

ENVIRONMENTAL ASSESSMENT, FONSI AND DECISION RECORD

**BLM, Bishop Field Office
351 Pacu Lane, Suite 100
Bishop, CA 93514**

EA Number: CA-170-07-33

Lease/Serial/Case File No.: CACA 045568

Proposed Action Title/Type: Dirty Socks Duck Club LLC Road ROW

Location of Proposed Action: MDM, California, T. 19 S., R. 37 E.,
Section 5, E1/2E1/2 of Lot 31,
E1/2E1/2SE1/4SE1/4;
Section 8, E1/2E1/2NE1/4NE1/4.

Applicant (if any): Haralambos and Barger of Dirty Socks
Duck Club LLC

Plan Conformance: The proposed action is subject to the Bishop Resource Management Plan, approved March 25 1993. The proposed action has been reviewed and is in conformance with the plan.

Under the Bishop RMP Area Wide Decisions (Page 22) the direction is, "Manage all activities to assure no net loss of wetlands or riparian habitats. Allow mitigation for impacts to wetlands or riparian habitats to occur outside of the resource area". See discussion under Vegetation section below.

Need for Proposed Action:

In 2003 Haralambos and Barger (H & B) purchased a 292 acre parcel which runs along the Owens Lake shoreline. The purpose of their investment was to create waterfowl habitat on their land. (See attached map) The parcel does not have legal access from Hwy 190 which lies about 3,000 feet to the south. Current access is through a private parcel which the Inyo County assessor identifies the owner as the State of California. Although the State has not issued an access authorization to use the existing access, it is currently used as a convenient access to the private land.

Henceforth, H & B requested BLM authorize a right-of-way (ROW) to construct a new road on public land to access the private property. The Bishop Field Office encouraged H & B to secure an easement through the State land rather than construct a new road on public land and create unnecessary impacts.

H & B contacted the State of California and was informed that the State did not claim ownership. H & B then contacted the Inyo County Assessor, but the assessor was

unable to determine who owned the parcel they currently use as access. H & B is continuing to work with the County to determine ownership and hope to purchase the property. At this time, it is unknown whether the owner will be found.

From 2004 to present H & B have made substantial investments in their property to create wetland habitat for water fowl and aquatic plants. They have drilled three wells and created three large ponds covering the property. In 2006 H & B sold a conservation easement for the property to the State of California to serve as a site for wetland mitigation as stipulated from other off-site projects. The conservation easement (a contractual agreement) requires that the property has legal access. In addition, H & B proposes to use the property as a private or public duck hunting club (Dirty Socks Duck Club LLC).

H & B needs secure legal access to their property to comply with the State conservation easement; to use of the property as a duck hunting club; to recoup the financial investments made in the property; and to resolve the uncertainty of long term existing legal access to the property. Based on the above, H & B has filed a road ROW application for this purpose.

Alternatives Considered But Rejected

One alternative considered but rejected is the “existing situation”. H & B currently utilizes an improved road which crosses property not owned by H & B. Although this road provides access to the property, H & B does not have legal authorization to use this road. The road is not considered legal access for satisfying the easement agreement. Additionally, the owner of the property has not been located after a two year search. It is unknown if the owner will be located and whether legal access will ever be acquired. H & B can no longer wait to acquire legal access because of their investment considerations and easement compliance issues. Therefore, this alternative has been determined to be infeasible and unreasonable.

The second rejected alternative was to reauthorize an existing road ROW which was issued to the previous owner of the private property. This ROW was located at the eastern end of the property but never developed or constructed. The ROW was issued for the public land portion but failed to fully extend to the private land because of a small portion (15') which crossed City of Los Angeles, Department of Water and Power (LADWP) land. The prior owner was unable to obtain access rights across LADWP to complete the full ROW needed for access. The BLM ROW languished without implementation. After the private landowner's death, the ROW was terminated due to failure to pay 5 years of back annual rent. If the new private land owners were to obtain the LADWP access rights, the owners stated that road construction across their private land on the former ROW location would have adverse impacts to spring-fed wetlands located on their land. The road would have to go through the jurisdictional wetlands and violate the landowner's purpose and intent for the property. It has been determined that reauthorizing the terminated ROW would create adverse impacts to wetlands and would be unreasonable.

Description of Proposed Action:

In 2003, H & B submitted an original road ROW application for a ROW width of 100 feet with a 15 foot wide roadway. The ROW length was 3500 feet. The application also requested excavating road fill from the adjacent public land to create a roadbed base on the ROW. The application was then changed to a 40 foot wide ROW with a 12 foot wide roadbed. In April 2006 Triad Engineering (H & B consultant) proposed a 500 wide road easement and provided a legal description for this easement request. As a result of the above changes and concerns expressed by the BIFO on alkaline meadow impacts, the proponent and consultant made changes to the application. The BIFO indicated that the BLM would not issue an "easement" because it provided access rights that exceeded the minimum necessary to accomplish the proposal. As a result, BLM stated that only a road ROW would be considered because it was the most applicable authorization to meet the owners intended purpose. The following is the amended proposed action.

The proposed action would be to issue a 30 year renewable ROW road access measuring 40 feet wide and about 3,160 feet long with a roadbed width of 12 feet. The total impacted area would be 20 feet wide. The remaining 20 feet of the ROW corridor would remain unused. The roadbed would be elevated using fill dirt in order to achieve a roadbed height high enough to avoid flooding during wet periods of the year.

Maximum fill would be 24 inches high amounting to 5,000 yd³ of fill. Fill would be from nearby sources off public land. Any grading would be accomplished using a grader, bulldozer, or backhoe. Road construction is proposed to take place during the months of June and July. Surface hardening such as asphalt or gravel may be used in the future.

H&B has indicated that they would continue to utilize the existing access because they have already invested in and developed this road. Road construction on public land would not take place unless H & B is out rightly prohibited from using the existing access on the adjacent property. Once the private landowner of the existing access and associated property is identified, H & B would offer to purchase the property. If the H&B is successful, H&B would relinquish the ROW. Otherwise, the ROW would be implemented as amended.

Affected Environment/Environmental Impacts:

The proposed action is not within a Wilderness, Wilderness Study Area, Area of Critical Environmental Concern, nor Wild and Scenic River corridor, and there would be no effects on any lands so designated.

There would be no impact to listed or sensitive species. There are no known listed or sensitive species or habitats within the proposed action area.

There would be no impacts to prime farm lands, flood plains, nor water quality (including ground or surface waters).

There would be no disproportionate impacts to low income or minority groups, per Executive Order 12898 (2/11/94).

Air Quality

Air quality would be slightly affected. The proposed action is within the Owens Valley federal nonattainment area. The action would result in the emission of PM₁₀. The Great Basin Air Pollution Control District standards dictate that emissions not exceed the de minimis threshold amounts of 70 ton/yr and the 10 percent (29,408 tons/year) standard for non-attainment of total area emissions .

The estimated PM10 emissions of constructing the road would be 0.1 ton/yr which would be below both standards. Therefore, the action would be regionally imperceptible and is exempt from any further requirements under the Federal Conformity Rule.

Cultural resources

There would be no impact to cultural resources. A cultural inventory was completed in early 2007. No cultural resources were found in the proposed action area.

Visual resources

The proposed action area has a VRM Class III rating. Class III is defined as, "Contrasts to the basic elements caused by a management activity may be evident and begin to attract attention in the characteristic landscape. However, the changes should remain subordinate to the existing characteristic landscape".

The proposed road would intersect Hwy 190 at a 40 degree angle and would be constructed as a straight road. The existing landscape is a flat to slightly rolling terrain. The terrain fluctuates from slightly lower to slightly higher than Hwy 190 and is sparsely populated with 6" to 14" high desert shrubs. Portions of the landscape are hidden from the highway view due to the rolling terrain. Hwy 190 is the key observation point (KOP). The highway, in either direction, is flanked by the dramatic Sierra and Inyo Mountains escarpments. These mountain ranges tend to dominate and draw motorists' attention as they travel the highway, often mesmerized by these straight bearing features and oblivious to minor contrasts along the flanks of the roadway.

The typical viewer would be traveling in a car along Hwy 190 at about 60 MPH. At this speed, the road would only be seen for about 5 seconds before the viewer passes the point where the road intersects the highway. The rolling terrain would hide portions of the road, making it appear discontinuous. The similar elevation of the highway and the proposed road would prohibit the viewer from seeing the road at more than a quarter of

a mile away. The road would be more noticeable when traveling eastbound due to the angle of the road coming off of Hwy 190.

The road would not attract attention in the landscape and would remain subordinate to the existing landscape due to the brief viewing time, the flat to rolling terrain within which the road is located, and the towering Sierra and Inyo Mountain ranges. The low vegetation height and low shrub density along the bladed road would not form a strong line contrast. The light colored tan of the proposed road compared with the similar color of the landscape would also not present a contrast. The only contrast would be the straight line nature of the road versus the lineless view of the landscape. This contrast would only be evident at the time the viewer is directly opposite of the road as it enters the highway. The proposed road would meet VRM Class III standards.

Vegetation

The proposed road crosses two distinct vegetative communities: mixed desert shrub growing on the Pleistocene remnant shoreline, and an alkaline meadow dominated by salt grass (*Distichlis spicata*).

The mixed desert shrub community contains a sparse cover of shadscale (*Atriplex confertifolia*), cheesebush (*Hymenoclea salsola*) and annual buckwheat. Shrub height is generally less than 14". Road construction would remove 0.9 acre of this community. Desert scrub communities are well represented along the western, southern and eastern areas around the Owens Lake.

The alkali meadow is a narrow band (1,300 feet wide) located in a shallow depression running east to west and is dominated by saltgrass and wiregrass (*Juncus balticus*). Road construction would remove 0.6 acre of this community.

Under the Bishop RMP Area Wide Decisions (Page 22) the direction is, "Manage all activities to assure no net loss of wetlands or riparian habitats. Allow mitigation for impacts to wetlands or riparian habitats to occur outside of the resource area". The RMP allows for offsite mitigation for the loss of 0.6 acre of alkali meadow (RMP, Page 22).

The ROW proponent has provided offsite mitigation on H & B's private land by creating 150 acres of new habitat, offsetting the expected 0.6 acre loss. The wetland and pond development is mostly completed and shore vegetation has been planted. Planted species include saltgrass and wiregrass, as well as, wetland carex species. It is expected that 150 acres of ponds with associated fringe wetland habitat would be created with initially 1.1 acres of wetland and semi-arid wetland created around the ponds. In addition, the LADWP Owens Lake Dust Mitigation Project, a portion of which is adjacent to the private property has established hundreds of acres of irrigated saltgrass habitat, restoring the area's natural wetland habitat. The loss of 0.6 acres of alkali meadow is mitigated by both the H & B's habitat and habitat created by LADWP on the Owens Lake.

Invasive, non-native species

The existing vegetation community within the proposed action area currently does not contain any invasive, non-native species. Tumbleweed, cheat grass and red brome are evident within the Highway 190 ROW along the road shoulders where the proposed road would intersect the highway.

There is slight potential for future invasive species establishment along the proposed road. It would most likely occur within the desert scrub portions of the project area. Weed seeds may be carried on construction equipment or may be carried by the wind from sources along Hwy 190.

Wildlife habitat

A BLM wildlife biologist conducted a field exam of the ROW site in October 2006 and observed one long-nosed leopard lizard, one unidentified lizard, a flock of Horned Larks; also noted rabbit pellets throughout the site, and various rodent burrows in bare ground or under desert shrubs (no burrows observed in more mesic patches). Road construction might destroy underground burrows or kill some of these species individuals within the construction zone. This is an unavoidable impact.

The site includes potential nest sites for Western Snowy Plover (unvegetated gravel ridges and low-density salt grass) which are known to breed in the general area. These ground-nesting birds and their nests and eggs are protected under the Migratory Bird Treaty Act. The breeding season varies with climatic conditions but potentially extends from March through July. Road construction during this time period might destroy plover nests or displace these birds.

Without mitigation to protect the Western Snowy Plover's habitat, the proposed action would have a significant impact to this species.

Minerals

There would be no impact to minerals. There are no known mining claims or mineral leases of record in the proposed action area. There are no mineral materials of economic value in the area of the proposed action.

Economic Impacts

Viability of the Proposed Development

The wetland and pond development on private land is already mostly completed and shore vegetation has been planted. Planted species include saltgrass and wiregrass, as well as, wetland carex species. It is expected that 150 acres of ponds with associated fringe wetland habitat would be created with at least 1.1 acres of wetland

and semi-arid wetland created around the ponds. The availability of water to support the operation is well established.

Three wells are used to provide water to the project. The development does require legal access.

Impacts to the Community and to the Tribe

The impact to the community of Olancha and Cartago is limited although there may be some economic enhancement if the property is used for a private or public duck club.

There would be no impact to the Lone Pine Reservation. The Lone Pine Tribe is located 25 miles to the north.

Environmental Justice

There would be no impact to minority groups or any other group where environmental justice would apply. There is no group that relies on or uses the area for economic reasons or special uses.

Hazardous Materials

There would be no impact to hazardous materials. The proposal does not involve the transport or use of any hazardous materials across or on the public land.

Consistency with County Planning

There would be no impact to county planning. County planning does not prohibit road construction on federal property nor are there any planning requirements for this type of access road on federal land.

Impacts to County Infrastructure

There would be no impact to county infrastructure. The county would not be responsible for road maintenance or construction. County permits are not needed for roads permitted on federal land.

Impacts to Local Community

The impact to the community of Olancha and Cartago is limited although there may be some economic enhancement if the property is used for a private or public duck club.

Adherence to Local, State and Federal Environmental Ordinances / Laws

There would be no impact to local, state or federal ordinances or laws. ROW issuance is a normal authorization for the BLM, and the development on the private land is authorized under local and state regulations.

Land Uses / Realty / Rights-of-way

The ROW applicant has requested a 40 foot ROW width with a total width of disturbance of 20 feet. The applicant does not propose to utilize the remaining 20 feet within the ROW. BLM policy is to issue ROWs only for the public land actually needed for the proposed ROW. Issuing the ROW for the full 40 feet would unnecessarily encumber public land, when a 20 foot ROW would be adequate.

Cumulative effects

This project is expected to contribute to positive cumulative effects affecting wildlife habitat. H & B's private land has already established 150 acres of aquatic ponds and 1.1 acres of associated wetland and dry meadow habitat on the private property. This habitat would more than compensate for the loss of 0.6 acres of alkaline meadow. The habitat created on the private land would continue to increase as the aquatic pond project matures over time. In addition, the habitat being created for the LADWP Owens Lake Dust Mitigation would also add more wetland and semi-dry meadow to the Owens Lake basin.

Mitigation measures to avert significant impacts to Western Snowy Plover habitat are discussed in the "Description of Mitigation Measures and Residual Impacts" below.

This project is not expected to contribute to negative cumulative effects because the nature of this proposal and its impacts are such that it would benefit wetland habitats and wildlife. This project does not have significant impacts upon the human environment.

Description of Mitigation Measures and Residual Impacts:

1. Conduct road work within the non-breeding period, August through February, to avoid affecting the Western Snowy Plover. If work must be conducted during the breeding season of March through July, contact the Bishop Field Office and arrange to fund a nest search effort to identify locations of road work avoidance.
2. Wash all equipment used in road construction prior to entering public land to remove any dirt or seeds.
3. Road fill will be weed-free and obtained from weed-free sites located offsite of the road ROW.
4. Maintain road ROW in a weed-free state.
5. Use water to abate dust during road construction.
6. Reduce ROW width from 40 feet to the actual disturbed width of 20 feet with road bed width of up to 20 feet wide.

It is expected that the above mitigation would reduce or eliminate any impacts to air quality from PM10 dust emissions, to invasive species, and plover nesting habitat during road construction. The reduced ROW width would provide the proponent with an adequate access since the total disturbance of the road ROW is confined to 20 feet.

Implementation Monitoring:

BFO realty specialist would verify that the action and any required mitigation have been completed as described.

Effectiveness Monitoring:

Not required

Persons/Agencies Consulted:

Tony Haralambos
Carla Scheidlinger
Andy Holmes

Partner, Dirty Socks Duck Club
Consultant, Agrarian Research
Surveyor, Triad/Holmes Associates

Preparer(s):

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BLM, Wildlife Biologist
BLM, Realty Specialist

Date:

Signed by Joe Pollini

July 19, 2007

Reviewed By: _____ **Date:** _____
Environmental Coordinator

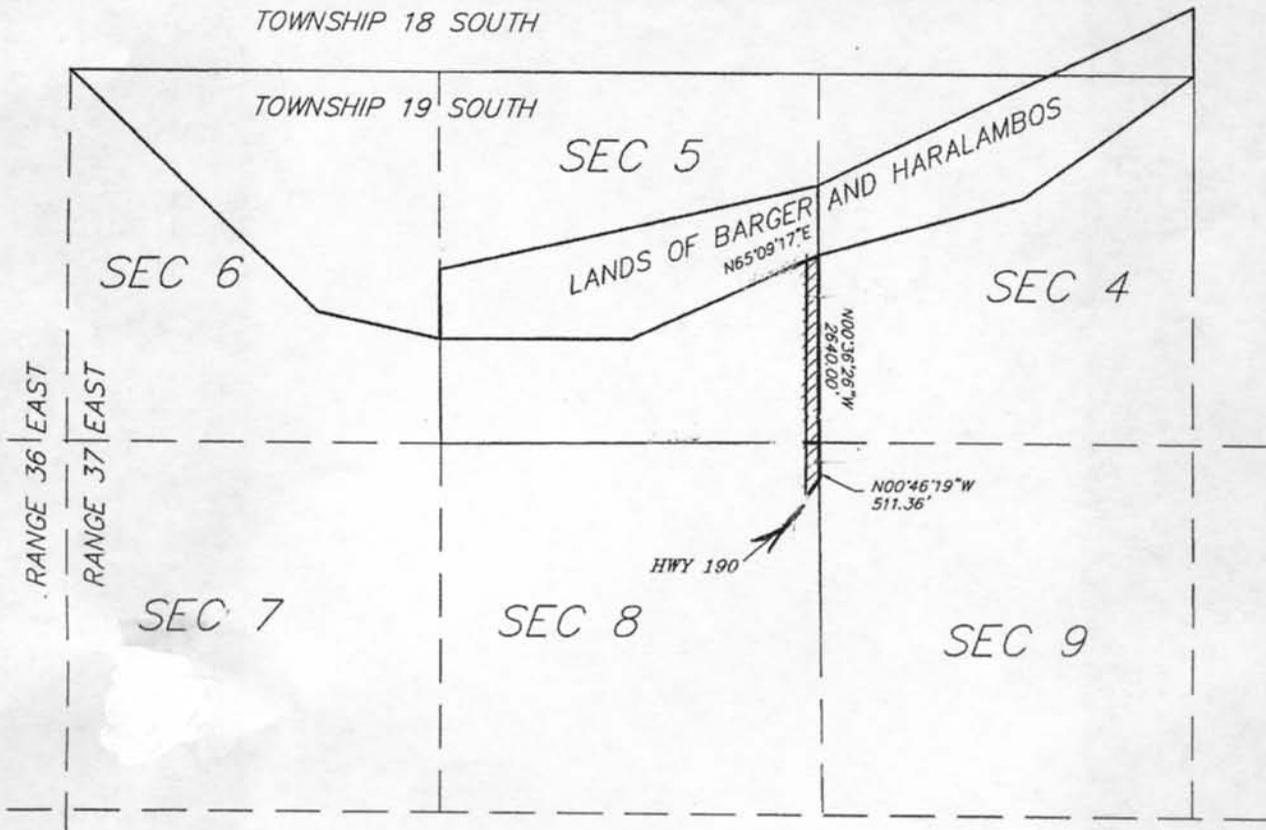
MAY 11, 2007 *YRP*
EXHIBIT MAP B

BLM RIGHT OF WAY
FROM STATE HWY 190 TO LANDS OF BARGER AND HARALAMBOS

LEGEND

 20' WIDE ACCESS

 SCALE: 1"=2500'



FINDING OF NO SIGNIFICANT IMPACT/DECISION RECORD

I have reviewed this environmental assessment including the explanation and resolution of any potentially significant environmental impacts. I have determined that the proposed action with the mitigation measures described below will not have any significant impacts on the human environment and that an EIS is not required.

There will be no effect on threatened or endangered species as a result of the action.

I have determined that the proposed project is in conformance with the Bishop Resource Management Plan, which was approved March 25, 1993. This plan has been reviewed, and the proposed action conforms with the land use plan terms and conditions as required by 43 CFR 1610.5. The Duck Club has already established 150 acres of aquatic habitat with associated wetland and dry meadow habitat, and thereby, mitigated the loss of 0.6 acre of alkaline meadow. The mitigation is in compliance with the Bishop RMP.

It is my decision to issue a road ROW to the Dirty Socks Duck Club LLC owned by Haralambos and Barger for the construction of an access road to the Club property with the mitigation measures identified below. The ROW would be reduced to 20 feet total width. The mitigation measures will reduce or eliminate any impacts to air quality from PM10 dust emissions, to invasive species, and plover nesting habitat during road construction. The reduced ROW width would not affect the proponent since the total disturbance of the road ROW is confined to 20 feet.

It is in the public interest to provide the legal access to the Club so that the Club can fulfill its contractual obligation to the State of California under the conservation easement. The ROW will provide long term legal access which will allow the owners of the property to fully enjoy the benefits and use of the private land. There will be additional benefits to wetland and wildlife values as part of the proponent's efforts to restore these habitats along the southern edge of Owens Lake.

Mitigation Measures/Remarks:

1. Conduct road work within the non-breeding period, August through February, to avoid affecting the Western Snowy Plover. If work must be conducted during the breeding season of March through July, contact the Bishop Field Office and arrange to fund a nest search effort to identify locations of road work avoidance.
2. Wash all equipment used in road construction prior to entering public land to remove any dirt or seeds.

3. Road fill will be weed-free and obtained from weed-free sites located offsite of the road ROW.
4. Maintain road ROW in a weed-free state.
5. Use water to abate dust during road construction.
6. Reduce ROW width from 40 feet to the actual disturbed width of 20 feet with road bed width of up to 20 feet wide.

Signed by Terry Russi, Acting

Authorized Official: _____

Field Manager, Bishop Field Office

Date: July 19, 2007