



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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Expiration of Administrative Closure Decisions West Mojave plan amendment to the California Desert Conservation Area Plan

On the following dates decisions were made administratively closing certain areas to off highway vehicle (OHV) use on a temporary basis pending approval of the Record of Decision (ROD) for the West Mojave (WEMO) plan amendment to the California Desert Conservation Area (CDCA) Plan. The ROD for the WEMO plan amendment was signed on March 13, 2006.

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|-----------------------------|-------------------|
| Red Mountain ² | October 19, 2001 |
| Newberry-Rodman | October 19, 2001 |
| Superior | October 19, 2001 |
| Helendale/Silver Lakes | October 19, 2001 |
| Edwards Bowl | October 17, 2001 |
| Fremont | November 15, 2001 |
| Kramer | December 11, 2001 |
| Ord Mountains | August 7, 1995 |
| Rand Mountains ¹ | March 21, 2002 |

In litigation brought in Federal District Court, plaintiffs alleged that BLM was in violation of Section 7 of the Endangered Species Act by failing to enter into formal consultation with the Fish and Wildlife Service on the effects of the adoption of the CDCA plan. *See Center for Biological Diversity v. BLM*, CV-00-927 (WHA) (N.D.Cal). Plaintiffs and BLM agreed to settle the case. A series of settlement agreements, collectively referred to as a Consent Decree, were entered. As reflected in the Consent Decree, BLM agreed to undertake certain actions on a temporary basis pending signing of a decision document for each applicable CDCA plan amendment. One of the provisions of the Consent Decree established a date by which route designation in the WEMO plan area would be accomplished. *See Stipulation and Proposed Order to Amend Consent Decree*, para. 5, March 28, 2002. In June 2003, the Decision Record for the Western Mojave Desert Off Road Vehicle Designation Project was signed. As explained in the accompanying Environmental Assessment and Draft CDCA Plan Amendment, the BLM was required to designate as open, closed, or limited OHV routes on public lands pursuant to federal regulation, BLM policy and the CDCA plan of 1980, as amended. Since 1980 many route designation efforts took place culminating with the approval of an amendment to the CDCA plan for route designation within the WEMO plan area

¹ As stated in the WEMO ROD, the administrative closure of approximately 29 miles of routes in the Western Rand Mountains ACEC is to remain in effect until BLM can complete administrative and on-the-ground work necessary to implement the educational program and permit system.

² The Red Mountain subregion also was subject to a firearm shooting restriction under CFR 2364 (Federal Register, May 6, 2002). This decision terminates the shooting restriction.

in June 2003. Additionally in March 2006, the CDCA plan was again amended in the WEMO plan area to address other public land management issues, including route designation, with the approval of a Record of Decision (ROD). The environmental impacts of designating routes for OHV use were fully analyzed in the Western Mojave Desert Off Road Vehicle Designation Project Environmental Assessment and the WEMO Environmental Impact Statement.

In general, the expressed rationale for the above administrative closures was that until the Bureau of Land Management could complete the WEMO plan amendment, complete consultation, and issue a ROD, the temporary closures would remain in place to provide additional short term protection for listed species. The closures were implemented under 43 CFR 8341.2(a). Re-opening requires a determination by the Authorized Officer that the adverse effects justifying the closure have been eliminated and measures implemented to prevent recurrence. The lack of Endangered Species Act consultation on the CDCA plan and its WEMO plan area, and the lack of a plan amendment document for the WEMO region (the expressed justifications for the closures), were satisfied with the completion of consultation and the signing of the Western Mojave Desert Off Road Vehicle Designation Project Decision Record in June 2003 and the WEMO ROD in March 2006. With the signing of the WEMO plan amendment DR and ROD, the administrative closures became inconsistent with the CDCA Plan, obsolete, and, since the underlying justifications for the closures have been satisfied, the closures have expired by their very terms. To the extent that a specific written determination is required, this memorandum documents that determination.

My determination is based upon my review and understanding of the circumstances leading to the administrative closures, the litigation in CBD v. BLM, C-00-927 (WHA), the ensuing Consent Decree in that case, and various threatened and applied enforcement and other actions therein, the Environmental Assessment for the Western Mojave Desert Off Road Vehicle Designation Project Decision Record, the Environmental Impact Statement for the WEMO plan amendment to the CDCA Plan, and the administrative records for the closure and amendment processes.

Should the CDCA Plan as amended by the WEMO plan amendment be further amended, additional consultation and environmental review will be conducted as necessary. Since the WEMO plan amendment is anticipated to be in effect for the next 10-15 years, and since additional consultation and further environmental review will be accomplished as necessary, measures have been taken, are in place, and will be taken as necessary to prevent the recurrence of a lack of consultation, and the lack of a CDCA plan amendment for the WEMO subregion.

The express purposes of the administrative closures listed above were to provide additional protection to listed species and habitat pending consultation and the signature of a decision document for the WEMO plan amendment. Since the express purposes of the administrative closures have been satisfied with signing of the ROD, and previously with the signing of the Decision Record, the temporary closures automatically terminate. Since these closures have terminated by their express terms, this determination is not a decision subject to appeal and review by the IBLA.



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