mountain wilderness study area has been adequately studied for wilderness designation.

(b) RELEASE.—The San Benito Mountain wilderness study area is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

PURPOSE OF THE BILL

The purpose of H.R. 1838, as ordered reported, is to establish the Clear Creek National Recreation Area in San Benito and Fresno Counties, California, and to designate the Joaquin Rocks Wilderness in such counties.

BACKGROUND AND NEED FOR LEGISLATION

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

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. This report, completed by the International Environmental Research Foundation, found that the health risk to OHV users from NOA is minimal. Citing this report, local communities, OHV groups, and others urged BLM to reopen the area to recreational use and develop a management strategy that mitigates the exposure of higher than acceptable levels of NOA and associated risks to human health.

To accomplish this, H.R. 1838 requires BLM to reopen the CCMA for recreational use and re-designate the area as a National Recreation Area. It also requires BLM to develop a plan to minimize the risk from NOA exposure and educate visitors about its associated health risks. BLM would also be required to reduce the impact of OHVs to protect the wildlife habitat in the area. The bill requires BLM to develop a permanent management plan and utilize a prior travel management plan in the interim. Under this permanent plan, BLM would be required to levy a recreational user fee and apply any proceeds to the management of OHV recreation and to

contract with qualified state or local government agencies to manage all or a portion of the Clear Creek National Recreation Area's (CCNRA) recreational activities.

H.R. 1838 also designates approximately 21,000 acres of BLM land adjacent to the CCMA and located in Fresno County as the "Joaquin Rocks Wilderness" and releases the 1,500 acre San Benito Wilderness Study Area back into multiple use. This area currently has no public access and has been determined by BLM to be unsuitable for wilderness designation.

During markup, Congressman Jeff Denham offered an amendment that requires BLM to consult with holders of easements, rights-of-way, and other valid rights in the CCNRA when developing the comprehensive management plan under Section 4(d) and updates the map and the source for the interim management plan referenced in the bill. The amendment also removes the Wild and Scenic Rivers Act designations under Section 6 due to concerns from local stakeholders.

#### COMMITTEE ACTION

H.R. 1838 was introduced on April 16, 2015, by Congressman Sam Farr (D-CA). The bill was referred to the Committee on Natural Resources, and within the Committee, to the Subcommittee on Federal Lands. The Subcommittee held a hearing on the bill on December 9, 2015. On March 15, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Jeff Denham (R-CA) offered an amendment designated 046. The amendment was adopted by unanimous consent. No other amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent on March 16, 2016.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 20, 2016.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1838, the Clear Creek National Recreation Area and Conservation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

ROBERT A. SUNSHINE  
(For Keith Hall, Director).

Enclosure.

*H.R. 1838—Clear Creek National Recreation Area and Conservation Act*

H.R. 1838 would establish a new national recreation area in central California. The bill also would designate 21,000 acres of adjacent lands as part of the National Wilderness Preservation System. Based on information provided by the Bureau of Land Management (BLM) and assuming appropriation of the necessary amounts, CBO estimates that implementing the legislation would cost \$5 million over the 2017–2021 period.

Because enacting H.R. 1838 would increase offsetting receipts, which are treated as reductions in direct spending, and the associated spending of those receipts, pay-as-you-go procedures apply. However, CBO estimates that any net effects on direct spending would be negligible. Enacting the bill would not affect revenues. CBO also estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 1838 would designate about 75,000 acres of BLM land in California as the Clear Creek National Recreation Area. Under the bill, the agency would be required to complete a new land use plan for the area within two years of enactment. Based on information from BLM regarding the costs of carrying out similar activities, CBO estimates that completing the land use plan would cost less than \$500,000 over the 2017–2018 period.

CBO expects that, under the bill, the affected lands would see a significant increase in use by the public and that the BLM would need to hire additional personnel to manage the area. Based on information provided by the agency, CBO estimates that operating the recreation area would require 10 to 15 new employees to carry out administrative and law enforcement functions and that the cost of employing those individuals would total roughly \$1 million a year.

In addition, the legislation would require the BLM to establish a user fee program for operators of motorized vehicles to offset certain costs of administering the recreation area; we expect that those funds would be used primarily to construct trails and facilities for off-highway vehicles. Based on information regarding the amount of user fees collected at similar recreation areas, CBO esti-

mates that fee collections and the associated spending would total less than \$500,000 a year.

Finally, H.R. 1838 would designate 21,000 acres of lands in central California as part of the National Wilderness Preservation System. Because the affected lands are already being managed for conservation purposes, CBO estimates that designating the new wilderness would have no significant effect on the federal budget.

H.R. 1838 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Congressional Budget Office (CBO) estimates that implementing the bill would cost \$5 million over 2017–2021, subject to appropriation. CBO also notes that the bill would increase offsetting receipts and the associated spending of those receipts, but any net effect on direct spending would be “negligible.”

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to establish the Clear Creek National Recreation Area in San Benito and Fresno Counties, California and to designate the Joaquin Rocks Wilderness in such counties.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

#### COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would not amend existing law.

